



TOWN OF WAXHAW

P.O. Box 6
1150 N. Broome St. Waxhaw, N.C 28173
Telephone (704) 843-2195 Fax (704) 843-2196
www.waxhaw.com

Hours: Monday-Friday 8:00 a.m. to 5:00 p.m.

MAYOR
DAUNE GARDNER

TOWN COMMISSIONERS
MICHAEL STEWART (Mayor Pro-Tem)
PAUL FITZGERALD
JOHN HUNT
STEPHEN MAHER
JAMES WARNER

TOWN MANAGER
WARREN WOOD

TOWN CLERK
MELODY SHULER

May 18, 2015

Planning Board Regular Meeting Agenda

Waxhaw Police Department Community Meeting Room, 6:30 pm

Regular Meeting

1. Call to Order
2. Roll Call and Determination of Quorum
3. Work Session
4. Unfinished Business
5. New Business
 - A. TA-003167-2015 – A request by the Town of Waxhaw Planning and Community Development Department to amend Section 8 Definitions, Section 11 Schedule of District Regulations, Section 13 Signs, Section 14 Conditional Use Permits, Section 16 Amendment to the Unified Development Ordinance, and Section 21 Downtown Code of the Unified Development Ordinance (UDO) to correct errors, add missing references, and to improve readability and comprehension of the text.
6. Other Business - Update on previous case(s) heard by the Planning Board
7. Minutes for correction and approval: February 23, 2015 regular meeting
8. Adjournment

Public comment (up to 3 minutes) is allowed on any item on the agenda and is limited to residents of the Town or persons having a material interest in the Town.



Town of Waxhaw
 Planning & Community Development
 PO Box 617
 Waxhaw, NC 28173
 704-843-2195 (Phone)
 704-243-3276 (Fax)
 www.waxhaw.com

Date Received	2/18/2015
Received By	DL
Fee	N/A

TEXT AMENDMENT APPLICATION

Date of Application: 2/18/2015 Application Number: TA-003167-2015
(completed by staff)

Applicant Information

Applicant Name: Waxhaw PCD Department

Applicant Address: 1150 N. Broome St. Waxhaw, NC

Applicant Email Address: moliver@waxhaw.com

Applicant Telephone: (704)843-2195 ext. 239

Type of Change: New Addition _____ or Revision X

Ordinance Section: Sections 8, 11, 13, 14, 16, and 21

Current Text: See Attached

Proposed Text: See Attached

Reason for requested change (attach additional sheets if necessary): See Attached

I do hereby certify that all information which I have provided for this application is, to the best of my knowledge, correct.

Max Oliver
 Signature of Applicant

2/18/2015
 Date

All of the information herein required has been submitted by the applicant and is included or attached with this application

Sori Oakley
(Signature of Zoning Administrator)

2-18-15

(Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: 2/18/2015

Reviewed by Planning Board on: _____

Action of Planning Board: _____

Town Board Public Hearing Held On: _____

Date of Town Board Decision: _____

Action Taken by Town Board: _____

****Newspaper Affidavit should be attached***

Public Hearing Notice Filed in: _____
(Name of Newspaper)

Date(s) Notices Published: _____

Text Amendment TA-003167-2015
Clean-up Text Amendment

EXPLANATION OF THE REQUEST

Petition TA-003167-2015 is a request by the Town of Waxhaw Planning and Community Development Department to amend *Section 8 Definitions, Section 11 Schedule of District Regulations, Section 13 Signs, Section 14 Conditional Use Permits, Section 16 Amendment to the Unified Development Ordinance, and Section 21 Downtown Code* of the Unified Development Ordinance (UDO) to correct errors, add missing references, and to improve readability and comprehension of the text.

REQUESTED UDO CHANGES

Section 8.2 Lot Coverage *(see attached language)*

Language was amended in this section to correct an error.

Section 8.2 Setback *(see attached language)*

Language was amended in this section that regulates how setbacks are defined.

Section 8.2 Setback, Front *(see attached language)*

Language was amended in this section that regulates how front setbacks are defined.

Section 8.2 Sign, Window *(see attached language)*

Language was amended in this section that regulates where window signs may be attached (in order to be consistent with Section 13.11).

Section 11.3.64 Seasonal Outdoor Sales *(see attached language)*

Text was amended in this section that references sign regulations for seasonal outdoor sales.

Section 13.7.2 Attached Sign Standards *(see attached language)*

Language was amended in this section that regulates the location of window signs (in accordance with Section 13.11).

Section 13.9.12 Seasonal Outdoor Sales *(see attached language)*

Language was added that regulates signage for seasonal outdoor sales.

Section 13.11.1 Temporary Signs *(see attached language)*

Language was amended in this section that regulates the location of window signs.

Section 14.5 Planning Board Review and Recommendation *(see attached language)*

Language was added to this section that clarifies the time frame for Planning Board review and recommendation.

Section 16.1.4 Planning Board Review and Recommendation (see attached language)

Language was added to this section that clarifies the time frame for Planning Board review and recommendation.

Section 21.6.4.B Roof and Eaves (see attached language)

Language was amended in this section to clarify roof regulations.

Section 21.6.4.C.2 Materials (see attached language)

Language was amended in this section to clarify the materials that may be used for mixed-use and commercial buildings in the Downtown Code zoning districts.

Section 21.8.3 Street Regulating Plan (see attached language)

Text was added to accommodate NCDOT approval of street types intersecting with state maintained roads.

Section 21.8.3 Street Regulating Plan (see attached language)

Text was added to street cross section tables that would allow certain street types to be built in the Open Space (OS) zoning districts.

PLANNING STAFF ANALYSIS

The proposed text amendments have been accumulated over the past several months and compiled into one single petition for ease and efficiency of review. The proposed text amendments seek to correct errors, add missing references, and to improve readability and clarity of the UDO.

In *Section 8 Definitions*, of the UDO the proposed changes include clarification of the definitions of *Setback* and *Setback, Front* in order to avoid inconsistent interpretations of the definitions. The definition of *Sign, Window* is proposed to be amended to add locations where a window sign may be attached. The definition of *Lot Coverage* is proposed to be amended to change the word “previous” to “impervious” to meet the State’s classification of gravel as an impervious material.

In *Section 11 Schedule of District Regulations*, references are proposed to be amended for Seasonal Outdoor Sales supplemental regulations to reference the proposed Seasonal Outdoor Sales sign regulations in *Section 13 Signs*, of the UDO.

In *Section 13 Signs* of the UDO, the proposed amendments include specifying that window signs may only be erected on the inside of window and doors. Also, the standards for Seasonal Outdoor Sales were left out of the sign ordinance rewrite and the proposed amendment would add a new section containing the Standards of Seasonal Outdoor Sales signs.

In *Section 14 Administration and Section 16 Amendment to the Unified Development Ordinance*, the proposed text amendments clarify that the maximum review time for the Planning Board may be extended if the applicant consents to allow a longer review period before the application must be forwarded to the Board of Commissioners.

In *Section 21 Downtown Code*, the proposed changes include clarifying regulations outlining what building materials are allowed to be used as primary building materials and secondary building materials on mixed-use and commercial buildings in the Downtown Code zoning districts as well as regulations regarding roofs. Also, text was added to clear up discrepancies between town and NCDOT regulations. In addition to several required street cross sections are proposed to be allowed within the Open Space (OS) zoning district because no cross sections were previously designated as being permitted in the OS zoning district.

PLANNING STAFF RECOMMENDATION

Planning Staff recommends approval of TA-003167-2015. Staff feels that the proposed amendments are minimal in nature and will correct errors, add missing references, and improve readability and comprehension of the Unified Development Ordinance.

Submitted by: Maxx Oliver

Loading Space, Off-Street - An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

Lot - A portion of a subdivision or any other parcel of land intended as a unit for transfer or ownership or for development or both. The word "Lot" includes "plot", "parcel", or "tract".

Lot, Corner - A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal; in which case, the owner shall be required to specify which is the front when requesting a building permit.

Lot Coverage - That portion of a lot occupied by buildings, structures and/or improvements, including paving and/or surface treatment materials (~~pervious~~ **impervious** paving materials, gravel, etc.).

Lot Depth - The distance along the perpendicular bisector of the Lot.

Lot, Interior - A lot other than a corner lot with only one frontage on a street.

Lot of Record - A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Union County prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

Lot Line - A line of record bounding a lot that separates one lot from another lot or separates that lot from a public or private street or any other public space.

Lot Line, Front - The lot line separating a lot from a street right-of-way.

Lot, Line Interior - A lot line which does not have street frontage.

Lot Line, Rear - The lot line opposite and most distant from the front lot line.

Lot Line, Side - Any lot line abutting another lot that is not a front or rear lot line.

Lot, Panhandle - A lot having shape and configuration such that it connects to street frontage by an extension and/or arm of the main portion of the lot.

considered a separate principal use if it has a student body in excess of fifty (50) students. Students enrolled in a day care center at the church shall not be separately counted as school students.

School, Vocational - A public or private institution for education or learning including athletic or recreational facilities, which does not include lodging. These schools offer vocational and technical training in a variety of technical subjects and trades. Training may lead to job-specific certification.

School for the Arts - A school where classes in the various arts (e.g., dance, painting, sculpting, singing) are taught to four (4) or more persons at a time. As differentiated from a "vocational school", such schools are usually attended by persons of all ages where professional placement after graduation is not of significant importance. A school giving martial arts instruction (i.e., martial arts school shall be considered a separate use).

Second-Hand and Consignment Shop - A retail establishment where clothes, furniture, and other household goods are sold to the general public on a consignment, retail, or not-for-profit basis. A "pawn shop" shall not be considered as being a "second-hand shop".

Septic Tank Cleaning Service - A base of operations for a septic tank cleaning service. Areas designated for the disposal of septic tank waste shall be deemed a separate principal use.

Setback - the distance on a Lot measured from the ~~Lot~~ **property** line to a building Facade or Elevation that is maintained clear of permanent structures, with the exception of Encroachments.

Setback Line, Building - A line establishing the minimum allowable distance between the nearest portion of any building and the street right-of-way line or any other lot line when measured perpendicularly.

Setback, Front - Any Setback from a ~~street or road.~~ **right-of-way line.**

Setback, Rear - Any Setback other than a Front Setback that provides a usable outdoor space. (Any Lot having two or more Front Setbacks may not have to provide a Rear Setback.)

Setback, Side - Any interior property line Setback other than a Rear Setback.

Sewer System, Public- The Union County Sewer System.

Shopping Center - A group of two (2) or more retail or service establishments constructed and developed in one (1) or more phases with customer and employee

Examples of Setback Definitions in Surrounding Municipalities

Huntersville –

Setback, established: The distance between a street line and the front building line of a principal building or structure, as constructed, projected to the side lot lines. See also Yards.

Setback, required: The minimum distance required by this ordinance or established by recorded plat between the street right-of-way line and the front building line of a principal building or structure, projected to the side lines of the lot. For flag lots, the minimum setback shall be measured between the front property line of the buildable portion of the lot and the front building line of the principal structure, projected to the side lines of the lot.

Matthews –

Setback, Established: shall mean the distance between a street line and the front building line of a principal building or structure, as constructed, projected to the side lines on the lot.

Setback, Required: shall mean the minimum distance required between a street line and the front building line of a principal building or structure, projected to the side lines of the lot.

Cornelius -

Setback: The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the structure or its supporting member whichever is nearest to the property line or right-of-way.

Davidson –

Setback Established: The distance between a street right-of-way line and the front building line of a principal building or structure, as constructed, projected to the side lot lines. See also Yards.

Setback Required: The minimum distance required by this ordinance or established by recorded plat between the street right-of-way line and the front building line of a principal building or structure, projected to the side lines of the lot. In the Village Center planning area, the setback is measured from the back of the curb to the building line. See also Yards.

Mint Hill –

Setback, Established: The distance between a road right-of-way or property line and the front, side or rear of a building or structure, as constructed.

Setback, Rear: The distance between property line or a road right-of-way, whichever is closer to the proposed structure, and the rear of a building or structure, whichever is closer to the proposed structure, that shall remain unoccupied and unobstructed upward except as may be permitted elsewhere in this Ordinance.

Setback, Required: A minimum distance required for front, rear and side yards in the various zoning districts measured inward from a property line or a road right-of-way, whichever is closer to the proposed structure, that shall remain unoccupied and unobstructed upward except as may be permitted elsewhere in this Ordinance.

Setback, Side: The distance between property line or a road right-of-way, whichever is closer to the proposed structure, and the side of a building or structure, that shall remain unoccupied and unobstructed upward except as may be permitted elsewhere in this Ordinance.

monument signs.

Sign, Real Estate - A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

Sign, Roof - A sign erected or maintained in whole or in part upon or over the roof or parapet of a building and does not include theatre marquee signs.

Sign, Temporary - Signs used to announce or advertise specific events which have a definite beginning and end date/time.

Sign, Theatre Marquee – Vertical signs projecting from the side of a building or a roof structure which may or may not incorporate changeable type.

Sign, Wall - Flat signs or lettering which are painted or attached to the wall of a building or structure.

Sign, Window - Flat signs or lettering which are painted or attached to the **inside of a window or door** of a building or structure. These signs also include retail window displays which are intended to showcase/advertise goods and products to pedestrians on the sidewalk.

Small Equipment Repair/Rental - The repair and/or rental of small equipment as a primary use including televisions, computers, cleaning equipment, vacuum cleaners, and other equipment that can be transported by automobile, small truck/van.

Spinner - A wind activated, propeller-type device, which may or may not be attached to advertising copy.

Stadium - A structure or facility designed, intended, or used primarily for outside and/or inside athletic events or other performances and containing seating for spectators of those events, but not including a racetrack. The sale of beverages, snack foods, and sundries geared to on- premise consumption or usage by spectators shall be permitted.

Staging Space - An area of temporary standing storage for one automobile awaiting drive-in service or commodity pick-up. The storage space shall be at least nine (9) feet in width and twenty (20) feet in length.

Storage, Open-Air - The storage of goods, bulk materials or discarded items in the open or under a structure containing a roof but no walls.

appurtenance attached thereto. These spacing provisions shall not apply if the conditions in Subsection A herein are met.

62. Restaurants (Within Other Facilities)

- A. A restaurant may be allowed as a permitted accessory use in a Office or Commercial District where located within a use allowed in such a district. Such restaurant shall be designed to serve customers or users of such use. Examples of such uses include snack shops in department or variety stores, employee cafeterias, snack shops or canteens in office buildings, bowling alleys, etc.
- B. Access to such restaurant shall not be directly available from the outdoors.
- C. Separate off-street parking spaces for such use shall not be required.
- D. The restaurant shall be allowed up to sixteen (16) square feet of exterior wall identification signage. Said signage shall be included as part of the signage allowed for the principal use. No freestanding signs for said restaurant shall be allowed.
- E. The aggregate gross area of all restaurants within any building shall occupy no greater than ten (10) percent of the gross floor area of the building.

63. Roofing Repair and Installation, Sheet Metal

- A. All open storage areas shall meet the requirements of Section 9.8.2.

64. Seasonal Outdoor Sales

- A. Seasonal outdoor sales, including the sale of such items as Christmas trees and pumpkins, seasonal produce (excluding farmers' market as defined in Section 8), and other similar seasonal products, may take place on a vacant or developed lot. Each seasonal outdoor sales activity is limited to a maximum of forty-five (45) consecutive days. Not more than three events are allowed per calendar year per parcel of land.
- B. Seasonal outdoor sales shall comply with the temporary sign standards listed in Section ~~13.16~~ 13.9.12.
- C. A temporary zoning use permit is required for the temporary display and/or sale of products that are not contained within the principal building.
- D. All temporary seasonal outdoor sales displays shall comply with the following standards:

11 | Schedule of District Regulations

1. The property shall contain an area that is not actively used that will support the proposed temporary sale of products, without encroaching into or creating a negative impact on existing buffers, landscaping, traffic movements, or parking space availability.
2. All required setbacks for the zoning district in which the temporary display is located must be met.
3. The proposed display and/or sale of goods, products and/or services for commercial purposes may not occur within one hundred (100) feet of a residential dwelling unit.
4. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property.
5. Tents and other temporary structures shall be compatible with the predominant color of the principle structure on the premises. If the lot is vacant, the predominant color of the tents and temporary structures shall be compatible with the environs.
6. Parking shall be adequately provided for the proposed sale of the products. The parking areas shall be located so as to avoid undue interference with the use of public streets and alleys.
7. The temporary sale of products will not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.
8. The hours of operation of the temporary sale of products shall be from no earlier than 7:30 AM to no later than 10:00 PM, or the same hours of operation of the principle uses, whichever is more restrictive.
9. Any lighting used for the temporary display / sale of products shall meet the requirements listed in Section 12.12.
10. All signage shall meet the requirements listed in Section ~~13.16~~ 13.9.12.

65. Shopping Center

- A. Uses in a shopping center are limited to those that are allowed in the underlying zoning district. Any use shown as a "conditional use" shall require the issuance of a conditional use permit in a shopping center irrespective of the size of that shopping center.

66. Stadiums

- A. Stadiums located in a Residential (R) district shall be limited to those constructed for use primarily by teams representing junior high schools, middle schools, high schools, colleges, or universities. Such structures may be either principal or accessory structures.
- B. Access to the site shall be provided by major or minor thoroughfares only.

2. Attached Sign Standards

Sign Type	Permitted Location	Maximum Area	Max. Height	Encroachments	Maximum Number	Additional Requirements/Provisions
Wall Signs	C-1, OIS, UN	<u>Primary:</u> 1 sq ft per linear ft of building wall (32 sq ft maximum) <u>Secondary:</u> Half the size of primary sign	No sign shall extend above roofline	No encroachment allowed	<ul style="list-style-type: none"> • Single-Tenant Buildings: 1 sign per building elevation; maximum 3 total per building (1 primary and 2 secondary signs) • Multi-tenant Buildings: 1 sign per building elevation per tenant; maximum of 2 total per tenant (1 primary and 1 secondary sign) • 1 per level 	<ul style="list-style-type: none"> • 12 inch maximum protrusion • For <u>Changeable Copy Signs</u>, see 13.9.4 • For <u>Illuminated Signs</u>, see 13.10
	C-2, C-3, I-1, I-2, NMX, OS	<u>Primary:</u> 10% of wall area (64 sq ft maximum) <u>Secondary:</u> Half the size of primary sign				
	C-4, TC, MS	32 sq ft for ground level; 9 sq ft for upper levels				
Window / Door Signs	Non-residential uses in all Districts	30% of total glass area on any one side of the building	n/a	No encroachment allowed	n/a	<ul style="list-style-type: none"> • For <u>Neon Signs</u>, see 13.10 (Sign Illumination) • Attached to inside of window or door
Awning / Canopy Signs	C-1, OIS, C-2, C-3, C-4, I-1, I-2, UN, NMX, TC, MS, OS	12 sq ft	n/a	May encroach over sidewalk area to within 4 ft of curb and shall have 8 ft clearance	1 located on elevation which contains principal pedestrian entrance	<ul style="list-style-type: none"> • Valance shall not exceed 12 inches in height
Theatre Marquee Signs	Theaters only (where allowed)	32 sq ft	n/a	May encroach over sidewalk area to within 4 ft of curb and shall have 8 ft clearance	1 per tenant	<ul style="list-style-type: none"> • Such signs must be perpendicular to the façade of the building or at a 45 degree angle from the corner of the building. • For <u>Changeable Copy Signs</u>, see 13.9.4
Projecting/ Suspended Signs	C-4, NMX, TC, MS, OS	16 sq ft	n/a	May encroach over sidewalk area to within 4 ft of curb and shall have 8 ft clearance	1 per tenant	n/a
Address / Tenant	All Districts	6 sq ft	n/a	No encroachment	1 per entrance including shared	n/a

soft drinks or other items where the brand is not apparent. The mural also shall not include legible text, picture, symbol or device of any kind that relates to a commercial business, product or service offered on the premises where the wall is located.

5. Materials: Materials used to produce the mural shall be appropriate for outdoor-use, long-lasting, and graffiti-resistant to the greatest extent possible. Colors should be harmonious with the exterior colors of the building. Neon, fluorescent, or reflective colors or materials are not permitted.
6. Illumination: Murals may be externally lighted with building proportionate spot lighting, gooseneck or similar. Fixtures should be adequately spaced, 4 (four) to 6 (six) feet apart. No ground mounted up lighting is allowed.

12. Seasonal Outdoor Sales:

- A. Applicability: Seasonal Outdoor Sales signs shall be allowed for temporary seasonal uses under the regulations of Section 11.3.64 *Seasonal Outdoor Sales* of the UDO.
 1. Location: Shall be located on premise. Shall not be located within a public street right-of-way or within a required sight triangle, and shall not be attached to trees or utility poles.
 2. Maximum Number: One (1) sign per temporary use.
 3. Surface Area: Thirty-two (32) square feet maximum surface area.
 4. Height: Six (6) feet maximum height.
 5. Time Period: Temporary sign permits may be granted up to three (3) times a calendar year for a maximum of forty-five (45) consecutive days each time per parcel of land.
 6. Illumination: Seasonal Outdoor Sale signs shall not be internally illuminated but the sign may be illuminated from an external source and shall be lit only during the hours of operation.
 7. Construction Type: Pylon signs and banners are permissible.

Seasonal Outdoor Sign Regulation from Previous Sign Ordinance

Reference Only

B. Seasonal Outdoor Sales

May erect one temporary sign; provided such sign shall not be illuminated, located within a public street right-of-way or within a required sight triangle, and shall not be attached to trees or utility poles. Temporary sign permits may be granted up to three (3) times a calendar year for a maximum of forty-five (45) consecutive days each time per parcel of land. The Zoning Administrator shall charge a fee in accordance with Section 13.5 for signs not removed within time stated. The maximum size allowed is eighteen (18) square feet. The temporary sign may be illuminated from an external source and shall be lit only during the hours of operation.

13.10 ADDITIONAL STANDARDS FOR SIGNS

1. Historic Buildings

- A. Applicability: Wall signs on historic buildings, with the exception of signs approved by conditional use permit and/or conditional zoning.
- B. Location: Wall signs on historic buildings shall be placed within the sign frieze, or distinct place within which a wall sign was intended to be located, if the building was designed for such. No wall sign shall extend beyond such space. If there is no sign frieze, the wall sign shall be placed below the typical second floor window area.
- C. Design: The design and coloration of such signs shall be compatible with the character of the building as determined by the Zoning Administrator.

2. Union County Public Schools

- A. Signs for Union County Public Schools shall be subject only to the sign regulations in 9.22.3.E.

13.11 SIGNS THAT DO NOT REQUIRE A PERMIT

1. Temporary Signs:**A. Window Signs:**

- 1. Location: affixed to the inside of a window **or door**.
- 2. Surface Area: Shall not exceed a cumulative total for all signs of 30% of the total glass area on any one side of the building as outlined in Section 13.7.2 "Window/Door Signs."

B. Temporary Banners for Schools:

- 1. Applicability: Elementary and secondary schools
- 2. Location: Securely attached to exterior walls of school
- 3. Maximum Number: 3 banners
- 4. Surface Area: 32 square feet maximum
- 5. Time Period: Shall be displayed no earlier than 10 days prior to the first day of school and shall be removed no later than 10 days after the last day of school.

C. Yard Sale Signs:

- 1. Location and Number: One yard sale sign may be posted on premise, and up to three off-premise. May not be located within a public right-of-way nor placed on a tree, street sign or utility pole.
- 2. Surface Area: 4 square feet maximum for each sign
- 3. Height: 4 feet maximum
- 4. Time Period: Limited to 72 hours in any 90 day period
- 5. Illumination: Prohibited

14 | Conditional Use Permits

Ten copies of an application (and all attachments and maps) for a Conditional Use Permit shall be submitted to the Town. Eight (8) copies shall be for Planning Board review, and two (2) copies for staff.

Once complete, the Administrator shall notify the Town that a public hearing shall be scheduled.

14.4 PUBLIC HEARING (CU permit cases are quasi judicial, all witnesses to be sworn in)

Prior to the Board of Commissioners making a decision on a Conditional Use Permit, a public hearing shall be conducted. A quorum of the Board of Commissioners is required for such hearing. Notice of said public hearing shall be as follows:

1. A notice shall be published in a newspaper having general circulation in Waxhaw once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
2. At least one (1) notice shall be conspicuously posted on the subject property at least ten (10) days prior to the public hearing. The notice shall be removed only after the public hearing has been held. Existing
3. A notice of the public hearing shall be sent by first class mail by the Administrator to all contiguous property owners at least ten (10) days prior to the public hearing.

14.5 PLANNING BOARD REVIEW AND RECOMMENDATION

Once the application has been accepted, the Planning Board shall review the Conditional Use application. The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other conditions the Planning Board may find appropriate. Such conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

The Planning Board shall forward its recommendation to the Board of Commissioners within forty-five (45) days of receiving the application. If a recommendation is not made within forty-five (45) days, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board. **Notwithstanding the forgoing, the Planning Board may extend a longer time period with consent of the applicant.**

Amendment to Unified Development Ordinance | 16

accordance with principles underlying the Town's comprehensive zoning plan, he shall apply for rezoning to the appropriate Conditional Zoning District and specify the nature of his proposed development.

4. Planning Board Review and Recommendations

The Planning Board shall consider the application for amendment at the Planning Board Meeting. The Planning Board shall have a maximum of forty-five (45) days from the date of the public meeting to make a recommendation on the application, except for the sixty-two (62) day requirement for Conditional Zoning Districts. If a recommendation is not made during said time period, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board. **Notwithstanding the forgoing, the Planning Board may extend a longer time period with consent of the applicant.**

- A. If a recommendation is made to the Board of Commissioners by the Planning Board concerning an application for rezoning said recommendation shall be as follows:
 - 1. Grant the rezoning as requested, or
 - 2. Grant the rezoning with a reduction of the area requested, or
 - 3. Grant the rezoning to a more restrictive general zoning district or districts, or
 - 4. Grant the rezoning with a combination of Section 16.1.4(A)(2), or 16.1.4(A)(3), or
 - 5. Deny the rezoning as requested.

The list of general zoning districts in descending order of restrictiveness shall be:

- | | |
|---------|----------|
| 1. OS | 12. C-1 |
| 2. R-1 | 13. C-2 |
| 3. R-2 | 14. C-3 |
| 4. R-3 | 15. TC |
| 5. R-4 | 16. MS |
| 6. TND | 17. C-4 |
| 7. RM-1 | 18. CPUD |
| 8. RM-2 | 19. IPUD |
| 9. UN | 20. I-1 |
| 10. OIS | 21. I-2 |
| 11. NMX | |

- B. If a recommendation is made to the Board of Commissioners by the Planning Board concerning an amendment to change the text or map of this Ordinance, said recommendation shall be as follows:

16 | Amendment to Unified Development Ordinance

1. Adoption of the amendment as written, or mapped.
2. Adoption of the amendment as revised by the Planning Board, or
3. Denial of the amendment.

5. The Board of Commissioners Shall Hold a Public Hearing

The Board of Commissioners shall receive public comment on applications for amendments to this Ordinance in a Public Hearing at a time and place to be announced by public notice. A Quorum of the Commissioners is required for such hearing.

6. Public Hearing and Notice Thereof

A public hearing as mentioned above shall be held by the Board of Commissioners before adoption of any proposed amendment to this Ordinance. Notice of the public hearing shall be given as follows:

- A. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the town. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- B. Whenever there is a zoning classification action involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed classification by first class mail at the last addresses listed for such owners on the county tax abstracts; provided that this sentence does not apply in the case of a total rezoning of all property within the corporate boundaries of a municipality. The person or persons mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.
- C. When a zoning map amendment is proposed, at least (1) notice shall be conspicuously posted on the subject property at least ten (10) days prior to the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons.

7. Board of Commissioners Action

The Board of Commissioners shall not consider the adoption of any proposed application for amendment until after the Planning Board makes a recommendation, or fails to make a recommendation within the time allowed.

21.6.4 Mixed-Use and Commercial Buildings Design Standards

21.6.4.A Applicability: The standards of this section shall apply to those structures in the NMX, TC, and MS districts except those which have primarily residential frontages (including Live-Work buildings in NMX).

21.6.4.B Roof and Eaves

1. Flat roofs are permitted but shall be detailed with a parapet to conceal all rooftop appurtenances from view of any public the street.
2. Pitched roofs, if provided, shall be symmetrically sloped no less than 5:12, except that roofs for porches and attached sheds roofs may be no less than 2:12
3. Flush eaves must be finished by profiled molding or gutters.
4. All roofs shall have a minimum 25-year roof warranty and no visible roll roofing.

21.6.4.C Façade Treatment and Building Walls

1. Architectural elements like windows and doors, bulkheads, masonry piers, transoms, cornice lines, window hoods, awnings, canopies, and other similar details must be used on all facades facing public rights-of-way.
2. ~~**Materials:** Commercial building walls shall be brick, cut stone (residential applications such as field stone and ledge stone are prohibited), cementitious fiber board, or wood clapboard. Cement fiber, hard coat stucco and wood components of a building shall not comprise more than 10% of the total building exterior. Regular or decorative concrete block and EIFS type stucco may be used on building walls not visible from a public street or as an accent material only. All accessory buildings must be clad in materials similar in appearance to the principal structure. With the exception of the MS zoning district, repainting of painted surfaces shall not require a zoning use permit.~~

Materials: Commercial building walls shall primarily consist of the following materials: brick, cut stone, cementitious fiber board, or wood clapboard (residential applications such as field stone and ledge stone are prohibited). Regular or decorative concrete block as well as EIFS-type stucco may be used as the primary material on building walls not visible from a public street at the time of construction. The following materials shall not comprise more than 10% of the commercial building exteriors that are visible from a public street: Cementitious fiber board, hard-coat

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stucco, EIFS-type stucco, wood components, or regular or decorative concrete block. All accessory buildings must be clad in materials similar in appearance to the principal building. With the exception of the MS zoning district, repainting of painted surfaces shall not require a zoning use permit.

a. **Special Requirements for the MS zoning district:**

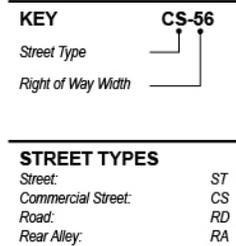
1. Commercial building walls shall retain their original brick building walls with the exception of buildings with existing wood siding or other materials. Decorative concrete and wood are permitted as accent materials and shall not comprise more than 10% of the total building exterior.
2. Design changes to the façade or alterations to the exterior of an existing building require a Conditional Use Permit in accordance with Article 14 of the UDO with the following exceptions:
 - Addition of awnings or repainting of painted surfaces shall require the issuance of a zoning use permit. If the Zoning Administrator determines that the proposed changes are not compatible with surrounding environs and denied the zoning use permit, the applicant may choose to seek approval from the Board of Commissioners through the conditional use permit process.
 - Any property or structure awarded a grant by the Waxhaw Historic Preservation Commission through the Downtown Waxhaw Façade Improvement Program for rehabilitation that does not visually alter the façade of an existing building.
 - Any historically appropriate rehabilitation in accordance with the Waxhaw Historic Landmark Guidelines for Commercial Buildings where photographic evidence has been provided to verify that the rehabilitation will replicate a previous version of the same building wall/facade.
 - Demolition.
3. Any property or structure deemed a local historic landmark by Town Ordinance may need to obtain a Certificate of

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21.8.3 Street Regulating Plan

Street Types

 RD-66 (Sec. 21.8.3.A)	 CS-VAR (Sec. 21.8.3.F)
 CS-62 (Sec. 21.8.3.B)	 ST-60 (Sec. 21.8.3.G)
 CS-75 (Sec. 21.8.3.C)	 ST-56 (Sec. 21.8.3.H)
 CS-70 (Sec. 21.8.3.D)	 ST-52 (Sec. 21.8.3.I)
 CS-64 (Sec. 21.8.3.E)	 RA-22 (Sec. 21.8.3.J)



Street sections shall be assigned based on:

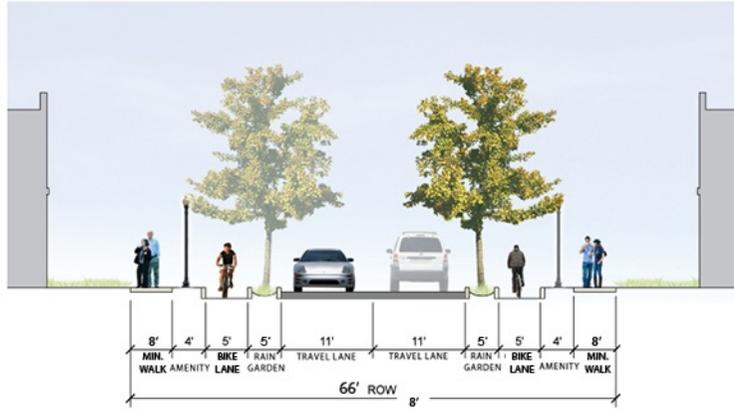
- Recommendation of any Traffic Impact Analysis of a development.
- Designated improvements shown in the adopted Downtown Vision Plan which includes recommended improvements for downtown streets, with emphasis on Broome Street and North and South Main Street, and recommendations of any other adopted plans.
- Right-of-way width.
- Topography and existing features.
- Standards of abutting street stubs.

The street sections indicate total right-of-way width, sidewalk and streetside zone amenities, parking lanes, travel lanes and other geometric and urban design details. **Street configuration and amenities (including parking) are subject to NCDOT regulations and may not be allowed within certain distances of intersections with NCDOT roads.** The street types are represented by an abbreviation of the street types in the key above followed by a number, which is the measurement of the total right-of-way width in feet.

21.8.3.A RD-66

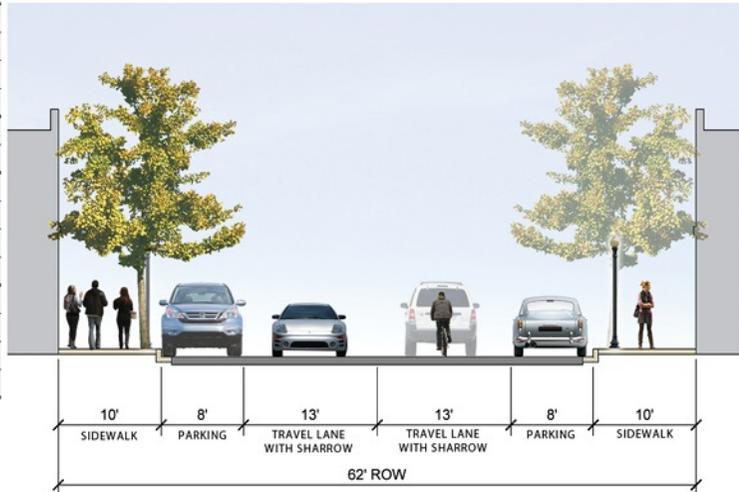
Section 21.8.3 Street Regulating Plan

Street Type	Road
Transect Zone Assignment	UN, NMX, MS, TC, OS
Right-of-Way Width	66 feet
Pavement Width	22 feet
Movement	Slow Movement
Design Speed	35 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	None
Bike Lanes	5 foot Protected Bike Lane
Curb Radius	10 feet
Walkway Type	8 foot Sidewalk
Planter Type	Rain Garden
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



21.8.3.B CS-62

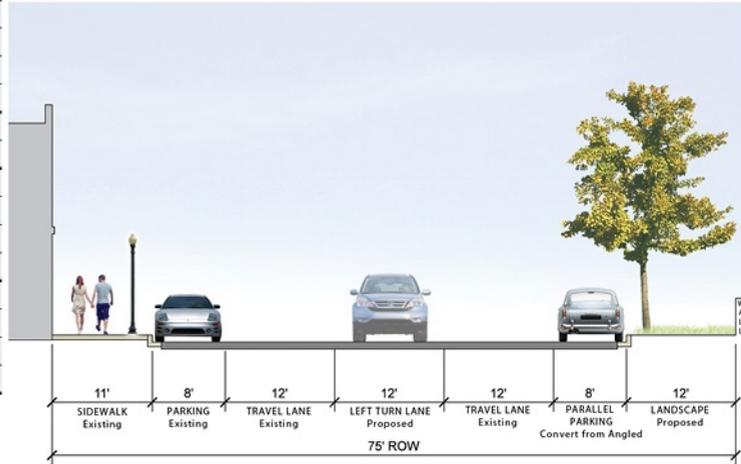
Street Type	Commercial Street
Transect Zone Assignment	NMX, MS, TC, OS
Right-of-Way Width	62 feet
Pavement Width	42 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic - One Way
Parking Lanes	2 Sides Parallel Parking
Bike Lanes	Sharrow
Curb Radius	10 feet
Walkway Type	10 foot Sidewalk
Planter Type	Tree Well
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



Section 21.8.3 Street Regulating Plan

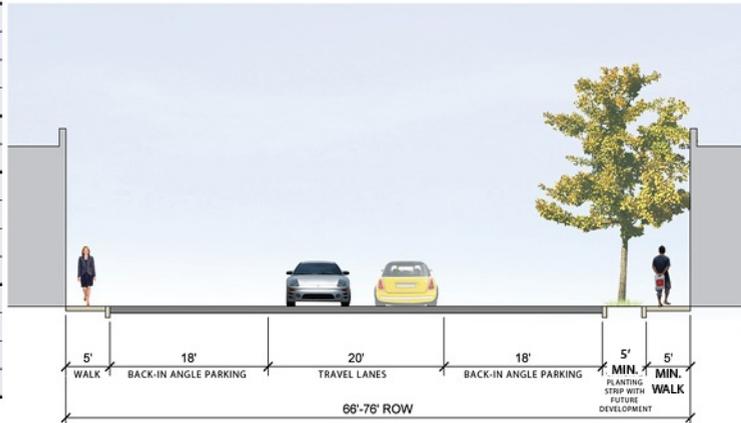
21.8.3.C CS-75

Street Type	Commercial Street
Transect Zone Assignment	NMX, MS, TC, OS
Right-of-Way Width	75 feet
Pavement Width	52 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	2 Sides Parallel Parking
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	11 foot Sidewalk
Planter Type	Planting Strip
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



21.8.3.D CS-70

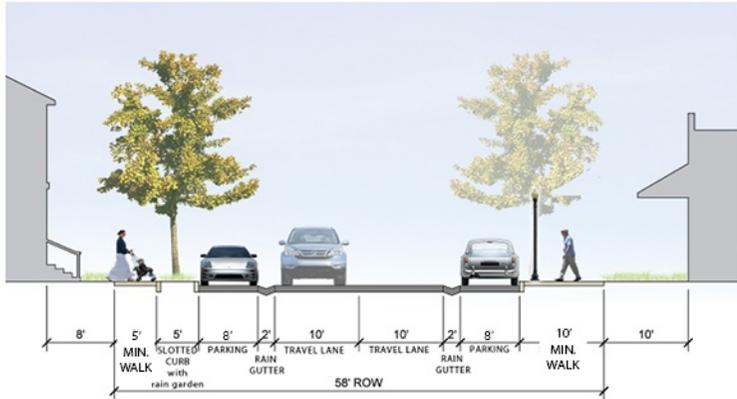
Street Type	Commercial Street - B Street
Transect Zone Assignment	NMX, MS, TC
Right-of-Way Width	71 feet
Pavement Width	56 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	2 Side Reverse Back-In Angle Parking
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	5 foot Sidewalk
Planter Type	Planting Strip
Curb Type	Curb
Landscape Type	Trees at 40' o.c. Avg.



Section 21.8.3 Street Regulating Plan

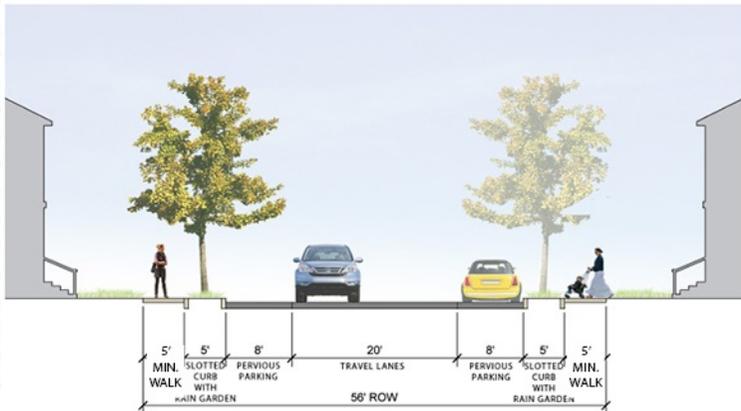
21.8.3.G ST-60

Street Type	Street
Transect Zone Assignment	UN, NMX, OS
Right-of-Way Width	58 feet
Pavement Width	38 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lane Through Traffic
Parking Lanes	2 Sides Parallel Parking
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	1 Side 5 foot Sidewalk, 1 Side 10 foot Sidewalk
Planter Type	1 Side Rain Garden, 1 Side Tree Well
Curb Type	Slotted Curb
Landscape Type	Trees at 40' o.c. Avg.



21.8.3.H ST-56

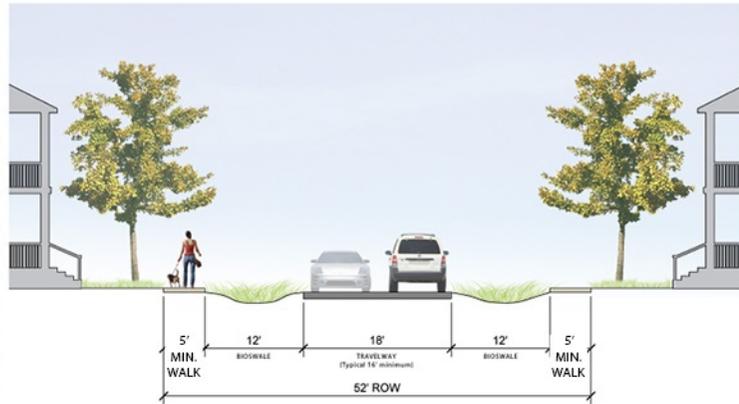
Street Type	Street
Transect Zone Assignment	UN, OS
Right-of-Way Width	56 feet
Pavement Width	36 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lanes Through Traffic
Parking Lanes	2 Sides Parallel Parking (perVIOUS paving)
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	5 foot Sidewalk
Planter Type	Rain Garden
Curb Type	Slotted Curb
Landscape Type	Trees at 40' o.c. Avg.



21.8.3.I ST-52

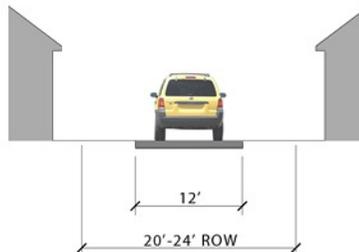
Section 21.8.3 Street Regulating Plan

Street Type	Street
Transect Zone Assignment	UN, OS
Right-of-Way Width	52 feet
Pavement Width	18 feet
Movement	Slow Movement
Design Speed	25 MPH
Traffic Lanes	2 Lane Through Traffic
Parking Lanes	N/A
Bike Lanes	N/A
Curb Radius	10 feet
Walkway Type	5 foot Sidewalk
Planter Type	Continuous Bioswale
Curb Type	Bioswale
Landscape Type	N/A



21.8.3.J RA-22-12

Street Type	Rear Alley
Transect Zone Assignment	UN, NMX, MS, TC
Right-of-Way Width	22 feet
Pavement Width	12
Movement	Individual Lot Access Only
Design Speed	N/A MPH
Traffic Lanes	1 Lane Through Traffic
Parking Lanes	N/A
Bike Lanes	N/A
Curb Radius	N/A
Walkway Type	Path optional
Planter Type	N/A
Curb Type	N/A
Landscape Type	Trees at 40' o.c. Avg.



**Minutes of the Waxhaw Planning Board
Town of Waxhaw, NC
February 23, 2015**

The Waxhaw Planning Board met in a special session Monday, February 23, 2015 at 6:30 p.m. at the Waxhaw Police Department Community Room.

Special Called Meeting

1. Call to Order

Chairman Godfrey called the meeting to order at 6:30 pm.

2. Roll Call and Determination of Quorum

A roll call and determination of quorum was made.

Present: Chairman Godfrey, Vice-Chairman Underwood, John Cannamela, Michael Kreimer, Fred Burrell, Thomas Dwyer, Bob Morgan, Dan Gingrich (not seated), Staff McCarter, Staff Rice, Staff Oakley, Interim Manager Mahar, and Recording Secretary Oliver.

Absent: James Mathieson

3. Work Session

NONE

4. Unfinished Business

NONE

5. New Business

- A. RZ-003080-2015 - A request by McCray Smith, on behalf of Cray, Inc., for a rezoning/map amendment on parcel 06-138-001 from R4 (Single-family Residential) to C1 (Neighborhood Commercial) located at 3808 S. Providence Road.

Staff McCarter gave a presentation on RZ-003080-2015 (see attached).

Ken McCoy stated that he was a resident of the Oaks neighborhood. He stated that he had four points he would like to stress when considering the proposed rezoning. First he stated that there are over 100 homes in the Oaks and multiple drivers per home and that traffic is a real concern. He stated that he was concerned that the proposed rezoning would worsen traffic at the intersection of Red Oaks Trail and Highway 16. He stated that he appreciates bringing business to Waxhaw but that the rural nature of the

town drew him and his family to Waxhaw and he would like to preserve the rural character. Ken McCoy stated that he felt that the rezoning is not in keeping with Waxhaws future land use plan. He stated that he felt neighborhoods need protection by the town because they already suffered from decreased property values due to an unfavorable school district redistricting.

James Miller stated that three years ago there was a rezoning two doors down with the B&H Holding rezoning. He stated that he can appreciate that the owner would like to rezone his property to commercial but feels the owner just wants to increase the value of his property. He stated that that he is concerned with traffic and asked for the Planning Board to consider a traffic impact study. James Miller stated that if all the commercial property in the area was developed it would be a traffic nightmare. He stated that he was against the proposed rezoning.

Kevin Leebrick stated that at the intersection of Red Oaks Trail and Highway 16 it is very difficult to make a left turn. He stated that if the rezoning is approved that he would like to see a condition placed on the approval that an easement would be created on the property for a neighborhood sign for The Oaks.

Mark Thompson stated that that he has lived in The Oaks for 19 years. He stated that many people enjoy walking on the neighborhood streets and stated that the traffic is dangerous. He stated that the owner has gutted the house and turned it into an office and that he has been selling cars out of his house and that he has many cars that are unlicensed stored at the house.

McCray Smith, the applicant, stated that he loves Waxhaw and wants to make it as great as it can be and that he has several investments in the town. He stated that he has sold two vehicles out of the garage at that house in the past month and that is all he has ever sold. He stated that Providence Road is the busiest road in the town and that there are traffic problems associated with the road. McCray Smith stated that he has neighbors that would also like to rezone their property and that he has tried to buy the houses next door but could not afford the asking price. He stated that he has a verbal agreement with an insurance company to use the property for an office if the proposed rezoning is approved. He stated that the proposed office use would create very little traffic.

Thomas Dwyer asked if the proposed office would have its own entrance off of Highway 16. Staff McCarter stated that NCDOT would require a driveway permit to allow a driveway cut in that location. She stated that it would only have access via Red Oaks Trail.

Fred Burrell asked if the property owners were formally notified via US mail about the rezoning petition. Staff Oakley stated that the adjoining property owners were not notified via mail because adjoining property owner notices are not required prior to the

Planning Board hearing. She stated that staff did post a rezoning sign on the property and that it was prior to the time period required by state statutes.

Fred Burrell stated that the Comprehensive Plan is being rewritten and that the updated plan would most likely call for a new Unified Development Ordinance (UDO) to be written following the completion of the Comprehensive Plan. He stated that the Highway 16 Corridor Plan is very good and looks at the road as a whole. He stated that the traffic is a problem and that he believes it should be a requirement of the UDO to conduct a traffic impact study and he would like to require a traffic study prior to the consideration of the rezoning petition. He stated that he envisioned commercial zoning in that area along Highway 16. Fred Burrell stated that the problem with approving multiple isolated rezonings is that there is not a comprehensive view of the effects that the rezonings will have on the area. He stated that the proposed rezoning does not agree with corridor plan because the parcel by parcel consideration of rezonings are too fragmented.

McCray Smith stated that all but three parcels along Highway 16 in the area around his property are commercially zoned. Fred Burrell stated the proposed rezoning petition is a little too early to look at the area comprehensively.

McCray Smith stated that that all commercial properties along Highway 16 have residential properties abutting them. He stated that his property is very small and would have little impact compared to other properties along Highway 16.

Staff Mahar stated that the NCDOT would allow a curb cut for the property and the location would be determined by the NCDOT.

An audience member stated that the B&H Holdings rezoning, that is north of the property in question, was approved for a right-in-right-out driveway on to Highway 16 and there would be a traffic signal installed at the entrance to Alma Village to help ease traffic issues. Staff Mahar stated that that the information stated is correct but that the driveway configuration has yet to be determined and that it would be determined based on the use.

Fred Burrell motioned to send an unfavorable recommendation for RZ-003080-2015 to the Board of Commissioners. John Cannamela seconded. The motion passed unanimously, (7-0).

Fred Burrell stated that the rezoning petition is not consistent with the recommendations of the Highway 16 Corridor Plan because fragmented rezonings would lead to more and more driveway cuts onto Highway 16 further contributing to traffic problems with driveway access and traffic concerns at the intersection. He stated that the Comprehensive Plan and the UDO are not yet to a point where they would provide proper protections to residential properties with buffer and screening

requirements because the request would allow any use permitted in the C-1 zoning district and would not protect the neighborhood.

- B. TA-003098-2015 - A request by staff, on behalf of the Board of Commissioners, to amend Section 16.1.9 Effect of Denial on Subsequent Petitions and Section 16.2.11 Twelve-month Limitation on Re-application of the Waxhaw Unified Development Ordinance to revise the requirements with regard to the twelve-month resubmission period on re-application after a denial of a rezoning or conditional rezoning application by the Board of Commissioners.

Staff Rice gave a presentation on TA-003098-2015 (see attached).

Thomas Dwyer asked about the proposed text amendment and how it would affect applications that met one but not all three of the conditions outlined. Staff Rice used the Andover Chapel rezoning petition as an example.

Vice-Chairman Underwood asked if there were any outstanding cases that would be affected by this text amendment. Staff Rice stated that there were.

Fred Burrell stated that he felt the proposed text amendment is a good idea but he would like to see it written in a way that was a little more black and white. He stated that the Zoning Administrator should notify the Board of Commissioners if an applicant meets any of these conditions. He stated that he wants to avoid gray area in the wording and that having black and white regulations would be better for development.

Chairman Godfrey stated that he is not sure how he feels about the Board of Commissioners making the decision and not utilizing the expertise of planning staff.

Fred Burrell stated that he feels a fourth condition should be added stating that if the Board of Commissioners finds that they would like to reverse one of their rezoning denials that the applicant should not have to wait 12 months to resubmit. He stated that the Board of Commissioners should decide as a group whether or not to ask the applicant to present the case again. Staff Rice asked if the Board of Commissioners would instruct staff to initiate a new application for the applicant. Fred Burrell stated that the Board of Commissioners would instruct staff to initiate a new application.

Staff Mahar stated that he disagrees with adding a fourth condition. He also stated that Attorney Spencer has reviewed the proposed text amendment with staff and that it has been looked at from many different angles. He stated that the Zoning Administrator should be able to make the determination.

Chairman Godfrey stated that he feels that the town's boards and committees need to have confidence in staff to make decisions.

John Cannamela motioned to send a favorable recommendation for TA-003098-2015 to the Board of Commissioners. Bob Morgan seconded. The motion passed six to one, (6-1).

Fred Burrell opposed the motion.

Fred Burrell stated that the reason that he opposed the motion is that conditions should be more black and white. He stated that if two or three of the conditions are met that it should automatically be brought to attention of Board of Commissioners and if the Board wishes to reverse one of their rezoning decisions, that the Board of Commissioners should be able to instruct staff to initiate a new application and the case should be heard again.

6. Other Business - Update on previous case(s) heard by the Planning Board

Staff Oakley stated that the Berger Daycare case was approved by the Board of Commissioners. She stated that the Waxhaw Park CUP revision was also approved with the condition that a church use not be included.

7. Minutes for correction and approval: January 20, 2015 regular meeting

Michael Kreimer motioned to approve the minutes from the January 20, 2015 special meeting. Thomas Dwyer seconded. The motion passed unanimously, (7-0).

Chairman Godfrey stated that Planning Board members should be mindful of their actions and all members are representing the Planning Board and that members should be respectful of that at all times.

8. Adjournment

Michael Kreimer motioned to adjourn the meeting at 7:14 p.m. Thomas Dwyer seconded. The motion passed unanimously, (7-0).

The meeting adjourned at 7:14 p.m.

Respectfully Submitted,

Chairman, David Godfrey

Recording Secretary, Maxx Oliver

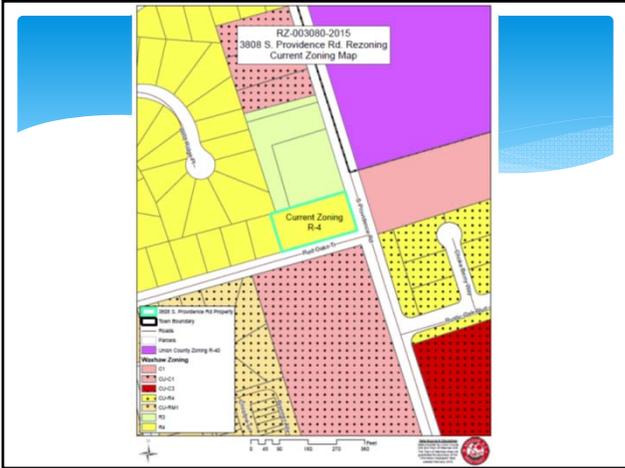
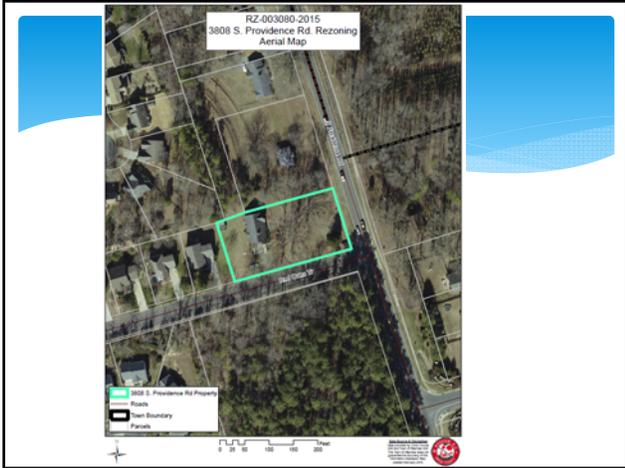
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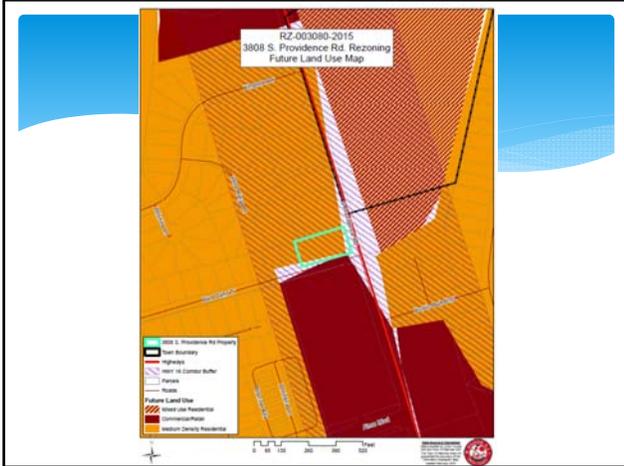
**Town of Waxhaw
Planning Board**

Waxhaw Police Department Community
Meeting Room
Monday, February 23, 2015

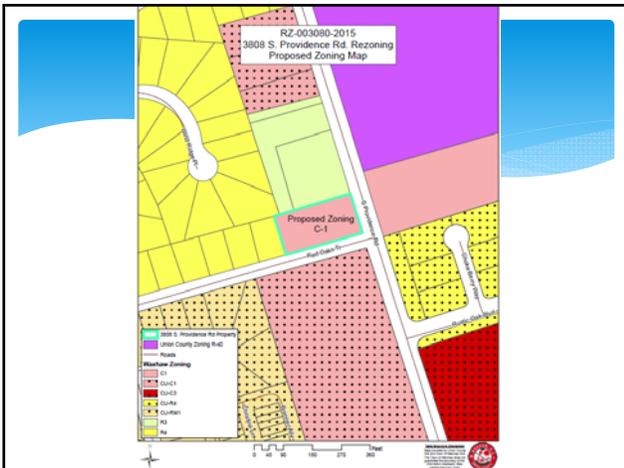
**RZ-003080-2015
3808 S. Providence Road**

Petition RZ-3080-2015 is a request by McCray Smith, on behalf of McCray, Inc., for a rezoning/map amendment on parcel 06-138-001 from R4 (Single-family Residential) to C1 (Neighborhood Commercial) located at 3808 S. Providence Road.





- * Further planning of the Providence Road Corridor was achieved through the adopted Highway 16 Corridor Plan
- * Recommendation NMX on Regulating Plan



PLANNING STAFF ANALYSIS

- * The property is currently single-family residential and abuts single-family residential properties.
- * There are C1 and CU-C1 properties across S. Providence Road and Red Oaks Trail that are vacant and undeveloped.
- * The Future Land Use Map from the 2030 Comprehensive Plan calls for Medium Density Residential, which includes neighborhood commercial uses and Providence Road Corridor, which recommends further planning. This was achieved through the Highway 16 Corridor Plan which depicts the property as NMX zoning.

Research

The following municipalities allow for subsequent applications after denial:

Matthews, NC:

If determined that "substantial changes in circumstances or conditions not discovered or not possible during the previous zoning actin, which may relate to the request."

Hillsborough, NC:

"The Town Board may on its own motion, however initiate an amendment of this nature prior to the expiration of the one (1) year period."

Yadkin County, NC:

"The Board of County Commissioners, by eighty (80%) affirmative cote of its total membership, may waive this restriction if it finds any emergency exists."

Research

Pender County

A. The County Commissioners may allow re-submission of such petition within a six (6) month period, if the County Commissioners, by one hundred (100) percent affirmative vote of its total membership may waive this restriction. The County Commissioners shall consider the following in determining a resubmission within this time period:

- 1) There has been a significant change in the zoning district classification of an adjoining piece of property.
- 2) The County has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed.
- 3) Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification.
- 4) There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the six month restriction on a new position; this, however, shall not include a change in the ownership of the subject property.

Section 16.1.9

16.1.9 Effect of Denial on Subsequent Petitions

When the Board of Commissioners shall have denied a map application or the application shall have been withdrawn after the first notice of the public hearing thereon, the Board of Commissioners shall not entertain another application for the same or similar map amendment, affecting the same property or a portion of it until the expiration of a one year period, extending from the date of denial or withdrawal, as applicable. ~~Provided, however, one additional application may be made before the expiration of the one-year period.~~ This waiting period shall not be applicable for the same property or a portion of it if the first application was not for a Conditional Zoning District and the second application is for a Zoning District designated as a Conditional Zoning District or the Administrator determines at least one of the following has occurred:

- A. There has been a significant change in the zoning district classification of an adjacent piece of property.
- B. The Town has adopted a plan that changes policy regarding how the property affected by the amendment should be developed.
- C. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification.

Section 16.2.11

16.2.11 Twelve-Month Limitation on Re-application

If a request for rezoning to conditional zoning is denied by the Board of Commissioners, a similar application for the same property or any portion thereof shall not be filed until the expiration of a twelve (12) month period from the date of the most recent denial by the Board of Commissioners. This waiting period shall not be applicable where the application for a conditional zoning is substantially different from the original application or the Administrator determines that at least one of the following has occurred:

- A. There has been a significant change in the zoning district classification of an adjacent piece of property.
- B. The Town has adopted a plan that changes policy regarding how the property affected by the amendment should be developed.
- C. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification.

The term "substantially different" as herein applied shall mean:

- A. The proposed principal use is different than the use contained in the original application; or
- B. The gross floor area of the proposed development is fifty (50) percent or more smaller than contained in the original application.

Planning Staff Recommendation

Staff recommends approval of TA-003098-2015. The proposed revisions to Section 16.1.9 and Section 16.2.11 will allow the Administrator to waive the twelve month resubmission period if certain criteria are met.