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CASE: Executive Summary for Articles 4, 8, 9, 10 and 11 (Group Two Topics)

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BACKGROUND

This memorandum is intended to serve as a summary to describe the proposed revisions to Articles 4, 8, 9, 10 and 11 (aka “Group Two Topics”). The City adopted the 2030 Land Use Plan (LUP) in 2018 and this revision is part of a wholesale rewrite of the Concord Development Ordinance (CDO) to align the ordinance with the recommendations contained in the LUP. Furthermore, the last wholesale revision of the CDO occurred in 2007 and this effort is intended to modernize the development standards and to make the ordinance more user-friendly.

The Conservation Subdivision Ordinance (Section 9.13), Permitted Uses and “Group One Topics” (which were deemed higher priority) have been reviewed and approved by Council. Staff has prepared revisions to the PUD requirements (Section 9.1) and revisions to the townhome regulations are forthcoming. The City is also required to adopt changes regarding the minimum requirements mandated by G.S 160D, which will be forthcoming in the Spring.

This summary includes only changes that are deemed to be substantive. Non-substantive changes that are cross-references or clarifiers and do not change the context or meaning of the ordinance are indicated on the attached strike-through and the reader should consult the attached document for the specific language. Also note that the illustrated changes do not include the entirety of the Ordinance, only those portions of the Ordinance that are changing, or where additions are occurring.

The highlights of these changes include changes to supplemental standards for several uses (storage container development, variety stores, truck and equipment rental and solar facilities). Also included are requirements for minimum bicycle parking requirements for new developments and the institution of tree save requirements for new residential subdivisions.

ARTICLE 4 ENVIRONMENTAL /LAND DISTURBING ACTIVITIES

Changes to this section involve only references to the new tree save requirement in Article 11.

ARTICLE 8

This section includes changes to supplementary standards for various uses as follows.

Section 8.3.5. S Storage Container Development in Non-Residential Zones An emerging land use nationwide is the use of storage containers as building elements. These containers are constructed of metal and provide a solid structural base for construction. The General Statutes prohibit the regulation of aesthetics in terms of residential uses (outside of Historic Districts) so if these containers are modified to meet minimum building and housing code, they may be permitted for residential. This section just clarifies that they are permissible in nonresidential districts provided they meet the minimum nonresidential design standards. The use of these structures as self-storage (mini-warehouse) would not be permissible.

Section 8.3.5.T VARIETY STORES This section addresses stores that sell a variety of small and inexpensive items with less than 50% of their floor area devoted to food items. A store with 50% of the floor space that includes fresh produce, meat and dairy is considered a grocery store and not subject to the requirements.

This section requires a minimum spacing of 5,000 feet from an existing variety store, except that this distance may be reduced with the issuance of a Special Use Permit. As part of the SUP, the Planning Commission must consider the impacts of the proposed store on the development of grocery stores in the vicinity, the availability of healthy food options in the area and whether the store is in a “food desert” as defined by the US Department of Agriculture. (USDA) Furthermore, any variety store approved under the SUP process is required to dedicate at least 10% of the floor area to fresh produce, meat and dairy.

The section also prohibits outdoor displays at all variety stores and allows the relocation of a nonconforming store (one that does not meet the spacing requirement) to the same parcel or within the same shopping center.

Section 8.3.5.U TRUCK AND HEAVY EQUIPMENT RENTAL

This section requires that establishments renting or selling commercial trucks or heavy equipment may have no more than three (3) vehicles in front of the principal structure or in an unscreened area visible from the right-of-way. The remaining inventory is required to be screened from view from the streets and adjacent properties.

Section 8.3.8 AND 8.4.7 SOLAR FACILITIES OR SOLAR ENERGY SYSTEMS (SES)

This section addresses the development of solar power facilities. Section 8.3.8 addresses larger scale ground mounted stand-alone solar facilities or solar farms, whereas Section 8.4.7 addresses those facilities that are developed on the site with another use (where they are not the principal use). These facilities have not been developed or proposed as of yet in the City, but it is anticipated that they will become more prevalent and popular in the future, particularly the accessory facilities.

8.3.8 SOLAR FARMS (STAND-ALONE)

Major features of this section include:

- Permissible only in AG (Agricultural) as a Special Use Permit (SUP);
- Lighting must be directed downward with cut-off fixtures and motion sensors;
- Tree removal shall be avoided and shall comply with the requirements of the CDO;
- Decommissioning is required within twelve (12) months of the facility ceasing to operate, and a decommissioning plan is required as part of the approval;
- Specific buffer and signage requirements; and
- Specific features and requirements of the SUP application and accompanying site plan.

8.4.7 ACCESSORY SOLAR FACILITIES

Major features of this section include:

- Accessory solar structures are permissible in any zoning district provided they meet the standards of the ordinance;
- The facility may not be any taller than the maximum building height within the applicable zoning district if it is roof mounted, or twenty (20) feet if ground or pole mounted;
- The facility is required to meet accessory structure setbacks for the applicable zoning district;
- Locational and visibility requirements;
- In limited instances, a density bonus (10%) for residential subdivisions that enter into a development agreement for installation of solar facilities; and
- Potential parking reduction for commercial properties in certain instances in exchange for development of accessory solar facilities.

ARTICLE 10 DEVELOPMENT AND DESIGN STANDARDS

Section 10.3.4 BICYCLE PARKING

This section incorporates minimum bicycle parking into the ordinance. As the City becomes more urbanized and improvements are made to the City's trail and greenway system, it is anticipated that citizens will utilize bicycles as a major mode of travel.

Major features of this section include:

- Minimum number of parking spaces for new development, based upon the use;
- Locational criteria based upon building entrance location;
- Design requirements that make it possible for both wheels and the frame to be locked; and
- Specifications of the acceptable type of racks based upon the Association of Pedestrian and Bicycle Professionals' "Essentials of Bike Parking, Rev. 1, 2015".

ARTICLES 10 OPEN SPACE

Changes to Article 10 involve principally changing cross-references to the proposed tree save requirements contained in Article 11, but there are two exceptions. One is a change to Section 10.5.2. This section exempts developments of fifty (50) or more dwelling units that are within one-half mile from a park and that includes a connection to a greenway trail. The proposed ordinance reduces that open space threshold to thirty (30) dwelling units.

Table 10.5.13 is proposed to be amended to require a slight increase in the amount of required open space for residential zoning districts. These changes include increases from 8 to 10% for developments up to two (2) units per acre, ten (10) to fifteen (15)% for developments of 2.1 to four (4) units per acre and from twelve (12) to twenty (20)% of developments with more than four (4) units per acre. In the PUD, PRD and TND districts, twenty percent (20%) open space is required for developments of up to four (4) units an acre. For those greater than four (4) units per acre, a minimum of twenty-five percent (25%) open space is required.

ARTICLES 9, AND 11 (MINIMUM TREE PRESERVATION)

One of the major changes with this round of amendments involve the institution of tree preservation requirements. Preservation of significant trees is a major issue brought up during the public outreach portion of the Land Use Plan process, and has been the source of numerous inquiries and concerns for a number of years.

Changes to Article 9 involve the change of cross references relative to the new requirements which are contained in Section 11.9.

The preservation requirements are applicable only to new residential subdivisions of thirty (30) or more dwelling units. When an existing residential subdivision of thirty (30) or more units expands by five percent (5%) or more of its land area, the expansion area only must comply. Single family dwellings and other land uses are exempt from the preservation requirements.

The proposal does include a section to allow the modification of some requirements in the event of an unusual situation such as topography or site

characteristics. It is the responsibility of the applicant to prove a hardship, and any appeal of the Administrator's decision would be to the Board of Adjustment.

The tree preservation requirements include:

- A site assessment of the existing tree canopy on the site, with an inventory of significant trees on the site. This assessment does not have to be a complete tree survey of each tree, but can be conducted through aerial photography, drones or some other method;
- At least 50% of the required open space as detailed in Table 10.5.13 shall be set aside as tree save area, and the areas are to be contiguous to the maximum extent possible;
- If the tree save cannot meet required percentage of open space identified during the site assessment, additional trees are required to be planted;
- Tree save areas are to be identified on the required landscape plan and the approval shall require an enforceable restriction to ensure maintenance of the tree save area;
- In order to protect significant trees during construction, barriers are required and a detail is provided;
- The City Arborist is allowed to inspect the tree save areas during construction and once a year thereafter to ensure compliance;
- Violations of the tree save area requirements would result in tree replacement in the following manner:
 - If the area of violation is less than an acre and stumps are present from the removal, replacement shall be on a one-to-one ratio with a tree of the same species;
 - If the area is less than one acre and no stumps are present, or the area is greater than acre, trees shall be replanted at a spacing of thirty-five feet;
 - Any planted trees that die within one year of construction completion shall be replaced; and
 - A plan shall be submitted to the Administrator for approval, denoting the location and species of replacement trees.