

FINAL DRAFT

DEVELOPMENT CODE ANALYSIS

PREPARED FOR THE TOWN OF

Surf City, North Carolina

By:

Satilla Planning, Inc.

&

George Eichler & Associates

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Note: Chapter Four not included with this
Final Draft; there are no changes from
the Discussion Draft document.

CHAPTER ONE

INTRODUCTION AND PURPOSE

As an oceanfront community with ample vacant land available for development, it is not surprising that Surf City is beginning to feel increasing development pressures. The lack of public sewer may very well be the only factor constraining a literal development explosion. With increased development activity, several problems with the Town's existing development code became apparent. Additionally, the Town foresees the need to revise the ordinances to deal with the possibility that sewer will eventually be constructed thereby eliminating the constraints now placed on development by septic sewage disposal methods.

The Town officials requested funding assistance for this project through the North Carolina Office of Coastal Resources. The project was subsequently funded and initiated during May, 1984.

A Working Paper was prepared on June 7, 1984 to present preliminary findings, a critique of the zoning ordinance with recommended areas for revision, and a recommended framework to pursue in finalizing the project. Additionally, a tabular summary of the existing zoning ordinance's basic provisions and a list of recommended administrative forms was presented.

The Working Paper was then presented to Town officials and the Planning Commission and a work session was held to discuss the preliminary findings. Issues identified by the working paper were refined during meetings with Town officials and specific areas of concern to the Town were identified.

A Discussion Draft was then prepared to present initial recommendations concerning zoning ordinance revisions and changes to the Town's Administrative procedures. On July 24, 1984, the discussion draft was reviewed by Town Staff and the Planning Board. Specific comments and areas for further refinement were made.

This "Final Draft" report incorporates the comments and recommendations from the Planning Board's July 24 review session. It is organized as follows: Chapter Two presents a summary of findings and recommendations. Chapter Three presents recommended revisions to existing development regulations, and Chapter Four presents recommended zoning and subdivision administration forms. (Chapter Four is not included with this final draft as there are no changes from the Discussion Draft).

CHAPTER TWO

SUMMARY OF FINDINGS AND RECOMMENDATIONS

The findings and recommendations of this report fall into two basic categories. First, recommended revisions to the Town's existing zoning ordinance which was originally adopted in 1980 are presented. These revisions include incorporation of site plan review requirements, specifying density limitations in the R-10 district, revising the R-5 District's densities, an entirely new planned unit development district, the addition of a commercial zone for areas outside the central business district, a definition of allowable lot area, and the addition of a residential district to provide suitable zoning for rural areas within the Town's one mile extraterritorial jurisdiction. Additionally, recommendations were made to clarify and better organize the zoning ordinance.

Secondly, a series of forms and applications was prepared to assist in the administration of the zoning ordinance and subdivision regulations. These forms cover virtually every aspect of the zoning and subdivision administration and enforcement process including checklists, application forms, letters notifying individuals of the Town's action on applications, inventory forms, etc.

The enforcement and administration of the Town's development regulations will become increasingly difficult and require more staff time as development activity increases. It is recommended that the Town manager assume a formal and active role in the zoning and subdivision administration process. The Town Administrator could be charged with receiving and initiating review of rezoning applications, site plan reviews, subdivision applications, and other specific procedural requirements under the ordinances. The Building Inspector should remain in charge of field inspections and code enforcement.

The Building Inspector should also maintain a supportive role in zoning and subdivision administration process by assisting the town manager. By providing these additional staff resources to assist the Building Inspector, the overall administration and enforcement process should be strengthened.

CHAPTER THREE

RECOMMENDED DEVELOPMENT CODE REVISIONS

BACKGROUND

This chapter presents recommendations to revise the existing zoning ordinance Town's current zoning ordinance which was adopted in 1980. The Town has therefore gained considerable administrative and enforcement experience with the 1980 ordinance. To recommend entirely new zoning regulations would inadvertently disturb those aspects of the process that are working well. However, certain changes are recommended to bring these ordinances in line with current and anticipated regulatory needs while also filling in some gaps and resolving ambiguities that now exist. In particular, recommendations are made to deal with the eventuality of public sewer and its anticipated impact on development in Surf City.

In assessing ways to strengthen the development codes and bring them in line with land use plan policies and objectives of the Town, it is desirable to have a set of criteria to guide the recommended revisions. These criteria include: simplicity, legality, reasonableness, implementability, and relationship to community plans and policies. Each of these criteria is discussed briefly below.

o Simplicity. Development codes should be written to be easily understood. Requirements will vary with the complexity of the subject matter, but even highly technical or legalistic matters should be set forth as clearly as possible for citizens to understand. In devising a development code, it is not always a good idea to strain for the least detail of control at the expense of simplicity and clarity.

o Legality. Development codes are adopted and enforced by municipalities pursuant to state law. Zoning, for example, must be a reasonable exercise of police power and it must not constitute a "taking". That is, it must not be confiscatory of private property. The intent and public purposes to be achieved by the regulations should be explicitly set forth. To the greatest extent possible, it should be uniform in application and involve a minimum of discretionary powers.

o Reasonableness. A development code should not only be fair and reasonable to the individual it affects (e.g. the applicant) but it should also be equitable among the various groups or individuals affected (e.g. neighbors to the applicant's project).

o Implementability. It does little good to have an airtight development code that is meticulous in every detail but is simply not honored or enforced. In fact, a development code provision that is not observed does more harm than having none at all, because it generates disrespect for the development regulation system. Surf City's development codes should be based, in part, on the ability of the Town government to reasonably provide the staff and resources needed to effectively enforce them.

o Relationship to the Land Use Plan and Policies. This is an obvious criterion by which to evaluate the Town's development codes. In the final analysis, the purpose of the zoning ordinance and related codes is not simply to impose rules for the sake of having rules, but to achieve some stated public aim. It is less difficult to justify the imposition of development regulations unless they are carrying out provisions of the Town's adopted plans, policies and programs such as the land use plan. Economic development policies are another important example of public goals that zoning and other development codes should attempt to foster.

Approach to Recommended Revisions

The following objectives were developed through initial project meetings and work sessions with Town officials:

Recommended revisions to the Town's development regulations should:

- 1) Clearly define ordinance requirements for both applicants and town officials;
- 2) Incorporate a site plan review process and performance standards into the zoning ordinance to cover moderate to large development proposals;
- 3) Define density requirements for the R-10 zone; and
- 4) Explore the use of extraterritorial jurisdiction for lands within one mile of Surf City on the mainland.

These objectives, coupled with the overall guidelines and criteria identified previously, form the basis for recommended development code revisions.

Once overall project objectives and expectations were defined, Town Officials then developed more specific descriptions of problems and issues. The following summarizes these findings:

- o Site plan review requirements should be incorporated for all projects requiring building permits that exceed a specific size or threshold. Threshold can be defined as any development of more than a specified number of allowable dwelling units or a development on a tract of land greater than a specific size. Detached single family homes on individual lots should generally be exempt while all commercial and multi-family developments should be required to submit site plans.
- o There is currently a regulatory gap concerning allowable densities in the R-10 district. Additionally, Town officials requested that densities allowed in the R-5 district be analyzed. The R-10 district specifies a minimum lot size of 10,000 square feet but does not specify the maximum number of allowable dwelling units, eg. density. The R-5 district requires a minimum lot size of 5,000 square feet plus 3,500 square feet for each dwelling unit more than one. The use of nonconforming lots of record (those less than current minimum allowable size but legally existing because they were recorded before the existing zoning ordinance was adopted) are restricted as to density only by state septic tank regulations. If the town had public sewer, the R-10 district would have no meaningful density cap under zoning regulations.
- o The PD-R Planned Development District - Residential, as currently written, poses the following problems:
 - There are no "permitted uses", only "conditional uses". Therefore, all PD-R applications must go to the Board of Adjustment. This makes use of the PD-R district cumbersome in that developers must automatically go before the Planning Board, Town Council, and the Board of Adjustment to gain PD-R approval.
 - With a few minor exceptions, only residential uses are allowed. Commercial uses are allowed only if they are to serve residents of the PD-R district. This limits the use of PD zoning to practice innovative design approaches by prospective commercial developments.
 - The current minimum lot size for PD-R zoning is five (5) acres. In a beach community where land available for development is often scarce and expensive, this relatively large minimum lot area severely restricts the use of the Planned Development zoning.

- Density, open space, parking and recreational space are now controlled through formula ratios, e.g. floor area ratios for density. This is a relatively sophisticated method of establishing district regulations that may not be necessary in Surf City. The use of density per acre requirements, and more traditional methods of establishing required open space, parking, etc. should be explored.
- o The zoning ordinance has only one commercial district - C-1, and this district covers a significant portion of the land available for development in Surf City. There are no required front, side or rear yard setbacks; this is appropriate for the Central Business District core but not for the outlying commercial and residential areas. By creating an additional commercial district for use in areas outside the central core area, appropriate setbacks and parking requirements could be established. This will be particularly important if the Town exercises extraterritorial jurisdiction along the causeway leading to Town across the swing bridge (SR 50/210).
- o Useable Lot Area should be defined so that the Building Inspector has clear guidelines to follow and so that the developer knows up front which land areas can be used for density calculations. The current ordinance does not provide guidance in administering this part of the zoning ordinance which is particularly crucial in coastal areas where submerged lands, marsh and other components of the coastal ecosystem are often within platted developments.
- o The final major issue is the use of one-mile extraterritorial zoning and subdivision jurisdiction. The Town is currently having a base map of this area prepared. This base map can be used for zoning and land use planning when it is complete. The role of this report is to prepare recommended zoning ordinance revisions that will accommodate areas within the one mile jurisdiction.
- o Minor revisions to clarify regulations and better organize the zoning ordinance should be recommended as a result of the zoning ordinance review and critique.

RECOMMENDED REVISIONS

This section presents specific development code revisions which are recommended to address the problems and issues identified in the preceding section of this Chapter. This includes revisions that are designed to fill gaps and resolve ambiguities (as identified in Project Working Paper Number One, June 7, 1984).

Recommended Zoning Ordinance Revisions

Site Plan Review. Building permit issuance is usually the critical enforcement point for zoning regulations. If a proposed structure does not conform to zoning requirements, a building permit cannot be issued. It is therefore recommended that site plan review requirements be tied into the building permit process. That is, require applications for building permits to be accompanied by site plans. The following is recommended ordinance language to incorporate this requirement into the zoning ordinance. It is designed to replace Section 7.3, "Application for Building Permit".

" 7.3 Application for Building Permit and Site Plan Requirements

All applications for building permits shall be submitted to the Building Inspector and accompanied by two (2) sets of Construction Plans and six (6) site plans, both of which shall be drawn to architectural or engineering scale. The site plan shall indicate the following:

1. Name of applicant or owner, including address and telephone number if such exist.
2. Boundaries and dimensions of the lot to be built on.
3. North arrow.
4. Location and dimensions of existing and proposed structure.
5. Location and dimensions of proposed sewage disposal system(s) and evidence of approval by the Pender County Board of Health, if required.
6. Dimensions of all yard and setback requirements.
7. All existing and proposed roadways and driveways, including the width of each.

8. Location and dimensions of individual off-street parking and loading facilities.
9. All existing and proposed rights-of-way.
10. All easements.
11. Any Areas of Environmental Concern (AEC's) as designated by the North Carolina Coastal Area Management Act which are present or adjacent to the site.
12. The existing and/or intended use of premises, each building or part of a building.
13. The number of families or housekeeping units.
14. Other details as may be necessary to ensure conformance with the applicable ordinances and regulations of Surf City, or as may be required by the Town Building Inspector, Town Manager, or Town Planning Board.

Any building permit application for more than three (3) dwelling units, or for construction of more than 3,000 square feet of heated and cooled area, or occupying space on a lot or parcel of more than 30,000 square feet, or any commercial use shall require site plan review and approval by the Planning Board prior to the issuance of a building permit.

One copy of the construction plans and site plan shall be returned to the applicant by the Building Inspector after he has named such copies either approved or disapproved and attested to same by his signature on each copy. Should the Building Inspector, or the Planning Board in the case of a site plan, disapprove an application for building permit, the reasons for disapproval shall be listed on the application. Additional copies of the plans shall be retained by the Building Inspector."

Allowable Densities in the R-5 and R-10 Districts. As stated, densities in the R-10 district are limited not by zoning requirements, but by State septic sewage disposal regulations. To approach the issue of reasonable densities to be allowed, coupled with the practical matter of septic tank installation, schematic site plans were prepared covering a range of possible residential buildings on different sized lots. Septic fields are based on 450 square foot beds as allowed by state regulations. Current state regulations also require that "maintenance areas" equal to the size of the original system be set aside. However, this requirement does not apply to lots of record as of 1983. Therefore, most of the developable areas in Surf City are exempt from the maintenance area requirements.

Figure 1 displays sample site development plans for 5,000 and 8,500 square foot lots in the existing R-5 district. Plans A and B present single units on both 5,000 square foot corner and interior lots. Plans C and D depict one story duplex units on 8,500 square foot corner and interior lots. As illustrated by Figure 1, these dwellings with required septic sewage facilities and parking can be easily accommodated on the minimum lot sizes currently required by the R-5 district. The development of non-conforming lots of record in the R-5 district may present administration problems from time to time. Town policy on the development of such lots should be that such a lot of less than 5,000 square feet should be allowed to develop with only one dwelling unit; the placement of more than one unit on any R-5 lot should only be done in accordance with the standards of 5,000 square feet for the first unit and 3,500 square feet for each additional unit (or whatever the specific square footage requirements may be amended to).

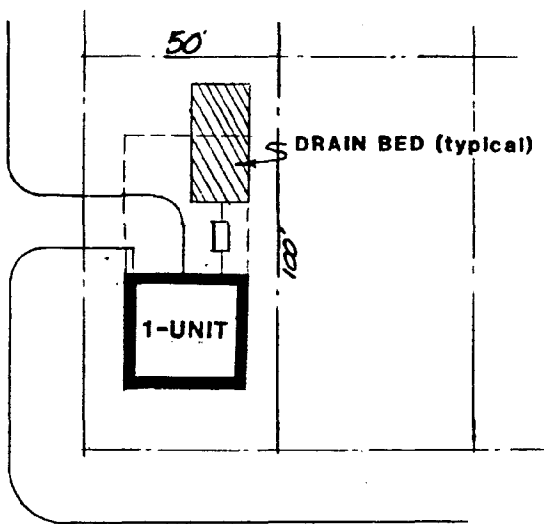
Sample development plans for R-5 district residences along the ocean and marsh are presented by Figure 2. Figure 2-E displays marshfront duplexes on 8,500 square foot corner and interior lots. Figure 2-F portrays oceanfront triplexes on 12,000 square foot corner and interior lots. These three-story structures are cantilevered as allowable under current town enforcement policy. Required parking and septic areas can be met without major design problems.

Maximum density allowed in the R-5 district equates to about 12 units per acre. Based on these site plans and discussions with Town Officials, the basic density provisions of the existing R-5 district do not appear to present constraints; however, it is the ordinance's intent and the Planning Board's desire that overall densities in R-5 exceed those of the R-10 district. The following revisions of the R-5 district is therefore recommended to accomplish a distinct difference between R-5 and R-10 densities.

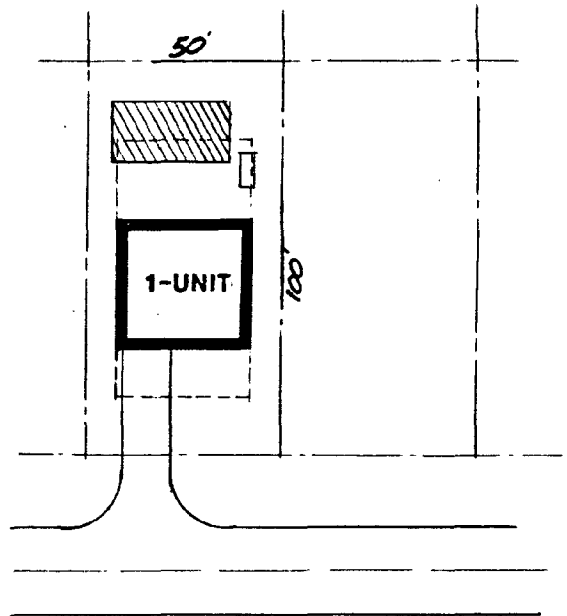
Revise Dimensional Requirements R-5 as follows:

- " a) Lot Area - minimum required - first unit 5,000 square feet, second unit 3,500 sq. ft. additional (8,500 square feet minimum required for first two units) and 2,500 square feet for each additional unit more than two (2) up to a maximum density of 16 dwelling units per net acre."

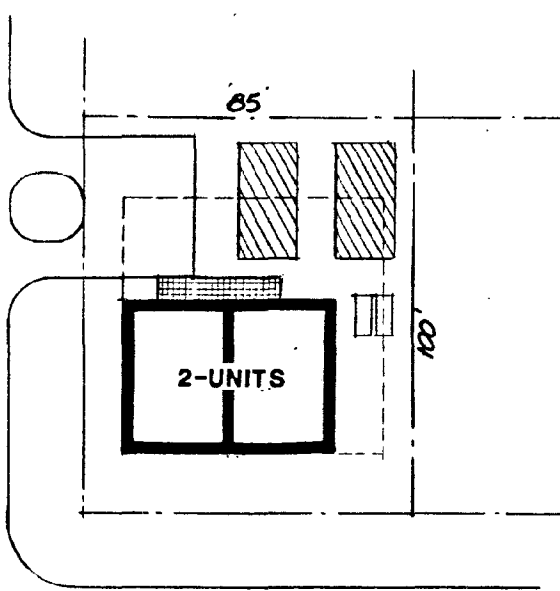
The results of this amendment are displayed below for developments up to one acre:



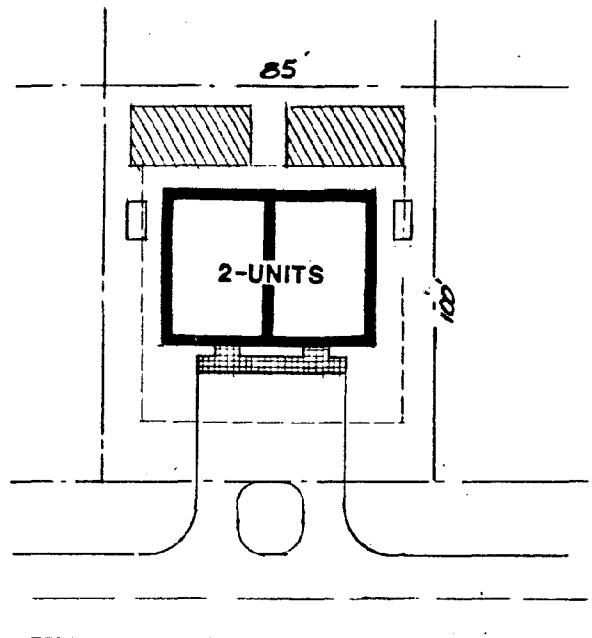
A



B



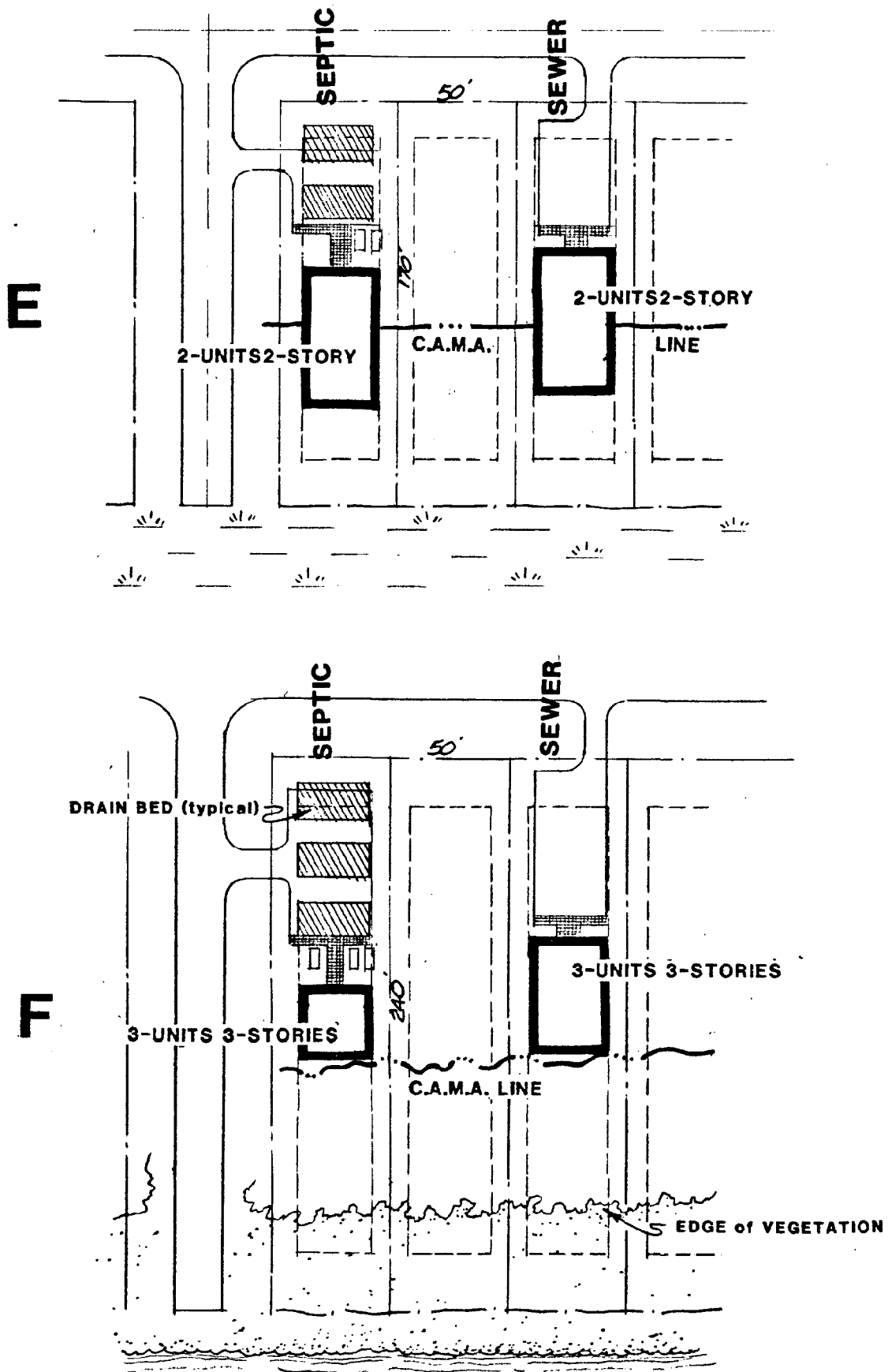
C



D

R-5: 5,000 SQ. FT.& 8,500 SQ. FT. LOTS

FIG. 1



R-5: MARSHFRONT & BEACHFRONT LOTS **FIG. 2**

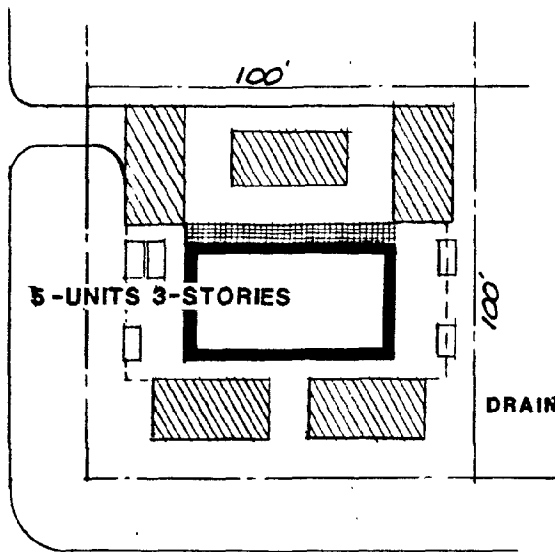
<u>Number of Dwelling Units</u>	<u>Minimum Lot Area In Square Feet</u>
1	5,000
2	8,500
3	11,000
4	13,500
5	16,000
6	18,500
7	21,000
8	23,500
9	26,000
10	28,500
11	31,000
12	33,500
13	36,000
14	38,500
15	41,000
16	43,500 (one acre = 43,560 square feet)

If the required area for each additional unit more than two was amended from 3,500 S.F. to 3,000 S.F. (vs. the 2,500 S.F. illustrated above) the following would result:

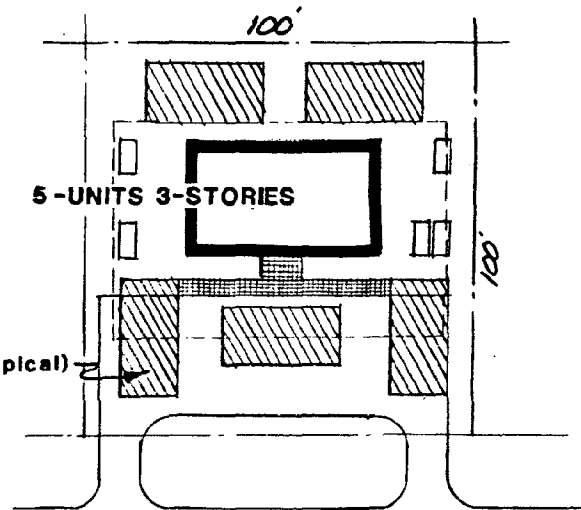
<u>Number of Dwelling Units</u>	<u>Minimum Lot Area Required In Square Feet</u>
1	5,000
2	8,500
3	11,500
4	14,500
5	17,500
6	20,500
7	23,500
8	26,500
9	29,500
10	32,500
11	35,500
12	38,500
13	41,500
14	44,500

(Maximum density on 1st acre is 13 units although it requires only 940 S.F. in addition to the first acre for the 14th unit).

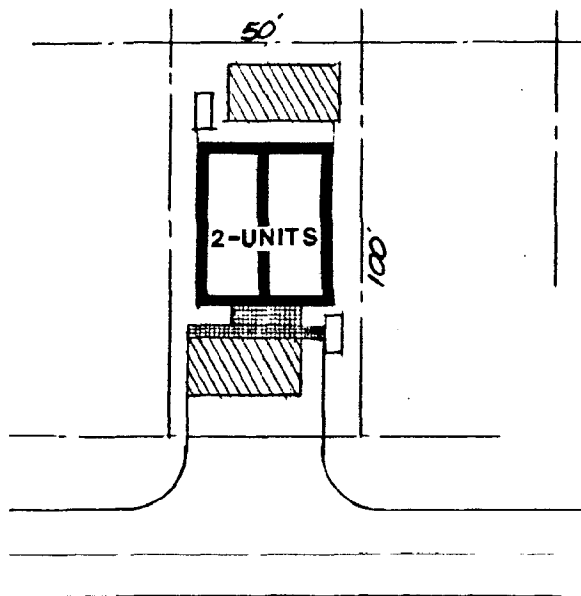
The existing R-10 district does have administrative and regulatory problems as indicated by Figures 3 and 4. Figures 3G and 3H demonstrate that it is possible to place 5 units in a 10,000 square foot R-10 lot (assuming the septic tanks and drainage beds are permitted by the County Health Department). This equates to 2,000 square feet per unit or nearly 22 units per acre. This is contrary to the Planning Board's desire



G

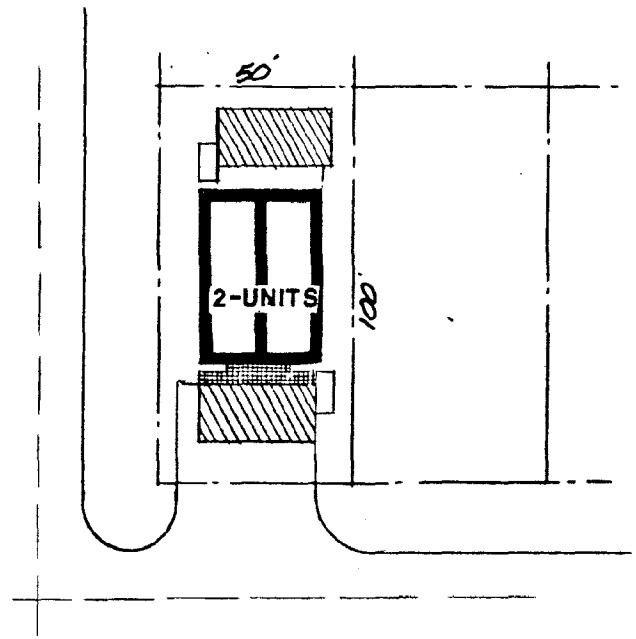


H



I

(Non Conforming Lot)

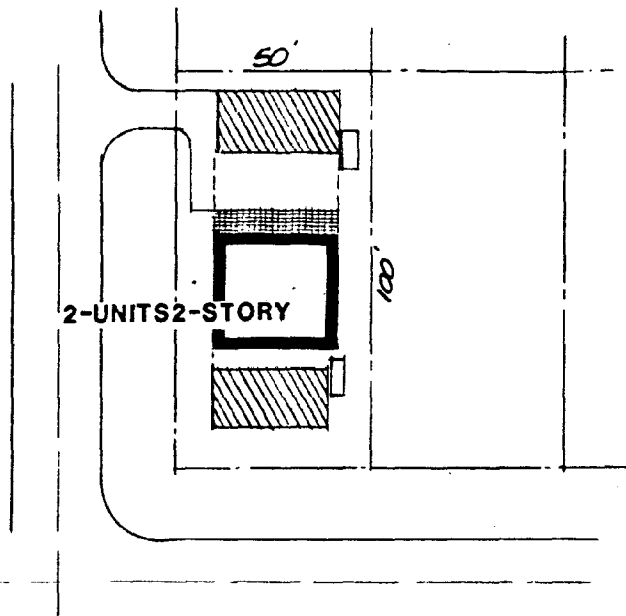


J

(Non Conforming Lot)

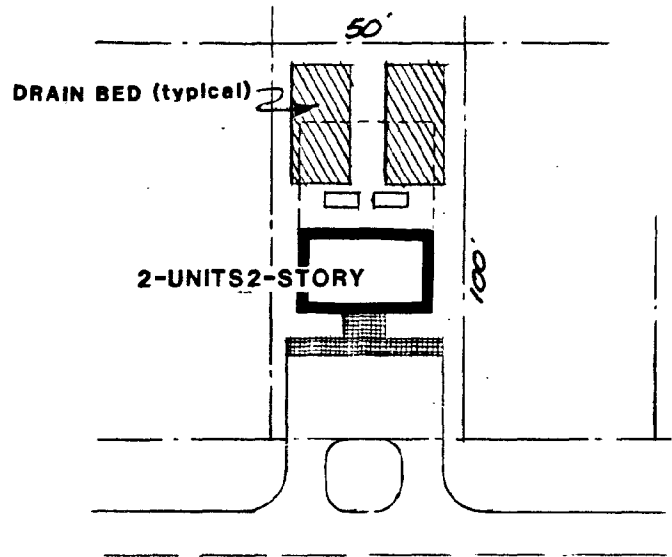
R-10: 10,000 & 5,000 SQ. FT. LOTS

FIG. 3



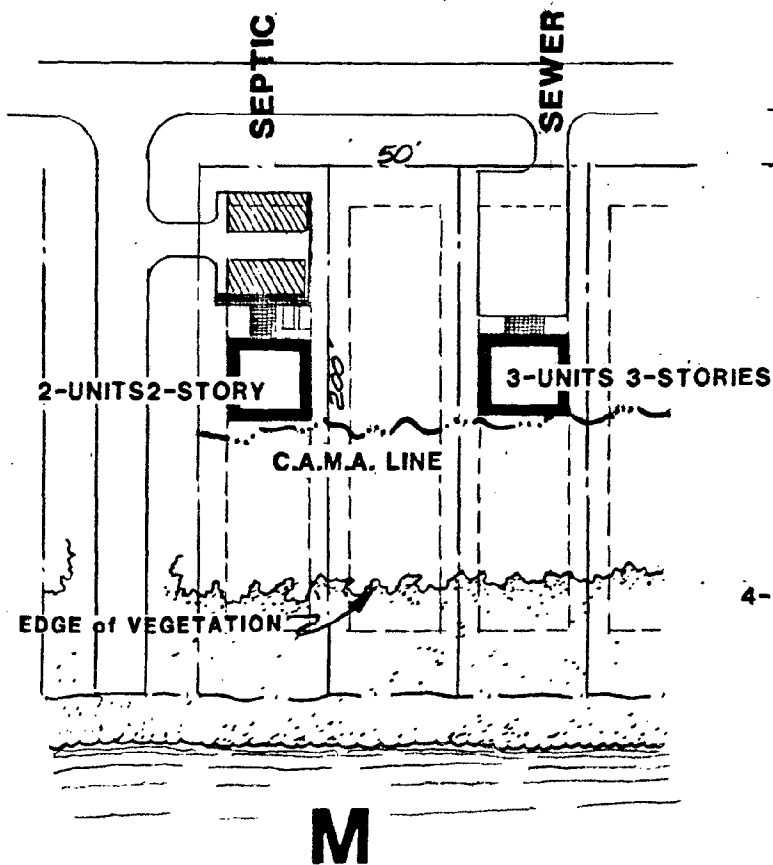
K

(Non Conforming Lot)

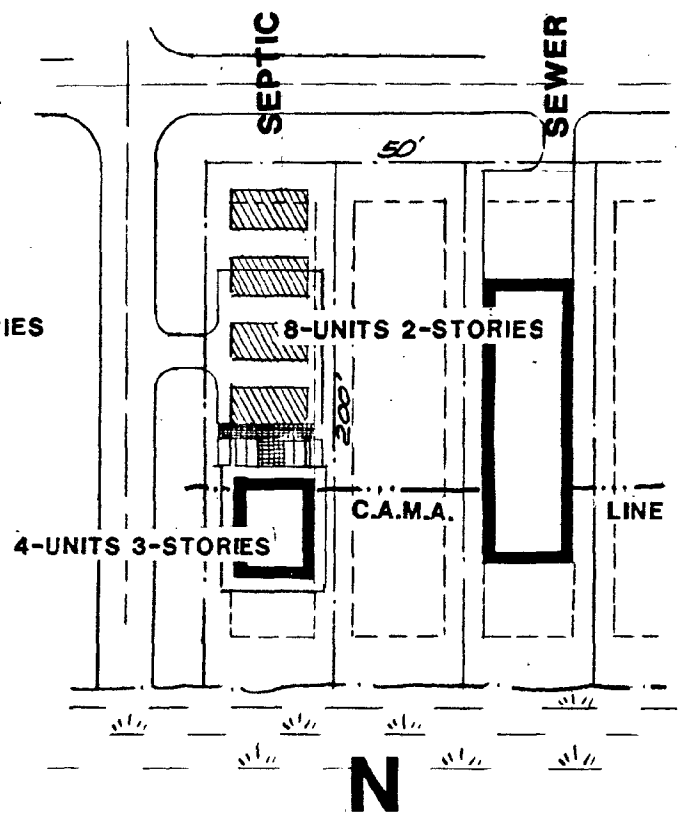


L

(Non Conforming Lot)



M



N

**R-10: 10,000 SQ. FT., MARSHFRONT
& BEACHFRONT LOTS**

FIG. 4

that the R-10 district allow lower overall densities than the R-5 district.

Figures 3I and 3J illustrate how duplexes can be built on 5,000 square foot non-conforming R-10 lots. This puts each unit on 2,500 square feet or more than 17 units per acre. Figures 4K and 4L present 2-story duplexes on 5,000 square foot lots. Oceanfront and marshfront units are portrayed on 10,000 square foot lots in Figures 4M and 4N.

Allowable densities in the R-10 district as now written should be defined and effectively lowered. This is particularly valid in consideration of the future possibility of public sewer which could allow densities in this district in excess of 30 units per acre.

The following revisions to the R-10 district are recommended:

" 4.5 R-10 Residential District

The R-10 Residential District is established to provide for single family dwellings, two-family dwellings, multiple family dwellings and townhouses excluding mobile homes and travel trailers.

1. The following uses are permitted:

- a) Single family dwellings
- b) Two family dwellings
- c) Multi-family dwellings
- d) Townhouses
- e) Churches
- f) Public and private schools
- g) Grounds and facilities for recreational and community center buildings operated on a non-profit basis
- h) Kindergartens and day nurseries provided that not less than 200 square feet of play area is provided for each child
- i) Accessory buildings to residential uses provided that no accessory building shall be rented or occupied for gain and provided all accessory buildings shall meet the minimum dimensional requirements as defined herein

2. The following uses are conditional uses and may be permitted subject to a finding by the Board of Adjustment that the additional conditions listed will be met:
- a) Private club or lodge
 - b) Public buildings such as Fire, Police, Library Facilities, and Rescue
 - c) Public works and public utility substations such as water tanks, pumping stations, treatment plants, and electric, gas, oil, pipeline, telephone substation, provided that all dangerous apparatus shall be enclosed by a chainlink fence at least six (6) feet in height; no vehicles or materials shall be stored on the premises and no offices shall be permitted; and that landscape is screened with shrubs and other vegetation so as to blend with the surrounding area.
 - d) Artificial fences and retaining walls up to 4 feet above lot grade level.
 - e) Boathouse, dock and moorings.
 - f) Home professional office and home occupations provided the use is: conducted entirely within a dwelling and carried on by the occupants, the use is clearly incidental and secondary to the use of the dwelling for living purposes, the use does not change the character thereof. Furthermore, there is not display, no stock-in-trade, nor commodity sold upon the premises and employment is in connection with the home occupation. Such occupation shall be carried on solely within the main dwelling and shall not occupy more than twenty-five (25) percent of the floor area of the dwelling. Beauty parlors and barber shops shall not be construed as a home occupation.

3. Dimensional Requirements R-10

- a) All lots shall be consistent with Ocean Hazard and Estuarine Shoreline AEC standards for development (C.A.M.A.)
- b) Lot area minimum required - first one or two dwelling units 10,000 square feet, each additional dwelling unit more than two, 3,500 square feet up to a maximum density of 12 dwelling units per net acre.

- c) Lot width - minimum required: 50 feet
- d) Front yard - minimum required: 25 feet
- e) Side yard - minimum required: 7.5 feet
Side yard - abutting street: 15 feet
- f) Rear yard - minimum required: 20 feet
- g) Building height - no building shall exceed three stories or 35 feet
- h) Lot coverage - the total ground area covered by the principal building and all accessory buildings including any roofed area shall not exceed 40 percent of the total lot area
- i) Location of accessory buildings - accessory buildings shall be located not less than 5 feet from property line, provided, however, that all required front yards or side yards abutting a street are met
- j) Minimum floor space per dwelling unit - 750 square feet
- k) For ocean front property the front yard shall be that yard between the building and the property line that is common to the road or highway running parallel to the Atlantic Ocean. For ocean front lots the front yard shall have a minimum of 15 feet.

4. Additional Requirements:

- a) Signs shall meet the requirements set forth in Section 5-8.
- b) Off-street parking: off-street parking shall be provided as required in Section 5.1-5.6 of this Ordinance
- c) Corner visibility - on a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points on such center lines at a distance of eighty (80) feet from their intersection, there shall be no obstruction to vision between a height of three (3) feet and a height of ten (10) feet above the average center line grade of each street.

The effect of 3 b) governing allowable densities, is displayed below:

<u>Number of Dwelling Units</u>	<u>Minimum Lot Area Required in Sq. Ft.</u>
1	10,000
2	10,000
3	13,500
4	17,000
5	20,500
6	24,000
7	27,500
8	31,000
9	34,500
10	38,000
11	41,500
12	45,000

(Maximum density on one acre is 11 units; the 12th unit will require 1,440 square feet in addition to one acre. A development of 2 acres would be allowed (24 units or 12 units per acre).

Planned Development Zoning. Town officials and the consulting team have identified several drawbacks and problems with the current PD-R District. These issues were identified in the previous section of this chapter. It is recommended that the Town revise its planned development regulations by adopting a new Planned Unit Development District. The following is designed to replace the existing PD-R District. Its provisions address the problems identified with the existing PD-R regulations. A specific method of dealing with townhouses is also provided by these regulations.

Key provisions dealing with densities and other standards which Town officials will wish to scrutinize are underlined for emphasis.

" 4.6 Planned Unit Development District

Intent

The intent of this district is to achieve site design and land development of superior quality through the encouragement of flexibility and creativity in achieving the purposes of other districts in this Zoning Ordinance by departing from the strict application of use and dimensional requirements under certain conditions and imposing other requirements in lieu thereof.

The objective of the Planned Unit Development is to encourage ingenuity, imagination, and flexibility of design efforts on the part of builders, architects, site planners, and developers to produce developments which are in keeping with density and open space objec-

tives of the Zoning Ordinance, while departing from the strict application of use, setback, height, and minimum lot size requirements of the Zoning Ordinance, which:

1. Permit a creative approach to the development of residential communities
 2. Accomplish a more desirable environment than would be possible through the strict application of minimum requirements of the Zoning Ordinance
 3. Provide for an efficient use of land resulting in smaller networks of utilities and streets and therefore lower housing costs
 4. Enhance the appearance of neighborhoods through the preservation of natural features, the provision of underground utilities and the provision of recreation areas and open space in excess of existing zoning, subdivision, and comprehensive plan requirements;
 5. Provide an opportunity for new approaches to home ownership; and
 6. Provide an environment of stable character compatible with surrounding residential areas.
1. Permitted Uses:
 - a. Condominium
 - b. Dwelling, Single Family Attached
 - c. Dwelling, Single Family Detached
 - d. Dwelling, Two Family
 - e. Townhouse

2. Conditional Uses:

The following may be permitted as conditional uses to the extent that the Board of Adjustment finds them to be designed to serve primarily the residents of the Planned Unit Development and compatibly and harmoniously incorporated into the design of the Planned Unit Development:

- a. Uses permitted in any Commercial District, whose total area including off-street parking and loading facilities shall not occupy more than eight (8) percent of the gross area of the site.
- b. Churches and other places of worship and accessory facilities.
- c. Schools.

3. Accessory Uses:

- a. Accessory off-street parking and loading spaces.
- b. Accessory signs.
- c. Bathhouses, pavilions, community buildings, game courts, (lighted or unlighted), and swimming pools for the use of occupants in the Planned Unit Development.

4. General Requirements:

- a. Minimum Size. The minimum size of a Planned Unit Development shall be two (2) acres.
- b. Location. The Planned Unit Development shall have access to major streets without creating traffic on minor residential streets outside the district. It shall be adequately served by the Town's public water system. Where feasible, private facilities, utilities or services approved by appropriate public agencies may be permitted to serve the Planned Unit Development District.
- c. Ownership. Prior to final approval of the development land, evidence of unified control of the entire site must be submitted to the Planning Board accompanied by a signed agreement by all owners which includes their commitment to:
 - 1. Proceed with the proposed development in accordance with the Planned Unit Development plans as submitted, and such conditions and safeguards as may be set by the Town Council in granting the rezoning; and
 - 2. Provide agreements, contracts, deed restrictions and sureties acceptable to Surf City, North Carolina, for completion of such development according to plans approved at the time of the rezoning, and for continuing operating and maintenance to such areas, functions, and facilities as are not to be provided, operated or maintained by Surf City, North Carolina, pursuant to written agreement; and
 - 3. Bind their successors in title to any commitments made in their petition.

d. Density. For purposes of this section of the Zoning Ordinance, the Planned Unit Development site shall be divided into a maximum of three (3) residential density districts. The districts shall be as follows: low-density, medium density, and high-density district. The density for the entire Planned Unit Development shall not exceed (16) units per gross acre.

1. Low-Density District. The low-density district shall be limited to one (1) and/or two (2) family detached or attached structures. No more than five (5) units per net acre shall be permitted in the low density district. The minimum lot size in the low density district shall be seven thousand five hundred (7,500) square feet.

- a. In an effort to encourage cluster development of housing units, minimum lot sizes may be reduced up to twenty-five (25) percent. In a cluster development no more than two (2) single family units nor more than two (2) family units may be erected on a common wall.
- b. In exchange for the increase in the net density of the low-density district, the remaining portion of the land not devoted to lots shall be dedicated or devoted to common open space.
- c. Front Yard Requirement. The minimum front yard requirements shall be fifteen (15) feet.
- d. Side Yard Requirement. There shall be a minimum of twenty (20) feet between structures.
- e. Rear Yard Requirement. No minimum rear yard is required.

2. Medium Density District. The medium density district shall be limited to townhouses and/or condominiums. No more than sixteen (16) units per gross acre shall be permitted in the medium density district.

- a. Townhouses. A minimum of three thousand five hundred (3,500) square feet of lot area shall be provided for each townhouse unit. (See special requirements under Supplementary Regulations, page___).

- b. Front Yard Requirement. The minimum front yard setback shall be twenty-five (25) feet.
 - c. Rear Yard Requirement. The minimum rear yard setback shall be thirty (30) feet from the perimeter lot line of a townhouse development.
 - d. Side Yard Requirement. A minimum side yard of twenty (20) feet shall be provided between the end of a grouping of townhouses and an interior lot line of a townhouse development site, except that on corner lots the side yard abutting a public street shall be equal to the front yard. A spacing of twenty (20) feet shall be provided between the end of each grouping of townhouses, and an additional ten (10) feet shall be required if a driveway is provided between such groups. Such separation between such groupings shall not be encumbered with walls or other structures or obstructions which will prevent emergency vehicular access between such groups.
3. High Density District. The high density shall be limited to multi-family structures. Condominiums shall be limited to multi-family structures. Condominiums shall be permitted in the high density district, at a maximum density of twenty-four (24) units per gross acre.
- e. Open Space Requirements
 - 1. As a prerequisite for approval of a Planned Unit Development a minimum of ten (10) percent of the gross residential acreage shall be allocated to local open space for the use of the residents of the Planned Unit Development.
 - 2. Common open space must be used for amenity or recreational purposes and natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.
 - 3. The development schedule must

coordinate the improvement of the common open space, the construction of buildings, structures and improvements in the common open space, and the construction of residential dwellings in the Planned Unit Development.

4. The common open space shall be situated such that it will best serve the residents and be totally integrated within the various land uses of the Planned Unit Development.
5. The developer shall make provisions to provide for the use, improvement and maintenance of the common open space in a manner which assures its continuing use for its intended purpose. The Town Attorney shall certify to the Town Commission that the proposed method of assurance is legally binding.

5. Procedures for PUD Approval

A petition for rezoning land to a Planned Unit Development District shall be submitted to the Building Inspector in the same manner as any rezoning request.

- a. A written statement shall accompany the rezoning petition containing the following information:
 1. An explanation of the character of the Planned Unit Development and the manner in which it has been planned to take advantage of the Planned Unit Development Regulations.
 2. A statement of proposed financing.
 3. A statement of present ownership of all land included within the development.
 4. A general indication of the expected schedule development.
 5. A plat or legal description of the total area within the Planned Unit Development.
- b. Preliminary Development Plan. An appli-

cant shall submit a Preliminary Development Plan (seven copies) along with the written statement at the time of submission of the rezoning request. The Preliminary Development Plan must include all of the following information:

1. A boundary survey and topographical survey of the site at an appropriate horizontal scale and contour interval, depicting all existing masses of trees, and other natural features.
2. The preliminary location and grouping of all uses and the amount of area for each.
3. The boundary of each residential density district, the number of residential units proposed for each density district, their general location, and proposed lot designs; tentative floor plans and elevations; which need not be the result of final architectural decisions and need not be in detail; those areas to be owner-occupied and those to be renter-occupied.
4. A preliminary vehicular and pedestrian circulation system including driveways, walkways, loading areas, including the number of parking spaces, and streets to be dedicated.
5. A system of open space and recreational uses, with estimates of acreage to be dedicated for public use and that to be retained in common ownership.
6. A draft of the Declaration by which the use, maintenance, and continued protection of the Planned Development and any of its common open space areas shall be guaranteed.
7. A development schedule indicating:
(1) the approximate date when construction of the project can be expected to begin; (2) the stages in which the project will be built and the approximate date when construction of each stage can be expected to begin; (3) the anticipated rate of development; (4) the approxi-

mate dates when the stages in the development will be completed; and (5) the area and location of common open space that will be provided at each stage.

It is the intent of this requirement that the schedule of development be such that a staged implementation of the Planned Unit Development would not result in land use conditions which would establish a precedent for the use of adjoining undeveloped property for purposes other than that shown on the approved Planned Unit Development Plan.

- c. The Planning Board shall review the preliminary Planned Unit Development and shall forward its recommendation to the Town Council based upon findings that:
 1. The proposed Planned Unit Development will not adversely affect the orderly development of Surf City, as embodied in the Zoning Ordinance and in any land use plan or portion thereof adopted by the Town.
 2. The proposed Planned Unit Development will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the natural environment or to the use or development of adjacent properties or the general neighborhood.
 3. The proposed Planned Unit Development will accomplish the objectives and will meet the standards and performance criteria as outlined.
- d. Final Development Plan. Within six (6) months following the approval of the rezoning petition by the Town Council and the Preliminary Development Plan, the applicant shall submit to the Planning Board eight (8) copies of the Final Development Plan containing in final form the information required in the Preliminary Plan. Upon receipt of a request by the applicant, the Planning Board may extend for six (6) months the period for filing the Final Development Plan.

Upon receipt of the Final Development Plan, the Planning Board shall review it to see that it is in substantial compliance with the Preliminary Development Plan. The Planning Board may approve changes in the Final Development Plans which comply with the following criteria:

1. The total number of dwelling units and the total floor area is not increased;
2. The open space is in the same general location and in the same general amount or greater amount;
3. The number of stories in the building and the floor area thereof is not increased;
4. The roads and drives follow approximately the same course and have the same public or private rights therein.

Following recommended approval of the Final Development Plan by the Planning Board, it shall forward two copies of the approved Final Development Plan to the Town Manager and Town Council.

6.. Phasing of Construction

- a. Residential. The phasing of residential construction in any one residential density district shall not exceed the overall density requirement of the Planned Unit Development as a whole.
- b. Non-Residential. If a Planned Development contains non-residential uses, these uses may be constructed first, but only if the Planning Board finds - and records its findings on the Final Development Plan - that the non-residential uses would be consistent with the Land Use Plan for the community even though the residential areas of the Planned Development are not built or not completed.

7. Subdivision or Resale of Property

Following approval of the Final Development Plan, the Planned Unit Development may be subdivided or resubdivided for purposes of sale or lease or transfer of title. The Planning Board

shall approve the subdivision or re-subdivision of portions of the Planned Unit Development provided that each meets the planning requirements of the Subdivision Regulations of Surf City, North Carolina, and the density, open space, yard, and parking requirements of the Zoning Ordinance of Surf City, North Carolina.

8. Design Standards and Performance Criteria

The following Design Standards and Performance Criteria are minimums to be used in the development of a Planned Unit Development site:

- a. Access. Vehicular access drives throughout the Planned Unit Development site shall be paved to a minimum of twenty (20) feet.
- b. Height.
 1. The maximum height in the low-density district shall be thirty (30) feet.
 2. The maximum height in the medium-density district shall be thirty-five (35) feet.
 3. The maximum height in the high-density district shall be forty-eight (48) feet.
- c. Minimum Distance Between Buildings
 1. The minimum distance between buildings in the low-density district shall be twenty (20) feet.
 2. Multiple family and townhouse structures shall be separated from one another by the following minimum distances:

(a) front-to-front:	40 feet
(b) front-to-rear:	50 feet
(c) rear-to-rear:	30 feet
(d) side-to-side:	20 feet
(e) all other:	20 feet
- d. Off-Street Parking and Loading. The regular off-street parking and loading requirements of this Ordinance shall apply to Planned Unit Developments, unless they

are revised as a condition of approval.

- e. Pedestrian Circulation. The pedestrian circulation system and its related walkways shall be separated as completely as possible from the street or vehicular circulation system. All walks shall be of a permanent nature and material and shall be at least five (5) feet in width.
- f. Perimeter Control. The minimum setback from the exterior boundaries of the Planned Unit Development site shall be twenty-five (25) feet.
- g. Perimeter Control. Buildings over two (2) stories and other such uses shall be located within the Planned Unit Development in such a way as not to invade the privacy of the occupants of low rise buildings. Privacy walls and screening shall be provided where deemed necessary by the Planning Board.
- h. Service and Emergency Access. Access and circulation systems shall adequately provide for fire fighting equipment, furniture moving vans, refuse collections and deliveries.
- i. Underground Utilities.
 - 1. All areas of the Planned Unit Development shall provide for underground installation of all utilities, including power and telephone.
 - 2. Provision shall be made for acceptable design and construction of storm sewer facilities, including grading, gutters, piping, and treatment of turf to handle storm waters, prevent erosion, and formation of dust.
- j. Subdivision Procedures. At the option of the developer, portions of the Planned Unit Development may be subdivided to provide individual building lots for one and two family dwellings, townhouses, condominiums, or development sites, provided the following requirements are met:
 - 1. All platting requirements shall comply with the Subdivision Regulations

of Surf City, North Carolina

2. Townhouse developments may be subdivided to provide individual lots. The minimum lot size shall be 1,800 square feet with a minimum width of twenty (20) feet. All other yard requirements shall comply with the Regulations of this Ordinance.

9. Additional Requirements

For additional requirements, see definition of "Planned Unit Development" under Section 11.4, Definition.

(Note: definitions placed here in report for continuity.)

Planned Unit Development. For the purpose of the Zoning Ordinance, a Planned Unit Development is defined as land under unified control which is planned and developed as a whole in a single development operation or a programmed series of operations, including all land and buildings for principal and accessory structures and uses substantially related to the character of the district. The Planned Unit Development shall be developed according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites and the like, but also site plans, floor plans, and elevations of all buildings as intended to be located, constructed, used and related to each other and detailed plans for other uses and improvements on land as related to the building.

The Planned Unit Development shall also make provisions for the operation and maintenance of such areas, improvements, facilities, and service as will be for common use by some or all of the occupants of the Planned Unit Development, but will not be provided, operated, or maintained at the expense of the general public.

Condominium. A building containing three (3) or more individually-owned units and related, jointly-owned, common areas as defined by the laws of the State of North Carolina.

Town House Requirements

Note: This section is needed to specify townhouse requirements within the PUD. It can also be used to regulate townhouse developments in other zoning districts.

1. Purpose

- a. To permit a greater intensity of land use while at the same time provide areas of open space and degree of privacy comparable to those qualities inherent in conventional single-family detached housing.
- b. To permit developments of smaller size within older areas characterized by an intermixing of single, two-family houses and commercial uses. The townhouse affords the opportunity to make economic use of "passed over" vacant land or to replace dilapidated structures at a slightly higher density while maintaining owner-occupancy in the neighborhood.
- c. To make available a variety of dwelling types and densities in a variety of newly developing locations to serve a wide range of individual requirements so long as certain standards are maintained to insure a reasonable amount of open space and architectural variety.

2. Definitions.

- a) Townhouse. A single family dwelling, located on a lot, forming one of a group or series of two (2) or more attached single-family dwellings separated from one another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement to roof and having roofs which may extend from one such dwelling unit to another.

3. General Requirements.

- a) Each unit shall be independently served by separate utilities and services.
- b) A grouping of townhouses shall not exceed two hundred fifty (250) feet in length.
- c) Accessory structures shall be located in the rear yard only, and may abutt another accessory structure located on an adjacent lot within the townhouse development, except that accessory structures for end units shall not be

closer than the main building to the property line.

- d) Separation between groupings of townhouse units shall be the same as set forth in Section 4.6 4,d,2 of this ordinance.
- 4. Maximum Density. The maximum density for townhouse shall not exceed one (1) dwelling unit per lot.
- 5. Subdivision Procedures. At the option of the developer, the land may be subdivided to provide individual lots for townhouse dwellings provided the subdivision of land is in conformity with all platting requirements of the Subdivision Regulations of Surf City, North Carolina.

Commercial Zoning Districts. An additional commercial zone is recommended to govern development in commercial areas outside the central commercial core area including commercial areas within the Town's extraterritorial jurisdiction. Additionally, certain revisions to the existing C-1 district are recommended.

It is proposed that the C-1 Commercial District be revised to serve as a Central Business District zone. These zoning districts typically do not require front and side yard setbacks or off-street parking, providing for intense development. The following revisions are recommended to the C-1 District:

- 1) Revise the District to:
"C-1 Central Business District.
- 2) Revise the District Intent Statement to read:
"The C-1 Central Business District is intended to protect and promote suitable areas for business and commercial uses which benefit from proximity to each other including a variety of sales and service facilities for the general public and to encourage the intense development of a centralized business center in Surf City."
- 3) Revise the permitted uses section by deleting:
"e) all uses permitted in the R-5 district" and replacing with "e) dwellings, single family detached".
- 4) Revise Dimensional Requirements C-1 by:

Deleting the existing section and replacing it with:

"a) all lots shall be consistent with Ocean Hazard and Estuarine Shoreline Act AEC standards for development under C.A.M.A.

b) Lot Area - Minimum Required:

- 1) Single family dwellings: 5,000 square feet
- 2) Commercial Uses: 3,000 square feet

c) Lot Width - Minimum Required:

- 1) Single family dwellings: 50 feet
- 2) Commercial Uses: 30 feet

d) Front Yard - Minimum Required:

- 1) Single family dwellings: 15 feet
- 2) Commercial Uses: None

e) Side Yard - Minimum Required:

- 1) Single family dwellings: 7.5 feet
Side yard abutting street: 10 feet
- 2) Commercial Uses: None

f) Rear Yard - Minimum Required:

- 1) Single family dwellings: 20 feet
- 2) Commercial Uses: None

g) Building Height - Maximum 35 Feet or Three (3) Stories

h) Lot Coverage:

- 1) Single family dwellings: 40 percent
- 2) Commercial Uses: None

Additional Requirements:

- a) Buildings constructed or converted to commercial use after the effective date of this Ordinance shall provide off-street loading berths as required in Section 5.7 and off-street parking as required in Section 5.1 - 5.6 in this Ordinance.
- b) All signs or billboards must meet the requirements set forth in Section 5.8 of this Ordinance."

Add an additional Commercial Zone, the C-2, General

Commercial District, as follows:

"C-2, General Commercial District

The C-2, General Commercial District is to provide and protect areas suitable for a mixture of uses providing retail goods, services, lodging, tourist services, entertainment and single family dwellings. Its regulations are designed to: 1) encourage the formation of continuity among commercial uses locating along the Town's major roads; and 2) ensure adequate and properly designed methods of ingress and egress to commercial properties while providing for safe and adequate traffic flow along these major roads.

1. The following uses are permitted:

- a) all uses permitted in the C-1, Central Business District
- b) townhouse
- c) dwelling, two family

2. Dimensional Requirements

- a) All lots shall be consistent with Ocean Hazard and Estuarine Shoreline AEC Standards for Development under the C.A.M.A.
- b) Lot area - minimum required: 5,000 square feet
dwellings shall be subject to R-5 regulations for minimum lot area
- c) Lot width - minimum required: 50 feet
- d) Front yard - minimum required: 25 feet
- e) Side yard - minimum required: 7.5 feet
Side yard abutting street: 20 feet
- f) Rear yard - minimum required: 20 feet
- g) Maximum building height: 35 feet or 3 stories
- h) Maximum lot coverage: 50%
Dwellings: subject to R-5 provisions
- i) Residential accessory structures shall not be less than 5 feet from rear or side property lines and shall meet all front yard requirements.

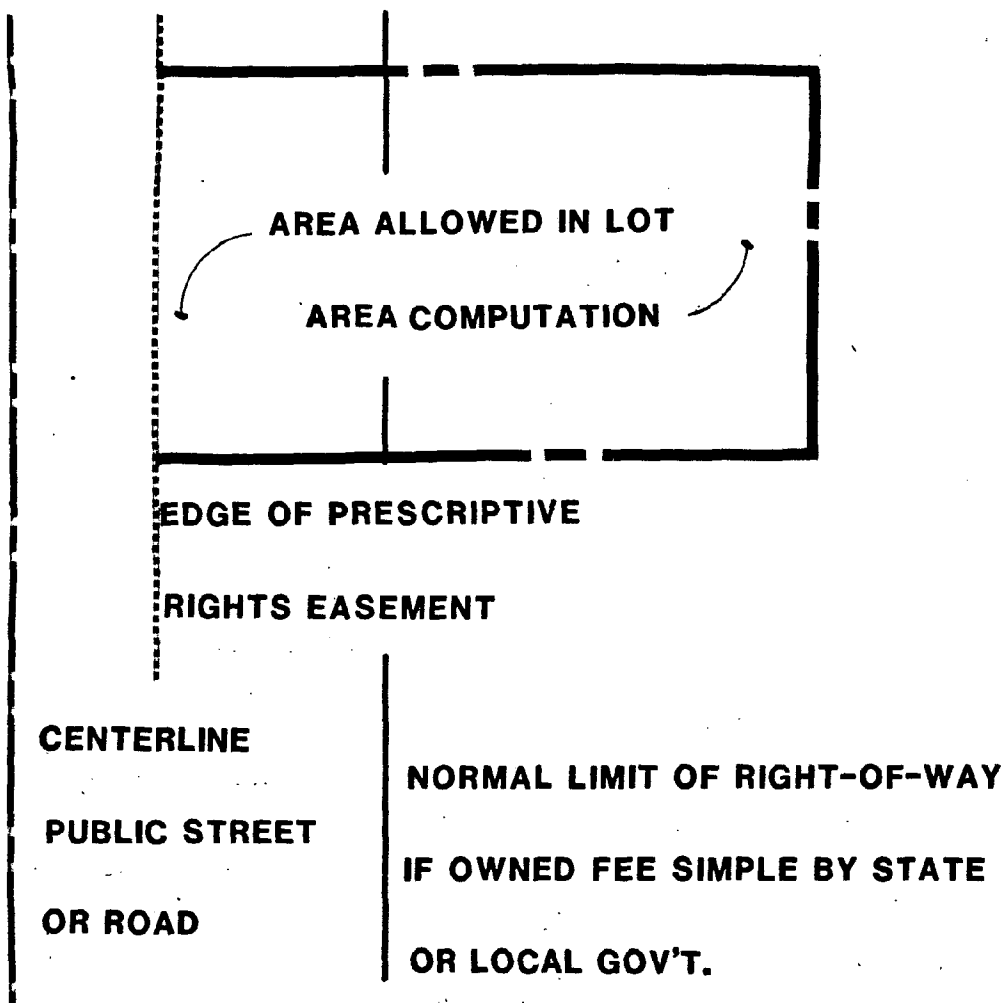
3) Additional Requirements

- a) Buildings constructed or converted to commercial use after the effective date of this Ordinance shall provide off-street loading berths as required in Section 5.7 and off-street parking as required in Section 5.1- 5.6 of this Ordinance.
- b) All signs or billboards must meet the requirements set forth in Section 5.8 of this Ordinance.

Useable Lot Area Definition. The purpose of defining useable lot area is to provide both zoning administration personnel and developers with a clear set of guidelines identifying which lands are recognized by the zoning ordinance for area/density calculations and which are not. The following is intended to be a "draft working definition" that should be thoroughly reviewed prior to finalization.

"For the purposes of calculating minimum lot area, density or dwelling units per acre, and maximum lot coverage under the terms of this Ordinance, the following provisions shall govern:

- 1) only contiguous areas held in fee simple title shall be calculated as to lot area.
- 2) regardless of ownership via fee simple title, only lands above mean high sea level (e.g. fillable marsh, pilings) shall be allowed in the calculation of lot area.
- 3) In the case of lots fronting or abutting on public roads or streets which have no formally dedicated or acquired rights-of-way, the yard or yards abutting such road shall be defined as beginning at the edge of the prescriptive rights easement as may be determined or established by state law. The following sketch illustrates this definition:



Extraterritorial Jurisdiction. The Town has contracted for the preparation of a base map covering areas on the mainland within its one mile extraterritorial jurisdiction. This is the first step in exercising this regulatory control. Once the base map is completed, existing land use and proposed zoning can be established. The recommended revisions to the zoning ordinance by this report were designed, in part, to accommodate zoning requirements within the Town's one mile jurisdiction. It is recommended that an additional residential district be created specifically for use on the mainland in the extraterritorial jurisdiction area as follows:

"R-20, Single Family Residential District

The purpose of this district shall be to maintain a minimum lot size of twenty thousand (20,000) square feet, a single family dwelling density of approximately two (2) families per acre; to allow for single family dwellings and such other uses allowed as conditional uses which would not interfere with single family residences in the district and which would not be detrimental to the quiet residential nature of the area included within the district; and to prevent the development of blight and slum conditions.

1. The Following Uses are Permitted:

- a. Single family dwellings
- b. Churches and cemeteries
- c. Public schools and private schools
- d. Greenhouses and truck gardens which are incidental to the residential use and conducted on a non-profit basis only
- e. Public utility distribution lines, transformer stations, transmission lines and towers, water tanks, but not service or storage yards
- f. Customary accessory buildings
- g. Single family mobile homes subject to the exceptions set forth below:
 - 1) a mobile home owner shall be required to obtain a building permit prior to the installation of a mobile home on a private lot
 - 2) a mobile home owner shall be required to pay the same fees for a building permit as applies to any other single family structure
 - 3) each mobile home shall be required to connect into a separate individual approved septic tank or approved sewage disposal system
 - 4) each mobile home shall be attached to the ground by an approved tie-down system to include sand anchors and turn buckles cabled to the structural frame at each of the four (4) corners of the mobile home
 - 5) no building permit shall be issued for the installation of a mobile home on a private lot unless the mobile home was manufactured according to U.S. Department of Housing and Urban Development standards for mobile homes as evidenced by a factory-affixed metal plate attesting to same.
 - 6) no mobile home having less than four hundred (400) square feet of livable space shall be permitted within this R-20 district
 - 7) no mobile home without two (2) exit doors may be installed or placed on any lot

- 8) each mobile home shall be placed on a foundation consisting of a minimum of ten (10) pillars of concrete or similar blocks, five (5) pillars to the side
 - 9) no more than one mobile home shall be allowed upon a residential lot
 - 10) no mobile home shall be located upon a lot with another single family unit which includes a standard residential structure or another mobile home
2. The following uses are conditional uses and may be permitted subject to a finding by the Board of Adjustment that any additional conditions listed will be met:
- a) home occupations
 - b) boathouse, dock and moorings
 - c) public buildings such as fire, police, etc.
3. Dimensional Requirements R-20
- a) All lots shall be consistent with Ocean Hazard and Estuarine Shoreline AEC standards for development under C.A.M.A., if applicable
 - b) Lot Area - Minimum Required: 20,000 square feet
 - c) Lot Width - Minimum Required: 100 feet
 - d) Front Yard - Minimum Required: 30 feet
 - e) Side Yard - Minimum Required: 15 feet
Side Yard abutting street: 25 feet
 - f) Rear Yard - Minimum Required: 25 feet
 - g) Building Height - No building shall exceed three stories or 35 feet
 - h) Lot Coverage - the total ground area covered by the principal building and all accessory buildings including any roofed area shall not exceed 35 percent of the total lot area
 - i) Accessory buildings may be located within ten (10) feet of the rear lot line or seven and one half (7 1/2) feet of a side yard line but shall not be placed within a required front yard or side yard abutting a street.

Policy Regarding Density Calculations. Add the following language to the ordinance to clearly spell out that allowable densities are for "net acreage".

"The minimum lot sizes and corresponding maximum allowable densities prescribed by this ordinance shall be determined on the basis of net available acreage. Areas intended for dedication to Surf City as street rights-of-way, drainage ways, public alleys, etc. shall not be included in land area for density calculations."

Minor Revisions to Clarify the Ordinance and Define Specific Requirements.

Working Paper Number One recommended several minor revisions to the zoning ordinance text to clarify requirements and administrative procedures. The following presents recommended revisions in accordance with issues identified by the working paper. Additional items identified by Working Paper Number One have been addressed by the preceding recommendations of this report.

Recommended revisions are as follows:

- 1) P. 48, Definition 27,e) Nonconforming Lot. Revise to read: "A lot existing and properly recorded as a matter of public record in the Pender County Register of Deeds Office as of effective date of this ordinance or any amendment to it that does not meet the minimum area or lot width requirements of the zoning district in which it is located."
- 2) Page 9, Section 3.3, 8. Extension or Enlargement of Non-Conforming Situations.
 - o Revise 3.3,8 by deleting "or totally", thereby making it read: "...may be reconstructed or replaced if partially destroyed, ..."
 - o Revise 3.3,8 by inserting a new paragraph a):
"a) Such structure may be restored and occupancy or use allowed if that structure is destroyed or damaged by not more than fifty (50) percent of its actual replacement value."
 - o Revise 3.3,8 a) to be b); b) to c); etc.
 - o Delete existing second paragraph of 3.3, 8,c "Except for single family residential... before the destruction occurred."
- 3) Page 14 - Section 4.4, R-5 M Residential Mobile Home District. Revise the entirety of Section 4.4 to read as follows:

"4.4 R-5M Residential Mobile Home District

The R-5M Residential Mobile Home District is established as a district in which the principal use of land is for mobile homes and travel trailers. The regulations of this district permit intensive development provided the necessary public and/or community water and sewer systems are available.

1. The following uses are permitted:

a) Mobile home parks and travel trailer parks in accordance with Section 6.0 of this Ordinance.

b) Campgrounds."

4) Page 32 Section 6.3 Current Ordinance Provision for Mobile Home Parks

Revise 6.3, 2 to read as follows:

"2. Each mobile home lot or space shall be a minimum of 3,500 square feet, net density shall not exceed 11 mobile homes per acre; and, the total lot or space area occupied by structures shall not exceed forty (40) percent."

5) Page 33, Section 6.6, Design Standards for Travel Trailer Parks

Revise 6.6, 2 to read as follows:

"2. Each travel trailer space or lot shall be a minimum of 2,000 square feet, net density shall not exceed twenty (20) travel trailers per acre; the total lot or space area occupied by structures shall not exceed forty (40) percent."

6) Page 31, Section 5.12, Accessory Building; revise to read as follows:

"Except as otherwise provided by this Ordinance, no accessory building shall be erected in any required yard and no accessory building shall be erected within 5 feet of any principal structure or other accessory building."

7) Page 39, Section 8.1 Amending the Ordinance.

Revise 8.1, 2, Application to require that applications be filed 18, 21 or however many days may be required to meet advertising and administrative requirements. The current 10 day requirement is not adequate.

8) Page 45, Section 11.4, Definitions

11.4, 7 District revise to read: "District, Zoning"

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