

Agenda Item: Zoning Motion 2017-2, Miscellaneous Text Changes to UDO

DATE: October 3, 2017
FROM: Kathi Ingrish

Background/Issue:

As discussed at the public hearing, staff has found minor discrepancies in the UDO that we previously overlooked and now want to clarify or correct them. We also realize that certain provisions are no longer sufficient or could be revised to provide for better community character. The group of proposed text changes here include:

- An updated statement for the appropriate NCDOT representative to sign on record plats.
- Re-insert a missing pathway dimension within cottage cluster developments.
- Correct the term “subdivision variance” to “public improvement variance”.
- Correct the tree-to-car dimensional requirement for parking lots for consistency within the code.
- Provide new language for developments choosing to utilize the “low-density” options in the PCO (Chapter 8), so that over time the built-upon area limits are not inadvertently exceeded.
- Reduce the minimum financial requirement for Landscape Guarantee bonds.
- Add new provisions for “big box” design standards.
- Be consistent within the code on street naming process.
- Add a definition for “internet sweepstakes facility” and add prescribed conditions these uses must follow should they be located within Matthews.

Proposal/Solution:

- Town Board at the public hearing suggested adding a financial cushion in the Landscape Guarantee bond, and that has been incorporated.
- Planning Board had a couple grammatical and punctuation changes which are now included.
- Adopt text revisions that clarify and provide better direction for users of the UDO.

Financial Impact:

None

Related Town Goal(s) and/or Strategies:

Quality of Life

Economic Development/Land Use Planning

Recommended Motion/Action:

Approve the text changes as revised and presented.

Recommended

Town Board Consistency and Reasonableness Statements for Zoning Motion 2017-2:

(When making a motion, you may use the following in Blue as a template if you wish to approve the text changes)

1) The requested zoning action **IS REASONABLE** and in the public interest because this Motion:

- *Corrects internal inconsistencies within the UDO regarding pathway width, parking space distance to a shade tree, terminology of public improvement variance, and street naming process.*
- *Updates language used by other governmental agencies for consistency.*
- *Adds provisions on “big boxes” consistent with policy statements in the Matthews Land Use Plan.*
- *Provides protection for future home builders and home owners in developments that are intended to be “low intensity”, by guaranteeing the “built-upon area” does not exceed permitted levels when no storm water detention is involved.*
- *Provides a more appropriate cost to development ratio on Landscape Guarantee bonds.*
- *Provides a definition and standards for a use currently not allowed (Internet sweepstakes, or adult gaming) but may be permitted within municipalities in the future.*

OR

The requested zoning action **IS NOT REASONABLE** and in the public interest because:

2) The requested zoning action, as most currently amended, **IS CONSISTENT** with the policies for development as outlined by the Matthews Land Use Plan, and the Town’s UDO.

OR

The requested zoning action, as most currently amended, **IS NOT CONSISTENT** with the Matthews Land Use Plan and/or other adopted land development policies and plans.

Zoning Motion 2017-2 Miscellaneous UDO Text Amendments

The proposed revisions here are either revising current wording or adding new language to current sections. New text is indicated by blue font and current text to be deleted is indicated in blue font with a line through it. Text in orange font is in response to comments by Town Board members during the public hearing 9-11-17, and text in red font is in response to Planning Board's motion to approve.

1) Required NCDOT Certificate Statement

NCDOT has developed a new certificate they need to have signed on all plats that include any state road. The surveyor preparing the plat drawing is responsible for including the statement on the original mylar so it can be sent to NCDOT office for signature prior to recordation.

155.405.9 Contents of the Sketch Plan, Preliminary Plan and Final Plat

- B. 8. ~~NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, PROPOSED SUBDIVISION ROAD CONSTRUCTION STANDARDS CERTIFICATE. (This Certificate is required when the proposed subdivision has frontage along a street under the jurisdiction of the North Carolina Department of Transportation.)~~

APPROVED:

Date _____ District Engineer

- B. 8. DIVISION OF HIGHWAYS DISTRICT ENGINEER CERTIFICATE

I hereby certify that the right-of-way dedication along the existing state-maintained roadway(s) shown on this plat is approved and accepted as public right-of-way by the North Carolina Department of Transportation Division of Highways.

District Engineer Date

Only North Carolina Department of Transportation approved structures are to be constructed on public right-of-way.

2) Cottage Cluster minimum pedestrian path dimension missing

In the UDO draft at public hearing in 2013 there was a dimension given of 5' here. In continuing to make final corrections, some dimensions in the draft that were written out as "five (5) feet" were in the process of being revised to "five feet (5)". In this paragraph the earlier word/number order deleted but the corrected word/number sequence was not replaced. This has only now been discovered and needs to be added back into the text.

155.506.22.B.5.h.

GROUND SPACES AND PEDESTRIAN PATHWAYS BETWEEN DWELLING UNITS. The open land between dwellings in a group used as pedestrian access to one or more dwellings shall remain generally clear of

obstructions for passage of people and delivery of goods. These spaces shall be designed and maintained to provide a clearly delineated pedestrian passageway at least **five feet (5')** in width. . . .

3) Terminology Correction

What used to be called a “subdivision variance” is now termed a “public Improvement variance”. We have found one reference that was not updated.

155.701.A.1. RIGHT-OF-WAY.

A proposed street right-of-way must be of sufficient width to accommodate the required cross section. However, the right-of-way shall not be less than the standards listed below unless allowed through the Flexible Design Provisions at § 155.401.7 or through a **subdivision public improvement** variance outlined at § 155.712.

4) Dimensional Correction for Consistency

When we revised the landscaping provisions last time, we changed how far a parking space could be from a tree. It used to be 60' either within or outside of the parking filed, but was reduced to 40' maximum. This separation dimension is repeated in the NC51 Highway Overlay district, but was not dropped from 60' to 40' when the change was made across all zoning districts. To eliminate confusion, we need to make this correction in the Highway Overlay section.

155.504.2.B.11.b

INTERIOR LANDSCAPING REQUIRED. Interior landscaping is defined as the landscaping required within the perimeter of the parking lot, including the planting islands, curbed areas, corner lots, parking spaces, and all interior driveways and aisles, except those with no parking spaces located on either side. . . . No parking space shall be located more than **sixty feet (60') forty feet (40')** from a tree either in an island or outside of the parking lot.

5) Built Upon Area (BUA) trades

Staff has experienced a series of plat revisions in one subdivision that was designed to be at the maximum “low-density” limit, which would not require the developer to install storm water controls. After initial platting, homebuilders and new homeowners subsequently have wanted to exceed their individual land coverage allowances, requiring repetitive swaps of “built-upon area” (BUA) from one lot to another, which will prove very difficult for everyone to follow over time. This amendment proposes to limit the opportunity for such lot by lot swaps of BUA. New text is proposed to be added explaining final plat requirements, and cross references are provided here for Catawba and Yadkin District low density provisions. Developers still have some flexibility but are made aware before the subdivision is designed that they will not be able to swap out BUA once parcels are platted. The intended goal here is to protect both the new owners within the subdivision and all landowners downstream from the subdivision from flooding.

155.803.C.1.c.

c. For projects with twenty-two to twenty-four percent (22 – 24%) built-upon area, the maximum built-upon area limit shall not be modified on any parcel that is included on a recorded final plat. If additional open land is subsequently required in order to maintain the BUA limit established when the first plat was recorded for the subdivision or development site: a parcel on a previously recorded plat within the same subdivision may be revised to become common open space or dedicated as permanent open and unbuildable land; or two lots may be replatted and recorded to become a single parcel, with a written note on the plat explaining the reason and stating that the two lots may not be subsequently separated or further revised.

155.803.D.1.c.

c. For projects with nine to ten percent (9 – 10%) built-upon area, this maximum built-upon area limit shall not be modified on any parcel that is included on a recorded final plat. If additional open land is subsequently required in order to maintain the BUA limit established when the first plat was recorded for the subdivision or development site: a parcel on a previously recorded plat within the same subdivision may be revised to become common open space or dedicated as permanent open and unbuildable land; or two lots may be replatted and recorded to become a single parcel, with a written note on the plat explaining the reason and stating that the two lots may not be subsequently separated or further revised.

155.803.G.

DEED RECORDATION AND INDICATIONS ON PLAT. The approval of the storm water management permit shall require an enforceable restriction on property usage that runs with the land, such as plat, recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. This or these documents must be recorded at the Register of Deeds and at a minimum include the following:

1. The location of all designated Undisturbed Open Space for a site shall be recorded at the Register of Deeds Office identified on a plat as “Undisturbed Open Space.”

2. Streams and buffer boundaries including the delineation of each buffer zone must be specified on all surveys and record plats.

3. The applicable operations and maintenance agreement pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the Mecklenburg County Register of Deeds Office upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the Mecklenburg County Register of Deeds Office so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded maintenance agreement shall be provided to the Storm Water Administrator within fourteen (14) days following receipt of the recorded document.

4. A maintenance easement shall be recorded for every structural BMP to allow sufficient access for adequate maintenance.

5. When the proposed development project is utilizing the low density provisions indicated at § 155.803.C.1. within the Catawba District and proposes a Built Upon Area (BUA) between twenty-two and twenty-four percent (22 - 24%), then the maximum built upon area limit shall not be modified on any parcel once that parcel is included on a recorded plat. Any record plat for a development utilizing the low density option and having a built-upon area of twenty-two to twenty-four percent (22 – 24%) shall include a written note explaining that no parcel on the plat may be revised in size or built-upon area restrictions, except as allowed at §155.803.C.1.c, or to correct technical mistakes made in the original record plat.

6. When the proposed development project is utilizing the low density provisions indicated at § 155.803.D.1. within the Yadkin District and proposes a Built-Upon Area (BUA) between nine and ten percent (9 – 10%), then the maximum built-upon area limit shall not be modified on any parcel once that parcel is included on a recorded plat. Any record plat for a development utilizing the low density option and having a built-upon area of nine to ten percent (9 – 10%) shall include a written note explaining no parcel on the plat may be revised in size or built-upon area restrictions, except as allowed at §155.803.D.1.c, or to correct technical mistakes made in the original record plat.

7. The specific recordation and deed restriction requirements as well as notes to be displayed on final plats and deeds shall be contained in the Administrative Manual.

6) Landscape Bond Amount

We received a request to reconsider the minimum of \$20,000 as the value of existing preserved trees on a site when calculating a Landscape Guarantee bond. The amount of \$20,000 per acre was added to the former Zoning Ordinance in 2007 during a comprehensive update of the Landscape chapter. This amount was also the minimum amount the County required for bonds in the past. The County has

reduced the minimum bond to \$12,000 for construction work along with requiring 125% of the cost of uncompleted elements. What we have discovered is that the County does not necessarily follow what the Matthews UDO calls for in determining the Landscape Guarantee, so by requiring the project landscaper to provide all the figures, it should become more consistently applied. As proposed here, the bond amount could be reduced, especially when there are few preserved trees on a small building site.

155.606.13.H.

H. LANDSCAPE ESTABLISHMENT GUARANTEE. Prior to the issuance of a Certificate of Occupancy, proper maintenance of the planted and preserved trees and shrubs during the landscape establishment period shall be guaranteed by a Landscape Establishment Guarantee from the property owner to the Town. The bond amount shall be equal to: the value retail cost of the new trees; ~~plus the lesser of twenty thousand dollars (\$20,000) for the preserved trees, or the actual value of preserved trees as calculated in accordance with The Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers (current edition);~~ and the labor costs for installation, plus an amount equal to twenty-five percent (25%) of the combined amount of the factors listed here. Values shall be calculated using The Guide for Plant Appraisal (current edition), published by the Council of Tree and Landscape Appraisers (current edition). The project landscaper shall be responsible for providing these figures to the Town and County. The bonding period shall be for a three (3) year period commencing from the date of successful inspection of the installation and preservation as being in compliance with the approved Landscape Plan for the site. See also § 155.405.10.C.3.

7) Big Box Standards

In the UDO the Town adopted general design guidelines for all zoning districts that outline certain improvements that are desirable or undesirable. The paragraphs at § § 155.602 and 155.603 “encourage” developers to follow them when building within the Traditional zoning categories, and these directives are required in certain Conditional-Only districts that are intended to create a modern small-scale urban environment. The future Family Entertainment neighborhood has very specific limitations on the size of potential “big box” retail facilities in its Small Area Plan and Policy Statement. We received a request from a Commissioner to consider adding more provisions for “big boxes”. The following language would be a way to begin the process of expressing what the Town wants followed in all zoning districts. Specific size and bulk provisions are provided here as a starting point for discussion, and can be revised per Council preference before anything is adopted.

155.603.2 Exterior Building Walls

Exterior building walls shall generally reflect and complement the traditional materials and construction techniques of the Charlotte region on all sides of any structure which may be visible from the public realm. They should express the construction techniques and structural constraints of traditional, long-lasting, building materials. Simple configurations and solid craftsmanship are favored over complexity and ostentation in building form and the articulation of details. All building materials to be used shall express their specific properties. For example, heavier more permanent materials (masonry) support lighter materials (wood).

Buildings constructed for commercial uses, particularly retail, which are predominately or wholly single story facilities, need to pay particular attention to the impact of their bulk and length along public street frontages. In order to improve the appearance from the public realm, these buildings should break up any expanses of blank walls with the use of exterior materials changes, a shift in wall location so that the frontage is not on a single plane parallel to the street, window and door openings, architectural design elements, and similar visually obvious detail changes that break up the horizontal expanse of plain wall. To the greatest extent possible, single story buildings greater than thirty thousand square feet (30,000 sq ft) and/or with a front elevation longer than one hundred feet (100') facing the public realm should utilize some architectural and visual variety to reduce the appearance of a single monolithic structure when initially designed or renovated for retail use.

155.603.4 Windows and Doors

The placement, type, and size of windows and doors help to establish the scale and vitality of the public realm. For nonresidential and mixed use buildings, they allow interplay between the business interiors and the street or public realm space. For residential buildings, they foster “eyes on the street” surveillance which provides for security and safety in the area. Windows should be divided by multiple panes of glass. This helps the window “hold” the surface of the façade, rather than appearing like a “hole” in the wall, an effect produced by a large single sheet of glass.

When larger single-story buildings are initially designed for commercial retail uses, they should include windows along at least forty percent (40%) of the length of the façade facing the public realm and should provide placement for future door openings for eventual reuse by multiple users. “Larger buildings” refers to single-story buildings greater than thirty thousand square feet (30,000 sq ft) and/or with a front elevation longer than one hundred feet (100’) facing the public realm.

*For purposes of determining what may be appropriate dimensions to qualify as a “big box”, here are some comparisons. Existing retail locations have been measured off aerial photographs and proposed new structures have been estimated from zoning site plans. **None of these are accurate measurements.***

<u>Retail facility</u>	<u>Building frontage length</u>	<u>Building square footage</u>
Mattress Firm @ Matthews Festival	70’	6,840
CVS, NC51 @ Sam Newell	150’	11,230
Walgreens, NC51 @ N Trade	125’	14,310
Former Consignment 1 st , IPP @ Sam Newell	96’	16,350
Michaels @ Sycamore Commons	160’	23,600
Proposed Lidl, Margaret Wallace @ Idlewild	300’	36,240
Harris Teeter @ Matthews Festival	265’	58,270
Proposed Academy Sports, NE Pky	285’	62,600
Kohl’s @ Windsor Square	380’	96,110
Target, NC51 @ IPP	395’	123,120

8) Street Name Review Process – Match Elsewhere in Code

Revise process for street names to match prior change made at § 155.405.4.P to how a street name is confirmed.

155.405.6.C.2.

Within thirty (30) days for a Minor Subdivision, or forty five (45) days for a Major Subdivision, from the date of receipt of the Sketch Plan by the Planning Office the Plan Review Committee shall review, comment and approve the Sketch Plan only if all requirements of this Title are met. ~~All proposed street names and the~~ The proposed subdivision name shall be sent to Mecklenburg County Land Use and Environmental Services Agency and local emergency agencies for comments. ~~All proposed street names shall be reviewed by Matthews Planning, Public Works, Police, and Fire & EMS Departments before being submitted to Mecklenburg County for final approval.~~ If necessary, the subdivider shall submit additional information and/or a revised Sketch Plan, as required, to the Planning Office. Within thirty (30) days from the date of receipt of the revised Sketch Plan or such additional information by the Planning Office the Plan Review Committee shall review the revised Sketch Plan or such additional information and, if all issues have been satisfactorily resolved, the Plan Review Committee shall approve the Sketch Plan with or without conditions.

9A) Add Definition

We have provisions to allow “internet sweepstakes facilities” in the B-H and I-1 zoning districts as a use by right. Required minimum parking provisions reference this type of use as having one “patron station, computer, or gaming equipment station” for each customer. Although we are still awaiting final judicial action on these types of facilities, it may be helpful for us to add a definition to our code now.

Internet Sweepstakes Facility, or Adult Gaming Facility: shall mean any establishment, or use within a commercial establishment, deemed legal by state law, featuring one or more electronic devices, computers, or gaming equipment stations, skill-base or otherwise, which are available for patron use and which reward patrons with cash, other monetary payments, goods or certificates for services or merchandise which are redeemable for cash, merchandise, or other monetary payment on or off premises and including online redemptions, as well as any rewards which cannot be legally obtained, consumed, or otherwise used by minors. State of North Carolina sanctioned lottery functions shall not be considered as internet sweepstakes or adult gaming facilities for the purposes of the Title.

Arcade, Amusement: shall mean a business establishment which provides an assortment of equipment and devices such as pinball and other electronic games, often requiring insertion of coins or tokens to begin the play sequence, for amusement purposes only, and not including bingo games, children’s mechanical rides, or devices that sell merchandise, nor does an Amusement Arcade include any gambling devices, computers or software programs offering games of chance not allowed by law, or defined here in this Title as an Internet Sweepstakes or Adult Gaming Facility.

9B) Internet Sweepstakes Facility as a “Use Under Prescribed Conditions”

As mentioned above, the UDO allows internet sweepstakes facilities in two zoning categories by right. Since some uses also allowed in these districts may be sensitive to immediate proximity to this use, this revision would place some parameters on these uses to limit potential conflicts.

155.505.2 Table of Allowed Uses

General Commercial Uses	B-H	I-1
Internet sweepstakes, or adult gaming facility	☞ PC	☞ PC

155.506.50 Internet Sweepstakes or Adult Gaming Facility

A. An internet sweepstakes or adult gaming facility may be a stand-alone business or a section of space within another commercial use which offers customers the opportunity to participate in electronic activities at patron stations that may result in rewards of money, merchandise or services of more than negligible value (i.e., not children’s toys or novelties), on- or off-premise or online, when any such rewards may not be legally available to minors. Such uses are considered a principal use regardless of the area they take up within a building. These uses may be located within the B-H and I-1 districts when meeting the standards listed here.

B. Standards.

1. Any internet sweepstakes or adult gaming facility shall not operate in the same building where any place of worship, any public or private elementary, middle or high school, any child day care facility, any adult day care facility, or any other internet sweepstakes or adult gaming facility is located.

2. Any internet sweepstakes or adult gaming facility shall be placed at least five hundred feet (500’) in a straight line distance from any existing use listed in §155.506.50.B.1 immediately above.

3. Each area within a building devoted to internet sweepstakes or adult gaming shall be open and visible, and have direct access from the front interior of the business. Entrance door(s) to the business location shall remain unlocked while patrons are, or may be, on the premises.

4. No internet sweepstakes or adult gaming facility shall allow or condone any persons under the age of eighteen (18) to participate in any activity at the patron stations, or to supervise operation of equipment.