

Town of Dallas Planning Board Meeting

Agenda

Thursday, February 21, 2019

To be held at Fire Station Community Room at 6:30 pm

The following agenda is proposed:

1. Call to Order
2. Roll Call of Members Present; Declaring a quorum as present
3. Invocation or Moment of Silence
4. Pledge of Allegiance to the Flag
5. Announcements/Introductions
6. Approval of Agenda with Additions or Deletions
7. Review of Minutes- September and January
8. Old Business
 - a. Permitted Uses in All Zones
9. New Business
 - a. Text Amendment
 - b. Conditional Use District
 - c. Conditional Use Permit
10. Upcoming Topics
 - 1) Sign Regulations
 - 2) Commercial Fence Ordinance Updates
11. Adjournment

MINUTES

Town of Dallas

PLANNING BOARD

Meeting of September 20, 2018

The meeting was called to order at 7:30 PM by Chairman Curtis Wilson following the Board of Adjustment meeting.

The following members were present: Curtis Wilson, Chair, Glenn Bratton, John Beaty, Tim Farris, David Jones, Alternate Reid Simms, Alternate Gene Brown

Members absent: John O' Daly, Eric Clemmer

Also present: Tiffany Faro, Director of Development Services, Johnny Denton, Town Engineer

Approval of Agenda: A motion by Glenn Bratton was made and seconded by Tim Farris to approve the agenda for this meeting, and the motion was adopted unanimously.

Approval of Minutes: A motion by John Beaty was made and seconded by Glenn Bratton to approve the minutes with correction for the March meeting.

New Business:

1) Appointment of Chair/ Co-Chair

Glenn Bratton made a motion to re-appoint Curtis Wilson as the Planning Board and Board of Adjustment Chair, it was seconded by Tim Farris, and approved unanimously. John Beaty made a motion to appoint Glenn Bratton as Co-Chairman, which was seconded by Tim Farris and approved unanimously.

2) Possible Text Amendment: Curb and Gutter Requirements

Tiffany summarized previous meeting discussion, and presented a draft revision of the Town's curb and gutter ordinance for recommendation to the Board of Alderman. The revisions presented included text amendments to the zoning and subdivision ordinances. A motion was made by Reid Simms to adopt the proposed revisions as presented, was seconded by Glenn Bratton, and agreed unanimously.

3) Possible Text Amendment: Allowable locations of mobile homes

Tiffany reviewed our current ordinances and led a discussion on the types of regulation allowable on mobile homes in municipalities and asked for board feedback on proposed text amendments. The Board agreed that mobile home complexes should be treated as subdivisions per GS160A-376 and required to meet the development standards outlined in our subdivision ordinances, and that new mobile homes should be located within approved mobile home parks only. Tim Farris made a motion to approve the proposed

text amendments as presented, with the inclusion of a masonry skirting requirement for new mobile homes unless being replaced due to an act of God. The motion was seconded by Glenn Bratton, and approved unanimously.

Other Business and Adjournment:

Tiffany reviewed upcoming topics as outlined on the agenda. John Beaty made a motion to adjourn, seconded by Glenn Bratton, and approved unanimously.

Respectfully Submitted,

Approved:

Tiffany Faro, Development Services Director

Curtis Wilson, Chairman

MINUTES

Town of Dallas

PLANNING BOARD

Meeting of January 17, 2019

The meeting was called to order at 7:00 PM by Chairman Curtis Wilson.

The following members were present: Curtis Wilson-Chair, Glenn Bratton- Co-Chair, John O' Daly, Tim Farris, David Jones, Alternate Reid Simms, Alternate Gene Brown

Members absent: Eric Clemmer, John Beaty

Also present: Tiffany Faro, Director of Development Services, Johnny Denton, Town Engineer

There was an invocation lead by Chairman Wilson and pledge of allegiance.

Approval of Agenda: A motion by Tim Farris was made and seconded by Glenn Bratton to approve the agenda for this meeting, and the motion was adopted unanimously.

Approval of Minutes: No approvals made- forwarded to February meeting for approval.

New Business:

1) Permitted Uses in All Zones

Tiffany presented the need to consider updating our permitted uses, and clarifying the current ordinance text so that it is easy to understand by residents, developers, and staff. She proposed adopting a permitted use chart instead of listing each use under the zone in order to eliminate the pyramid-like structure of defined permitted uses. Discussion was held regarding limiting new residential development in industrial areas, mixed use opportunities, defining what "adaptive reuse" really means, and eliminating references to "all residential uses". Board requested staff to present recommendations for further discussion on all uses at the next board meeting.

2) Possible Text Amendment: Curb and Gutter Requirements

Tiffany summarized previous meeting discussion, and presented a draft revision of the Town's curb and gutter ordinance for recommendation to the Board of Alderman. The revisions presented included text amendments to the zoning and subdivision ordinances. A motion was made by Reid Simms to adopt the proposed revisions as presented, was seconded by Glenn Bratton, and agreed unanimously.

Other Business and Adjournment:

A motion was made by Tim Farris to change the meeting time to 6:30 pm (instead of 7pm) on the 3rd Thursday of the month. The motion was seconded by Glenn Bratton and approved unanimously. Tiffany reviewed upcoming topics as outlined on the agenda. Tim Farris made a motion to adjourn, seconded by Glenn Bratton, and approved unanimously.

Respectfully Submitted,

Approved:

Tiffany Faro, Development Services Director

Curtis Wilson, Chairman

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Permitted Uses in All Zones

AGENDA ITEM NO. 8A

MEETING DATE: 2/21/2019

BACKGROUND INFORMATION:

This discussion is a continuation of the January Planning Board Meeting.

Staff was directed to provide a recommendation for an updated chart, and accompanying ordinance text, based on our last discussion. This chart would be added to the current "Zones Established" Section of the Town Zoning Code, and any future changes would be required to be amendments to the text.

Key changes being proposed:

- Residential removed from Industrial and Business (some conditional uses allowed)
- Travel stay options expanded into Residential zones as conditional uses
- Limitation of allowable uses in our B-3 zone to promote small business/restaurant/retail
- Expansion of allowable uses in Business zones to allow greater flexibility
- Changes to allowable areas for automotive-related sales and services
- Some Industrial zone uses now conditional (relating to noise levels, odor, and impact on surroundings)
- Added uses for additional clarity- adult businesses, solid waste/ septic facilities, bed & breakfasts, smoke shops, fitness centers, etc.
- Updates to animal/agricultural uses

Because supplemental regulations are currently within the text of the permitted uses, Staff is proposing to relocate those elements to their own chapter and/or to within existing related chapters.

Staff is also proposing the removal of zones not currently in use (with the exception of the RMF and RMF-H zones) to clean up the ordinances.

This chart and accompanying text is proposed to be reviewed and updated again after analysis of our current land use map. Staff is considering a map update in FY 19-20.

STAFF RECOMMENDATION: A motion to make a recommendation to the Board of Alderman for a text amendment as presented (or with minor changes), or a motion for requested updates and to bring back to the Board for review. **Motion must include a consistency statement.**

BOARD ACTION TAKEN:

	Residential							Office	Business					Industrial
	R-15	R-12	R-10	R-8	R-6	RMF	RMF-H	Off-1	BC-1	B-1	B-2	B-3	B-3P	I-2

PERMITTED USES (any use not specified below is eligible to apply for conditional zoning approval)

RESIDENTIAL

Single-family dwellings.	X	X	X	X	X	X												
Manufactured/ Mobile Homes					X													
Trailer Camps/ Mobile Home Parks					X													
Multi-family Residential					X	X	X				C	C	C	C				
Fraternities					C	C	C											
Homes for the aged and infirm	X	X	X															
Mixed Use Residential									X									C
Nursing homes for chronic or convalescent patients	X	X	X															

TRAVEL AND TOURISM

Boarding and rooming houses														X				
Motel / Hotel														X				X
Bed and Breakfast Inn							C		C									X
Tourist Homes	C	C	C	C	C	C	C											X

MUNICIPAL/PUBLIC

Assembly Hall																			C
Cemeteries	X	X	X	X	X	X	X							X					X
Municipal, county, state and federal uses not involving the outdoor storage of equipment or materials	X	X	X	X	X	X	X							X					X
Public libraries, public museums and art galleries.	X	X	X	X	X	X	X							X					X
Public or private utilities buildings and appurtenances, not to include the outdoor storage of equipment or materials	X	X	X	X	X	X	X							X					X
Public utility storage or service yards																			X

PROFESSIONAL SERVICES

Offices rendering professional services																			X
Agencies offering specialized Services not involving retail trade or inventory														X					X
business offices																			X
Data processing and computer centers																			C

X: Permitted by Right*

C: Conditional*

*SUPPLEMENTAL REGULATIONS MAY APPLY- CHECK TOWN ORDINANCES

	Residential							Office O&I-1	Business					Industrial I-2
	R-15	R-12	R-10	R-8	R-6	RMF	RMF-H		BC-1	B-1	B-2	B-3	B-3P	

PERMITTED USES (any use not specified below is eligible to apply for conditional zoning approval)

BUSINESS AND RETAIL

Automotive

Auto parts and supplies (new)									X					X			X
Auto parts and supplies (used)														X			X
Auto sales														X			X
Auto Service/Repair stations								X		X				X			X
Automobile Garages														X			X
Car Wash										X				X			X
Gas Stations										X				X			X
Parking lots not for public use (principal use)														C			C
Trailer Sales and Service																	X

Services

Banks and financial institutions										X				X			X
Barber shops or beauty shops										X				X			X
Dry cleaning establishments (drop-off only)										X				X			X
Exterminator Office										X				X			X
Funeral Homes										X				C			X
Laundry pickup stations, laundrettes and laundromats										X				X			X
Radio and television repair shops.										X				X			X
Shoe repair shops										X				X			X
Tailor shops										X				X			X
Upholstery shops										X				X			X

Food & Drink

Alcoholic beverage package stores										X				X			X
Bake shops and dairy bars										X				X			X
confectioneries										X				X			X
delicatessens										X				X			X
Eating and drinking establishments										X				X			X
Grocery stores										X				X			X
Microbreweries														X			X

X: Permitted by Right*

C: Conditional*

*SUPPLEMENTAL REGULATIONS MAY APPLY- CHECK TOWN ORDINANCES

	Residential							Office O&I-1	Business					Industrial I-2
	R-15	R-12	R-10	R-8	R-6	RMF	RMF-H		BC-1	B-1	B-2	B-3	B-3P	

PERMITTED USES (any use not specified below is eligible to apply for conditional zoning approval)

Retail

Adult Use/ Sexually Explicit Retail									X	X	X				
Antique shops									X		X				
Apparel Shops									X		X				
Art/Music Supply and Retail									X	X	X	X	X		
Auction house (indoor)									X	X	X	X	X		X
Auction house (outdoor)										C	X	X	X		C
Bookstores									X	X	X	X	X		
camera shops									X						
Convenience Stores									X	X	X		C		
Department stores									X						
Drugstores									X						
Dry goods stores									X	X	X	X	X		
Florist shop									X	X	X	X	X		
Furniture stores									X	X	X	C	X	X	X
Hardware stores									X	X	X	X	X		X
Household appliance stores									X	X	X	X	X		
Jewelry stores									X	X	X	X	X		X
Newsstands									X	X	X	X	X		X
Pet shops									X						
Retail Stores - other									X	X	X	C	C	C	X
Second Hand Precious Metal Business									X	X	X	X	X		
Shoe Stores									X	X	X	X	X		
Sporting goods stores									X	X	X	X	X		
Tobacco/ Smoke Shops									X		X	X	X		
Toy stores									X	X	X	X	X		
Variety stores									X	X	X	X	X		
Wholesale Departments									X	X	X	X	X		X

ANIMAL/AGRICULTURAL (Must comply with Chapter 90:Animals)

Abattoirs and slaughterhouses															C
Animal feeds- Manufacturing, servicing, processing, assembling, and fabricating.															X
Beekeeping		X	X	X	X										X
Farming (crops)		C	C	C	C										X
Greenhouses		C	C	C	C										C
Hatcheries															
Plant Nurseries		C	C	C	C										
Veterinary hospitals and commercial kennels															X

X: Permitted by Right*

C: Conditional*

*SUPPLEMENTAL REGULATIONS MAY APPLY- CHECK TOWN ORDINANCES

	Residential							Office O&I-1	Business					Industrial I-2
	R-15	R-12	R-10	R-8	R-6	RMF	RMF-H		BC-1	B-1	B-2	B-3	B-3P	

PERMITTED USES (any use not specified below is eligible to apply for conditional zoning approval)

EDUCATIONAL

Classroom trailers designed to be utilized by a public school	X	X	X	X	X			X		X	X	X	X	X
Schools and colleges kindergartens and day nurseries	X	X	X	X	X			X		X	X	X	X	X

RELIGIOUS AND CHARITABLE ORGANIZATIONS

Churches and other places of worship.	X	X	X	X	X	X		X		X	X	X	X	X
Philanthropic and eleemosynary institutions.	X	X	X	X	X	X		X		X	X	X	X	X
Promo for Trade Associations or Civic, Religious groups								X		X	X	X	X	X

RECREATIONAL

Electronic gaming operation(s)								X		X				
Adult Entertainment								X		X				
Fairs, carnivals and similar transient amusement enterprises														C
Fitness Center / Gymnasium								X		X			X	
Indoor recreation								X		X			X	
Movie theaters								X		X			X	
outdoor recreation (not racetracks)										X			X	
Public or private golf courses, non-commercial swimming or tennis clubs, and country clubs	X	X	X	X	X					X			X	X

MEDICAL

dental offices and clinics								X		X	X	X	X	X
Medical offices and clinics								X		X	X	X	X	X
Clinical laboratories								X		X	X	X	X	X
Hospitals for human care										X			X	

INDUSTRIAL/MANUFACTURING

Auto wrecking or junk yards														C
Automobile accessories- Manufacturing, servicing, processing, assembling, and fabricating														X
Bedding Fabrication														X
Bedding, pillows and carpets- Manufacturing, servicing, processing, assembling, and fabricating														X
Bottling Plants														X
Building materials- Manufacturing, servicing, processing, assembling, and fabricating														X
Chemicals- Manufacturing, servicing, processing, assembling, and fabricating														X
Clothing and cloths Fabrication														X

X: Permitted by Right*

C: Conditional*

*SUPPLEMENTAL REGULATIONS MAY APPLY - CHECK TOWN ORDINANCES

	Residential										Office	Business					Industrial
	R-15	R-12	R-10	R-8	R-6	RMF	RMF-H	O&I-1	BC-1	B-1	B-2	B-3	B-3P	I-2			
Clothing including hosiery- Manufacturing, servicing, processing, assembling, and fabricating															X		
Cold Storage Plants															X		
Dry cleaning and pressing plants											C				X		
Electric and electronic products- Manufacturing, servicing, processing, assembling, and fabricating															X		
Food and food products, not to include slaughterhouses and abattoirs- Manufacturing, servicing, processing, assembling, and fabricating															X		
Freezer lockers															X		
Gasoline, oil, or alcohol storage above ground															C		
Glass- Manufacturing, servicing, processing, assembling, and fabricating															X		
Household appliances- Manufacturing, servicing, processing, assembling, and fabricating															X		
Ice- Manufacturing, servicing, processing, assembling, and fabricating															X		
Leather goods Fabrication, not to include processing or storage of raw hides															X		
Leather goods- Manufacturing, servicing, processing, assembling, and fabricating															X		
Machine tools- Manufacturing, servicing, processing, assembling, and fabricating															X		
Metal products fabrication															X		
Metals and metal products- Manufacturing, servicing, processing, assembling, and fabricating															X		
Mixing plants for concrete or paving materials															X		
Newspaper offices or printing plants															X		
Paints- Manufacturing, servicing, processing, assembling, and fabricating															X		
Paper products fabrication, not to include the manufacturing of paper															X		
Paper products- Manufacturing, servicing, processing, assembling, and fabricating															C		
Plastic containers and similar plastic product fabrication															X		
Pottery, porcelain, and vitreous china- Manufacturing, servicing, processing, assembling, and fabricating															X		
Rubber products- Manufacturing, servicing, processing, assembling, and fabricating															C		

PERMITTED USES (any use not specified below is eligible to apply for conditional zoning approval)

X: Permitted by Right*

C: Conditional*

*SUPPLEMENTAL REGULATIONS MAY APPLY- CHECK TOWN ORDINANCES

	Residential							Office	Business				Industrial	
	R-15	R-12	R-10	R-8	R-6	RMF	RMF-H	Off-1	BC-1	B-1	B-2	B-3	B-3P	I-2
PERMITTED USES (any use not specified below is eligible to apply for conditional zoning approval)														
Soaps, detergents and washing compounds- fabricating														X
Manufacturing, servicing, processing, assembling, and fabricating														C
Solid Waste/ Septage Management Facilities														C
Stone crushing, cutting and polishing														C
Storage of materials and equipment outdoors														X
Storage warehouses and yards, except storage of salvage														X
Textiles- Manufacturing, servicing, processing, assembling, and fabricating														X
Transportation Terminals														X
Welding shops														X
Wholesale and Jobbing Plants														X
Wholesale Distribution Centers														C
Wood and wood products, including furniture- Manufacturing, servicing, processing, assembling, and fabricating														X

X: Permitted by Right*

C: Conditional*

*SUPPLEMENTAL REGULATIONS MAY APPLY- CHECK TOWN ORDINANCES

Print

Dallas, NC Code of Ordinances

TOWN OF DALLAS, NORTH CAROLINA CODE OF ORDINANCES

2017 S-4 Supplement contains:

Local legislation current through an ordinance passed 6-13-2017; and
State legislation current through North Carolina Legislative Service, 2016 Regular Session,
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ZONES ESTABLISHED; REGULATIONS

§ 153.020 TOWN DIVIDED INTO ENUMERATED ZONES.

In order to regulate and limit the height and size of buildings; to regulate and limit the intensity of the use of lot area; to regulate and determine the areas of open spaces surrounding buildings and to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses, the town is hereby divided into the following zones.

- (A) R-15 Single-Family Residential
- (B) R-12 Single-Family Residential
- (C) R-10 Single-Family Residential
- (D) R-8 Multi-Family Residential
- (E) R-6 Multi-Family Residential
- ~~(F) M-O and I-Medical Office and Institutional~~
- (G) O and I-1 Office and Institutional
- ~~(H) O and I-2 Office and Institutional~~
- ~~(I) A-1 Advertising Sign District~~
- (J) BC-1 Shopping Center
- (K) B-1 Neighborhood Business
- (L) B-2 Highway Business

- (M) B-3 Central Business
- (N) B-3P Central Business District Perimeter
- ~~(O) B-4 Central Business~~
- ~~(P) I-1 Light Industrial~~
- (Q) I-2 General Industrial
- ~~(R) I-2L General Industrial Limited~~
- ~~(S) E-1 Exclusive Industrial~~
- ~~(T) E-2 Exclusive Industrial~~
- (U) RMF Multi-Family District
- (V) RMF-H High Density Multi-Family District
- (Ord. passed 11-3-1970; Am. Ord. 7-3-1972)

Cross reference:

Yard and height requirements for business districts, see Appendix B
Yard and height requirements for residential districts, see Appendix A

§ 153.021 ZONING MAP; ZONE BOUNDARIES ADOPTED; RULES WHERE UNCERTAINTY EXISTS.

(A) The boundaries of the zones are shown upon the map accompanying this chapter and made a part hereof by reference, entitled "Zoning Map, the Town of Dallas, North Carolina", dated November 3, 1970. The zoning map, including all notations, references, amendments thereto, and other information shown thereon, is hereby made a part of this chapter the same as if such information set forth on the map were all fully described and set out herein. The zoning map, properly attested, is on file in the office of the Building Inspector and is available for inspection by the public.

(B) In the creation by this chapter of the respective zones, the Board of Aldermen has given due and careful consideration to the peculiar suitability of each and every such zone for the particular regulations applied thereto and the necessary, proper and comprehensive groupings and arrangements of the various uses and densities of population in accordance with a well considered plan for the development of the town.

(C) The provisions of this chapter governing the use of land and buildings, the height of buildings, building site areas, the sizes of yards about buildings and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown upon said map.

(D) Where uncertainty exists as to boundaries of any zone shown on said map, the following rules SHALL apply:

- (1) Where such zone boundaries are indicated as approximately following street lines, alley lines and lot lines, such lines shall be construed to be such zone boundaries.
- (2) In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shall be determined by use of the scale appearing on the map.
- (3) In case any further uncertainty exists the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

(4) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of adjoining property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(Ord. passed 11-3-1970; Am. Ord. passed 1-11-1972; Am. Ord. passed 4-11-1972; Am. Ord. passed 7-3-1972; Am. Ord. passed 12-5-1972)

§ 153.022 R-15, R-12 AND R-10 ZONES: SINGLE-FAMILY RESIDENTIAL.

Within the R-15, R-12 and R-10 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

- (A) *Permitted uses.* Refer to Permitted Use Table (remove list below)
- (1) Single-family dwellings.
 - (2) Churches and other places of worship.
 - (3) Schools and colleges kindergartens and day nurseries.
 - (4) Public libraries, public museums and art galleries.
 - (5) Philanthropic and eleemosynary institutions.
 - (6) Public or private golf courses, non-commercial swimming or tennis clubs, and country clubs subject to the following requirements: buildings, tennis courts and swimming pools shall be located at least 20 feet from any exterior lot line, on a site containing three acres or more.
 - (7) Municipal, county, state and federal uses not involving the outdoor storage of equipment or materials.
 - (8) Public or private utilities buildings and appurtenances, not to include the outdoor storage of equipment or materials.
 - (9) Reserved.
 - (10) Farming, truck-gardening and nurseries.
 - (11) Customary accessory buildings, including a private garage, guests quarters and servants quarters on residential lot.
 - (12) Church or public building bulletin boards, not exceeding 12 square feet in area.
 - (13) Real estate signs not more than four square feet in area.
 - (14) Cemeteries.
 - (15) A temporary use, including a building or trailer, in conjunction with any authorized construction; provided:
 - (a) No living quarters are provided in such building or trailer.
 - (b) The construction shall commence prior to or simultaneously with the temporary use; and
 - (c) A permit for such use must be secured from the Building Inspector who may not issue a permit for a longer period than six months at any one location without an order from town Planning Board.
 - (16) Classroom trailers designed to be utilized by a public school provided a permit for such use is secured from the Building Inspector who may not issue such permit for a longer period than 12 months at any one location without an order from the town Planning Board.

(17) A temporary permit may be issued by the Building Inspector/Code Enforcer allowing a storage trailer to be placed in the rear yard of a residence for the sole purpose of storing household goods provided that:

- (a) The residence is undergoing total remodeling;
 - (b) The storage trailer may not be used for living quarters; and
 - (c) The permit may not be issued for a period longer than six months but may be extended by the written approval of the Planning Board if valid reason are given to merit such extension.
- (18) Industrial park entrance sign in a R-12 zone if the R-12 zone adjoins an industrial park and if the design and size of said sign is approved by the Board of Aldermen.

(B) *Lot area and width, yards and building height requirements.* The requirements set forth in the Appendix A: Yard and Height Requirements for Residential Districts and Appendix B: Yard and Height Requirements for Business Districts shall govern.

(C) *Off-street parking.* Off-street parking shall be provided by all uses as required by § 153.042.

(D) Signs. The requirements set forth in the sign regulations, §§ 153.080 through 153.087, shall apply.

(E) *Site plan.* As an initial step in applying for the issuance of a building permit for the construction, alteration, or expansion of any structure housing a municipal, county, state, federal or other governmental use, a site plan shall be submitted which shall include the following grading, engineering design, construction size, height, shape and location of the building, location and design of parking areas, pedestrian and vehicular circulation on site, and plans for collecting and depositing storm water and natural or artificial watercourses. The site plan must be approved by the Town Clerk and by the Building Inspector before the building permit is issued; however, if the site plan is disapproved the applicant may appeal such decision to the town Planning Board and then to the Board of Aldermen. The structure housing such municipal, county, state or federal use must be constructed, altered or expanded in accordance with the site plan before a certificate of occupancy is issued by the Building Inspector.

(Ord. passed 11-3-1970; Am. Ord. 1-11-1972; Am. Ord. 7-3-1972; Am. Ord. passed 11-10-1998)

§ 153.023 RMF: MULTI-FAMILY DISTRICT

Note: Recommending Edits to this section at a later date

Within the RMF zone as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulation shall apply:

- (A) *Permitted uses.* Multi-family dwellings and customary accessory structures and uses.
- (B) *Off-street parking.* Off-street parking shall be provided for all uses as required by § 153.042.
- (C) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided by all uses as required § 153.044.
- (D) *Signs.* For the purpose of advertising any use permitted in this zone, the regulations of §§ 153.080 through 153.087 shall apply.
- (E) *Advisory opinion.* Prior to submitting an application for rezoning, the applicant may submit a simple sketch plan of the proposed development to the town Planning Board in order to obtain an advisory opinion from such Board as to the feasibility of the proposed rezoning prior to the preparation and submission by the required preliminary plan and preliminary construction plan.
- (F) *Preliminary site plan.* An application for rezoning to a RMF Multi-family District shall be accompanied by a preliminary site plan prepared on a 28" x 42" sheet of reproducible material using the largest scale possible and shall contain:

- (1) Land area to be included in the rezoning request;
- (2) Proposed locations of each existing and each proposed structure and their general exterior dimensions;
- (3) Proposed uses of all land within the area requested for rezoning;
- (4) Dimensions between all structures and from structures to property lines;
- (5) Traffic parking and circulation plan showing proposed locations and arrangements of parking spaces and ingress and egress to and from adjacent streets;
- (6) Proposed location and material of any screening walls, fences or plantings;
- (7) Proposed exterior design of buildings;
- (8) Schedule for number and size of apartments within the projects;
- (9) Proposed time schedule and staging, if any, for construction of the project;
- (10) A title giving the address of the development, names and addresses of the developers, the date, scale of the plan, and the person or firm preparing the plan;
- (11) Provision for adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking, loading space, facilities for waste disposal and illumination;
- (12) Means for providing adequate and safe location of play areas for children and other recreational areas according to the concentration of occupancy;
- (13) Location and type of fences, walls or year-round screen planting, when deemed necessary by the town Planning Board to shield adjacent residential zones from parking lot illumination, headlights and noise and to reduce the visual encroachment of multi-family architecture and the activity on privacy and single-family residential neighborhood character;
- (14) Such other information as may be considered essential by the town Planning Board for the protection of public health, safety, welfare, and conveniences.
- (G) *Preliminary construction plan.* A preliminary construction plan shall be prepared and shall include a perspective drawing of the multi-family dwelling units presenting the general appearances of the buildings and grounds from the major access street, which need not be prepared by an engineer, architect or commercial artist.
- (H) *Recommendations by the town Planning Board.* Any recommendations and suggestions concerning the preliminary plans for the proposed multi-family residential complex made by the town Planning Board shall be based upon a finding that the plans for the development are such that traffic hazards and congestion will not be created within the development and upon the public streets at the points of ingress and egress to such development, and that the plans maintain the purposes of this section and the functions of a multi-family residential complex. The purpose of a preliminary site plan and preliminary construction plan is to enable the town Planning Board to review them so as to recommend and approve the same prior to presentation of its written recommendation and report to the Board of Aldermen.
- (I) *Board of Aldermen approval.* The Board of Aldermen may refuse to approve a site plan or construction plan on the grounds that either it fails to provide unity of development with other property in the area, or that it fails to adequately protect residentially zoned properties in the same area from the adverse effects of such operation, or that the proposal fails to provide safe conditions for pedestrians and motorists, or that the plans fail to conform with the requirements of this section.
- (J) *Final plans.*
 - (1) A final construction plan shall be prepared and shall include the following:

- (a) A detailed perspective drawing of the multi-family residential complex showing the appearance of the buildings and grounds from the major access street.
 - (b) Detailed final construction plans for the purposes of building inspection to include elevations of all buildings from all sides at a scale not less than 1/8 inch to 1 foot.
 - (2) The final site plan shall be prepared on a 28" x 42" sheet of reproducible permanent base material using the largest scale possible and shall include all data required for a preliminary site plan as well as any other information required by the town Planning Board.
 - (3) The final site plan and final construction plan for the proposed development for changes within the development shall be submitted by the developer to the Chairman of the Planning Board and to the Building Inspector for their recommendations and report thereon.
 - (4) An affirmative recommendation of the final plans for the proposed multi-family residential complex by the Chairman of the Planning Board and by the Building Inspector shall be upon the finding that the final plans for the development are substantially in agreement with the preliminary site plans and preliminary construction plans as approved by the Board of Aldermen and that traffic hazards and congestion will not be created within the development and upon the public streets at the point of ingress and egress to the development and that the plans maintain the purposes of this article and the functions of the multi-family residential complex.
 - (5) After approval of the final plans by the Chairman of the Planning Board and by the Building Inspector and after a copy of the approved plans is filed with said Building Inspector, the latter if other pertinent town ordinances have been complied with, shall issue a building permit for the construction, alteration or expansion of any building within an RMF Multi-Family Residential District upon application by the developer.
- (6) *Certificate of occupancy.*
 - (a) No building shall be occupied within an RMF Multi-Family District until the certificate of occupancy shall have been issued by the Building Inspector and no certificate of occupancy shall be issued unless the approved final plans have been substantially followed as to each completed building and the use of same complies with this chapter.
 - (b) Provided, however, that the Building Inspector may issue a certificate of occupancy for the completed structures or buildings even though some other structures in the approved plans at the time are under construction.
 - (c) Provided further that a certificate of occupancy shall not be issued for any completed structure until all drives, walks, parking spaces, screens, and truck loading and unloading facilities serving the same shall have been provided and substantially improved as shown on the approved final plans.
- (K) *Development requirement.* In order to develop realty within the RMF Multi-Family District, the following will be required.
 - (1) A portion of the land must front on a major thoroughfare of major collector street as defined by the town Planning Board.
 - (2) The minimum land requirement shall be 15,000 square feet for the first dwelling unit and 3,500 square feet for each additional dwelling unit therein.
 - (3) The minimum setback from street, and minimum side and rear yard shall be 45 feet.
 - (4) The minimum unobstructed open space shall be 70% of total lot area, a portion of which shall be developed for parks, playgrounds, and other recreational purpose.
 - (5) Gross ground floor area of principal structures shall not exceed 18% of total land area.

- (6) The height of any portion of any structure shall not be greater than one-half of the horizontal distance from such structure to the nearest lot line or to any other structure within the complex.
- (7) Every building shall be separated on every side from any other building within the complex by a distance of at least 25 feet.
- (8) No parking of motor vehicles shall be permitted within the required setbacks. The space within the required setback shall not be used as maneuvering space for the parking or un-parking of vehicles, except that driveways providing ingress and egress to the parking area may be installed across the setback area.

(L) *Effective approved site plan.* All approved site plans for RMF Multi-Family Districts shall be binding upon the applicants therefor, their successors and assigns, shall limit and control the issuance and validity of all building permits and certificate of occupancy and shall restrict and limit the construction location use and operation of all land and structures included within such plans, provided however, that upon a showing of necessity therefore, minor changes in the location and size of structures may be permitted if such minor changes will not cause any of the following circumstances to occur:

(M) *Amendment or revision of site plan.* Pursuant to the same procedure and subject to the same limitations and requirements set forth in this section, a site plan may be amended or revised, either partially or completely.

(N) *Copies.* Upon approval of the plan for a multi-family residential complex by the Board of Aldermen, one copy of the plan shall be filed with the Town Clerk, one copy with the Building Inspector, and one copy with the town Planning Board.

(Ord. passed 11-3-1970; Am. Ord. passed 1-11-1972; Am. Ord. passed 7-3-1972)

§ 153.024 RMF-H: HIGH DENSITY MULTI-FAMILY DISTRICT. Note: Recommending Edits to this section at a later date

Within the RMF-H Zone as shown upon the zoning map of the town, incorporated by reference in § 153.21, the following regulations shall apply:

(A) *Permitted uses.* High density multi-family dwellings and customary accessory structures and uses which must be located within the primary structure.

(B) *Required lot area, lot width and yards.*

- (1) Minimum lot size - none.
 - (2) Minimum lot area for first dwelling unit - 5,000 square feet.
 - (3) Minimum additional lot area for next eight units - 500 square feet.
 - (4) Minimum lot area per dwelling unit for nine units or more - 1,000 square feet.
 - (5) Minimum lot width - none.
 - (6) Minimum front yard - 20 feet.
 - (7) Minimum rear yard - 20 feet.
 - (8) Minimum side yard - 8 feet.
 - (9) Minimum combined width of both sides yards - 20 feet.
- (C) *Height.* Each side yard shall be increased one foot for every two feet of building height in excess of 40 feet.

- (D) *Screening.* Screening shall be provided in accordance with §§ 153.060 through 153.064.
- (E) *Off-street parking.* Street parking space shall be provided in accordance with § 153.042.
- (Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

§ 153.025 CLUSTER DEVELOPMENT OVERLAY DISTRICT. REMOVE SECTION (NOT IN USE) may add back once reviewed/ revised for our needs

A cluster development is a special use designed to allow for non-conventional developments, and mixed-use developments. The requirements for the cluster development are as follows:

(A) Cluster developments are by conditional use permit only.

(B) A cluster development may be developed in any residential, business or commercial zone in the town.

(C) A minimum of five lots is required.

(D) A lot size exemption of 75% of the minimum lot size for the zone the cluster development is to be utilized is allotted; all other requirements for that zone will apply.

(E) Uses shall be limited to single-family detached dwellings, and related accessory uses, as described by the zoning district the development is in.

(F) The maximum number of potential lots that may be created shall be computed by subtracting 20% of the gross area (an allowance for street right-of-ways) and by dividing the remainder by the minimum lot area requirements for the zoning district in which the development is located. This section shall apply regardless of the amount of land actually required for streets.

(G) An amount of land at a minimum equal to the amount of reduction in lot size as determined by division (D) above shall be placed as open space within the development and each lot shall have direct access by right-of-way or easement to such open space. Such open spaces shall be held in nonprofit, corporate ownership by the owners of the lots within the development. In consideration of the purposes served by a cluster development, the title to such open space shall be preserved to the perpetual benefit of the private properties in the development and shall be restricted against private ownership for any other purposes. Twenty percent of the open space must have improvements. As an option, where the Board of Aldermen agrees, such open space may be dedicated to the town for public benefit.

(Ord. passed 8-14-2007)

§ 153.026 R-8 AND R-6 ZONES: MULTI-FAMILY RESIDENTIAL.

Within the R-8 and R-6 zones as shown on the zoning map, incorporated by reference in § 153.021, the following regulations shall apply:

(A) *Permitted uses.* Refer to Permitted Use Table (remove list below)

- (1) Any use permitted in the R-15, R-12 and R-10 zones.
- (2) Multiple dwellings.
- (3) Trailer camps.
- (4) Fraternities associated with a recognized junior or senior college.
- (5) Customary home occupations.

(6) Manufactured homes, Class A, in R-6 zones only.

(7) Adaptive reuse of historic building (this is subject to the issuance of a conditional use permit by the Board of Alderman in accordance with § 153.015.

(B) *Lot areas and width, yards and building height requirements.* The requirements set forth in Appendix A, Yard and Height Requirements in Residential Districts and Appendix B: Yard and Height Requirements in Business Districts shall govern.

(C) *Off-street parking.* Off-street parking shall be provided by all uses as required in § 153.042.

(D) *Signs.* The requirements set forth in the sign regulations, §§ 153.080 through 153.087, shall apply. (Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972; Am. Ord. passed 11-13-2001)

Cross reference:

Sign regulations schedule, see Appendix D

~~§ 153.027. M-O AND I ZONES- MEDICAL AND OFFICE INSTITUTIONAL.~~ REMOVE SECTION (NOT IN USE)

Within the M O and I zones as shown on the zoning map of the town, incorporated by reference in § 153.021, following regulations shall apply:

(A) *Permitted uses:*

- (1) Any use permitted in R-6 residential zones.
 - (2) Medical and dental offices and clinics.
 - (3) Clinical laboratories.
 - (4) Nurses' dormitories.
 - (5) Drugstores.
 - (6) Hospitals for human care.
 - (7) Homes for the aged and infirm.
 - (8) Nursing homes for chronic or convalescent patients.
- (B) *Required lot area, lot width, yards and building height.* For all permitted uses, the requirements of the R-6 zones shall apply in this zone.
- (C) *Off-street parking.* Off-street parking space shall be provided in accordance with § 153.042.
- (D) *Signs.* For the purpose of advertising any use permitted in this zone, the regulations contained in §§ 153.080 through 153.087 shall apply. (Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

~~§ 153.028. O AND I-1 ZONES: OFFICE AND INSTITUTIONAL.~~

Within the O and I-1 zones as shown on the zoning map, incorporated by reference in § 153.021, the following regulations shall apply:

(A) *Permitted uses.* Refer to Permitted Use Table (remove list below)

- (1) Any use permitted in residential zones.
- (2) Medical clinics.

(3) Offices rendering professional services, such as legal medical, dental, engineering, architectural and similar services.

(4) Agencies rendering specialized services such as real estate, telephone answering service, insurance, advertising, brokerage, stenographic and similar services not involving retail trade with the general public nor maintenance of a stock of goods for sale.

(B) *Required lot area, lot width, yards and building height.* For all permitted uses the requirements of the R-6 zones shall apply in this zone.

(C) *Off-street parking.* Off-street parking space shall be provided in accordance with § 153.042.

(D) *Off-street loading.* Off-street loading space shall be provided in accordance with § 153.044.

(E) *Signs.* For the purpose of advertising any use permitted in this zone, the regulations of §§ 153.080 through 153.087 shall apply. (Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

~~§ 153.029. O AND I-2 ZONES- OFFICE AND INSTITUTIONAL.~~ REMOVE SECTION (NOT IN USE)

Within the O and I-2 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply:

(A) *Permitted uses:*

- (1) Any use permitted in O and I-1 zones.
 - (2) Boarding and rooming houses.
 - (3) Homes for the aged and infirm.
 - (4) Cemeteries.
 - (5) Funeral homes.
 - (6) Greenhouses.
 - (7) Nursing homes for chronic or convalescent patients.
- (B) *Required lot area, lot width, yards and building height.* For all permitted uses, the requirements of the R-6 zones shall apply in this zone.
- (C) *Off-street parking.* Off-street parking space shall be provided in accordance with § 153.042.
- (D) *Off-street loading.* Off-street loading space shall be provided in accordance with § 153.044.

(B) *Signs.* For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.

(Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

~~§ 153.030 A-1 ZONES--ADVERTISING-SIGN-DISTRICT--~~
REMOVE SECTION
(NOT IN USE)

Within the A-1 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

(A) *Permitted uses:*

(1) Any use permitted in a surrounding zone which is contiguous to the perimeter of the A-1 district for more than 50% of its perimeter length.

(2) Advertising signs.

(B) *Required lot areas lot width, yards and building height.* For all permitted uses, the requirements of the predominant contiguous zone shall apply in this zone.

(C) *Off-street parking.* Off-street parking space shall be provided in accordance with § 153.042.

(D) *Off-street loading.* Off-street loading space shall be provided in accordance with § 153.044.

(Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

§ 153.031 BC-1 ZONE: SHOPPING CENTER.

Within the BC-1 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

(A) *Permitted uses.* Refer to Permitted Use Table (remove list below)

- (1) Any use permitted in O and I-1 zones, excepting residential zone uses.
- (2) Banks and financial institutions.
- (3) Barber shops or beauty shops.
- (4) Dry cleaning establishments.
- (5) Laundry pickup stations, laundrettes and laundromats.
- (6) Florist shop.
- (7) Drugstores.
- (8) Grocery stores, delicatessens and confectioneries.

(9) Bake shops and dairy bars for retail sales on the premises only.

(10) Dry goods stores, show stores, and apparel shops.

(11) Furniture and household appliance stores.

(12) Hardware stores.

(13) Photographer studios, camera shops and music shops.

(14) Shoe repair shops.

(15) Tailor shops.

(16) Radio and television repair shops.

(17) Jewelry stores.

(18) Alcoholic beverage package stores.

(19) Auto service stations selling tires, tubes, gasoline, oil and other lubricants, motor and tire accessories and similar products; permitting the storage of tires, tubes, accessories and similar products and permitting minor repair work limited to the following:

(a) Servicing of spark plugs, batteries and distributors and distributor parts.

(b) Tire servicing and repair, but not recapping or regrooving.

(c) Replacement of mufflers and tail pipes, water hose, fan belts broke fluid, light bulbs, fuses, floor mats seat belts, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like.

(d) Radiator cleaning and flushing.

(e) Providing and repairing fuel pumps, oil pumps and lines.

(f) Minor servicing and repair of carburetors.

(g) Emergency wiring repairs.

(h) Adjusting and repairing brakes.

(i) Minor motor adjustments not involving removal of the head or crankcase or racking the motor.

(j) 1. All of the aforesaid minor repair work, but excluding the normal servicing of automobiles, must take place within an enclosed structure on the premises.

2. Auto service stations shall be designed as an integral part of the shopping center.

3. The Board of Aldermen may refuse to permit an auto service station to be erected in the proposed shopping center on the grounds that it fails to provide unity of development with other business uses in the same zone or that it fails to adequately protect residential uses in adjacent zones from the adverse effects of a business operation, or that the proposal fails to provide safe conditions for pedestrians and motorists, or that the plan fails to conform with the requirements of this chapter, but not on the grounds that architectural designs or building materials are esthetically unsatisfactory.

- (20) Automobile parking lots.
- (21) Bookstores and newsstands.
- (22) Pet shops.
- (23) Toy stores.

- (24) Sporting goods stores.
- (25) Antique shops.
- (26) Restaurants (excluding those providing curb service).
- (27) Variety stores.
- (28) Movie theaters.
- (29) Department stores.
- (30) Any use which may be construed to be a promotional activity sponsored by or for either of the following
- Trade or professions associations.
 - Civic, religious, charitable or eleemosynary groups:
 - Provided that no gaming, gambling, or similar (related) activities are permitted to be conducted as part of or accessory to the temporary use.
 - Provided that no temporary permitted use shall be permitted for a period of time exceeding ten consecutive days.
 - Provided that no temporary use shall begin until 9:00 a.m. and shall not extend beyond 12:00 midnight.
 - Provided that no permit for a temporary permitted use shall be granted by the Zoning Officer until permission therefore has first been granted by the Board of Aldermen.
 - Provided further that no temporary permitted use shall be located within 400 feet of a residential use.
- (31) Electronic gaming operation(s), provided the following provisions are met:
- That such uses provide, at minimum, off-street parking consistent with off-street parking requirements, § 153.042(D), Other Business or Service Uses, and requiring one parking space for each 200 square feet of gross floor area.
 - That no electronic gaming operation be located within 500 linear feet of the property line of any church/house of worship or any public or private elementary, middle, or high school, library, public park or playground, day care center, or residential-zoned district.
 - That no two electronic gaming operations be located within 1,000 linear feet of each other.
 - That no electronic gaming operation have more than 25 total electronic gaming machines or terminals.
 - That electronic gaming operations shall apply for and obtain a license from the Board of Aldermen to operate, and have fully paid, up-to-date, all required license fees as proscribed within the "Privilege and Business License Fee Schedule" for the Town of Dallas. No such license shall be transferable.
 - That electronic gaming operations shall be further regulated by Chapter 113: Game Rooms of the Dallas Code of Ordinances.
 - That during hours of operations, electronic gaming operations shall be open for direct, unobstructed access by all safety and enforcement personnel, and that all exit doors shall remain unlocked while patrons are on the premises.

- (B) No one under the age of 18 be allowed within the premises of an electronic gaming operation.
- (B) Required screening areas building coverage and yards.
- A screen containing a mixture of deciduous and evergreen trees spaced in a staggered triangular pattern not more than ten feet apart and containing not less than two rows of dense plant materials shall be planted in a fifteen-foot buffer strip along such rear or side lines, either or both. The same shall be planted at an initial height of at least three feet and shall be of such variety that an average height of six feet can be expected by normal growth within four years from the time of initial planting. No plant material which would be a host to insects, would affect the plants on adjoining property, or would spread disease, can be used, and all plant materials must be nursery grown and conform to the guidelines as published by the American Association of Nurserymen in their 1959 edition. All plant materials shall be planted at least three feet from the side or rear lot line of adjoining property and shall be planted in the required buffer strip prior to the issuance of a certificate of occupancy by the Inspections Superintendent.
 - Not more than 30% of the zoned area shall be covered by buildings.
 - No building shall be closer than 20 feet to any exterior lot line or closer than 100 feet to any street right-of-way in a BC-1 Shopping Center zone.
 - The tract of land upon which the proposed shopping center is to be erected must contain at least five acres.
 - A BC-1 Shopping Center zone shall about an existing or a proposed major thoroughfare for minimum distance of 400 feet and shall have a minimum average depth of 550 feet.
 - Height. Not to exceed 40 feet.
 - Off-street parking. Off-street parking shall be provided for all uses as required by § 153.042.
 - Off-street loading and unloading. Off-street loading and unloading space shall be provided by all uses as required by § 153.044.
 - Signs. For the purpose of advertising and use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.
 - Data to be submitted with petition. The applicant for this classification shall present to the town Planning Board the following items for consideration at the time the petition for rezoning is filed.
 - A valid market analysis indicating the economic feasibility of the proposed development by outlining:
 - The trade area of the proposed shopping center;
 - An estimate of the trade area population, present and future;
 - An estimate of the effective buying power of the trade area, both existing and proposed;
 - An estimate of the net potential customer buying power for stores in the proposed development;
 - An estimate of the amount of retail sales floor space in square feet currently lacking in the trade area.
 - A statement indicating readiness to proceed with the proposed development by filing with the Zoning Officer an agreement signed by the owner or owners of the proposed development that actual construction shall begin within one year from the date final plans for the shopping center are approved and shall be prosecuted to completion within a reasonable period of time thereafter. In the event the town Planning Board and the Board of Aldermen find that the intent of this paragraph has been met or construction has not commenced within said one-year period, proceedings may be instituted for rezoning.

the area to its original classification. It is not the intent of this section, however, to prohibit a reasonable extension of the one-year limit by the Board of Aldermen.

(3) The preliminary site plan and the preliminary construction plan of the proposed development.

(H) *Preliminary plan.*

(1) The preliminary site plan shall be prepared on a 30" by 42" sheet of reproducible material using the largest scale possible and shall contain:

- (a) Dimensions of the property and adjacent lots and streets;
- (b) Location and proposed use of all buildings with dimensions and approximate ground floor area thereof;
- (c) Topography of existing ground and paved areas and elevation of street alleys, utilities sanitary and storm sewers, buildings and structure;
- (d) Plans for collecting and disposing of storm water and treatment of natural and artificial water courses;
- (e) General indication of proposed grading, surface drainage, terraces retaining wall heights, grades on paved areas and ground floor elevations shown by contours or spot elevations;
- (f) Parking areas with all spaces shown and dimensions thereof;
- (g) Service area, truck loading facilities, service drives and dimensions thereof;
- (h) Pedestrian walks or walkways with dimensions thereof;
- (i) Drives and access to parking spaces with dimensions thereof;
- (j) Curb cuts and points of ingress and egress and all sidewalks with dimensions thereof;
- (k) Distances between the buildings and the property lines;
- (l) Locations of plantings, walls and screening;
- (m) Name and address of the development, name and address of the developer, date and scale of the plan, and the name of the person or firm preparing the plans;
- (n) Vicinity map at a scale of 1 inch to 1,000 feet.

(2) The preliminary construction plan, the preliminary site plan and a detailed perspective drawing of the shopping center representing the general appearance of the buildings and grounds from the major thoroughfare must be prepared by a person authorized by law to prepare the same.

(3) Recommendations and suggestions concerning the preliminary plans for the proposed shopping center by the town Planning Board shall be upon the findings that the plans for the development are such that traffic hazards and congestion will not be created within the development and upon the public streets at the point of ingress and egress to the development and that the plans of a shopping center. Dedication of additional right-of-way for public street purposes may be required to resolve potential traffic hazards and congestion. The lack of minimum yard dimensions does not imply the lack of need for such minimum dimensions. The absence of minimum yard dimensions is to provide for flexibility and imagination in design of the development. The purpose of a preliminary site plan, preliminary construction plan and perspective drawing of the shopping center is to enable the town Planning Board to review the same in order that it may recommend and approve said plans prior to presentation of the written recommendation and report to the Board of Aldermen. In each case consideration shall be given to the location of the various facilities and buildings on the premises and minimum yard dimensions.

(4) The Board of Aldermen may refuse to approve a preliminary site plan or a preliminary construction plan on the grounds that either fails to provide unity of development with other business uses in the same zone, or that either fails to adequately protect residential uses in adjacent zones from the adverse effects of a business operation, or that either proposal fails to provide safe conditions for pedestrians and motorists or that either plan fails to conform with the requirements of this chapter.

(5) Preliminary plans for the entire shopping center shall be prepared; however, a section consisting of at least 33% of the total proposed area contained in the shopping center or a section of the shopping center consisting of not less than five separate buildings, each housing a separate use, may be designated for immediate development and final plans prepared for that section only.

(I) *Final plans.*

(1) A final construction plan shall be prepared and shall include the following:

- (a) Detailed perspective drawing of the shopping center showing the appearance of the buildings and grounds from the major access street;
- (b) Detailed final construction plans for purposes of building inspection to include elevations of every building from all sides at a scale of not less than 1/8 inch to 1 foot.
- (2) The final site plan shall be prepared on a 30" by 42" sheet of reproducible permanent base material using the largest scale possible and shall include the following:
 - (a) Dimensions of the property and adjacent lots and streets;
 - (b) Location, ground floor area and proposed use of the buildings with all dimensions thereof;
 - (c) Parking area with all spaces shown and dimensions thereof;
 - (d) Service area, truck loading facilities, service drives and dimensions thereof;
 - (e) Pedestrian walks or walkways with dimensions thereof;
 - (f) Drives and access to parking spaces with dimensions thereof;
 - (g) Curb cuts and points of ingress and egress and all sidewalks with dimensions thereof;
 - (h) Distances between the buildings and the property lines;
 - (i) Location of plantings, walls and screening;
 - (j) Name and address of the development, names and addresses of the developers, date, scale of plan and person or firm preparing the plan.

(3) The final site plan shall show all the information required of the preliminary site plan but the information shown shall be specific, precise and accurate to usual and recognized professional standards and not general in nature.

(4) A design of the storm sewerage system shall be submitted to the Town Clerk for his approval.

(5) The final site plan and final construction plan for the proposed development or changes within the development shall be submitted by the developer to the town Planning Board for its approval. After such approval is granted, the Building Inspector shall, if other pertinent town ordinances have been complied with, issue a building permit for the construction alteration or expansion of any building within a BC-1 Shopping Center zone upon application by the developer provided:

(a) Construction of at least five separate buildings housing at least five separate units or construction of at least 33% of the total proposed area contained in the shopping center, whichever is greater, must be commenced initially thereafter, the developer may construct on building at a time.

(b) No building shall be occupied within a BC-1 Shopping Center zone until a certificate of occupancy shall have been issued by the Building Inspector and no certificate of occupancy shall be issued unless the approved final plans have been substantially followed as to each completed building and the use of same complies with this chapter.

(c) The Inspection Superintendent may issue a certificate of occupancy for any completed structure or building even though some other structures shown in the approved final plans at the time are under construction.

(d) A certificate of occupancy shall not be issued for the buildings constructed until all drives, walks, parking spaces, screening and truck loading and unloading facilities shall have been provided and substantially improved as shown on the final plans as approved.

(6) Pursuant to the same procedure and subject to the same limitations and requirements set forth in this section, a site plan may be amended or revised, either partially or completely.

(Ord. passed 11-3-1970; Am. Ord. passed 1-11-1972; Am. Ord. passed 7-3-1972; Am. Ord. passed 2-14-1995; Am. Ord. passed 6-12-2012)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

§ 153.032 B-1 ZONES: NEIGHBORHOOD BUSINESS.

Within the B-1 zones as shown on the zoning map, incorporated by reference in § 153.021, the following regulations shall apply:

(A) *Permitted uses:* Refer to Permitted Use Table (remove list below)

- (1) Any use permitted in the O and I-1 zones.
- (2) Business offices.
- (3) Auto service stations.
- (4) Eating and drinking establishments.
- (5) Groceries.
- (6) Banks and financial institutions.
- (7) Barbershops and beauty parlors.
- (8) Parking facilities.
- (9) Florist shops.
- (10) Hardware stores.
- (11) Automatic laundries.
- (12) Indoor recreation.
- (13) Radios and television repair shops.
- (14) Drugstores.

(15) Furniture and household appliance stores.

(16) Shoe shops.

(17) Tailor shops.

(18) Newsstands.

(19) Funeral homes.

(20) Alcoholic beverage package stores.

(21) Dry cleaning establishments.

(22) Any use which may be construed to be a promotional activity sponsored by or for either of the following:

(a) Provided that no gaming, gambling, or similar (related) activities are permitted to be conducted as a part of or accessory to the temporary use;

(b) Provided that no temporary permitted use shall be permitted for a period of time exceeding ten consecutive days.

(c) Provided that no temporary use shall begin until 9:00 a.m. and shall not extend beyond 12:00 midnight;

(d) Provided that no permit for a temporary permitted use shall be granted by the Inspections Superintendent until permission therefor has first been granted by the Board of Aldermen;

(e) Provided further that no temporary permitted use shall be located within 400 feet of a residential use.

(B) *Required lot area, lot width and yard.* Buildings used wholly or in part for residential purposes shall comply with the requirements for R-6 zones. Buildings used for other permitted uses shall have a minimum front yard of 30 feet, provided that where the lot abuts on the side or rear of a residential zone, such buildings shall have a minimum side yard of eight feet on the abutting side, and a minimum rear yard of 20 feet on the abutting rear. For the purpose of this provision, where properties are separated by a street, or alleyway such properties are deemed abutting.

(C) *Height.* All buildings shall comply with the height requirements for residential zones.

(D) *Off-street parking.* Off-street parking space shall be provided by all uses as required by § 153.042.

(E) *Off-street loading.* Off-street loading space shall be provided by all uses as required by § 153.044.

(F) *Signs.* For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.

(Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

§ 153.033 B-2 ZONES: HIGHWAY BUSINESS.

Within the B-2 zones, as shown upon the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply:

(A) *Permitted uses.* Refer to Permitted Use Table (remove list below)

- (1) Any use permitted in the R-6 zones.
- (2) Auto service stations.
- (3) Restaurants and other eating establishments.
- (4) Drugstores.
- (5) Barbershops and beauty shops.
- (6) Places of indoor recreation and entertainment.
- (7) Places of outdoor recreation and entertainment not to include auto racetracks.
- (8) Motels, hotels, tourist homes, and boardinghouses.
- (9) Dry cleaning establishments.
- (10) Grocery stores and other retail business or service establishments not otherwise referred to in this section that are consistent with the purposes of this section and specifically cater to the needs of the traveling public.
- (11) Alcoholic beverage package stores.
- (12) Bank and financial institutions.
- (13) Any use which may be construed to be a promotional activity sponsored by or for either of the following:
 - (a) Trade or professional associations;
 - (b) Civic, religious, charitable or eleemosynary groups;
 1. Provided that no gaming, gambling, or similar (related) activities are permitted to be conducted as a part of or accessory to the temporary use;
 2. Provided that no temporary permitted use shall be permitted for a period of time exceeding ten days;
 3. Provided that no temporary use shall begin until 9:00 a.m. and shall not extend beyond 12:00 midnight;
 4. Provided that no permit for a temporary permitted use shall be granted by the Zoning Officer until permission therefore has first been granted by the Board of Aldermen;
 5. Provided further that no temporary permitted use shall be located within 400 feet of a residential use.
 - (14) Coin operated laundries.
 - (15) Professional photography studios.
 - (16) Electronic gaming operation(s), provided the following provisions are met:
 - (a) That such uses provide, at minimum, off-street parking consistent with § 153.042(D), Other Business or Service Uses, and requiring one parking space for each 200 square feet of gross floor area;
 - (b) That no electronic gaming operation be located within 500 linear feet of the property line of any church/house of worship or any public or private elementary, middle, or high school, library, public park or playground, day care center, or residential-zoned district;

- (c) That no two electronic gaming operations be located within 1,000 linear feet of each other;
- (d) That no electronic gaming operation have more than 25 total electronic gaming machines or terminals;
- (e) That electronic gaming operations shall apply for and obtain a license from the Board of Aldermen to operate, and have fully paid, up-to-date, all required license fees as proscribed within the "Privilege and Business License Fee Schedule" for the Town of Dallas. No such license shall be transferable.
- (f) That electronic gaming operations shall be further regulated by Chapter 113: Game Rooms of the Dallas Code of Ordinances;

(g) That during hours of operations, electronic gaming operations shall be open for direct, unobstructed access by all safety and enforcement personnel, and that all exit doors shall remain unlocked while patrons are on the premises;

(h) That no one under the age of 18 be allowed within the premises of an electronic gaming operation.

(B) *Required lot area, lot widths and yards.* Buildings or structures used wholly or in part for residential purposes shall comply with the requirements for R-6 zones. Buildings used for other permitted uses where the lot abuts on the side or the rear of a residential zone shall have minimum side yard of eight feet on the abutting side, and a minimum rear yard of 20 feet on the abutting rear. For the purpose of this provision, where properties are separated by a street or alleyway, such properties are deemed abutting.

(C) *Height.* All buildings shall comply with the height requirements for residential zones.

(D) *Off-street parking.* Off-street parking shall be provided by all uses as required by § 153.042.

(E) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided by all uses as required by § 153.044.

(F) *Signs.* For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.

(Ord. passed 11-3-1970; Am. Ord. passed 1-11-1972; Am. Ord. passed 7-3-1972; Am. Ord. passed 9-20-1994; Am. Ord. passed 6-8-2010; Am. Ord. passed 6-12-2012)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

§ 153.034 B-3 ZONE: CENTRAL BUSINESS.

Within the B-3 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

(A) *Permitted uses.* Refer to Permitted Use Table (remove list below)

- (1) Any use permitted in B-1 zones.
- (2) Retail stores, offices, garages, greenhouses and retail stores conducting incidental and secondary wholesale departments.
- (3) Public utility storage or service yards.

- (4) Newspaper officers or printing plants.
- (5) Dry cleaning and pressing plants.
- (6) Freezer lockers.
- (7) Auto sales and service.
- (8) Auto parts and supplies (new).
- (9) Auction house.
- (10) Automobile laundries and automatic car washing establishments.

(11) Adaptive reuse of historic building (this is subject to the issuance of a conditional use permit by the Board of Aldermen in accordance with § 153.073(B) through (H).

(B) *Required lot area, lot widths and yards.* Buildings or structures used wholly or in part for residential purposes shall comply with the requirements for R-6 zones. Buildings used for other permitted uses where the lot abuts on the side or the rear of a residential zone shall comply with the provisions of § 153.044(B).

(C) *Height.* No building or structure shall exceed 80 feet in height.

(D) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided for all uses as required by § 153.044.

(E) *Signs.* For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080(B), 153.081, 153.085(B) through (H) and 153.086 shall apply.

Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972; Am. Ord. passed 9-24-1997; Am. Ord. passed 4-14-1999; Am. Ord. 11-13-2001)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

§ 153.035 B-3P ZONE: CENTRAL BUSINESS DISTRICT PERIMETER.

Within the B-3P zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

(A) *Permitted uses.* Refer to Permitted Use Table (remove list below)

- (1) Any use permitted in B-3 zones.
- (2) Hotels, motels and assembly halls.
- (3) Advertising signs.

(4) Adaptive reuse of historic buildings (this is subject to the issuance of a conditional use permit by the Board of Aldermen in accordance with § 153.073(B) through (H).

(B) *Required lot area, lot widths and yards.* Buildings or structures used wholly or in part for residential purposes shall comply with the requirements for R-6 zones. Buildings used for other permitted uses where the lot abuts on the side or the rear of a residential zone shall comply with the provisions of § 153.044(B).

- (C) *Height.* No building or structure shall exceed 80 feet in height.
- (D) *Off-street parking.* Off-street parking shall be provided shall by all uses as required by § 153.042.
- (E) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided by all uses as required by § 153.044.
- (F) *Signs.* For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.
- Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972; Am. Ord. 11-13-2001)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

§ 153.036 B-4 ZONES: GENERAL BUSINESS. REMOVE SECTION (NOT IN USE)

Within the B-4 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

(A) *Permitted uses.*

- (1) Any use permitted in the B-3 zones.
- (2) Wholesale and jobbing plants.
- (3) Bottling plants.
- (4) Cold storage plants.
- (5) Storage warehouses and yards, except storage of salvage.
- (6) Laundries.
- (7) Trailer sales and service.
- (8) Veterinary hospitals and commercial kennels.
- (9) Automobile laundries and automatic car washing establishments.

(B) *Required lot area, lot widths and yards.* Buildings or structures used wholly or in part for residential purposes shall comply with the requirements for R-6 zones. Buildings used for other permitted uses where the lot abuts on the side or the rear of a residential zone shall comply with the provisions of § 153.032(B).

(C) *Height.* No building or structure shall exceed 65 feet in height.

(D) *Off-street parking.* Off-street parking space shall be provided for all uses as required by § 153.042.

(E) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided for all uses as required by § 153.044.

(F) *Signs.* For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.

Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

*Sign regulations schedule, see Appendix D**Yard and height requirements in business and residential districts, see Appendix A and Appendix B***§ 153.037 I-1 ZONES-HIGHT INDUSTRIAL.** REMOVE SECTION
(NOT IN USE)

Within the I-1 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply

(A) Permitted uses:

- (1) Any use permitted in the B-4 zones.
- (2) Fabrication of the following products, not to include the manufacture or processing of raw products or operations likely to be detrimental to the health, safety or general welfare of the community through the creation of fumes, dust, smoker noise or vibration.
 - (a) Clothing and cloths.
 - (b) Bedding.
 - (c) Leather goods, not to include processing or storage or raw hides.
 - (d) Paper products, not to include the manufacturing of paper.
 - (e) Plastic containers and similar plastic products.
 - (f) Metal products.
- (3) Transportation terminals.

(B) Required lot area lot widths and yards. Buildings or structures used wholly or in part for residential purposes shall comply with the requirements for R-6 zones. Buildings used for other permitted uses where the lot abuts on the side or the rear of a residential zone shall comply with the provisions of § 153.032(B)

(C) Height. Buildings used wholly or in part for residential purposes may exceed 35 feet in height, but for each five feet or fraction thereof an additional height above 35 feet, each yard shall be increased five feet over the minimum requirements.

(D) Off-street parking. Off-street parking space shall be provided as required by § 153.042.

(E) Off-street loading and unloading. Off-street loading and unloading space shall be provided as required by § 153.044.

(F) Signs. For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.

(Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

§ 153.038 1-2 ZONES: GENERAL INDUSTRIAL.

Within the I-2 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

(A) Permitted uses. Refer to Permitted Use Table (remove list below)

- (1) Any use permitted in I-1 zones.
- (2) Welding shops.
- (3) Fairs, carnivals and similar transient amusement enterprises.
- (4) Trailer camps.
- (5) Manufacturing, servicing, processing, assembling, and fabricating the following products:
 - (a) Wood and wood products, including furniture.
 - (b) Textiles.
 - (c) Metals and metal products.
 - (d) Household appliances.
 - (e) Clothing including hosiery.
 - (f) Glass.
 - (g) Electric and electronic products.
 - (h) Food and food products, not to include slaughterhouses and abattoirs.
 - (i) Bedding, pillows and carpets.
 - (j) Animal feeds.
 - (k) Ice.
 - (l) Leather goods.
 - (m) Machine tools.
 - (n) Paints.
 - (o) Pottery, porcelain, and vitreous china.
 - (p) Soaps, detergents and washing compounds.
 - (q) Rubber products.
 - (r) Paper products.
 - (s) Building materials.
 - (t) Chemicals.
 - (u) Automobile accessories.
 - (v) Microbreweries.
- (B) **Required lot area, lot widths and yards.** Buildings used wholly or in part for residential purposes shall comply with the requirements for R-6 zones. Buildings used for other permitted uses where the lot abuts on the side or the rear of a residential zone shall comply with the provisions of § 153.032(B).

(C) *Height.* Buildings used wholly or in part for residential purposes may exceed 35 feet in height but for each five feet or fraction thereof of additional height above 35 feet, each yard shall be increased five feet over the minimum requirements.

(D) *Off-street parking.* Off-street parking spaces shall be provided as required by § 153.042

(E) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided as required by § 153.044.

(F) *Signs.* For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.

(Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972; Am. Ord. passed 12-4-2015)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

~~§ 153.039- I-21-ZONE- GENERAL-INDUSTRIAL- LIMITED.~~ REMOVE SECTION
(NOT IN USE)

Within the I-21 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

(A) *Permitted uses.*

- (1) Auto wrecking or junk yards.
 - (2) Gasoline, oil, or alcohol storage above ground, provided a permit is obtained from Bureau of Fire Prevention as required by Fire Prevention Code.
 - (3) Mixing plants for concrete or paving materials.
 - (4) Stone crushing, cutting and polishing.
 - (5) Storage of materials and equipment outdoors.
 - (6) Hatcheries.
 - (7) Abattoirs and slaughterhouses.
 - (B) *Required lot area, lot widths and yards.* Buildings used wholly or in part for residential purposes shall comply with the requirements for the R-6 zones. Buildings used for other permitted uses where the lot abuts on the side of a residential zone shall comply with the provisions of § 153.032(B).
 - (C) *Height.* Buildings used wholly or part for residential purposes may exceed 35 feet in height, but for each five feet or fraction thereof of additional height above 35 feet, each yard shall be increased five feet over the minimum requirements.
 - (D) *Off-street parking.* Off-street parking space shall be provided as required by § 153.042.
 - (E) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided as required by § 153.044.
 - (F) For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.
- (Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

~~§ 153.040- EI-1-ZONES- EXCLUSIVE- INDUSTRIAL.~~ REMOVE SECTION
(NOT IN USE)

Within the EI-1 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply.

(A) *Permitted uses:*

- (1) The manufacturing servicing, processing, assembling, and fabricating of the following products:
 - (a) Wood and wood products including furniture.
 - (b) Textiles.
 - (c) Metals and metal products.
 - (d) Household appliances.
 - (e) Clothing, including hosiery.
 - (f) Glass.
 - (g) Electric and electronics products.
 - (h) Foods and food products not to include abattoirs and slaughterhouses.
 - (i) Bedding, carpets and pillows.
 - (j) Leather goods, not to include the curing or tanning of raw hides and skins.
 - (k) Machine tools.
 - (l) Paints.
 - (m) Pottery porcelain and vitreous china.
 - (n) Soap, detergents and washing compounds.
 - (o) Rubber products.
 - (p) Paper products.
 - (q) Automobile accessories.
 - (2) Wholesale warehouses and distribution centers.
 - (3) Data processing and computer centers.
- (B) *Required yards.*
- Front yards: 50 feet;
- Side yards: 25 feet;
- Rear yards: 20 feet
- (C) *Height.* No building or structure shall exceed 50 feet in height.

- (D) *Off-street parking.* Off-street parking space shall be provided for all uses as required by § 153.042.
- (E) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided for all uses as required by § 153.044.
- (F) For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.
- (G) *Sales.*

- (1) All sales, whether retail or wholesale, shall be conducted indoors and shall be limited to the sale of those products which are manufactured, serviced, assembled or fabricated on the premises.
- (2) Ownership of any retail sales outlet shall be the same as that of the manufacturing, servicing, assembling or fabricating use.

(Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

~~§ 153.041 EX-1 ZONES-EXTRACTIVE INDUSTRIES- REMOVE SECTION (NOT IN USE)~~

Within the EX-1 zones as shown on the zoning map of the town, incorporated by reference in § 153.021, the following regulations shall apply:

(A) *Permitted uses:*

- (1) Farming, truck gardening, raising of livestock and nurseries.
- (2) Public or private utilities, buildings and appurtenances.

(B) *Required yards.*

- (1) In no case shall any structure, storage area, truck loading or appurtenance be located within 50 feet of the operators property line.
- (2) No excavation or processing shall be conducted within 100 feet of the operators property line.

(C) *Required fencing.* The quarry area being excavated shall be entirely enclosed within a fence, referred to in the trade as a non-climbable fence. The fence shall be a minimum of six feet in height, of a wire mesh, rectangular shape, the size of such rectangle not to exceed two inches by four inches, and is to be located a minimum of ten feet back from the edge of the excavated area.

(D) *Height.* No building or structure shall exceed 100 feet in height.

(E) *Off-street parking.* Off-street parking space shall be provided for all uses as required by § 153.042.

(F) *Off-street loading and unloading.* Off-street loading and unloading space shall be provided for all uses as required by § 153.044.

(G) For the purpose of advertising any use permitted in this zone the regulations of §§ 153.080 through 153.087 shall apply.

(H) *Access.* An access road shall be maintained for any use permitted from the property in a dust-free condition, until such time as the maintenance of the access road is assumed by the North Carolina Highway Commission.

(1) *Operative requirement.*

(1) Records shall be made and maintained of all blasting or explosive activity taking place on the site. Such records shall be in sufficient detail and completeness to enable technically qualified experts to determine that safe and non-objectionable maximum limits are not being exceeded. In no case, however, shall the ground motion, measured in the home or business establishment of the nearest neighbor, exceed the movement as hereinafter shown:

<i>Frequency of ground in cycles per second</i>	<i>Maximum amplitude of ground motion in inches</i>
Up to 10	Not more than 0.0305
20	0.0153
30	0.0102
40	0.0076
50	0.0061
60	0.0051

(2) Operators shall take such reasonable measures as are necessary to minimize the creation and emission of noise, dust, vibration, glare and odor from their extractive industry operations.

(1) *Abandonment of site.* Upon the permanent abandonment of all extractive activity upon site, the Board of Aldermen shall consider rezoning it to its best and most desirable use, taking into consideration the then existing use and zoning of surrounding properties.

(Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972)

Cross reference:

Sign regulations schedule, see Appendix D

Yard and height requirements in business and residential districts, see Appendix A and Appendix B

§ 153.042 OFF-STREET PARKING REQUIREMENTS.

(A) In all business and industrial zones, except the P-3 zone which is specifically exempt from the provisions of this section, there shall be provided, at the time of the erection of any building or structure, or at the time any principal building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, permanent off-street parking space in the amount specified in this section.

(B) In all residential and office and institutional zones, there shall be provided, at the time of the erection of any building or structure, or at the time any principal building or structure is enlarged or increased in capacity adding dwelling units, guest rooms, seats or floor area, or before conversion of any building or structure from one zoning use to another, permanent off-street parking space in the amount specified in this section.

(C) The off-street parking space required by this section shall be permanent open space and shall not be used for any other purpose. Wheel stops or curb shall be provided where necessary to prevent any vehicle from encroaching on adjacent property, on any street right-of-way or on the area within ten feet of such right-of-way as specified in division (F) below.

Supplemental Regulation of Permitted Uses

Auto Service Stations located within Shopping Centers must meet the following criteria for approval:

Auto service/ stations are within shopping centers are permitted to sell tires, tubes, gasoline, oil and other lubricants, motor and tire accessories and similar products; permitting the storage of tires, tubes, accessories and similar products and permitting minor repair work limited to the following:

- (a) Servicing of spark plugs, batteries and distributors and distributor parts.
 - (b) Tire servicing and repair, but not recapping or regrooving.
 - (c) Replacement of mufflers and tail pipes, water hose, fan belts broke fluid, light bulbs, fuses, floor mats seat belts, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like.
 - (d) Radiator cleaning and flushing.
 - (e) Providing and repairing fuel pumps, oil pumps and lines.
 - (f) Minor servicing and repair of carburetors.
 - (g) Emergency wiring repairs.
 - (h) Adjusting and repairing brakes.
 - (i) Minor motor adjustments not involving removal of the head or crankcase or racing the motor.
1. All of the aforesaid minor repair work, but excluding the normal servicing of automobiles, must take place within an enclosed structure on the premises.
 2. The auto service station shall be designed as an integral part of the shopping center.
 - a. The Board of Aldermen may refuse to permit an auto service station to be erected in a proposed shopping center on the grounds that it fails to provide unity of development with other business uses in the same zone or that it fails to adequately protect residential uses in adjacent zones from the adverse effects of a business operation, or that the proposal fails to provide safe conditions for pedestrians and motorists, or that the plan fails to conform with the requirements of this chapter; but not on the grounds that architectural designs or building materials are esthetically unsatisfactory.

Promotional Activities must meet the following criteria for approval:

1. Be sponsored by or for trade or professions associations, or for civic, religious, charitable or eleemosynary groups.
2. No gaming, gambling, or similar (related) activities are permitted to be conducted as part of or accessory to the temporary use.
3. No temporary permitted use shall be permitted for a period of time exceeding ten consecutive days.
4. No temporary use shall begin until 9:00 a.m. and shall not extend beyond 12:00 midnight.
5. No permit for a temporary permitted use shall be granted by the Zoning Officer until permission therefore has first been granted by the Board of Aldermen.
6. No temporary permitted use shall be located within 400 feet of a residential use.

Supplemental Regulation of Permitted Uses

Electronic gaming operation(s) must meet the following criteria for approval:

1. That such uses provide, at minimum, off-street parking consistent with off-street parking requirements, § 153.042(J), Other Business or Service Uses, and requiring one parking space for each 200 square feet of gross floor area.
2. That no electronic gaming operation be located within 500 linear feet of the property line of any church/house of worship or any public or private elementary, middle, or high school, library, public park or playground, day care center, or residential-zoned district.
3. That no two electronic gaming operations be located within 1,000 linear feet of each other.
4. That no electronic gaming operation have more than 25 total electronic gaming machines or terminals.
5. That electronic gaming operations shall apply for and obtain a business registration from the Town to operate, and have fully paid, up-to-date, all required fees as prescribed by the Town of Dallas.
6. That electronic gaming operations shall be further regulated by Chapter 113: Game Rooms of the Dallas Code of Ordinances.
7. That during hours of operations, electronic gaming operations shall be open for direct, unobstructed access by all safety and enforcement personnel, and that all exit doors shall remain unlocked while patrons are on the premises.
8. No one under the age of 18 be allowed within the premises of an electronic gaming operation.

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Text Amendment regarding Solid/Waste & Septage Usage

AGENDA ITEM NO. 9A

MEETING DATE: 2/21/2019

BACKGROUND INFORMATION:

A property owner requested clarification from staff on the permitted uses of his property in I-2. He is interested in selling the lot, but wants to ensure the new owner will be able to use the property as he intends- for the storage/parking of trash vehicles.

The planned use is currently not listed as a permitted use in our ordinances, so we need to identify where this use should go, and if it requires any conditional zoning.

NC General Statutes defines this use as a "Solid waste management facility" , which is defined as land, personnel and equipment used in the management of solid waste. "Solid waste management" means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

Staff believes I-2 is the best zoning for this use, but is recommending that it be added to our permitted uses as conditional to allow each application to be reviewed in consideration of public health and safety, traffic, and potential adverse effects on surrounding development.

STAFF RECOMMENDATION: (Options)

1. Planning Board recommends text amendment to add permitted use chart (incorporating this use)- Item 8A. **AND**
2. Planning Board to make motion to recommend adding "solid waste management facility" to the list of permitted uses-with conditional approval if desired- to I-2, in the event that a text amendment adopting the full permitted uses chart update is not ready and/or approved by the Board of Alderman.

Both motions will require a consistency statement.

BOARD ACTION TAKEN:

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Conditional Use District Rezoning Request

AGENDA ITEM NO. 9B

MEETING DATE: 2/21/2019

BACKGROUND INFORMATION:

This topic is conditional on a text amendment recommendation requested in 9A that includes solid waste management facility as a conditional permitted use.

MorrowWebb Mill, LLC has submitted a conditional use rezoning application to rezone PID#226172, located off of East Robinson St, from "I-2" to "I-2-CUD".

Applicant is seeking a Conditional Use Permit (see next agenda item) and this step is required before consideration of that request.

After recommendation of this re-zoning, Staff will begin all required notifications and schedule a public hearing for the next Board of Alderman meeting.

STAFF RECOMMENDATION: (Options)

A motion to recommend a conditional use district rezoning at parcel ID 226172.

This motion requires a consistency statement.

BOARD ACTION TAKEN:

TOWN OF DALLAS
REZONING APPLICATION

(check one)

Traditional Conditional Zoning (CZ) Conditional Use District (CUD)

Location of Property: East Robinson Street
Lot Size: 5.46 Current Zone/ Use: I-2 Parcel ID# 226172

Name of Owner: <u>Morrow Webb Mill, LLC</u>
Address of Owner: <u>6412 Bannington Rd., Charlotte, NC 28226</u>
Owner Phone #: <u>(704) 562-2988</u> Email: <u>mark.carpenter@chlandcompany.com</u>

The undersigned hereby respectfully requests that the Dallas Planning Board, pursuant to the provisions of the Dallas Zoning Code, Article VII, and in compliance with NCGS 160A-387, recommend to the Dallas Board of Aldermen, a Zoning Classification change from

I-2 to I-2-CUD On the following described property:

Plat Book 4, Page 138 Also,
Plat Book 86, Page 33, **FURTHER IDENTIFIED AS PARCEL ID #** 226172

I certify that all the information provided in this application is accurate to the best of my knowledge, information and belief.

Morrow Webb Mill, LLC
Mark E. Carpenter
Signature of applicant Manager

2-14-19
Date

[Signature]
Development Services Director

2-14-19
Date

Rezoning Application Fee is \$500.
Checks to be made payable to the Town of Dallas.

(Handwritten mark)

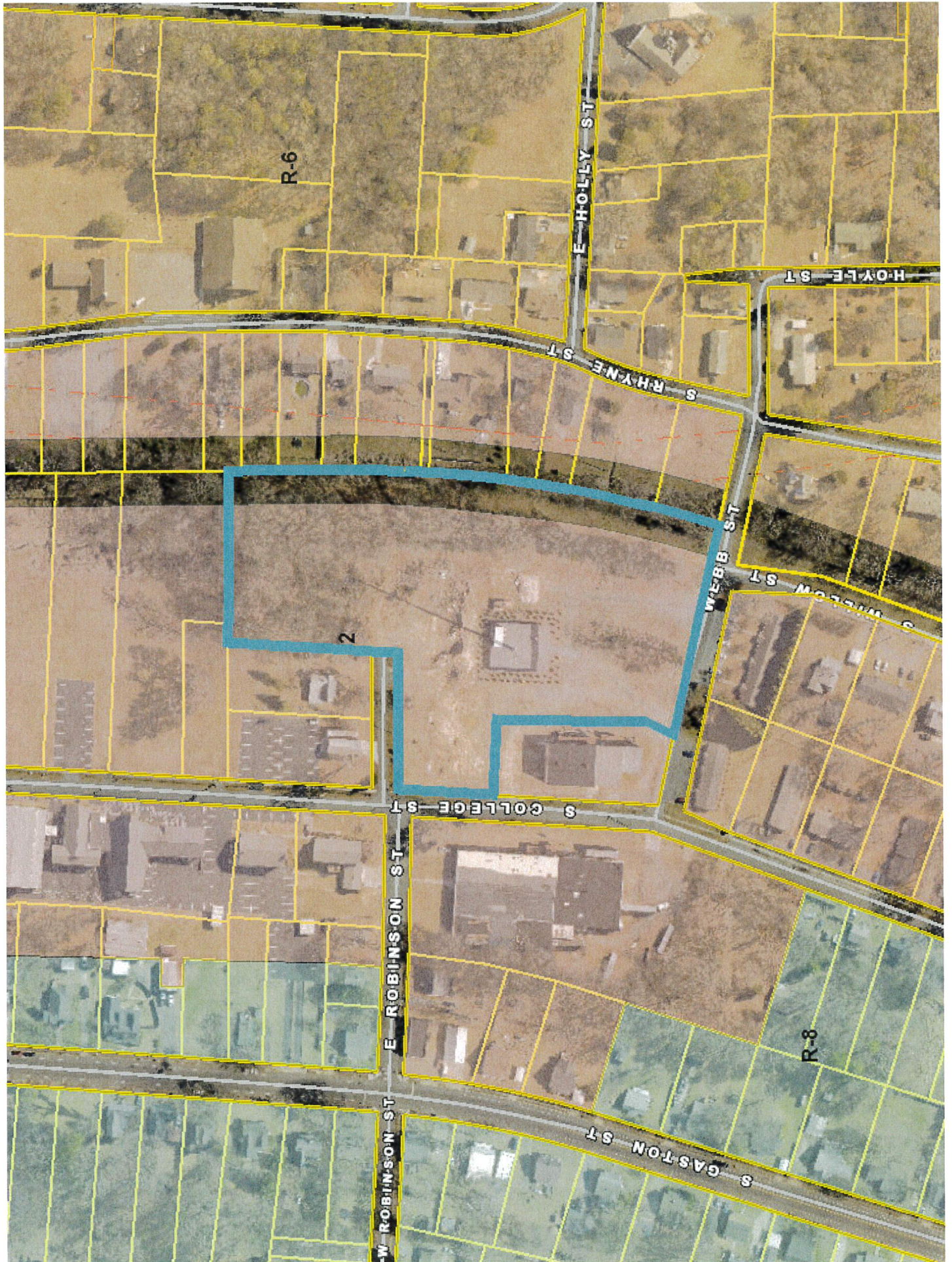
ADJACENT PROPERTY OWNERS TO NOTIFY
(This Section is for Staff Use)

Parcel ID#	Owner Name	Mailing Address

OFFICE USE ONLY

Date of Planning Board Hearing: _____ Approved? _____

Date of Board of Aldermen Meeting: _____ Approved? _____



[Print](#)

Dallas, NC Code of Ordinances

§ 153.072 CONDITIONAL USE DISTRICTS; APPLICATION, PERMITTED USES AND DEVELOPMENT REQUIREMENTS.

(A) Applications for the establishment, expansion or alternation of conditional use districts shall be submitted and reviewed in accordance with the provision of the chapter relating to amendments and changes to this chapter. To be eligible to request a CUD designation, an applicant must own the property at the time of the request. An application for CUD designation must be accompanied with an application for conditional use permit in accordance with § 153.073. Following approval by the Board of Aldermen of a parallel conditional use district, the property for which approval was granted shall be identified on the official zoning map for the town.

(B) Within a CUD, no use shall be permitted except pursuant to a conditional use permit authorized by the Board of Aldermen which shall specify the use or uses authorized. Potential uses which may be requested for a parallel conditional use district shall be restricted to those uses permitted in the corresponding general zoning district. Uses permitted in CUP's shall be subject to all applicable development standards and requirements for that use listed in the corresponding general zoning districts as well as any additional requirements specified by a conditional use permit granted in accordance with § 153.073.

(Ord. passed 12-8-1985)

§ 153.073 CONDITIONAL USE PERMITS; APPLICATION, PROCEDURES, FINDINGS AND CONDITIONS.

(A) Requests for conditional use permits as authorized by this subchapter in conditional use districts shall processed and considered by the same procedure as set forth in this chapter for zoning changes. Applications for a CUP must be filed by an applicant owning the property at the time of the request. The initial request for a CUP must be filed simultaneously with a request for rezoning to a conditional use district. The application may recommend conditions on the permit that will insure that the purpose and intent of this subchapter will be served and the public safety and welfare secured. A site plan shall be submitted when site development conditions are specified. When required, at least one copy of the site plan shall be reproducible. The application may be amended by the applicant before or during public hearings held by the Planning Board and the Board of Aldermen. (The Application for Conditional Use Permit (CUP), on file in the office of the Town Clerk, is incorporated by reference as if set forth in full herein.)

(B) After reviewing the application for conditional use permit, the Planning Board shall forward its recommendation to the Board of Aldermen. Upon receiving the recommendation of the Planning Board, the Board of Aldermen shall consider the application and said recommendation and wither grant or deny the conditional use permit requested. The CUP, if granted, shall include such approved plans as may be required for granting the permit. Before a permit is granted, the applicant shall demonstrate and the Board of Aldermen shall find:

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;
- (2) That the use will not create traffic hazards, excessive congestion or hazards to pedestrians within the development and upon the public streets at the points of ingress and egress to such development;
- (3) That public facility systems are sufficient to serve the development;

(4) That surrounding properties will be adequately protected from potential adverse effects of the development;

(5) That the development complies with the standards and specifications for the corresponding general zoning districts; and

(6) That the use is consistent with the general plan of development for the area.

(C) In granting a conditional use permit, the Planning Board may recommend and the Board of Aldermen may impose such reasonable and appropriate conditions upon such permit as it may deem necessary to assure that the use in the proposed location will be consistent with the intent of this subchapter and the standards established in the section. All such conditions shall be entered in the minutes of the meeting at which the permit is granted and also on the approved plans. These may include any subject area regulated in some form within this chapter. These specific conditions may address, but shall not be limited to any or all of the following subject areas:

(1) Permitted uses;

(2) Building location and orientation;

(3) Yard dimensions;

(4) Buffer areas;

(5) Signs;

(6) Parking driveways and vehicle circulation patterns;

(7) Designated areas of common open space and for recreation;

(8) Pedestrian circulation;

(9) Loading areas;

(10) Off-street parking;

(11) Number of dwelling units;

(12) Size of commercial structures;

(13) Building height;

(14) Size of dwelling units within multi-family residential developments;

(15) Proposed contours of land following final grading;

(16) Proposed first floor elevations for buildings;

(17) Plans for storm water control;

(18) Location and intensity of lighting;

(19) Timing of development;

(20) Location and extent of rights-of-way and other areas to be dedicated for public use.

(D) If the Planning Board recommends the disapproval of the conditional use permit, and if the Board of Aldermen denies the permit, each body shall enter the reason for its action in the minutes of the meeting at which the action is taken.

(E) No appeal may be taken to the Board of Adjustment from the action of the Board of Aldermen in granting or denying a conditional use permit. Review of the Board of Aldermen's action shall be by the

Superior Court in the nature of certiorari and pursuant to statutory provisions concerning review of Board of Adjustment decisions.

(F) Following Board of Aldermen approval of a conditional use permit authorizing specified permitted uses and/or specified development conditions, a copy of the permit shall be filed and recorded in the office of the Register of Deeds for Gaston County. All conditions contained in the CUP shall run with the land and shall be binding on the original applicants, their heirs, successors and assigns, unless subsequently changed for amended by the Board of Aldermen as provided for in this chapter. If after approval of a conditional use permit by the Board of Aldermen, any of the conditions affixed thereto shall be held invalid or void, then the conditional use permit shall be void and of no effect.

(G) Any amendment or modification of an approved CUP shall be processed in accordance with the provisions of this subchapter relating to the application for conditional use permits. No proposal to amend or change any conditional use permit shall be considered within 12 months of the date of the original authorization of such permit or within 12 months of the hearing of any previous proposal to amend or change any such permit. Provided, however, changes of detail may be authorized by the Building Inspector if such changes:

- (1) Do not alter the basic relationship of the proposed development to adjacent property;
- (2) Do not alter the uses permitted;
- (3) Do not increase the density or intensity of development;
- (4) Do not decrease the off-street parking ratio; or
- (5) Do not reduce the yards provided at the boundaries of the site.

(H) Any violation of a term or condition of a conditional use permit shall be treated in the same as a violation of this chapter and shall be subject to the same remedies and penalties as any such violation. Where the Building Inspector determines that any term or condition of any conditional use permit is not being adhered to, he shall notify the property owner of his findings either by certified mail or in persons. In any case where any violation is not corrected or abated within 15 days of the date of such notice, the permit shall thereupon immediately become void and of no effect, and no building permits for further construction or certificates of occupancy under the conditional use permit shall be issued and all completed structures shall be regarded as non-conforming uses, see § 153.045.

(Ord. passed 12-10-1985)

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Conditional Use Permit Application

AGENDA ITEM NO. 9C

MEETING DATE: 2/21/2019

BACKGROUND INFORMATION:

This topic is conditional on a rezoning recommendation requested in 9B to a conditional use district.

MorrowWebb Mill, LLC has submitted a conditional use permit application to use PID#226172, located off of East Robinson St, for parking of solid waste management vehicles.

Conditions are not included currently in the request, however, the Planning Board may recommend conditions be placed to ensure that the development addresses any public health and safety concerns, traffic, and potential adverse effects on surrounding development.

Staff has included a copy of conditions imposed by Gaston County on this use as a starting point for this discussion.

Note: This decision (when voted on by the Board of Alderman) will be quasi-judicial. All comments included in the recommendation should be related to the ordinance standards, be trustworthy and reliable, and based on facts- including data, existing plan documents, studies, or other technical data- to support a conclusion.

No site plan has been provided, however, applicant may present one at the time of the meeting for consideration.

MorrowWebb Mill, LLC plans to sell the parcel if approved, and the potential new owner plans to park trucks at the property, and later build a structure on the lot where he can service the vehicles.

STAFF RECOMMENDATION:

Planning Board to consider any adverse effects possible with this development, and recommend reasonable conditions for consideration. Staff would add conditions (if approved by Board of Alderman) to the site plan review for approval prior to issuing any zoning permits.

BOARD ACTION TAKEN:

Case No. CUP-2019-01
Meeting Date 2-21-19 @ 6:30
3-12-19 @ 6pm

TOWN OF DALLAS – CONDITIONAL/SPECIAL USE PERMIT APPLICATION

IMPORTANT INSTRUCTIONS FOR FILING FOR A CONDITIONAL/SPECIAL USE PERMIT

* APPLICATION MUST BE ACCOMPANIED BY AN ENGINEERED SITE PLAN APPROVED BY STAFF

This application must be filed at least thirty (30) days prior to the next scheduled Planning Board meeting. The application may be submitted in person or by mail to the Town of Dallas at 210 N. Holland Street, Dallas, NC 28034. Upon review by the Planning Board, the application is then sent to the Dallas Board of Aldermen which will hold an advertised Public Hearing. Applications are placed on the agenda according to the acceptance date. You will be notified by mail or email of the date, time and location of the Public Hearing. A permit fee is required to be paid when the application is submitted.

If approved by the Town of Dallas Board of Aldermen, the applicant MUST have the Conditional/Special Use Permit recorded at the Gaston County Register of Deeds office in Gastonia, North Carolina within (30) thirty days. A copy of the recorded document must also be filed with the Town of Dallas Development Services Department.

The following information is required:

1. An approved preliminary Site Plan MUST accompany the application.
2. If title to the property is not in the name of the applicant, include a notarized letter from the owner signifying approval of the request.
3. Application must be completed, dated, signed by the appropriate parties and notarized. All fees must be paid.

FOR YOUR INFORMATION

Upon filing a Conditional/Special Use Permit application with the Town of Dallas, the following rules and procedures shall apply until the Board of Alderman has ruled on the request:

- No site clearing, no building demolition or construction may commence without approved zoning, subdivision, erosion, and building permits are issued.
- All written or physical evidence (plans, maps, pictures, letters, etc.) presented before the Board of Adjustment becomes part of the physical record and property of the Town of Dallas.
- All testimony given before the Board of Adjustment shall be true.
- You have the right to appear and present your case before the Board, or provide representation at your own expense.
- Because this is a quasi-judicial proceeding, you should not have contact regarding the application with any Board of Aldermen members prior to the hearing. Questions may be addressed to Town Staff.
- Conditions may be placed on the parcel. Conditions might include but are not limited to limits on hours of operation; buffer, landscape and/or fencing requirements; building design and material specifications; lighting; traffic, street, or utility improvements; storm water; or open space requirements.
- The entire process may take three (3) to six (6) months.

TOWN OF DALLAS – CONDITIONAL/SPECIAL USE PERMIT APPLICATION

IMPORTANT INSTRUCTIONS FOR FILING FOR A CONDITIONAL/SPECIAL USE PERMIT

* APPLICATION MUST BE ACCOMPANIED BY AN SCALED CONCEPT PLAN APPROVED BY STAFF WITH PAID FEE.

Application Information: Is the applicant the owner of the property? Yes If not, provide a notarized letter from the property owner(s) granting permission to seek a Conditional/Special Use Permit.

Applicant Name(s)	<u>Merron Webb Mill, LLC</u>
Applicant Address	<u>6412 Bannington Rd.</u> <u>Charlotte, NC 28226</u>
Applicant Phone No.	<u>(704) 562-2988</u>
Applicant email:	<u>mark.carpenter@chlandcompany.com</u>

Parcel Information pertinent to the Conditional/Special Use Permit request

Parcel Owner	<u>Merron Webb Mill, LLC</u>		
Parcel Address	<u>-same as above</u>		
Tax Parcel No.	<u>226172</u>	Acreage	<u>5.46</u>
Existing Zoning	<u>I-2</u>	Proposed Zoning	<u>I-2 CUD</u>

What are the current uses of the property, as well as the adjacent uses?

Vacant land & cell tower
Commercial, industrial, church & residential.

Describe the Conditional/Special Use Permit request

I-2 CUD for parking & related activities for
solid waste management vehicles

Explain briefly the expected effect on the neighborhood if the proposed Conditional/Special Use Permit is approved

None expected.

Explain any other circumstances which tend to justify the Conditional/Special Use Permit request in terms of public interest

Zoning currently allows truck terminal for common
carrier. This is merely for a different truck type.

List any conditions proposed with this request

I (we) certify that all of the information presented is accurate to the best of my knowledge, information and belief.

Morgan Webb Mill, LLC
Mark E. Carpenter
Signature of Applicant (s) _____ Date _____

Name of Applicant(s) _____ Date _____

6412 Bannington Rd.
Address Charlotte, NC 28226

Email mark.carpenter@chlandcompany.com Phone no.(s) (704) 562-2988

Notary Approval

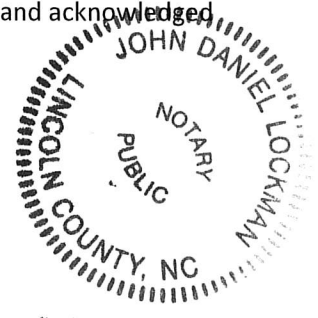
MARK E CARPENTER personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness by my hand and official seal this 14 day of February, 20 19.

My Commission expires 9-7-22

[Signature]
Notary Public

SEAL



If the applicant is not the owner of the property, indicate the owner's name and contact information along with a notarized letter signifying approval to request a Conditional/Special Use Permit for his/her property.

Property Owner Name _____

Property Owner Address _____

City, State, Zip _____

Email and phone _____

STAFF USE ONLY:

Staff Review	Receipt of Application:	Recommendation:
Planning Board Review	Publication Dates:	Mailing Dates:
	Date of Meeting:	Recommendation:
Board of Alderman Review	Publication Dates:	Mailing Dates:
	Date of Hearing:	Decision:



Coates' Canons Blog: Placing conditions on a conditional or special use permit approval.

By David Owens

Article: <https://canons.sog.unc.edu/placing-conditions-on-a-conditional-or-special-use-permit-approval/>

This entry was posted on January 13, 2010 and is filed under Land Use & Code Enforcement

The town council is holding a hearing on a special use permit application that would allow a small shopping center. The proposed site is on a major road and is adjacent to an existing residential neighborhood. At the hearing detailed information is presented on the traffic impacts of the project, including a required traffic impact analysis, testimony from the applicant's traffic engineer, and information from town staff. This evidence suggests the project as submitted needs to be modified to add a turning lane on the fronting street and a new traffic signal at the adjoining side street. The applicant is agreeable to adding these as conditions for approval. However, a large and vocal group of neighborhood residents appear at the hearing and object to the potential for additional traffic that might use the adjacent residential street. They ask the council to add a condition that limits vehicular access to the site to a single entry from the main frontage road and to prohibit vehicular access to the site from the adjoining side streets. The applicant objects to this condition, saying his tenants demand at least two points of entry and egress from the site and that there is not enough frontage on the main road for that, thus necessitating access from the side street. The council is, however, sympathetic to the neighborhood concerns and imposes the condition. The applicant then sues to strike the condition limiting access from the side street. **What condition is this condition in?**

The lawyerly response is, "It depends." But it is probably not in very good shape.

Conditional and special use permits allow the local government to approve a particular use if, after a detailed review, the unit determines that the standards for that use are met by an individual application. The law in North Carolina is clear that conditions can be added to special and conditional use permits by the decision-making board. The statutes specifically allow a board to impose "reasonable and appropriate conditions and safeguards" on these permits," so the consent of the applicant is not required for conditions. G.S. 160A-381(c); 160A-388(c); 153A-340(a); and 153A-345(c). Almost all of the zoning ordinances adopted by North Carolina cities and counties have provisions for special and conditional use permits – 93% of the jurisdictions responding to a 2004 **SOG survey** reported use of this zoning tool. The survey indicates that most all of the cities and counties that use special and conditional use permits take advantage of this authority. Only 10% of the responding jurisdictions reported that they never or only rarely impose conditions on these permits.

But there are at least four important limitations on imposing these conditions —

- The ordinance must provide authority and set a process to impose conditions;
- The ordinance must include standards the conditions will address;
- Substantial evidence in the record must support conditions actually imposed; and
- Conditions that impose an exaction must be reasonable related and proportionate to the impact of the development.

Authority and process in the ordinance. As the state statutes specifically authorize conditions, most ordinances do not have detailed provisions on this point. But any process in the ordinance must be followed. Still, it is worth taking a careful look at an ordinance on this point. A recent case (**Northwest Property Group, LLC v. Town of Carrboro**) with facts not too different from the example noted above wound up in the court of appeals on the issue of whether the town council had followed the process required by its ordinance to impose conditions. The key question in the case was whether the Carrboro ordinance allowed the imposition of any conditions after the town council voted to find the application met all the standards of the ordinance. A divided court held the ordinance allowed the town to do so, but remanded the case for new findings on whether the challenged condition was supported by the evidence in the record.

Standards in the ordinance. A condition cannot be imposed just because the council thinks it would be a good idea or



because the neighbors want it. The board does not have unlimited discretion here. Any condition that is imposed must be based on bringing the project into compliance with standards that are included in the ordinance. For example, if the ordinance says a project authorized by a special use permit must not significantly increase traffic in adjoining neighborhoods, the proposed condition in our example would be within the scope of what could be required. If the ordinance has a more general standard that the project not have a significant adverse impact on public safety, the traffic impacts that affect safety could be the subject of a permit condition if needed to protect public safety. But it is critical that all conditions be based on meeting a relevant standard in the ordinance and that the condition reasonably relate to that standard.

Evidence in the record. This requirement is most likely to pose a problem for the contested condition in our example. When passing on special or conditional use permits, the decision-making board takes evidence in a formal hearing to determine if the standards are met. The courts require that there be substantial, competent, and material evidence in the record to support the board's findings on the permit decision. If the traffic impact analysis and testimony from the traffic engineer and town staff do not support the limit on access from the side street, where does the evidence to justify it come from? The fact that the neighbors asked for it is not enough. There must be some credible evidence presented to the board that without the condition the requirements of the ordinance would not be met. As noted in a prior **post**, this is particularly required when the issues are property value or traffic impacts. So in our example, the critical question would be whether there are facts in the record to support a conclusion that the side road access to the shopping center would create a relevant problem in meeting the requirements of the ordinance.

Exactions proportional. The U.S. Supreme Court has held that a condition that requires the developer to make a payment, donate land, or construct improvements as a condition of a regulatory approval is limited by the Takings Clause of the Constitution. This limitation that requires that the exaction be reasonably related to the impacts of the development and be no more than an amount proportional to the impacts of the proposed project. This factor not an issue in our example, so we can leave that issue for a later post (see pages 40-41 of **Land Use Law in North Carolina** for a summary of the law on this point).

It is vitally important that the applicant, the neighbors, and the decision-making board understand these limitations at the outset of consideration of a special use permit. If the applicant objects to the imposition of a condition, only those conditions that meet these limitations can be imposed. Even if the applicant accepts a condition, the applicant can later challenge it in court if there was no authority to impose it or if it is an unconstitutional condition. Attention to these limitations is therefore necessary to assure that conditions needed for special and conditional use permits are lawfully imposed and enforceable.

Links

- www.youtube.com/watch?v=oHEDGW9NQ-o
- www.sog.unc.edu/pubs/electronicversions/pdfs/ss22.pdf
- appellate.nccourts.org/opinions/?c=2&pdf=4480
- www.sog.unc.edu/publications/books/land-use-law-north-carolina-second-edition

Possible Conditions for Consideration (based on those used by Gaston County)

All vehicles and equipment associated with the operation must be located in the rear yard and be materially screened in accordance with chapter 11.

When abutting non-industrial uses, a minimum of a 50-foot setback from all property lines must be maintained for all vehicles and equipment associated with the operation.

Major repairs to vehicles and equipment associated with the operation shall not be allowed.

When abutting existing residential uses or residential zones, hours of operation shall be between 7:00 a.m. to 7:00 p.m., Eastern Standard Time, Monday through Saturday.

No solid waste or septic waste shall be allowed on site for more than 24 hours.

Owner to coordinate with Public Works to ensure any wastewater generated complies with Town standards/requirements for proper disposal.