TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, DECEMBER 21, 2020 – 7:00 P.M.
WEDDINGTON TOWN HALL
1924 WEDDINGTON ROAD
WEDDINGTON, NC 28104
AGENDA

1. Open the Meeting

2. Determination of Quorum

3. Approval of Minutes
   A. November 23, 2020 Regular Planning Board Meeting Minutes
   B. November 24, 2020 Special Planning Board Meeting Minutes

4. Old Business

5. New Business
   A. Discussion and Recommendation of text amendment to Section 58-4 definitions, 58-58 R-CD residential conservation district and Section 58-88 Conditional Uses – Additional Review Criteria within the Town Code of Ordinances
   B. Discussion and Recommendation of rezoning request from RCD to Conditional District- Roots Farm, LLC
   C. Discussion and Review of Unified Development Ordinance Section 9-14

6. Update from Town Planner and Report from the November Town Council Meeting

7. Board member comments

8. Adjournment

**PLEASE NOTE: DUE TO THE CURRENT STATES OF EMERGENCY RELATED TO COVID-19, THE GOVERNOR'S EXECUTIVE ORDER NO. 121 PLACING LIMITS ON CERTAIN GATHERINGS AND REQUIRING CERTAIN SOCIAL DISTANCING METHODS, AND THE IMPORTANCE OF ENSURING THE SAFETY OF TOWN RESIDENTS, STAFF, AND THE PLANNING BOARD, THE MEETING WILL BE CONDUCTED VIRTUALLY AND HAVE LIMITED PHYSICAL ATTENDANCE. THE MEETING WILL BE LIVE STREAMED ON SOCIAL MEDIA.*

1. Open the Meeting

Chairman Brad Prillaman called the meeting to order at 7:01 p.m.

2. Determination of Quorum

Quorum was determined with Chairman Brad Prillaman, Vice Chairman Walt Hogan, Board members Jen Conway, Ed Goscicki, Jim Vivian present. Board member Steve Godfrey joined the meeting at 7:06 and Board member Tami Hechtel was absent.

3. Approval of Minutes – October 26, 2020 Regular Planning Board Meeting Minutes

Motion: Vice Chairman Hogan made a motion to approve the October 26, 2020 Regular Planning Board Meeting minutes.
Second: Board member Goscicki
Vote: The motion passed with a unanimous roll call vote.

4. Public Hearing for the Consideration of a Temporary Use Permit Application by Christ South to host a Live Production of the Christmas Carol at 323 Reid Dairy Road on December 12, 13, 19, and 20.

Chairman Prillaman opened the public hearing. There were no public comments. Ms. Thompson presented the staff report: Mr. Jeff Taylor submitted an application for a Temporary Use Permit for a Christmas performance. The proposed event will be located at Christ South located at 323 Reid Dairy Rd. on December 12, 13, 19, and 20. The event will be from 12-7 p.m., including setup and tear down. The performances will be no longer than an hour and a half. There are no proposed temporary structures. The attendance is limited to 50 persons per performance. The existing buildings will be used for restrooms. In accordance with the provisions of *Article I, Section 58-13* of the *Weddington Zoning Ordinance*, the property owners and the owners of the parcels of land within 200 feet of the property involved in the Temporary Use Application have been sent notification of the public hearing.

Chairman Prillaman asked about amplification. The applicant responded that there were limited microphones and this production would be more like a reader's theater. Chairman Prillaman asked about COVID protocols. The applicant responded that attendance would be capped at 50 attendees and the audience would be spaced out.
Before issuing any temporary use permit, the planning board shall make the following determinations:

- *That the proposed temporary use will not materially endanger the public health, welfare and safety*; The planning board unanimously agreed that as this temporary use was planned for outside and includes social distancing measures, it will not materially endanger the public health, welfare, and safety.

- *That the proposed temporary use will not have a substantial negative effect on adjoining properties*; The planning board unanimously agreed that as this temporary use will only run during daylight hours with limited sound projection, it will not have a substantial negative effect on adjoining properties.
- *That the proposed temporary use is in harmony with the general purpose and intent of this chapter and preserves its spirit*; The planning board unanimously agreed that this temporary use is in harmony with the general purpose and intent of this chapter and preserves its spirit.
- *The proposed temporary use is held no more than four times per year at any particular location.* The planning board agreed that this temporary use is held no more than four times per year.

Chairman Prillaman called for a Special Meeting to be held on November 24, 2020 at 6:30 p.m. via ZOOM to consider the temporary use permit application from Christ South to host a live production of the Christmas Carol at 305 Reid Dairy Road.

5. Old Business

6. New Business

A. Discussion and Consideration of Minor Subdivision for the Mary M. Morris, Heirs Property

Ms. Thompson presented the staff report: The applicant, Daryll Matthews is seeking minor subdivision approval for property located at 201 S. Providence Road (parcel 06150077D). It is a total of 24.01 acres and is zoned RCD Residential Conservation District. The resultant lot is 5 acres, leaving a residual property of 19.10 acres. The lot meets the minimum lot size requirement, the minimum front, side, and rear yard setbacks and is at least 120' wide at the established front setback. The proposed minor subdivision is in general conformity with the Town of Weddington Zoning and Subdivision Ordinances; therefore, staff recommends approval.

Motion:	Board member Goscicki made a motion to approve the minor subdivision for the Mary M. Morris, Heirs Property
Second:	Vice Chairman Hogan
Vote:	The motion passed with a unanimous roll call vote.

B. Discussion and Recommendation of Preliminary Plat for Cardinal Row (formerly Woodford Chase)

Ms. Thompson presented the staff report: Mr. Scott Swierski submitted a preliminary plat and construction plans for a 9-lot subdivision on 13.32 acres located near the southwest corner of Highway 84 and Lester Davis Road. A preliminary plat for a 9-lot subdivision was approved in June 2018. A preliminary plat is void two years after the approval date if a final plat is not submitted. The owner at the time had a buyer that wanted to purchase 3 larger lots so a final plat for 3 lots was approved by Planning Board. The new applicant would like to go back to the original approved 9-lot development. During the preliminary plat review, the Planning Board raised a few concerns and recommended denial. Concerns included the cul-de-sac length, needing a bulb end to the cul-de-sac for a turn-around, availability of other roadway alternatives, minimal front yards after widening Highway 84, and no buffering.

The applicant improved the plans to address the Planning Board concerns prior to Town Council consideration. They provided a bulb turn-around. They established a new front yard setback beyond the 50' requirement to create a viewshed buffer and added a 30' non-disturbed area. They also included a right-turn lane as requested by the Town Council. Since then, the town amended the cul-de-sac length requirement to 16 home sites or 1200' whichever is less.

The following conditions were added to the approval from 2018:

- The driveway pipe for lot 8 is a built to NCDOT specifications,
- The maintenance for the pipe shall be included in the HOA documents,
- Maintenance of the shared driveway is included in the HOA documents,
- All maintenance documents and CCRs are reviewed by the town attorney, and
- A fire hydrant shall be added near lot 8 if necessary.

The preliminary plat has not changed from the original approval therefore staff recommends approval of the Cardinal Row major subdivision with the same conditions bulleted above.
Chairman Prillaman pointed out a conflict in the notes on the plans: #9-maintenance of the driveway pipe on lot 8 would be the responsibility of the property owner.
Board member Goscicki asked if this would be on Union County Sewer and Water. Ms. Thompson replied that it is. Ms. Thompson stated that the fire hydrant placement will be reviewed by Chief McClendon.
Planning Board agreed that this is not a favorite project of theirs, but it meet the town requirements.
Board member Goscicki asked how the widening of 84 would overlay on this project. Ms. Thompson showed a plan overlaying the improvements for the Highway 84 widening.
Vice Chairman Hogan asked if the developer has contacted the surrounding property owners. Ms. Thompson responded that there was no requirement for new notices.

Motion: Vice Chairman Hogan made a motion to forward the preliminary plat for Cardinal Row to the Town Council with a recommendation for approval.
Second: Board member Goscicki
Vote: The motion passed with a unanimous roll call vote

C. Discussion and Recommendation for a text amendment to Section 46-79 Connection to Public Water Lines

Ms. Thompson presented the staff report: Chief McClendon requested that staff looking to this text amendment. The fire department is having issues with water accessibility when a fire hydrant is only available on the opposite side of a street of a development causing them to have to shut the entire road down. This text amendment requires a hydrant to be placed on the same side of a development and within 500' of a principal structure. Board member Goscicki stated that this presumes that water will be extended into a development. He also added that the language should include that the hydrant be placed on the same side of a development, within 500' of a principal structure within the particular development.
Ms. Thompson explained that this will be sent to the Council in December to call for a public hearing in January.

Motion: Board member Goscicki made a motion to forward the text amendment to Section 46-79 Connection to Public Water Lines to the Town Council, including the

phrase "within a particular development", with a favorable recommendation to Town Council.

Second: Vice Chairman Hogan

Vote: The motion passed with a unanimous roll call vote.

D. Review of Unified Development Ordinance Sections 8 and 9

Town attorney, Kevin Bringewatt, reviewed Section 8 of the Unified Development Ordinance. Section 8 includes Subdivision Regulations, defined in section 802A as the division of tracts or parcels, not residential developments.

- Section 801-authority statement
- 802 – Applicability. Follows state statute. Defines subdivision.
- 803 – review process, filing, and recording. Procedures to be followed in approval or denial. Minor subdivision-2 step process with administrative review and approval. Major subdivision-conditional zoning-a 3 step process with planning board recommendation and council approval. Conservation subdivision- 5 step process including required pre application meeting, site walk. Site specific development plan include planning board and council review and approval. The final plat is administratively approved. The planning board agreed that this section is laid out nicely and they like including the charette in the process. They discussed the number of lots for a minor subdivision. The original consensus was 8 or less would be a minor subdivision and 9 or more would be defined as a major subdivision. Board member Goscicki asked if there was any concern with coordinating the definitions with adjacent jurisdictions. Ms. Thompson stated that she can provide a list of how the neighboring municipalities define minor and major subdivisions. Most are between 8 and 10 lots. The planning board continued discussion of minor subdivision definitions and agreed that 6 lots and less would be their recommendation. Ms. Thompson reminded the board that all new major subdivision would be reviewed as though conditional zoning process.
- 804 – Contents and requirements of regulations. Here is where the bonds and maintenance agreements would be.
- 805-Notice of new fees and increases-follows the state statute
- 806-recording plats-follows the state statute
- 807 – penalties – state statute language
- 808 – appeals – state statute language

Article 9: Mr. Bringewatt explained that there was some difficulty in organizing the flow of this section. It will be divided into sections not tracked to the state statute as tightly. He will reference the state statutes where he can and not copy all of it. Planning Board reviewed the Table of Contents and agreed with it as follows:

Part 1: Particular Land Uses-list of uses and their regulations
Part 2: Environmental Regulations-Erosion Control
Part 3: Wireless Telecom Facilities
Part 4: Historic Preservation
Part 5: Community Appearance Commission
Additional Supplemental Regulations for Particular Uses.

They agreed to delete process on planned residential development as an applicant should request private roads and/or gates through the conditional rezoning process when they apply for the development approval The supplemental standards can pick up the gate standard and community design standards. Mr. Bringewatt reviewed uses by right and some that have Additional review

standards required-. - The Board agreed to remove the Bio-solid waste Section as it is regulated by the State and consider standards to outlaw the application within a specific distance of residential area. Mr. Bringewatt will look into deleting the entire section and replace with reference to the state statute with size and distance requirements – easy for staff to measure. Under the Environmental section of 160D we can-add the technical stuff as appendix to UDO. Like the erosion control flood plain and stormwater regulations. For December, the board will continue to review article 9. Mr. Bringewatt will present the revised document with the new Table of Contents structure.

7. Update from Town Planner and Report from the November Town Council Meeting

Ms. Thompson presented the update: Council will be holding the public hearing for the annexation agreement with Marvin. Staff received a sketch plan for a 10-lot subdivision off Old Mill Road for conventional lots. Public Involvement Meetings for Roots Farm will be held on Monday, December 7, 1 to 3 on site and 5 to 7 over Zoom. The application will come to the Planning Board at the December meeting. The plans are online. Ms. Thompson will review the text amendment and other details with the planning board.

8. Board member comments

Chairman Prillaman stated that Board member Tami Hechtel is moving tonight and this was to be her last meeting. We hope she can come to December's meeting.

Vice Chairman Hogan wished everybody a Happy Thanksgiving.
Board member Goscicki wished the same to everybody.

9. Adjournment

Motion: Vice Chairman Hogan made a motion to adjourn the November 23, 2020 Regular Planning Board Meeting at 8:31 p.m.
Second: Board member Vivian
Vote: The motion passed with a unanimous roll call vote.

Approved: _____

_____
Brad Prillaman, Chairman

_____
Karen Dewey, Town Clerk

TOWN OF WEDDINGTON
PLANNING BOARD SPECIAL MEETING
NOVEMBER 24, 2020 6:30 P.M.
ZOOM
MINUTES

1. CALL TO ORDER

Chairman Prillaman called the meeting to order at 6:33 p.m.

2. QUORUM

Quorum was determined with Chairman Brad Prillaman, Vice Chairman Walt Hogan, Board members Jim Vivian and Ed Goscicki present.
Staff present Karen Dewey, Town Clerk

3. CONSIDERATION OF TEMPORARY USE PERMIT APPLICATION FROM CHRIST SOUTH TO HOST A LIVE PRODUCTION OF A CHRISTMAS CAROL AT 305 REID DAIRY ROAD ON DECEMBER 12, 13, 19, AND 20

There were no public comments submitted by email.

Motion:	Vice Chairman Hogan made a motion to approve the Temporary Use Permit Application for Christ South to host a live production of A Christmas Carol at 305 Reid Dairy Road on December 12, 13, 19, and 20.
Second:	Board member Vivian
Vote:	The motion passed with a unanimous roll call vote.

4. ADJOURNMENT

Motion:	Board member Goscicki made a motion to adjourn the November 24, 2020 Special Planning Board meeting at 6:34 p.m.
Second:	Board member Vivian
Vote:	The motion passed with a unanimous roll call vote.

Approved: _____

_____
Brad Prillaman, Chairman

_____
Karen Dewey, Town Clerk

TOWN OF
W E D D I N G T O N

MEMORANDUM

TO: Mayor and Town Council

FROM: Lisa Thompson, Town Administrator/Planner

DATE: December 21, 2020

SUBJECT: Text Amendments to Section 58-4 definitions, 58-58 R-CD residential conservation district and Section 58-88 Conditional Uses – Additional Review Criteria within the Town Code of Ordinances zoning requirements

Roots Farm LLC has applied for a text amendment to Section 58-4 definitions, 58-58 R-CD residential conservation district and Section 58-88 Conditional Uses – Additional Review Criteria within the Town Code of Ordinances zoning requirements.

The following information is in reference and order to the attached text amendment proposal.

58-4 Definitions

The towns existing definition allows Agritourism and is as follows:

> *an agricultural, horticultural or agribusiness operation primarily devoted to the promotion of tourism of said operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation; provided that said use produces revenues **or** attracts tourists.*

The applicant is proposing to further define Agribusiness which includes artisan or craftsmen shops. The definition includes parameters for artisan shops that are within Weddington's current ordinance.

The applicant is proposing a new definition of Agrihood which generally allows the use of the entire proposed development including single family homes clustered around a working farm, agritourism and agribusiness.

The definition of Agricultural uses is unchanged.

The definition of Agritourism is requested to be expanded to include recreation, entertainment, tourism activities, and facilities including temporary overnight accommodations and sit-down indoor and outdoor dining.

A new definition for Renewable energy facility is being requested to allow for the agrihood to run on renewable energy (solar).

58-58 R-CD residential conservation district

The R-CD district allows permitted uses by-right where an applicant can apply for a zoning permit and if the use is listed and meets the standards of the ordinance be approved for construction; and includes a list of conditional uses where a set of ordinance standards cannot be predetermined or controlled by general district standards so the town establishes specific development standards for these uses that allows for flexibility in development while protecting existing nearby areas.

58-58 (2) *Conditional Uses*-The proposed text is adding Agrihood, Agribusiness, Renewable energy facilities to the list of Conditional uses for the RCD zoning district. Agribusiness and Renewable energy facilities are required to be within an agrihood only (200-acre minimum).

58-58 (4) *Standards for developments located in conservation subdivisions*-Agrihoods. Standards to be added for the proposed use is summarized as follows:

- Meeting all other applicable zoning requirements including signs, screening/landscaping, noise, parking etc.
- An agrihood is a minimum of 200 acres. There is only one other property of this size in Weddington which is Hopewell Farms directly south of the proposed use.
- The maximum density is per the underlying zoning district. The applicant calculated lot size of 40,000 sq. ft. x the number of acres to get the lot yield.
- The applicant is proposing to use a floor area ratio for nonresidential density as listed in the development standards.
- A 10' separation is required between dwelling units. The town typically requires 30'.
- A 100' setback from future R/W and at least 50' from non-residential future R/W. This is similar to Weddington's RCD subdivision standards.
- Maximum building height of 50'. The town ordinance is 35'
- Allow gravel roads. The town requires roads to meet NCDOT standards.
- 70% minimum open space. The ordinance requires a maintenance plan and agreement per Weddington's existing ordinance requirements. The town currently requires 50% open space of the gross site with only 20% as unbuildable for subdivisions.
- Stormwater designed for the 10-year storm similar to the town's MX district. MX is designed for the 10-year storm while subdivisions are required to detain the 100-year storm.

Section 58-88 Conditional Uses – Additional Review Criteria

The applicant is keeping the current language and adding "agribusiness":

(11) *Agritourism and agribusiness.*

a. The proposed use should generate a commercial source of revenue other than the traditional agricultural-related revenues.
b. The application should include all agribusiness and agritourism-related activities.

And, adding:

(12) *Renewable energy facilities*
a. The proposed use must be located within and serve an approved agrihood.

Per section 58-270. The planning board shall have 30 days to review the application and to submit its recommendation to the town council. If a recommendation is not made during said time period, the application shall be forwarded to the town council without a recommendation.

A planning board member shall not vote on any text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

In addition, the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable.

The land use plan designates the site as conservation residential. The Land Use Plan states that Conservation subdivisions shall be subject to a conditional zoning permit and allow for smaller lot sizes yet retain a density of approximately one dwelling unit per 40,000 square feet.

The text amendment meets the goals of the land use plan in that it conserves 70% open space and preserves scenic views. The 70% open space limits development activities on environmentally sensitive lands. Requiring buffers minimizes the effects from surrounding properties and roadways, it only allows single-family residential keeping the character of the town; allowing the agrihood including agribusiness and agritourism retains a mix of land uses that reinforces the unique small-town character of Weddington and through the conditional zoning process it allows the town to provide varying lot sizes to accommodate a variety of age and income groups, and broader residential option, so that the community's population diversity may be enhanced. The text amendment is reasonable as it provides the ability to cluster housing around agriculture to save on the town and counties resources and keep the property from vegetative clearing. The definition for agribusiness, agritourism is related to agriculture and artisan/craftsman specialty shops in keeping with the rural character.

The Planning Board shall:
1. Adopt of the amendment as written;
2. Adopt the amendment as revised by the planning board; or
3. Reject the amendment.

EXHIBIT B

Proposed Text

Section 58-4 Definitions

Agribusiness means any commercial activity offering goods and services which support production of agricultural products or processing of those products to make them marketable, including shops for individuals normally classified as artisans or craftsmen (e.g., watch and clock makers, cabinet makers, furniture makers, glass blowers, pottery makers and similar vocations which normally require special talent or expertise) that are part of a working farm ("Artisan Shops"); provided, Artisan Shops shall not exceed 2,500 square feet, of which 500 square feet must be devoted to the sales area and the operation of the Artisan Shop shall be limited to the artisan or craftsman himself and no more than two apprentices.

Agrihood means a development designed with clustering of single-family residential, agricultural, agritourism, and agribusiness uses on a working farm within the development, with respect and sensitivity to the agricultural and the rural character of the land and adjacent farm operations and agricultural heritage.

Agricultural uses means the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including, but not limited to, forages and sod crops, dairy animals and dairy products, poultry and poultry products, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals, bees and apiary products, fur animals, trees and forest products, fruits of all kinds, including grapes, nuts and berries, vegetables, nursery, floral and ornamental products, or lands devoted to a soil conservation or forestry management program. The term "agricultural use" does not include a horse farm or academy, as herein defined, or the keeping of any nondomesticated animals. As used herein, the term "nondomesticated animals" shall mean any animal not generally associated with the practice of animal husbandry and which are a threat to humans or are commonly perceived to be a threat to humans. Examples of such animals include great cats, wolves and bears.

Agritourism means an agricultural, horticultural or agribusiness-related enterprises primarily devoted to the promotion of the enjoyment, education or active involvement by the public in the activities of the farm or operation; events and activities that allow for recreation, entertainment, a tourism associated with such enterprises; tourism activities and facilities that focus on visitation and observation of or education about natural history, indigenous ecosystems, native plant or animal species, natural scenery or other features of the natural environment of such operations; facilities established for the purpose of educating the public about agricultural activities, or the heritage and culture of agricultural activities; establishments that are part of a working farm that provides temporary overnight accommodations for individuals or groups including, but not limited to, those persons and groups engaged in supervised training or personal improvement activities, corporate retreat facilities, educational retreat facilities and working farm learning centers, or wedding, banquet, and reception activities; and restaurants located on and related to land occupied by a working farm serve food and beverages primarily to customers seated at tables or counters

located within a building or designated outdoor seating areas. Agritourism uses may be for-profit or provided free of charge to the public.

Renewable energy facility means any facilities that utilize renewable energy, including without limitation, solar energy, wind, falling water, the heat of the earth (geothermal energy systems), and plant materials (biomass). Renewable energy facilities produce power, heat or mechanical energy by converting those resources either to electricity or to motive power.

Sec. 58-58. - R-CD residential conservation district.

The R-CD residential conservation district is established to allow uses that are similar in nature to other residential (R) districts in the town. The R-CD district provides a means of protecting conservation lands, especially those areas that contain primary and secondary conservation lands. Following are the regulations for conservation subdivisions and other land uses in the R-CD district:

…

(2) Conditional uses. The following uses may be permitted by the town council in accordance with section 58-271; provided that no such uses shall be allowed within a conservation subdivision. The council shall address review criteria for each use which is contained in section 58-271. The council shall address any additional review criteria for these land uses as may be contained in section 58-88:

…

n. Agritourism.

o. Agrihood.

p. Agribusiness (only within an agrihood).

q. Renewable energy facilities.

(3) Standards for developments not located within a conservation subdivision or agrihood.

….

(5) Standards for agrihoods.

Except as provided herein, all uses and structures in the agrihood shall meet all applicable development standards established in article I, article V, article VI and article VII of this chapter, as well as the following standards:

a. Minimum area: 200 acres.

b. Maximum residential density. The maximum density for residential dwellings within an agrihood shall not exceed one (1) dwelling unit per 40,000 square feet. Single-family dwelling units are not subject to the requirements of Section 58-11.

c. Maximum floor area ratio. In agrihoods, floor area ratio shall mean the total floor area of the buildings or structures of the permitted uses, excluding agricultural uses, in square feet within an agrihood divided by the total area of the agrihood. The maximum floor area ratio for the permitted uses, excluding agricultural uses, in an agrihood shall be governed by a special condition in the conditional use zoning. Nonresidential buildings and structures within an agrihood are not subject to the requirements of Section 58-11.

d. Minimum Building Separation Requirements: Variations in the principal building position and orientation in the agrihood are encouraged, but shall, at minimum, satisfy the following minimum separation requirements: (a) 30 feet between principal nonresidential buildings and structures and (b) 10 feet between dwelling units.

Notwithstanding the provisions of this subsection, all dwelling units shall be set back at least 100 feet from all external road rights-of-way (i.e., rights-of-way of roads that are external to the proposed agrihood including future rights-of-way), as depicted on the most current version of the local thoroughfare plan, and from the external boundaries of the agrihood, and all dwelling units shall be located within 250 feet of permitted nonresidential uses within the agrihood.

e. Maximum building height (except as permitted in section 58-15): All buildings shall be limited to two (2) stories (excluding basement) and shall have a maximum building height of 35 feet.

f. Streets: Streets within the agrihood shall be privately owned and maintained. Agrihood private streets may include farm roads and 20-foot-wide access roads on an approved surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. Notwithstanding anything to the contrary, principal structures are not required to have frontage on a public street, but shall have unobstructed ingress, egress, and regress access to a public street.

g. Minimum Open Space: 70%. No use or development shall be allowed on the required open space except as follows:

i. Conservation of open land in its natural state (for example, forestlands, fields or meadows).

ii. Pastureland.

iii. Forestry, in keeping with established best management practices for selective harvesting and sustained-yield forestry.

iv. Agricultural uses.

v. Renewable energy facilities.

vi. Neighborhood uses such as village greens, commons, picnic areas, community gardens, trails and similar low-impact, passive recreational uses.

vii. Noncommercial recreational areas, such as playing fields, playgrounds, courts and bikeways, provided such areas do not consume more than half of the minimum required open space

or five acres, whichever is less. For the avoidance of doubt, the required open space will not be used to host any organized sports or health/sports clubs' fields or tournaments.

viii. Water supply and sewage disposal systems and stormwater detention areas designed, landscaped and available for use as an integral part of the open space area and related easement areas.

ix. Underground utility rights-of-way. Above ground utility and street rights-of-way may traverse required open space lands but street rights-of-way shall not count toward the minimum required open space. Fifty percent (50%) percent of the utility rights-of-way may be counted toward the minimum required open space.

The required open space for agrihoods shall be subject to a deed restriction, conservation easement, or other recorded instrument that will be held by the property owner of the open space. The applicant for all agrihoods must submit a maintenance agreement that obligates the property owner of the open space to implement a maintenance plan in accordance with the following requirements: (1) the maintenance plan shall specify ownership of required open space; (2) the maintenance plan shall establish a regular operation and maintenance program appropriate to the uses to be undertaken on the subject open space; (3) the maintenance plan shall specify required insurance and all maintenance and operating costs, and shall define the means for funding the maintenance plan on an on-going basis including funding for long-term capital improvements as well as regular yearly operating and maintenance costs; (4) any material changes to the maintenance plan shall be approved by the town council; and (5) the property owner of the open space and, if utilized, any other maintaining party by agreement, shall execute a release and indemnity of the town, in a form satisfactory to the town, for any claims or damages arising from the maintenance agreement and maintenance plan or performance thereof.

h. Maximum Built-Upon Area: 25%, as defined pursuant to Section 58-547.

i. Landscaping, screening and buffers: Landscaping, screening and buffers shall meet or exceed the minimum standards as provided per Section 58-8.

j. Noise. Agribusiness and agritourism uses shall not produce levels of noise or electronically amplified sound that is audible at levels greater than 60 db beyond the boundary of the agrihood and no electronically amplified sound shall be audible beyond the agrihood boundary between the hours of 10:00 p.m. and 9:00 a.m.

k. Stormwater management: The postdevelopment rate of stormwater runoff from the agrihood, including any non-town jurisdictional areas of the agrihood, shall not exceed the predevelopment rate of runoff for a 10-year storm. The applicant shall provide, at a minimum, the following information to the zoning administrator as part of his application to obtain a zoning permit:

a. An engineering report made and certified as true and correct by a registered engineer licensed to do business in the state. Such report shall include the following:

1. The routing of stormwater for the predevelopment and postdevelopment conditions of the agrihood.

2. Calculations showing the peak estimated rates of runoff using a ten-year return period for predevelopment and postdevelopment conditions, for the agrihood, including each stream leaving the proposed agrihood.

3. Calculations, plans and specifications for stormwater retention/detention facilities or other means to effect peak rate attenuation.

4. A statement indicating the rate of postdevelopment stormwater runoff for the proposed agrihood, including any non-town jurisdictional areas of the agrihood, will not be greater than the predevelopment rate for a 10-year storm.

ii. A statement from the owner acknowledging responsibility for the operation and maintenance of required retention/detention facilities, and to disclose such obligation to future owners.

Section 58-88. Conditional Uses – Additional Review Criteria

(11) *Agritourism and agribusiness.*

a. The proposed use should generate a commercial source of revenue other than the traditional agricultural-related revenues.
b. The application should include all agribusiness and agritourism-related activities.

(12) *Renewable energy facilities*.

a. The proposed use must be located within and serve an approved agrihood.

TOWN OF
W E D D I N G T O N

MEMORANDUM

TO: Mayor and Town Council

FROM: Lisa Thompson, Town Administrator/Planner

DATE: December 21, 2020

SUBJECT: Roots Farm LLC - Conditional Zoning

Roots Farm, LLC requests a conditional rezoning for an Agrihood at property located on the west side of Providence Road near Ennis Road including parcels 06153003, 06153004, 06180010, 06180010B and 06180010C. The property is currently zoned R-CD Residential Conservation District where agritourism and conservation subdivisions are permitted through conditional zoning.

The property is adjacent to the Gardens on Providence conservation subdivision in Weddington to the north, Drayton Hall an R40 subdivision in Union County to the north west, Oldenburg an R40 cluster subdivision in Union County to the west, vacant/agricultural property zoned R-40 in union county to the south and The Meadow Subdivision zoned RCD in Weddington to the east and Misty Meadows horse farm to the east.

The applicant is proposing an agrihood development that includes single family homes clustered around open space and agriculture; agribusiness and agritourism, and a renewable energy facility as newly defined in the recent text amendment application on 214 acres.

Site Plan, Elevations and Development Standards
General Information

The plan set includes Development Standards that form a part of the Rezoning Plan associated with the Rezoning Petition filed. The development shall be governed by the plan and all applicable Zoning Ordinance requirements unless identified elsewhere in the standards. The plan includes various use areas and the exact location of house sites/barn and inn can vary. This allows flexibility to place structures where they fit best around the existing tree canopy. Each structure is required to get a zoning permit so staff can ensure the placement is consistent with the zoning site plan. However, any major changes to the use areas, open space or development standards is required to go back through the conditional zoning process. In addition, they are asking for five – year vested rights. The ordinance allows 2 years with a request through rezoning for the ability to go longer. This time frame is typical for a project of this size.

The applicant does plan to phase the proposed development continuing the agricultural uses and utilities as phase 1, followed by the construction of the inn, single-family residential dwelling units

on the east side of the Agrihood, and a market barn; and then Phase II would focus on single-family residential dwelling units on the west side of the Agrihood.

Permitted Uses

The bubble diagram identifies 4 areas:

The Agricultural area is for agricultural uses, no single-family homes or any other use can be placed in these areas.

The Agrihood is limited to a density of one (1) dwelling unit per 40,000 sq. ft. This is under single ownership, so the applicant is not subdividing. The applicant is using the land use plan definition of residential conservation density which is different from how the town regulates subdivisions. These homes will be dispersed through the pod areas with a minimum of 10' separation.

The Agribusiness and Agritourism areas of the Agrihood include but are not limited to a village market/market barn, farm to table restaurant, bakery, demonstration kitchen, education center, and inn as newly defined and any other uses permitted by right or under prescribed conditions in the R-CD Zoning District. In no event shall the aggregate amount of agribusiness and agritourism uses in the Agrihood exceed a maximum of 79,000 square feet. This is less than .10 FAR which for reference Weddington's MX district allows a density of .20

The Natural Areas of the Agrihood may be devoted to any uses permitted by right in the required open spaces in the R-CD Zoning District. Trails shall be provided within the Natural Areas.

Transportation

Vehicular access includes two access points along Providence Road at Ennis Road and Victoria Lakes Drive, NCDOT will require access permits access points.

Transportation improvements will be necessary as mitigation. The applicant is responsible for improvements per a TIA which shall be approved by the Town and NCDOT.

Design Guidelines

With the project being under single ownership the applicant has the ability to provide a coordinated streetscape element, landscaping, open spaces and building materials.

Screening/Buffers. Per Weddington's ordinance all structures and facilities for parking, trash, storage, mechanical equipment, loading, and outdoor equipment shall be screened.

A 100' buffer has been provided along the property lines to adjacent neighborhoods and a 100' buffer along Providence Road has been provided adjacent to the residential portions and a 50' buffer adjacent to the non-residential areas. This buffer is measured from the future r/w for the widening of NC16. Weddington's ordinance requires a 50' buffer for residential conservation subdivisions and 100' thoroughfare buffer as a comparison.

Lighting. Outdoor lighting shall comply with Section 58.17 of the Ordinance and applicable Town lighting regulations.

Signage. Outdoor signage shall comply with Article V of the Ordinance.

The Design Review Board (Planning Board /Town Council) shall review the signage proposed on the plan.

Parking. Off-street parking shall comply with Section 58-175 of the Ordinance; provided, required parking may be on non-asphalt material.

Architectural Standards

The architectural standards are described within the development standards as agrarian or modern farmhouse. The development will be consistent with architectural shingles and metal roofs. The homes will be custom, so no two identical elevations are allowed adjacent or across the street from each other. The elevations will be required to match or be similar to what has been provided in the rezoning documents including architectural variations and front porch features.

The design review board shall review all non-residential elevations as part of the construction plan process.

Open Space

Open space is required to be 70% as an agrihood per the new definition and development standards. The required open space shall be subject to a deed restriction, conservation easement, or other recorded instrument by the applicant. In addition, they are required to record a maintenance plan and agreement in accordance with the town's ordinances.

Process

The applicant is required to hold two public involvement meetings. The first scheduled daytime meeting was cancelled due to public safety concerns and the town hall being closed. Two meetings have been held as to date of this report and one more is scheduled for 12/18/2020 on site to make up for the cancelled meeting. A separate email/report will be given for any new comments or concerns that come up during that meeting.

Questions and concerns from the 12/7 and 12/16 meetings are as follows:

- The buffer width near Drayton Hall and proximity of homes to the existing neighborhood
- Additional screening needed
- Traffic
- The size of the inn/number of rooms
- What is proposed to be in the agricultural pod 2
- Will the walking trails be open to the public?
- Market – concerns with retail
- Reasoning for rentals versus 'for sale' homes
- How do they plan to treat sewage?
- The needs for a text amendment-to allow an agrihood

- Are their plans to connect to Crane Rd?
- What is being proposed on the Union County side and is their plans to annex?
- Drainage-stormwater concerns affecting Misty meadows and Lochaven areas
- Harvesting noise
- The use for roads located within buffers
- How can the town expect to benefit from the tax structure?
- Does the plan include R/W for Providence Road widening?
- How can the open space be kept as open space in perpetuity?
- Density through subdivision process is less than what is proposed

Other questions and concerns staff or Council has received via email include the following:

- Requiring the gravel road behind Drayton hall to be used for emergency access only and/or for ag purposes only.
- Rental property brings down property values and calling it an agrihood dresses up and hides the idea of rental homes.
- This project will lead to more commercial development
- The land being developed over the past two years; like it already was approved
- Clustering accommodates the applicant by keeping infrastructure costs down
- Agriculture is exempt from the town noise ordinance- will this development have to apply to the town noise ordinance
- Will there be something more final than a bubble plan

The planning board shall have 30 days from the date that the application is presented to it to review the application and to take action. If such period expires without action taken by the planning board, the application shall then be transferred to the town council without a planning board recommendation.

A planning board member shall not vote on any conditional zoning amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

Upon making a recommendation, the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and with any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the town council that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the town council.

Staff has drafted the following statement of Land Use Plan Consistency that can be used if the Board agrees or provide its own findings if the Board disagrees with the proposed rezoning

The land use plan map depicts the project site as Conservation residential which allows alternative smaller lots to retain open space while maintaining a density of 1 dwelling unit per 40,000 square feet. The project is consistent with the land use plan in that it ensures development takes place in a manner to conserve open space and scenic views and limits development activities on

environmentally sensitive lands. It is reasonable in that it maintains the land use goals including the town's single-family character and retains a mix of land uses. The project provides goods and services to the residents of Weddington and accommodates a variety of age and income groups. The plan meets the public facilities and services goals in that it doesn't put a constraint on the public sewer or electrical system. The plan provides an amenity for the area for recreation needs of Weddington residents. The elevations meet the design goals that enhance aesthetic qualities and physical character. The agritourism and agribusiness components ensure that new commercial development is designed with pedestrian-oriented features that provide safe, attractive and convenient linkages to residential neighborhoods, wherever practical.

ROOTS FARM, LLC

REZONING PETITION NO. 2020-___

DEVELOPMENT STANDARDS

AS OF 12/16/2020

Development Data Table:

Agrihood Area:	+/- 214.40 acres
Tax Parcels:	06180010, 06180010B, 06180010C, 06153004, and 06153003
Existing Zoning:	R-CD
Proposed Zoning:	R-CD(CD)
Existing Use:	Agricultural
Proposed Uses:	Agrihood with agricultural, agribusiness, agritourism, and single-family residential uses

I. General Provisions

1. Site Location. These Development Standards form a part of the Rezoning Plan associated with the Rezoning Petition filed by Roots Farm, LLC (the "Petitioner") to accommodate an agrihood development on that approximately 214-acre site located on the western side of Providence Road, east of Crane Road, north of Victoria Lake Drive, and south of Sherringham Way, more particularly depicted on the Rezoning Plan (the "Agrihood"). The Agrihood is comprised of Tax Parcel Numbers 06180010, 06180010B, 06180010C, 06153004, and 06153003.

2. Zoning Districts/Ordinance. Development of the Agrihood will be governed by the Rezoning Plan as well as the applicable provisions of the Town of Weddington Zoning Ordinance (the "Ordinance"). Unless the Rezoning Plan establishes more stringent standards, the regulations established under the Ordinance for the R-CD zoning classification shall govern all development taking place on the Agrihood, subject to the provisions provided below.

3. Use Areas. For ease of reference and as an organizing principle associated with the Agrihood, a series of "Agricultural", "Natural Areas", "Residential", and "Agribusiness/Agritourism" use areas (the "Use Areas") are generally depicted on the Rezoning Plan. The exact boundaries of such Use Areas of the Agrihood may be modified as needed to reflect adjustments to internal streets, locations of buildings and other site elements and otherwise to fulfill the design and development intent of the Rezoning.

4. Flexibility in Placement of Development/Site Elements; Alterations/Modifications. The Use Area layout depicted on the Rezoning Plan is schematic in nature and intended to depict the possible general arrangement of permitted uses and improvements on the Agrihood. Accordingly, the ultimate layout, locations and sizes of the Agrihood elements generally depicted on the Rezoning Plan, if provided, are graphic representations of the possible proposed Agrihood and site elements. It is intended that this Rezoning Plan

provide for flexibility in ultimate layout, locations and sizes of site elements including allowing alterations or modifications to graphic representations in accordance with the requirements set forth on this Rezoning Plan, the Development Standards, and the Ordinance.

Future amendments to the Rezoning Plan and/or these Development Standards may be applied for by the then owner(s) of the Agrihood in accordance with the provisions of Section 58-271 of the Ordinance. Minor alterations to the Rezoning Plan not otherwise contemplated by this Rezoning Plan are subject to Section 58-271(k) of the Ordinance.

5. Five-Year Vested Rights. Pursuant to the provisions of Section 38.65 of the Ordinance and N.C.G.S. Section 160A-385.1, due to the master planned large scale nature of the Agrihood, the level of investment, the timing of phasing and certain infrastructure improvements, economic cycles and market conditions, this Petition includes vesting of the approved Rezoning Plan and conditional zoning districts associated with the Petition for a five (5) year period, but such provisions shall not be deemed a limitation on any other vested rights whether at common law or otherwise.

6. Phases. The current projected phasing of the proposed Agrihood is as follows: (i) Phase I would focus on (a) agricultural uses, (b) infrastructure including septic, private road network, water, and utilities to serve the Agrihood, (c) the inn, (d) single-family residential dwelling units on the east side of the Agrihood, and (e) a market barn; (ii) Phase II would focus on single-family residential dwelling units on the west side of the Agrihood; and (iii) Phase III would focus on additional single-family residential dwelling units on the west side of the Agrihood. The ultimate phasing and timeline of construction of the proposed Agrihood are subject to change.

II. Permitted Uses

1. Agricultural Areas. The Agricultural Areas of the Agrihood, and any other area within the Agrihood, may be devoted to any agricultural uses permitted by right or under prescribed conditions in the R-CD Zoning District, together with any incidental or accessory uses associated therewith.

2. Residential Areas. The Residential Areas of the Agrihood may be devoted to any residential uses permitted by right or under prescribed conditions in the R-CD Zoning District, together with any incidental or accessory uses associated therewith. The total number of single-family residential dwelling units for the entire Agrihood shall not exceed one (1) dwelling unit per 40,000 square feet of the gross acreage of the Site.

3. Agribusiness and Agritourism Areas. The Agribusiness and Agritourism Areas of the Agrihood may be devoted to agribusiness and agritourism uses permitted by right or under prescribed conditions in the R-CD Zoning District, together with any incidental or accessory uses associated therewith, including, but not limited to, an inn with up to thirty-five (35) guest rooms (keys), up to two (2) farm-to-table restaurants, village market(s), demonstration kitchen(s), Artisan Shops, bakery, visitor and educational center(s). Such agribusiness and agritourism uses may be in freestanding buildings or within a larger

building. In no event shall (i) a freestanding building with agribusiness and agritourism uses exceed 1,500 square feet and (ii) the aggregate amount of agribusiness and agritourism uses in the Agrihood exceed 79,000 square feet.

4. Natural Areas. The Natural Areas of the Agrihood may be devoted to any uses permitted by right in the required open spaces in the R-CD Zoning District. Trails shall be provided within the Natural Areas.

III. Transportation

1. Access. Vehicular access is currently provided via three (3) N.C. Department of Transportation ("NCDOT") permitted agricultural entrances off of Providence Road that will remain except as contemplated on the Rezoning Plan, but the placements and configurations of the vehicular access points and any portions of the private street network as generally shown on the Rezoning Plan, if provided, are subject to modifications associated with design development and construction plans and designs, and to any adjustments required by NCDOT for approval in accordance with customary guidelines/regulations.

2. Cul-de-sacs. Permanent dead-end streets shall not provide sole access to more than 16 dwelling units or 1,200 linear feet, whichever is less. Measurement shall be from the point where the centerline of the dead-end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac.

3. Transportation Improvements. It is understood that the below transportation improvements will be necessary as mitigation at such time as full build-out of the Agrihood is complete. It is understood that the construction of such transportation improvements may be provided in phases as certain components of the Agrihood are completed that warrant corresponding improvements. Therefore, when land development approvals are sought for any portion of the Agrhihood, the Petitioner, Weddington Zoning Administrator, and director of NCDOT shall coordinate and determine which transportation requirements shall be provided with each such phase.

   The Petitioners plan to provide or cause to be provided on its own or in cooperation with other parties who may implement portions of the improvements, the improvements set forth below to benefit the overall traffic patterns throughout the area in accordance with the following implementation provisions:

   a. [To be inserted based on TIA]

4. Alternative Improvements. Changes to the above referenced Transportation Improvements can be approved through the administrative amendment process upon the determination and mutual agreement of Petitioner, Planning Director, and as applicable, NCDOT, provided, however, the proposed alternate transportation improvements provide (in the aggregate) comparable transportation network benefits to the improvements identified in this Petition.

IV. Design Guidelines

1. Statement of Intent. It is intended to develop an agri-centric community where the residents of and visitors to the Agrihood have convenient and easy access to interconnected clustering of agricultural, agritourism, agribusiness, and residential uses in a manner that creates a unified development with generally coordinated streetscape elements, landscaping, open spaces and quality building materials and with respect and sensitivity to the agricultural and the rural character of the land and adjacent farm operations and agricultural heritage.

2. Main Entrance. The main entrance to the Agrihood shall be treated with a range of edge treatments that seek to establish a sense of entry from Providence Road.

3. Nonresidential Buildings. The building facades within the Agribusiness and Agritourism Areas that are visible at ground level to site visitors, residents and adjacent neighbors shall incorporate design details, with building articulation and quality materials.

4. Pedestrian Connectivity. The Site Plan will seek to emphasize pedestrian connections to create a strong link between the Use Areas of the Agrihood.

5. Streetscape. Streetscape treatments will define each area within the Agrihood through the use of traditional stone farm roads, paving, lighting, landscaping, and (when provided) site furnishing throughout the Agrihood. Specialty pavers, stained or patterned concrete/paving or other similar means may be used to call attention to amenity areas, gathering spaces, and parks as a method of way-finding. Within the Residential Areas, shade trees shall be planted at an average of 40-foot intervals along both sides of internal streets in areas where trees have been removed or did not previously exist. Such trees shall be capable of attaining a mature height of at least 40 feet and shall generally be of a local native species such as frequently found in the natural woodlands of the area, although other species such as sycamore and linden are also good choices.

6. Screening/Buffers. All structures and facilities for trash, storage, loading, and outdoor equipment will be screened through walls, opaque fencing and/or evergreen shrubs. All such service areas must be screened so as not to be visible from network-required streets and pedestrian circulation areas. Solid walls, if utilized, shall be faced with brick or other decorative finish with the decorative side adjacent to the public right-of-way. Fences, if utilized, shall be opaque and either painted or stained with the decorative side to the public right-of-way. Dumpster(s)/compactor and recycling locations shall be set aside even if property owner elects to use a private hauler for individual rollout cart service, the location of which to be reserved on site plan during the permitting phase of development. All renewable energy facilities shall be set back at least 100 feet from all external boundaries of the Agrihood. All mechanical equipment shall be screened from public view.

7. Providence Road View Corridor. No new structures or parking shall be permitted within fifty (50) feet of the Providence Road right-of-way.

8. Lighting. Outdoor lighting shall comply with Section 58.17 of the Ordinance and applicable Town lighting regulations.

9. Signage. Outdoor signage shall comply with Article V of the Ordinance.

10. Parking. Off-street parking shall comply with Section 58-175 of the Ordinance; provided, required parking may be on nonasphalt material. Huge expanses of asphalt are not permitted within the Agrihood; parking will be separated into sections separated by landscaping and other features.

11. Slopes. Designated Use Areas shall be designed to fit the natural topography in such areas and shall minimize development in areas containing slopes of twenty-five (25) percent.

12. Cluster Mailboxes. The cluster mailbox units for the single-family dwelling units shall be located in a market barn.

13. Land Disturbing Activity. Any land-disturbing activity subject to the control of the Ordinance shall comply with Sections 58-606 and 58-607 of the Ordinance.

V. Architectural Standards

1. Vision and Intent

The architectural vision for Roots Farm is the celebration of the Carolina's Piedmont Region's agricultural heritage. The existing farmhouse, barns, and other agricultural structures all contribute to and guide the rural character of these standards by recalling certain aspects of the traditional regional farming complex and the associated rural farming villages.

The purposes of these Architectural Standards are (a) to provide physical standards and guidelines for the building and site designs for the Agrihood that creatively pay attention to regional precedent while emphasizing health, wellbeing and learning in connection with the region's agriculture and nature; (b) to create a unified visual design throughout the Agrihood; (c) to maintain and display the spirit of the region's agricultural background; (d) to define Residential Areas, Agricultural Areas, Agribusiness and Agritourism Areas, and Natural Areas through intentional building, access road, and walking trail placement; and (e) to create interconnectivity between the different areas of the Agrihood through pedestrian connections, bringing uses, activities, farming and nature together in a meaningful manner.

2. Residential Areas.

a. *Architectural Materials*.

i. The residential dwellings constructed in the Residential Areas may use a variety of building materials. Except as expressly permitted herein, vinyl shall not be used as a building material.

ii. The building materials used for residential dwellings will be a combination of the following: (a) brick, stone or textured concrete bases; (b) brick veneer siding; (c) stone cladding siding; clapboard siding (wood and/or cementitious materials); (d) board and batten siding (wood and/or cementitious materials); (e) wood, cementitious and/or cellular PVC trim materials; and (f) metal and vinyl soffits and eves undersides.

iii. Exterior windows and glazing shall (a) be clear, low-E insulating glass units; (b) consist of aluminum painted, vinyl clad wood, or vinyl windows with traditional frames; and (c) utilize vertical/minimum two times taller than wide window units to enhance vertical scale on front/street facing elevations.

iv. The roofs of the residential dwellings shall consist of (a) prefinished seam metal roofs or architectural profile asphalt shingles; (b) prefinished metal gutters and down spouts; and (c) traditional roof appurtenances such as cupolas, lightening rods, wind vanes, diagonal braces/brackets, and exposed roofing structural members.

b. *Architectural Variation*. No two identical architectural elevations which include identical facades, roof lines, door and window placement and details, shall be built adjacent to or directly across from each other.

c. *Architectural Features*. Residential dwellings shall include the following design features:

i. Mainly two, three, and some four-bedroom single-family detached units placed in clusters to create neighborhood settings.

ii. Either one (1)-story structure with up to 14'-0" building height or a two (2)-story structure with up to 26'-0" building height, in no case shall building height exceed the maximum building height permitted under the Ordinance.

iii. Façades shall be fenestrated with traditional style vertical windows and doors with transoms to accentuate vertical massing.

iv. Front porches are encouraged to emphasize the openness of the walking neighborhood, creating the sense of community within the Agrihood.

v. Residential dwellings may have standing seam roofs or architectural profile asphalt shingles.

vi. Residential dwellings will have a base, middle and top (roof) to replicate traditional regional building proportions.

vii. Residential dwellings will be provided with adequate parking through garages and designated off-road and on-road parking.

viii. Garages with front-facing loading bays shall be recessed a minimum of two (2) feet from the front facade of the dwelling units.

ix. Solar PV collectors may be utilized over roofing system and shall be mounted to match slope of supporting roof.

3. Agribusiness and Agritourism Areas.

a. *Architectural Materials*.

i. The nonresidential buildings and structures constructed in the Agribusiness and Agritourism Areas may use a variety of building materials. Except as expressly permitted herein, vinyl shall not be used as a building material.

ii. The building materials used for such nonresidential buildings will be a combination of the following: (a) brick, stone or textured concrete bases; (b) brick veneer siding; (c) stone cladding siding; clapboard siding (wood and/or cementitious materials); (d) board and batten siding (wood and/or cementitious materials); (e) wood, cementitious and/or cellular PVC trim materials; and (f) metal and vinyl soffits and eves undersides.

iii. Exterior windows and glazing shall (a) be clear, low-E insulating glass units; (b) consist of aluminum painted or vinyl clad wood windows with traditional frames; and (c) utilize vertical/minimum two times taller than wide window units to enhance vertical scale on front/street facing elevations.

iv. The roofs of the nonresidential buildings and structures shall consist of (a) prefinished seam metal roofs; (b) prefinished metal gutters and down spouts; and (c) traditional roof appurtenances such as cupolas, lightening rods, wind vanes, diagonal braces/brackets, exposed roofing structural members.

b. *Architectural Features - Inn*. The inn shall include the following design features:

i. A two (2)-story structure with a maximum building height of 35'.

ii. Massing shall be broken into two major structures: (a) one two-story structure will contain the public spaces such as dining areas, conference/meeting rooms, kitchen/storage areas, along with management offices and outdoor dining and (b) the other major two (2)-story structure will contain the private rooms and a small fitness center. These two major structures shall be oriented orthogonal to each other and will be joined by a third one (1)-story connector that will also serve as the main entrance.

iii. Board and batten façades shall be fenestrated with tall vertical windows and entry doors with transoms to accentuate verticality of the elevations.

iv. Front porches will be included to remind of the open hospitality of the region and capped with a low-profile standing seam metal roof.

v. The structures will have traditional proportions of a base, middle and top (roof).

vi. Solar PV collectors may be utilized over roofing systems and shall slope to match angle of support roof.

c. *Architectural Features – Market Barns*. The market barns and other nonresidential buildings and structures shall include the following design features:

i. Building height shall not exceed 18'-0".

ii. Any second level areas and rooms will occur within and under the roofed area with dormers and gable end windows to introduce natural lighting.

iii. Shed-type porches will extend the length of the public facing side.

iv. Porch roofs shall be supported with large (8" x 8") square posts that modulate the length of the public facing side.

v. Façades shall be fenestrated with full height (10'-0") store-front windows to allow visibility of the interior, to introduce natural lighting, and to animate the public facing façade.

vi. The façades shall be board and batten siding, traditional window and door detailing, exposed roof framing members with painted metal standing seam roofing.

vii. Solar PV collectors may be utilized over roofing and shall be mounted to match slope of supporting roofing.

VI. Open Space

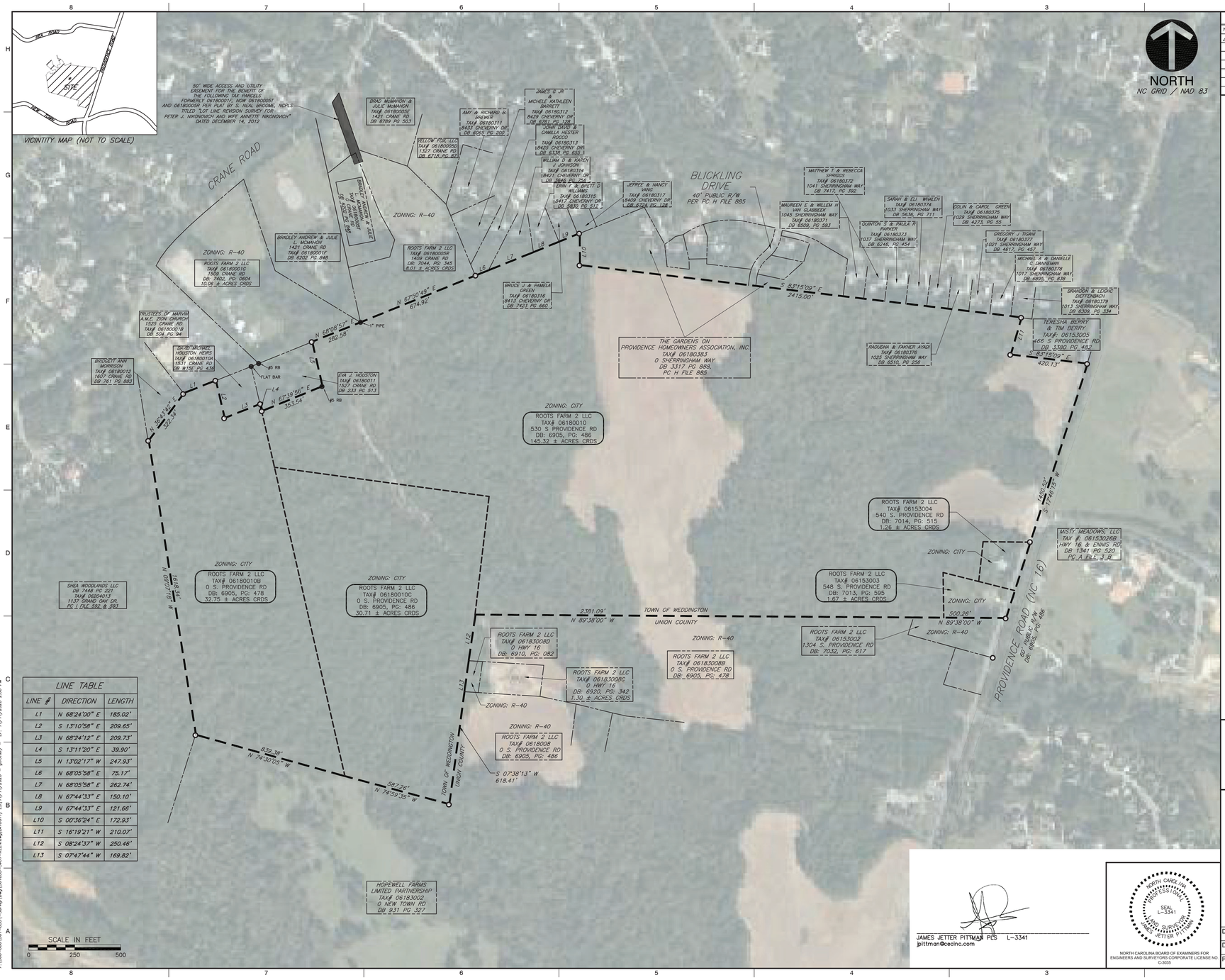
1. Open Space Requirement. The Agrihood shall satisfy or exceed the Open Space requirements under R-CD for an agrihood.

2. Management Plan. Petitioner shall enter into an executed, binding, and enforceable maintenance agreement that obligates the property owner of the Site to implement the maintenance plan in accordance with Section 58-58(5)(g).

VII. Amendments & Binding Effect of the Rezoning Documents

1. Amendments. Future amendments to the Rezoning Plan (which includes these Development Standards) may be applied for by the then owner or owners of the applicable portions or parcels of the Site affected by such amendment in accordance with the provisions of the Development Standards and Section 58-271 of the Ordinance.

2. Binding Effect. If this Rezoning Petition is approved, all conditions applicable to development of the Site imposed under the Rezoning Plan and these Development Standards will, unless amended in the manner provided herein, be binding upon and inure to the benefit of the Petitioner(s) and subsequent owners of portions or parcels of the Site, as applicable, and their respective successors in interest and assigns.



LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N 68°24'00" E	185.02'
L2	S 13°10'58" E	209.65'
L3	N 68°24'12" E	209.73'
L4	S 13°11'20" E	39.90'
L5	N 13°02'17" W	247.93'
L6	N 68°05'58" E	75.17'
L7	N 68°05'58" E	262.74'
L8	N 67°44'33" E	150.10'
L9	N 67°44'33" E	121.66'
L10	S 00°36'24" E	172.93'
L11	S 16°19'21" W	210.07'
L12	S 08°24'37" W	250.46'
L13	S 07°47'44" W	169.82'

SUBMITTAL & REVISION RECORD

NO	DATE	DESCRIPTION
1	11/11/20	REVISED PER CLIENT/ ATTORNEY COMMENTS

1. HORIZONTAL DATUM IS NAD 83 (2011) NORTH CAROLINA STATE PLANE ZONE, AS DETERMINED BY CIVIL & ENVIRONMENTAL CONSULTANTS, INC., USING SURVEY GRADE GPS MEASUREMENTS AND OPUS POST-PROCESSING BASED ON CONTROL POINT 1.
2. EXISTING CONDITIONS AS DEPICTED ON THESE PLANS ARE GENERAL AND ILLUSTRATIVE IN NATURE. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO EXAMINE THE SITE AND BE FAMILIAR WITH EXISTING CONDITIONS PRIOR TO CONSTRUCTION ON THIS PROJECT. IF CONDITIONS ENCOUNTERED DURING EXAMINATION ARE SIGNIFICANTLY DIFFERENT THAN THOSE SHOWN, THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY.
3. BOUNDARY SURVEY DEPICTED IS FROM ESP ASSOCIATES PA. PDF AND CADD DATED 11/9/2018.

LEGEND

- PROPERTY BOUNDARY (NOT SURVEYED)
- ADJOINING PROPERTY LINE
- INTERIOR PROPERTY LINE (NOT SURVEYED)
- FOUND PROPERTY CORNER
- CALCULATED PROPERTY CORNER

Civil & Environmental Consultants, Inc.
3701 Arco Corporate Drive · Suite 400 · Charlotte, NC 28273
Ph: 980.237.0373 · Fax: 980.237.0372
www.cecinc.com

JAMES JETTER PITTMAN PLS L-3341
jpittman@cecinc.com

NORTH CAROLINA PROFESSIONAL LAND SURVEYOR JAMES JETTER PITTMAN SEAL L-3341

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS CORPORATE LICENSE NO. C-3035

REZONING MAP

Situate In
WEDDINGTON
UNION COUNTY, NORTH CAROLINA
Made For

ROOTS FARM LLC

DATE:	NOVEMBER 10, 2020	SCALE:	1"=250'
DRAWN BY:	GAT	CHECKED BY:	GEJ
PROJECT NO:	301-833	APPROVED BY:	JJP

DRAWING NO.: SV01
SHEET 1 OF 1

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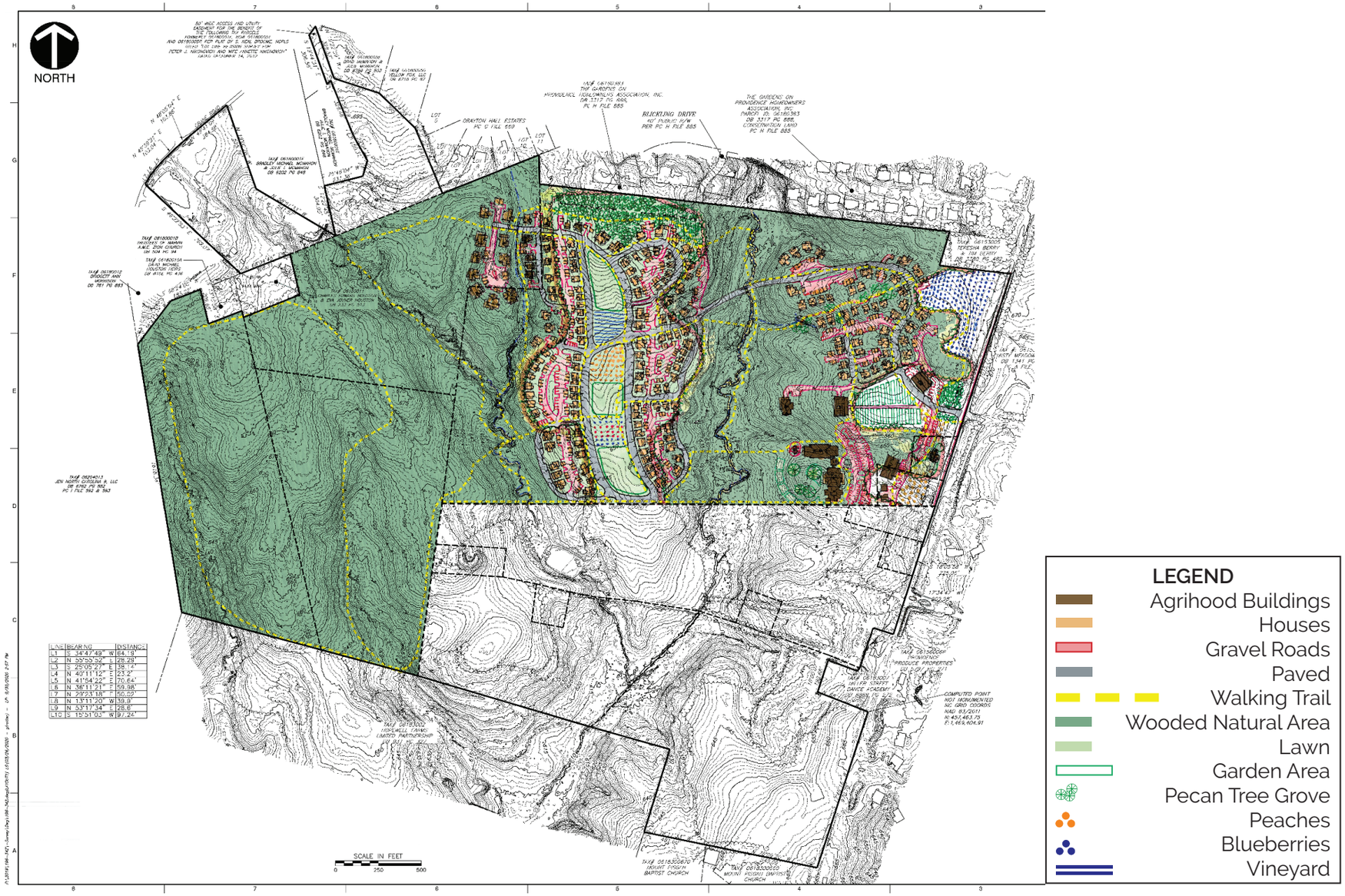
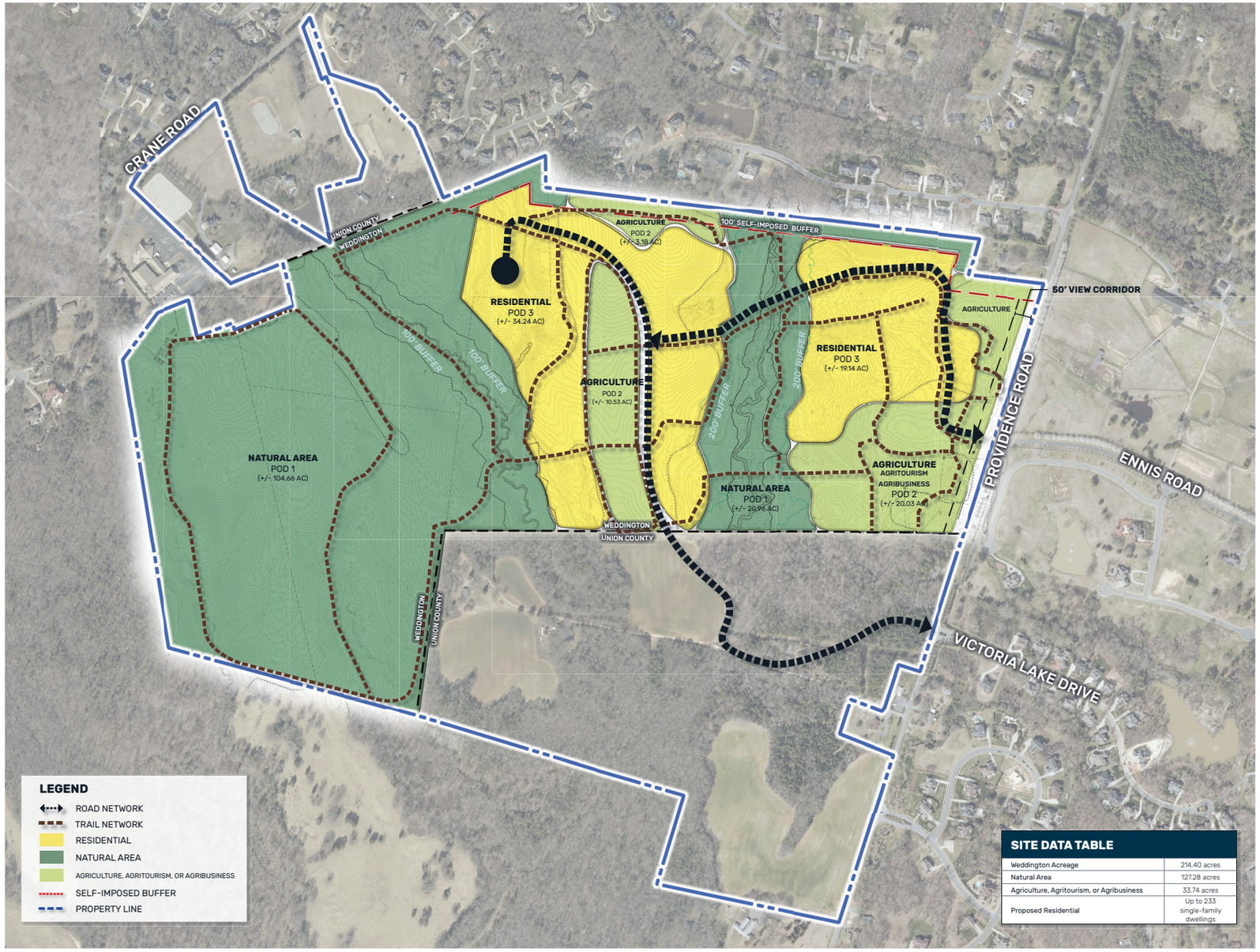


LINE	BEARING	DISTANCE
L1	S 34°47'49" W	64.19'
L2	N 55°50'52" E	28.79'
L3	S 25°05'27" E	38.14'
L4	N 40°11'12" E	23.2'
L5	N 41°54'22" E	70.64'
L6	N 36°11'21" E	59.38'
L7	N 29°23'18" E	50.22'
L8	N 13°11'20" W	38.9'
L9	N 53°17'34" E	28.6'
L10	S 15°51'03" W	87.24'

LEGEND

- Agrihood Buildings
- Houses
- Gravel Roads
- Paved
- Walking Trail
- Wooded Natural Area
- Lawn
- Garden Area
- Pecan Tree Grove
- Peaches
- Blueberries
- Vineyard



ROOTS FARM HOUSING

LS3P McADAMS

0' 200'
SCALE: 1" = 200'

RZ-1

11. 09. 2020

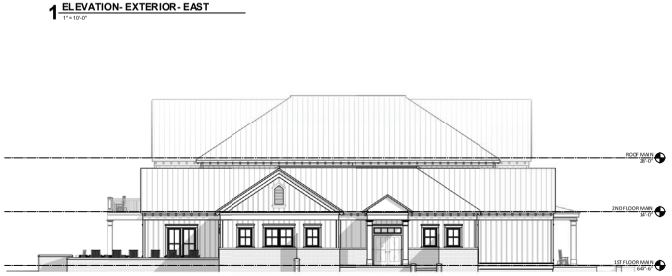
Bubble Diagram
December 7, 2020

INN

BARNS

HOUSING

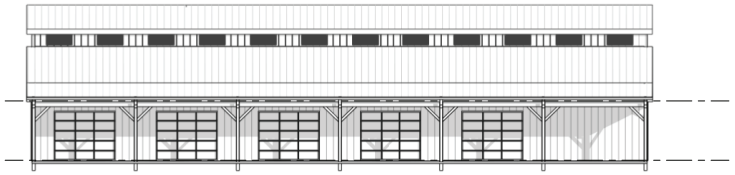
1 ELEVATION- EXTERIOR- EAST
1" = 10'-0"



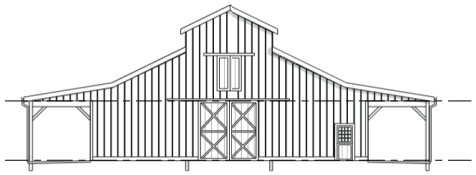
2 ELEVATION- EXTERIOR- SOUTH
1" = 10'-0"

3 ELEVATION- EXTERIOR- NORTH
1" = 10'-0"

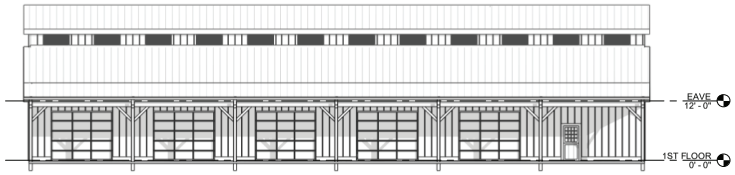
4 ELEVATION- EXTERIOR- WEST
1" = 10'-0"



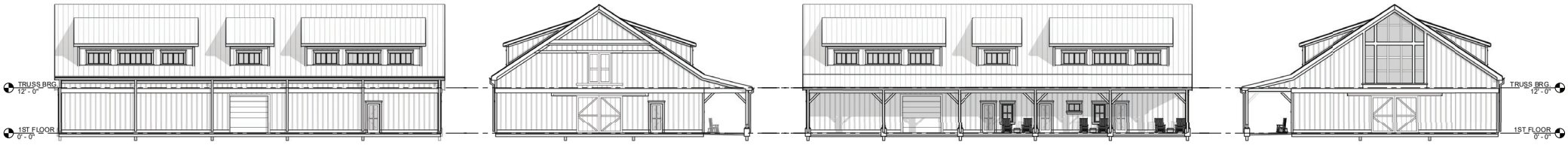
1 WEST ELEVATION
1" = 10'-0"



2 SOUTH ELEVATION
1" = 10'-0"



3 EAST ELEVATION
1" = 10'-0"



1 WEST ELEVATION
1" = 10'-0"

2 SOUTH ELEVATION
1" = 10'-0"

3 EAST ELEVATION
1" = 10'-0"

4 NORTH ELEVATION
1" = 10'-0"

ROOTS FARM HOUSING

LS3P

Illustrative Elevations - Barns
November 11, 2020

TIDEWATER COTTAGE

CREOLE COTTAGE

SOUTHERN FARMHOUSE

SOUTHERN ANTEBELLUM

SOUTHERN VERNACULAR

SOUTHERN FARMHOUSE

Article 9

Part 1 Particular Land Uses

D-901.

A. General Authority to Regulate Particular Uses and Areas. The Town has authority to regulate particular uses and areas in accordance with Chapter 160D of the North Carolina General Statutes, specifically including without limitation Article 9 of 160D.

B. Specific Requirements and Limitations for Certain Uses Identified in N.C.G.S. 160D, Article 9, Part 1. North Carolina General Statutes 160D-902 through 160D-916 set forth certain requirements and limitations for certain specific uses and areas as follows:

1. Adult businesses.
2. Agricultural uses.
3. Airport zoning.
4. Amateur radio antennas.
5. Bee hives.
6. Family care homes.
7. Fence wraps.
8. Fraternities and sororities.
9. Manufactured homes.
10. Modular homes.
11. Outdoor advertising. See Section __below for signage requirements. Any required removal of an off-premises outdoor advertising sign that is nonconforming under a local ordinance shall be in accordance with N.C.G.S. 160D-912.
12. Public buildings.
13. Solar collectors.
14. Temporary health care structures.
15. Streets and transportation.

In addition to applicable requirements and limitations of N.C.G.S. 160D-902 through 160D-916,

the Town has specific requirements and limitations for Adult Businesses as set forth in Appendix __. The Town also has certain signage requirements applicable to Outdoor Advertising as set forth in Appendix __.

C. Residential Development - Required Improvements, Dedication, Reservation and Minimum Standards for Residential Development. [Weddington 46-72 – 46-79]

ARTICLE III. - REQUIRED IMPROVEMENTS, DEDICATION, RESERVATION AND MINIMUM STANDARDS OF DESIGN

Sec. 46-72. - General adherence to article provisions.

Each subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

Sec. 46-73. - Suitability of land.

(a) Land which has been determined by the town council on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be

platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

(b) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by a structural engineer and a soils expert determine that the land is suitable for the proposed development.

(c) All subdivision proposals shall be consistent with the need to minimize flood damage. See section 46-75(f) below.

(d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems, if available, located and constructed to minimize flood damage.

Sec. 46-74. - Subdivision and street naming.

The name of the subdivision and the names of the streets within the subdivision shall not duplicate or closely approximate the name of an existing subdivision or any existing streets within the county.

Sec. 46-75. - Subdivision design standards.

(a) *Blocks.*

(1) The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated, zoning requirements, needs for vehicular and pedestrian circulation, control and safety of street traffic, limitations and opportunities of topography, and convenient access to water areas.

(2) Blocks shall not be less than 400 feet or more than 1,500 feet in length. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where blocks will result in less traffic through residential subdivisions from adjoining business areas, the town council may authorize block lengths in excess of 1,500 feet.

(3) Blocks shall have sufficient width to allow two rows of lots of minimum depth except where single row lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.

(b) *Lot dimensions.*

(1) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located.

(2) All minimum lot dimensions may be increased in order to meet any applicable requirements of the appropriate county health department.

(c) *Location of house sites.* Applicants shall identify house site locations in the tract's designated development areas designed to fit the tract's natural topography, be served by adequate water and sewerage facilities, and provide views of and/or access to adjoining conservation lands in a manner consistent with the preservation of the conservation lands.

(d) *Orientation of residential lot lines.*

(1) Side lot lines shall be substantially at right angles or radial to street lines.

(2) Double frontage lots shall be avoided wherever possible.

(e) *Panhandle lots.* Panhandle lots and other irregular shaped lots may be approved in cases where such lots would not be contrary to the purpose of this chapter, heighten the desirability of the subdivision, and, where necessary, enable a lot to be served by water and/or a waste disposal system. All panhandle lots shall have a minimum road frontage width of 35 feet thereby providing an access strip to the lot. The length of said strip shall not exceed 200 feet. Said strip shall not be used to determine lot area or width or setback lines.

(f) *Lots in floodplains.* Lots within floodplains shall not be approved for recordation unless the following provisions are met:

(1) *Lots wholly subject to flooding.* No proposed residential building lot that is wholly subject to flooding, as defined herein, shall be approved.

(2) *Lots partially subject to flooding.*

a. No proposed residential building lot that is partially subject to flooding as defined herein shall be approved unless there is established on the lot plan a contour line representing an elevation no lower than two feet above the base flood line as defined in section 58-229. All buildings or structures designed or intended for residential purposes shall be located on such a lot such that the lowest useable and functional part of the structure shall not be below the elevation of the base flood line, plus two feet.

b. For the purpose of this subsection, the term "useable and functional part of structure" shall be defined as being inclusive of living areas, basements, sunken dens, basement, utility rooms, crawl spaces, attached carports, garages and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits, and wiring, but shall not include water lines or sanitary sewer traps, piping and cleanouts; provided that openings for same serving the structure are above the base flood line.

c. Where only a portion of the proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 10,000 square feet. The useable lot area shall be determined by deducting from the total lot area, the area of all yard setbacks required by the applicable zoning regulations and any remaining area of the lot lying within the area of the base flood (100-year flood) as shown on the flood boundary and floodway map described in section 58-229.

(g) *Easements.* Easements shall be provided as follows:

(1) *Utility easements.* A utility easement of not less than five feet in width shall be provided to the side and rear of each lot and in other locations where deemed necessary. This requirement may be waived by the subdivision administrator if the subdivider can certify on the final record plat where accommodations for such utilities are to be located. Lots in minor subdivisions are exempt from this requirement upon certification that they may be serviced by existing utilities along the public rights-of-way. Wider easement widths may be required if determined necessary by the utility company involved.

(2) *Drainage easements.* Where a subdivision is traversed by a stream or drainageway, an easement shall be provided conforming with the lines of such a stream and shall be of sufficient width as will be adequate for the purpose and in accordance with section 58-520. Other drainage easements may be required for the proper drainage of all lots.

(3) *Access easements.* Private and recorded easements created according to subsection 46-76(a) that provide access from an easement lot to a public road.

(h) *Stream valleys, swales, springs, and other lowland areas.* Stream valleys, swales, springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their groundwater recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems. Accordingly, the following activities shall be minimized in such areas:

(1) Disturbance to streams and drainage swales.

(2) Disturbance to year-round wetlands, areas with seasonally high-water tables and areas of surface water concentration.

(3) Because of their extreme limitations, stream valleys, swales and other lowland areas may warrant designation as conservation lands. They may also require adjoining buffer lands to be included as

conservation lands, to be determined by an analysis of the protection requirements of such areas as determined by the town council on a case-by-case basis upon finding that designation of such areas as conservation land would have significant and positive long-term environmental impact on the conservation lands.

(i) *Forestlands.*

(1) Forestlands often occur in association with stream valleys and wet areas, poor and erodible agricultural soils, and moderate to steep slopes. Forestlands serve many functions, including soil stabilizers, particularly on moderate to steep slopes, a means of ameliorating harsh microclimatic conditions in both summer and winter, a source of wood products, natural wildlife habitats, and visual buffers.

(2) Because of their resource values, all forestlands on any tract proposed for a conservation subdivision shall be evaluated to determine the extent to which they should be designated partly or entirely as conservation lands. Evaluation criteria include: configuration and size, present conditions, site potential (i.e., the site's capabilities to support forestlands, based upon its topographic, soil and hydrologic characteristics), ecological functions (i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats), relationship to forestlands on adjoining properties and the potential for maintaining continuous forestland areas.

(3) The evaluation of the tract's forestlands shall be undertaken consistent with the town's land audit. This evaluation shall be submitted as a report and made a part of the application for a sketch plan. At a minimum, that report shall include one or more maps indicating boundaries and conditions of forestland areas.

(4) In designing a conservation subdivision, the applicant shall be guided by the following standards:

a. Proposed site improvements shall be located, designed and constructed to minimize the loss or degradation of forestland areas.

b. Disturbance or removal of forestlands occupying environmentally sensitive areas shall be undertaken on a limited, selective, as needed basis. In particular, areas to be designed around and conserved, whenever possible, include the following: areas with a high diversity of tree species and tree ages; areas without invasive species; and individual trees of significant diameter. Because different tree species have different growth characteristics, certain species become significant at different diameters. For example, fast-growing species such as conifers become significant at 15 inches dbh. Relatively fast-growing hardwoods such as sweet gum and sycamore become significant at 12 inches dbh. Other hardwoods such as oaks and maples become significant at 12 inches dbh. Understory trees such as dogwood, redbud, waterbeech, and holly become significant at eight inches dbh.

c. No clearing or earth disturbance, except for soil analysis for proposed sewage disposal systems, shall be permitted on a site before preliminary plat approval.

(j) *Slopes.* Moderately sloping lands (ten to 15 percent) and steeply sloping lands (over 15 percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.

(1) For both conventional and conservation subdivisions, development in areas containing slopes of 15 to 25 percent shall be minimized. The only permitted grading beyond the terms described above, shall be in conjunction with the siting of a dwelling, its access driveway and the septic system.

(2) For both conventional and conservation subdivisions, no site disturbance shall be allowed on slopes exceeding 25 percent except grading for a portion of a driveway accessing a dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25 percent is feasible.

(3) Grading or earthmoving on all sloping lands of 15 percent or greater shall not result in earth cuts or fills whose highest vertical dimension exceeds six feet, except where in the judgment of the town's consulting engineer, no other available alternatives exist for construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 12 feet. Roads and

driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.

(k) *Significant natural areas and features.* Natural areas containing rare or endangered plants and animals, as well as other features of natural significance may exist in the town. Subdivision applicants shall take all reasonable measures to protect significant natural areas and features identified by the applicant's existing resources and site analysis plan, as required in subsection 46-42(d)(1), by incorporating them into proposed conservation lands.

(l) *Rural road corridors and scenic viewsheds.* All applications shall preserve the viewsheds along rural roads by incorporating them into conservation lands or otherwise providing for building setbacks and architectural designs to minimize their intrusion. Views of developable lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping to the greatest degree possible.

(m) *Design standards specific to conservation land.* Standards to be followed regarding the design of the conservation land are as follows:

(1) Except as otherwise permitted, conservation lands shall be free of all structures except historic buildings, stone walls, and structures related to conservation land uses. The town council may approve structures and improvements required for storm drainage, sewage treatment and water supply within such conservation land on finding that such facilities would not be detrimental to the conservation land, and that the acreage of lands required for such uses is not credited towards minimum conservation acreage requirements for the tract, unless the land they occupy is appropriate for passive recreational use.

(2) Conservation lands shall not include parcels smaller than three acres, have a length-to-width ratio of less than 4:1, or be less than 75 feet in width, except for such lands specifically designed as neighborhood greens, playing fields or trail links. Exceptions to this requirement may be granted, on a case-by-case basis, where, due to topography, shape, size, or location of the tract, such requirements are determined by the town council when reviewing the preliminary plat to be infeasible, impractical, or serve no meaningful purpose.

(3) Conservation lands shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe and convenient pedestrian access to conservation land.

(4) Conservation lands shall be interconnected wherever possible to provide a continuous network of conservation lands within and adjoining the subdivision.

(5) Conservation lands shall provide buffers to adjoining parks, preserves or other protected lands.

(6) Except as provided herein, conservation lands shall be provided with pedestrian pathways for use by the residents of the subdivision. Public access shall be provided on such trails if they are linked to other publicly accessible pathway systems within the town. Provisions shall be made for access to the conservation lands, as required for land management and emergency purposes. Access to conservation lands for agricultural or horticultural purposes may be appropriately restricted for public safety purposes and to prevent interference with agricultural or horticultural operations.

(7) Conservation lands shall be undivided by streets, except where necessary for proper traffic circulation.

(8) Conservation lands shall be made subject to such agreement with the town and such conservation easements shall be duly recorded in the office of the county register of deeds for the purpose of permanently preserving the common open space for such uses.

(9) Conservation lands shall be located in a manner that is consistent with the town's land use plan and the town's conservation land audit, which identifies an interconnected network of conservation lands.

(n) *Delineation of conservation lands.* The delineation of conservation lands shall be as provided for in subsection 58-58(4).

(1) The minimum percentage and acreage of required conservation lands shall be calculated by the applicant and submitted as part of the sketch plan. At a minimum, 50 percent of the gross acreage of the tract will be required to be retained as conservation land. When a subdivision lies on both sides of a major or minor thoroughfare, all attempts should be made to have 50 percent of each side's gross acreage designated as conservation land. However, the town may allow flexibility on the distribution of conservation land in situations where there is greater logic to preserving special features on one side of the road, or due to locating homes on the other side due to the relative absence of special site features with greater conservation value.

Not more than 20 percent of the minimum required area of conservation lands shall be comprised of wetlands, submerged lands, steep slopes, floodways, or land under high voltage electrical transmission lines (conducting 69 kilovolts or more).

(2) Proposed conservation lands shall be designated using the existing resources and site analysis plan (submitted with the sketch plan) as a base map.

(3) In delineating secondary conservation areas, the applicant shall use the following tier system as a guide, with those lands included in tier A having the highest priority for preservation; provided, however, that in certain portions of the town, the priorities defined may be altered by the town in order to maximize achievement of the goals and objectives of maintaining open space through conservation subdivisions:

a. Tier A, highest priority.

1. Forestlands.

2. Steep slopes (greater than 25 percent).

3. Viewsheds from thoroughfares.

b. Tier B, medium priority.

1. Farmlands, meadows, pastures, and grasslands.

2. Historic sites.

c. Tier C, lowest priority.

1. Moderate steep slopes (15 to 25 percent).

2. Rock formations.

3. Lands adjacent to parks.

d. Conservation areas shall be identified with wooden signs and accessed by trails leading from the street system. Trail heads shall be identified either with signage or with short sections of split-rail fencing.

(o) *Resource conservation standards for site preparation and cleanup.*

(1) Protection of vegetation from mechanical injury. Where earthwork, grading, or construction activities will take place in or adjacent to forestlands, or other significant vegetation or site features, the town shall require that the limit of disturbance be delineated, and vegetation protected through installation of temporary fencing or other approved measures. Such fencing shall be installed prior to the commencing of, and shall be maintained throughout, the period of construction activity.

(2) Protection of vegetation from excavations.

a. When digging trenches for utility lines or similar uses, disturbances to the root zones of all woody vegetation shall be avoided.

b. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible.

(3) Conservation subdivisions shall be designed to harmonize with the existing terrain, so that mass grading can be minimized, and the natural character of the underlying land will be preserved, to the maximum extent feasible. Site designers shall therefore lay out streets and house lots to conform to the existing topography as much as possible.

(p) *Utilities.* All utility lines (electric, water, sewer, telephone, gas, etc.,) shall be located underground in all subdivisions.

(q) Shade trees shall be shown within the cleared right-of-way at 40-foot intervals along both sides of proposed streets, in areas where trees have been removed or did not previously exist. Such trees shall be capable of attaining a mature height of at least 40 feet and shall generally be of a local native species such as frequently found in the natural woodlands of the area, although other species such as sycamore and linden are also good choices. Non-native trees with invasive tendencies such as Norway maple shall be avoided.

(r) *Neighborhood green required.* To the greatest extent feasible, each conservation subdivision should provide at least one neighborhood green, not less than 10,000 square feet in area, planted with shade trees at 40-feet intervals around the edge.

Sec. 46-76. - Road standards.

(a) *Public roads.*

(1) All subdivision lots, except as provided herein and in section 58-10, shall abut public roads.

(2) Exceptions to the public road frontage requirements shall be as follows: Any lot or tract shall be allowed to have easement lots created for construction of single-family dwellings as the principal use. Creation of such lots is made necessary by virtue of the fact that development of said property by conventional means (i.e., extension of public street) is impractical due to the disproportionate costs of required improvements as compared to the relative value of lots created and is within the spirit and intent of this chapter. These lots shall be created as follows:

a. The applicant shall submit an application to the planning board with a sketch plat showing the proposed easement lots for approval to proceed further as specified in this section.

b. All access easements shall be at least 45 feet in width and shall meet or exceed the state department of transportation minimum standards for subdivision road width where possible. The travel surface of said easement shall be at least 16 feet in width. The travel surface need not be paved. The easement shall be maintained at all times in a condition that is passable for service and emergency vehicles.

c. The creation of easement lots shall follow the procedures of a minor subdivision as outlined in section 46-40. In addition, a statement shall be placed on the subdivision plat acknowledging that said lots were being created upon a privately maintained and recorded easement, and a statement indicating the parties responsible for maintaining the easement.

d. Creation of such easement lots and access easements shall not impair future extension of an adequate system of public streets to serve such lots.

e. Easement lots shall not be further subdivided unless the newly created lots abut a public road. Any additional subdivision of easement lots shall be a major subdivision and shall be reviewed using the major subdivision plat approval process.

f. If public road access becomes available to easement lots, all affected lot owners shall have the easement terminated of record.

(3) *Subdivision street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 and designated as a public street and shall be conclusively presumed an offer of dedication to the public. Before the approval of a final plat, the developer shall submit to the town evidence that the developer has created a homeowners' association whose responsibility it will be

to maintain common areas and streets. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws. Where streets are dedicated to the public but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street shall be included with the final plat. A written maintenance agreement with provision for maintenance of the street until it is accepted as part of the state system.

(b) *Marginal access drive.* Where a tract of land to be subdivided adjoins a thoroughfare as designated on the adopted LARTP or the comprehensive transportation plan maps, and the lots front the thoroughfare, the subdivider shall be required to provide a marginal access drive parallel to the thoroughfare. A marginal access drive shall meet the following requirements:

(1) The marginal access drive shall be a minimum of 18 feet wide and located on a shared access easement that is a minimum 25 feet wide.

(2) The access easement shall be a minimum of 50 feet from the thoroughfare right-of-way.

(3) Existing screening shall be kept and/or supplemented between the thoroughfare and access easement.

(4) The marginal access drive shall be built to NCDOT specifications.

(5) A recorded shared access agreement shall be provided prior to approving the final plat.

(c) *Street design and standards.* Minimum street right-of-way and pavement widths, as well as other engineering design standards shall be in accordance with the minimum design criteria for subdivision roads as established from time to time, by the division of highways, state department of transportation publication entitled "Subdivision Roads: Minimum Construction Standards," except where modified by the Town of Weddington Roadway Standards.

(d) *Cul-de-sacs.*

(1) Permanent dead-end streets shall not provide sole access to more than 16 dwelling units or 1,200 linear feet, whichever is less. Measurement shall be from the point where the centerline of the dead-end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround.

When cul-de-sacs end in the vicinity of an adjacent undeveloped property capable of being developed in the future, a right-of-way or easement shall be shown on the final plan to enable the street to be extended when the adjoining property is developed. Cul-de-sacs in conservation subdivisions shall generally include a pedestrian connection to the open space behind the lots they serve, preferably at the end of the cul-de-sac.

(2) Cul-de-sacs shall generally be designed with central islands (preferably teardrop shaped) where trees are retained or planted. Cul-de-sac pavement and right-of-way diameters shall be in accordance with NCDOT design standards. Designs other than the "bulb" end design with a circular right-of-way will be subject to the approval of the Division Engineer of the Division of Highways, North Carolina Department of Transportation and the town council after review on an individual basis.

Cul-de-sacs less than 600 feet long shall generally be designed as "closes," with two one-way streets bounding a central "boulevard island" not less than 35 feet across. This can be easily accomplished by extending the outer edges of the turning half-circle perpendicularly to the street from which the cul-de-sac springs. The central open space offers opportunities for tree planting and "rain garden" infiltration areas for stormwater (particularly when the street pavement is sloped inward toward the central open space).

(e) *Street layout.*

(1) *Conformity to existing maps or plans.* Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, and to the proposed use of land to be served by such streets. Streets shall be designed and laid out in a manner that minimizes adverse impacts on the conservation lands. To the greatest extent practicable, wetland crossings and new streets or driveways traversing steep slopes shall be avoided.

(2) *Continuation of adjoining streets.* The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended. Street connections shall be designed so as to minimize the number of new cul-de-sacs and to facilitate easy access to and from homes in different part of the tract (and on adjoining parcels). In certain cases where standard street connectivity is either not possible or not recommended, the town may require the installation of one or more emergency access gates leading to a gravel drive connecting with the adjacent property or roadway. The homeowner's association is responsible for the maintenance, testing and repairs of all functions of emergency access gates. An annual inspection and test of the gate shall be performed and the results submitted to town hall. Any homeowner's association that is found to be in violation shall be required to maintain a service agreement with a qualified contractor to ensure year-round maintenance and to submit a copy of the service agreement to town hall.

(3) *Large tracts or parcels.* Where land is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.

(4) *Through traffic discouraged on residential collector and local streets.* Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed, or walkways offered for dedication to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

(5) *Ingress and egress.* Two points of ingress and egress onto an adjoining public road from subdivision containing more than 15 lots is required. In conservation subdivisions, proposals for more than two points of ingress and egress onto any adjoining public road shall be allowed on a case-by-case basis only when determined by the town council that it would not have a negative impact on traffic levels and patterns and the viability of the conservation subdivision.

(6) Developable lots shall be accessed from interior streets, rather than from roads bordering the tract. Single loaded streets are encouraged to the greatest degree feasible.

(7) Streets shall be designed, wherever practicable, with green "terminal vistas," for example by situating some conservation areas and other open space along the outside edges of street curves (for greater visibility). In addition, other visible open space shall be provided, such as in neighborhood greens that are bordered by streets on several sides, or along non-curving sections of the street system, wherever practicable.

(f) *Permits for connection to state roads.* An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at both the Charlotte and Monroe Offices of the Division of Highways.

(g) *Reservation of future right-of-way.* Whenever a tract of land to be subdivided includes any part of a thoroughfare shown on the comprehensive transportation plan or LARTP adopted by the town, and whenever such right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the major or minor thoroughfare must be platted in the location and to the width specified in the plan. The subdivider is responsible for the reservation of the right-of-way. All measurements involving minimum lot standards under this chapter will be made at the edge of the full/future right-of-way.

(h) *Improvements within the town limits.*

(1) Approval of the final plat shall be subject to the subdivider having installed the improvements hereinafter designated or having guaranteed, to the satisfaction of the town council, the installation of said improvements.

(2) The following requirements shall apply to all streets within the corporate town limits of the town, or if annexation of the subdivision to the town is desired or required by the subdivider:

a. *Grading.* All streets shall be graded to their full right-of-way width. Finished grade, cross-section and profile shall be in accordance with the Town of Weddington standards and the state department of transportation standards, as established herein.

b. *Paving.* Road base and paving shall be installed in accordance with the Town of Weddington standards and the state department of transportation standards, as established herein.

c. *Street signs.* Appropriate street name signs which meet the standards of town/county specifications shall be placed at all street intersections at the subdivider's expense.

Sec. 46-77. - Buffering.

(a) *Buffering thoroughfares.*

(1) Residential developments shall be designed so that lots face toward either internal subdivision streets or toward existing state roads across conservation land such as "foreground meadows."

(2) Where the side or rear yards of lots may be oriented toward existing thoroughfares roads a buffer at least 100 feet wide of existing woodland providing adequate visual screening throughout the year is required. The buffer width may be reduced to 50 feet if plantings are installed to include year-round screening.

(3) Earthen berms are not a permitted design approach as they are inherently nonrural and would inappropriately alter the rural character of the R-CD, even if landscaped.

(4) If the required buffer exceeds 15 percent of the total acreage of the parcel, the zoning administrator may reduce the required buffer to an amount equal to 15 percent, provided that sufficient evergreens are planted to create an effective visual buffer, as described above.

(b) *Buffering other uses.* The buffer requirement is 50 feet between homes in the proposed subdivision and any other nonresidential use. Section 58-8 in the zoning ordinance lists the required plantings of trees and shrubs within buffers and the standards for planting.

(c) The preliminary plat shall be accompanied by a statement providing for buffer area permanent maintenance by a method acceptable to the town. Maintenance of the buffer by the town shall not be an acceptable method.

Sec. 46-78. - Placement of monuments.

Unless otherwise specified by this chapter, the Standards of Practice for Land Surveying, as adopted by the state board of registration for professional engineers and land surveyors, under the provisions of 21 N.C. Admin. Code 56, shall apply when conducting surveys for subdivisions, to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties, to determine the location, design and material of monuments, markers, control corners, and property corner ties, and to determine other standards and procedures governing the practice of land surveying for subdivisions.

Sec. 46-79. - Connection to public water lines.

(a) If county or municipal water lines are located within one-half mile of a subdivision of ten to 39 lots, or one mile of a subdivision of 40 lots or more, where the distances are measured along the roadway to the nearest edge of the property, then the developer must connect to these lines to provide water service and fire protection for the subdivision. Extensions to the county water system shall be made in conformance with the policies and procedures set forth in the current Union County Water and Sewer Extension Policy as approved by the board of county commissioners and Town of Weddington.

(b) There may be times when the county cannot issue new water permits due to lack of available capacity. If a developer is denied permits for this reason, the town may allow the use of individual domestic wells to serve a proposed development provided that the developer still installs water lines to county specifications as initially approved for fire flow only. The developer shall be responsible for proving to the town that capacity is not available. A determination of what capacity is available and whether to allow the use of individual domestic wells shall lie within the sole discretion of the town.

(c) The proposed water lines must still meet all the requirements of the Union County Water and Sewer Extension Policy, including providing fire flow protection to the development and taps and meter boxes for each developable lot. If the county and town approve these plans then the use of wells may be approved as an interim measure until such time as water capacity becomes available. The developer will be required to provide written proof that Union County will charge the lines for fire hydrant use.

(d) As a condition of approval of the proposed development, the developer or property owner shall require these lots with domestic use wells connect to the county system at such time as the county indicates water capacity is available. Individual wells may be converted to irrigation use at the property owners expense provided such conversion is in conformance with the Union County Building Code and Union County Water and Sewer Specifications. The developer and/or property owner shall be responsible for any fees and charges from the county as a condition of connection to the county water system.

(e) The use of community wells for domestic needs is discouraged and will only be allowed if the water system is built to Union County Water and Sewer Specifications. The system must be capable of meeting the water needs of the community including domestic, irrigation and fire flow requirements and an agreement exists with the county for: 1) the conditions under which the system becomes part of the county system; and 2) an arrangement is made with the county to tap into the county system for working fire hydrants according to the county specifications.

(Ord. No. O-2019-06, 10-14-2019)

D. Additional Supplemental Regulations.

1. Customary Home Occupations [Weddington 58-7]

Sec. 58-7. - Customary home occupations.

Customary home occupations may be established in any dwelling unit. The following requirements shall apply in addition to all other applicable requirements of this chapter for the district in which such uses are located:

(1) The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential use of the dwelling.

(2) No accessory buildings or outside storage shall be used in connection with the home occupation.

(3) Use of the dwelling for the home occupation shall be limited to 25 percent of the area of the principal building.

(4) Only residents of the dwelling may be engaged in the home occupation.

(5) No display of products shall be visible from any adjoining streets or properties. Sales of products are limited to those made on the premises and those which are accessory to the service being provided.

(6) No alterations to the exterior appearance of the residence or premises shall be made which changes the residential characteristics.

(7) Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.

(8) Chemical, mechanical, or electrical equipment that creates odor, light emission, noise, or interference with radio or television reception detectable outside of the dwelling shall be prohibited.

(9) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way.

(10) One nonilluminated professional name plate, occupational sign, or business identification sign mounted flush to the dwelling unit and not more than 1½ square feet in area shall be allowed.

(Ord. No. 87-04-08, § 4.1, 4-8-1987)

2. Office trailers. [uses in Weddington 58-88 that have specific requirements]
   a. Office trailers are allowed only as a temporary use and may be allowed for a maximum period of six months. Extensions of this period may be granted in the discretion of the Town Council only after a public hearing
   b. No office trailer shall be used for residential purposes.
3. *Service stations, convenience stores.*
   a. On corner properties the driveways shall be located no closer than 30 feet from the point of intersection of two street property lines.
   b. Driveways shall be located no closer than 30 feet from adjacent properties in residential districts or from properties used for residential or institutional purposes, and driveways shall be 30 feet wide and shall be designated by curb, planted areas, and landscaping which shall not exceed two feet in height.
   c. No gasoline pump and/or canopy shall be located any closer than 80 feet from an existing street right-of-way.
   d. Outdoor lighting shall be permitted in compliance with section 58-17.
   e. Freestanding canopies may be placed over properly located pumps or pump island, provided that:
      i. They do not overhang the right-of-way of any street; and
      ii. They are not used as a sign structure or as the sign base.

5. *Essential services, classes II and III.*
   a. Where a building or structure is involved and it is proposed to be located in a residentially zoned district, it shall be screened or buffered from adjacent residential land.
   b. All outside storage areas are fenced and screened from adjacent residentially developed areas.
   c. The site is of adequate size for the sewage disposal system proposed and for the proposed use.
6. *Public parks and recreational facilities.*
   a. Fencing, scoreboards, and structures in athletic fields may be utilized for customary signs and shall be directed solely towards users of the athletic field. Such individual signs, whether temporary or permanent, shall not exceed 32 square feet in size and shall be permitted by the zoning administrator in the manner of other permanent, attached (on-structure) signs under section 58-148, or temporary signs under section 58-151, without amendment to the conditional use permit so long as compliance with all standards in this chapter are met.
   b. All structures including signage, scoreboards, fencing, and facilities shall comply with all standards prescribed in this chapter.
   c. Notwithstanding the provisions of this subsection, nothing in this section shall be construed to authorize or otherwise permit the erection of a billboard or sign that is independent of any fencing, scoreboard, backstop, announcer's booth, or concession stand existing within the athletic field.

E. General Requirements

1. Lot to Abut a Street; Exceptions [Weddington 58-10]

Sec. 58-10. - Lot to abut a public street; exceptions.

No building or structure shall be erected or located, nor shall any principal use be instituted on a lot which does not abut a public street with the following exceptions:

(1) A single-family dwelling or mobile home may be constructed on a lot which does not abut a street, provided such lot existed prior to the date the ordinance from which this chapter is derived became effective and provided such lot is provided access to a public street by an easement at least 20 feet in width for occupants of the dwelling established on such lot and further provided that such easement is maintained in a condition passable for service and emergency vehicles. Said easement may also be used where needed for the installation and maintenance of utility facilities.

(2) Easement lots created pursuant to subsection 46-76(a).

(Ord. No. 87-04-08, § 4.4, 4-8-1987)

2. One principal building permitted on single lot [Weddington 58-11]

Sec. 58-11. - One principal building permitted on single lot.

(a) *Single-family residential district; duplex district.* In any single-family residential district, one principal single-family dwelling unit or one mobile home and one accessory family dwelling unit and accessory structures shall be permitted on a single lot which meets at least the minimum requirements of this chapter. Accessory family dwelling units may not be permitted in the two-family district (R40-D).

(b) *Business district.* In any business district, a detached building or a group of detached buildings shall be either permitted as a matter of right or may be authorized by a conditional use permit, pursuant to article III of this chapter, on a single lot which meets at least the minimum requirements of this chapter.

(Ord. No. 87-04-08, § 4.5, 4-8-1987; Ord. No. O-2010-05, 4-12-2010)

3. Temporary structures and uses [Weddington 58-13]

Sec. 58-13. - Temporary structures and uses.

Temporary structures and uses, when in compliance with all applicable provisions of this chapter and all ordinances of the town, shall be approved by the zoning administrator, who shall issue a permit for such approval. The following temporary structures and uses shall be permitted:

(1) In the event of a disaster, the result of which would require the rebuilding of a dwelling, the owner and his family may occupy a mobile home on the property. The permit shall be issued for a six-month period and may be renewed by the town council, provided construction has proceeded in a diligent manner.

(2) Mobile homes, construction trailers and temporary buildings not for residential purposes, when used by a contractor for field offices and storage during the building of structures on the same site, are permitted. The permit shall be issued for a one-year period and may be renewed by the zoning administrator on an annual basis, provided the construction has proceeded in a diligent manner. Renewal shall take place during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual. Failure to renew the permit may result in enforcement and penalties described in section 58-3.

(3) Any use of a temporary nature (i.e., less than 45 days in duration and held no more than four times per year at any particular location) which would not otherwise be permitted in a particular zoning district and which will materially affect normal activities (i.e., increased traffic, noise, etc.) may be issued a temporary use permit as herein provided. The applicant shall complete and submit an application and a fee, in accordance with a fee schedule adopted by the town council.

a. The zoning administrator may grant a temporary use permit for the following temporary uses: Sales for civic, charitable and nonprofit organizations, i.e., Christmas tree sales. The permit shall be valid for a specified period only, not to exceed 45 days in duration.

b. The planning board may issue a temporary use permit for all other temporary uses including public events such as festivals, concerts, carnivals, circuses, etc., only after a public hearing has been conducted as follows:

1. Notices shall be sent by the town by first class mail to the applicant and to owners of all contiguous pieces of property and to all other property owners whose properties lie within 200 feet of any portion of the property in question at least ten days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur. The applicant shall provide the town with a list of all affected property owners.

2. Notice shall also be posted by the town clerk in a conspicuous location at the town hall at least ten days prior to the public hearing. Said notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur.

3. A sign shall also be placed by the town in a conspicuous location on the subject properties indicating the nature of the public hearing and date, time and place at which it is to occur. Said sign shall be placed on the properties in question at least ten days prior to the public hearing.

4. Before issuing any temporary use permit, the zoning administrator and/or planning board shall make the following determinations:

(i) That the proposed temporary use will not materially endanger the public health, welfare and safety;

(ii) That the proposed temporary use will not have a substantial negative effect on adjoining properties;

(iii) That the proposed temporary use is in harmony with the general purpose and intent of this chapter and preserves its spirit; and

(iv) The proposed temporary use is held no more than four times per year at any particular location.

In addition, the planning board may authorize conditions regarding duration of the use, hours of operation, signage, lighting, temporary structures, etc., and such conditions shall be made part of the temporary use permit issued. Violations of such conditions shall be considered a violation of this chapter.

c. The decision of the planning board may be appealed by the applicant to the town council. The decision of the zoning administrator may be appealed by the applicant to the board of adjustment pursuant to article VIII of this chapter. A written application for town council review shall be submitted to the zoning administrator within seven days of the planning board decision.

(4) Structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development are permitted only with a permit granted pursuant to this section. The zoning administrator shall issue such permit for a period of one year. An extension of up to one additional year may be granted by the zoning administrator, provided that the development is being actively marketed and three or more residential lots within the subdivision remain to be sold by the developer. Following this initial extension period, the permit may be extended only within the discretion of the town council

and only for a period of time the town council deems appropriate, provided the subdivision is being actively marketed and three or more residential lots within the subdivision remain to be sold by the developer. Renewal shall take place during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual. Failure to renew the permit may result in enforcement and penalties described in section 58-3. After the developer sells all lots within the subdivision, or after any permit granted under this section expires, whichever occurs first, the temporary structures shall be removed, and any permanent structures temporarily used as a sales office shall be used only for a purpose otherwise permitted in that district. After a permit issued under this section expires, no other permits under this section may be issued for that same subdivision unless approved by the town council. For purposes of this section, having a sales office within a subdivision, by itself, shall not constitute "actively marketing" the subdivision.

(Ord. No. 87-04-08, § 4.7, 4-8-1987; Ord. No. O-2003-18, 10-13-2003; Ord. No. O-2003-08, 3-10-2003; Ord. No. O-2007-08, 9-10-2007; Ord. No. O-2010-12, 8-9-2010; Ord. No. O-2015-14, 11-9-2015; Ord. No. O-2015-14, 11-9-2015)

4. Accessory uses and structures [Weddington 58-16]

Sec. 58-16. - Accessory uses and structures.

Minor uses or structures which are necessary to the operation or enjoyment of a permitted principal use, and are appropriate, incidental and subordinate to any such uses, shall be permitted in all districts with certain exceptions as described herein as an accessory use, subject to the following:

(1) Accessory uses or structures, well houses and swimming pools shall be located no closer than the setback for the principal building or 15 feet to any side or rear lot line whichever is less. Well houses shall be allowed in any yard.

Notwithstanding any other provision in this section, any accessory structure with a building footprint exceeding 200 square feet may be located in any nonrequired side or rear yard and must comply with all setback requirements of principal structures for that zoning district.

(2) In any residential district or on any lot containing a principal residential use, no accessory use or structure shall be permitted that involves or requires any construction features which are not residential in nature or character. Accessory uses shall be located on the same lot as the principal use.

(3) An accessory building other than barns or farm-related structures may not exceed the height of the principal building.

(4) Other than barns or farm-related structures, the total combined square footage of all accessory structures (including above ground swimming pools) on any parcel less than six acres shall not exceed two-thirds of the footprint of the principal building. On lots 6 acres or greater, the total combined footprints of all principal and accessory structures (including above ground swimming pools) shall not exceed 15 percent of the gross lot area.

(5) Roofed accessory uses physically attached or connected to the principal building shall be considered a part of the principal building and shall be subject to the setback requirements for the principal building.

(6) A swimming pool shall be considered an accessory use. A swimming pool can be located in the rear yard on all residential properties, or in the side yard provided the principal structure has a minimum 200-foot front setback and the pool will have a minimum 150-foot side setback. In all other situations, it will be subject to a conditional use approval as provided in article III of this chapter.

(7) Occupancy of a travel trailer, recreational vehicle (RV), or licensed motor vehicle as an accessory family dwelling shall be permitted for no more that 30 total days per calendar year.

(8) Accessory family dwellings: An incidental structure or an incidental area within a primary structure that is capable of being used as a separate dwelling and that is generally occupied and used by a different person(s) than the person(s) that generally occupies and uses the property's primary dwelling. Such a separate structure or area shall be considered and accessory family dwelling whether it is detached from the primary dwelling, attached to the primary dwelling, or partially or completely contained within the primary dwelling.

When allowed, accessory family dwellings shall be subject to the following additional requirements:

a. Accessory family dwellings shall comply with all applicable provisions of the Weddington Code of Ordinances.

b. At least one additional off-street parking space shall be provided for the use of those occupying the accessory family dwelling unless the zoning administrator determines that sufficient off-street parking already exists to accommodate both the property's primary dwelling and the accessory family dwelling.

c. An accessory family dwelling shall be allowed only on lots that meet the minimum lot area requirement of the applicable zoning district.

d. Only one accessory family dwelling shall be allowed per lot.

e. The accessory family dwelling shall meet all setback requirements applicable to principle structures in the zoning district.

f. The heated floor area of the accessory family dwelling shall not exceed 30 percent of the gross floor area of the primary dwelling.

Commentary: Examples of accessory dwelling square footage are:

A 1,333 square foot primary dwelling is needed for a 400 square foot accessory family dwelling. (30 percent of 1,333 = 400)

g. The property including the accessory family dwelling shall retain a single-family appearance from the street. By example only and not for purposes of limitation, the accessory family dwelling shall not have its own separate mailbox, and it must share driveway access with the primary dwelling.

(Ord. No. 87-04-08, § 4.9, 4-8-1987; Ord. No. O-2005-09, 12-12-2005; Ord. No. O-2007-09, 9-10-2007; Ord. No. O-2010-05, 4-12-2010; Ord. No. O-2017-06, 2-13-2017)

5. Height Exemption [Weddington 58-14]

Sec. 58-15. - Height exemption.

The maximum height as indicated in the various districts may be exceeded for specific uses as provided in the following: Indoor gymnasiums and roof structures not intended for human occupancy, such as skylights, transmission or television towers, stairways, water tanks, ventilating fans, air conditioning equipment or similar equipment, steeples, spires, belfries, cupolas, or chimneys, may exceed the maximum allowable height as provided in any of the zoning districts.

(Ord. No. 87-04-08, § 4.8, 4-8-1987; Ord. No. O-2010-15, 9-13-2010; Ord. No. O-2015-04, 4-13-2015)

6. Signs [Weddington 58-144- 58-153] See Appendix __.

F. Landscaping, Trees, Open Space

1. Screening and landscaping [Weddington 58-8]

Sec. 58-8. - Screening and landscaping.

(a) Screening required by any of the following or by any other section of this chapter shall be provided in accordance with the following standards:

(1) Such screening shall be located on the property with the use with which it is associated or required, and shall materially screen the subject use from the view of the adjoining properties. Screening shall be in the form of all natural material, including brick with no exposed cement block. When screening is in the form of natural vegetation, a buffer strip at least ten feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas or impervious coverage.

(2) Buffer requirements include a given minimum distance separation from the property line and required planting trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot, shall be as listed in the following table:

TABLE 58-8

ACRES	less than 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more
WIDTH*	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
TREES (per 100 ft)	3;arrowrt;			4;arrowrt;			5;arrowrt;			6;arrowrt;			7;arrowrt;				8;arrowrt;				9
SHRUBS (per 100 ft)	20;arrowrt;																				20

*The minimum width of a buffer may be reduced by an additional 20 percent if a fence or wall is constructed in accordance with these regulations.
ft = feet

(3) The width of the buffer may be reduced by 20 percent if a wall or fence is provided that meets the following standards:

a. Any fence or wall shall be constructed in a durable fashion of brick, stone, other masonry materials, or wood posts and planks, or metal or other materials specifically designed as fencing materials, or any combination thereof as may be approved by the zoning administrator. No more than 25 percent of the fence surface shall be left open, and the finished side of the fence shall face the abutting property. A chainlink fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section when abutting residential uses and districts;

b. Walls and fences shall be a minimum height of six feet;

(4) Required trees and shrubs within the buffer shall meet the following standards:

a. Forty percent of the required trees within the buffer shall be large mature trees;

b. All trees shall have a minimum caliper of two inches measured six inches above ground at the time of planting;

c. Shrubs shall be evergreen and at least three feet tall when planted with the average height of six feet in three to four years. However, 25 percent of the shrubs may vary from this standard. The allowed variations are as follows:

1. Shrubs may be deciduous;

2. Shrubs may be two feet tall when planted, provided an average height of three to four feet is expected as normal growth within four years; or

3. Shrubs planted on a berm may be of lesser height, provided the combined height of the berm and plantings is at least eight feet after four years.

d. Shrubs and trees shall be on the approved plant list in appendix I to chapter 58;

e. All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the American Standards for Nursery Stock published by the American Association of Nurserymen, and shall be free of disease; and

f. Twenty-five percent of all trees will be evergreen.

(5) Landscaping buffers will have an arrangement of trees and shrubs in the buffer area, which shall be done in a manner that provides a visual separation between abutting land uses. Shrubs shall be massed in rows or groups to achieve the maximum screening effect. Guidelines for the arrangement of plant material are illustrated in table 58-8.

(6) In the event that it can be demonstrated that existing vegetation meets the intent of this section, but the plant materials are not on the approved list, the zoning administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the zoning administrator may determine whether it is acceptable.

(7) Berms may be used as screening, provided such berms are at least six feet in height with a maximum slope of 4:1, as measured from the exterior property line.

a. Berms shall be stabilized to prevent erosion and landscaped; and

b. If a berm is constructed, shrubs are required but the number may be reduced by 25 percent. However, constructing a berm does not modify the number of trees required.

(8) Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance or replacement, or maintenance and construction of berms, or utility lines. However, utility line construction must meet the following requirements:

a. The removal of any tree larger than six inches in caliper or any dogwood or redbud larger than two inches in caliper shall require the approval of the zoning administrator;

b. No utility easements shall run longitudinally within a buffer yard.

(9) To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior in the buffer yard.

(10) In no case shall the plant species of Pueraria lobata (Kudzu) be used for planting with the buffer.

(11) The developer shall be required to replace any plant material which has not remained viable or has failed to stabilize the soil through two consecutive growing seasons.

(12) All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.

(13) If utilities are located within the buffer yard, then the right-of-way width must be added to the total buffer width, in addition to the required width in table 58-8. This additional buffer width can be added into the calculated lot area.

(14) If aboveground utilities are to remain in the buffer yard, then all landscaping, including the location of a berm, must be located as follows:

a. *Overhead.* Trees next to power lines shall be planted using the table below. The measurement shall be made from the nearest edge of the tree trunk.

Distance from power line	Tree specification
40 feet or greater	Any tree listed in appendix I
18 feet or greater	Small maturing trees listed in appendix I. However, except trees as marked with an asterisk (*) shall not be located within the utility right-of-way.
0—18 feet	Shrubs with a mature height of less than 20 feet.

b. *Underground.* Roots planted near underground utility or power lines may be damaged in the event that repairs are required. Utmost care shall be taken when planting new trees and when carrying out any excavation work near trees.

(b) Business and commercial uses adjacent to residential zoning shall provide screening to materially screen the subject use from the view of the adjoining residential zoning district.

(c) Off-street parking and loading facilities and dumpsters adjacent to residential zoning or located in a residential district shall provide screening.

(d) For open-air storage, or an unenclosed structure within 100 feet of a road, consisting of a roof, but no walls, used for storage of materials, products, wastes or equipment associated with business or certain conditional uses, screening shall be provided. Such screening may be located anywhere on the subject property, provided the storage is effectively screened.

(e) The screening provisions of this section shall be minimum screening standards required for the issuance of a conditional use permit as provided in article III of this chapter; provided, however, that the town council may impose additional reasonable screening requirements as a condition for awarding a conditional use permit as the town council considers necessary to protect the public health, safety and welfare in accordance with the purpose and intent of this chapter.

(f) In cases where screening is required by this chapter and devices such as existing vegetation or topographical features or extreme size of the tract involved would render the installation of screening unnecessary, the zoning administrator is hereby empowered to accept the existing features as meeting the general requirements. Such decision shall be based on the spirit and intent of this section. If, at any time after existing topographical features or size of the lot are thereafter altered so as to render them inadequate as screening,

the owner of the land shall be required to provide screening as described in this section to achieve the required screen. The vacancy or nonuse of adjacent property shall not negate the necessity for installation of screening.

(g) Subsections (a)—(f) of this section shall be construed to require screening alongside property lines and/or rear property lines adjacent to residential zoning, but in no case shall screening be required along a public street, except as provided in subsections (c) and (d) of this section.

(h) Uses permitted within the business districts shall provide street trees as landscaping along the front property line, along the side street property line on a corner lot, and at the rear property line when the rear property line lies directly across the street from a residential district. Such trees shall be installed in accordance with the following standards:

(1) Such trees may be evergreen or deciduous.

(2) Such trees shall be a minimum of four feet high at planting.

(3) The maximum spacing between trees shall be 30 feet.

(i) Such trees shall when possible be located behind the right-of-way of the street. When it is necessary to locate landscaping required by this section on the right-of-way of a state-maintained road, an encroachment agreement shall be obtained from the state department of transportation. Consideration should be given to the alignment of trees or shrubs installed on an adjoining lot and when possible the alignment should be continued along the street. Encroachment into the sight distance area as defined in section 58-12 shall be allowed subject to the requirement that landscaping installed within a sight distance shall be set back as far as is practicable from the intersection of the two streets forming the intersection and shall not be of a height to interfere with sight distance.

(j) In cases where existing trees on a lot or lots are located within the required setback, and where existing trees would inhibit or restrict the growth of street trees required by this section, the zoning administrator may authorize that low growing shrubbery be installed in lieu of trees. Such shrubs shall adhere to the locational requirements stated in subsections (g) and (h) of this section.

(k) Essential services, classes I, II, III, IV, shall be naturally screened on all sides in compliance with the screening and landscaping provisions of this section.

(Ord. No. 87-04-08, § 4.2, 4-8-1987; Ord. No. O-2017-12, 10-9-2017)

Editor's note— Appendix I is set out at the end of this chapter.

2. Fences and Walls [Weddington 58-9]

Sec. 58-9. - Fences and walls permitted within yard areas and at subdivision entrances.

Unless otherwise noted in this chapter, fences or walls are permitted in the various districts subject to the following regulations:

(1) *Residential districts.*

a. Within the required rear and side yard areas, the maximum height of a fence (except court perimeter fences) or wall shall be eight feet.

b. Within the required front yard area, the maximum height of a fence or wall shall be five feet.

c. No portion on any fence or wall may be located within the established right-of-way of any publicly maintained road unless an encroachment agreement has first been obtained from the governing body maintaining said road.

d. Subdivision entry and perimeter walls and entry monuments are not required to be of any specific height or style, but are subject to review and approval of the planning board prior to the start of construction.

(2) *Business districts.*

a. Within the required rear and side yard areas, the maximum height of a fence or wall shall be eight feet.

b. Within the required front yard area, the maximum height of a fence shall be five feet.

(Ord. No. 87-04-08, § 4.3, 4-8-1987; Ord. No. O-2013-01, 2-11-2013)

3. Add Trees and Open Space [is this the "new" ordinance]

G. Roads, Parking, Utilities and Other Infrastructure

1. Visibility at intersections [Weddington 58-12]

Sec. 58-12. - Visibility at intersections.

No structures, buildings, or other improvements over 3½ feet high will be permitted within ten feet of the right-of-way of an intersection, except as provided in subsection 58-8(g).

(Ord. No. 87-04-08, § 4.6, 4-8-1987)

2. Off-street parking [Weddington 58-175- 58-176]

ARTICLE VI. - OFF-STREET PARKING AND LOADING

Sec. 58-175. - Off-street parking.

Every new use, or an enlargement, expansion or alteration of an existing use, shall require off-street parking in compliance with this article, unless specifically exempt from such provisions or portions thereof.

(1) Off-street parking spaces shall be increased when a change of use of either a structure or of land requires additional parking spaces in compliance with this article. Parking spaces may be decreased when a change of use in either a structure or of land requires less spaces than provided for the replaced use.

(2) A one-time only enlargement of a structure or increase in the amount of land used may be made for existing uses deficient in off-street parking, provided that the enlargement or increase does not represent a requirement in excess of five off-street parking spaces. In the event that such increase represents a requirement in excess of five off-street parking spaces, such increase shall require complete compliance of the provisions of this article for the entire use.

(3) Off-street parking shall be located as follows:

a. Parking as required herein shall be located on the same lot as the principal use except when specifically permitted to be located elsewhere. Driveways shall be considered as providing off-street parking spaces for all single-family and two-family dwellings.

b. Cooperative provisions for off-street parking may be made by contract between owners of adjacent property, and such contract filed with the zoning administrator. The parking area provided on any one lot may be reduced to not less than half the parking spaces required for the use occupying such lot. The total number of spaces provided under such a cooperative parking scheme shall not be less than the total number of spaces required for each use.

c. No parking area shall be located over an active septic tank field.

d. In residential areas, the temporary parking or storage of mobile homes shall be prohibited. Boats, motor homes and camping trailers may, however, be stored or temporarily parked in a residential district. All inoperative motor vehicles stored outdoors shall be parked behind the residence and screened from the public right-of-way.

e. Parking areas may not be extended into the required rear yard and side yard setbacks.

f. A city or town hall, post office, library or other governmental facility may count shared parking spaces toward up to 50 percent of its total off-street parking requirement. Such a use may share parking spaces only with one or more other uses that also may share parking spaces under subsection (4)c of this section. The following formula shall be used to determine how many shared parking spaces a particular use may apply toward its off-street parking requirement:

1. For off-street private parking, a use may treat as shared parking, any parking spaces that are within 800 feet of that use. A document must be filed with the town's zoning administrator that confirms that the parking lot's owner or operator consents to parking spaces in that lot being shared. If fewer than all the spaces within the lot are being shared, this document must clearly identify which spaces are being shared. If the shared parking arrangement described in the document is later modified, a document describing the modified arrangement must be filed with the town's zoning administrator. If the shared parking arrangement described in any document filed with the town's zoning administrator is later rescinded, the zoning administrator must be notified immediately. If the rescission or modification of a shared parking arrangement leaves a use with inadequate parking to satisfy the requirements of this article, said use will not be considered nonconforming, and it will not be permitted to continue without satisfying this article's parking requirements.

(4) Design standards for parking areas are as follows:

a. A parking space shall be not less than nine feet in width nor less than 20 feet in length. In lots of more than 20 spaces, compact stalls may be permitted on the basis of one compact stall to each additional

five standard stalls. Each compact stall shall be seven feet wide and 17 feet long, and shall be clearly marked, "small cars only." All parking stalls shall be clearly marked and such markings shall be maintained so as to be easily seen.

b. Parking bays shall be designed in accordance with accepted standard practice for parking at various angles, with aisles being of such widths as to permit the entering and leaving of a parking space with ease and safety.

c. Access to all required parking areas shall be by roads adequate in width to accommodate two-way traffic, except for parking areas designed and clearly marked for one-way traffic. Except by way of approved driveways, access from or egress to a public road from a parking area shall be expressly prohibited. Adequate provisions shall be made to insure compliance by the use of fences, walls, wheel stops or landscaping, or a combination of those devices.

d. Wheel stops, curbs, or other devices shall be provided in such locations as to prevent any vehicle from encroaching either on a public right-of-way or an adjacent property.

e. Parking areas shall be so designed as to retain existing trees and other plant life. Where no trees or other plant life exists, adequate landscaping shall be provided, both within the parking area and on the external boundaries of such area.

f. Screening shall be provided as required in section 58-8.

g. Signs shall be permitted in compliance with section 58-153.

(5) Permits for driveway locations on state-maintained roads shall be obtained from the state department of transportation.

(6) Storm drainage facilities shall be required, and shall be so designed as to protect any public right-of-way or adjacent property from the damage.

(7) The requirements for off-street parking spaces shall be computed as follows:

a. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half or more shall require one parking space.

b. Where seats consist of pews or benches, each 20 inches in length of pew or a bench shall be considered as one seat.

c. For the purpose of computing parking requirements based on the number of employees, the owners or managers shall also be considered employees.

d. Lots containing more than one principal use shall provide parking in the amount equal to the total of the requirements for each use.

(8) The following chart indicates the minimum off-street parking requirements:

Use Classification	Parking Space Requirement
Banquet, reception and conference center	1 per employee during the shift of greatest employment plus 1 space for every 2 guests based on the maximum number of guests the facility can accommodate. At a minimum, each use shall have parking to accommodate at least 30 vehicles.
Cemeteries	1 space per employee during the shift of greatest employment plus parking on private internal roads.

Churches, synagogues and other places of worship	1 space per employee during the shift with greater employment plus 1 space for each 4 seats in the sanctuary.
Community recreational centers; country clubs; fraternal, social and recreational organizations	1 space for the largest number of employees per shift, plus 2 spaces for each 3 memberships, plus 1 space for each vehicle used in the operation.
Customary home occupations	1 space plus the number of spaces required for the residential use.
Day care centers	1 space per employee during the shift of greatest employment plus 1 space per 5 children.
Dwellings, one-family	2 spaces for each 1 dwelling unit.
Dwellings, two-family	2 spaces for each 1 dwelling unit.
Elementary and secondary schools	3 spaces for each room used for instruction or administration, or one space for each four seats used for assembly purposes, whichever is greater.
Family care homes	1 space for each 3 employees, plus 1 space to each guestroom.
Fire station	1 space per employee during the shift of greatest employment.
Funeral chapels	1 space for each 3 seats in the chapel or chapels plus 2 spaces for each 3 employees, plus 1 space for each vehicle used in the operation. In addition, off-street parking area shall be provided, on the site, to accommodate a minimum of 30 passenger vehicles for the purpose of forming a funeral procession.
Health/sports club; school for the arts	1 space per employee during the shift of greatest employment plus 1 space for each 2 students/participants as determined during the time of day of greatest student/participant enrollment plus 1 space for each vehicle used in the operation.
Libraries	1 space per 200 square feet of gross floor area.
Medical and dental offices	4 spaces for each doctor practicing at the clinic, plus 1 space for each employee.
Offices, professional, business, or public (excluding medical and dental offices and clinics)	1 space per employee during the shift with greater employment plus 1 space for each 300 square feet of gross floor area.

Places of public assembly, including private clubs and lodges, auditoriums, stadiums, gymnasiums, community centers, public parks and recreational facilities and all similar places of public assembly	1 space for each 4 seats provided for patron use, plus 1 space for each 100 square feet of floor or ground area used for amusement or assembly but not containing fixed seats.
Post office, city hall	1 space per employee during the shift of greater employment plus 1 space for each 200 square feet of gross floor area.
Recreational facilities	
Driving range	1.2 spaces per tee.
Golf course (nine and 18 holes)	90 spaces per 9 holes.
Swimming pool	1 space per 75 square feet of water.
Swimming pool (as part of a subdivision)	1 space per 100 square feet of water.
Tennis or racquet court	3 spaces per court.
Tennis courts (as part of a subdivision)	2 spaces per court.
Other outdoor recreation	1 space per 200 square feet.
25 percent to 40 percent of parking spaces for these recreational facilities may be on nonasphalt material	
Restaurants	1 space for each employee during the shift of greater employment plus one space for each three seats.
Retail business and consumer service outlets (except as noted)	1 space for each 200 square feet of gross floor area.
Riding stables, commercial	1 space for each employee during the shift of greater employment plus 2 spaces for each 3 stalls, plus 1 space for each vehicle used in the operation.
Service stations	2 spaces for each gas pump plus 1 space for each employee during the shift of greatest employment.

Shopping center	1 space per 200 square feet of leasable floor area for the first 20,000 square feet. 1 per 250 square feet for 20,001 to 140,000 total leasable square feet. 1 per 300 square feet for total leasable square footage of 140,001 or over.
Telephone exchange building, electric or gas substation, water tower or tank, pump station	One space for each employee during the shift of greatest employment and/or one space for each vehicle used in the operation.

(Ord. No. 87-04-08, § 9.1, 4-8-1987; Ord. No. O-2006-06, 3-13-2006; Ord. No. O-2006-14, 8-14-2006; Ord. No. O-2011-02, 3-14-2011)

3. Outdoor lighting [Weddington 58-17]

Sec. 58-17. - Outdoor lighting.

Outdoor lighting shall be so located as not to reflect on adjacent property or on public streets in such manner as to adversely affect the enjoyment of adjacent property or endanger the motorist traveling such streets. All outdoor lighting shall conform to the town lighting regulations.

(Ord. No. 87-04-08, § 4.10, 4-8-1987; Ord. No. O-2003-14, 7-14-2003)

4. Lighting [Weddington 14-81-14-92] See Appendix __.
5. Architectural Standards [non-residential] [Weddington 14-101-107] See Appendix __.
6. Gated community requirements (gates and private streets). Portion of Weddington 58-23.

(A) The design and layout of any gatehouse, external fence, walls and berms shall be located outside any public street right-of-way and shall be designed to blend in, to the greatest degree feasible, with the proposed development and shall be attractive to motorists and pedestrians from adjoining public streets.

(B) With the exception of the placement of the gate and/or guardhouse in a private street, any road built within a PRD shall be built to state standards and shall meet all applicable minimum right-of-way, pavement, and construction standards for public roads as established by the state department of transportation. A certified engineer shall verify that all roads within the PRD conform to all required state department of transportation standards for roadway and storm drainage design. The NCDOT Built-To Standards Checklist (available at town hall upon request) will be required to be submitted to the town zoning staff for review and approval. The town reserves the right to have streets inspected during the construction phase to insure that they are being built in accordance with all applicable state DOT standards. The PRD developer of the subdivision shall bear all costs borne by the town in association with such inspections.

(C) Before the approval of a final plat for a PRD, the developer shall submit to the town evidence that the developer has created a homeowners' association whose responsibility it will be to maintain common areas and private streets within the PRD. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws.

(D) The maintenance and upkeep of any guardhouses or entry structures, and subdivision walls, fences or berms located at the external periphery of the PRD, as well as the maintenance and upkeep of any private streets in the PRD, shall be the sole responsibility of the developer and/or any duly incorporated and active homeowners' association. Accordingly, any bond accepted by the town per subsection 46-49(b) for a PRD subdivision shall be calculated using the construction costs of all such facilities (in addition to the cost of streets as provided in subsection 46-49(b)) and shall remain in place until the town council is satisfied (in its own exclusive discretion) that the homeowners' association is controlled by individual lot owners other than the developer (which generally the town council shall not deem to have occurred until one year, at a minimum, after a homeowners' association is incorporated and active) and has made necessary assessments for, and has otherwise taken over the full responsibility of, maintaining and repairing such streets and facilities. The decision to release such bonds shall rest entirely within the town council's discretion and shall be made based upon the homeowners' association's financial ability to properly maintain and repair these streets and facilities. After the bond is released by the town council, the homeowners' association shall be required to submit to the town, by January 15 of each calendar year, the names, addresses and telephone numbers of all duly elected members of its board of directors as well as a copy of its annual financial statements showing, at a minimum, the amount of funds budgeted to maintain such streets and facilities. In the event the town council, in its discretion, believes the homeowners' association is not adequately maintaining or repairing the streets or facilities or is not making assessments necessary to cover the cost of said maintenance or repairs, it may, after holding a hearing, require the homeowners' association to provide a bond as required in subsection 46-49(b). The hearing described above, shall be duly noticed by publication as provided in this chapter and by mailing notice of the hearing to at least one officer (according to the most recent list of officers the town has received) of the homeowners' association or to the homeowners' association's registered agent at least ten days before the hearing. The homeowners' association's bond may be eliminated, modified, or reinstated at the discretion of the town council after a hearing notice as described above.

(E) Subdivisions which have an entrance gate are subject to the following regulations: The homeowner's association will provide the access code to the gate and an emergency contact number to the fire department, the Union County Sheriff and other emergency services and will be responsible for maintenance, testing and repairs of all functions of the gate. An annual inspection and test of the gate system shall be performed and the results submitted to town hall during the renewal window prescribed in the Town of Weddington Annual Enforcement Manual. Should there be a problem with the operation of the entrance gate, the gate shall remain open and accessible until the gate is repaired and tested. Any homeowner's association that is found to be in violation shall be required to maintain a service agreement with a qualified contractor to ensure year-round maintenance and to submit a copy of the service agreement to town hall.

7. Add Utilities (water sewer connection requirement?)

Commented [KB1]: Discuss with Lisa if we want something different than what is already included above

Part 2 Environmental Regulations

D-920 Environmental Regs

Land Application of Biosolids [delete Weddington 58-373-58-383] All landowners and/or leaseholders shall strictly comply with the federal, state and local laws, regulations and permit requirements for use of biosolids.

D-922 Erosion Control [Weddington 58-601-623] See Appendix __.

D-923 Floodplain Regs [Weddington 58-411 through 485?]. See Appendix __.

D-925 Stormwater [Weddington 58-541- 547]. See Appendix __.

Part 3 Wireless Telecommunication Facilities

D-930 Wireless Telecommunication Facilities [Weddington 58-329]

ARTICLE X. - TELECOMMUNICATION TOWERS

Sec. 58-291. - Intention.

In recognition of the Telecommunications Act of 1996, it is the intent of the town to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety and welfare of the citizens of the town and its extraterritorial jurisdiction. Wireless towers may be considered undesirable with other types of uses, most notably residential; therefore special regulations are necessary to ensure that any adverse affects to existing and future development are mitigated.

(Ord. No. 87-04-08, § 13.1, 4-8-1987)

Sec. 58-292. - Maximum height.

The maximum allowable height of a tower is 185 feet. No tower shall have a height greater than 185 feet unless the applicant can prove the maximum height will not allow for the provision of adequate service levels (i.e., cannot provide a reasonable level of service in the area).

(Ord. No. 87-04-08, § 13.2, 4-8-1987)

Sec. 58-293. - Co-location.

It is the intent of the town to encourage providers to co-locate facilities in an effort to reduce the number of telecommunication towers in the town's jurisdiction. All such towers over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate at least three wireless communication carriers. The town requires providers to negotiate in good faith with other wireless communication carriers to lease space at a reasonable cost, and to publicize, either in the newspaper and/or online, the fact that space is available on a leased basis. Co-location of antennas on existing electrical transmission towers may be approved administratively by the zoning officer. For electrical transmission towers, any required accessory structures on the ground must comply with a 15-foot setback from the utility easement line.

(Ord. No. 87-04-08, § 13.3, 4-8-1987; Ord. No. O-2009-06, 7-13-2009)

Sec. 58-294. - Requirements for lots with existing use.

Where a telecommunication tower is located on a lot with an existing principal use, the tower shall be located in the rear yard only. An access road at least 12 feet wide shall be maintained by the property owner and/or the applicant from a public street to the tower for use by service and emergency vehicles. A minimum separation of 20 feet is required between structures.

(Ord. No. 87-04-08, § 13.4, 4-8-1987)

Sec. 58-295. - Compliance with federal standards.

The town recognizes that a tower cannot be prohibited, nor can a conditional zoning permit be denied on the basis of environmental or health concerns relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. The town requires that the applicant must provide documentation proving that the proposed tower complies with the Federal Radio Frequency Emission Standards.

(Ord. No. 87-04-08, § 13.5, 4-8-1987; Ord. No. O-2011-13, 9-12-2011)

Sec. 58-296. - Accessory structures.

Wherever feasible, all accessory structures on the ground which contain switching equipment or other related equipment must be designed to closely resemble the neighborhood's basic architecture or the architecture and style of the principal use on the property.

(Ord. No. 87-04-08, § 13.6, 4-8-1987)

Sec. 58-297. - Screening.

Screening is required in the form of shrubs and/or trees along all sides of the perimeter of the telecommunication tower site as per section 58-8. In addition, a minimum eight-foot-high fence is required immediately around the tower and any equipment buildings, with the screening to be located on the outside of the fenced area. It will be the responsibility of the provider to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property and any tenant on the property where screening is required shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy, and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies. Applicants that are building new towers with co-location opportunities shall plan the fence and screening to accommodate future providers on the site such that the fence and screening surrounds all future structures and the tower.

(Ord. No. 87-04-08, § 13.7, 4-8-1987)

Sec. 58-298. - Setback requirements.

A minimum setback requirement, on all sides of the property, or leased area of a parcel, shall be 1½ feet for every one foot of actual tower height, or the documented collapse zone, whichever is greater. For the purpose of establishing setbacks, the measurements shall be from the perimeter fencing which surrounds the equipment shelters and the tower base. No habitable structures shall be within the required setback area.

(Ord. No. 87-04-08, § 13.8, 4-8-1987)

Sec. 58-299. - Lighting.

Towers having a height of 185 feet or less shall not contain lights or light fixtures at a height exceeding 15 feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or accessory uses to reduce glare onto adjacent properties.

(Ord. No. 87-04-08, § 13.9, 4-8-1987)

Sec. 58-300. - Abandonment of tower.

Towers and related facilities must be removed by the applicant and/or property owner if abandoned (no longer used for its original intent) for a period greater than 90 consecutive days. It shall be the responsibility of the applicant to notify the town when the tower has been abandoned for greater than 90 days.

(Ord. No. 87-04-08, § 13.10, 4-8-1987)

Sec. 58-301. - Increasing tower height.

Normal maintenance and repair of the structure can be completed without the issuance of a conditional zoning permit. Co-location of additional providers to an existing tower or an upgrade of the equipment on an existing tower requires review and approval by the zoning officer to ensure the tower will continue to satisfy this ordinance and other applicable requirements. Notwithstanding any other language in this section, any change to an existing tower that will increase the tower's height, alter the tower's lighting, or alter the painting or exterior appearance of the tower requires the issuance of a new conditional zoning permit for the tower.

(Ord. No. 87-04-08, § 13.11, 4-8-1987; Ord. No. O-2006-10, 6-12-2006; Ord. No. O-2011-13, 9-12-2011)

Sec. 58-302. - Freestanding signs.

Freestanding signs are prohibited. Wall signs, limited to identification area, shall be allowed on equipment structures or fences surrounding the telecommunication tower, provided it does not exceed nine square feet in size. Any signage must be specifically addressed in the conditional zoning application and permit.

(Ord. No. 87-04-08, § 13.12, 4-8-1987; Ord. No. O-2011-13, 9-12-2011)

Sec. 58-303. - Proof of insurance.

The provider must show proof of adequate insurance coverage for any potential damage caused by or to the tower prior to the issuance of a conditional zoning permit. Once approved, documentation of adequate insurance must be provided to the town every 12 months.

(Ord. No. 87-04-08, § 13.13, 4-8-1987; Ord. No. O-2011-13, 9-12-2011)

Sec. 58-304. - Storage of equipment.

The outdoor storage of equipment or other related items is prohibited.

(Ord. No. 87-04-08, § 13.14, 4-8-1987)

Sec. 58-305. - Conditional zoning permit application requirements.

All applications for a conditional zoning permit for a telecommunication tower must include the following information, in addition to any other applicable information contained in this chapter:

(1) Identification of intended provider;

(2) Radiated signal strength and direction of signal;

(3) Documentation by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user;

(4) A statement from the provider indicating intent to allow shared use of the tower and how others will be accommodated;

(5) Evidence that the property owners of residentially zoned property within 300 feet of the site, in addition to adjacent property owners, have been notified by the applicant within 14 days of the public hearing. This notification should include the date and time of the public hearing, as well as the proposed tower height and design;

(6) Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards;

(7) Screening, if applicable, must be shown on the site plan detailing the type, amount of plantings and location;

(8) Documentation of collapse area; and

(9) Documentation that the provider has explored all means for stealth tower locations and co-location opportunities, which must accompany requests for new towers.

(Ord. No. 87-04-08, § 13.15, 4-8-1987; Ord. No. O-2011-13, 9-12-2011)

Secs. 58-306—58-328. - Reserved.

ARTICLE XI. - SMALL CELL TELECOMMUNICATIONS FACILITIES

Sec. 58-329. - Requirements.

Small cell telecommunications facilities are a permitted use in nonresidential zoning districts and in residentially zoned properties with a nonresidential use after review by the town zoning administrator, except as specified in subsection (8) below. The following standards apply:

(1) A small cell antenna may be installed on a support structure on privately held land at a height of at least 15 feet on an existing nonresidential or mixed use structure.

(2) Unstaffed equipment that is accessory to antennas may be located on a support structure, within a building, within an equipment cabinet outside a building, or on a rooftop.

a. Ground equipment shall have a maximum footprint of ten square feet with a maximum height of four feet and must be located and installed in accordance with the applicable setbacks within the zone the property is classified.

b. Rooftop equipment may be installed on privately owned land under the following conditions:

1. At a height of at least 15 feet on an existing nonresidential or mixed use structure in any zone.

2. Equipment cabinets shall have a maximum footprint of 36 square feet with a maximum height of five feet, in combination with all other roof structures may not occupy more than 25 percent of the roof area, and must be screened.

c. Equipment may be installed on a support structure on privately owned land under the following conditions:

1. At a height of at least 15 feet on an existing nonresidential or mixed use structure.

2. Equipment cabinets shall have a maximum size of 20 cubic feet with a maximum height of four feet.

(3) In residential areas small cell facilities shall be integrated into the architecture of the structure on which it is placed, landscaped to minimize visual impact, and subject to the zoning administrator's approval.

(4) An installation of a small cell facility that does not increase the size or height of the support structures, excluding antennas, by more than 20 percent is permitted provided the expansion does not create a public health hazard, as defined by federal law or regulations, or safety concern.

(5) No lighting of any part of the small cell facility is permitted. No small cell facility may be placed on any structure where the new antenna array would be required to be lighted to meet FAA regulations.

(6) Small cell facilities are permitted in state or local rights-of-way as a public utility.

(7) No small cell facility may be more than 50 feet tall as measured from ground level.

(8) A small cell facility that increases the size or height of the support structure by more than 20 percent is approvable by the planning board under the following conditions:

a. The applicant shall provide, by mail or personal delivery, written notice in a form approved by the zoning administrator to owners of property abutting and confronting the property that is the subject of the request within two business days of filing the request and shall certify the same to the zoning administrator.

b. The applicant shall demonstrate that the expansion of the support structure is integrated into the surrounding area and limits the visual impact to the maximum extent possible.

c. The expansion of the support structure does not create a public health hazard as defined by federal law or regulations, or safety concern.

(Ord. No. O-2017-10, 6-12-2017)

Part 4 Historic Preservation

D-940 Historic Preservation. [Weddington 26-57 through 145] See Appendix __.

Part 5 Community Appearance Commission

D-960 Community Appearance commission (our design review board stuff here?)

Commented [KB2]: To discuss with LT

Article 10: Development Agreements

The Town may consider and enter into Development Agreements in accordance with N.C.G.S. 160D Article 10.

Article 11: Building Code Enforcements

Building Code Enforcement shall be in accordance with N.C.G.S. 160D, Article 11. As of the date of this UDO, Building Code enforcement is handled by Union County.

Union County is responsible for the review and approval of building permits. In connection with applying for a building permit, an applicant applies for a zoning permit from the Town. Union County will not issue a building permit until the Town issues a zoning permit. Submittal requirements for a zoning permit are attached as Appendix __.

Additionally, Union County is responsible for the review and approval of certificates of occupancy (CO) upon completion of building. In connection with applying for a CO, an applicant applies for a certificate of from the Town. Union County will not issue a CO until the Town issues a certificate of compliance. Submittal requirements for a certificate of compliance are attached as Appendix __.

Article 12: Minimum Housing Code

The Town's Minimum Housing Code is set forth in Appendix __. [Chapter 14, Article 3]

Article 13 Additional Authority.

The Town has certain Additional Authority as provided in N.C.G.S. 160D, Article 13

Article 14 Judicial Review

N.C.G.S. 160D, Article 14 authorizes judicial review of certain Town decisions. Challenges to Town decisions shall be in accordance with the applicable provisions of N.C.G.S. 160D, Article 14.

Article 10.

Development Agreements.

§ 160D-1001. Authorization.

(a) The General Assembly finds the following:

(1) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.

(2) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.

(3) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.

(4) Such projects involve substantial commitments of private capital, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

(5) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.

(6) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, local governments need flexibility to negotiate such developments.

(b) Local governments may enter into development agreements with developers, subject to the procedures of this Article. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

(c) This Article is supplemental to the powers conferred upon local governments and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the local government's development regulations. When the governing board approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Article, the provisions of G.S. 160D-605(a) apply.

(d) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements. (2019-111, s. 2.4.)

§ 160D-1002. Definitions.

The following definitions apply in this Article:

(1) Development. - The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(2) Public facilities. - Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage,

potable water, educational, parks and recreational, and health systems and facilities. (2019-111, s. 2.4.)

§ 160D-1003. Approval of governing board required.

(a) A local government may establish procedures and requirements, as provided in this Article, to consider and enter into development agreements with developers. A development agreement must be approved by the governing board of a local government following the procedures specified in G.S. 160D-1005.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the local government. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy. (2019-111, s. 2.4.)

§ 160D-1004. Size and duration.

A local government may enter into a development agreement with a developer for the development of property as provided in this Article for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement. (2019-111, s. 2.4.)

§ 160D-1005. Public hearing.

Before entering into a development agreement, a local government shall conduct a legislative hearing on the proposed agreement. The notice provisions of G.S. 160D-602 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained. (2019-111, s. 2.4.)

§ 160D-1006. Content and modification.

(a) A development agreement shall, at a minimum, include all of the following:

(1) A description of the property subject to the agreement and the names of its legal and equitable property owners.

(2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.

(3) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

(4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

(5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.

(6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

(7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(b) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to G.S. 160D-1008 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.

(c) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

(d) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Chapter. The development agreement may include mutually acceptable terms regarding provision of public

facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government pursuant to G.S. 160D-804 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

(e) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to G.S. 160D-1003 or as provided for in the development agreement.

(f) Any performance guarantees under the development agreement shall comply with G.S. 160D-804(d). (2019-111, s. 2.4.)

§ 160D-1007. Vesting.

(a) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.

(b) Except for grounds specified in G.S. 160D-108(e), a local government may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

(c) In the event State or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the development agreement.

(d) This section does not abrogate any vested rights otherwise preserved by law. (2019-111, s. 2.4.)

§ 160D-1008. Breach and cure.

(a) Procedures established pursuant to G.S. 160D-1003 may include a provision requiring periodic review by the zoning administrator or other appropriate officer of the local government, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.

(b) If the local government finds and determines that the developer has committed a material breach of the agreement, the local government shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.

(c) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement,

provided the notice of termination or modification may be appealed to the board of adjustment in the manner provided by G.S. 160D-405.

(d) An ordinance adopted pursuant to G.S. 160D-1003 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the local government to enforce applicable law.

(e) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement. (2019-111, s. 2.4.)

§ 160D-1009. Amendment or termination.

Subject to the provisions of G.S. 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties. (2019-111, s. 2.4.)

§ 160D-1010. Change of jurisdiction.

(a) Except as otherwise provided by this Article, any development agreement entered into by a local government before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the local government assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

(b) A local government assuming jurisdiction may modify or suspend the provisions of the development agreement if the local government determines that the failure of the local government to do so would place the residents of the territory subject to the development agreement or the residents of the local government, or both, in a condition dangerous to their health or safety, or both. (2019-111, s. 2.4.)

§ 160D-1011. Recordation.

The developer shall record the agreement with the register of deeds in the county where the property is located within 14 days after the local government and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement. (2019-111, s. 2.4.)

§ 160D-1012. Applicability of procedures to approve debt.

In the event that any of the obligations of the local government in the development agreement constitute debt, the local government shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the local government, with any applicable constitutional and statutory procedures for the approval of this debt. (2019-111, s. 2.4.)

Article 11.

Building Code Enforcement.

§ 160D-1101. Definitions.

As used in this Article, the following terms shall have their ordinary meaning and shall also be read to include the following:

(1) Building or buildings. - Includes other structures.

(2) Governing board or board of commissioners. - Includes the Tribal Council of a federally recognized Indian tribe.

(3) Local government. - Includes a federally recognized Indian tribe, and, as to such tribe, includes lands held in trust for the tribe.

(4) Public officer. - Includes the officer or officers who are authorized by regulations adopted hereunder to exercise the powers prescribed by the regulations and by this Article. (2019-111, s. 2.4.)

§ 160D-1102. Building code administration.

A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or such other titles as may be generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-1105 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to G.S. 160D-1105 or Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-1105 and G.S. 160D-202.

In the event that any local government fails to provide inspection services or ceases to provide such services, the Commissioner of Insurance shall arrange for the provision of such services, either through personnel employed by the department or through an arrangement with other units of government. In either event, the Commissioner shall

have and may exercise within the local government's planning and development regulation jurisdiction all powers made available to the governing board with respect to building inspection under this Article and Part 1 of Article 20 of Chapter 160A of the General Statutes. Whenever the Commissioner has intervened in this manner, the local government may assume provision of inspection services only after giving the Commissioner two years' written notice of its intention to do so; provided, however, that the Commissioner may waive this requirement or permit assumption at an earlier date upon finding that such earlier assumption will not unduly interfere with arrangements made for the provision of those services. (2019-111, s. 2.4.)

§ 160D-1103. Qualifications of inspectors.

No local government shall employ an inspector to enforce the State Building Code who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to the inspector's qualifications to hold such position: (i) a probationary certificate, (ii) a standard certificate, or (iii) a limited certificate which shall be valid only as an authorization to continue in the position held on the date specified in G.S. 143-151.13(c) and which shall become invalid if the inspector does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. 143-151.13(c). An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position. (2019-111, s. 2.4.)

§ 160D-1104. Duties and responsibilities.

(a) The duties and responsibilities of an inspection department and of the inspectors in it shall be to enforce within their planning and development regulation jurisdiction State and local laws relating to the following:

(1) The construction of buildings and other structures.

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems.

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition.

(4) Other matters that may be specified by the governing board.

(b) The duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws.

The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(c) In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(d) Except as provided in G.S. 160D-1115 and G.S. 160D-1207, a local government may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a local government and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the local government to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Residential Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings or the North Carolina Building Code.

(e) Each inspection department shall implement a process for an informal internal review of inspection decisions made by the department's inspectors. This process shall include, at a minimum, the following:

(1) Initial review by the supervisor of the inspector.

(2) The provision in or with each permit issued by the department of (i) the name, phone number, and e-mail address of the supervisor of each inspector and (ii) a notice of availability of the informal internal review process.

(3) Procedures the department must follow when a permit holder or applicant requests an internal review of an inspector's decision.

Nothing in this subsection shall be deemed to limit or abrogate any rights available under Chapter 150B of the General Statutes to a permit holder or applicant.

(f) If a specific building framing inspection as required by the North Carolina Residential Code for One- and Two-Family Dwellings results in 15 or more separate violations of that Code, the inspector shall forward a copy of the inspection report to the Department of Insurance. (2019-111, s. 2.4.)

§ 160D-1105. Other arrangements for inspections.

A local government may contract with an individual who is not a local government employee but who holds one of the applicable certificates as provided in G.S. 160D-1103 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160D-1103. (2019-111, s. 2.4.)

§ 160D-1106. Alternate inspection method for component or element.

(a) Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from an architect licensed under Chapter 83A of the General Statutes or professional engineer licensed under Chapter 89C of the General Statutes provided all of the following apply:

(1) The submission design or other proposal is completed under valid seal of the licensed architect or licensed professional engineer.

(2) Field inspection of the installation or completion of a component or element of the building is performed by a licensed architect or licensed professional engineer or a person under the direct supervisory control of the licensed architect or licensed professional engineer.

(3) The licensed architect or licensed professional engineer under subdivision (2) of this subsection provides the city with a signed written document stating the component or element of the building inspected under subdivision (2) of this subsection is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be provided by electronic or physical delivery and its receipt shall be promptly acknowledged by the city through reciprocal means.

(b) Upon the acceptance and approval receipt of a signed written document by the city as required under subsection (a) of this section, notwithstanding the issuance of a certificate of occupancy, the city, its inspection department, and the inspectors shall be discharged and released from any liabilities, duties, and responsibilities imposed by this Article with respect to or in common law from any claim arising out of or attributed to the component or element in the construction of the building for which the signed written document was submitted.

(c) With the exception of the requirements contained in subsection (a) of this section, no further certification by a licensed architect or licensed professional engineer shall be required for any component or element designed and sealed by a licensed architect or licensed professional engineer for the manufacturer of the component or

element under the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) As used in this section, the following definitions apply:

(1) Component. - Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench containing no concrete. The term does not include a system.

(2) Element. - A combination of products designed to be combined with other elements to form all or part of a building component. The term does not include a system. (2019-111, s. 2.4.)

§ 160D-1107. Mutual aid contracts.

(a) Any two or more cities or counties may enter into contracts with each other to provide mutual aid and assistance in the administration and enforcement of State and local laws pertaining to the North Carolina State Building Code. Mutual aid contracts may include provisions addressing the scope of aid provided, for reimbursement or indemnification of the aiding party for loss or damage incurred by giving aid, for delegating authority to a designated official or employee to request aid or to send aid upon request, and any other provisions not inconsistent with law.

(b) Unless the mutual aid contract says otherwise, while working with the requesting city or county under the authority of this section, a Code-enforcement official shall have the same jurisdiction, powers, rights, privileges, and immunities, including those relating to the defense of civil actions and payment of judgments, as the Code-enforcement officials of the requesting agency.

(c) Nothing in this section shall be construed to deprive any party to a mutual aid contract under this section of its discretion to send or decline to provide aid to another party to the contract under any circumstances, whether or not obligated by the contract to do so. In no case shall a party to a mutual aid contract or any of its officials or employees be held to answer in any civil or criminal action for declining to send aid whether or not obligated by contract to do so. (2019-111, s. 2.4.)

§ 160D-1108. Conflicts of interest.

Staff members, agents, or contractors responsible for building inspections shall comply with G.S. 160D-109(c). No member of an inspection department shall be financially interested or employed by a business that is financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the local government's planning and development regulation jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of the building. No member of an

inspection department or other individual or an employee of a company contracting with a local government to conduct building inspections shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government. The local government must find a conflict of interest if any of the following is the case:

(1) If the individual, company, or employee of a company contracting to perform building inspections for the local government has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two years.

(2) If the individual, company, or employee of a company contracting to perform building inspections for the local government is closely related to the owner, developer, contractor, or project manager of the project to be inspected.

(3) If the individual, company, or employee of a company contracting to perform building inspections for the local government has a financial or business interest in the project to be inspected.

The provisions of this section do not apply to a firefighter whose primary duties are fire suppression and rescue but who engages in some fire inspection activities as a secondary responsibility of the firefighter's employment as a firefighter, except no firefighter may inspect any work actually done, or materials or appliances supplied, by the firefighter or the firefighter's business within the preceding six years. (2019-111, s. 2.4.)

§ 160D-1109. Failure to perform duties.

(a) If any member of an inspection department shall willfully fail to perform the duties required by law, or willfully shall improperly issue a building permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, the member shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the local government, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160D-1104(d). (2019-111, s. 2.4.)

§ 160D-1110. Building permits.

(a) Except as provided in subsection (c) of this section, no person shall commence or proceed with any of the following without first securing all permits

required by the State Building Code and any other State or local laws applicable to any of the following activities:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

(2) The installation, extension, or general repair of any plumbing system except that in any one- or two-family dwelling unit a permit shall not be required for the connection of a water heater that is being replaced, provided that the work is performed by a person licensed under G.S. 87-21 who personally examines the work at completion and ensures that a leak test has been performed on the gas piping, and provided the energy use rate or thermal input is not greater than that of the water heater that is being replaced, there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and the replacement is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that all of the following requirements are met:

a. With respect to electric water heaters, the replacement water heater is placed in the same location and is of the same or less capacity and electrical rating as the original.

b. With respect to electrical lighting fixtures and devices, the replacement is with a fixture or device having the same voltage and the same or less amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The repair or replacement installation meets the current edition of the State Building Code, including the State Electrical Code.

However, a building permit is not required for the installation, maintenance, or replacement of any load control device or equipment by an electric power supplier, as defined in G.S. 62-133.8, or an electrical contractor contracted by the electric power supplier, so long as the work is subject to supervision by an electrical contractor licensed under Article 4 of Chapter 87 of the General Statutes. The electric power supplier shall provide such installation, maintenance, or replacement in accordance with (i) an activity or program ordered, authorized, or approved by the North Carolina Utilities Commission pursuant to G.S. 62-133.8 or G.S. 62-133.9 or (ii) a similar

program undertaken by a municipal electric service provider, whether the installation, modification, or replacement is made before or after the point of delivery of electric service to the customer. The exemption under this subsection applies to all existing installations.

(b) A building permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a local government to review and approve residential building plans submitted to the local government pursuant to the North Carolina Residential Code, provided that the local government may review and approve such residential building plans as it deems necessary. No building permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and, if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a licensed architect or licensed engineer, no building permit shall be issued unless the plans and specifications bear the North Carolina seal of a licensed architect or of a licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no building permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(c) No permit issued under Article 9 or 9C of Chapter 143 of the General Statutes shall be required for any construction, installation, repair, replacement, or alteration performed in accordance with the current edition of the North Carolina State Building Code costing fifteen thousand dollars ($15,000) or less in any single-family residence or farm building unless the work involves any of the following:

(1) The addition, repair, or replacement of load-bearing structures. However, no permit is required for replacement of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks.

(2) The addition or change in the design of plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

(3) The addition, replacement, or change in the design of heating, air-conditioning, or electrical wiring, devices, appliances, or equipment, other than like-kind replacement of electrical devices and lighting fixtures.

(4) The use of materials not permitted by the North Carolina Residential Code for One- and Two-Family Dwellings.

(5) The addition (excluding replacement) of roofing.

(d) A local government shall not require more than one building permit for the complete installation or replacement of any natural gas, propane gas, or electrical appliance on an existing structure when the installation or replacement is performed by a person licensed under G.S. 87-21 or G.S. 87-43. The cost of the building permit for

such work shall not exceed the cost of any one individual trade permit issued by that local government, nor shall the local government increase the costs of any fees to offset the loss of revenue caused by this provision.

(e) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity, as defined in G.S. 113A-52(6), or for any activity covered by G.S. 113A-57, unless an erosion and sedimentation control plan for the site of the activity or a tract of land including the site of the activity has been approved under the Sedimentation Pollution Control Act.

(f) No building permit shall be issued pursuant to subsection (a) of this section for any land-disturbing activity that is subject to, but does not comply with, the requirements of G.S. 113A-71.

(g) No building permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars ($30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the owner occupies as a residence, or for the addition of an accessory building or accessory structure as defined in the North Carolina Uniform Residential Building Code, the use of which is incidental to that residential dwelling unit, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued. Where the improvements to a real property leasehold are limited to the purchase, transportation, and setup of a manufactured home, as defined in G.S. 143-143.9(6), the purchase price of the manufactured home shall be excluded in determining whether the cost of the work is thirty thousand dollars ($30,000) or more.

(h) No local government may withhold a building permit or certificate of occupancy that otherwise would be eligible to be issued under this section to compel, with respect to another property or parcel, completion of work for a separate permit or compliance with land-use regulations under this Chapter unless otherwise authorized by law or unless the local government reasonably determines the existence of a public safety issue directly related to the issuance of a building permit or certificate of occupancy.

(i) Violation of this section constitutes a Class 1 misdemeanor. (2019-111, s. 2.4.)

§ 160D-1111. Expiration of building permits.

A building permit issued pursuant to this Article shall expire by limitation six months, or any lesser time fixed by ordinance of the city council, after the date of

issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured. (2019-111, s. 2.4.)

§ 160D-1112. Changes in work.

After a building permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of proposed changes or deviations has been obtained from the inspection department. (2019-111, s. 2.4.)

§ 160D-1113. Inspections of work in progress.

Subject to the limitation imposed by G.S. 160D-1104(b), as the work pursuant to a building permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a building permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes. (2019-111, s. 2.4.)

§ 160D-1114. Appeals of stop orders.

(a) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the local inspector. The Commissioner of Insurance or his or her designee shall promptly conduct an investigation, and the appellant and the inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his or her designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his or her designee on an appeal, no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the following options:

(1) Appealing to the Building Code Council.

(2) Appealing to the superior court as provided in G.S. 143-141.

(b) The owner or builder may appeal from a stop order involving alleged violation of a local development regulation as provided in G.S. 160D-405. (2019-111, s. 2.4.)

§ 160D-1115. Revocation of building permits.

The appropriate inspector may revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked. (2019-111, s. 2.4.)

§ 160D-1116. Certificates of compliance.

At the conclusion of all work done under a building permit, the appropriate inspector shall make a final inspection, and, if the inspector finds that the completed work complies with all applicable State and local laws and with the terms of the permit, the inspector shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the inspection department has issued a certificate of compliance. A temporary certificate of occupancy or compliance may be issued permitting occupancy for a stated period of time of either the entire building or property or of specified portions of the building if the inspector finds that such building or property may safely be occupied prior to its final completion. Violation of this section shall constitute a Class 1 misdemeanor. A local government may require the applicant for a temporary certificate of occupancy to post suitable security to ensure code compliance. (2019-111, s. 2.4.)

§ 160D-1117. Periodic inspections.

The inspection department may make periodic inspections, subject to the governing board's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its planning and development regulation jurisdiction. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Inspections of dwellings shall follow the provisions of G.S. 160D-1207. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law. (2019-111, s. 2.4.)

§ 160D-1118. Defects in buildings to be corrected.

When a local inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable State and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property. (2019-111, s. 2.4.)

§ 160D-1119. Unsafe buildings condemned.

(a) Designation of Unsafe Buildings. - Every building that shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress, or other causes shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(b) Nonresidential Building or Structure. - In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets all of the following conditions:

(1) It appears to the inspector to be vacant or abandoned.

(2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, or fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(c) Notice Posted on Structure. - If an inspector declares a nonresidential building or structure to be unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. 143B-437.09, a "nonresidential redevelopment area" under G.S. 160A-503(10), or an area with similar characteristics designated by the governing board as being in special need of revitalization for the benefit and welfare of its citizens.

(d) Applicability to Residential Structures. - A local government may expand subsections (b) and (c) of this section to apply to residential buildings by adopting an ordinance. Before adopting such an ordinance, a local government shall hold a legislative hearing with published notice as provided by G.S. 160D-601. (2019-111, s. 2.4.)

§ 160D-1120. Removing notice from condemned building.

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any local government and that states the dangerous character of the building or structure, that person shall be guilty of a Class 1 misdemeanor. (2019-111, s. 2.4.)

§ 160D-1121. Action in event of failure to take corrective action.

If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160D-1117 shall fail to take prompt corrective action, the local inspector shall give written notice, by certified mail to the owner's last known address or by personal service, of all of the following:

(1) That the building or structure is in a condition that appears to meet one or more of the following conditions:
   a. Constitutes a fire or safety hazard.
   b. Is dangerous to life, health, or other property.
   c. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
   d. Has a tendency to attract persons intent on criminal activities or other activities that would constitute a public nuisance.

(2) That an administrative hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter.

(3) That following the hearing, the inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy is posted on the outside of the building or structure in question at least 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the local government's area of jurisdiction at least once not later than one week prior to the hearing. (2019-111, s. 2.4.)

§ 160D-1122. Order to take corrective action.

If, upon a hearing held pursuant to the notice prescribed in G.S. 160D-1119, the inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, the inspector shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating,

or demolishing the building or structure or taking other necessary steps, within such period, not less than 60 days, as the inspector may prescribe, provided that where the inspector finds that there is imminent danger to life or other property, the inspector may order that corrective action be taken in such lesser period as may be feasible. (2019-111, s. 2.4.)

§ 160D-1123. Appeal; finality of order if not appealed.

Any owner who has received an order under G.S. 160D-1120 may appeal from the order to the governing board by giving notice of appeal in writing to the inspector and to the local government clerk within 10 days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The governing board shall hear in accordance with G.S. 160D-406 and render a decision in an appeal within a reasonable time. The governing board may affirm, modify and affirm, or revoke the order. (2019-111, s. 2.4.)

§ 160D-1124. Failure to comply with order.

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160D-1120 from which no appeal has been taken or fails to comply with an order of the governing board following an appeal, the owner shall be guilty of a Class 1 misdemeanor. (2019-111, s. 2.4.)

§ 160D-1125. Enforcement.

(a) Action Authorized. - Whenever any violation is denominated a misdemeanor under the provisions of this Article, the local government, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Removal of Building. - In the case of a building or structure declared unsafe under G.S. 160D-1117 or an ordinance adopted pursuant to G.S. 160D-1117, a local government may, in lieu of taking action under subsection (a) of this section, cause the building or structure to be removed or demolished. The amounts incurred by the local government in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of Chapter 160A of the General Statutes. If the building or structure is removed or demolished by the local government, the local government shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The local government shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property

is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Additional Lien. - The amounts incurred by a local government in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the local government's planning and development regulation jurisdiction, and for municipalities without extraterritorial planning and development jurisdiction, within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(d) Nonexclusive Remedy. - Nothing in this section shall be construed to impair or limit the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (2019-111, s. 2.4.)

§ 160D-1126. Records and reports.

The inspection department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance or occupancy granted, and all other work and activities of the department. These records shall be kept in the manner and for the periods prescribed by the Department of Natural and Cultural Resources. Periodic reports shall be submitted to the governing board and to the Commissioner of Insurance as they shall by ordinance, rule, or regulation require. (2019-111, s. 2.4.)

§ 160D-1127. Appeals.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws shall be taken to the Commissioner of Insurance or the Commissioner's designee or other official specified in G.S. 143-139 by filing a written notice with the Commissioner and with the inspection department within a period of 10 days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. (2019-111, s. 2.4.)

§ 160D-1128. Fire limits.

(a) County Fire Limits. - A county may by ordinance establish and define fire limits in any area within the county and not within a city. The limits may include only business and industrial areas. Within any fire limits, no frame or wooden building or addition thereto may be erected, altered, repaired, or moved, either into the fire limits or from one place to another within the limits, except upon the permit of the inspection department and approval of the Commissioner of Insurance. The governing board may

make additional regulations necessary for the prevention, extinguishment, or mitigation of fires within the fire limits.

(b) Municipal Fire Limits. - The governing board of every incorporated city shall pass one or more ordinances establishing and defining fire limits, which shall include the principal business portions of the city and which shall be known as primary fire limits. In addition, the governing board may, in its discretion, establish and define one or more separate areas within the city as secondary fire limits.

(c) Restrictions Within Municipal Primary Fire Limits. - Within the primary fire limits of any city, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall hereafter be erected, altered, repaired, or moved, either into the limits or from one place to another within the limits, except upon the permit of the local inspection department approved by the governing board and by the Commissioner of Insurance or the Commissioner's designee. The governing board may make additional regulations for the prevention, extinguishment, or mitigation of fires within the primary fire limits.

(d) Restrictions Within Municipal Secondary Fire Limits. - Within any secondary fire limits of any city or town, as established and defined by ordinance, no frame or wooden building or structure or addition thereto shall be erected, altered, repaired, or moved, except in accordance with any rules and regulations established by ordinance of the areas.

(e) Failure to Establish Municipal Primary Fire Limits. - If the governing board of any city shall fail or refuse to establish and define the primary fire limits of the city as required by law, after having such failure or refusal called to their attention in writing by the State Commissioner of Insurance, the Commissioner shall have the power to establish the limits upon making a determination that they are necessary and in the public interest. (2019-111, s. 2.4.)

§ 160D-1129. Regulation authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer.

(a) Authority. - The governing board of the local government may adopt and enforce regulations relating to nonresidential buildings or structures that fail to meet minimum standards of maintenance, sanitation, and safety established by the governing board. The minimum standards shall address only conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The regulation shall provide for designation or appointment of a public officer to exercise the powers prescribed by the regulation, in accordance with the procedures specified in this section. Such regulation shall be applicable within the local government's entire planning and development regulation jurisdiction or limited to one or more designated zoning districts or municipal service districts.

(b) Investigation. - Whenever it appears to the public officer that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

(c) Complaint and Hearing. - If the preliminary investigation discloses evidence of a violation of the minimum standards, the public officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that an administrative hearing will be held before the public officer, or his or her designated agent, at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(d) Order. - If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by the governing board, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(e) Limitations on Orders. -

(1) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the governing board or to vacate and close the nonresidential building or structure for any use.

(2) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the

governing board determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by the governing board.

(3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(f) Action by Governing Board Upon Failure to Comply With Order. -

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the governing board may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity

to bring it into conformity with the minimum standards established by the governing board. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

(g) Action by Governing Board Upon Abandonment of Intent to Repair. - If the governing board has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the governing board may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the governing board may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the governing board may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

(h) Service of Complaints and Orders. - Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the

certified mail is refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the local government at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(i) Liens. -

(1) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(2) If the real property upon which the cost was incurred is located in an incorporated city, the amount of the costs is also a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(3) If the nonresidential building or structure is removed or demolished by the public officer, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing board to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(j) Ejectment. - If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the local government to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The

clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing board has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(k) Civil Penalty. - The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.

(*l*) Supplemental Powers. - The powers conferred by this section are supplemental to the powers conferred by any other law. An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this section, including the following powers in addition to others herein granted:

(1) To investigate nonresidential buildings and structures in the local government's planning and development regulation jurisdiction to determine whether they have been properly maintained in compliance with the minimum standards so that the safety or health of the occupants or members of the general public are not jeopardized.

(2) To administer oaths, affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises pursuant to subsection (b) of this section for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances adopted by the governing board.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and agents.

(m) Appeals. - The governing board may provide that appeals may be taken from any decision or order of the public officer to the local government's housing appeals board or board of adjustment. Any person aggrieved by a decision or order of the public officer shall have the remedies provided in G.S. 160D-1208.

(n) Funding. - The governing board is authorized to make appropriations from its revenues necessary to carry out the purposes of this section and may accept and apply grants or donations to assist in carrying out the provisions of the ordinances adopted by the governing board.

(o) No Effect on Just Compensation for Taking by Eminent Domain. - Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State.

(p) Definitions. - As used in this section, the following definitions apply:

(1) Parties in interest. - All individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

(2) Vacant industrial warehouse. - Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

(3) Vacant manufacturing facility. - Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use. (2019-111, s. 2.4.)

Article 12.

Minimum Housing Codes.

§ 160D-1201. Authorization.

(a) Occupied Dwellings. - The existence and occupation of dwellings that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health and safety of the people of this State. A public necessity exists for the repair, closing, or demolition of such dwellings. Whenever any local government finds that there exists in the planning and development regulation jurisdiction dwellings that are

unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the local government, power is conferred upon the local government to exercise its police powers to repair, close, or demolish the dwellings consistent with the provisions of this Article.

(b) Abandoned Structures. - Any local government may by ordinance provide for the repair, closing, or demolition of any abandoned structure that the governing board finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. The ordinance may provide for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are prescribed by this Article for the repair, closing, or demolition of dwellings found to be unfit for human habitation. (2019-111, s. 2.4.)

§ 160D-1202. Definitions.

The following terms shall have the meanings whenever used or referred to as indicated when used in this Part unless a different meaning clearly appears from the context:

(1) Owner. - The holder of the title in fee simple and every mortgagee of record.

(2) Parties in interest. - All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

(3) Public authority. - Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

(4) Public officer. - The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by this Article. (2019-111, s. 2.4.)

§ 160D-1203. Ordinance authorized as to repair, closing, and demolition; order of public officer.

Upon the adoption of an ordinance finding that dwelling conditions of the character described in G.S. 160D-1201 exist, the governing board is authorized to adopt and enforce ordinances relating to dwellings within the planning and development

regulation jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

(1) Designation of enforcement officer. - One or more public officers shall be designated to exercise the powers prescribed by the ordinance.

(2) Investigation, complaint, hearing. - Whenever a petition is filed with the public officer by a public authority or by at least five residents of the jurisdiction charging that any dwelling is unfit for human habitation or when it appears to the public officer that any dwelling is unfit for human habitation, the public officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that an administrative hearing will be held before the public officer, or the officer's designated agent, at a place within the county in which the property is located. The hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law shall not be controlling in administrative hearings before the public officer.

(3) Orders. - If, after notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:

a. If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified, to repair, alter, or improve the dwelling in order to render it fit for human habitation. The ordinance may fix a certain percentage of this value as being reasonable. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make

the dwelling subject to the issuance of an unfit order under subdivision (4) of this section.

b. If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling. The ordinance may fix a certain percentage of this value as being reasonable. However, notwithstanding any other provision of law, if the dwelling is located in a historic district and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160D-949.

(4) Repair, closing, and posting. - If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and the public officer may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(5) Demolition. - If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subdivision shall not be exercised until the governing board shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties that the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the

ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(6) Abandonment of Intent to Repair. - If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to subdivision (4) of this section or after a public officer issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the governing board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

(7) Liens. -

a. The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.

c. If the dwelling is removed or demolished by the public officer, the local government shall sell the materials of the dwelling, and any personal property, fixtures, or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the local government to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(8) Civil action. - If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the local government to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing board pursuant to subdivision (5) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter

judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing board has ordered the public officer to proceed to exercise his duties under subdivisions (4) and (5) of this section to vacate and close or remove and demolish the dwelling.

(9) Additional notices to affordable housing organizations. - Whenever a determination is made pursuant to subdivision (3) of this section that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition. (2019-111, s. 2.4.)

§ 160D-1204. Heat source required.

(a) A local government shall, by ordinance, require that every dwelling unit leased as rental property within the city shall have, at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured 3 feet above the floor with an outside temperature of 20 degrees Fahrenheit.

(b) If a dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (a) of this section, the owner of the dwelling unit shall not be required to install a new heating system or heating appliances, but the owner

shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (a) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.

(c) Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (a) of this section but may be used as a supplementary source in single-family dwellings and duplex units. An owner who has complied with subsection (a) of this section shall not be held in violation of this section where an occupant of a dwelling unit uses a kerosene heater as a primary source of heat.

(d) This section applies only to local governments with a population of 200,000 or over within their planning and development regulation jurisdiction, according to the most recent decennial federal census.

(e) Nothing in this section shall be construed to diminish the rights or remedies available to a tenant under a lease agreement, statute, or at common law or to prohibit a city from adopting an ordinance with more stringent heating requirements than provided for by this section. (2019-111, s. 2.4.)

§ 160D-1205. Standards.

An ordinance adopted under this Article shall provide that the public officer may determine that a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the jurisdiction. Defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. The ordinances may provide additional standards to guide the public officers in determining the fitness of a dwelling for human habitation. (2019-111, s. 2.4.)

§ 160D-1206. Service of complaints and orders.

(a) Complaints or orders issued by a public officer pursuant to an ordinance adopted under this Article shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence,

or, if the owners are known but have refused to accept service by certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. (2019-111, s. 2.4.)

§ 160D-1207. Periodic inspections.

(a) Except as provided in subsection (b) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. However, when the inspection department determines that a safety hazard exists in one of the dwelling units within a multifamily building, which in the opinion of the inspector poses an immediate threat to the occupant, the inspection department may inspect, in the absence of a specific complaint and actual knowledge of the unsafe condition, additional dwelling units in the multifamily building to determine if that same safety hazard exists. For purposes of this section, the term "reasonable cause" means any of the following: (i) the landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period, (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected, (iii) the inspection department has actual knowledge of an unsafe condition within the building, or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily buildings or between owner-occupied and tenant-occupied buildings. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.

(b) A local government may require periodic inspections as part of a targeted effort to respond to blighted or potentially blighted conditions within a geographic area that has been designated by the governing board. However, the total aggregate of targeted areas in the local government jurisdiction at any one time shall not be greater than 1 square mile or five percent (5%) of the area within the local government jurisdiction, whichever is greater. A targeted area designated by the local government shall reflect the local government's stated neighborhood revitalization strategy and shall consist of property that meets the definition of a "blighted area" or "blighted parcel" as those terms are defined in G.S. 160A-503(2) and G.S. 160A-503(2a), respectively,

except that for purposes of this subsection, the planning board is not required to make a determination as to the property. The local government shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan, (ii) hold a public hearing regarding the plan, and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

(c) In no event may a local government do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government, except for those individual properties that have more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance, (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy, (iii) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable only to an individual rental unit or property described in clause (i) of this subsection and the fee does not exceed five hundred dollars ($500.00) in any 12-month period in which the unit or property is found to have verified violations, (iv) provide that any violation of a rental registration ordinance is punishable as a criminal offense, or (v) require any owner or manager of rental property to submit to an inspection before receiving any utility service provided by the local government. For purposes of this section, the term "verified violation" means all of the following:

(1) The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.

(2) Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the local government of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the violation. If the housing code provides that any form of prohibited tenant behavior constitutes a violation by the owner or manager of the rental property, it shall be deemed a correction of the tenant-related violation if the owner or manager, within 30 days of receipt of written notice of the tenant-related violation, brings a summary ejectment action to have the tenant evicted.

(d) If a property is identified by the local government as being in the top ten percent (10%) of properties with crime or disorder problems, the local government shall

notify the landlord of any crimes, disorders, or other violations that will be counted against the property to allow the landlord an opportunity to attempt to correct the problems. In addition, the local government and the county sheriff's office or city's police department shall assist the landlord in addressing any criminal activity, which may include testifying in court in a summary ejectment action or other matter to aid in evicting a tenant who has been charged with a crime. If the local government or the county sheriff's office or city's police department does not cooperate in evicting a tenant, the tenant's behavior or activity at issue shall not be counted as a crime or disorder problem as set forth in the local ordinance, and the property may not be included in the top ten percent (10%) of properties as a result of that tenant's behavior or activity.

(e) If the local government takes action against an individual rental unit under this section, the owner of the individual rental unit may appeal the decision to the housing appeals board or the zoning board of adjustment, if operating, or the planning board if created under G.S. 160D-301, or if neither is created, the governing board. The board shall fix a reasonable time for hearing appeals, shall give due notice to the owner of the individual rental unit, and shall render a decision within a reasonable time. The owner may appear in person or by agent or attorney. The board may reverse or affirm the action, wholly or partly, or may modify the action appealed from, and may make any decision and order that in the opinion of the board ought to be made in the matter. (2019-111, s. 2.4.)

§ 160D-1208. Remedies.

(a) An ordinance adopted pursuant to this Article may provide for a housing appeals board as provided by G.S. 160D-306. An appeal from any decision or order of the public officer is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board, or commission of the local government. Any appeal from the public officer shall be taken within 10 days from the rendering of the decision or service of the order by filing with the public officer and with the housing appeals board a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the public officer shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the public officer refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified or reversed. When any appeal is from a decision of the public officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the public officer certifies to the board, after the notice of appeal is filed with the officer, that because of facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of the requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the public officer, by the

board, or by a court of record upon petition made pursuant to subsection (f) of this section.

(b) The housing appeals board shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and, to that end, it shall have all the powers of the public officer, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the public officer. The board shall have power also in passing upon appeals, when unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(c) Every decision of the housing appeals board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

(d) Any person aggrieved by an order issued by the public officer or a decision rendered by the housing appeals board may petition the superior court for an injunction restraining the public officer from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the public officer pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

(e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Article or of any ordinance or code adopted under authority of this Article or any valid order or decision of the public officer or board made pursuant to any ordinance or code adopted under authority of this Article, the public officer or board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, or use; to restrain, correct, or abate the violation; to prevent the occupancy of the dwelling; or to prevent any illegal act, conduct, or use in or about the premises of the dwelling. (2019-111, s. 2.4.)

§ 160D-1209. Compensation to owners of condemned property.

Nothing in this Article shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be

condemned or destroyed except in accordance with the police power of the State. (2019-111, s. 2.4.)

§ 160D-1210. Additional powers of public officer.

An ordinance adopted by the governing board may authorize the public officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the local government's planning and development regulation jurisdiction in order to determine which dwellings therein are unfit for human habitation.

(2) To administer oaths, affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances.

(5) To delegate any of his or her functions and powers under the ordinance to other officers and other agents. (2019-111, s. 2.4.)

§ 160D-1211. Administration of ordinance.

A local government adopting an ordinance under this Article shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings for the purpose of determining the fitness of dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Article. The local government is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist it. (2019-111, s. 2.4.)

§ 160D-1212. Supplemental nature of Article.

Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of any local government to enforce any provisions of its charter or its ordinances or regulations nor to prevent or punish violations thereof. The powers conferred by this Article shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinances. (2019-111, s. 2.4.)

Article 13.

Additional Authority.

Commented [KB1]: I think just generally note the authority here and reference statute

Part 1. Open Space Acquisition.

§ 160D-1301. Legislative intent.

It is the intent of the General Assembly to provide a means whereby any local government may acquire by purchase, gift, grant, devise, lease, or otherwise, and through the expenditure of public funds, the fee or any lesser interest or right in real property in order to preserve, through limitation of their future use, open spaces and areas for public use and enjoyment. (2019-111, s. 2.4.)

§ 160D-1302. Finding of necessity.

The General Assembly finds that the rapid growth and spread of urban development in the State is encroaching upon, or eliminating, many open areas and spaces of varied size and character, including many having significant scenic or aesthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, aesthetic, or economic assets to existing and impending urban development. The General Assembly declares that it is necessary for sound and proper urban development and in the public interest of the people of this State for any local government to expend or advance public funds for, or to accept by purchase, gift, grant, devise, lease, or otherwise, the fee or any lesser interest or right in real property so as to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve open spaces and areas within their respective jurisdictions as defined by this Article.

The General Assembly declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced. (2019-111, s. 2.4.)

§ 160D-1303. Local governments authorized to acquire and reconvey real property.

Any local government may acquire by purchase, gift, grant, devise, lease, or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right of or to real property within its respective jurisdiction, when it finds that the acquisition is necessary to achieve the purposes of this Part. Any local government may also acquire the fee to any property for the purpose of conveying or leasing the property back to its original owner or other person under covenants or other contractual arrangements that will limit the future use of the property in accordance with the purposes of this Part, but when this is done, the property may be conveyed back to its original owner but to no other person by private sale. (2019-111, s. 2.4.)

§ 160D-1304. Joint action by governing bodies.

A local government may enter into any agreement with any other local government for the purpose of jointly exercising the authority granted by this Part. (2019-111, s. 2.4.)

§ 160D-1305. Powers of governing bodies.

A local government, in order to exercise the authority granted by this Part, may:

(1) Enter into and carry out contracts with the State or federal government or any agencies thereof under which grants or other assistance are made to the local government.

(2) Accept any assistance or funds that may be granted by the State or federal government with or without a contract.

(3) Agree to and comply with any reasonable conditions imposed upon grants.

(4) Make expenditures from any funds so granted. (2019-111, s. 2.4.)

§ 160D-1306. Appropriations authorized.

For the purposes set forth in this Part, a local government may appropriate funds not otherwise limited as to use by law. (2019-111, s. 2.4.)

§ 160D-1307. Definitions.

As used in this Part, the following definitions apply:

(1) Open space or open area. - Any space or area characterized by great natural scenic beauty or where the existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural or scenic resources. The terms also include interests or rights in real property and open space land or uses.

(2) Open space land or open space uses. - Any undeveloped or predominantly undeveloped land in an urban area that has value for or is used for one or more of the following purposes:

a. Park and recreational purposes.

b. Conservation of land and other natural resources.

c. Historic or scenic purposes. (2019-111, s. 2.4.)

§ 160D-1308. Reserved for future codification purposes. (2019-111, s. 2.4.)

§ 160D-1309. Reserved for future codification purposes. (2019-111, s. 2.4.)

§ 160D-1310. Reserved for future codification purposes. (2019-111, s. 2.4.)

Part 2. Community Development and Redevelopment.

§ 160D-1311. Community development programs and activities.

(a) A local government is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In undertaking community development programs and activities, in addition to other authority granted by law, a local government may engage in the following activities:

(1) Programs of assistance and financing of rehabilitation of private buildings principally for the benefit of low- and moderate-income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans.

(2) Programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.

(b) A governing board may exercise directly those powers granted by law to local government redevelopment commissions and those powers granted by law to local government housing authorities and may do so whether or not a redevelopment commission or housing authority is in existence in such local government. Any governing board desiring to do so may delegate to any redevelopment commission, created under Article 22 of Chapter 160A of the General Statutes, or to any housing authority, created under Article 1 of Chapter 157 of the General Statutes, the responsibility of undertaking or carrying out any specified community development activities. Any governing board may by agreement undertake or carry out for another any specified community development activities. Any governing board may contract with any person, association, or corporation in undertaking any specified community development activities. Any county or city board of health, county board of social services, or county or city board of education may by agreement undertake or carry out for any other governing board any specified community development activities.

(c) A local government undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.

(d) A governing board proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in such local government. No State or local taxes shall be appropriated or expended by a county

pursuant to this section for any purpose not expressly authorized by G.S. 153A-149, unless the same is first submitted to a vote of the people as therein provided.

(e) A government may receive and dispense funds from the Community Development Block Grant (CDBG) Section 108 Loan Guarantee program, Subpart M, 24 C.F.R. § 570.700, et seq., either through application to the North Carolina Department of Commerce or directly from the federal government, in accordance with State and federal laws governing these funds. Any local government that receives these funds directly from the federal government may pledge current and future CDBG funds for use as loan guarantees in accordance with State and federal laws governing these funds. A local government may implement the receipt, dispensing, and pledging of CDBG funds under this subsection by borrowing CDBG funds and lending all or a portion of those funds to a third party in accordance with applicable laws governing the CDBG program.

A government that has pledged current or future CDBG funds for use as loan guarantees prior to the enactment of this subsection is authorized to have taken such action. A pledge of future CDBG funds under this subsection is not a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State. The pledging of future CDBG funds under this subsection does not directly, indirectly, or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes.

(f) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient cities and counties in "economically distressed counties," as defined in G.S. 143B-437.01, for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by cities of Small Cities Community Development Block Grant money includes, but is not limited to, (i) payment of principal and interest on loans made by the county using CDBG funds, (ii) proceeds from the lease or disposition of real property acquired with CDBG funds, and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the city shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. 143B-437.01 or G.S. 105-129.3 shall not affect this subsection as to designations of economically distressed counties made prior to its expiration. (2019-111, s. 2.4.)

§ 160D-1312. Acquisition and disposition of property for redevelopment.

Any local government is authorized, either as a part of a community development program or independently thereof, and without the necessity of compliance with the Urban Redevelopment Law, to exercise the following powers:

(1) To acquire, by voluntary purchase from the owner or owners, real property that meets any of the following criteria:
   a. Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.
   b. Appropriate for rehabilitation or conservation activities.
   c. Appropriate for housing construction or the economic development of the community.
   d. Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open space, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development.

(2) To clear, demolish, remove, or rehabilitate buildings and improvements on land so acquired.

(3) To retain property so acquired for public purposes, or to dispose, through sale, lease, or otherwise, of any property so acquired to any person, firm, corporation, or governmental unit, provided the disposition of such property shall be undertaken in accordance with the procedures of Article 12 of Chapter 160A of the General Statutes, or the procedures of G.S. 160A-514, or any applicable local act or charter provision modifying such procedures, or subdivision (4) of this section.

(4) To sell, exchange, or otherwise transfer real property or any interest therein in a community development project area to any redeveloper at private sale for residential, recreational, commercial, industrial, or other uses or for public use in accordance with the community development plan, subject to such covenants, conditions, and restrictions as may be deemed to be in the public interest or to carry out the purposes of this Article, provided that such sale, exchange, or other transfer, and any agreement relating thereto, may be made only after approval of the governing board and after a public hearing; a notice of the public hearing shall be given once a week for two successive weeks in a newspaper having general circulation in the local government's planning and development jurisdiction area, the notice shall be published the first time not less than 10 days nor more than 25 days preceding the public hearing, and the notice shall disclose the terms of the sale, exchange, or transfer. At the public hearing, the appraised value of the property to be sold, exchanged, or transferred shall be disclosed, and the consideration for the conveyance shall not be less than the appraised value. (2019-111, s. 2.4.)

§ 160D-1313. Urban Development Action Grants.

Any local government is authorized, either as a part of a community development program or independently thereof, to enter into contracts or agreements with any person, association, or corporation to undertake and carry out specified activities in furtherance of the purposes of Urban Development Action Grants authorized by the Housing and Community Development Act of 1977, P.L. 95-128, or any amendment thereto, that is a continuation of such grant programs by whatever designation, including the authority to enter into and carry out contracts or agreements to extend loans, loan subsidies, or grants to persons, associations, or corporations and to dispose of real or personal property by private sale in furtherance of such contracts or agreements.

Any enabling legislation contained in local acts that refers to "Urban Development Action Grants" or the Housing and Community Development Act of 1977, P.L. 95-128, shall be construed also to refer to any continuation of such grant programs by whatever designation. (2019-111, s. 2.4.)

§ 160D-1314. Urban homesteading programs.

A local government may establish a program of urban homesteading, in which residential property of little or no value is conveyed to persons who agree to rehabilitate the property and use it, for a minimum number of years, as their principal place of residence. Residential property is considered of little or no value if the cost of bringing the property into compliance with the local government's housing code exceeds sixty percent (60%) of the property's appraised value on the county tax records. In undertaking such a program, a local government may:

(1) Acquire by purchase, gift, or otherwise, but not eminent domain, residential property specifically for the purpose of reconveyance in the urban homesteading program or may transfer to the program residential property acquired for other purposes, including property purchased at a tax foreclosure sale.

(2) Under procedures and standards established by the local government, convey residential property by private sale under G.S. 160A-267 and for nominal monetary consideration to persons who qualify as grantees.

(3) Convey property subject to the following conditions:

a. A requirement that the grantee shall use the property as the grantee's principal place of residence for a minimum number of years.

b. A requirement that the grantee rehabilitate the property so that it meets or exceeds minimum housing code standards.

c. A requirement that the grantee maintain insurance on the property.

d. Any other specific conditions, including, but not limited to, design standards, or actions that the local government may require.

e. A provision for the termination of the grantee's interest in the property and its reversion to the local government upon the grantee's failure to meet any condition so established.

(4) Subordinate the local government's interest in the property to any security interest granted by the grantee to a lender of funds to purchase or rehabilitate the property. (2019-111, s. 2.4.)

§ 160D-1315. Downtown development projects.

(a) Definition. - As used in this section, "downtown development project" or "joint development project" means a capital project, in a central business district, as that district is defined by the governing board, comprising one or more buildings and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

(b) Authorization. - If the governing board finds that it is likely to have a significant effect on the revitalization of the jurisdiction, the local government may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of a joint development project or of specific facilities within such a project. The local government may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract may, among other provisions, specify the following:

(1) The property interests of both the local government and the developer or developers in the project, provided that the property interests of the local government shall be limited to facilities for a public purpose.

(2) The responsibilities of the local government and the developer or developers for construction of the project.

(3) The responsibilities of the local government and the developer or developers with respect to financing the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

(c) Eligible Property. - A joint development project may be constructed on property acquired by the developer or developers, on property directly acquired by the local government, or on property acquired by the local government while exercising the powers, duties, and responsibilities of a redevelopment commission pursuant to G.S. 160A-505 or G.S. 160D-1311.

(d) Conveyance of Property Rights. - In connection with a joint development project, the local government may convey interests in property owned by it, including air rights over public facilities, as follows:

(1) If the property was acquired while the local government was exercising the powers, duties, and responsibilities of a redevelopment commission, the local government may convey property interests pursuant to the "Urban Redevelopment Law" or any local modification thereof.

(2) If the property was acquired by the local government directly, the local government may convey property interests pursuant to G.S. 160D-1312, and Article 12 of Chapter 160A of the General Statutes does not apply to such dispositions.

(3) In lieu of conveying the fee interest in air rights, the local government may convey a leasehold interest for a period not to exceed 99 years, using the procedures of subdivision (1) or (2) of this subsection, as applicable.

(e) Construction. - The contract between the local government and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire joint development project. If so, the contract shall include such provisions as the governing board deems sufficient to assure that the public facility or facilities included in the project meet the needs of the local government and are constructed at a reasonable price. A project constructed pursuant to this subsection is not subject to Article 8 of Chapter 143 of the General Statutes, provided that local government funds constitute no more than fifty percent (50%) of the total costs of the joint development project. Federal funds available for loan to private developers in connection with a joint development project shall not be considered local government funds for purposes of this subsection.

(f) Operation. - The local government may contract for the operation of any public facility or facilities included in a joint redevelopment project by a person, partnership, firm, or corporation, public or private. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the local government.

(g) Grant Funds. - To assist in the financing of its share of a joint development project, the local government may apply for, accept, and expend grant funds from the federal or state governments. (2019-111, s. 2.4.)

§ 160D-1316. Low- and moderate-income housing programs.

Any local government is authorized to exercise the following powers:

(1) To engage in and to appropriate and expend funds for residential housing construction, new or rehabilitated, for sale or rental to persons and families of low and moderate income. Any governing board may

contract with any person, association, or corporation to implement the provisions of this subdivision.

(2) To acquire real property by voluntary purchase from the owners to be developed by the local government or to be used by the local government to provide affordable housing to persons of low and moderate income.

(3) To convey property by private sale to any public or private entity that provides affordable housing to persons of low or moderate income under procedures and standards established by the local government, The local government shall include as part of any such conveyance covenants or conditions that assure the property will be developed by the entity for sale or lease to persons of low or moderate income.

(4) To convey residential property by private sale to persons of low or moderate income, in accordance with procedures and standards established by the local government, with G.S. 160A-267, and with any terms and conditions that the governing board may determine. (2019-111, s. 2.4.)

§ 160D-1317. Reserved for future codification purposes.

§ 160D-1318. Reserved for future codification purposes.

§ 160D-1319. Reserved for future codification purposes.

Part 3. Miscellaneous.

§ 160D-1320. Program to finance energy improvements.

(a) Purpose. - The General Assembly finds it is in the best interest of the citizens of North Carolina to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. The General Assembly also finds that a local government has an integral role in furthering this purpose by promoting and encouraging renewable energy and energy efficiency within the local government's territorial jurisdiction. In furtherance of this purpose, a local government may establish a program to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, or other real property.

(b) Financing Assistance. - A local government may establish a revolving loan fund and a loan loss reserve fund for the purpose of financing or assisting in the financing of the purchase and installation of distributed generation renewable energy

sources or energy efficiency improvements that are permanently fixed to residential, commercial, or other real property. A local government may establish other local government energy efficiency and distributed generation renewable energy source finance programs funded through federal grants. A local government may use State and federal grants and loans and its general revenue for this financing. The annual interest rate charged for the use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding other fees for loan application review and origination. The term of any loan originated under this section may not be greater than 20 years.

(c) Definition. - As used in this Article, "renewable energy source" has the same meaning as "renewable energy resource" in G.S. 62-133.8. (2019-111, s. 2.4.)

Article 14.

Judicial Review.

§ 160D-1401. Declaratory judgments.

Challenges of legislative decisions of governing boards, including the validity or constitutionality of development regulations adopted pursuant to this Chapter, and actions authorized by G.S. 160D-108(c) or (g) and G.S. 160D-405(c), may be brought pursuant to Article 26 of Chapter 1 of the General Statutes. The governmental unit making the challenged decision shall be named a party to the action. (2019-111, s. 2.4.)

§ 160D-1402. Appeals in the nature of certiorari.

(a) Applicability. - This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

(b) Filing the Petition. - An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

(1) State the facts that demonstrate that the petitioner has standing to seek review.

(2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.

(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-109, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(4) Set forth the relief the petitioner seeks.

(c) Standing. - A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons shall have standing to file a petition under this section:

(1) Any person possessing any of the following criteria:

a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. An option or contract to purchase the property that is the subject of the decision being appealed.

c. An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

(d) Respondent. - The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Writ of Certiorari. - Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the

respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct that the petitioner shall serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure shall apply in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on such conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) Response to the Petition. - The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

(g) Intervention. - Rule 24 of the Rules of Civil Procedure shall govern motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (1) of subsection (c) of this section shall have standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the person would have had standing to challenge the decision being appealed in accordance with subdivisions (2) through (4) of subsection (c) of this section.

(3) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with subdivisions (2) through (4) of subsection (c) of this section if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.

(h) The Record. - The record shall consist of the decision and all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the local government respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.

(i) Hearing on the Record. - The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection (h) of this section. The court may, in its discretion, allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the record is not adequate to allow an appropriate determination of the following issues:

(1) Whether a petitioner or intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160D-109 or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

(j) Scope of Review. -

(1) When reviewing the decision under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the local government or the authority conferred upon the decision-making board by ordinance.

c. Inconsistent with applicable procedures specified by statute or ordinance.

d. Affected by other error of law.

e. Unsupported by competent, material, and substantial evidence in view of the entire record.

f. Arbitrary or capricious.

(2) When the issue before the court is whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate.

(3) The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way affects the value of other property.

b. The increase in vehicular traffic resulting from a proposed development poses a danger to the public safety.

c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(k) Decision of the Court. - Following its review of the decision-making board in accordance with subsection (j) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall determine what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

a. If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be issued, subject to reasonable and appropriate conditions.

b. If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

(*l*) Effect of Appeal and Ancillary Injunctive Relief. -

(1) If a development approval is appealed, the applicant shall have the right to commence work while the appeal is pending. However, if the development approval is reversed by a final decision of any court of competent jurisdiction, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.

(2) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.

(m) Joinder. - A declaratory judgment brought under G.S. 160D-1401 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding. (2019-111, s. 2.4.)

§ 160D-1403. Appeals of decisions on subdivision plats.

(a) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is quasi-judicial, then that decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 160D-406 and this section shall apply to those appeals.

(b) When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is administrative, then that decision of the board shall be subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within 30 days from receipt of the written notice of the decision, which shall be made as provided in G.S. 160D-403(b).

(c) For purposes of this section, a subdivision regulation shall be deemed to authorize a quasi-judicial decision if the decision-making entity under G.S. 160D-803(c) is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the regulation but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made. (2019-111, s. 2.4.)

Commented [KB2]: Will need to revise this… it's a little confusing

§ 160D-1404. Other civil actions.

Except as expressly stated, this Article does not limit the availability of civil actions otherwise authorized by law or alter the times in which they may be brought. (2019-111, s. 2.4.)