

## ARTICLE 5 – SOCIAL USE DISTRICTS

### 5.1 Purpose and Description

Special Use Districts (SUD) are zoning districts in which the development and use of the property is subject to predetermined Ordinance standards and the rules, regulations, and conditions imposed as part of the legislative Town Council decision creating the district and applying it to the particular property. A Special Use District is a zoning district in which the potential permitted use or uses are (Appendix 1 – Table of Permitted Uses), except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in the corresponding general use district (Article 4). Rezoning to a SUD shall be a conditional rezoning, pursuant to N.C.G.S. 160A-382(b).

A SUD allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they may have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards (Article 4).

The SUD review process provides accommodation of uses by a rezoning of property into a SUD, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties. Detailed information, including a site plan (Section 16.2(2)(C)), is required to accompany a SUD application.

### 5.2 Uses Permitted

Within a Special Use District, only those uses authorized by this Ordinance as “permitted”, “permitted with additional development standards”, “conditional”, or conditional with additional development standards” within the corresponding general use district shall be permitted, pursuant to Appendix 1, Table of Permitted Uses. The Special Use Districts and their corresponding general use districts are as follows (Table 5.1):

**Table 5.1 - Special Use Districts (SUD) and Corresponding General Use Districts.**

<b>Special Use District</b>	<b>General Use District</b>
RU-SUD	RU
R-20-SUD	R-20
R-15 -SUD	R-15
R-10 -SUD	R-10
R-8-SUD	R-8
R-6-SUD	R-6
R-MH-SUD	R-MH
R-MF-SUD	R-MF
NB-SUD	NB
GB-SUD	GB
LI-SUD	LI
HI-SUD	HI

### **5.3 Dimensional Requirements**

Dimensional requirements for a Special Use District shall be the most restrictive of the following:

- (1) Minimum requirements for the corresponding general use district, pursuant to Appendix 2 – Table of Permitted Uses;
- (2) Minimum requirements of the Brunswick County Health Department in such cases where public water and sewer is not provided;
- (3) Additional requirements (Article 9) for any proposed use for which additional development standards are required in the corresponding general use district;
- (4) Any other dimensional requirements specified elsewhere in this Ordinance; and
- (5) All conditions imposed by the Town Council and agreed upon by the applicant, which exceed the minimum standards for the corresponding general use district.

### **5.4 Approval Process**

Property may be rezoned to a Special Use District only in response to and consistent with an application submitted by the owners of all property to be included in the district. The rezoning is a zoning map amendment subject to the provisions of Section 16.7, as well as to the special provisions established in this section. The rezoning is a legislative Town Council process subject to judicial review using the same procedures and standard of review applicable to general use district zoning decisions.

Specific conditions applicable to these districts may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and the petitioner may be incorporated into the SUD approval.

Any use proposed in a SUD that is authorized as conditional shall not be subject to the standard conditional use permitting process; instead the use will be reviewed and permitted pursuant to the procedures in this Article.

#### **(1) Application Requirement**

An applicant wishing to rezone his property to a Special Use District shall submit a SUD application, and the information provided shall include:

- (A) A statement describing in detail the use or uses proposed;
- (B) A statement describing how the use or uses proposed conform to the intent of the zoning district and any adopted plans;
- (C) A statement describing the conditions or restrictions proposed by the applicant and an explanation of how each condition or restriction is intended to ensure that the proposed use or uses will be in harmony with adjacent properties;

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- (D) A site plan pursuant to Section 16.2(2)(C); and
- (E) Any other information the Zoning Administrator, Planning Board or Town Council requests.

### (2) Conditions of Approval

In approving a Special Use District rezoning, the Planning Board may recommend, and the Town Council may request, that reasonable and appropriate conditions be attached to approval of the rezoning. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, sidewalks, roads, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Council may find appropriate or the applicant may propose.

Such conditions to approval of the SUD rezoning may include dedication to the Town, County or State, as appropriate, any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Council. If for any reason any condition for approval is found to be illegal or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.

### (3) Effect of Approval

- (A) If a Special Use District rezoning is approved, the development and use of the property shall be governed by the Ordinance requirements applicable to the district's classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning map.
- (B) If a Special Use District rezoning is approved, only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to Section 5.4(4) below; however the changes to the site plan layout shall not increase the number of structures.
- (C) Following the approval of the rezoning to a Special Use District, the subject property shall be identified on the Town zoning map by the appropriate district designation. A parallel SUD zoning classification (Table 5.1) shall be identified by the same designation as the underlying general district followed by the letters "SUD" (for example "GB-SUD").

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- (D) No permit shall be issued for any development activity within a Special Use District except in accordance with the approved application and site plan for the district.
- (E) Any violation of the approved site plan or any rules, regulations and conditions for the district shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation.

### **(4) Alterations to Approval**

Except as provided in subsection (A) below, changes to an approved Special Use District or to the conditions attached to the approved application shall be treated the same as amendments to these regulations or to the zoning map and shall be processed in accordance with the procedures in this Article 5.

- (A) The Zoning Administrator shall have the delegated authority to approve an administrative amendment to an approved site plan. The Zoning Administrator shall have no authority to amend the conditions of approval of a petition. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan and that the change does not have a significant impact upon abutting properties. An administrative amendment shall not be subject to a protest petition pursuant to Section 16.7(4). Any decision must be in writing stating the grounds for approval or denial.
- (B) The Zoning Administrator, however, shall always have the discretion to decline to exercise the delegated authority either because he is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and Town Council consideration is deemed appropriate under the circumstances. If the Zoning Administrator declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Council decision.
- (C) Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Zoning Administrator.

### **(5) Review of Approval of a Special Use District**

It is intended that property shall be rezoned to a Special Use District only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Town Council a report which may recommend that the property be rezoned to its previous zoning classification or to another district.