

***IREDELL COUNTY PLANNING BOARD***

The Iredell County Planning Board met on Wednesday, December 5, 2007 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**

Eric Fields, Chairman  
Dr. Jackie Grigg, Vice-Chairman  
Anita Johnson  
Gene Mahaffey  
Kristi Pfeufer  
Harold Pruitt  
Jerry Santoni  
Thomas E. Stephens  
Harry Tsumas, Jr.  
Alan Williams

**STAFF PRESENT**

Katrina Hewitt  
Rebecca Harper

**MEMBERS ABSENT**

Jeff McNeely

At this time, Chairman Fields called the meeting to order.

**MINUTES:** Dr. Grigg made a motion to approve the 11/7/07 meeting minutes. Mr. Santoni seconded said motion and all agreed. **VOTES: 10-0.**

**REZONING REQUEST; KAMCO, INC. PROPERTY, CASE NO. 0712-1:** Ms. Harper presented the staff report:

**OWNER/APPLICANT:** KAMCO, Inc.  
939 Brawley School Road  
Mooresville, NC 28117

**LOCATION:** 919 Brawley School Road in Mooresville, NC; more specifically PIN# 4636-78-3947. **Directions:** Brawley School Road, on the left past Kingston Drive.

**REQUESTED ACTION AND CONDITIONS:** Rezone the property from RA, Residential Agricultural Zoning District to RO, Residential Office Zoning District.

**SIZE:** The property is 1.273 acres.

**EXISTING LAND USE:** Residential, vacant house to be destroyed.

**SURROUNDING LAND USE:** Residential and Office.

**WATERSHED REGULATIONS:** This property is located in the Catawba/Lake Norman WSIV-Critical Area Watershed.

TRAFFIC: According to the 1993 Iredell County Thoroughfare Plan, the average daily traffic count for this stretch of Brawley School Road is 20,000 vehicles per day. The current capacity is 9,000 vehicles per day.

ZONING HISTORY: This property has been zoned RA since county-wide zoning went into effect in 1990. The adjoining property was rezoned to RO in 1984. The property to the northeast was rezoned to RO in 2006 with two conditions: 1) no outside storage, and 2) that a screening device be placed along the rear property line adjoining 124 Fantasy Lane. This parcel is also located in a Roadway Protection Overlay district.

OTHER JURISDICTIONAL INFORMATION: The Planning staff has met with Town of Mooresville representatives, who felt this rezoning falls in line with their future plans for the corridor. The concept behind the Town's Future Land Use Plan is to follow the existing development pattern on Brawley School Road. They currently have zoning jurisdiction across Brawley School Road with O-I and NB zoning districts.

STAFF COMMENTS: The applicant is proposing to move an existing office building from 939 Brawley School Road to this property for office uses. Due to the right-of-way acquisition for the widening of Brawley School Road, the applicant will have to remove the building from its current location. This property is designated in the Brawley School Peninsula Small Area Plan as Transitional, which is designed to be a buffer between a higher intensity use, such as commercial, and a lower intensity use, such as residential. The primary land uses designated for the Transitional area include residential, office, institutional, and services.

The property is also located in the Roadway Protection Overlay Two, which was adopted on Brawley School Road in January 2003. This district provides for more stringent requirements with regards to signage, parking, landscaping, and access management.

The proposed use of the property should not generate more traffic in the area since the business has been operating just two lots away from this property.

**Based on the proposed use, the circumstances involving the right-of-way acquisition, compliance with the Brawley School Peninsula Small Area Plan, more restrictive zoning requirements of the RPO and the lack of a negative impact on traffic, the Planning staff can support the request.**

Jim Miller, Applicant, stated that they needed to move because of the State taking the right-of-way on Brawley School Road. Mr. Miller stated that once the State signs the contract for the property they will only have a ninety day notice. There was no one else present to speak in regard to this request.

Mr. Williams made a motion to recommend approval of the zoning map amendment and to advise that it is consistent with the Brawley School Peninsula Small Area Plan. Mr. Mahaffey seconded said motion and all agreed. **VOTES: 10-0.**

**PROPOSED AMENDMENT TO THE IREDELL COUNTY ZONING ORDINANCE:** Article SVII, Amendment Procedures: Conditional Use Districts. *The following sections will have to be amended in conjunction with the changes to the conditional zoning districts:*

- Table of Contents
- Article V. Establishment of Zoning Districts
  - Section 5.1 Conditional Use Districts
  - Section 5.2 Roadway Protections Overlay District (RPO)
- Article VI. Schedule of District Regulations
- Article VIII. Table of Permitted & Special Uses
  - Section 8.2 Meaning of Entries
- Article IX. Special Requirement Notes to the Table of Permitted & Special Uses
  - Section SR 13 Planned Unit Development (PUD)

- Section SR 46 Septage or Residential Sludge Disposal Sites
- Article XIV. Site Plan Requirements
- Article XV. Administration
  - Section 15.2 Zoning Permit with Vested Rights
- Article XVII. General Legal Provisions; Penalty for Violation
  - Section 18.2 Effects Upon Outstanding Building Permits; Conditional/Special Use Permits; Zoning Permits with Vested Rights; and Existing Planned Residential District
- Article XIX. Definitions
  - Section A. General Definitions

## ARTICLE XVII. AMENDMENT PROCEDURES; CONDITIONAL USE ZONING DISTRICTS

### Section 17.0 General

The Board of Commissioners may amend, supplement or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional Use Zoning District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the County's comprehensive zoning plan, he shall apply for rezoning to ~~the an~~ appropriate Conditional Use Zoning District ~~and simultaneously apply for Conditional Use Permit~~ specifying the nature of his proposed development. ~~No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.~~

### Section 17.1 Amendment Initiation

Applications to change, supplement or amend this Ordinance may be initiated by:

- A. Textual Amendment.
  1. The Board of Commissioners;
  2. The Planning Board;
  3. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.
- B. Atlas Amendment.
  1. The Board of Commissioners;
  2. The Planning Board;
  3. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Atlas amendment applications containing less than eighty (80) percent of the property owners included in the area proposed to be rezoned are subject to the procedural requirement of Section 17.5. Atlas amendments involving Conditional Use Zoning Districts may only be initiated by the owner or authorized agent of the owner.

### Section 17.2 Submittal

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator.

The Zoning Administrator, before scheduling any application for amendment for consideration by the Planning Board, shall ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Zoning Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

Completed applications including proposals with less than ten (10) property owners shall be received a minimum of ~~fifteen (15)~~ **thirty-one (31)** days prior to the Planning Board meeting at which the proposed amendment is scheduled to be considered. Completed applications involving proposals with ten (10) or more property owners shall be received a minimum of thirty-one (31) days prior to the Planning Board meeting at which the proposal amendment is scheduled to be considered. Adjustments to the petition or any boundary lines occurring within seven (7) days of either the Planning Board or Board of Commissioners meeting will not be considered in either Board's determinations.

All applications for amendment shall contain, as a minimum, a description of the proposed change, and if it would require a change of the zoning atlas, the application shall include a map drawn to a scale of not less than four hundred (400) feet to the inch and not more than twenty (20) feet to the inch showing the land covered by the proposed amendment, the zoning of the subject property and adjoining properties, general existing land uses, and street systems.

~~Any application requesting a change to a Conditional Use District shall be accompanied by a Conditional Use Permit application showing the use or uses proposed and any conditions being proposed by the applicant.~~

#### Section 17.3 Planning Board Action

The Zoning Administrator shall present any properly completed application for amendment to the Planning Board at its next regularly scheduled meeting ~~occurring at least fifteen (15) or thirty (30) days as the case may be~~ after filing of such application with the Zoning Administrator. The Planning Board shall hold a public **hearing meeting** on the proposed amendment. Notice of the public **hearing meeting** shall be given in accordance with the Board's rules.

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. **If the request is for a Conditional Zoning District, the** ~~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 should fail to act on any proposal amendment within thirty one (31) days after it is presented to the Board such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.

#### Section 17.4 Board of Commissioners Action

The Zoning Administrator shall present any proposed amendments to the Board of Commissioners at its next regular scheduled meeting, following Planning Board action, at which it considers rezoning proposals. The Zoning Administrator shall transmit to the Board of Commissioners the Planning Board's record of action on the proposed amendments. 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. 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.

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. 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.

Section 17.5 ~~Special Provisions for Conditional Use Districts and Conditional Use Permits~~ Conditional Zoning Districts

~~Proposals for rezoning to any Conditional Use District shall always be accompanied by a request for a Conditional Use Permit. Such proposals and requests shall be processed and considered in the same procedure as conventional rezoning proposals, except as otherwise set forth herein, and the voting shall be the same as that required for zoning matters.~~

~~Any proposal for Conditional Use District rezoning and its accompanying request for a Conditional Use Permit shall be heard and considered simultaneously. If the Board of Commissioners should determine that the property involved in the proposal should be rezoned and the Conditional Use Permit issued, it shall adopt an Ordinance rezoning the property and authorizing the issuance of the Conditional Use Permit. Otherwise the proposal shall be denied.~~

~~In granting a Conditional Use Permit, the Board of Commissioners shall make the following affirmative findings:~~

- ~~A. That the Use requested is among those listed as an eligible Conditional Use in the District in which the subject property is located or is to be located. The authorization of a Conditional Use Permit for any use which is permitted only as a Special Use in the Zoning District which corresponds to the Conditional Use District shall preclude any requirement for obtaining a Special Use Permit for any such use from the Board of Adjustment.~~
- ~~B. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;~~
- ~~C. That the Conditional Use meets all required conditions and specifications; and,~~
- ~~D. That the location and character of the Conditional Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the County and environs.~~

~~In granting a Conditional Use Permit, the Board of Commissioners 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 of Commissioners shall authorize the issuance of the Conditional Use Permit, otherwise the Permit shall be denied.~~

~~Any Conditional Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently changed or amended by the Board of Commissioners, as provided for in this Article.~~

~~The Board of Commissioners may change or amend any Conditional Use Permit, after a public hearing upon recommendation by the Planning Board and subject to the same consideration as provided for in this section for the original issuance of a Conditional Use Permit. However, the Planning Director may approve minor changes in detail which:~~

- ~~A. Will not alter the basic intent of the approved plan, and~~
- ~~B. Will not alter the uses permitted, and~~
- ~~C. Will not increase the density or intensity of a development more than ten (10) percent or ten thousand (10,000) square feet, whichever is less.~~

~~No proposal to amend or change any Conditional 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.~~

**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 district regulations. In addition, circumstances arise when a general 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. A conditional zoning district is not intended for securing speculative zoning for a proposal but rather is based on a firm development proposal.

**B. Application**

Except as herein provided, petitions to establish a conditional zoning district must be submitted and will be processed in accordance with the provisions in this Article. Applications shall be submitted on a form provided by Iredell County.

**C. Contents of Application**

All applications must 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. The applicant shall, at a minimum, include each of the items listed below, in addition to the items required in Section 17.2 as amended, and any other applicable sections of this Article. The site plan, including the information detailed below shall constitute part of the petition for rezoning to a conditional zoning district:

1. A vicinity map showing the property's general location in relation to major streets, railroads, and waterways.
2. A drawing of the parcel, including the parcel identification number. 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.
3. All existing easements, reservations, and rights-of-way on the property(ies) in question.
4. Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps for Iredell County and delineation of watershed boundaries labeled with their respective classifications and impervious calculations.
5. For residential uses, the number of units and a general outline of the area where the structures will be located. For nonresidential uses, the approximate square footage of all structures and an outline of the area where the structure will be located.
6. Traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space dimensions and locations along with typical street cross sections. This shall include all existing and proposed points of access to public streets.

7. All proposed setbacks, buffers, screening and landscaping required by this Article and proposed by the petitioner.
8. Generalized information on the number, height, size, and location of structures.
9. The proposed phasing of the project.
10. The proposed number, location, type and size of all signs.
11. The location and description of any outdoor lighting.

**D. Additional Information**

When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the planning director, Planning Board and/or Board of Commissioners may request additional information in addition to that required above, as they deem necessary.

**E. Public Input Meeting**

Before a public meeting may be held on a petition for a conditional zoning district, the applicant must file a written report detailing at least one (1) community meeting held by the applicant. The community meeting shall be held prior to any recommendation by the Planning staff and prior to the Planning Board's consideration of the request. The following procedures must be met:

1. Based on the perceived impact of the proposal, the affected property owners will be notified by the applicant. Such notice shall be mailed to said property owners not less than ten (10) days prior to the date of the public input meeting and a certification of this mailing shall be submitted as part of the required report. The notice shall contain information regarding the time and location of the public input meeting as well as a description of the proposal.
2. The report shall include, among other things, a listing of the following:
  - a. those persons and organizations contacted about the meeting,
  - b. the manner and date, time and location of the meeting,
  - c. a roster of persons in attendance at the meeting,
  - d. a summary of issues discussed at the meeting, and
  - e. a description of any changes to the rezoning petition as a result of the meeting.

**F. Review**

In evaluating an application for the establishment of a conditional zoning district, it is appropriate for the planning board and board of commissioners to consider the following:

1. Adherence to the general policies and objectives of the adopted land use plan, particularly in relation to the proposed site and surrounding area;
2. The potential impacts on the surrounding area, including but not limited to the absolute certainty the specific use(s), traffic, erosion, land values and the compatibility of land use activities.

3. Spot zoning

- a. Size of tract;
- b. Compatibility with adopted plan;
- c. Public benefits and detriments of proposed rezoning; and
- d. The relationship between proposed use and current use of adjacent properties.

G. Conditions of Approval of Petition

In approving a petition for the reclassification of a piece of property to a conditional zoning district, the planning board may recommend and the board of commissioners may of its own accord require that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall be limited to those that address the conformance of the development plan and use of the site to county ordinances and adopted land development plans. Conditions should address the impacts reasonably expected to be generated by the development or use of the site.

The petitioner shall have a reasonable opportunity to consider and respond to any proposed conditions prior to final action by the board of commissioners. Only those conditions mutually agreed upon by board of commissioners and the applicant, with input from the public, may be incorporated into the conditional zoning district.

H. 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.

I. Zoning Map Designation

Following approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation followed by the letters "CD" and the case number.

J. 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 more than 10%; or
    - ii. Number of dwelling or lodging units by over 10%; 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 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 10% or more decrease in the amount or location of open space, recreation facilities, or landscape screening.
  - 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.

**K. 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 no more than 10% or 1,000 square feet, whichever is less;
4. Any change(s) that increases the density of residential development by no more than 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 and shall be processed in accordance with Section 17.2 of this Article.

**L. Review of Approval of a Conditional Zoning District**

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than eighteen (18) months after the date of approval of the petition, the planning director shall examine the progress made toward developing the property in accordance with the approval petition and any conditions attached to the approval. If the planning

**director determines that progress has not been made in accordance with the approved petition and conditions, the planning director shall forward to the board of commissioners a report which may recommend that the property revert back to the previous zoning classification in accordance with the procedure set out in Section 17.2, as the same may from time to time be amended.**

*Section 17.6 Maximum Number of Applications*

In the case where a petition for a change in zoning classification has been denied by the Board of Commissioners after a public hearing, no new petition for the same change of the same property or any part thereof shall be filed within a period of twenty-four (24) months from the date of such decision by the Commissioners; further, no new petition for any other change in the zoning classification of the same property or any part thereof shall be filed within a period of twelve (12) months from the date of such decision by the Commissioners.

In any case where a petition for a change in zoning classification receives an unfavorable recommendation from the Iredell County Planning Board after a public meeting and the petitioner withdraws his application, no new petition for any change in zoning classification of the same property or any part thereof shall be filed within a period of one hundred eighty (180) days immediately following the withdrawal of the petition. **However, if in the opinion of the Board of Commissioners, significant changes are made to the facts concerning the request, or specific changes are proposed to meet any concerns or questions posed by the Planning Board, the application may be re-submitted to the Planning Board for their consideration within that time.**

Failure of the Board of Commissioners to set a public hearing on a rezoning proposal shall constitute denial of the request.

In no case shall fees charged to submit a rezoning application be refunded.

Nothing in this Section is intended to prevent the submittal of a second application for the same property or any part thereof in any case where the first application is either withdrawn by the applicant prior to action by the Planning Board or action by the Planning Board is continued on the first application, provided that the second application is for a Conditional **Use Zoning** District(s).

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ARTICLE V. ESTABLISHMENT OF ZONING DISTRICTS

Section 5.1 Conditional Use Zoning Districts

There is also established a Conditional **Use Zoning** District (CUD) which corresponds to each of the districts authorized by this ordinance as follows:

- RA-CUD
- RU-R-CUD
- R-R-CUD
- R-20-CUD
- R-12-CUD
- R-8-CUD
- R-8A-CUD
- R-O-CUD
- O-I-CUD
- N-B-CUD
- H-B-CUD
- S-C-CUD
- C-B-CUD
- G-B-CUD
- M-1-CUD
- M-2-CUD

It is recognized that certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional **Use Zoning** District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Ordinance. The Conditional **Use Zoning** District classification will be considered for rezoning only upon request of a property owner **or authorized agent**. ~~If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such Conditional Use Permit shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.~~

Within a CUD, only those uses authorized as permitted ~~or conditional~~ uses in the zoning district with which the CUD corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards. ~~In addition, within a CUD no use shall be permitted except pursuant to a Conditional Use~~

~~Permit authorized by the Board of Commissioners, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights of way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include architectural review or controls or other conditions not generally a part of land development controls. In granting a Conditional Use Permit the Board of Commissioners may impose such additional reasonable and appropriate safeguards 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. **All Conditional Use Districts approved prior to January 15, 2008 shall hereby be replaced by a comparable Conditional District. For instance, a pre-existing GB-CUD designation will be changed to a GB-CD designation, including any associated conditions. All conditions and approvals shall continue to apply; however, changes to that district shall be handled through the conditional district process. Nothing in this section should be interpreted to invalidate any CUD which was legally adopted.**~~

*Section 5.2 Roadway Protection Overlay District (RPO)*

The Primary Use and Conditional Use **Zoning** Districts established above may also be zoned Roadway Protection Overlay District as designated herein and as shown on the Official Zoning Map. In such case, the land is subject to not only the requirements of the underlying Primary Use or Conditional Use **Zoning** District but also the additional requirements of the Overlay District.

ARTICLE VI. SCHEDULE OF DISTRICT REGULATIONS

*Section 6.1 R-A Residential Agricultural District*

- A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

*Section 6.2 RU-R Rural Residential District*

- A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

*Section 6.3 R-R Resort Residential District*

- A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

*Section 6.4 R-20 Single-Family District*

- A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

*Section 6.5 R-12 Single-Family District*

- A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

*Section 6.6 R-8 Two-Family Residential District*

- A. **Uses.** See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

*Section 6.7 R-8A Multi-Family Residential District*

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.8 R-O Residential-Office District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.9 O-I Office-Institutional District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.10 N-B Neighborhood Business District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.11 H-B Highway Business District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.12 S-C Shopping Center District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.13 C-B Community Business District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.14 G-B General Business District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.15 M-1 Light Manufacturing District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.16 M-2 Heavy Manufacturing District

A. Uses. See Article VIII entitled Table of Permitted Uses, ~~Conditional Uses~~ and Special Exceptions.

Section 6.17 Conditional Use **Zoning** Districts

**Requirements within a Conditional Use **Zoning** District.** Only those uses authorized as permitted uses, ~~conditional uses~~, or special exceptions, in the zoning district with which the CUD corresponds shall be eligible to be permitted, and all other requirements of the corresponding district shall be met as minimum standards. ~~In addition, within a CUD no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Board of Commissioners, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of right-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include architectural review or controls or other conditions not generally a part of land development controls. In granting a Conditional Use Permit the Board of Commissioners may impose~~

~~such additional reasonable and appropriate safeguards 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.~~

Section 6.18.1 Roadway Protection Overlay District (RPO)

E. Ingress and Egress Points.

1. On any lot in any planned multi-tenant development which contains more than one lot, no two points of ingress and egress (as measured at their closest distance) shall be closer than three-hundred (300) feet apart. No more than two (2) separate points of ingress and egress per lot or within a planned multi-tenant development shall be allowed per road front, except where included as a condition for a use ~~which requires a conditional use permit~~ located on a lot containing five (5) or more acres. Any use engaged in the sale of automobile fuels to the public and having more than three (3) fuel stations shall be allowed to have no more than one additional point of ingress and egress per road front provided that said point of ingress and egress is located no closer than forty (40) feet from any other such access point.

Section 6.18.2 Roadway Protection Overlay District Two (RPO2)

E. Ingress and Egress Points.

1. On any lot in any planned multi-tenant development which contains more than one lot, no two points of ingress and egress (as measured at their closest distance) shall be closer than three-hundred (300) feet apart. No more than two (2) separate points of ingress and egress per lot or within a planned multi-tenant development shall be allowed per road front, except where included as a condition for a use ~~which requires a conditional use permit~~ located on a lot containing five (5) or more acres. Any use engaged in the sale of automobile fuels to the public and having more than three (3) fuel stations shall be allowed to have no more than one additional point of ingress and egress per road front provided that said point of ingress and egress is located no closer than forty (40) feet from any other such access point.

ARTICLE VIII. TABLE OF PERMITTED USES AND SPECIAL USES

Section 8.2 Meaning of Entries

The meaning of the entries in the Table are as follows:

1. "X" indicates the use is permitted by right and a zoning permit may be obtained.
2. "S" indicates the use requires approval of a Special Use Permit in accordance with the procedures of Section 16.4.

The column on the far right, labeled "SR" (Special Requirements) means that there are special additional performance requirements that the use must comply with in its development. These requirements are contained in Article IX, "Special Requirements to the Table of Permitted and Special Uses." For any use subject to a Special Requirement, the Special Requirement shall represent the minimum conditions for issuance of ~~a Conditional Use Permit or~~ a Special Use Permit.

ARTICLE IX. SPECIAL REQUIREMENT NOTES TO  
THE TABLE OF PERMITTED AND SPECIAL USES

SR 13. Planned Unit Development (PUD)

- A. PUD's shall be permitted only when requested as a Conditional ~~Use and accompanied by a rezoning request~~ **Zoning District** to one or more of the following Zoning Districts: ~~CU-R-A; CU-RU-R; CU-R-R; CU-R-20; CU-R-12; CU-R-8; and CU-R-8A~~ **RA-CD, RU-R-CD, RR-CD, R-20-CD, R-12-CD, R-8-CD, AND R-8A-CD.**
- B. Application for PUD shall be approved only if the following findings are made:
1. That application of planned unit development requirements to the property will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
  2. That application of planned unit development requirements to the property will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
  3. That application of planned unit development requirements to the property will produce a development functioning as a cohesive, unified project; and
  4. That application of planned unit development requirements to the property will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the County.
- C. An approved PUD ~~Conditional Use Permit~~ and the approved verified development plan shall govern all uses and development activities in a PUD.
- D. Except as otherwise provided by this SR, a PUD shall be subject to all the applicable standards, procedures and regulations of the other parts of this ordinance.
- E. Minimum Size: No PUD shall be approved for a site of less than that fifteen (15) acres. The site must be contiguous property under unified ownership or control.
- F. USES: Uses permitted in a PUD shall be in accordance with the following schedule, provided, that uses to be in a PUD shall be stated in the conditional use permit.

Districts	Uses
All	1) All uses permitted in the corresponding Principal District 2) In PUDS of 25 acres or more, all uses permitted in the S-C and O&I Districts.

- G. Limitations on Uses: In a PUD that qualifies for such uses by size, O&I and S-C uses shall not exceed ten percent (10%) of the total land area and at no time shall the cumulative amount of land development for O&I and/or S-C purposes exceed the cumulative amount of land development for residential purposes.

H. Development Standards: Development in a PUD shall be exempt from the minimum required lot width, front yard, side yard and rear yard requirements of the Schedule of District Regulations and from Section 3.1 and 3.2 relating to relationship of buildings to lots and access to streets provided that the following development standards are followed. The overall residential density limitation and residential building types of the corresponding principal district shall apply in a PUD provided that a density bonus which may involve a different residential development type may be permitted during the PUD approval process as provided for herein.

1. Lot size: The exemption from the Schedule of District Regulation provisions shall not apply in the following situations:

No lot for a single family detached dwelling shall be less than the minimum lot size for a single-family dwelling in the zoning district in which the PUD is located. Cluster developments and single-family semi-detached developments are permitted subject to the Special Requirements for such developments. Where the zoning district permits two-family and multi-family developments such uses are permitted subject to the Special Requirements for such developments.

2. Vehicle Access:

- a. Areas between structures shall be covered by easements where necessary for access and to provide for maintenance and utility service.
- b. Primary vehicular access to office or commercial development shall not be through intervening residential development.
- c. Local streets shall be located and designed so that they do not encourage through access by traffic with origins and destinations out side of the development.

3. Pedestrian Access: PUD's shall be designed and developed and uses so arranged to promote pedestrian access within the development.

4. Non-Residential Areas: Non-Residential areas in PUD's shall be designed and located to principally serve the residents of the PUD and the immediate surrounding area.

5. Boundary Treatment: The scale and setbacks of development in a PUD within one-hundred and fifty (150) feet of the perimeter of the PUD shall be in harmony with development on adjacent lands.

6. Environmentally Sensitive Areas: One of the principal purposes of the PUD procedure is to protect environmentally sensitive areas through the use of innovative arrangement of buildings and spaces. It is the intent of the PUD process that significant consideration in planning and design of PUD's shall be given to the following elements such as but not limited to:

- a. Floodway and floodway fringe areas
- b. Steep slopes and knolls
- c. Wetlands
- d. Water supply watersheds
- e. Rock outcrops
- f. Soil erosion and storm water management
- g. Tree and foliage preservation

- h. Habitat for threatened or endangered species
- i. Areas of historical, archaeological or architectural significance.
- j. Useable open space; recreation area

In any case where the Board of Commissioners finds in its opinion that the PUD provides for significant protection or enhancement of any one or more of the above elements, or a similar element as determined by the Board of Commissioners, the Board may award a bonus of up to ten (10) percent increase in residential dwelling units for a PUD and may permit such additional dwelling units to be of a development type not otherwise permitted in the PUD. The determination by the Board of the significant protection or enhancement of a particular element shall be based upon a comparison between the type of development that could be placed on the property under the current zoning and other regulations and the proposed development scheme for the PUD.

- 7. Unified Development Plan: The application for a PUD ~~Conditional Use Permit~~ as part of a **rezoning to a Conditional Zoning District Use rezoning** shall be accompanied by a unified development plan in the form of a site specific development plan (See Article XVII).
- 8. Phased Development: A PUD may be developed in phases in the same manner as a subdivision and subject to the phasing requirement for subdivisions.

SR 46. *Septage or Residential Sludge Disposal Sites*

- F. Site plans must have been approved by NCDEHNR when submitting application for ~~conditional~~ **special** use permit.

ARTICLE XIV. SITE PLAN REQUIREMENTS

Section 14.0 *General*

- N. A description of any conditions placed on the property/project in conjunction with the approval of a special use ~~or conditional use~~ permit.

ARTICLE XV. ADMINISTRATION

Section 15.2 *Zoning Permit With Vested Rights*

- 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 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. If 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 Subsection 4 below.

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.

~~If the use or development for which the site specific development plan is submitted is a conditional use, the Board of Commissioners may approve the site specific development plan simultaneously with the approval of the conditional use permit. In no case, however, may a site specific development plan be approved for a use or development which requires the issuance of a conditional use permit without the conditional use permit having first been issued.~~

#### ARTICLE XVIII. GENERAL LEGAL PROVISIONS; PENALTY FOR VIOLATION

Section 18.2 ~~Effects Upon Outstanding Building Permits; Conditional/Special Use Permits;~~  
Zoning Permits With Vested Rights; And Existing Planned Residential Districts (PRD)

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under the outstanding permit within a period of one hundred eighty (180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any Zoning Permit which has been granted prior to the adoption of this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the issuance of such permit and provided that such Building Permit is prosecuted to completion as provided for above.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any ~~Conditional or~~ Special Use Permit which has been granted prior to the adoption of this Ordinance and which ~~Conditional or~~ Special Use is no longer carried forth on this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the approval of such Permit and provided that such Building Permit is prosecuted to completion as provided for above. Such valid ~~Conditional or~~ Special Uses including those already existing for non- continued uses may be constructed, continued and reconstructed the same as any permitted use subject to such use limitations and other conditions as provided for in the original issuance of the ~~Conditional or~~ Special Use Permit. Any such ~~Conditional or~~ Special Use that is changed to any permitted use for any period of time shall not be permitted to resume the ~~Conditional or~~ Special Use.

Nothing herein contained shall require any change in any zoning vested right which has been established prior to the adoption of this ordinance during its vested rights period except to the extent permitted at the time of the approval of the site specific development plan and consistent with G.S. 153A-344.1.

Nothing herein contained shall require any change in the use for Planned Residential Development of any land that was zoned as Planned Residential District (PRD) prior to the adoption of this Ordinance. Although the adoption of this Ordinance does not carry forth the PRD as a Zoning District, it is the intent of this Ordinance that any land so zoned may be used for Planned Residential Development provided such development is in conformance with the requirements of the PRD as it existed in the Ordinance repealed by the adoption of this Ordinance and provided the land is not rezoned to another zoning district. If any land zoned PRD is rezoned to another zoning district then the land shall be accorded such development rights as are provided for in this Ordinance in such situations.

## ARTICLE XIX. DEFINITIONS

### A. General Definitions

~~**Conditional Use.** A use of land permitted in a Conditional Use District upon approval by the Board of Commissioners as part of the Conditional Use rezoning process.~~

Public Hearing. A duly advertised meeting called by the County Commissioners for the purpose of taking formal public comment, both in favor and opposition to a proposed action.

Public Meeting. An informal meeting to obtain comments from the public prior to the local government's decision on a proposed action. The proceedings may be recorded and a recommendation may be included.

Ms. Harper stated that at the last meeting we discussed this proposed amendment in depth. She stated that the staff had made the suggested changes and Ron Smith conferred with Bill Pope about the proposal. Ms. Harper stated that Mr. Pope did not see any problems and was in favor of the change and was suppose to submit something in writing before the meeting but as of today, we have not received a response. Chairman Fields stated as long as Mr. Smith talked with him that was fine.

Dr. Grigg stated that it appeared that all the corrections and suggestions had been incorporated and thanked the staff for a good job on the amendment. At this time, Mr. Santoni made a motion to recommend approval of the amendment as submitted. Dr. Grigg seconded said motion and all agreed. VOTES: 10-0.

**MONTHLY COMMITTEE ASSIGNMENTS:** Dr. Grigg & Mr. Pruitt volunteered to attend the December 19<sup>th</sup> Subdivision Review Committee meeting at 10:00 a.m. in the Building Standards Center. Dr. Grigg, Mr. Pruitt, and Mr. Williams volunteered to go on the site visit for next month's request on Tuesday, December 18<sup>th</sup>.

**ADJOURNMENT:** There being no further business, Chairman Fields declared the meeting adjourned at 7:20 p.m.

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*Katrina Hewitt*  
*Administrative Asst. II*

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*Date Read and/or Approved*