

IREDELL COUNTY PLANNING BOARD

The Iredell County Planning Board met on Wednesday, March 3, 2021 at 7:00 p.m. in the Commissioners Meeting Room of the Iredell County Government Center (Old Courthouse) at 200 S. Center Street in Statesville, NC.

MEMBERS PRESENT

Harry Tsumas, Chairman
Kristi Pfeufer, Vice-Chair
Robert Palmes
Doug Holland
Raymond Burnette
Chris Carney
Tracy Jenkins
Jerry Santoni
Andy Webster
(Ronda Hoke)

STAFF PRESENT

Leslie Meadows
Matthew Todd
Cindy Nicholson

MEMBERS ABSENT

Mark Davis

Chairman Tsumas called the meeting to order.

Chairman Tsumas at this time asked to be recused from the first case, due to a conflict of interest with the people involved. Also, Chris Carney asked to be recused due to having dealings at the national level and doesn't want there to be any conflict. Mr. Santoni made the motion and was seconded by Mr. Burnette, all were in favor.

Vice-Chair Pfeufer then explained the procedures of the meeting to those in attendance.

Leslie Meadows presented the following case:

REZONING REQUEST: 2103-1, JOE STRICKLAND, TERAMORE DEVELOPMENT, LLC

EXPLANATION OF THE REQUEST

This is a request to rezone approximately 1.69 acres at the corner of Ostwalt Amity Road and Bethesda Road from Residential Agricultural (RA) to Neighborhood Business Conditional District (NB-CD). This request is conditional per the submitted application, and will be bound to the uses and specifications attached to the request.

OWNER/APPLICANT

OWNER: Mary Frances McNeely ETAL

APPLICANT: Joe Strickland, Teramore Development, LLC

PROPERTY INFORMATION

ADDRESS/LOCATION: At the corner of Ostwalt Amity and Bethesda Roads; more specifically PIN# 4761453317.000.

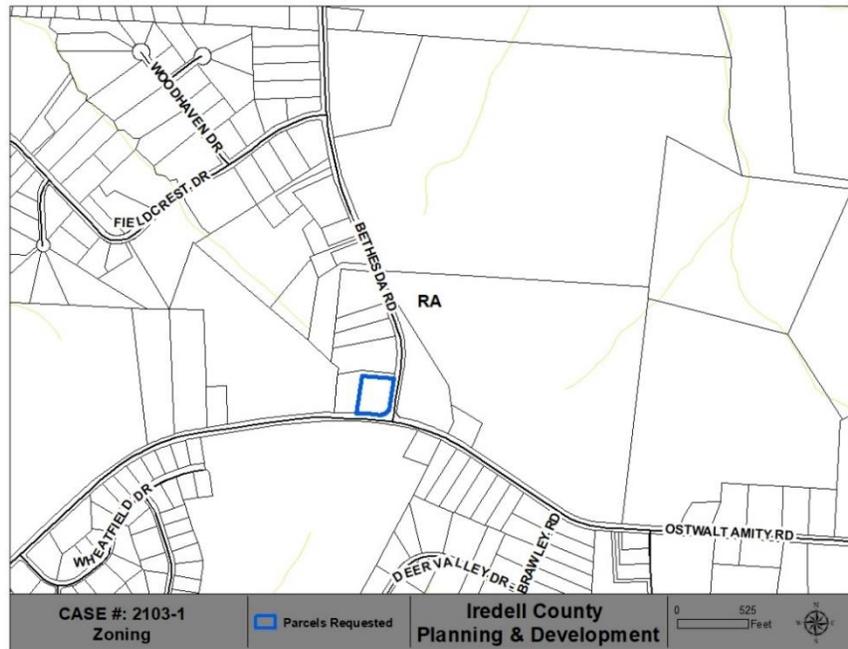
SURROUNDING LAND

USE: Residentially (RA) zoned property surrounds the parcel in all directions.

SIZE: The acreage to be rezoned is approximately 1.69 acres.

EXISTING LAND USE: The parcel is currently vacant.

ZONING HISTORY: The property was initially zoned RA during the county-wide zoning of 1990.



OTHER JURISDICTIONAL INFORMATION: This rural property is not located within any municipalities' Urban Service Area.

OTHER SITE CHARACTERISTICS: The property is not located within a regulated Watershed Area, nor is the property within a flood hazard zone.

IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

TRAFFIC: Overall, traffic data is somewhat outdated. The closest traffic count along Ostwalt Amity Road is just east of the parcel, and had a traffic count of 3,000 vehicles per day in 2016. According to the 2008 CTP Study Report for Iredell County, the capacity for this section of Ostwalt Amity Road is currently approximately 12,400 vehicles per day. The CRTPO categorizes Ostwalt Amity Road as a minor thoroughfare in need of improvements. However, there are currently no detailed specifications or set timeframe

for such improvements. The closest traffic count along Bethesda Road is just north of the parcel, and had a traffic count of 1,500 vehicles per day in 2015.

SCHOOLS: This is a commercial rezoning and should have no implications on local schools.

EMERGENCY SERVICES: This proposal has been reviewed by the Iredell County Fire Marshal's Office and Iredell County EMS. Neither office addressed any concerns regarding the request.

UTILITIES: Iredell Water Corporation, or individual well and septic options would currently serve this site.

REQUIRED REVIEWS BY OTHER AGENCIES

LOCAL: The applicant must provide a site plan to the Planning & Development Department for review before developing the property. Zoning requirements such as parking, landscaping, and buffering will be reviewed at such time. Erosion & sedimentation control standards will also be reviewed for compliance.

STATE: Other than building code, there should be no formal state agency review at this time.

FEDERAL: None at this time.

STAFF AND BOARD COMMENTS

STAFF COMMENTS: This rezoning request is primarily a re-submittal of a previous conditional rezoning request at this site, by the same applicant, in July 2019 (Case #: 1907-1). The proposed use, a Dollar General Convenient Store, met with public opposition from landowners in the surrounding area. As a result, Planning Board members voted to recommend denial of the rezoning request at that time. Therefore, the applicant withdrew their initial application prior to the Board of Commissioners public hearing. Planning Staff acknowledges the resistance of the surrounding landowners, and the potential for controversy concerning this request. However, Planning Staff recommended in support of the rezoning request in the past, and shall continue to stand behind our initial reasoning. Additional conditions to the subsequent application, such as stormwater retention, dumpster screening, and gabled entry façade, should aid in addressing some community concerns.

While the 2030 Horizon Plan calls for this area to remain Low-Density Residential in nature, a recent subdivision of farmland has provided for a significant increase in residential lots. Staff compared intersections all along Ostwalt Amity Road, and with no future commercial designations in the general area, providing such a NB-CD type use in close proximity to the growing neighborhoods will help to limit citizens' drive time and alleviate additional congestion elsewhere. To better serve the growing community, staff can support a 2030 Horizon Plan map amendment to Rural Commercial at this site because: the request is a small-scale NB-CD with detailed conditions, there are no other nearby convenience-type commercial uses, the site is centrally located within the area, and is at the corner of two moderately-trafficked minor thoroughfares.

Per the 2030 Horizon Plan, the Rural Commercial designation is intended to include existing commercial uses or areas anticipated for future commercial use that are located along main roadways in rural areas. The Rural Commercial intent is that these areas will remain rural in character and will not be serviced by public or private water and sanitary sewer systems. Land uses appropriate within Rural Commercial areas include supporting farm services, small-scale commercial uses such as small markets, convenience stores, small neighborhood service businesses, restaurants, churches, and institutional uses. Other commercial and office uses could be permissible provided the property is rezoned to a conditional district, as in this case.

In order to achieve and maintain the Rural Commercial land-use designation goals, the applicant has agreed to the following NB-CD conditions:

- 1.) Limit the Neighborhood Business District uses to: Convenience Food, Department & Variety Store, and Grocery Store.
- 2.) Install a 6-foot privacy fence along perimeter adjacent to residential properties. (See attached site plan.)
- 3.) Require signage to be a monument sign as opposed to a pylon sign. (See attached site plan.)
- 4.) Upgraded building façade beyond minimum requirements, as shown. (See attached rendering.)
- 5.) Install an underground Stormwater Retention System to attenuate 10-year stormwater standards.
- 6.) Install a 6-foot fenced enclosure around the dumpster.

The Planning staff can support the proposed rezoning request, and subsequent 2030 Horizon Plan map amendment, based on the following:

The property is centrally located at the intersection of two moderately-trafficked minor thoroughfares, which best meets the development needs of the growing community. The agreed upon NB-CD conditions strive to alleviate public concerns, and the limited NB-CD uses should not exceed existing road capacity.

PUBLIC INPUT MEETING: A public input meeting was held on Monday, January 4th, 2021 in the parking lot of Amity Lutheran Church, beginning at 4:00 pm. Approximately thirty property owners from the area attended, mostly to oppose the proposal, and to ask questions about the future development. Various concerns were voiced and debated. Conditions have been imposed to limit the number of permitted GB uses at this site, as well as additional fencing/screening, preferred signage, and façade upgrades. Notably, a new condition, added since previous submittal, is installation of an underground Stormwater Retention System to manage up to a 10-year storm event. A copy of the applicant's summary of said public input meeting has been included with this report.

SITE REVIEW COMMITTEE: Staff performed a site visit on February 12, 2021, accompanied by Planning Board members: Andy Webster and Ronda Hoke. Raymond Burnette reportedly visited the site on his own, February 11, 2021.

QUESTIONS FROM BOARD TO STAFF

Mr. Santoni asked about the site plan drawing not being official in the sense that it hasn't been through the formal review to see if it all would fit.

Ms. Meadows said that is correct.

Mr. Santoni said he feels it is very congested and compact. He questions if the Board recommends something, and it doesn't fit, and the plan doesn't go through, what happens?

Ms. Meadows said they can reconfigure the layout of the site, if needed.

Vice-Chair said this drawing is only loosely conceptual in nature, because it is such a small tract of land.

Mr. Santoni asked what would happen if they can't reconfigure?

Ms. Meadows said the rezoning request is not tied to the site plan. That is not a condition that the layout be exactly to the site plan.

Mr. Santoni asked if they could come up with any other plan they like going forward?

Ms. Meadows said it would have to be within the conditional uses listed.

Mr. Palmes asked what is the current designation this area would fall under in the 2030 Horizon Plan?

Ms. Meadows said it is currently listed low-density residential into the future.

Vice-Chair Pfeufer asked if there were any further questions for staff.

There were no questions further questions for staff.

Vice-Chair Pfeufer then called the applicant to come forward.

THOSE SPEAKING ABOUT THE CASE

Mr. Mike Fox, Attorney representing applicant, Mr. Joe Strickland, 400 Bellemeade Street, Greensboro, said they have a number of folks to answer questions the Board may have regarding the request. They will each have brief presentations pertaining to their areas of expertise.

Mr. Fox clarified as staff said, this request was previously brought before the Board, and the vote was narrow to deny. He understands there was concern over inconsistencies with the long range 2030 Horizon Plan. They understand the long-range plan is due for review, and thought it would be reasonable to have some commercial designation somewhere in that area, just a question of where it would be. Unfortunately, the timeline for revision has been extended out. At first, they thought the 2030 Horizon Plan would be complete within a year. Now, they understand the county is still working on the transportation update, which has to be ready before the land use plan can be released. Mr. Fox said he has spoken to Mr. Matthew Todd, Planning & Development Director, and his estimate of completion is now early 2023 for the plan to be complete. With that in mind, they felt there were compelling reasons to move forward again with this request. In reflection, they have made some changes to the site plan in response to community concerns.

Mr. Fox said there are a number of people in the community that are in support of this request. The county staff has received a number of phone calls of those in support that the Board may inquire about, that couldn't be here tonight due to COVID.

Mr. Fox at this time gave the names and companies that would be speaking regarding this request as follows:

- Daniel Almazan, Site Acquisition Specialist with Teramore Development, which will develop this site. He will talk about community outreach and discussions had with the neighbors, type of business anticipated, layout, and façade.
- Dionne Brown, Licensed Professional Engineer with Davenport Engineering, which specializes in traffic and transportation. There were previous questions regarding traffic, and thought it would be good to have her here to present answers. This use is a very low traffic generator, and normally doesn't even trigger an impact study.
- Ken Miller, retired Police Chief from several jurisdictions and 30 year police veteran who is an expert in policing data and crime. During the 2019 hearing, there were concerns raised about potentially increasing crime to the area and the impacts it may have. He has studied other Dollar Generals and feels this will not create additional crime or exacerbate any either.

- Rich Kirkland, Licensed Real Estate Appraiser with his MAI Designation from Kirkland Appraisals with many years of experience. He will discuss the impact of a Dollar General on any adjoining property and will present an impact study.
- Justin Church, Licensed Professional Engineer, and has worked on the site plan for this request. He will speak regarding the configuration of the location and what will fit and how. There are other constraints outside of the zoning. One being NCDOT and where they will allow you to have driveway access. Those discussions have taken place with NCDOT, and driveway access will not be on Ostwalt Amity, it will be on Bethesda Road. To some degree, that sets up what they can do and where everything can be located.

Mr. Fox then spoke about the reports that handed out to the Board tonight. One being the compatibility analysis. Mr. Fox said since the last hearing, there was a question if this was a good fit with the Land Use Plan and having a neighborhood serving business. That is what they have conditioned it to in a rural area on a thoroughfare such as this. The county staff has supported this change, but in light of the questions received, the applicant felt it would be good to bring in a third outside person, Woodruff Planning, and present the compatibility analysis. They feel this is the right site for this type of use. Unfortunately, Mr. Woodruff is from Florida and due to COVID, has some travel restrictions and can't be here tonight.

Mr. Fox said in this past year, he feels people have come to appreciate essential workers and essential services and such. There has been a recognition in communities that have facilities such as what is being proposed, as to the value they provide to a community. People have concerns about going to a big box store such as Walmart with hundreds or more people, or even a grocery store, and they've found residents where Dollar General or similar type stores are located, are appreciative of a place to shop in a less crowded atmosphere.

Mr. Fox said Iredell County continues to grow. There are certain growth areas, such as southern Iredell County, that has exploded and will continue throughout the rest of the county. There is evidence with the nearby residential subdivisions, there will be more of a need for neighborhood serving businesses. They feel this meets with the plan, and conditions added, make it a better project as before, and are appreciative of consideration.

Vice-Chairman asked if there were any questions for Mr. Fox.

There were no questions for Mr. Fox.

Mr. Daniel Almazan, Site Acquisition with Teramore Development, 214 Klumack Road, Salisbury, said Teramore Development has been in the development of Dollar General stores for the last twenty years. They have built over 400 stores in Georgia, Florida, and in North Carolina. Mr. Almazan said he had been with Teramore for the last five years in North Carolina, and done work in 23 counties. One of the things Teramore does is evaluate sites for Dollar General in which they tell Teramore where they want to be. This particular location was identified due to the number of households within the area, the

distance from other stores, as well as the amount of traffic already on Ostwalt Amity and Bethesda roads. This location is a good target market for Dollar General. Dollar General has reviewed the site plan, with an approved 15-year lease with a 20-year option. That is how confident they are that this is a good site for them. These sites like this one, typically has a tax value of \$1.3 million. They generate about \$1.2 million in annual taxable sales. Therefore, they provide a great tax boost to the community as well as provide 7 – 9 part-time and full-time positions.

Mr. Almazan said they have committed to an upgraded façade that has a masonry base, hardboard siding, and artisan panels on the top. They had a community meeting, and gave several options, and this one was more appealing to the community. They would have a 6-foot opaque fence around the perimeter for screening between the store and residential properties. The same fencing would be around the dumpsters.

Mr. Almazan said this site plan has been reviewed in terms of meeting the code, the property surveyed in order to know where the property lines are, soil tests, and perk tests performed. At this time, Mr. Almazan showed a slide of an underground retention, which they have had considerable expense designing in order to manage the water on the site in order to control the impact on neighboring properties.

Vice-Chair Pfeufer asked if there were any questions for Mr. Almazan.

There were no questions for Mr. Almazan.

Mr. Ken Miller, retired Police Chief in North Carolina & South Carolina who has served with Charlotte-Mecklenburg Police, coming up through the ranks to be Deputy Police Chief. Also, with the Greensboro Police as Police Chief and Greenville Police Chief in the last decade. For about 32 years, he has been involved in municipal policing in NC and SC, and developing data systems to support appropriate crime analyses in order to direct police patrols, crime prevention efforts, and crime suppression efforts to be efficient and beneficial to the community. Mr. Miller said he has worked hand-in-hand at the neighborhood level as well as more broadly with councils and businesses to reduce crime and was successful. In Greensboro, they reduced crime to 40-year lows, and in Greenville, they reduced it by nearly 30% in the five and a half years he was in Greenville, SC.

Mr. Miller said he has used data extensively, and used it to form multi-lateral partnerships that are very complex. He has reached out to Iredell County 911 communications to pull data regarding the seventeen Dollar Generals in the county. He also did site visits to multiple locations. He requested two years worth of data, but what he received varied from 2 – 4 years depending on the location. The calls for service data are as follows:

- Predominantly/overwhelmingly property crimes limited to larceny and fraud within the stores
- One damaged property
- Four trespassing's
- Six violent crimes

Mr. Fox said when you average the crimes per store for the 48 month period, it comes out to three crimes per store per year. He feels that is pretty low in respect to it being a commercial development with patronage in retail. There were 646 collective months of data collected across all the sites combined, therefore, he feels it's pretty low.

Mr. Fox said with respect to the concerns with drug activity now and in the past, he has looked into all seventeen stores for narcotics or drug related calls for service, in the most recent two-year period, only five of the seventeen stores had any calls for service for drug related activity. The site with the most calls had three in two years, one store had two calls, and three stores had one call each. Therefore, most locations had no drug calls at all. The locations are well-lit locations with visual surveillance, and not the type of use that would lend itself to that kind of activity.

Mr. Miller said they also looked at the non-crime type of calls to assess disorder impact. What they found were 1,589 such calls. He said 66% of those calls were pro-active security checks and traffic stops by deputies/police officers. Proactive patrols help to deter crime and helps reduce response time. Most of the calls were proactive in nature and not reactive. Alarm calls were low, 35 calls across seventeen sites during the time requested. Suspicious persons/cars and disturbance calls, there were several from people inside the stores and perhaps neighbors calling when they saw something suspicious. There were 200 such calls and 142 were disturbance calls. Collisions were low, 36 across all sites.

Mr. Fox said in his professional opinion, there should be no concern that should result in a denial of the request based on the crime quotient. They have looked at Dollar Generals in Iredell County, Union County, and Stokes County, and they are seeing similar patterns with all the Dollar Generals. He feels they produce low crime and low workload for officers.

Vice-Chair Pfeufer asked if there were any questions for Mr. Miller.

There were no questions for Mr. Miller.

Mr. Rich Kirkland, Kirkland Appraisals, State Certified General Appraiser in NC for 26 years. He also has his MAI designation by the appraisal institute. He states he was asked to look at this site to see if there would be any impact on adjoining property values through a matched-pair analysis (paired sales analysis) to see about home sales adjoining other Dollar Generals. He has looked at 13 different Dollar Generals, 4 of which are in Iredell County. Mr. Kirkland said he found 3 matched-pairs to look at, 2 in Concord with one selling in 2020 for \$265,000 on Pitt School Road, with 3 other homes similar in size, age, and style. Those sold pretty much at the same price adjusting for minor differences, but same price per square foot showing no impact on adjoining property value. Another house adjoin that same location sold in 2019 for \$250,000, again comparing to several other homes with no impact on property values. Mr. Kirkland said he looked at another home in Stanley County in Norwood with again the same pattern in the \$170,000 price range and was an older home, but very consistent with older homes in that area.

Mr. Kirkland said when he looked at the adjoining uses around the thirteen Dollar Generals, all had some adjoining residential uses, which is very common. The proximity was looked at, and specifically in Iredell County, the closest distance identified was about 85 feet from the nearest part of the house to the nearest part of the Dollar General itself. When looking at the current site plan, he measured about 95 feet from closest point on the building to closest point on an adjoining home, which shows on Google Earth due to it not showing on the aerial.

Mr. Kirkland said it includes the privacy fence as part of the project. That will be an important component in order to keep separation from the commercial use and the residential use. This is a consistent and reasonable location where you find Dollar Generals. Mr. Kirkland also states he appraises Dollar Generals for refinance purposes and are a desirable product that investors are interested in. These locations are owned separately and leased subject to a long term agreement to Dollar General and considered a very secure lease. The Dollar Generals stay in business for very long periods of time, and have the cash flow going in with support from the communities they go into.

Mr. Kirkland said it is his professional opinion that the proposed project will have no impact on adjoining property values, and is a harmonious location for a Dollar General.

Vice-Chair Pfeufer asked if there were any questions for Mr. Kirkland.

There were no questions for Mr. Kirkland.

Ms. Dionne Brown, Davenport Engineering, 4600 Marriott Drive, Raleigh. Ms. Brown spoke about the technical memorandum of the traffic study that was performed. She states the study shows square footage to be 9,100 square feet, as a freestanding discount store. The traffic data count was studied at the intersection of Ostwalt Amity and Bethesda Roads, on February 23, 2021. Ms. Brown said they contacted the District Office of NCDOT to see if they had any questions since this land use would generate less than the 3,000 daily trips that are triggering a TIA (Traffic Impact Analysis). They did have questions regarding capacity analysis (which is further down in report provided), as well as site access location.

Ms. Brown noted trip generation based off of the ITE (Institute of Transportation Engineers) manual. The site is proposed to generate between 12 trips in the AM peak, and 36 trips in the PM peak. The peak times being AM 7:00 – 9:00 and PM 4:00 – 6:00.

Ms. Brown said based on the analysis, their recommendation is to have the access point be 100 feet from intersection. They contacted NCDOT to provide crash analysis at the main intersection, for period January 2016 – December 2020. There were seven accidents reported, with no recurring crash pattern at this intersection. There was also a site distance investigation, where they stand where the site access point is, look left and right, measure from that point to where you can't see a car if a person would be sitting in the driveway. From that point, you can see about 550 feet going down Bethesda Road, therefore, no site distance issue. Based on the numbers, there is no turn lane

warranted for the site access point, nor the main intersection (NCDOT has a minimum of 4,000 vehicles per day in order to warrant a turn lane, Ostwalt Amity is at 3,700).

Ms. Brown said it is their recommendation that the applicant have the site access point at least 100 feet from the intersection and no turn lane is warranted.

Vice-Chair Pfeufer asked if there were any questions for Ms. Brown.

There were no questions for Ms. Brown.

Mr. Justin Church, Licensed Professional Engineer in NC and surrounding states, 1520 Meadowview Drive, Wilkesboro. Their practice is largely centered around retail development such as Dollar General. They have completed over 100 of these projects during his career, therefore, familiar with how these locations work.

Mr. Church said in reference to the site plan, typically, first they do a thorough code review of the relevant ordinances to be sure they can comply. Things related to parking, buffers, etc. There are early conversations with NCDOT because the driveway location drives so much of what they can do with a site. This request tonight is not site plan specific, but to address some of the concerns, due to the nature of the limitations with the size of the site, the site plan will not look much different if at all, from what is being currently shown.

Mr. Church spoke regarding the stormwater concerns. Iredell County does not have an ordinance mandated post-construction stormwater requirement. This does not however, remove their responsibility to be a good neighbor. This site plan is showing an underground retention center, due to not having room for an above ground retention pond at this site. They are actually designing retention for north of the 25-year storm mark. By looking at the NOAA Atlas 14 data, it would be something above 6" of total rainfall within a 24-hour period. He said they can confidently say they can control peak discharges from a storm of that magnitude or greater, which is beyond what a normal standard would be imposed.

Mr. Church said they do frequently design stores on a site of this size successfully with planning well and sequencing construction. The size of the site is not necessarily a concern as far as construction and site plan layout.

Mr. Santoni asked what is the average size of a site for a Dollar General?

Mr. Church said anywhere from 1.5 acres to 3 acres.

Vice-Chair Pfeufer asked if there were any further questions for Mr. Church.

There were no further questions for Mr. Church.

At this time, Vice-Chair Pfeufer asked those wishing to speak in opposition to come forward.

Mr. David Bear, 1118 Bethesda Road. Mr. Bear said he and his wife have spent a year and a half preparing their property for their retirement home. He said he is a Vietnam veteran, and has spent time protecting our country and the constitution. Mr. Bear noted the constitution says we have a right to be safe on our property and to be protected from any government intrusion. He feels that is what he fought for and believes it wholeheartedly, and he feels as though they are being subjected to something here that should never happen. He said his daughter lives on Shepherd Road, almost into Mooresville, and there is a Dollar General near her that she won't go to especially at night because she said there are too many undesirables and a lot of drug trafficking. Mr. Bear said according to a policeman that he has talked to, the same problem happens at the Dollar General in Troutman. He said he is sure if this one is built, there will not be a policeman there full-time to protect the neighbors.

Mr. Bear said they are right where all the runoff will be running through a 3' culvert that goes down into their septic field in the back of property that they have spent 1.5 years getting ready to build a home on. He feels it is very likely the runoff will destroy his property back there.

Mr. Bear also spoke about the traffic that comes very fast down Bethesda Road, around the corner up to the stop sign. The exit coming out of the property will be a hazard due to people driving too fast.

Mr. Bear said these are all things that concern them for now and in the future. He said he is 71 years old and wants to have a place they can live secure and safe, and doesn't feel it will be that way if this Dollar General is built. Mr. Bear asked the Board if they would want a Dollar General built beside their home and family, and asked the Board to do the best they can to make a decision to protect those that are trying to make this country better and to be helpful.

Mr. Jacob Powell, 1084 Bethesda Road. Mr. Powell said he wanted to comment about people not wanting to go to Walmart because it is too crowded, and preferring a store that is small and close. There is already a Dollar General on Hwy. 70 less than 5 minutes away, another Dollar General in Troutman that is less than 10 minutes away. Both of the current locations are closer than a Walmart. He said they do not need another one in this area.

Mr. Dave Calary, 1097 Ostwalt Amity Road, at the corner of Bethesda and Ostwalt Amity Roads. Mr. Calary said he owns the property directly across Bethesda from where they want to put this Dollar General, in fact, the layout shows they are wanting to put the entrance to Dollar General directly across from his driveway. Mr. Calary said he wanted to speak about the crime rates. What impressed he and his wife when they moved here two years ago was the lack of crime in the area. He said this is the first time in his life he has ever lived in a rural community. Mr. Calary said he too has done some studies by working closely with the law enforcement officers of the Troutman Police Department in this area right here. Mr. Calary said Dollar Generals are crime targets.

The Board tonight is being asked to destroy a predominately-residential and agricultural neighborhood for some people that have lived here all their lives, along with those that moved to the area and love rural Iredell County.

Mr. Calary said he asked the local law enforcement for some facts to present tonight. The printouts for January 1, 2020 – February 14, 2021, individually for all of the Dollar Generals within Iredell County. There was a total of 2,313 calls for law enforcement to go to a Dollar General during a 380 day period. The information gives the date, time, and what the call was concerning. Some of the calls were for intoxicated subjects, fraud, security checks, unconscious subjects, suspicious subjects, domestic violence, traffic accidents, wanted persons that were in the store, hemorrhaging, robbery, narcotics violations, sexual assault, and one store even had a kidnapping. He feels very strongly that any contribution that the tax value gives to the county, is well outweighed to the expense of the lives of police officers in answering these calls.

Mr. Calary said this site will be the only commercial building in the immediate area that will be open late at night. This location will be the only place that sells alcohol into the night. He feels this is a magnet for crime. He was also told by law enforcement that the Dollar Generals that are located outside of direct municipalities are far more likely to have disturbances than the ones inside the municipalities. He was told that many Dollar Generals are having to call twice a day for assistance from police.

Mr. Calary says a Dollar General does not belong on this corner. This is a residential area with three Dollar Generals within a few minutes of this particular corner already. He said the bottom line is it is not worth someone being killed, shot, or being involved in violence so you don't have to drive an extra two miles for a gallon of milk.

Mr. Calary said two years ago when this subject came up, Teramores rebuttal was simply if you put the store in a high-crime area, you will have high-crime. If you put the store in a low-crime area, you will have low-crime, and the store would not increase the crime rate. He feels 2,313 calls to Dollar Generals in Iredell County is an increase in crime.

Mr. Calary said the last time the 2030 Horizon Plan came up, there are four key themes. At this time, Mr. Calary read those from the 2030 Horizon Plan Executive Summary. He asked the Board to uphold the decision made two years ago and respect the citizens who live in the area and vote no on this request.

Mr. Calary then spoke about the land on the opposite side in this area being the highest peak anywhere in the county. In fact, there is a water tower going in just up the road because it is the highest point anywhere in this section of the county. All of the water runs down the sides of Bethesda and Ostwalt Amity, through the culvert onto the corner lot where it is channeled to Mr. Bear's lot and runs off to another lot. During a heavy rain, it creates almost a pond back there. Mr. Calary said when he asked Joe with Teramore about the water, his response was "we are only responsible for the water that falls on our piece of property, we don't care about the rest of it". "Once the water leaves the NCDOT right-of-way, we are not concerned with it". Mr. Calary said he guarantees the Bears' and the Greers' are concerned about it coming to their property.

Mr. Calary then spoke concerning the underground holding tank they are talking about putting in. He has concerns with the tank filling-up and backing water into the parking lot and running across others properties. He also spoke about the proposed septic system being 10' off the property line, which is 42' from the neighbors well. That neighbor, Mr. Barber, could not be present tonight and asked that it be brought up before the Board. Mr. Calary said, per county code, they have to be 100' from an active well feeding someone's house. They are short from meeting that code.

Mr. Calary said the applicant has not handled, nor taken into consideration, the water concerns or the septic system concerns, and feels they are not ready. Mr. Calary then thanked the Board for their time.

Mr. Mike Fox, 1019 Ostwalt Amity Road. Mr. Fox said he has lived in this area all 70 years of his life. He said he has seen development over the years, and there is already a lot of traffic on Ostwalt Amity with many people traveling this road going to Freightliner to work. Also in the area is a stump dump at the end of Amity Hill Road. He said there is upward of 200 dump trucks traveling Bethesda going to this stump dump. Mr. Fox said they don't need the added traffic that this will bring. Mr. Fox also shared his concerns of water runoff. He said he has hunted the property across from the site for many years and there is already an issue with water.

Ms. Janice Elliott, 1098 Bethesda Road. She said she and her husband have been looking for land for more than a year to build outside the city limits, in the country, and have found it here. Ms. Elliott said she doesn't feel there is enough space on Bethesda Road for transfer trucks to come and drop off products with the road being narrow. Ms. Elliott said if she had a dire need to go to a Dollar General, she could drive another five miles to one that is already there and does not need it in her neighborhood. She said they are planning on building their house and retiring there. Ms. Elliott stated her concern with the lighting it will produce for next-door neighbors. Ms. Elliott asked the Board if they would want this in their neighborhood.

Ms. Tammy Powell, 1084 Bethesda Road. Ms. Powell said her concerns have already been addressed tonight. She wanted to let the Board know she disagrees with the request. She feels there will be a stormwater problem for the neighbors when Dollar Generals system starts breaking down. Ms. Powell said she is also concerned about the traffic with delivery trucks, etc. She feels Bethesda is more of a small two-lane farm road along with Ostwalt Amity. Ms. Powell stated she is concerned about crime and the statistics that had been talked about. She feels if you live in a city, that may not feel like much crime, but when you are in the country, it is a lot to them.

Ms. Marcia Greer, 1080 Bethesda Road. Ms. Greer said she has lived in the area for 22 years, her husband has lived on this road since he was little. The land is agricultural land. Ms. Greer said the culvert runs onto the back of her property. She said they currently get all the runoff. With all the rain they have had lately, their land is washing away. Ms. Greer said she is very concerned and irritated. They are out in the country, in a little country community setting, and do not want to live in the city. She feels if the Board allows this to happen, it will turn all the agricultural land into a possibility of future commercial use,

which brings in other complications and problems. She said where her driveway is located, the traffic is so fast on Bethesda Road, that in the 22 years they have lived there, they have had to replace their mailbox 10 times. People are coming around the curve without slowing down coming up on stop sign. Ms. Greer said it is her understanding that the Barbers right next door, have wanted to purchase this lot to prevent something like this happening. She said this is upsetting for those that live in the area and feels that 90% of the people speaking in favor of this request do not live near a Dollar General Store. Ms. Greer said these stores are eye-soars. She feels the 2030 Horizon Plan was put in for a reason and wants it kept that way. Ms. Greer knows some of the agricultural land is being sold because some of the people are getting older, and can't take care of it and pay the taxes. She realizes they are a growing community with more homes and businesses, but many are disagreeing with this Dollar General. Ms. Greer asked the Board not to let Teramores money and power override the community.

Mr. Michael Legault, 126 Emma Mae Drive. Mr. Legault said most have spoken to the points he wanted to make himself. He did have a letter that another neighbor wanted him to give to the Board due to not being able to attend tonight's meeting, and is also in opposition. Mr. Legault said it does seem like there is crime that comes with a Dollar General, along with the stores not looking great after about 6 – 8 months. He also feels it does not fit in with the area. Mr. Legault said the 2030 Horizon Plan seems like a good plan at this point, with commercial nodes close to this area. Teramore could put another store at one of these existing commercial nodes. He feels there is no need for three stores within 8 minutes.

Mr. David Sayer, 152 Logan Ridge Drive. Mr. Sayer said he lives in the Wheatfield Development, and moved there from living in Mooresville, where he also works. He said he drives by a Dollar General on his way home, and has never stopped there, nor ever wants to stop there. He drives further to shop at a store of his choosing, and a Dollar General is not it. He feels it will bring crime to the area. This area has a low crime rate. For the presenters to say there is only an average of three crimes per year per store, he said he is willing to bet that the vacant wooded lot has no crimes per year. Mr. Sayer said the traffic has already been discussed on Ostwalt Amity, which is moving fast at 55 mph. There are dump trucks moving at 55 mph, and although it does not look like a sharp corner, it is a fairly blind corner. If there is more traffic coming out/going into Bethesda, it will lead to more accidents no matter what studies suggest.

At this time, Vice-Chair Pfeufer asked if there were any others to speak in opposition of the request.

There were no others to speak in opposition.

Vice-Chair Pfeufer asked if there were any in attendance to speak in favor of the request.

There were none in attendance to speak in favor of the request.

Ms. Meadows at this time, presented the written submitted comments in opposition from Mr. Brian Barber and Mr. Gary Pennell. Also, Ms. Meadows informed the Board of eight

telephone calls in favor of the request that she has received. She stated she had not received any emails in favor.

Mr. Santoni asked if the ones that were in favor of the request were they neighbors within a half-mile radius or close vicinity?

Ms. Meadows said she has the names and some addresses.

Vice-Chair Pfeufer reminded the Board of the email and letters that were given to the Board tonight in opposition, and to take a few moments to look over.

Vice-Chair Pfeufer then asked Mr. Fox to come forward for rebuttal if he so chooses.

Mr. Fox came forward and asked that Mr. Miller return to the podium and address the numbers from the police report, and also, Mr. Church to address the lighting and stormwater issues.

Mr. Miller said the data he received from Iredell County 911 communications indicated during the 24 – 48 months, representing 17 stores, there were 3,698 calls for police service total. The breakdown is 2,161 were for courtesy checks from deputies/police going by doing building checks, which is a function of policing. Therefore, almost 60% of those calls were routine courtesy checks, not due to a problem. There were 200 suspicious person calls, 142 disturbance calls, 17 drug related calls during this given time frame.

Mr. Church came forward and spoke concerning the existing culvert on the side road. He said there would be zero impact on that culvert. They will not be adding runoff to that culvert in any way, and are not altering the flow path in any way. As far as stormwater, there will be about 6/10 (.6) of an acre of asphalt. Every square foot of the asphalt will be routed to the underground detention system that is designed. However, it is not a system that holds water indefinitely. The water will not have to be pumped out and discharged anywhere. They will have a control structure on it to control the release rate of the water that will be discharged to the pre-construction levels for a storm, up-to and above that 6" in a 24 hour period.

Mr. Church also addressed site lighting. They will provide as part of the review package to staff, a site lighting plan that they only light the building. They will not have poles installed out in the parking lot. Mr. Church said their lighting plan will demonstrate they will be creating zero light pollution on adjacent properties.

Mr. Church spoke about delivery trucks. He said they have to prove to NCDOT that they can make the truck maneuvers safely without backing up traffic in the road. They have a means of modeling that in their CAD software, if staff or whomever is interested.

Mr. Church clarified about the septic system. As far as the proximity of a well, he said they have a lot of work already done with a soil scientist, but they will also have to procure a septic permit in order to build the store. They will have to address any Environmental Health standards or requirements at that time.

Mr. Holland asked where the water from the underground storage will be discharged, is it an underground leech field?

Mr. Church said it will discharge on the ground, and follow the same flow path as water that lands on the site now. They can't change the over-riding valley shape of the land. They can control and contain every square foot of impervious area which will be routed to the underground system and released slowly in a controlled manner.

Mr. Holland asked if they know what the capacity of the system will be?

Mr. Church said they are not far enough in the design yet to tell the size, but can say the performance specifications they will commit to. It will be something north of the 25-year storm, probably approaching even the 50-year storm, which would be closer to 7" of rain in a 24-hour period. What is being shown tonight is representative, and will take a lot of work to nail down the specific size, but they are committing to the performance specification of it.

Vice-Chair asked if there were any other questions for Mr. Church.

There were no further questions for Mr. Church.

Mr. Fox came forward and said he wants to address the land use, as to whether this is an appropriate use for this area. He said he would contend that it is, and staff believes that an appropriate neighborhood serving business, with the appropriate conditions, is an appropriate use for his corner. Mr. Fox said even the folks from the area acknowledge this is a changing area, that over the next 20 years will become less farmland with more homes in all likelihood, particularly south of I-40. He feels the concept of a rural area with no commercial, is really not grounded in reality, or the history seeing the way this state has developed. He feels there are less mom and pop stores and more stores like what is being proposed here. Mr. Fox said it won't be something that will bring a lot of people from outside the area, these types of uses are locally serving. Their data and history says this is a good sight for them, and they believe it will be successful.

At this time, Vice-Chair closed the public input and moved to deliberation.

Mr. Santoni said regarding erosion, the state law says sandy/loamy soil (typical in this geography) with anything over 2.5' velocity of water, causes erosion. Therefore, it has to be a slow discharge, otherwise, you will get erosion. Another aspect is you can't increase the volume or velocity of water going on someone else's property. If that happens, that is a civil issue, not a criminal issue. Mr. Santoni said what he has heard tonight is a lot of very strong concern from the community in objection to the Dollar General store, and commercial zoning is inconsistent with the 2030 Horizon Plan. It was decided many years ago this area should be agricultural for a reason. These people purchased/anticipated their property based on the county Horizon Plan along with other factors. It is a small sight, and he said he has a concern with the septic system being too close, although, that is for the Health Department to decide. Mr. Santoni has a concern that this will open things up for other potential commercial uses, and ultimately is not desired by the

community. Mr. Santoni feels the Board needs to respect the 2030 Horizon Plan and the community in the area.

After no further discussion, Mr. Santoni made a Motion to recommend denial of the zoning map amendment and to make a finding that the request is inconsistent with the adopted 2030 Horizon Plan. Thus, said denial is reasonable and in the public interest and furthers the goals of the 2030 Horizon Plan, and is also in the interest of the citizens. Mr. Jenkins seconded said motion.

VOTE: 7-1 Opposed: Webster

Vice-Chair Pfeufer explained the Board has given the recommendation to deny the request. She then explained this case will go before the County Commissioners on Tuesday, April 6, 2021 in this same location. Vice-Chair Pfeufer encouraged all to be in attendance at that meeting, because the Commissioners will be the ones to make the final decision.

Vice-Chair Pfeufer then called for a 3-minute recess.

Chairman Tsumas then returned and called the meeting to order.

At this time, Mr. Matthew Todd, Planning Director, informed the Board he would present the next item out of order for the Airport Overlay - Consideration of Text Amendments (*For Information Only*), due to the Statesville Regional Airport Manager, John Ferguson, being in attendance waiting to speak.

Consideration of Text Amendments (*For Information Only*)

- Iredell County Land Development Code Chapter 4 - Airport Overlay

Mr. Todd presented the staff report for the Airport Overlay regarding the Iredell County Land Development Code Chapter 4 Text Amendments.

There were no questions from the Board for Mr. Todd.

THOSE SPEAKING ABOUT THE CASE

Mr. John Ferguson, Statesville Regional Airport Manager, said one of the small changes on the property is a very long range plan of extending the overlay area on the East by about 1,000'. Mr. Ferguson said the intent is to protect the future development of the airport. It will basically protect the airport from cell towers being built right off the end of the runway, and allows pretty much just trees. It includes a height ordinance to protect

the approaches. The City of Statesville recognized their ordinance hasn't been changed since 2004. The county was using the 2004 version that had the big overlay area on the West side. It was for an instrument-landing system, which they are now not planning to do. Mr. Ferguson said he believes it is written as "The most current airport layout plan" instead of saying "The airport layout plan of 2014". If the airport ever does change the airport overlay layout plan, the county will not have to go back and change the ordinance, but if they ever do, they will send the changes in order for the city and county to have the exact same document. A height ordinance is required by NCDOT Aviation and the FAA for airports to have this overlay, therefore, it is a required document.

QUESTIONS FROM BOARD

Mr. Carney asked because of our location in the state geographically, is the instrument site completely off the table on the West side?

Mr. Ferguson said yes, about 85% - 90% of the traffic lands East to West. Mr. Ferguson said he does not think the FAA would ever allow Statesville Regional to put a second landing system on that runway. They would have to have a control tower to do that. Also, they wouldn't do that for 10% of the traffic.

Chairman Tsumas asked if this amendment matches identically to what the City of Statesville passed?

Mr. Ferguson said yes.

Mr. Santoni asked regarding the yellow area or conical zone on the Approach Zone Map (see staff report), what is that area?

Mr. Ferguson said it is the side zones that go up at an angle. The further you get away from the airport, the taller something can be, but when it hits the imaginary surface when you get above it, that violates FAA. The further from the runway you get, the taller structures can be. If you get close in, you don't want a tower or trees.

Mr. Santoni asked if there is anything North to South expanding? If the airport were to get more jets or private planes.

Mr. Ferguson said they have areas at the airport they can develop more hangers. He does know they have purchased 33 acres to the South of the airport, adjacent to the hot air balloon launch field for some future development. They can't go North due to race shops there. If any development occurs, it would be to the South toward Old Mountain Road.

Mr. Santoni asked would that be just to park airplanes, for lack of a better term? There would still be only one runway?

Mr. Ferguson said Statesville Regional will always only be one runway, there will never be a parallel runway in his lifetime.

Chairman Tsumas asked if there were any further questions for Mr. Ferguson.

There were no further questions for Mr. Ferguson.

Mr. Todd said again, this was just for information only. They are updating what is already there, and just updating what the current recommendations are from the airport consultant. Some are minimal changes with the majority just wording to give a more accurate analysis to what is needed.

Vice-Chair Pfeufer asked if any changes are made to what is recommended, that would not be consistent with what the City of Statesville has?

Mr. Todd said that is correct.

Mr. Santoni clarified this is exactly what the City of Statesville has?

Mr. Todd said the requirements are exact. The city ordinance and the county ordinance formatting is different, therefore, this is formatted for the county ordinance. The rules and regulations are identical.

Mr. Todd said this amendment will be brought back before this Board next month for a vote.

Mr. Todd then presented the following for recommendation:

CONSIDERATION OF TEXT AMENDMENT (For Recommendation).

- **Update entire code to match the new 160D enabling statutes.**

EXPLANATION OF THE REQUEST

Previously the enabling statutes for development regulations were split between County and City (153A and 160A). For over 5 years there has been a lot of work to consolidate these into one Chapter known as 160D. With this consolidation, there are several changes we need to make to our current Land Development Code. Originally, the State Legislation adopted these changes with an effective date of January 1, 2021. Due to Covid-19 this deadline has been extended to July 1, 2021.

Existing text that is ~~bold and with strike through~~ is text to be removed. Text in **red and underlined** is new text to be added. The Iredell County Planning Board voted 9-0 to recommend approval at their March 3, 2021 meeting.

STAFF COMMENTS

A majority of the amendments included in this report are just updates to General Statutes number references there are some substantive changes. Also, many of the items were already practiced but we are adding to the code for clarification. As you will notice there are numerous places where we have only had to change the Chapter references from the old 153A to the new 160D. There was also a push for uniformity in terminology and process of types of rezonings. For several items, we already have the terminology that they have set in place. Also, for types of rezonings and removing the option of conditional use rezonings, we were ahead of the game and had already removed several years ago. There are also changes or clarification in the Statutes that don't require text changes but just process changes.

Summary of Changes

- Chapter References throughout code
- Terminology updates
- Bona fide farm
- Subdivision
- Vested Right
- Variance findings of fact
- Conflict of interest
- Definitions

TEXT AMENDMENTS

Section 1.1 Purpose

This chapter sets forth general and legal details which establish the purpose, jurisdiction and applicability of the ordinance, as well as its incorporated maps. Legal provisions are included to define how this ordinance interacts with local, state, and federal laws and details the replacement of the traditional "stand alone" ordinances with a Land Development Code (LDC). The regulations contained in this ordinance address the myriad facets of land development. **These regulations shall be made in accordance with a comprehensive plan and shall** ~~They are~~ **be** designed to, among other things:

- Promote and protect the public health and general welfare, facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the community in accordance with a Comprehensive Plan,

- Establish procedures and standards for the development of land, promote orderly growth and development, coordinate new roads and highways within subdivisions, and facilitate the further re-subdivision of larger tracts into smaller parcels of land.
- Protect the public drinking water supply.
- Establish procedures to regulate certain land disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation.

Section 1.2 Authority

Section 1.2.1 Statutory References

This ordinance is adopted pursuant to the authority contained in the following North Carolina General Statutes:

- Chapter ~~153A, Article 18, Part 3 – Zoning~~ 160D-Article 7 – Zoning Regulation
- Chapter ~~153A, Article 18 – Planning and Regulation of Development~~ 160D-Article 5-Planning
- Chapter 113A, Article 4, Part 60 and the North Carolina Administrative Code, Title 15A, Chapter 4 Subchapter A-E – Erosion and Sedimentation Control
- Chapter ~~153A, Article 6, Section 121, General Ordinance Authority,~~ 160D-926-Water Supply Watershed Management, and Chapter 143, Article 21, Watershed Protection Rules – Water Supply Watershed Protection Rules delegated to Iredell County by the State of North Carolina
- Chapter 63, Article 4, Model Airport Zoning Act
- Chapter 143, Article 21, Part 6; ~~Chapter 153A, Article 18, Part 3 and 4; Chapter 153 A, Article 6 Part 121 – Statutory Authorization for floodplain management regulations for participation in the National Flood Insurance Program~~ Chapter 160d-923 Floodplain Regulation

Section 1.3.6 Bona Fide Farms Exempt

The provisions of this ordinance shall NOT apply to bona fide farms including start up farms, except that a farm property used for non-farm purposes shall NOT be exempt from regulation; except that the floodplain management provisions of Appendix G of this ordinance, regulating development in the special flood hazard areas, as required for participation in the National Flood Insurance Program, shall apply to all development including bona fide farms located within the special flood hazard areas of Iredell County.

For the purposes of this ordinance, a bona fide farm is any tract or tracts of land, which meets the criteria as established in G.S. ~~153A-340(b)(2)~~ 160D-903 together with any subsequent amendments ~~and has tax deferral on the county tax records.~~

Start-up farms requesting bona fide farm status shall provide documentation that they satisfy all the requirements set forth in G.S. ~~153A-340(b)(2)~~ 160D-903 together with any

subsequent amendments ~~and that they have applied for tax deferment status with the Iredell County Tax Department.~~

Section 1.6 Relationship to the 2030 Horizon Plan

This ordinance has been adopted in accordance with the Iredell County 2030 Horizon Plan. While the board reaffirms its commitment that this ordinance and any amendments to be in conformity with adopted planning policies, the board hereby expresses its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document, except to the extent that consistency with the plan and ordinances that affect areas of environmental concern as required by NCGS 113A-111 (Effect of Land Use Plan).

Section 2.1 Purpose

This Chapter establishes zoning districts and identifies the uses that are permitted within each district. In accordance with the requirement of NCGS § ~~160A-382~~ **160D-703** that zoning regulation be by districts, the County, as shown on the Zoning Map accompanying this Ordinance, is hereby divided into the following districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

R11 Temporary Family Healthcare Structure

Temporary family healthcare structures are regulated by GS ~~160A-383.5~~ **160D-915** and are allowed as accessory to a primary structure in any single-family residential district. These structures shall meet all setback requirements for the principal structure.

R13 Family Care Home and Family Day Care Home

A family care home with six (6) or fewer persons or a family day care home with eight (8) or fewer persons may be operated as an accessory use to a principal dwelling ~~per GS 160-D-907.~~

Section 6.6.1 Table 6.1 Signs permitted in all Zoning Districts

Type	Permit Required	On or Off Premises	Max. Number	Max. Copy Area	Max. Display Time
Temporary Sign	No	On	1	32	Until Event is Over
Temporary Sign	No	Off	1	9	Until Event is Over
Flags (Blade Signs)	No	On	3	-	-
Incidental object or product signs	No	On	-	-	-
Construction Fence Signage	Exempt per §153A-340 160D-908				
Informational/Instructional	No	On	-	10	-

Type	Permit Required	On or Off Premises	Max. Number	Max. Copy Area	Max. Display Time
Political	§153A-340. Regulation of Signs-136-32				
Home Occupations	No	On	1	3	
Residential Development or Recreation Facility	Yes	On	2 sign faces per entrance	32	-
Non-Residential Uses Permitted in Residential Districts*	Yes	Off	2	*	-

Section 8.5 Subdivision Defined

For purposes of this Ordinance, the word "subdivision" is defined in NCGS ~~153A-335-160D-801~~ and shall mean all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions ~~are is~~ created for the purpose of sale or building development, (whether immediate or future), and ~~shall~~ includes all division of land involving the dedication of a new street or a change in existing streets; ~~but the following shall not be included with the definition nor be subject to the regulations authorized by the Article: However, the following is NOT included within this definition and is NOT subject to any regulations enacted pursuant to this Ordinance:~~

- A. The combination or recombination of portions of previously subdivided and recorded lots, ~~if where~~ the total number of lots is NOT increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.
- B. The division of land into parcels greater than ten (10) acres ~~if where~~ no street right-of-way dedication is involved.
- C. The public acquisition by purchase of strips of land for ~~the~~ widening or opening ~~of~~ streets or for public transportation system corridors.
- D. The division of a tract ~~in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where, the entire area of which is no greater than two (2) acres, in single ownership into NOT more than three (3) lots, if~~ no street right-of-way dedication is involved and ~~if where~~ the resultant lots are equal to or exceed the standards of Iredell County as shown in this Ordinance.
- E. ~~The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate session under Chapter 29 of the General Statutes.~~

Section 8.14 Zoning Permit with Vested Rights

~~It is recognized that it is necessary and desirable as a matter of public policy to:~~

- 1. ~~Provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the land use planning process, and~~
- 2. ~~Secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation.~~

The following section is provided based on G.S. 160D-108 and is referenced for additional clarification.

Permit Choice:

If a development permit applicant submits a permit application for any type of development and a regulation is amended, including an amendment to any applicable land development regulation, between the time the permit application was submitted and a decision is made, the application may choose which version of the rule or ordinance will apply to the permit. An applicant can choose which version of code regulations to follow when a change to the code has been made after an application has been filed with the County (160D-108(b))

Statutory vesting

1. Six months
Building permits pursuant to G.S. 160D-1109 expire six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.
2. One year
Other local development approvals pursuant to G.S. 160D-403(c), unless otherwise specified by statute or local ordinance expire one year after issuance unless work has substantially commenced. Expiration of a local development approval shall not affect the duration of a vested right established under this section or vested rights established under common law.
3. Two to five years
Site-specific vesting plans. A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by Iredell County. Site-specific vesting plans shall be vested for a period of two years but not exceed five years.
4. Seven years
Multi-phase developments – Shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinance in place at the time a site plan approval is granted for the initial phase of the multiphase development. For the purpose of this section, multi-phase developments are those that contain 25 acres or more that have submitted for development to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase.

In any case where ~~the an~~ applicant ~~for a Zoning Permit~~ desires to obtain a **vest right as site-specific vesting plan** authorized by NCGS ~~153A-344.1~~ **160D-108** the applicant shall submit a site specific development plan consistent with Article XIV shall be subject to Public Hearings by the Planning Board and Board of Commissioners as follows:

A. Public Hearing

Notice of any Planning Board public meeting or Board of Commissioners public hearing shall be given as follows:

1. A notice shall be published in a newspaper having general circulation in Iredell County once a week, for two (2) successive weeks, the first notice to be published NOT less than ten (10) days nor more than twenty-five (25) days prior to the date established for the Board of Commissioners public hearing.
2. At least one (1) notice shall be conspicuously posted on the subject property at least ten (10) days prior to the Planning Board Meeting.
3. A notice of the public hearing shall be sent by first class mail by the Planning Department to all adjoining property owners at least ten (10) days prior to the Planning Board meeting and the Board of Commissioners public hearing.

B. Planning Board Review and Recommendation

Once the public meeting has been conducted, the Planning Board shall be given an opportunity to review the application and make a recommendation to the Board of Commissioners. The Planning Board shall have up to forty-five (45) days from the date the public meeting was concluded to make such recommendation. Alternatively, the Planning Board could request additional information of the applicant in order to aid them in their review of the application. If no recommendation is made during said forty-five (45) day period (except as herein provided) the application shall forthwith be forwarded to the Board of Commissioners.

C. Board of Commissioners' Action

Once the public hearing has been conducted and concluded, the Board of Commissioners shall determine whether or not to approve the site-specific **development vesting** plan and accord the vested right. In approving an application for vested rights of a site specific development plan, the Board of Commissioners may attach fair and reasonable ad hoc conditions which tend to support the required finding of facts as herein listed. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. The Board of Commissioners may NOT require the landowner to waive his vested right as a condition of developmental approval.

The Board of Commissioners may approve the site specific development plan if it has evaluated an application and determined that:

1. The use meets all required specifications of the Zoning Ordinance, and
2. The use will NOT materially endanger the public health or safety and will NOT substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site specific development plan by the Board of Commissioners shall be adequate to meet this requirement.
3. The site specific development plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Section 8.16 D.

The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings) shall rest entirely with the landowner.

D. Effect of Approval

The effect of the Board of Commissioners approving a site-specific development plan shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests, however, the Board of Commissioners may approve a vesting period NOT to exceed five (5) years from the date of approval. The vesting of any site plan beyond a two (2) year period may only be authorized by the Board of Commissioners where it is found that due to (i) the sizing and phasing of the development; or (ii) the level of investment; or (iii) the need for the development; or (iv) economic cycles; or (v) market conditions, **and other considerations building permits for all phases of the development cannot be secured within two years.**

A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.

A vested right, once established as herein provided, shall preclude any zoning action by the County which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development except under the following conditions:

1. The affected landowner provides written consent to the County of his desire to terminate the vested right; or,

2. The County determines, after having advertised and held a **public evidentiary** hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the ~~site specific development plan~~ **vested right**; or,
3. Compensation is made by the County to the landowner for all cost, expenses, and other losses incurred including, but NOT limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest ~~thereon at the legal rate until paid~~ **as provided in G.S. 160D-106**; or,
4. The County determines, after having advertised and held a ~~public evidentiary~~ hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations ~~which that~~ made a difference in the approval by the County of the ~~site specific development plan~~ **vested right**; or
5. Upon the enactment or promulgation of a State or Federal law or regulations ~~which that~~ precludes development as contemplated in the ~~site specific development plan~~ **vested right**. In such case the County may (after having advertised and conducted a **public evidentiary** hearing) modify the affected provisions upon a finding that the change in State or Federal law has a fundamental effect on the plan.

Once a vested right is granted to a particular site specific development plan, nothing in this section shall preclude the County from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are NOT inconsistent with the original approval.

E. Minor Modifications

A site specific development plan may be modified to the extent that changes in detail which do NOT change the basic relationship of the conditions set forth by the Board of Commissioners. Changes in detail which may be modified shall include, but NOT be limited to the reduction in square footage of buildings and signs, and the reduction in the number of buildings or lots.

Application for a minor modification shall include a new site specific development plan and a detailed description of the proposed changes. The Planning Director may authorize minor modifications to the site specific development plan. Any applicant may appeal the decision of the Planning Director to the Board of Commissioners. In no case shall a minor modification extend the approved vesting period for the site specific development plan.

F. Revocation or Expiration of a Vested Right

The vested right resulting from the approval of a site specific development plan may be revoked by the Board of Commissioners as provided for in this Section. In addition, a revocation may occur if the Board of Commissioners determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Board of Commissioners.

G. Revocation of Building Permit

A building permit issued by Iredell County pursuant to ~~G.S. 15A-357~~ may NOT be revoked because of the running of time on a piece of property for which a site specific development plan has been approved and the vested right period has NOT otherwise expired.

H. Amendments to the Zoning Ordinance

The establishment of a vested right on a piece of property for a site specific development plan shall NOT preclude the County from establishing and putting into place one or more overlay districts which may impose additional restrictions on said property, provided such restrictions do NOT affect the allowable type or intensity or use. Otherwise such regulations shall become effective with respect to the subject property upon the expiration or termination of the vested right. The County may also enforce on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.

Section 9.2.3 Board Decisions

The following details the different types of board decisions that are required to be obtained by this ordinance. They are broken into two categories, legislative and quasi-judicial.

A. Legislative Decisions

These types of decisions set general policies. Decisions to adopt, amend, or repeal an ordinance (including the zoning map) fall into this category. There are detailed statutory procedural requirements for legislative decisions, however the decision itself is often discretionary. A public hearing is required to make a legislative decision, with the intent being to gain public opinion on the decision being made. The only site plan that may require a legislative decision is a Conditional Zoning request or Expansion of a Non-Conforming Use, which is detailed below.

1. Conditional Zoning:

All Conditional Zoning applications may include a conceptual site plan, drawn to scale, and supporting text that, if approved, will become part of the

amendment. The site plan must include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that in addition to all predetermined ordinance requirements, will govern the development and use of the property. In addition, if only rezoning a portion of a parcel, a plat must be provided, drawn to scale, showing the bearings and distances of the portion requested. The site plan, including the information detailed below shall constitute part of the petition for rezoning to a conditional zoning district.

2. Expansion of a Non-Conforming Use:

The applicant must submit a site plan, drawn to scale, that will provide an adequate amount of information to make a determination on the viability of the expansion request. It is recommended that the applicant provide a site plan that includes the items listed in 9.2.1, therefore if the request is approved it can then move forward to permitting.

B. Quasi-Judicial Decisions

These decisions include the application of specific policies to individual situations rather than the adoption of new policies and are generally heard by the Board of Adjustment. These decisions contain two key elements, the finding of facts regarding a specific proposal and the exercise of judgment or discretion in applying the policies of this ordinance.

1. Expansion or Change in Kind of a Non-Conforming Use:

The applicant must submit a site plan, drawn to scale, that will provide an adequate amount of information to make a determination on the viability of the expansion request. It is recommended that the applicant provide a site plan that includes the items listed in 9.2.1, therefore if the request is approved it can then move forward to permitting.

Section 11.4 Planning Board Action

The Zoning Administrator shall present any properly completed application for amendment to the Planning Board at its next regularly scheduled meeting. The Planning Board shall hold a public meeting on the proposed amendment. Notice of the public meeting shall be given in accordance with the Board's rules.

All text amendments to this Ordinance will require at least two Planning Board meetings. At the first meeting the amendments will be presented for information only. At the second meeting the amendment will be brought back for a recommendation.

All zoning map amendments will first be presented and up for recommendation from the Planning Board at the same meeting.

The Planning Board shall either recommend in favor of an amendment or in opposition to an amendment by simple majority vote of those present and voting. **When recommending an amendment to the zoning ordinance, the Planning Board must adopt a brief statement of reasonability describing whether the action is consistent or inconsistent with approved plans.** If the request is for a Conditional Zoning District, the Board may also propose conditions to their recommendation. A tie vote on a proposal shall be considered to be in opposition to such amendment. If the Planning Board fails to act on any proposed amendment within thirty one (31) days, or two regular meetings, after it is presented to the Board such failure to act (which includes tabling the item) shall be considered to be a favorable recommendation for the purposes of this procedure.

Section 11.5.2 Public Hearings

- A. Zoning amendment applications which are initially signed by less than eighty percent (80%) of the owners of all the property involved in the petition shall be placed on the Board of Commissioner's next available agenda for the consideration of setting a public hearing on the matter at a future meeting.
- B. Zoning amendment applications which are initially signed by eighty percent (80%) or more of the owners of all the property involved in the petition shall be placed on the Board of Commissioners agenda for a public hearing on the matter.
- C. No zoning amendment shall be adopted until after a public hearing shall have been held on the matter. Notice of public hearing shall be given as required by NCGS 153A, Article 18, Part 3 (Zoning). The Board of Commissioners shall take such lawful action on such amendment applications as it may deem advisable. Failure of the Board of Commissioners to set a public hearing on an amendment application shall constitute denial of that application.
- D. **When recommending an amendment to the zoning ordinance, the Board of Commissioners must adopt a statement of reasonability describing whether the action is consistent or inconsistent with approved plans.**

Section 11.6 Conditional Zoning Districts

A. Intent

The conditional zoning districts included herein allow for the consideration of certain uses that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole and are created or established for selected criteria as indicated in the applicability section below. The development of

these uses cannot be predetermined and controlled by **general conventional** district regulations. In addition, circumstances arise when a **general conventional** zoning district designation would NOT be appropriate for a certain property, but specific uses permitted under the district would be consistent with the objectives of this section. To accommodate those situations, this section establishes the conditional zoning district process.

G. Effect of Approval

If a petition for conditional zoning district is approved the development and use of the property shall be governed by:

1. The standards and regulations applicable to the district's zoning classification;
2. The approved site plan for the district;
3. Any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district; and
4. All general and additional rules, regulations and conditions adopted as part of the conditional zoning district shall be an amendment to these regulations and the Zoning Map.
- 5. The County must obtain the applicant's/landowner's written consent and/or signature to conditions related to a conditional zoning approval to ensure enforceability.**

I. Determination – Major Change Requiring an Amendment

Before making a determination as to whether a proposed action is an amendment based upon a major change, the Planning Director shall review the record of the proceedings on the original application for the approval of the conditional zoning district.

1. A change in a specific or general use category shall constitute a new application.
2. The Planning Director shall use the following criteria in determining whether a proposed change is an amendment constituting a major change to the approved conditional zoning district:
 - a. An increase in intensity of use which means an increase in:
 - i. Usable floor area ~~by ten percent (10%) or more~~; or
 - ii. Number of dwelling or lodging units ~~ten percent (10%) or more~~; or
 - iii. Outside land area devoted to sales, displays, or demonstrations.

- b. Any change in use resulting in a more intensive use;
 - c. Any change in parking areas resulting in an increase or reduction of ten percent (10%) or more in the number of spaces approved by the Board of Commissioners;
 - d. Structural alterations significantly affecting the basic size, as shown on the approved plan;
 - e. A ten percent (10%) or more decrease in the amount or location of open space, recreation facilities, or landscape screening; and
 - f. Substantial changes in pedestrian or vehicular access or circulation.
3. If the Planning Director determines that the proposed action requires an amendment, he shall require the applicant to file a request for approval of the amendment, which shall be submitted to the Planning Board and Board of Commissioners under the process described in this article.

J. Minor Changes and Modifications

The Planning Director shall have the delegated authority to approve minor changes in the conditional zoning district provided they are in harmony with the action of the Board of Commissioners. A minor change shall mean:

- 1. Any change in location or any increase in the size or number of signs;
- 2. Any change in use resulting in a less intensive use;
- ~~3. Increases the intensity of nonresidential development by less than ten percent (10%) or 1,000 square feet, whichever is less;~~
- ~~4. Any change(s) that increases the density of residential development by less than ten percent (10%);~~
- 5. Any time an applicant agrees to impose standards that are more stringent than those previously approved by the Board of Commissioners; or
- 6. All other changes or modifications to the conditional zoning district shall be treated the same as amendments to these regulations or the zoning map.

Section 12.1.1 General Rules

The Zoning Board of Adjustment shall be governed by the terms of Chapter ~~153A, Article 18, Part 3~~ 160D-302 of the North Carolina General Statutes and by the Iredell County Zoning Ordinance. All members of the Board shall thoroughly familiarize themselves with these laws.

Section 12.1.4 Rules of Conduct for Members

- A. Members of the Board may be removed for cause, including violation of the rules stated below.
- B. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members. This is a pre-requisite to continue membership of the Board.
- C. No Board member shall take part in the hearing or determination in which he/she has a financial interest, fixed opinion, undisclosed outside contact, close family tie, ~~or~~ close business tie or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

Section 12.1.8 Decisions

A. Evidence

Quality evidence must be in the hearing to support the Board's final decision from an appeal, or application for variance or special use permit.

- 1. Substantial, competent, and material facts / evidence is needed to support the Board's findings.
- 2. Hearsay – Hearsay is admissible, however, hearsay evidence cannot be the sole basis for a crucial findings of fact. Crucial findings of fact include those that are contested.
- 3. Opinion Testimony by Expert – The Board is interested in fact NOT opinion, however, opinions offered by experts are an exception to this rule.

B. Time

Decisions by the Board shall be made NOT more than thirty-six (36) days from the time of hearing the case. The Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a

given date and a quorum of the Board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

Section 12.1.9 Stay of Proceedings

An appeal stays all proceedings **and accrual of any fines assessed** in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board of Adjustment that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall NOT be stayed except by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, of notice from whom the appeal is taken and on due cause shown.

Section 12.3.3 Variances

The Board may authorize variances from the terms of the Ordinance as will NOT be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done.

In granting a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

The Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

A. Zoning and Subdivision Requirements

These requirements shall apply to all regulations in the following areas:

- Zoning
- Subdivision
- Watershed
- Airport

The Board of Adjustment shall make the findings required below, taking into account the nature of the proposed request, the existing use of land in the vicinity and the probable effect of the proposed request upon traffic conditions in the vicinity, if applicable. No variance shall be granted unless the Board of Adjustment finds all of the following in the affirmative:

1. ~~**That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would cause an**~~

~~unnecessary hardship;~~ Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

2. ~~That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance;~~ The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or general public may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;
3. ~~That the hardship suffered is NOT a result of the applicant's or property owner's own actions;~~ The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-creating hardship; and
4. ~~That the granting of the variance will be consistent with the spirit, purpose, and intent of the Ordinance, such that the public safety is secured and substantial justice is achieved.~~ The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

Section 12.3.4 Special Use Permits

The Board shall hear special use permit request to determine whether appropriate conditions and safeguards, as authorized in Chapter 2, are met. ~~In granting a Special Use Permit the Board shall make the following affirmative findings:~~

- A. ~~That the Special Use will NOT materially endanger the public health or safety, if located where proposed and developed according to the plan as proposed;~~
- B. ~~That the Special Use meets all required conditions and specifications;~~
- C. ~~That the Special Use will NOT substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and~~

~~D. The Special Use will be in harmony with the area in which it is to be located and will be in general conformity with the plan of development of the county~~

A. In granting a Special Use Permit the Board shall make the following affirmative findings:

1. That the Special Use will NOT materially endanger the public health or safety, if located where proposed and developed according to the plan as proposed;

2. That the Special Use meets all required conditions and specifications;

3. That the Special Use will NOT substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

4. The Special Use will be in harmony with the area in which it is to be located and will be in general conformity with the plan of development of the county

B. In granting a Special Use Permit, the Board may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Special Use Permit, otherwise the Permit shall be denied. Any Special Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently changed or amended by the Board, as provided for in this Chapter.

C. The Board may change or amend any Special Use Permit, after a public hearing and subject to the same consideration as provided for in this Chapter for the original issuance of Special Use Permit.

No proposal to amend or change any Special Use Permit shall be considered within twelve (12) months of the date of the original authorization of such Permit or within twelve (12) months of hearing of any previous proposal to amend or change any such Permit.

D. Minor Changes & Modifications

The Planning Director shall have the delegated authority to approve minor changes on the site plan for Special Use Permits provided they are in harmony with the action of the Board of Adjustment. A minor change shall mean:

1. Movement of structures, parking areas, or other activity areas provided they are not closer to an existing residence or one under construction;
2. Changes in landscaping types provided they have not been worked out by neighbors or conditions of approval and they meet the requirements in Chapter 5;
3. Changes in location of the driveway connection provided it is not closer to an existing residence or one under construction and it meets the requirements in Chapter 10. If NCDOT requires the change, then this section may not apply.

Section 13.2 Powers and Duties of the Planning Board

The Planning Board is responsible for the following:

- A. Make studies and recommend to the Board of Commissioners plans, goals and objectives relating to the growth, development and redevelopment of the County;
- B. Develop and recommend to the Board of Commissioners policies, Ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
- C. Make recommendations to the Board of Commissioners concerning proposed Zoning Map and Land Development Code text changes (per 160D-604); enlargement of non-conforming uses; vested rights requests; and,
- D. Perform any other duties assigned by the Board of Commissioners.

Section 13.4.2 Conflict of Interest

A. Participation Prohibited

No member of the Board shall seek to influence a decision, participate in any action, or cast a vote involving any matter that is before the Board which may result in a conflict of interest as provided by State law. A conflict of interest is deemed where the outcome of a matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Furthermore, a member shall not vote on any zoning amendment the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship (GS 160D-109).

Section 16.4 Definitions

Bona Fide Farm. Bona Fide Farm. The production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products and as provided for in G.S. ~~153A-340(b)(2).~~ **160D-903.**

Dwelling, Single-Family Detached (Conventional or Modular). A detached building constructed on-site or in industrialized modules in compliance with the North Carolina State Building Code and designed for or occupied exclusively by one family and which is completely surrounded by permanent open space.

Dwelling, Two Family. A detached residential building arranged or designed to be occupied by two (2) families living independent of each other. (See Section 3.1 R 7)

Dwelling, Multi-Family. A detached building constructed on-site in compliance with the North Carolina State Building Code and designed for three (3) or more dwelling units. (See Chapter 3, R 7)

Dwelling Unit. A room or combination of rooms providing complete independent living facilities including permanent provisions for living, eating, sleeping, cooking, and sanitation. The term “dwelling” shall not be deemed to include a motel, hotel, bed & breakfast, travel trailer, or other structure designed for transient travel.

APPENDIX G FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; ~~Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A~~ **Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D** of the North Carolina General Statutes, delegated to local governmental units the **responsibility authority** to adopt regulations designed to promote the public health, safety, and general welfare.

ARTICLE 2. DEFINITIONS.

“Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood

hazard data products have the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website

(<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

ARTICLE 3. GENERAL PROVISIONS.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) dated November 16, 2018 for Iredell County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions there to. ~~Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Iredell County are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.~~

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

(16) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

~~(16)~~ (17) Fill is prohibited in the SFHA including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision – Based on Fill (CLOMR-F or LOMR-F) for new development. Road and utility infrastructure projects are exempt from this provision.

SECTION B. SPECIFIC STANDARDS.

(10) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill

- in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
 - (d) **Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.**

Mr. Todd said this comes from the NC State statute changes as far as consolidation of the city requirements and the county requirements. Again, much of it is verbiage that staff felt the county is already addressing or adhering to. As from the last meeting, really the only questions the Board had was to do with the conflict of interest verbiage. As experienced tonight, Board members are good at recognizing the least amount/or the perception that could be there, dealing with conflict of interest. Mr. Todd said he did speak with the County Attorney, due to the conflict of interest phrasing in Section 13.4.2. The one that was most concerning was the “Associational Relationship”, and in talking with the attorney, there is not an exact answer. The attorneys take was giving an example, if you work in the same office as someone, that would be considered an “Associational Relationship”. If it would be the same company but different facilities, that would possibly be far enough removed to be considered. Again, that will be up to the individual Board Member to recognize when they feel there would be a conflict of interest, therefore, recuse themselves. Staff had to be very specific and add that verbiage in there.

Mr. Todd said the other thing that was brought up at the last meeting, was conditional rezoning requests. It states now if adding conditions, it is “written consent”. The planning staff gets written consent now when they receive the application, but if a condition were to be added at this Planning Board meeting level or at the Commissioners level, there will be some type of form that will have to be worked out on the spot. It could potentially cause a meeting to be tabled if the right signatures aren't available at that point, to sign the consent. Again, that is rare that conditions get added to where it would be happening the night of.

Chairman Tsumas asked if the Board can pass it with a condition in there, with a verbal agreement, that it is only valid if it is written?

Mr. Todd said yes. Every jurisdiction in the state is doing exactly what we are doing tonight, updating their ordinances per these requirements. That is one of the recommendations made as far as to how to deal with this, is to make the vote contingent on written consent. It would not be effective until it is actually signed. That seems like the most logical way to handle this requirement.

Chairman Tsumas stated it would need to have some sort of timeframe.

Mr. Todd said yes.

Mr. Todd said if the Planning Board wants to add a condition verbally, staff would have two weeks to have that written in a new application with the condition(s), and new signatures. It will be most important to have that written consent at the final vote at the commissioner level.

Chairman Tsumas asked if there were any further questions for staff.

There were no further questions for staff.

After no further discussion, Mr. Santoni made a Motion to recommend approval of the zoning text amendments and to make a finding that the approval is consistent with the adopted 2030 Horizon Plan and that said approval is reasonable and in the public interest and furthers the goals of the 2030 Horizon Plan because it aligns our regulations with required legislative updates. Ms. Pfeufer seconded said motion and all were in favor.

VOTE: 9-0

OTHER BUSINESS: None

UNFINISHED BUSINESS: None

MINUTES: Mr. Holland made a motion to approve the February 3, 2021 meeting minutes, seconded by Ms. Pfeufer, all were in favor.

MONTHLY COMMITTEE ASSIGNMENTS: Site visits: Friday, March 19, 2021.

ADJOURNMENT: There being no further business, Chairman Tsumas declared the meeting adjourned at 9:08 p.m.

Cindy Nicholson
Administrative Assistant

Date Read and/or Approved