Town of Matthews Planning

232 Matthews Station Street
Matthews, NC 28105
704.847.4411

ZONING APPLICATION FOR UNIFIED DEVELOPMENT ORDINANCE TEXT CHANGE AS PROVIDED IN THE UDO AT 155.401.3

APPLICATION NUMBER 2017-665 DATE FILED August 30, 2017

APPLICANT'S NAME Proffitt Dixon Partners, LLC (c/o Wyatt Dixon)

APPLICANT'S MAILING ADDRESS 1355 Greenwood Cliff, Suite 150, Charlotte, NC 28204-2984

APPLICANT'S PHONE NUMBER/EMAIL ADDRESS 704-817-9126/wyatt@proffittdixon.com

I request consideration of the following changes in text of the Matthews Unified Development Ordinance:

Requested text changes are:

- ☒ a change in wording to existing Section(s)
- ☒ an addition to Section(s)
- ☒ a deletion of wording at existing Section(s)

Below is the text requested to be changed, added or deleted:

Existing Section(s) See Exhibit A attached hereto Proposed Section(s) See Exhibit B attached hereto

(continue on additional page(s) as necessary)

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ZONING APPLICATION FOR ORDINANCE TEXT CHANGE
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What is the intended effect of this request?

See Exhibit C attached hereto.

APPLICANT'S SIGNATURE

PROFFITT DIXON PARTNERS, LLC

By: _____

Name: WYATT T DIXON, III

Title: MANAGER

(continue on additional page(s) as necessary)

Town of Matthews Planning

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FILING INSTRUCTIONS

An application for text amendment of the Matthews Unified Development Ordinance must be completed on the application form provided for such purpose and submitted with the appropriate fee to the Town Hall. The application shall be reviewed by the Town Planning and Development Department for completeness and then submitted to the Town Board of Commissioners for acceptance. The Town Board of Commissioners shall set a public hearing date according to their policy. The application shall be considered at a public hearing held jointly by the Town Commissioners and the Planning Board.

After the public hearing the application shall be reviewed by the Planning Board at their next regular meeting. At that meeting, the Planning Board may recommend approval, denial, or approval with conditions. This recommendation is then passed on to the Board of Commissioners at their next regular meeting in which zoning issues are discussed, according to Town Board policy. The Town Board of Commissioners may then approve, amend and approve, deny, or table action on the application. Any decision of the Town Board is final and subsequent revisions shall be handled in this same process as a new application.

The application for text amendment may be withdrawn by the Applicant at any time up to and including fifteen (15) days prior to the hearing date. Any subsequent withdrawal shall only be allowed by action of the Town Board of Commissioners.

ZONING APPLICATION FOR ORDINANCE TEXT CHANGE FEE:

Add a permitted use:	$100
Any other reason, fewer than three (3) paragraphs affected:	$250
Any other reason, three (3) or more paragraphs affected:	$400

EXHIBIT A-1

Existing Section 155.401.7.C of the UDO

1. The R-VS SRN, C-MF, MUD, TS, and ENT Conditional-Only districts provide such a setting. Therefore, the opportunity for flexible design standards may be included as an integral part of proposals for these districts.

2. The Cottage Cluster Housing alternative in the residential districts provide such a setting. Therefore, the opportunity for flexible design standards may be included as an integral part of proposals for Cottage Cluster Housing within any of the single-family zoning districts when requested through a Parallel Traditional district process.

3. Various permitted uses within the CrC district may apply flexible design standards.

B. PURPOSE. It is the objective of these flexible design standards to encourage development proposals that exhibit such special qualities or concepts that they may deviate from standard ordinance requirements. These regulations are established in order that a flexible design proposal will be evaluated on its own merits. It is recognized that some proposals or concepts will be more successful than others, and the approval of a specific proposal in one situation does not mean that a similar proposal would be acceptable in other circumstances. These provisions are purely optional and are a voluntary means by which land may be developed outside of the standard ordinance requirements. These provisions are designed to evaluate only those flexible design concepts that propose to meet a community need that would not otherwise be met. Finally, it should be emphasized that these provisions should not be confused with or take the place of the normal zoning and subdivision variance procedures established either in § 155.403 or § 155.712.

C. CERTAIN ZONING DEVELOPMENT STANDARDS MAY BE MODIFIED. The quantitative dimensions and locational zoning standards listed here which would normally apply to development may be modified through the flexible design process.

1. Lot area.

2. Lot width.

3. Public street frontage.

4. Setbacks and yards.

5. Building separation.

6. Height of fences and walls.

7. Location of off-street parking (distance from site and/or on-site or off-site provisions; partially within a sight triangle; partially within perimeter planting or required screening).

8. Specific standards set within the Conditional Only zoning districts for "Building and Structure Design Principles" (within subsection G of each district's section at 155.503) when they would result in new development concepts, innovative design, unique circumstances, or public/private ventures.

D. CERTAIN INFRASTRUCTURE STANDARDS MAY BE MODIFIED. The infrastructure standards of Chapter 7 which would normally apply to development may be modified either through the subdivision variance process or flexible design process, each as identified below.

1. Street right-of-way.

   a. Street right-of-way must be at least thirty feet (30') for a private street or alley in accordance with the Land Development Standards Manual or other adopted street cross sections.

   b. Street right-of-way must be at least forty four feet (44') for a two-way public street in accordance with the Land Development Standards Manual or other adopted street cross sections.

   c. The Board of Commissioners may modify the above minimum standards as they deem necessary or justifiable through the subdivision variance procedure as established at § 155.712.

2. Street type – public or private.

   a. Where a public street is used, it must be constructed in accordance with the Land Development Standards Manual or other adopted street cross sections.

EXHIBIT A-2

Existing Section 155.503.8.F.2.f of the UDO

a. The interconnected network of streets must extend into adjoining areas except where connectivity is deemed inappropriate or impractical due to sensitive natural resources or unusual topography, or where existing development patterns provide no practical connection opportunities. The entire district is anticipated to be built out over time, in phases, so the exact placement of all streets is not expected to be determined prior to initial development within the district.

b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other streets. In order to assure an overall framework for connectivity within, and through, the ENT district, a "main street" layer of proposed street network shall be determined as part of the approved general concept plan. At least two street intersections shall be identified to directly connect the Sportsplex public park to the remainder of the ENT District, and at least one (1) street intersection shall directly connect the Sportsplex public park to the exterior edge of the district.

c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.

d. Sidewalks and street trees must be provided on both sides of all streets. Street trees may be omitted where alternative public use areas are designed adjacent to a street.

e. Permanent dead end streets are not permitted, except for side or rear access alleys.

f. Private streets or gated streets are prohibited. All streets must be dedicated to the public.

g. Rear or side access alleys are permitted throughout the neighborhood and may serve as primary vehicular ingress to individual buildings or parcels in the ENT District. Alleys may be utilized to separate vehicular access and parking for residential units, to access loading and delivery spaces for nonresidential uses, to provide access to employee parking, and to allow the public to reach side or rear secondary entrances to businesses. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.

h. A streetscape planting and lighting plan shall be prepared for each block face of each public street, and shall incorporate street trees designed to grow into an arching canopy that will not impede pedestrian or vehicular movement or visibility. A variety of species may be utilized throughout the neighborhood, but will not exceed five (5) tree species per block face. To the greatest extent possible, street trees and street lighting shall be installed when the street and sidewalk are constructed.

i. Building facades are the public "face" of every building. Owners and tenants are encouraged to utilize planters and window boxes filled with colorful plants along each façade that fronts a public street, plaza, parking lot, or similar public use area.

3. BLOCKS. Except as otherwise provided, block perimeters may not exceed eight hundred (800) lineal feet as measured along the edges of each street right-of-way forming the block. Blocks may alternatively be broken by a civic space provided that lot is at least fifty feet (50') wide and shall provide perpetual pedestrian access between the blocks and to any lots that front the civic space. Smaller blocks are encouraged to promote walkability.

a. Blocks may exceed this limit, up to a maximum of four thousand (4,000) linear feet, only if one (1) or more of the following conditions apply:

i. The block has at least one block face on a numbered state or federal highway or expressway/freeway.

ii. The block has at least a portion of its block face partially within the Sportsplex public park property.

iii. The block face contains valuable natural features which should not be crossed by a street.

iv. The block face cannot have buildings on one side due to utility easement restrictions.

b. Any single block face wider than six hundred feet (600') must include a publicly dedicated sidewalk, or walkway at least twelve feet (12') in width that connects to

EXHIBIT A-3

Existing Section 155.601.13.C of the UDO

5. When the rear yard of a through lot in any zoning district abuts a thoroughfare, the minimum rear yard depth must be at least fifty five feet (55'). **[formerly known as §§ 153.085, 153.086, and 153.095(B) and (C)]**

C. ZERO LOT LINE DWELLINGS. When a zero lot line dwelling is allowed in various zoning districts, the underlying front setback, side and rear yards and other dimensional standards for that district will apply with the exception of one side or rear yard dimension, which may be reduced down to zero (0) feet to allow placement of the structure at or near the one lot line. When this is done, a maintenance easement of at least five feet (5') in width shall be created and recorded at the Mecklenburg County Register of Deeds for the adjacent property, to allow for access, repair and general maintenance of the structure along the zero lot line. Eaves, bay windows, gutters, mechanical equipment, and similar extensions or attachments to the principal structure shall not be placed on or extend over the property line. The lot line to which the zero dimension is applied shall not be the streetside side yard of a corner lot. No windows or door openings shall be located within the wall portion at the lot line in order to create a sense of separation for the adjacent parcel.

155.601.12 Location of Required Yards on Irregular Lots

The location of required front, side, and rear yards on irregularly shaped lots will be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this Title to achieve an appropriate spacing and location of buildings on individual lots. ('72 Code, § 1613) (Ord. 477, passed 2-8-88) **[formerly known as § 153.084]**

155.601.13 Sight Triangle

A. STANDARDS. Within a sight triangle, and except as provided in § 155.601.13.B below, no structure, sign, plant, shrub, tree, berm, fence, wall, mailbox or object of any other kind shall be installed, constructed, set out or maintained so as to obstruct cross-visibility at a level between two (2) feet and ten (10) feet above the level of the center of the street intersection.

B. EXEMPTIONS. The standards of this § 155.601.13 shall not apply to:

1. Existing natural grades, which, by reason of natural topography, rises twenty four (24) or more inches above the level of the center of the adjacent intersection.
2. Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the area between two feet (2') and ten feet (10') above the level of the center of the abutting intersection.
3. Fire hydrants, public utility poles, street markers, governmental signs, and traffic control devices. (Ord. No. 1532, passed 1-8-07)

C. REDUCED SIGHT TRIANGLE FOR CERTAIN DISTRICTS. A modified sight triangle with dimensions no less than twenty five feet by twenty five feet (25' x 25') may be allowed within the Downtown Overlay district and within the C-MF, MUD, TS, and ENT districts with the approval of the Town Engineer. This provision may only be applied adjacent to Town-maintained streets (not state roads), and only when the adjacent building or approved outdoor amenity is at, or less than, twenty feet (20') from the public street right-of-way line. Outdoor amenities that may justify a reduced sight triangle may include, but are not limited to, a retaining wall or substantial sharp change of natural grade, stairs, fire escape, or low wall that visually and physically separates the public right-of-way from the adjacent private use area and cannot efficiently be relocated elsewhere on the site. The reduced sight triangle must be located where the travel lane closest to the building is controlled by either a signal or signage. **[formerly part of § 153.078]**

155.601.14 More than One Principal Building per Lot

More than one (1) principal nonresidential building may be located on a lot if a paved access driveway at least ten feet (10') wide is maintained from a public street to each building for use by service and emergency vehicles. Unless a lesser standard is allowed elsewhere in this Title and by applicable building codes, a minimum separation of four feet (4') is required between separate buildings. No more than one (1) principal residential building may be located on a lot, except under the provisions for accessory apartments, cottage cluster developments, multi-family developments, manufactured home parks, overnight camping trailer parks, and institutionalized residential facilities. In the case of attached single-family development where the side or rear lot lines match the center of common shared walls, the approved preliminary subdivision plat indicating the proposed lot lines shall be used for building permit approval, although temporary or final Certificates of Occupancy shall not be issued until a final plat is approved and recorded.

EXHIBIT A-4

Existing Sections 155.606.7.A.2.b, c and d of the UDO

A. CANOPY PRESERVATION REQUIREMENT.

1. PURPOSE. The amount of tree canopy covering a site is an indication of the site's ability to retard storm water run-off, mitigate air pollution, and contribute to site-cooling effects. The tree canopy requirements outlined here may also be applied to the minimum Undisturbed Open Space requirements of Chapter 8, the Post Construction Ordinance.

2. REQUIREMENTS. A minimum percentage of tree canopy is required to be maintained or created on any development site or on any site of any land disturbing activity. If a site over one (1) acre in size was formerly in a forested state and fifty percent (50%) or more of the land area was clear cut within three (3) years of the plan submittal date for any land disturbing activity, then the tree canopy preservation requirements must be applied as though the site was not clear cut. It will be the applicant's responsibility to provide proof that any clear cutting activity on the site took place greater than three years prior to the current submittal date.

a. The amount of existing canopy that must be preserved on the site during development is determined by two (2) factors: the zoning district classification; and the percentage of existing tree canopy present before any land disturbing activity, as indicated below:

TABLE OF MINIMUM TREE CANOPY REQUIREMENTS

Zoning District	Required Tree Canopy
R-15, R-20	20%
R-9, R-12, R-MH, R-15MF, R-12MF, CrC, R/I	15%
0, B-1, B-1SCD, B-H, B-3, BD, AU	12%
I-1, I-2	10%
R-VS, MUD, SRN, ENT	8%
HUC, C-MF, TS	4%

b. Whenever the existing tree canopy is greater than twenty percent (20%) of the total property area, then a minimum canopy must be preserved, as defined in the above table at § 155.606.7.A.2.a.

c. Whenever the existing tree canopy of the site prior to land disturbance is less than twenty percent (20%) of the total property area, then the percentage of canopy, as defined in § 155.606.7.A.2.a, must be achieved by a combination of preservation and new planting.

d. Tree save areas that include mature trees over minimum planting calipers are strongly encouraged. Placement of proposed buildings, vehicle use areas, and other site improvements should be designed to reduce disturbance of existing vegetation.

3. CALCULATION OF CANOPY AREAS.

a. The baseline canopy measurements on a proposed development site shall be provided by the property owner and submitted as part of the vegetation survey and landscape plan. The percent canopy cover may be calculated by aerial photographs and verified, if feasible, by ground measurement. The area of existing dedicated rights-of-way, storm water facilities and easements that do not incorporate trees, utility easements, and existing ponds, lakes, or perennial streams shall be subtracted from the total property area before the tree preservation requirements are calculated. If root disturbance or construction activities occur within the drip line of any tree designated as protected, only the area actually being protected will be included in the calculated tree protection area

EXHIBIT A-5

Existing Section 155.606.4 of the UDO

E. TREE CANOPY REQUIREMENT. Landscaping in the form of trees shall either be retained or planted on site to meet minimum canopy coverage in accordance with § 155.606.7. These provisions may also assist in compliance with tree protection and planting standards in the Post Construction Storm Water Regulations in Chapter 8. **[formerly known as § 153.075 (E)]**

155.606.3. Streetscape Planting

Except for the Downtown Overlay District, the Highway Overlay District, and any other location with an adopted neighborhood or small area plan when it has its own streetscape requirements, the following shall be required for development of any property in Matthews:

A. A planting strip whose total length shall be equal to the total length of the property line adjacent to the public right-of-way, or in the public right-of-way if sufficient room exists between curb and sidewalk, exclusive of access drives and their sight triangles. The width of the strip shall be a minimum of eight feet (8') and shall generally start immediately adjacent to the street side property line.

B. Trees shall be planted, if not existing, within the planting strip with large maturing trees. Large maturing trees shall be spaced no greater than forty feet (40') apart with a minimum of one tree planted on all properties with frontage greater than thirty feet (30'). Each tree shall be a minimum of two inch (2") caliper and have a minimum height of eight feet from the ground surface. See § 155.606.14 for a selection of recommended large maturing trees.

1. If the use of large maturing trees is considered inappropriate for the site, then a written explanation of why they cannot be used shall be made to the Town.
2. Where overhead power lines or other obstructions prevent the use of large maturing trees, then small maturing trees shall be used. Small maturing trees shall be spaced no greater than thirty feet (30') apart. See § 155.606.14 for a selection of recommended small maturing trees.
3. No large maturing tree shall be planted within thirty five feet (35') of an overhead utility line as measured from the closest wire.
4. Trees shall be selected so that a mixture of species shall be planted or preserved. If a property has greater than three hundred feet (300') of frontage on any one street, a minimum of three (3) different species shall be planted. If less than three hundred feet (300') of frontage exists, than only a single species shall be required.
5. When an existing or proposed sidewalk is within one foot (1') of the property line, then trees must be located a minimum of four feet (4') from the sidewalk.

C. The planting strip shall not be paved or used for automobile parking and shall have vegetative or organic ground cover and/or beds of flower plants or bulbs mulched and kept weed and litter free by the property owner or may be planted in grass and mowed on a regular basis. In addition to the required trees and surface treatment within the planting strip, shrubs and additional trees may be included at the option of the landowner. Xeriscape plantings are strongly encouraged.

D. In the case of unusual site factors that would make the strict adherence to this section serve no useful purpose, the Planning Director may waive all or part of the requirements of this section. A waver may be requested by a written statement explaining the mitigating circumstances on or off the site. It must be supported by documented facts. Waivers may be considered as long as the spirit and intent of this § 155.606 are maintained.

E. Where streetscape trees are to be located in the public right-of-way, all planting standards in §155.606.12 must be followed. In addition, trees must be inspected by the Town's landscape manager before planting. See § 155.606.13 for landscape maintenance requirements. **[formerly known as § 153.075 (F)]**

155.606.4. Perimeter Planting

Plantings along those property boundaries not facing a public right-of-way are designed to provide a sense of boundary between nonresidential land uses. Perimeter landscaping is not mandatory in zoning districts which are intended to create and achieve a mixed-use urban environment and where pedestrian connectivity between land uses and parcels is encouraged. Whenever practical, such plantings shall include preserved vegetation on the site.

A. A combination of trees and shrubs shall be arranged along the non-street rear and side perimeters. This landscaping will consist of a minimum of one tree and ten shrubs for each fifty (50) lineal feet, not including the streetscape-planting strip. The planting may be arranged in a single row, staggered, or may be clustered or otherwise arranged anywhere within fifteen feet (15') of the property line to allow for

EXHIBIT A-6

Existing Section 155.606.6.A of the UDO

planted parallel to the street but not within the sight triangle of intersecting streets or a street and driveway or alley. The shrubs shall be planted no greater than five feet (5') on-center, and should be of a species that matures between one (1') and three feet (3') in height.

j. Any development existing at the time of enactment of this Title which does not conform to the standards imposed in § 155.606.5.A.2. above but did meet required parking lot landscaping standards in effect at time of development, and subsequently desires to make further changes to the parking lot(s) on-site, shall not be required to come into compliance with the parking lot landscaping standards of § 155.606.5.A.2 unless more than fifty percent (50%) of the area of the existing parking lot(s) are disturbed. If more than fifty percent (50%) of the parking lot area(s) are disturbed, only those disturbed areas shall come into compliance with the above landscaping standards.

B. POST CONSTRUCTION REGULATIONS. In addition to the provisions for tree canopy and landscaping on developed parcels, requirements of Chapter 8, the Post Construction Ordinance shall also apply. Where the requirements for undisturbed open space can be met with existing or new tree canopy requirements of this section, they may be counted toward each. The preference, as intended in Chapter 8, is the preservation of vegetation in place.

C. SWIM BUFFERS. Preservation of vegetation along designated, riparian buffers shall comply with the requirements of § 155.703.

D. OTHER INTERIOR LANDSCAPING. Areas of a development site left in existing natural state, foundation plantings, and other interior landscaping elements may be included when land disturbing activity is proposed on a site. **[formerly known as § 153.075 (H)]**

155.606.6. Screening

A. SITE PERIMETER SCREENING. Screening is required along all side and rear yard property boundaries abutting an existing residential use or residentially zoned area. Screening on all side and rear yard boundaries when a property abuts a thoroughfare shall use the provisions here or in §155.606.6.B below. Screening shall be designed and installed to provide a visual buffer of at least seventy five percent (75%) opacity to a height of six feet (6'). When screening is to be accomplished with plant materials, this height and opacity must be reached within four growing seasons. Whenever practical, plantings to achieve screening shall include preserved vegetation, especially trees and evergreen shrubs, existing on the site.

1. Screening shall normally be provided through one of four options, as listed in the table below.

OPTION	PLANT MATERIALS *Type*	*Quantity*	PLANTING BED WIDTH
1	Large Trees Small Trees Shrubs	4 2 12	20 feet
2	Large Trees Small Trees Shrubs	4 2 16	15 feet
3	Large Trees Small Trees Shrubs Wall or Fence at Minimum 10 feet from property line	5 2 20	10 feet
4	Large Trees Large Shrubs*	4 10	20 feet

* planted in a triangular manner ten (10) feet apart at centers

EXHIBIT A-7

Existing Sections 155.506.45.B.2 and 7 of the UDO

use. This time period shall not exceed seven (7) days, and no time extension is allowed.

4. Parking, screening, buffers, and similar requirements as may be required elsewhere in this Title shall not be required for a short-term temporary use. (Ord. 477, passed 2-8-88; Am. Ord. 824, passed 6-13-94) **[formerly known as § 153.191(G)]**

155.506.45 Alcohol and Alcoholic Beverages, Wine, and Beer.

A. The production of any beverages with alcoholic content may be accomplished at many scales, for personal use and as a hobby, or for commercial sale, and can be allowed in different settings based on the size of the operations. Microbreweries and brewpubs may be allowed in the HUC, B-1, B-3, B-H, I-1, I-2, B-1SCD, MUD, TS, and ENT districts with prescribed conditions. Distilling of alcoholic beverages be permitted in the I-1 and I-2 districts when adhering to the requirements listed here.

B. STANDARDS

1. In the HUC district a brewpub cannot exceed five thousand (5,000) square feet gross floor area. A microbrewery in the HUC district shall not exceed five thousand (5,000) square feet gross floor area.

2. In the B-1, B-3, I-1, B-1SCD, MUD, TS, and ENT districts a brewpub or microbrewery cannot exceed seven thousand five hundred (7,500) square feet gross floor area.

3. In the HUC, MUD, TS, and ENT districts microbreweries shall have a tap room that is oriented to the street or main pedestrian entrance of the business. A minimum of five hundred (500) square feet shall be provided for the tap room and this area shall be open to the public for business at least twenty five percent (25%) of the time each week the microbrewery is operating.

4. No loading or distribution activities shall take place outside the enclosed building of a microbrewery between the hours of 9:00 PM and 7:00 AM when the microbrewery is located within five hundred feet (500') of any dwelling unit or institutional use in existence at the time the microbrewery receives a Certificate of Occupancy.

5. All microbreweries and brewpubs shall comply with the Town Noise Control Ordinance, Title 92A. **[formerly 153.197]**

6. The distilling of alcohol and alcoholic beverages in the I-1 district shall not exceed three thousand (3,000) square feet gross floor area. Manufacturing facilities greater than three thousand (3,000) square feet shall only be in the I-2 district.

7. Any distilling or manufacturing of alcohol and alcoholic beverages shall be separated by a minimum of five hundred feet (500') from any dwelling unit in existence at the time the manufacturing facility receives any related building permit for construction or upfit.

8. No manufacturing of alcohol and alcoholic beverage shall produce or create any noxious smells or odors detectable to the public from the public right-of-way. **[formerly 153.198]**

155.506.46 ADULT USES.

A. Adult uses may take multiple forms as further defined here, and are only allowed in the AU district when meeting the standards given below.

1. ADULT ARCADE: shall mean any place to which the public is permitted or invited where coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities or specified anatomical areas.

2. ADULT BOOKSTORE OR ADULT VIDEO STORE: shall mean a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following: *i)* books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities or specified anatomical areas; or *ii)* instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

3. ADULT CABARET: shall mean a nightclub, bar, restaurant or other commercial establishment that

EXHIBIT A-8

Existing Section 155.503.8.F.4.c of the UDO

another street.

4. OFF-STREET PARKING. While public street cross sections should include on-street parking on many streets within the overall neighborhood, the majority of required parking spaces will be provided on private property, either on the same parcel as the associated use or on a nearby parcel.

a. SHARED PARKING PROGRAM. An owner/developer is expected to design and implement a park-once system of shared parking to distribute the commercial parking load between on-street spaces and shared parking lots or structures. In order to reduce the amount of separate surface parking lots which can visually and spatially dominate development and therefore adversely affect desired density of build-out, vehicle parking shall have both a short-term and a long-term plan. Any development project proposed in the ENT District shall show how it can provide for its share of parking needs when initially constructed, as well as a longer-term future demand. Off-site parking within shared parking facilities shall be allowed and is encouraged in order to increase building and/or public use coverage fronting streets within the district. At the time of initial approval, a development proposal shall identify whether the project will include one or more of the following, either upon initial construction or at a later phase: twenty (20) or more residential units; six thousand (6,000) square feet or more of business or retail space; fifty (50) or more seating accommodations in a restaurant; or any public assembly or recreational use facility that can accommodate fifty (50) or more persons (participants or attendees). Any proposed development meeting any of the given categories shall agree to participation in the neighborhood-wide shared parking program. This shared parking program may allow multiple separate buildings or development projects to allocate a certain percentage of their required parking to a shared off-site parking facility, and may require property owners to participate in a special assessment process to build structured parking when certain neighborhood build-out levels are reached. Shared off-site parking facilities may initially be surface lots that shall be converted to structured parking when neighborhood density levels are reached. A written agreement between property owners explaining what parcel or parcels may utilize parking on a separate parcel, now and/or in the future, and which will remain binding on future owners and land uses, shall be signed and recorded with the Mecklenburg County Register of Deeds office prior to any land disturbing activity or any permit being issued for a parcel that requires off-site parking to meet minimum parking standards.

b. To the maximum extent possible, off-street parking spaces must be located within buildings or behind buildings so that buildings screen parking areas from sidewalks and streets. In no case shall parking be located in the setback or yard in front of a building. Parking lots in non-streetside (interior of block) side yards may be allowed provided these lots are placed a minimum of twenty feet (20') from lot lines adjoining rights-of-way, excluding alleys.

c. Access to off-street parking spaces shall be provided by one- or two-way private drives or public alleys. Parking spaces immediately adjacent to drives or alleys may be ninety degree (90°), angled, or parallel, and must be of sufficient depth to assure parked vehicles will not impede traffic movement in the drive or alley. Where ninety degree (90°) or angle spaces are provided, they must be a minimum of twenty feet (20') in length, and where parallel spaces are provided they must be a minimum of eight feet (8') in width. Any drive or alley with parking spaces immediately adjacent must be paved a minimum of twenty feet (20') in width, with no obstructions, such as doors, dumpsters, planters, bollards, mechanical equipment, street light poles, etc., that could restrict the full width use of the pavement for vehicular maneuvering in and out of the designated parking spaces. Cross access is required between adjoining rear/side parking lots.

d. Parking structures are encouraged to create shared parking opportunities and to reduce the footprint of surface lots. Single-use parking structures must be located behind other buildings. Structured parking is permitted and encouraged on liner buildings and mixed use buildings. Structured parking may extend below grade and may contain multiple levels of parking above grade. Parking structures may contain other uses above the parking levels provided the entire building does not exceed the height allowed in the ENT District. Partially enclosed parking spaces may be created with habitable space

EXHIBIT A-9

Existing Section 155.701.C.4.g of the UDO

f. CROSS ACCESS. Traffic studies have shown that highly connected street networks provide much greater traffic throughput and mobility for a community, at less cost. A high degree of connectivity should occur not only at the level of arterials, but also on collector, local and other secondary roads. Such connectivity vastly improves a street network's performance. The street pattern should not force short trips of one (1) or two (2) miles onto Class I or II roads; it should be possible to make trips of this sort by using collector or other secondary streets. With a highly connected street network, cross-town trips should be possible using fairly direct secondary roads.

All development in nonresidential and mixed use zoning districts shall be designed to allow for cross-access to adjacent properties within these zoning districts to encourage shared parking and shared access points on public and private streets. When cross access is deemed impractical by the Public Works Director on the basis of severe topography, environmental constraints or vehicular safety factors, and is not detailed by the CTP or any small area plan which includes a street network layout, the requirement may be waived provided that appropriate bicycle and pedestrian connections are provided between adjacent developments or land uses. Development plans should provide a cross-access easement and complete the connection if completing the link can derive an immediate benefit. If no immediate benefit can be derived, development plans should provide cross access and construction easements and arrange the site design so when the adjoining property owner extends the connection to the property line, the link will be completed, and a financial guarantee equivalent to the cost of construction on a per lineal foot basis in current dollar value shall be provided to the Town. If the link is to be completed in the future, the grade and angle of the connection, as well as the location of parking, landscaping, and other improvements must be set at the time of development of the premises to allow for reasonable and feasible extension into the adjacent property

g. SECOND AND ADDITIONAL POINTS OF ACCESS REQUIRED FOR RESIDENTIAL DEVELOPMENTS. At a minimum, a second point of open and functioning vehicular access from the existing public street system (not a stub-out or a temporary dead-end) is required for developments that exceed one hundred (100) residential units, and a third shall be required for developments that exceed three hundred fifty (350) residential units. These second and third points shall be open and functioning prior to the issuance of the 101st and 351st Certificate of Occupancy respectively for the development. The number of further open and functioning vehicular access points shall be controlled and determined by the development's Town-approved Traffic Impact Analysis, described in § 155.701.C.9. If a Traffic Impact Analysis should establish a higher standard for the number of open and functioning vehicular access points from the existing public street system, the requirement of the Traffic Impact Analysis shall prevail. These requirements shall not preclude a development from also meeting the connectivity index required in § 155.701.C.4.c. For purposes of this Section, a median-divided vehicular access point counts as a single vehicular access point. This Section does not preclude any development from connecting to existing street stubs and/or street stub right-of-ways abutting their property.

5. PEDESTRIAN CONNECTIVITY. Pedestrian circulation and connectivity should be placed adjacent to planned streets. All sidewalks and pedestrian pathways shall be designed to comply with the standards in § 155.707.D. Pedestrian crossings shall be made safer for pedestrians whenever possible by shortening crosswalk distance with curb extensions, reducing curb radii, and eliminating free right-turn lanes. Traffic calming devices may be installed to help facilitate safer pedestrian crossings.

Pedestrian walkways shall form an on-site circulation system that minimizes conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall connect building entrances to one another and from building entrances to public sidewalk connections and existing or planned transit stops. All developments that contain more than one building shall provide walkways between the principal entrances of the buildings and to adjoining streets.

EXHIBIT A-10

Existing Sections 155.805.B and C of the UDO

155.804. Development and Redevelopment Mitigation [formerly § 154, Section IV]

A. MITIGATION PAYMENT. Development and redevelopment on a lot less than one (1) acre in size measured in accordance with § 155.801.F.8 that is not exempt according to § 155.801.E.2 is allowed by right to forego meeting the requirements of the PCO provided the Town is paid a mitigation fee according to rates set forth in the Administrative Manual and provided such development and redevelopment are not part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules. **[formerly known as § 154.041]**

B. CRITERIA FOR MITIGATION PAYMENT.

1. NOTIFICATION TO STORM WATER ADMINISTRATOR. The by-right mitigation option does not require approval by the Storm Water Administrator; however, notification that this right is to be exercised for a particular lot must be made prior to the issuance of any permits for the project. This notification is to be made to the Storm Water Administrator on a standard form provided in the Administrative Manual.

2. USE OF MITIGATION PAYMENT. The Town shall use the mitigation payment to install water quality enhancement measures, including but not limited to BMPs, stream restoration, open space preservation, etc. BMP(s) installed using the mitigation payment must be constructed in accordance with 15A NCAC 2H .1008(c), as explained in the Administrative Manual. All BMPs constructed by the Town as part of this mitigation option shall be maintained by the Town of Matthews into perpetuity.

3. TIME FRAME FOR USE OF MITIGATION PAYMENT. The Town shall use the mitigation payment within a maximum of two (2) years of the end of the calendar year from the receipt of the payment. As an option, the Town of Matthews may elect to use the fee to purchase and plant trees within the Town. **[formerly known as § 154.042]**

155.805. Undisturbed Open Space [formerly § 154, Section V]

A. PURPOSE. Undisturbed Open Space provides for a reduction in the negative impacts from storm water runoff through nonstructural means. The combination of the structural BMPs described in § 155.803 with the non-structural Undisturbed Open Space provisions described in this § 155.805 allow the objectives of the PCO to be fulfilled. **[formerly known as § 154.051]**

B. GENERAL DESCRIPTION. Undisturbed Open Space is required for all development unless mitigated. The percentage of Open Space required depends on a project's built-upon area as described below. Undisturbed Open Space requirements can be met in stream or lake buffers, designated common areas or on individual lots for residential development (e.g., backyards, borders, etc.). Undisturbed Open Space cannot be designated within rights of way, utility easements, etc. where re-disturbance could occur. Grass fields can also be used to meet Undisturbed Open Space requirements; however, the fields must be replanted in accordance with the tree planting provisions described in § 155.805.E. below. Undisturbed Open Space is preferred where it will provide maximum water quality benefit (i.e., around gullies and existing drainage areas, adjacent to streams and wetlands, around structural BMPs, etc.). **[formerly known as § 154.052]**

C. UNDISTURBED OPEN SPACE CRITERIA. Undisturbed Open Space requirements apply to projects as described below.

1. LESS THAN TWENTY FOUR PERCENT (24%) BUILT-UPON AREA. A project with less than twenty four percent (24%) built-upon area shall include as Undisturbed Open Space within the boundaries of the project a minimum of twenty five percent (25%) of the project area.

2. GREATER THAN OR EQUAL TO TWENTY FOUR PERCENT (24%) AND LESS THAN FIFTY PERCENT (50%) BUILT-UPON AREA. A project with greater than or equal to twenty four percent (24%) and less than fifty percent (50%) built-upon area shall include as Undisturbed Open Space within the boundaries of the project a minimum of seventeen and one-half percent (17.5%) of the project area.

3. GREATER THAN OR EQUAL TO FIFTY PERCENT (50%) BUILT-UPON AREA. A project with greater than or equal to fifty percent (50%) built upon area shall include as Open Space within the boundaries of the project a minimum of ten percent (10%) of the project area. **[formerly known as § 154.053]**

D. UNDISTURBED OPEN SPACE DESIGNATION. The Undisturbed Open Space location shall be recorded at the Register of Deeds Office as "Undisturbed Open Space" and future disturbance is prohibited except for greenway trails with unlimited public access, Charlotte- Mecklenburg Utility lines and channel work/maintenance activities by Charlotte-Mecklenburg Storm Water Services. Other utility work may be allowed in the Undisturbed Open Space area provided it will not result in loss of Undisturbed Open Space as approved by the Town of Matthews. **[formerly known as § 154.054]**

E. UNDISTURBED OPEN SPACE MITIGATION.

1. PURPOSE. The purpose of this mitigation is to reduce the cost of complying with the Undisturbed Open Space requirement while ensuring the reduction of pollution loads and achievement of the ordinance objectives.

2. GENERAL DESCRIPTION. Approved disturbance to the Open Space area described in § 155.805.C. above must be off-set by an allowable form of mitigation, including on-site and off-site mitigation as well as through payment-in-lieu.

3. UNDISTURBED OPEN SPACE MITIGATION CRITERIA.

a. ON-SITE MITIGATION. On-site mitigation shall allow the disturbance of designated Undisturbed Open Space area on a project with the fulfillment of the following criteria on the project site:

i. Fifty percent (50%) increase in total Undisturbed Open Space area designation above the requirements specified in § 155.805.D, except when the Undisturbed Open Space area qualifies as a "grass field" in which case the size of the required Undisturbed Open Space area remains unchanged. The portion of the Open Space area that is a grass field, whether or not disturbed, must be replanted with trees as specified in subsection 3, below.

ii. Establishment of a minimum of six inches (6") of top soil to the disturbed Open Space area following the completion of construction activities. This material may be obtained from on-site when available.

iii. Planting of a minimum of thirty six (36) trees per acre of Undisturbed Open Space area as follows:

- Trees shall have a minimum caliper of one and one-half inches (1.5").
- Trees shall be of a quality set forth by the American Standard for Nursery Stock and will be selected from a list of acceptable native species for planting in Undisturbed Open Spaces established by the Town of Matthews.
- Planted trees shall contain a mix of at least three (3) different species in roughly equal proportions and be "large mature shade tree species" as listed in § 155.606.14.
- Trees shall be planted in accordance with specifications provided by the Town of Matthews.
- Trees shall be warranted for a minimum of three (3) years following planting and any dead or diseased trees must be replaced.

iv. The area around and between trees must be stabilized using an approved vegetative ground cover and mulch.

v. The slope of any graded or disturbed area that is dedicated for Undisturbed Open Space cannot exceed three (3) to one (1) (3:1).

vi. The flow of water across the Undisturbed Open Space area must be controlled to prevent soil erosion or mulch disturbance.

b. OFF-SITE MITIGATION. On a case by case basis and at the sole discretion of the Storm Water Administrator, the Town may allow Undisturbed Open Space disturbance and off-

EXHIBIT B-1

Proposed Revised Section 155.401.7.C of the UDO

1. The R-VS SRN, C-MF, MUD, TS, and ENT Conditional-Only districts provide such a setting. Therefore, the opportunity for flexible design standards may be included as an integral part of proposals for these districts.

2. The Cottage Cluster Housing alternative in the residential districts provide such a setting. Therefore, the opportunity for flexible design standards may be included as an integral part of proposals for Cottage Cluster Housing within any of the single-family zoning districts when requested through a Parallel Traditional district process.

3. Various permitted uses within the CrC district may apply flexible design standards.

B. PURPOSE. It is the objective of these flexible design standards to encourage development proposals that exhibit such special qualities or concepts that they may deviate from standard ordinance requirements. These regulations are established in order that a flexible design proposal will be evaluated on its own merits. It is recognized that some proposals or concepts will be more successful than others, and the approval of a specific proposal in one situation does not mean that a similar proposal would be acceptable in other circumstances. These provisions are purely optional and are a voluntary means by which land may be developed outside of the standard ordinance requirements. These provisions are designed to evaluate only those flexible design concepts that propose to meet a community need that would not otherwise be met. Finally, it should be emphasized that these provisions should not be confused with or take the place of the normal zoning and subdivision variance procedures established either in § 155.403 or § 155.712.

C. CERTAIN ZONING DEVELOPMENT STANDARDS MAY BE MODIFIED. The quantitative dimensions and locational zoning standards listed here which would normally apply to development may be modified through the flexible design process.

1. Lot area.

2. Lot width.

3. Public street frontage.

4. Setbacks and yards.

5. Building separation.

6. Height of fences and walls.

7. **Block length**.

8. **Maximum build-to line**.

9. Location of off-street parking (distance from site and/or on-site or off-site provisions; partially within a sight triangle; partially within perimeter planting or required screening**; distance of parking areas and access drives from lot lines in the ENT District**).

10. Specific standards set within the Conditional Only zoning districts for "Building and Structure Design Principles" (within subsection G of each district's section at 155.503) when they would result in new development concepts, innovative design, unique circumstances, or public/private ventures.

D. CERTAIN INFRASTRUCTURE STANDARDS MAY BE MODIFIED. The infrastructure standards of Chapter 7 which would normally apply to development may be modified either through the subdivision variance process or flexible design process, each as identified below.

1. Street right-of-way.

   a. Street right-of-way must be at least thirty feet (30') for a private street or alley in accordance with the Land Development Standards Manual or other adopted street cross sections.

   b. Street right-of-way must be at least forty four feet (44') for a two-way public street in accordance with the Land Development Standards Manual or other adopted street cross sections.

   c. The Board of Commissioners may modify the above minimum standards as they deem necessary or justifiable through the subdivision variance procedure as established at § 155.712.

2. Street type – public or private.

   a. Where a public street is used, it must be constructed in accordance with the Land Development Standards Manual or other adopted street cross sections.

EXHIBIT B-2

Proposed Revised Section 155.503.8.F.2.f of the UDO

a. The interconnected network of streets must extend into adjoining areas except where connectivity is deemed inappropriate or impractical due to sensitive natural resources or unusual topography, or where existing development patterns provide no practical connection opportunities. The entire district is anticipated to be built out over time, in phases, so the exact placement of all streets is not expected to be determined prior to initial development within the district.

b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other streets. In order to assure an overall framework for connectivity within, and through, the ENT district, a "main street" layer of proposed street network shall be determined as part of the approved general concept plan. At least two street intersections shall be identified to directly connect the Sportsplex public park to the remainder of the ENT District, and at least one (1) street intersection shall directly connect the Sportsplex public park to the exterior edge of the district.

c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.

d. Sidewalks and street trees must be provided on both sides of all streets. Street trees may be omitted where alternative public use areas are designed adjacent to a street.

e. Permanent dead end streets are not permitted, except for side or rear access alleys.

f. **Private streets or gated streets are prohibited, and all streets must be dedicated to the public. Notwithstanding the foregoing, streets that provide vehicular access to a building or buildings containing residential uses may be private provided that all private streets must be constructed to public street standards and a public access easement must be provided over and across all private streets to allow public use of such private streets**.

g. Rear or side access alleys are permitted throughout the neighborhood and may serve as primary vehicular ingress to individual buildings or parcels in the ENT District. Alleys may be utilized to separate vehicular access and parking for residential units, to access loading and delivery spaces for nonresidential uses, to provide access to employee parking, and to allow the public to reach side or rear secondary entrances to businesses. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.

h. A streetscape planting and lighting plan shall be prepared for each block face of each public street, and shall incorporate street trees designed to grow into an arching canopy that will not impede pedestrian or vehicular movement or visibility. A variety of species may be utilized throughout the neighborhood, but will not exceed five (5) tree species per block face. To the greatest extent possible, street trees and street lighting shall be installed when the street and sidewalk are constructed.

i. Building facades are the public "face" of every building. Owners and tenants are encouraged to utilize planters and window boxes filled with colorful plants along each façade that fronts a public street, plaza, parking lot, or similar public use area.

3. BLOCKS. Except as otherwise provided, block perimeters may not exceed eight hundred (800) lineal feet as measured along the edges of each street right-of-way forming the block. Blocks may alternatively be broken by a civic space provided that lot is at least fifty feet (50') wide and shall provide perpetual pedestrian access between the blocks and to any lots that front the civic space. Smaller blocks are encouraged to promote walkability.

a. Blocks may exceed this limit, up to a maximum of four thousand (4,000) linear feet, only if one (1) or more of the following conditions apply:

i. The block has at least one block face on a numbered state or federal highway or expressway/freeway.

ii. The block has at least a portion of its block face partially within the Sportsplex public park property.

iii. The block face contains valuable natural features which should not be crossed by a street.

iv. The block face cannot have buildings on one side due to utility easement restrictions.

b. Any single block face wider than six hundred feet (600') must include a publicly dedicated sidewalk, or walkway at least twelve feet (12') in width that connects to

EXHIBIT B-3

Proposed Revised Section 155.601.13.C of the UDO

5. When the rear yard of a through lot in any zoning district abuts a thoroughfare, the minimum rear yard depth must be at least fifty five feet (55'). **[formerly known as §§ 153.085, 153.086, and 153.095(B) and (C)]**

C. ZERO LOT LINE DWELLINGS. When a zero lot line dwelling is allowed in various zoning districts, the underlying front setback, side and rear yards and other dimensional standards for that district will apply with the exception of one side or rear yard dimension, which may be reduced down to zero (0) feet to allow placement of the structure at or near the one lot line. When this is done, a maintenance easement of at least five feet (5') in width shall be created and recorded at the Mecklenburg County Register of Deeds for the adjacent property, to allow for access, repair and general maintenance of the structure along the zero lot line. Eaves, bay windows, gutters, mechanical equipment, and similar extensions or attachments to the principal structure shall not be placed on or extend over the property line. The lot line to which the zero dimension is applied shall not be the streetside side yard of a corner lot. No windows or door openings shall be located within the wall portion at the lot line in order to create a sense of separation for the adjacent parcel.

155.601.12 Location of Required Yards on Irregular Lots

The location of required front, side, and rear yards on irregularly shaped lots will be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this Title to achieve an appropriate spacing and location of buildings on individual lots. ('72 Code, § 1613) (Ord. 477, passed 2-8-88) **[formerly known as § 153.084]**

155.601.13 Sight Triangle

A. STANDARDS. Within a sight triangle, and except as provided in § 155.601.13.B below, no structure, sign, plant, shrub, tree, berm, fence, wall, mailbox or object of any other kind shall be installed, constructed, set out or maintained so as to obstruct cross-visibility at a level between two (2) feet and ten (10) feet above the level of the center of the street intersection.

B. EXEMPTIONS. The standards of this § 155.601.13 shall not apply to:

1. Existing natural grades, which, by reason of natural topography, rises twenty four (24) or more inches above the level of the center of the adjacent intersection.

2. Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the area between two feet (2') and ten feet (10') above the level of the center of the abutting intersection.

3. Fire hydrants, public utility poles, street markers, governmental signs, and traffic control devices. (Ord. No. 1532, passed 1-8-07)

C. REDUCED SIGHT TRIANGLE FOR CERTAIN DISTRICTS. A modified sight triangle with dimensions no less than **ten feet by ten feet (10' x 10') as measured from the back of curb** may be allowed within the Downtown Overlay district and within the C-MF, MUD, TS, and ENT districts with the approval of the Town Engineer. This provision may only be applied adjacent to Town-maintained streets (not state roads) **and private streets**, and only when the adjacent building or approved outdoor amenity is at, or less than, twenty feet (20') from the public street right-of-way line **or the private street right of way.** Outdoor amenities that may justify a reduced sight triangle may include, but are not limited to, a retaining wall or substantial sharp change of natural grade, stairs, fire escape, or low wall that visually and physically separates the public right-of-way from the adjacent private use area and cannot efficiently be relocated elsewhere on the site. The reduced sight triangle must be located where the travel lane closest to the building is controlled by either a signal or signage. **[formerly part of § 153.078]**

155.601.14 More than One Principal Building per Lot

More than one (1) principal nonresidential building may be located on a lot if a paved access driveway at least ten feet (10') wide is maintained from a public street to each building for use by service and emergency vehicles. Unless a lesser standard is allowed elsewhere in this Title and by applicable building codes, a minimum separation of four feet (4') is required between separate buildings. No more than one (1) principal residential building may be located on a lot, except under the provisions for accessory apartments, cottage cluster developments, multi-family developments, manufactured home parks, overnight camping trailer parks, and institutionalized residential facilities. In the case of attached single-family development where the side or rear lot lines match the center of common shared walls, the approved preliminary subdivision plat indicating the proposed lot lines shall be used for building permit approval, although temporary or final Certificates of Occupancy shall not be issued until a final plat is approved and recorded.

EXHIBIT B-4

Proposed Revised Sections 155.606.7.A.2.b, c and d of the UDO

A. CANOPY PRESERVATION REQUIREMENT.

1. PURPOSE. The amount of tree canopy covering a site is an indication of the site's ability to retard storm water run-off, mitigate air pollution, and contribute to site-cooling effects. The tree canopy requirements outlined here may also be applied to the minimum Undisturbed Open Space requirements of Chapter 8, the Post Construction Ordinance.

2. REQUIREMENTS. A minimum percentage of tree canopy is required to be maintained or created on any development site or on any site of any land disturbing activity. If a site over one (1) acre in size was formerly in a forested state and fifty percent (50%) or more of the land area was clear cut within three (3) years of the plan submittal date for any land disturbing activity, then the tree canopy preservation requirements must be applied as though the site was not clear cut. It will be the applicant's responsibility to provide proof that any clear cutting activity on the site took place greater than three years prior to the current submittal date.

a. The amount of existing canopy that must be preserved on the site during development is determined by two (2) factors: the zoning district classification; and the percentage of existing tree canopy present before any land disturbing activity, as indicated below:

TABLE OF MINIMUM TREE CANOPY REQUIREMENTS

Zoning District	Required Tree Canopy
R-15, R-20	20%
R-9, R-12, R-MH, R-15MF, R-12MF, CrC, R/I	15
0, B-1, B-1SCD, B-H, B-3, BD, AU	12
I-1, I-2	10%
R-VS, MUD, SRN, ENT	8%
HUC, C-MF, TS	4%

b. **Subject to paragraph d below**, whenever the existing tree canopy is greater than twenty percent (20%) of the total property area, then a minimum canopy must be preserved, as defined in the above table at § 155.606.7.A.2.a.

c. **Subject to paragraph d below**, whenever the existing tree canopy of the site prior to land disturbance is less than twenty percent (20%) of the total property area, then the percentage of canopy, as defined in § 155.606.7.A.2.a, must be achieved by a combination of preservation and new planting.

d. **With respect to property located within the Downtown Overlay district or within the C-MF, MUD, TS or ENT districts, the percentage of canopy, as defined in § 155.606.7.A.2.a, may be achieved entirely by new plantings, the preservation of existing tree canopy or a combination of preservation and new plantings**.

e. Tree save areas that include mature trees over minimum planting calipers are strongly encouraged. Placement of proposed buildings, vehicle use areas, and other site improvements should be designed to reduce disturbance of existing vegetation.

3. CALCULATION OF CANOPY AREAS.

a. The baseline canopy measurements on a proposed development site shall be provided by the property owner and submitted as part of the vegetation survey and landscape plan. The percent canopy cover may be calculated by aerial photographs and verified, if feasible, by ground measurement. The area of existing dedicated rights-of-way, storm water facilities and easements that do not incorporate trees, utility easements, and existing ponds, lakes, or perennial streams shall be subtracted from the total property area before the tree preservation requirements are calculated. If root disturbance or construction activities

EXHIBIT B-5

Proposed Revised Section 155.606.4 of the UDO

E. TREE CANOPY REQUIREMENT. Landscaping in the form of trees shall either be retained or planted on site to meet minimum canopy coverage in accordance with § 155.606.7. These provisions may also assist in compliance with tree protection and planting standards in the Post Construction Storm Water Regulations in Chapter 8. **[formerly known as § 153.075 (E)]**

155.606.3. Streetscape Planting

Except for the Downtown Overlay District, the Highway Overlay District, and any other location with an adopted neighborhood or small area plan when it has its own streetscape requirements, the following shall be required for development of any property in Matthews:

A. A planting strip whose total length shall be equal to the total length of the property line adjacent to the public right-of-way, or in the public right-of-way if sufficient room exists between curb and sidewalk, exclusive of access drives and their sight triangles. The width of the strip shall be a minimum of eight feet (8') and shall generally start immediately adjacent to the street side property line.

B. Trees shall be planted, if not existing, within the planting strip with large maturing trees. Large maturing trees shall be spaced no greater than forty feet (40') apart with a minimum of one tree planted on all properties with frontage greater than thirty feet (30'). Each tree shall be a minimum of two inch (2") caliper and have a minimum height of eight feet from the ground surface. See § 155.606.14 for a selection of recommended large maturing trees.

1. If the use of large maturing trees is considered inappropriate for the site, then a written explanation of why they cannot be used shall be made to the Town.
2. Where overhead power lines or other obstructions prevent the use of large maturing trees, then small maturing trees shall be used. Small maturing trees shall be spaced no greater than thirty feet (30') apart. See § 155.606.14 for a selection of recommended small maturing trees.
3. No large maturing tree shall be planted within thirty five feet (35') of an overhead utility line as measured from the closest wire.
4. Trees shall be selected so that a mixture of species shall be planted or preserved. If a property has greater than three hundred feet (300') of frontage on any one street, a minimum of three (3) different species shall be planted. If less than three hundred feet (300') of frontage exists, than only a single species shall be required.
5. When an existing or proposed sidewalk is within one foot (1') of the property line, then trees must be located a minimum of four feet (4') from the sidewalk.

C. The planting strip shall not be paved or used for automobile parking and shall have vegetative or organic ground cover and/or beds of flower plants or bulbs mulched and kept weed and litter free by the property owner or may be planted in grass and mowed on a regular basis. In addition to the required trees and surface treatment within the planting strip, shrubs and additional trees may be included at the option of the landowner. Xeriscape plantings are strongly encouraged.

D. In the case of unusual site factors that would make the strict adherence to this section serve no useful purpose, the Planning Director may waive all or part of the requirements of this section. A waver may be requested by a written statement explaining the mitigating circumstances on or off the site. It must be supported by documented facts. Waivers may be considered as long as the spirit and intent of this § 155.606 are maintained.

E. Where streetscape trees are to be located in the public right-of-way, all planting standards in §155.606.12 must be followed. In addition, trees must be inspected by the Town's landscape manager before planting. See § 155.606.13 for landscape maintenance requirements. **[formerly known as § 153.075 (F)]**

155.606.4. Perimeter Planting

Plantings along those property boundaries not facing a public right-of-way are designed to provide a sense of boundary between nonresidential land uses. Perimeter landscaping is not mandatory in zoning districts **such as the ENT district** which are intended to create and achieve a mixed-use urban environment and where pedestrian connectivity between land uses and parcels is encouraged. Whenever practical, such plantings shall include preserved vegetation on the site.

A. A combination of trees and shrubs shall be arranged along the non-street rear and side perimeters. This landscaping will consist of a minimum of one tree and ten shrubs for each fifty (50) lineal feet, not including the streetscape-planting strip. The planting may be arranged in a single row, staggered, or may be clustered or otherwise arranged anywhere within fifteen feet (15') of the property line to allow for

EXHIBIT B-6

Proposed Revised Section 155.606.6.A of the UDO

planted parallel to the street but not within the sight triangle of intersecting streets or a street and driveway or alley. The shrubs shall be planted no greater than five feet (5') on-center, and should be of a species that matures between one (1') and three feet (3') in height.

j. Any development existing at the time of enactment of this Title which does not conform to the standards imposed in § 155.606.5.A.2. above but did meet required parking lot landscaping standards in effect at time of development, and subsequently desires to make further changes to the parking lot(s) on-site, shall not be required to come into compliance with the parking lot landscaping standards of § 155.606.5.A.2 unless more than fifty percent (50%) of the area of the existing parking lot(s) are disturbed. If more than fifty percent (50%) of the parking lot area(s) are disturbed, only those disturbed areas shall come into compliance with the above landscaping standards.

B. POST CONSTRUCTION REGULATIONS. In addition to the provisions for tree canopy and landscaping on developed parcels, requirements of Chapter 8, the Post Construction Ordinance shall also apply. Where the requirements for undisturbed open space can be met with existing or new tree canopy requirements of this section, they may be counted toward each. The preference, as intended in Chapter 8, is the preservation of vegetation in place.

C. SWIM BUFFERS. Preservation of vegetation along designated, riparian buffers shall comply with the requirements of § 155.703.

D. OTHER INTERIOR LANDSCAPING. Areas of a development site left in existing natural state, foundation plantings, and other interior landscaping elements may be included when land disturbing activity is proposed on a site. **[formerly known as § 153.075 (H)]**

155.606.6. Screening

A. SITE PERIMETER SCREENING. Screening is required along all side and rear yard property boundaries abutting an existing residential use or residentially zoned area. **Notwithstanding the foregoing, the screening requirements of § 155.606.6 shall not apply to any boundary line of property located in the ENT district where the boundary line is adjacent to residentially used or residentially zoned property that is located in the ENT district or is recommended to be in the ENT district pursuant to the Entertainment District Small Area Plan.** Screening on all side and rear yard boundaries when a property abuts a thoroughfare shall use the provisions here or in §155.606.6.B below. Screening shall be designed and installed to provide a visual buffer of at least seventy five percent (75%) opacity to a height of six feet (6'). When screening is to be accomplished with plant materials, this height and opacity must be reached within four growing seasons. Whenever practical, plantings to achieve screening shall include preserved vegetation, especially trees and evergreen shrubs, existing on the site.

1. Screening shall normally be provided through one of four options, as listed in the table below.

OPTION	PLANT MATERIALS *Type*	*Quantity*	PLANTING BED WIDTH
1	Large Trees Small Trees Shrubs	4 2 12	20 feet
2	Large Trees Small Trees Shrubs	4 2 16	15 feet
3	Large Trees Small Trees Shrubs Wall or Fence at Minimum 10 feet from property line	5 2 20	10 feet
4	Large Trees Large Shrubs*	4 10	20 feet

* planted in a triangular manner ten (10) feet apart at centers

EXHIBIT B-7

Proposed Revised Sections 155.506.45.B.2 and 7 of the UDO

use. This time period shall not exceed seven (7) days, and no time extension is allowed.

4. Parking, screening, buffers, and similar requirements as may be required elsewhere in this Title shall not be required for a short-term temporary use. (Ord. 477, passed 2-8-88; Am. Ord. 824, passed 6-13-94) **[formerly known as § 153.191(G)]**

155.506.45 Alcohol and Alcoholic Beverages, Wine, and Beer.

A. The production of any beverages with alcoholic content may be accomplished at many scales, for personal use and as a hobby, or for commercial sale, and can be allowed in different settings based on the size of the operations. Microbreweries and brewpubs may be allowed in the HUC, B-1, B-3, B-H, I-1, I-2, B-1SCD, MUD, TS, and ENT districts with prescribed conditions. Distilling of alcoholic beverages be permitted in the I-1 and I-2 districts when adhering to the requirements listed here.

B. STANDARDS

1. In the HUC district a brewpub cannot exceed five thousand (5,000) square feet gross floor area. A microbrewery in the HUC district shall not exceed five thousand (5,000) square feet gross floor area.

2. **In the B-1, B-3, I-1, B-1SCD, MUD, TS, and ENT districts a microbrewery cannot exceed ten thousand (10,000) square feet gross floor area. In the B-1, B-3, I-1, B-1SCD, MUD, TS, and ENT districts, a brewpub cannot exceed a total of twenty (20,000) square feet of gross floor area in size, and the maximum gross floor area of a brewpub that may be devoted to the production or manufacturing of beverages with alcoholic content shall be 10,000 square feet.**

3. In the HUC, MUD, TS, and ENT districts microbreweries shall have a tap room that is oriented to the street or main pedestrian entrance of the business. A minimum of five hundred (500) square feet shall be provided for the tap room and this area shall be open to the public for business at least twenty five percent (25%) of the time each week the microbrewery is operating.

4. No loading or distribution activities shall take place outside the enclosed building of a microbrewery between the hours of 9:00 PM and 7:00 AM when the microbrewery is located within five hundred feet (500') of any dwelling unit or institutional use in existence at the time the microbrewery receives a Certificate of Occupancy.

5. All microbreweries and brewpubs shall comply with the Town Noise Control Ordinance, Title 92A. **[formerly 153.197]**

6. The distilling of alcohol and alcoholic beverages in the I-1 district shall not exceed three thousand (3,000) square feet gross floor area. Manufacturing facilities greater than three thousand (3,000) square feet shall only be in the I-2 district.

7. Any distilling or manufacturing of alcohol and alcoholic beverages shall be separated by a minimum of five hundred feet (500') from any dwelling unit in existence at the time the manufacturing facility receives any related building permit for construction or upfit. **Notwithstanding the foregoing, there shall be no minimum separation requirement between a brewpub located in the ENT zoning district and a dwelling unit located in the ENT zoning district.**

8. No manufacturing of alcohol and alcoholic beverage shall produce or create any noxious smells or odors detectable to the public from the public right-of-way. **[formerly 153.198]**

155.506.46 ADULT USES.

A. Adult uses may take multiple forms as further defined here, and are only allowed in the AU district when meeting the standards given below.

1. ADULT ARCADE: shall mean any place to which the public is permitted or invited where coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities or specified anatomical areas.

2. ADULT BOOKSTORE OR ADULT VIDEO STORE: shall mean a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following: *i)* books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities or specified anatomical areas; or *ii)* instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

EXHIBIT B-8

Proposed Revised Section 155.503.8.F.4.c of the UDO

another street.

4. OFF-STREET PARKING. While public street cross sections should include on-street parking on many streets within the overall neighborhood, the majority of required parking spaces will be provided on private property, either on the same parcel as the associated use or on a nearby parcel.

a. SHARED PARKING PROGRAM. An owner/developer is expected to design and implement a park-once system of shared parking to distribute the commercial parking load between on-street spaces and shared parking lots or structures. In order to reduce the amount of separate surface parking lots which can visually and spatially dominate development and therefore adversely affect desired density of build-out, vehicle parking shall have both a short-term and a long-term plan. Any development project proposed in the ENT District shall show how it can provide for its share of parking needs when initially constructed, as well as a longer-term future demand. Off-site parking within shared parking facilities shall be allowed and is encouraged in order to increase building and/or public use coverage fronting streets within the district. At the time of initial approval, a development proposal shall identify whether the project will include one or more of the following, either upon initial construction or at a later phase: twenty (20) or more residential units; six thousand (6,000) square feet or more of business or retail space; fifty (50) or more seating accommodations in a restaurant; or any public assembly or recreational use facility that can accommodate fifty (50) or more persons (participants or attendees). Any proposed development meeting any of the given categories shall agree to participation in the neighborhood-wide shared parking program. This shared parking program may allow multiple separate buildings or development projects to allocate a certain percentage of their required parking to a shared off-site parking facility, and may require property owners to participate in a special assessment process to build structured parking when certain neighborhood build-out levels are reached. Shared off-site parking facilities may initially be surface lots that shall be converted to structured parking when neighborhood density levels are reached. A written agreement between property owners explaining what parcel or parcels may utilize parking on a separate parcel, now and/or in the future, and which will remain binding on future owners and land uses, shall be signed and recorded with the Mecklenburg County Register of Deeds office prior to any land disturbing activity or any permit being issued for a parcel that requires off-site parking to meet minimum parking standards.

b. To the maximum extent possible, off-street parking spaces must be located within buildings or behind buildings so that buildings screen parking areas from sidewalks and streets. In no case shall parking be located in the setback or yard in front of a building. Parking lots in non-streetside (interior of block) side yards may be allowed provided these lots are placed a minimum of twenty feet (20') from lot lines adjoining rights-of-way, excluding alleys.

c. Access to off-street parking spaces shall be provided by one- or two-way private drives or public alleys. Parking spaces immediately adjacent to drives or alleys may be ninety degree (90°), angled, or parallel, and must be of sufficient depth to assure parked vehicles will not impede traffic movement in the drive or alley. **Parking spaces in the ENT district must meet the relevant dimensional standards for parking spaces set out in the Charlotte-Mecklenburg Land Development Standards Manual.** Any drive or alley with parking spaces immediately adjacent must be paved a minimum of twenty feet (20') in width, with no obstructions, such as doors, dumpsters, planters, bollards, mechanical equipment, street light poles, etc., that could restrict the full width use of the pavement for vehicular maneuvering in and out of the designated parking spaces. Cross access is required between adjoining rear/side parking lots.

d. Parking structures are encouraged to create shared parking opportunities and to reduce the footprint of surface lots. Single-use parking structures must be located behind other buildings. Structured parking is permitted and encouraged on liner buildings and mixed use buildings. Structured parking may extend below grade and may contain multiple levels of parking above grade. Parking structures may contain other uses above the parking levels provided the entire building does not exceed the height allowed in the ENT District. Partially enclosed parking spaces may be created with habitable space

EXHIBIT B-9

Proposed Revised Section 155.701.C.4.g of the UDO

f. CROSS ACCESS. Traffic studies have shown that highly connected street networks provide much greater traffic throughput and mobility for a community, at less cost. A high degree of connectivity should occur not only at the level of arterials, but also on collector, local and other secondary roads. Such connectivity vastly improves a street network's performance. The street pattern should not force short trips of one (1) or two (2) miles onto Class I or II roads; it should be possible to make trips of this sort by using collector or other secondary streets. With a highly connected street network, cross-town trips should be possible using fairly direct secondary roads.

All development in nonresidential and mixed use zoning districts shall be designed to allow for cross-access to adjacent properties within these zoning districts to encourage shared parking and shared access points on public and private streets. When cross access is deemed impractical by the Public Works Director on the basis of severe topography, environmental constraints or vehicular safety factors, and is not detailed by the CTP or any small area plan which includes a street network layout, the requirement may be waived provided that appropriate bicycle and pedestrian connections are provided between adjacent developments or land uses. Development plans should provide a cross-access easement and complete the connection if completing the link can derive an immediate benefit. If no immediate benefit can be derived, development plans should provide cross access and construction easements and arrange the site design so when the adjoining property owner extends the connection to the property line, the link will be completed, and a financial guarantee equivalent to the cost of construction on a per lineal foot basis in current dollar value shall be provided to the Town. If the link is to be completed in the future, the grade and angle of the connection, as well as the location of parking, landscaping, and other improvements must be set at the time of development of the premises to allow for reasonable and feasible extension into the adjacent property

g. SECOND AND ADDITIONAL POINTS OF ACCESS REQUIRED FOR RESIDENTIAL DEVELOPMENTS. At a minimum, a second point of open and functioning vehicular access from the existing public street system (not a stub-out or a temporary dead-end) is required for developments that exceed one hundred (100) residential units, and a third shall be required for developments that exceed three hundred fifty (350) residential units. These second and third points shall be open and functioning prior to the issuance of the 101st and 351st Certificate of Occupancy respectively for the development. The number of further open and functioning vehicular access points shall be controlled and determined by the development's Town-approved Traffic Impact Analysis, described in § 155.701.C.9. If a Traffic Impact Analysis should establish a higher standard for the number of open and functioning vehicular access points from the existing public street system, the requirement of the Traffic Impact Analysis shall prevail. These requirements shall not preclude a development from also meeting the connectivity index required in § 155.701.C.4.c. For purposes of this Section, a median-divided vehicular access point counts as a single vehicular access point. This Section does not preclude any development from connecting to existing street stubs and/or street stub right-of-ways abutting their property. **Notwithstanding anything contained herein to the contrary, where a second and/or third point of access cannot be provided, the additional access requirement may be met by an emergency access point for emergency vehicles.**

5. PEDESTRIAN CONNECTIVITY. Pedestrian circulation and connectivity should be placed adjacent to planned streets. All sidewalks and pedestrian pathways shall be designed to comply with the standards in § 155.707.D. Pedestrian crossings shall be made safer for pedestrians whenever possible by shortening crosswalk distance with curb extensions, reducing curb radii, and eliminating free right-turn lanes. Traffic calming devices may be installed to help facilitate safer pedestrian crossings.

Pedestrian walkways shall form an on-site circulation system that minimizes conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall connect building entrances to one another and from building entrances to public sidewalk connections and existing or planned transit stops. All developments that contain more than one building shall provide walkways between the principal entrances of the buildings and to adjoining streets.

EXHIBIT B-10

Proposed Revised Sections 155.805.B and C of the UDO

155.804. Development and Redevelopment Mitigation [formerly § 154, Section IV]

A. MITIGATION PAYMENT. Development and redevelopment on a lot less than one (1) acre in size measured in accordance with § 155.801.F.8 that is not exempt according to § 155.801.E.2 is allowed by right to forego meeting the requirements of the PCO provided the Town is paid a mitigation fee according to rates set forth in the Administrative Manual and provided such development and redevelopment are not part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules. **[formerly known as § 154.041]**

B. CRITERIA FOR MITIGATION PAYMENT.

1. NOTIFICATION TO STORM WATER ADMINISTRATOR. The by-right mitigation option does not require approval by the Storm Water Administrator; however, notification that this right is to be exercised for a particular lot must be made prior to the issuance of any permits for the project. This notification is to be made to the Storm Water Administrator on a standard form provided in the Administrative Manual.

2. USE OF MITIGATION PAYMENT. The Town shall use the mitigation payment to install water quality enhancement measures, including but not limited to BMPs, stream restoration, open space preservation, etc. BMP(s) installed using the mitigation payment must be constructed in accordance with 15A NCAC 2H .1008(c), as explained in the Administrative Manual. All BMPs constructed by the Town as part of this mitigation option shall be maintained by the Town of Matthews into perpetuity.

3. TIME FRAME FOR USE OF MITIGATION PAYMENT. The Town shall use the mitigation payment within a maximum of two (2) years of the end of the calendar year from the receipt of the payment. As an option, the Town of Matthews may elect to use the fee to purchase and plant trees within the Town. **[formerly known as § 154.042]**

155.805. Undisturbed Open Space [formerly § 154, Section V]

A. PURPOSE. Undisturbed Open Space provides for a reduction in the negative impacts from storm water runoff through nonstructural means. The combination of the structural BMPs described in § 155.803 with the non-structural Undisturbed Open Space provisions described in this § 155.805 allow the objectives of the PCO to be fulfilled. **[formerly known as § 154.051]**

B. GENERAL DESCRIPTION. **Except as provided below in paragraph C.4,** undisturbed Open Space is required for all development unless mitigated. The percentage of Open Space required depends on a project's built-upon area as described below. Undisturbed Open Space requirements can be met in stream or lake buffers, designated common areas or on individual lots for residential development (e.g., backyards, borders, etc.). Undisturbed Open Space cannot be designated within rights of way, utility easements, etc. where re-disturbance could occur. Grass fields can also be used to meet Undisturbed Open Space requirements; however, the fields must be replanted in accordance with the tree planting provisions described in § 155.805.E. below. Undisturbed Open Space is preferred where it will provide maximum water quality benefit (i.e., around gullies and existing drainage areas, adjacent to streams and wetlands, around structural BMPs, etc.). **[formerly known as § 154.052]**

C. UNDISTURBED OPEN SPACE CRITERIA. Undisturbed Open Space requirements apply to projects as described below.

1. LESS THAN TWENTY FOUR PERCENT (24%) BUILT-UPON AREA. A project with less than twenty four percent (24%) built-upon area shall include as Undisturbed Open Space within the boundaries of the project a minimum of twenty five percent (25%) of the project area.

2. GREATER THAN OR EQUAL TO TWENTY FOUR PERCENT (24%) AND LESS THAN FIFTY PERCENT (50%) BUILT-UPON AREA. A project with greater than or equal to twenty four percent (24%) and less than fifty percent (50%) built-upon area shall include as Undisturbed Open Space within the boundaries of the project a minimum of seventeen and one-half percent (17.5%) of the project area.

3. GREATER THAN OR EQUAL TO FIFTY PERCENT (50%) BUILT-UPON AREA. A project with greater than or equal to fifty percent (50%) built upon area shall include as Open Space within the boundaries of the project a minimum of ten percent (10%) of the project area. **[formerly known as § 154.053]**

4. PROJECT IN THE ENT ZONING DISTRICT. A project located in the ENT zoning district that is the subject of a conditional rezoning plan approved by the Town Board of Commissioners shall be entirely exempt from the Undisturbed Open Space requirements of the PCO.

D. UNDISTURBED OPEN SPACE DESIGNATION. The Undisturbed Open Space location shall be recorded at the Register of Deeds Office as "Undisturbed Open Space" and future disturbance is prohibited except for greenway trails with unlimited public access, Charlotte- Mecklenburg Utility lines and channel work/maintenance activities by Charlotte-Mecklenburg Storm Water Services. Other utility work may be allowed in the Undisturbed Open Space area provided it will not result in loss of Undisturbed Open Space as approved by the Town of Matthews. **[formerly known as § 154.054]**

E. UNDISTURBED OPEN SPACE MITIGATION.

1. PURPOSE. The purpose of this mitigation is to reduce the cost of complying with the Undisturbed Open Space requirement while ensuring the reduction of pollution loads and achievement of the ordinance objectives.

2. GENERAL DESCRIPTION. Approved disturbance to the Open Space area described in § 155.805.C. above must be off-set by an allowable form of mitigation, including on-site and off-site mitigation as well as through payment-in-lieu.

3. UNDISTURBED OPEN SPACE MITIGATION CRITERIA.

a. ON-SITE MITIGATION. On-site mitigation shall allow the disturbance of designated Undisturbed Open Space area on a project with the fulfillment of the following criteria on the project site:

i. Fifty percent (50%) increase in total Undisturbed Open Space area designation above the requirements specified in § 155.805.D, except when the Undisturbed Open Space area qualifies as a "grass field" in which case the size of the required Undisturbed Open Space area remains unchanged. The portion of the Open Space area that is a grass field, whether or not disturbed, must be replanted with trees as specified in subsection 3, below.

ii. Establishment of a minimum of six inches (6") of top soil to the disturbed Open Space area following the completion of construction activities. This material may be obtained from on-site when available.

iii. Planting of a minimum of thirty six (36) trees per acre of Undisturbed Open Space area as follows:

- Trees shall have a minimum caliper of one and one-half inches (1.5").
- Trees shall be of a quality set forth by the American Standard for Nursery Stock and will be selected from a list of acceptable native species for planting in Undisturbed Open Spaces established by the Town of Matthews.
- Planted trees shall contain a mix of at least three (3) different species in roughly equal proportions and be "large mature shade tree species" as listed in § 155.606.14.
- Trees shall be planted in accordance with specifications provided by the Town of Matthews.
- Trees shall be warranted for a minimum of three (3) years following planting and any dead or diseased trees must be replaced.

iv. The area around and between trees must be stabilized using an approved vegetative ground cover and mulch.

v. The slope of any graded or disturbed area that is dedicated for Undisturbed Open Space cannot exceed three (3) to one (1) (3:1).

vi. The flow of water across the Undisturbed Open Space area must be controlled to prevent soil erosion or mulch disturbance.

b. OFF-SITE MITIGATION. On a case by case basis and at the sole discretion of the Storm Water Administrator, the Town may allow Undisturbed Open Space disturbance and off-

EXHIBIT C

The purposes of the proposed text amendments are set out below.

1. Provide more design flexibility by adding additional design features or items that can be modified with the approval of the Town Board of Commissioners through the Flexible Design Standards process.

2. Allow private streets in the ENT district where such streets provide vehicular access to a building or buildings that contain residential use provided that the private streets are constructed to public street standards and are available for public use.

3. Provide an urban sight triangle requirement in urban zoning districts.

4. For property located in certain urban districts, including the ENT district, allow the tree canopy requirement to be met entirely by new plantings.

5. Provide that property located in the ENT district is not subject to the perimeter planting requirements.

6. Provide that site perimeter screening is not required along a property line in the ENT district where the property line is adjacent to a residentially zoned or used parcel that is or recommended to be zoned ENT under the Entertainment District Small Area Plan.

7. Modify certain conditions relating to a brewpub so that a brewpub can be located within a mixed or multi-use development in the ENT district.

8. Modify the dimensional standards for parking spaces in the ENT zoning district.

9. Allow an emergency access point to meet the additional points of access requirement.

10. To exempt projects located in the ENT zoning district that are the subject of a conditional rezoning plan approved by the Town Board of Commissioners from the Undisturbed Open Space requirements of the PCO.