

Town of Dallas

Agenda

JUNE 29, 2021

FOLLOWING THE 4:00 PM SPECIAL MEETING

BOARD OF ALDERMEN – WORK SESSION MEETING

Rick Coleman, Mayor

Allen Huggins

Frank Milton

Darlene Morrow

Jerry Cearley, Mayor Pro-Tem

E. Hoyle Withers

ITEM SUBJECT

Pages

1. Pledge of Allegiance to the Flag

2. Approval of Agenda with Additions Or Deletions

3. New Business

A. Zoning Setbacks

2

B. 160D Compliance

10

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Zoning Text Amendment: Side Yard Setback

AGENDA ITEM NO. 3A

MEETING DATE: 6/29/2021

BACKGROUND INFORMATION:

At the May 28th Board of Aldermen Work Session, Staff was directed to begin updating the side yard depth in the R-5 and R-6 districts. After discussion, the consensus settled at an 8' minimum. This represents a 2' additional side yard setback in both the R-5 and R-6 zoning districts.

This update not only affects all future development (that does not qualify for permit choice or has vested rights), but also affects existing R-5 and R-6 properties. Also impacted are I-2, B-1, B-2, B-3, and B-3P, zoned properties with buildings that are used wholly, or in part, for residential purposes. These properties shall comply with the requirements for the R-6 zone.

Additional side yard setbacks will make numerous properties non-conforming and minimize buildable area. The current R-6 setbacks were adopted in 2016 and R-5 setbacks were adopted in 2019.

The Planning Board unanimously recommended that the text amendment not be approved.

Attached is the proposed change to Appendix A, sample requirements from neighboring communities, the current zoning map, and the Planning Board recommendation.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:

APPENDIX A: YARD AND HEIGHT REQUIREMENTS FOR RESIDENTIAL DISTRICTS

<i>Zone</i>	<i>Minimum Lot Area (Sq. Ft.)</i>	<i>Minimum Lot Area Per Dwelling Unit (Sq. Ft.)</i>	<i>Minimum Lot Width (In feet)</i>	<i>Minimum Front and Rear* Yard Depth (In feet)</i>	<i>Individual Minimum Side Yard Depth (In feet)</i>	<i>Minimum Side Yard Depth (In feet)*</i>	<i>Maximum Building Height</i>
R-15	15,000	15,000	100	45	15	15	35 feet
R-12	12,000	12,000	90	40	12	12	35 feet
R-10	10,000	10,000	80	35	10	10	35 feet
R-8	8,000	8,000 single 6,000 1st unit 3,000 additional unit each	70	30	8	8	35 feet
R-6	6,000	6,000 single 5,000 1st unit 2,500 additional unit each	60	25	6	6 8	35 feet
R-5	5,500 **	5,500 ** - 500 SF per attached side	50	25***	6	6 8	35 feet
RMF		15,000 1st unit 3,500 additional unit each		45	45	45	35 feet

* An additional ten feet shall be required to the requirements listed above on all side yards which abut a public or private street (corner lots)

** Attached housing shall be exempt from side yard setback requirements, and may reduce lot width by 5 feet for each attached side. Further reduction may be permitted through conditional zoning. Attached buildings to include 3 or more units are only allowed with conditional approval regardless of zoning designation.

† Rear setback may be reduced by 5 feet at the discretion of Town Staff if requested to accommodate a larger front setback for parking purposes only. Further reduction may be permitted through conditional zoning.

Lowell, NC ~3,640

	SFR-2	SFR-3	SFR-4
LOT DIMENSIONS			
Minimum Lot Size (gross square feet)	17,450	11,600	7,800
Minimum Lot Width measured at Front Street Setback	72'	60'	50'
PRINCIPAL STRUCTURES			
Minimum Front Street Setback measured from Street Right-of-way	33'	20'	20'
Minimum Rear Yard Setback	9'	8'	5'
Minimum Side Yard Setback	9'	8'	5'
Minimum Corner Lot Side Street Setback measured from Street Right- of-way	21'	17'	10'
ACCESSORY STRUCTURES			
Minimum Front Street Setback measured from Street Right-of-way	73'	60'	60'
Minimum Rear Yard Setback	4'	4'	4'
Minimum Side Yard Setback	4'	4'	4'
Minimum Corner Lot Side Street Setback measured from Street Right- of-way	22.5''	18.5'	11.5'
MINIMUM REQUIRED PARKING, WHETHER ENCLOSED OR NOT			
Minimum Front Street Setback measured from Street Right-of-way	36.5'	23.5'	23.5'
Minimum Corner Lot Side Street Setback measured from Street Right- of-way	22.5'	18.5'	11.5'

Bessemer City, NC ~5,471

Minimum Lot Area (square feet)

Standard	R-1	R-2	R-3	RLD	RS-20	RS-12	RS-8	RMF
Single-family Dwellings; Manufactured Homes; Family Care Homes; Rooming House; Day Care Center, Class A	30,000 / 20,000 [1]	30,000 / 20,000 [1]	30,000 / 20,000 [1]	87,000	20,000	12,000	8,000	8,000
Infill Residential Development	-	-	-	-	10,000	6,000	4,000	4,000

Minimum Front Yard Setback (feet)

Standard	R-1	R-2	R-3	RLD	RS-20	RS-12	RS-8	RM
Single-family Dwellings; Manufactured Homes; Family Care Homes; Rooming House; Day Care Center, Class A	20	20	20	50	20	20	20	20

Minimum Side Yard Setback (feet)

Standard	R-1	R-2	R-3	RLD	RS-20	RS-12	RS-8	RM
Single-family Dwellings; Manufactured Homes; Family Care Homes; Rooming House; Day Care Center, Class A	15	15	15	25	15 ^[4]	12 ^[4]	8 ^[4]	8 ^[4]

30' Rear setback in all except RLD 50'

City of Newton ~ 13,059

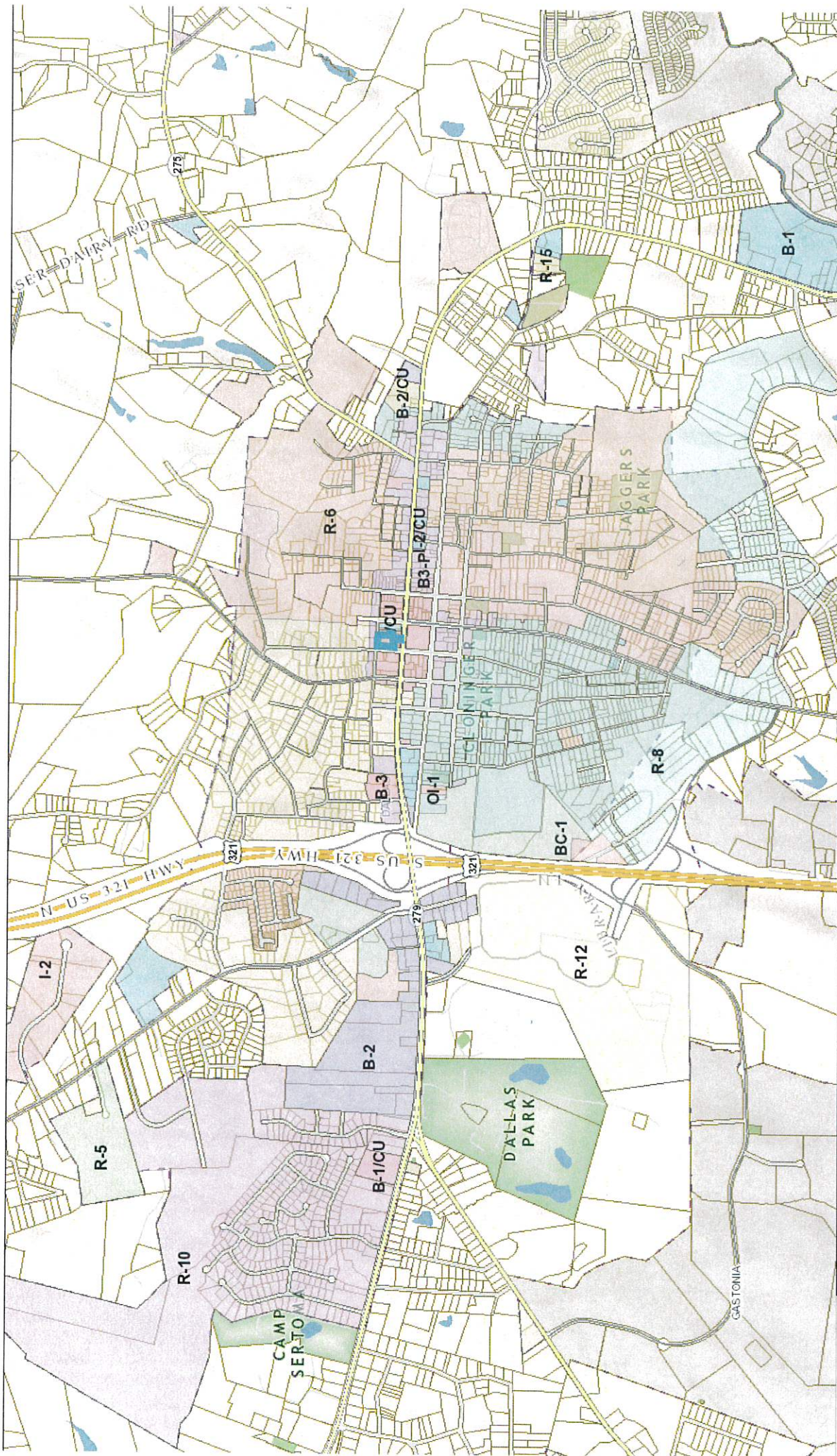
			Required Yards (feet)		
District	Minimum Lot Area (square feet)	Minimum Lot Width at Setback (feet)	Front	Side ⁵	Rear
R-20	20,000 ¹	100 ¹⁰	40	10	40
R-20A	20,000 ^{1,2}	100 ¹⁰	40	10	40
R-11	11,000 ³	75 ¹⁰	35	10	30
R-9	9,000 ⁴	75 ¹⁰	25	8	25
R-7	7,000 ⁴	60 ¹⁰	25	8	25

Article 7 Intensity, Dimensional and Design Standards

Sec. 7.1 Residential District Standards (TA 12-01, TA 14-03, & TA 18-01)

All development in residential zoning districts shall be subject to the following Intensity, Dimensional and Design Standards. These standards shall not be interpreted as a “guarantee” of development intensity. Other factors and requirements may limit development intensity more than these standards.

Residential Property Standards	R-1	R-2	R-3	R-4
Minimum Lot Area				
Single-Family Detached (sq. ft.)	21,780 [1]	10,890 [1]	7,260 [1]	3,600 [1]
Single-Family Attached (sq. ft.)	N/A	N/A	7,260 [1]	3,600 [1]
Duplex (sq. ft.)	43,560 [1]	N/A	7,260 [1]	3,600 [1]
Multi-Family (sq. ft.)	N/A	N/A	7,260 [1][2]	3,600 [1]
Density- Maximum (per acre)	2	4	8	20
Minimum Lot Width/ Frontage (ft)	100	80	60[3]	40
Primary Structure				
Minimum Yard Setbacks				
Front Yard (ft) [4]	40	20	20	20
Rear Yard (ft)	25	25	20	10
Interior Side Yard (ft)	10	10	5	5
Street Side Yard (ft)	20	15	15	5
Maximum Height (ft)	35	35	35	50
Accessory Dwelling Units				
Minimum Yard Setbacks				
Front Yard (ft)	50	30	30	30
Rear Yard (ft)	15	15	15	10
Interior Side Yard (ft)	10	10	5	5
Street Side Yard (ft)	20	20	15	5
Maximum Height (ft)	20	20	20	20
Accessory Structure [5]				
Minimum Yard Setbacks				
Front Yard (ft)	50	30	30	30
Rear Yard (ft)	5	5	5	5
Interior Side Yard (ft)	5	5	5	5
Street Side Yard (ft)	20	15	15	5
Maximum Height (ft) [6]	15	15	15	15



The Planning Board, at its' June 17, 2021, regular meeting, unanimously recommended that the zoning text amendment not be approved with the following consistency statement.

Consistency Statement

The proposed zoning text amendment to Appendix A: Yard and Height Requirements for Residential Districts, increasing the minimum side yard depth in the R-5 and R-6 zoning districts from 6' to 8' is inconsistent with the 2003 Land use Plan as it does not support increased housing in light of Dallas' anticipated growth and does not promote clustered development that promotes open space and pedestrian accessibility. This text amendment is therefore deemed unreasonable and is not in the public's best interest in order to regulate future growth and development in the Town's residential districts.

TOWN OF DALLAS, NORTH CAROLINA

REQUEST FOR BOARD ACTION

DESCRIPTION: Zoning Text Amendment: 160D Updates

AGENDA ITEM NO. 3B

MEETING DATE: 6/29/2021

BACKGROUND INFORMATION:

North Carolina General Statute 160D consolidates current city- and county-enabling statutes for development regulations, currently Chapters 153A and 160A, into a single, unified chapter.

Local governments have until July 1, 2021 for the development, consideration, and adoption of necessary amendments to conform local ordinances to the new law.

Town Staff has worked with Centralina Regional Council to update the existing ordinance to comply with Chapter 160D.

An overview of updates has been provided in the agenda packet. The full ordinance can be displayed digitally during the meeting at Board request.

MANAGER RECOMMENDATION:

BOARD ACTION TAKEN:

Consistency Statement

The proposed text amendment updates to Chapter 152 Subdivision Regulations and Chapter 153 Zoning Code are consistent with the 2003 Land Use Plan of the Town of Dallas, in order to maintain and enhance the Town's aesthetic qualities and physical character. The updates are therefore deemed reasonable and in the public's best interest as North Carolina General Statute 160D consolidates current city- and county- enabling statutes for development regulations which must be followed across the state.

Curtis Wilson, Chairman

Date

North Carolina General Statutes Chapter 160D

Dallas Zoning Code Update

The Dallas Zoning Code has been reviewed and amended for compliance with the North Carolina General Statutes Chapter 160D. The purpose of this update is to provide for more clarity and uniformity within the code. The following updates are required by law to be adopted by July 1st 2021.

A) Statute References:

- Updated any reference to G.S. Chapter 160A to indicate relevant provisions in Chapter 160D (Example: 160A-376 now 160D-802)

B) 160D - 102:

- Aligned ordinance terminology with Chapter 160D terminology for *conditional zoning* and *special use permits*; deleted use of the terms conditional use permit, special exception, conditional use district zoning, and special use district zoning.
- Aligned ordinance terminology with Chapter 160D terminology, including for the following terms: administrative decision, administrative hearing, determination, developer, development, development approval, development regulation, dwelling, evidentiary hearing, legislative decision, legislative hearing, planning and development regulation jurisdiction, and quasi-judicial decision

C) 160D – 108:

- Vested rights procedures added to zoning code

D) 160D – 109:

- Clarity on what constitutes a conflict-of-interest for governing and advisory boards incorporated into zoning code.

E) 160D – 403:

- Clarity on zoning enforcement procedures for inspecting premises and notice of violations.

F) 160D- 405:

- Clarity on who may conduct evidentiary hearings for quasi-judicial decisions.

G) 160D – 601:

- Clarity on third-party down-zonings being prohibited; may only process down-zonings initiated by the local government or landowner

H) 160D – 602:

- Clarity on zoning-map amendments; must provide notice not only to immediate neighbors but also to properties separated from the subject property by street, railroad, or other transportation corridor

I) 160D – 947:

- Clarity on appeals from quasi-judicial decisions; must be filed within thirty days after the decision is effective or written notice is provided

General Provisions																																				
153.002 Definitions, 6	The following table will label the current zoning districts of the Town of Dallas and illustrate the allowed uses accordingly. However, due to the plethora of zoning districts within the town, commercial shall connote all business districts, which include office use, neighborhood business use, central business use, etc. Institutional shall mean schools, churches, etc. Industrial shall imply the I-1 and I-2 districts that allow manufacturing. Residential shall signify R-12, R-10, R-8, and R-6 districts. The letters (P) shall represent permitted use, (SC) shall represent conditional special use, and (H) shall represent home occupation.																																			
153.002 Definitions, 6	<table border="1"> <thead> <tr> <th colspan="5">TABLE OF USES</th> </tr> <tr> <th></th> <th>Residential</th> <th>Commercial</th> <th>Industrial</th> <th>Institutional</th> </tr> </thead> <tbody> <tr> <td>Child day care center</td> <td></td> <td>P</td> <td></td> <td></td> </tr> <tr> <td>Child day care center accessory</td> <td></td> <td>P</td> <td>SC</td> <td></td> </tr> <tr> <td>Child day care center A</td> <td></td> <td></td> <td></td> <td>P</td> </tr> <tr> <td>Child day care center B</td> <td>H</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Child day care center C</td> <td>SC</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	TABLE OF USES						Residential	Commercial	Industrial	Institutional	Child day care center		P			Child day care center accessory		P	SC		Child day care center A				P	Child day care center B	H				Child day care center C	SC			
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153.002 Definitions, 6	<p><u>Conditional Zoning. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment</u></p> <p>(No Existing Text in Ordinance)</p>																																			
153.002 Definitions, 6	DWELLING, MULTIPLE. A building or portion thereof used or designed for two or more dwelling units.																																			
153.002 Definitions, 7	DWELLING UNIT. A house or other structure or a portion of any building or structure designed, arranged or used for living quarters for one or more persons living as a single housekeeping unit, with cooking facilities, but not including units in hotels, trailers, or other structures designed for transient residence.																																			

153.002 Definitions, 13	<p><u>Special Use Permit</u>. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.</p> <p>(No Existing Text in Ordinance)</p>
153.009 Accessory Structures, 29	<p>(3) <i>Oversized structures</i>. Any single structure on a lot, other than the primary structure, that is greater than 1,000 square feet shall require a conditional special use permit, including but not limited to, garages, barns, horse corrals, or agricultural buildings.</p>
153.015 Adaptive Reuse of Historic Buildings, 44	<p>C) Adaptive reuse of historic buildings shall not be subject to the town's off-street parking requirements in § 153.042 and may be waived or modified by the Board of Aldermen in approving the special conditional use permit for the adaptive reuse. Notwithstanding, any plans for off-street parking shall be submitted as part of the special conditional use permit for the proposed adaptive reuse.</p> <p>(D) Lot area, width, and yard requirements of Appendix A: Yard and Height Requirements for Residential Districts and Appendix B: Yard and Height Requirements for Business Districts may be waived or modified by the Board of Alderman as part of the approved special conditional use permit for the proposed adaptive reuse.</p> <p>(E) Uses allowed in an adaptive reuse building are limited to one or a combination of those uses allowed in the zoning district in which the adaptive reuse building is located.</p> <p>(F) Maximum residential densities in the underlying zoning district in which the proposed adaptive reuse building is located may be waived or modified by the Board of Alderman as part of the approval of the conditional special use permit. Notwithstanding, each residential unit must comply with minimum square footage requirements of North Carolina Housing Finance Agency Design Guidelines</p>
153.018 Manufactured/Mobile Homes, 47	<p>(A) Mobile home parks/subdivisions shall be located within a R-6 zone, and all new proposed locations shall be treated as a planned subdivision per G.S. § 160A-376160D-802 and comply with the town's subdivision development standards.</p>

Zones Established; Regulations	
153.025 Cluster Development Overlay Districts, 55	(A) Cluster developments are by conditional <u>special use</u> use permit only.
153.027 R-5 Single Family Residential, 57	<p>— (4) If the project contains multiple phases, the town may request a development agreement to be in place prior to approval of any subdivisions within this zone.</p> <p>(Section Relocated)</p>
153.045 Non-Conforming Uses, Buildings and Structures, 70	<p>153.045 NON-CONFORMING USES, BUILDINGS AND STRUCTURES.</p> <p>(A) Non-conforming uses.</p> <p>— (1) A non-conforming use shall not be extended; except, however, a non-conforming use of any building may be extended to any portion or portions of said building which were at the time such use became non-conforming manifestly arranged or designed for such use.</p> <p>— (2) No structural alterations shall be made in a building housing a non-conforming use, except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building.</p> <p>— (3) (a) The non-conforming use of any building or structure which is damaged to an extent exceeding 50% of its then reproduction value, exclusive of foundations, by fire, flood, explosion, earthquake, war, riots or Act of God, shall be discontinued, and such building or structure shall thereafter be used only in conformance with the provisions of the zone in which located.</p> <p>— (b) Any non-conforming use in existence five years prior to October 8, 2019 that is located within the B-3 Central Business District may continue to operate as its current non-conforming use in the event that the building or structure housing the non-conforming use is damaged, regardless of the extent, as long as a zoning and building permit as required for rehabilitation to resume operations is obtained within nine months of the damage occurrence.</p> <p>— (4) A non-conforming use shall not be changed to any but a conforming use. When a non-conforming use has been changed to a conforming use it shall not be changed again to any non-conforming use.</p> <p>— (5) No changes shall be made in the landscaping, grading of the lot, or external appearances of a non-conforming use without the grant by the Board of Adjustment of a special exception variance authorizing such change. The Board shall grant such an only upon an affirmative finding that the proposed change will have no adverse effect upon neighboring properties or upon the public and safeguards upon any such special exception it grants for the further protection of neighboring properties in the public welfare.</p> <p>(B) Non-conforming buildings or structures. Non-conforming buildings or structures shall be allowed to remain subject to the following provisions:</p>

	<p>— (1) A non-conforming building or structure shall not be extended unless such extension shall comply with all the requirements of this chapter for the zone in which it is located.</p> <p>— (2) A non-conforming building or structure which is damaged to an extent exceeding 75% of its then reproduction value, exclusive of foundation by fire, flood, explosion, earthquake, war, riot or Act of God, shall not be reconstructed except in conformance with the provisions of this chapter.</p> <p>— (3) Non-conforming signs or billboards shall be eliminated or changed to conform with the provisions of this chapter within 18 months of the date such signs or billboards become non-conforming.</p> <p>(Ord. passed 11-3-1970; Am. Ord. passed 7-3-1972; Am. Ord. passed ---)</p> <p>(Section Relocated)</p>
153.0456 Density Credits, 71	N/A
153.047046 Planned Residential Developments, 78	<p>3) In keeping with the stated purpose of this section, PRD's are only allowed as conditional zoning districts<u>on a conditional use basis</u>. Furthermore, planned developments are reviewed in terms of the overall density, quality of development, and building separation to ensure public safety. Therefore, the lot and setback requirements for single-family residential development and non-residential development are waived for individual lots within the PRD. In addition, the minimum street frontage requirement in section 18-34(a), Lot Layout, in the City of Gastonia Subdivision Ordinance, may be reduced in PRD's. Minimum distances between multi-family, townhouse, and atrium developments are set forth in division (B)(19) below.</p>

153.047046 Planned Residential Developments, 86	<p>(20) <i>Multi-phased projects.</i> Each phase of a multi-phased project shall be able to stand as an independent project. As used in this section, the term PHASE shall refer to that portion of the project for which the applicant requests special a conditional use permit. Only as part of a multi-phased project shall the density of residential development in a completed phase of the project area exceed the maximum density approved for the project. Two examples of this are as follows:</p> <p>(C) <i>Density bonus.</i> A density bonus of up to 31% over the basic density normally allowed may be approved by the Planning Commission or City Council when granting the conditional use permitspecial use permit or conditional rezoning. Such density bonus must be based upon the amount of common open space greater than that required by this section. The common open space calculation is derived from the gross project acreage and the acreage of common open space provided which meets the requirements of this section. For each one percent increase in the amount of common open space and improved common open space provided, the number of dwelling units allowed increases by .15. The table below indicates the density bonus allowed in an R-1/PRD.</p>
153.048047 Planned Unit Developments, 88	<p>(3) <i>Uses allowed within a PUD.</i> Uses allowed within a PUD shall be limited to those permitted or conditional-special uses listed in the PUD district.</p>
153.049048 Traditional Neighborhood Developments, 92	<p>A traditional neighborhood development (TND) is a type of planned unit development (PUD); provided however, if it contains only residential land uses (and other nonresidential uses typically allowed by right in the applicable residential district) it may be deemed a type of planned residential development (PRD). Most TND's will require a rezoning to the PUD-CUD-CZ district. A TND that can meet the requirements for PRD within the applicable zoning district may be approved as a PRD by the conditional-special use permit hearing-process (no rezoning required). All other TND's will require rezoning to the PUD-CUD-CZ district and the granting of a conditional use special use permit.</p>
153.049048 Traditional Neighborhood Developments, 100	<p>(D) Traditional neighborhood developments shall follow the same procedures for approval through the conditional-special use permit process or through rezoning to the PUD-CUD-CZ District as set forth in § 153.050 with the following exceptions.</p>

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153.050 Q49

Application
Requirements and
Review Procedures,
100

Planned residential developments (PRD's) and planned unit developments may be allowed as a ~~conditional uses~~ special use in certain zones. ~~Planned unit developments also may take place in the PUD zoning district.~~ Rezoning property to a PUD district shall occur only under the ~~parallel conditional (CUD) zoning process~~ conditional zoning process. ~~The process for reviewing conditional uses is found in article IX. The process for reviewing rezoning to the CUD-PUD district (i.e., under parallel conditional zoning) is found in article X.~~

(A) ~~Site plan required when applying for a conditional special use permit (CUP) (SUP) for a planned residential development (PRD) or a planned unit development (PUD) conditional use district (CUD conditional rezoning).~~ When a ~~conditional uses~~ special use permit (SCUP) is needed for a PRD or a rezoning is needed for a PUD ~~zoning district~~, the applicant must first submit an application ~~for a CUP~~ in accordance with the ~~procedures in article IX (for a PRD in a district allowing PRD's), or an application for rezoning to a PUD-CUD district in accordance with the procedures found in article X.~~ applicable procedures for that which the applicant is seeking approval. For either of said applications, a site plan shall be submitted which includes ~~from subsection 17-262(a) of article IX, items (1), (2), (3), (6), (7), (8), (9) plus the following additional items: items listed in § 153.072 and §153.073 in addition to items listed here below:~~

- (1) The existing and proposed uses of land within the planned development including the number of residential dwelling units and approximate square footage of nonresidential structures, and the existing uses of land adjoining the development;
- (2) General locations of existing natural features of the site such as wooded areas, water features, and significant topographic features;
- (3) The proposed street layout with approximate pavement and right-of-way width. This also shall include proposed traffic circulation plans and proposed ingress and egress on to adjacent streets;
- (4) Existing property lines and approximate (sketch) locations of proposed property lines within the development showing all proposed lots or other divisions of land;
- (5) Sketch conceptual building locations;
- (6) The name, if any, of the proposed development; and
- (7) Streets and lots of adjacent developed or platted properties.

The above site plan is submitted in lieu of the site plan required under subsections 17-262(a) or 17-293(a); provided however, in reviewing the application the Zoning Administrator, Planning Commission, or City Council may request additional information from the applicant in accordance with subsections 17-262(a) or 17-293(a). The site plan shall be prepared by an engineer, architect, landscape architect, or land surveyor currently licensed and/or registered by the appropriate state board or by a land planner. All other review procedures prior to the issuance of the ~~CUP SUP~~ or approval of the PUD ~~CUD~~ shall be in accordance with ~~either article IX or article X, as applicable~~ this ordinance.

	C) <i>Formal plan submission.</i> Following approval of the CUP-SUP or the PUD- CUD the applicant may submit his development plan to the City Engineer and the Zoning Administrator.
153. 051 050 Supplemental Use Regulations, 103	N/A
Screening	
153.063 Screening and Landscaping, 106	<p>(4) Other situations as specifically listed in the zoning district regulations or in the conditional special use regulations.</p> <p>(5) All manufactured home parks shall be screened along the rear and side property lines. They shall also be screened from all other lots which lie in a Residential (R) District.</p> <p>(B) <i>Location of screening.</i> Any screening required by divisions (A)(1), (2) and (4) above shall be located along side and/or rear property lines of the lot(s) in question except that screening shall not be required along any street or railroad-right-of-way unless otherwise stipulated in this chapter or required as a condition for a conditional permitspecial permit.</p>
Parallel-Conditional Use Districts and Conditional-Use Permit Conditional Districts and Special Use Permits	
153.070 Intent, 109	<p>(A) The establishment of conditional districts-rezoning districts (CZD) and issuance of appropriate conditional use permits (CSUP) provide important flexibility to this chapter. It is recognized that certain types of zoning districts would be inappropriate at particular locations in the absence of special conditions.</p> <p>(B) The Conditional Zoning (CZD) District process allows for the establishment of certain uses that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. The development of these uses cannot be predetermined or controlled by general district standards. In order to accommodate these uses, this Section establishes the conditional zoning process. The process for approval of a CD-Conditional Zoning District is explained in § 153.072.</p> <p>(C) The rezoning of any parcel of land to a CDZ-districtCZ district shall be a voluntary process initiated by the property owner or his authorized agent. Any area rezoned to a conditional district shall be in strict compliance with the goals, objectives and implementation strategies of the Town of Dallas' most current Future Land Use Plan and all other plans and regulations officially adopted by the Town of Dallas Board of Alderman. The review process established in this Section provides for the accommodation of such uses by a reclassification of property into a CD-Conditional Zoning District,</p>

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	<p>subject to specific conditions (which may exceed those that would otherwise be required for the use in question), which ensure compatibility of the use with the enjoyment of neighboring properties and in accordance with the general plans of development of the town. A conditional zoning district is not intended for securing early zoning for a proposal.</p>
<p>153.072 Conditional Zoning Districts; Application, Permitted Uses and Development Requirements, 110</p>	<p>(A) <i>Purpose.</i> The “parallel-conditionalconditional zoning” district (CZD) approval process is established to address those situations when a particular use may be acceptable but the general zoning districts which would allow that use would not be acceptable. Such zones may be approved or changed only by the Planning Board or Board of Alderman in accordance with the regulations contained herein. The review process established herein provides for the accommodation of such uses by a reclassification of property into a “parallel-conditional” district.</p> <p>(1) Rezoning of property to any parallel-conditionalconditional district is a voluntary procedure on the part of the property owner.</p> <p>(2) Any use permitted under this process also must conform to the development regulations for the corresponding general zoning district.</p> <p>(3) Unlike requests for rezoning to a general zoning district, an applications for a CD-zoningconditional zoning may be filed only by the owner of the property in question or the owner's authorized agent.</p> <p>(4) Provisions for seeking conditional use approval without an associated request for CD zoning are contained in § 153.073 of this chapter.</p> <p>(B) <i>Application process.</i></p> <p>(1) Petitioning for a CD-zoningconditional zoning district is a voluntary procedure and can be initiated only by the owner(s) of the property(ies) in question or by his/her authorized agent. No CD-zoningconditional zoning district may be established until an application has been submitted and the Board of Alderman has approved such application. The Administrator shall schedule a meeting with the applicant, prior to any public information meeting (PIM) being advertised and/or held to review the rezoning conditional rezoning application.</p> <p>(2) Furthermore, no application shall be considered complete unless it is accompanied by all items required by this section and a fee, in accordance with a fee schedule approved by the governing board for the submittal of an application for rezoning to a CD-districtconditional district. Said fee shall be waived for any application submitted by any official or agency acting on behalf of the Town of Dallas, Gaston County or the State of North Carolina.</p> <p>(3) The Administrator may require the petitioner to submit more than one copy of the conditional rezoning application in order to have enough copies available to circulate to other government agencies for review and comment. When dealing with the conditional zoning district process, it may</p>

be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Board or Board of Alderman may request additional information as they deem necessary.

(C) *Public involvement meeting.*

(1) Before a public-legislative hearing may be held on a petition for a ~~parallel~~ conditional zoning district, the petitioner must file with the planning department a written report of at least one community meeting held by the petitioner. ~~The community meeting shall be held prior to the public hearing before the Planning Board.~~

(2) Written notice of such a meeting shall be given to the property owners and organizations entitled to notice as provided by § 153.124.

(3) The report shall include among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, and a description of any changes to the rezoning-conditional rezoning petition made by petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Planning Board and/or the Board of Alderman but shall not be subject to judicial review.

(D) *Submittal to Zoning Administrator.* Before any property is rezoned to a ~~(CDCZ)~~ conditional district, the application must be reviewed by the Planning Board, and a public-legislative hearing first must be held by the Board of Alderman. Upon submission of a completed application, the applicant will be informed of the dates of the meetings and public-legislative hearing. The Planning Board review shall be held first and shall take place no sooner than five weeks after the complete application has been submitted to the zoning administrator. Notification of the public-legislative hearings shall be made as provided by § 153.124.

(E) *Planning Board review.* Once the Planning Board public-hearing review has been concluded, the Planning Board shall have up to 45 days to render a recommendation on the ~~parallel~~ conditional rezoning. Any recommendation ~~on a parallel conditional district rezoning~~ shall be accompanied by a statement describing whether the action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable and explaining why the Planning Board considers the action taken to be reasonable and in the public interest. Once a recommendation is received by the Planning Board, the Administrator will coordinate with the applicant to set a date for the public-legislative hearing to be held at a Board of Alderman meeting, to be followed by a decision.

(F) *Board of Alderman action.* Any public-legislative hearing held by the Board of Alderman pertaining to the ~~zoning of a property to a CD district~~ Conditional Zoning must be ~~conducted-set~~ within 60 days of the date of recommendation. The Board of Alderman may open and continue this hearing and take action at a later date. The Board of Alderman will be

apprised of the Planning Board's previous actions on the matter at hand. Any decision on a ~~parallel conditional district rezoning~~ Conditional Zoning shall be accompanied by a statement describing whether the action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable and explaining why the Board of Alderman considers the action taken to be reasonable and in the public interest.

(G) *Conditions to approval of petition.* ~~The decision to rezone property to a CD district~~ Conditional Zoning shall be legislative in nature. In approving a petition for the reclassification of a piece of property to a ~~(CD)conditional~~ district, the Board of Alderman may ~~require that agree to~~ reasonable and appropriate conditions ~~be~~ attached to approval of the petition. Such conditions shall be limited to those that address the conformance of the development and use of the site to Town Ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the governing board. In no instance shall any of these conditions be less restrictive than any requirements that would otherwise pertain to that particular development if it were located in a general ~~or parallel conditional use~~ zoning district. The applicant must provide written consent to the mutually agreed upon conditions. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this chapter that pertain to that development. Statements that:

(3) Why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each final decision relative to the ~~CD rezoning~~ conditional rezoning request.

(I) *Effect of approval; zoning map designation.* If a petition for a conditional district is approved, the district that is established and all conditions which may have been attached to the approval are binding on the property as an amendment to the zoning map. Subsequent development on the property in question shall be in accordance to the standards for the approved conditional district, the site plan, and any conditions attached to the approval. The applicant shall be responsible for all expenses involved in the dedication of rights-of-way when such dedication is a condition of the rezoning. Following the approval of the petition ~~for a CD district for a~~ conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation. The future land use map shall be deemed amended when an inconsistent rezoning is approved by the Board of Aldermen. If a use requiring a conditional use permit is included in the approval of the conditional district, and said conditional use was clearly indicated within the conditions and/or on the approved site plan, and meets all other applicable standards of this chapter, no additional hearing is required for the conditional use permit.

(K) *Change in CD Zoning* Conditional Zoning. Once a petition for rezoning to a ~~CD conditional~~ district has been approved by the Board of Alderman, any request to materially change (i.e., any change other than a "minor change" as defined in Section 153.072(I)) the parallel conditional district shall be considered a new zoning change request. All procedures pertinent

to new CD-conditional rezoning requests as outlined in this chapter shall be followed.

(1) If a request for CD conditional zoning is denied, a similar application for the same property or any portion thereof shall not be filed until the expiration of a 12-month period from the date of denial. This waiting period shall not be applicable where the application for a conditional zoning use permit is determined by the Administrator to be substantially different from (i.e., not similar to) the original application.

(2) Notwithstanding, the Administrator may allow resubmission of a similar application within said 12-month period if it determines that since the date of action on the prior petition:

(a) There has been a significant change in the zoning district classification of an adjacent piece of property; or

(b) The governing board has adopted a plan that changes public policy regarding how the property affected by the proposed conditional use conditional rezoning should be developed; or

(c) Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can accommodate comfortably the intensity of development allowed under the proposed classification; or

(4) There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the 12-month restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.

(L) *Petition withdrawal.* An applicant who has submitted a complete application for a CD-conditional rezoning may withdraw the application prior to a final decision being rendered.

(1) If a petition is withdrawn once a public-legislative hearing has been advertised (via paper, mail, or on-premises sign), a similar petition submitted by that property owner (or his agent) shall not be accepted by the Administrator within 180 days of the date of withdrawal. (Note: The purpose of this is to allow petitions to be withdrawn without penalty prior to the posting of any public-legislative hearing notices or submittal of such notice to the newspaper of general circulation.)

(2) If said petition is otherwise withdrawn within two business days of a public hearing where a final decision may have been otherwise rendered, a similar petition submitted by that property owner/or his agent shall not be accepted by the Administrator within one year of the date of withdrawal.

(M) *Appeals.* An appeal to the decision of the Board of Alderman shall be filed with the Clerk of Superior Court in the nature of certiorari in accordance with G.S. 460A-388(e)-160D-1402 within 30 days after the Board of Alderman's decision. (Ord. passed 12-8-1985; Am. Ord. passed - -)

153.073 Development Agreements, 116	<p>Pursuant to Chapter 160D, Article 10 of the North Carolina General Statutes <u>development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the local government. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.</u></p>
<p>Parallel Conditional Use Districts and Conditional Use Permit Conditional Districts</p>	
<p>153.073 074 Conditional Special Use Permits; Application, Procedures, Findings and Conditions, 116</p>	<p>The following procedures pertain to <u>conditional special use permits that are and are</u> not associated with a <u>Conditional Use Districts (CD) Conditional Rezoning</u>. Refer to § 153.072 for procedures to be followed in association with <u>Conditional District Conditional Rezoning</u> requests.</p> <p>(A) <i>Purpose.</i> There are many uses identified in Appendix C that are “uses by right” and that are allowed “by right” in each general zoning district subject to the use meeting certain area, height, yard and off-street parking and loading requirements. In addition to these uses, there are some uses in these districts that are “<u>conditional special uses</u>” are and subject to the issuance of a <u>conditional special use permit</u>. The purpose of having <u>conditional special uses</u> is to ensure that these uses are compatible with surrounding development and are in keeping with the purposes of the general zoning district in which they are located. There may be some uses that prior to adoption of this subchapter were allowed as “uses by right” but now are allowed subject to a <u>conditional special use permit (CUP) SUP</u>. For these uses, any expansion or modification to the uses would be subject to the issuance of a <u>conditional special special use permit</u>.</p> <p>(B) <i>Process.</i></p> <p>(1) A pre-application meeting between the applicant and the Administrator shall be required in order to familiarize the applicant of the procedure for securing approval of a <u>conditional special use permit</u>. The Administrator shall accept no <u>conditional special use permit application</u> for review without such meeting having first occurred unless the Administrator determines that such meeting would not serve any meaningful purpose and waives the meeting requirement.</p> <p>(2) Procedures for application submittal are as follows:</p>

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(a) A complete ~~conditional special special~~ use permit application that is signed by the applicant and which is accompanied by a submittal fee shall be filed with the Administrator.

(B) *Process.*

(1) A pre-application meeting between the applicant and the Administrator shall be required in order to familiarize the applicant of the procedure for securing approval of a ~~conditional special~~ use permit. The Administrator shall accept no ~~conditional special~~ use permit application for review without such meeting having first occurred unless the Administrator determines that such meeting would not serve any meaningful purpose and waives the meeting requirement.

(2) Procedures for application submittal are as follows:

(a) A complete ~~conditional special special~~ use permit application that is signed by the applicant and which is accompanied by a submittal fee shall be filed with the Administrator.

(b) The application shall be accompanied by a drawing or plan, drawn to scale, that includes or is accompanied by the following:

1. Name, address and phone number of the property owner (or his agent) and the property identification number of the property;

2. A boundary survey and vicinity map, showing the property's total acreage, general location in relation to adjoining streets, railroads and/or waterways, date and north arrow. The zoning classification of the property in question and contiguous properties shall also be shown. (In lieu of the boundary and survey maps, one or more up-to-date tax maps depicting the area in question may be submitted. Any required drawing or depiction of the proposed development or use shall not appear on the tax maps but rather shall appear on the drawing or plan).

3. All existing easements, reservations and rights-of-way.

4. The name and addresses of all owners, tax parcel numbers and existing land use(s) of all contiguous properties.

5. Proposed use of all land and structures including the number of residential units proposed, if any, and total square footage of nonresidential development.

6. Number and location of all proposed structures, their approximate area and exterior dimensions, height, and proposed number of structures.

7. A description of all screening and landscaping required and/or proposed by the applicant; the delineation of any wooded, landscaped or grassed areas existing prior to development and proposed to remain on the property once the development is completed.

8. Proposed phasing, if any, and approximate completion time for the project.

9. Delineation of areas within the regulatory floodplain as shown on the official Federal Emergency Management Agency (FEMA) flood hazard boundary maps for Gaston County.

10. Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.

11. A list of any additional development conditions or standards that differ from those that would normally apply to that use. Only conditions that exceed the Town of Dallas' minimum standards can be considered and listed by the applicant.

12. The Administrator reserves the right to waive the depiction of some or all of the information contained above when, in his opinion, such information is not a requirement of this subchapter for the particular ~~conditional use~~ *special use* being requested. Notwithstanding, if either the Planning Board or Board of Alderman determines that such additional information is needed to render a recommendation or decision on the application, they may require the applicant to submit it prior to rendering a decision.

13. In lieu of showing all of the information in paragraphs above, the applicant may submit a general development plan which shows on the proposed site, by land use type, the areas to be developed for buildings and parking and shall show all points of ingress and egress onto thoroughfares and collector streets.

(c) *Additional information.* In the course of evaluating the proposed ~~conditional use~~ *special use*, the Administrator, Board of Adjustment, or Board of Alderman may request additional information from the applicant in order to assist in the review process. A request for such additional information shall stay any further consideration of the application by such agency. Such additional requested information may include (but shall not be limited to) the following:

1. Stormwater drainage plan.
2. Existing and proposed topography at five-foot contour intervals or less.
3. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.
4. Proposed number, type, and location of signs.
5. A traffic impact study of the proposed development prepared by a qualified transportation or traffic engineer or planner. Information requested to be a part of the impact study may include:
 - A. Existing traffic conditions within the study area boundary.
 - B. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak, and average annual daily traffic levels.

C. The distribution of existing and proposed trips through the street network.

D. Analyses of the capacities of intersections located within the study area boundary.

E. Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and

F. Other pertinent information, including but not limited to accidents, noise, and impacts of air quality and other natural resources.

6. Drawings of proposed building elevations.

7. An environmental impact statement that includes some or all of the following:

A. A cover sheet that provides, in summary form, a description of the proposed project;

B. A statement of purpose and need of the project;

C. For projects proposed by public entities, a list of alternatives of the proposed project;

D. A succinct description of the environment affected by the project;

E. A discussion of short and long term consequences of the project on the environment including any adverse environmental impacts which cannot be avoided; and

F. A list of means that could be employed to mitigate any negative effects on the environment caused by this project.

(d) Except as herein provided, no application shall be deemed complete unless it contains or is accompanied by all items listed in Section 5.11.2(B) and as may otherwise be required per Section 5.11.2(C) and a fee, in accordance with a fee schedule approved by the governing board for the submittal of ~~conditional-special~~ use permit applications. Said fee shall be waived for any application submitted by any official or agency acting on behalf of the Town of Dallas or the State of North Carolina.

(D) ~~Public-evidentiary~~ hearing and decision.

(1) Once an application is deemed complete, public notice must be given per § 153.024 and an ~~public-evidentiary~~ hearing shall be scheduled at the next Board of Adjustment meeting.

(2) Once the ~~public-evidentiary~~ hearing has been conducted, the Board of Adjustment shall have up to 45 days to render a decision on the ~~conditional-special~~ use permit application from the date their public hearing was concluded. Any such decision shall require the approval of at least three-fourths (¾) of the members of the Board of Adjustment present and not excluded from voting at the meeting at which the decision is made. ~~If a decision on the application is made by a vote of less than three-fourths of such Board of Adjustment membership, or if any person appeals the action~~

~~of the Board of Adjustment through written notice to the City Manager within 15 days of the Board of Adjustment's decision, the application shall be forwarded to the Board of Alderman for a new public hearing and a final decision. Any public hearing held by the Board of Alderman pertaining to a conditional special use permit application must be conducted within 60 days of the date of the appeal. The Board of Alderman may open and continue this hearing and take action at a later date. The Board of Alderman will be apprised of the Board of Adjustment's previous vote on the matter at hand.~~

(3) Any Board of Adjustment ~~and Board of Alderman public evidentiary~~ hearing relating to a ~~conditional special~~ use permit shall be held in a quasi-judicial manner. ~~Should the Town determine any board other than the Board of Adjustment be assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a board of adjustment in making quasi-judicial decisions.~~

(4) In approving an application for a ~~conditional special~~ use permit, the Board of Adjustment ~~or Board of Alderman~~ may attach fair and reasonable conditions to the approval. ~~The applicant must provide written consent to the mutually agreed upon conditions.~~ Such conditions shall be limited to those that address the conformity of the development and use of the site to Town Ordinances and any officially adopted plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

(5) 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:

- (a) Permitted uses;
- (b) Building location and orientation;
- (c) Yard dimensions;
- (d) Buffer areas;
- (e) Signs;
- (f) Parking driveways and vehicle circulation patterns;
- (g) Designated areas of common open space and for recreation;
- (h) Pedestrian circulation;
- (i) Loading areas;
- (j) Off-street parking;
- (k) Number of dwelling units;
- (l) Size of commercial structures;
- (m) Building height;
- (n) Size of dwelling units within multi-family residential developments;

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- (o) Proposed contours of land following final grading;
- (p) Proposed first floor elevations for buildings;
- (q) Plans for storm water control;
- (r) Location and intensity of lighting;
- (s) Timing of development;
- (t) Location and extent of rights-of-way and other areas to be dedicated for public use.

(6) The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Adjustment and Board of Alderman. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found in the zoning district in which the property is located. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this subchapter that pertain to that development. Such conditions shall be mutually agreeable by the town and the petitioner.

(E) *Burden of proof.*

(1) The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions that the items outlined in subsection b require. If any person submits competent, material, and substantial evidence allegedly contrary to any of the facts or conditions listed below, the burden of proof for overcoming such evidence shall rest with the applicant.

(2) Before a permit is granted, the applicant shall demonstrate and the Board of Adjustment shall find:

- (a) That the use will not materially endanger public health, or safety or general welfare if located where proposed and developed according to the plan submitted;
- (b) 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;
- (c) That public facility systems are sufficient to serve the development;
- (d) That surrounding properties will be adequately protected from potential adverse effects of the development;
- (e) That the development complies with the standards and specifications for the corresponding general zoning districts; and
- (f) That the use is consistent with the general plan of development for the area.

(F) *Approvals and appeals.*

(1) If an application for a ~~conditional-special~~ use permit is approved, the owner of the property shall have the ability to:

(a) Develop the use in accordance with the stipulations contained in the ~~conditional-special~~ use permit; or

(b) Develop any other use listed as a "permitted use" for the general zoning district in which it is located. ~~Any uses that would otherwise require the issuance of a use permit under this subchapter, may be approved as part of the establishment of a parallel conditional district, without the issuance of a conditional use permit, so long as the use(s) meets all other applicable standards of this subchapter. In these instances, the property may be used only for the development as approved for the conditional zoning district. Such approval, however, does not immediately authorize development activity, as the property owner will need to file for and secure a zoning permit, in accordance with § 153.072 in order to proceed with development. The Administrator shall ensure that any development plans submitted with such zoning permit request are consistent with the terms and conditions of the conditional special use permit approved for such property or for any other use by right allowed in the underlying zoning district.~~

(2) An appeal to a decision made by the Board of Adjustment regarding the issuance of a ~~conditional-special~~ use permit may be made to ~~through written notice to the City Manager within 30 days of the Board of Adjustment's decision, the application shall be forwarded for review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari.~~ ~~superior court the Board of Alderman if written notice is given to the Town Manager within 15 days of the Board of Adjustment's decision. The Board of Alderman shall then conduct a new public hearing and render a final decision on the matter.~~

(3) If the Board of Adjustment does not approve the ~~conditional-special~~ use permit, ~~and/or if the Board of Aldermen denies the permit, each~~ ~~the body Board~~ shall enter the reason for its action in the minutes of the meeting at which the action is taken.

(4) An appeal to the decision of the Board of Alderman shall be filed with the Clerk of Superior Court in the nature of certiorari in accordance with G.S. ~~160A-388(e)-160D-402~~ within 30 days after the Board of Alderman's decision.

(G) *Petition withdrawal.* An applicant who has submitted a complete application for a ~~conditional-special~~ use permit may withdraw the application prior to a final decision being rendered.

(1) If a petition is withdrawn once an ~~public-evidentiary~~ hearing has been advertised (via paper, mail, or on-premises sign), a similar petition submitted by that property owner (or his agent) shall not be accepted by the Administrator within 180 days of the date of withdrawal (Note: The purpose of this is to allow petitions to be withdrawn without penalty prior to the posting of any ~~public-evidentiary~~ hearing notices or submittal of such notice to the newspaper of general circulation).

(2) If said petition is otherwise withdrawn within two business days of an ~~public-evidentiary~~ hearing where a final decision may have been otherwise

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rendered, a similar petition submitted by that property owner/or his agent shall not be accepted by the Administrator within one year of the date of withdrawal.

(H) *Binding effect.* Any ~~conditional~~ special use permit herein authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Board of Adjustment ~~or Board of Alderman~~. All conditions contained in the ~~conditional~~ special use permit shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns, unless subsequently changed or amended as provided for herein. However, the Administrator may approve minor changes in the detail of the approved application. A "minor change" to the approved special ~~conditional~~ use permit shall be deemed to be a change which:

(1) Will not alter the basic relationship of the proposed development to adjacent property;

(2) Will not increase the gross floor area of any nonresidential use by the smaller of 10% or 10,000 square feet (Note: Such limitations shall be cumulative and shall be based on the gross floor area of the special ~~conditional~~ use permit as originally approved);

(3) Will not decrease the off-street parking ratio below the minimum number of parking spaces required by this subchapter or reduce the yards provided at the periphery of the site, by the lesser of ten feet or 10% of the current existing yard measurement;

(4) Will not increase the height of any structure to the extent that additional usable floor space could be added;

(5) Will not result in an increase in the number of dwelling units constructed; or

(6) Will not alter the uses permitted.

(I) No proposal to amend or change any ~~special~~ 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.

(1) Further changes to the development may be made only by the Board of Adjustment ~~or Board of Alderman~~ in accordance with this subchapter.

(2) No certificate of occupancy for a use listed as a special ~~conditional~~ use shall be issued for any building or land use on a piece of property which has received a special ~~conditional~~ use permit for such particular use unless the building is constructed or used, or the land is developed or used, in conformity with the special ~~conditional~~ use permit. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

(J) *Period of validity of special ~~conditional~~ use permit.* Unless the Board of Adjustment ~~or Board of Alderman~~ issues a ~~conditional~~ special use permit

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	<p>which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit (or certificate of occupancy) within 24 months from date of issuance of the special-special use permit (Note: The special conditional use permit shall also become null and void unless filed by the applicant with the Register of Deeds within 180 days of permit approval.) If a building permit or certificate of occupancy is not issued at the end of said time period, the special conditional use permit shall automatically expire and shall be deemed rescinded. Such rescission shall not occur if the applicant has secured the vesting of a site development plan for a period of greater than 24 months.</p> <p>(K) <i>Violations.</i> Any violation of a term or condition of a special 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-determined that any term or condition of any special conditional use permit is not being adhered to, he <u>staff</u> 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 special conditional use permit shall be issued and all completed structures shall be regarded as non-conforming uses, see § 153.045</p>
Planning Agency	
153.103 Powers and Duties, 137	<p>The Planning Board shall elect a chairman from its members and create and fill such other offices as it may determine. It shall have the power to fix the time and place for its meetings, to adopt necessary rules of procedure and to adopt all other rules and regulations not inconsistent herewith which may be necessary for the proper discharge of its duties; and it shall keep an accurate record of all its proceedings.</p> <p><u>Members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.</u></p> <p><u>All staff to the Planning Board are prohibited from being financially interested in any development decision or other person subject to that decision having close familial, business, or other associational relationship with the staff</u></p>

	<p><u>person. All staff to the planning board are prohibited from conducting work inconsistent with his or her duties pursuant to G.S. 160D-109(c).</u></p>
Board of Adjustment	
153.110 Creation; Term of Office, 138	<p>A Board of Adjustment to consist of five members is hereby established. <u>One member shall reside in the extraterritorial area and shall be appointed by the Gaston County Board of Commissioners and shall have equal rights, privileges, and duties with the other members of said Board, regardless of whether the matters at issue arise within the town or with its extraterritorial area.</u> The original appointments to said Board shall be made as follows: one member shall be appointed for a term of one year; two members shall be appointed for a term of two years; and two members shall be appointed for a term of three years,. At the termination of the terms of the members, first selected, their successors except in the case of a vacancy, shall be appointed for a term of three years.</p>
153.112 Powers and Duties, 138	<p>The Board of Adjustment shall elect a chairman from its members and create and full such other offices as it may determine. It shall have the power to fix the time and places for its meetings, to adopt necessary rules of procedure, and to adopt all other rules and regulations not inconsistent herewith which may be necessary for the proper discharge of its duties; and it shall keep an accurate record of all its proceedings.</p> <p><u>Members of the Board of Adjustment or any other board assigned decision making authority for a quasi-judicial matter shall not vote on any decision regarding where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board of Adjustment member or any other board assigned decision making authority for a quasi-judicial matter shall not vote on any matter if the landowner of the property subject to the quasi-judicial matter is a person with whom the member has a close familial, business, or other associational relationship.</u></p> <p><u>All staff to the Board of Adjustment or any other board assigned decision making authority for a quasi-judicial matter are prohibited from being financially interested in any matter or other person subject to that matter having close familial, business, or other associational relationship with the staff person. All staff to the Board of Adjustment or any other board assigned decision making authority for a quasi-judicial matter are prohibited from</u></p>

	<p><u>conducting work inconsistent with his or her duties pursuant to G.S. 160D-109(c).</u></p>
<p>153.113 Variance and Special Exceptions Special Use Permits for Non-Conforming Uses, 139</p>	<p><u>(A) Variance When practical difficulties, special conditions, or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this Ordinance relating to the construction or alteration of buildings or structures or the use of land upon a showing of all the following.</u></p> <p><u>(1) Unnecessary hardship would result from the strict application of the zoning regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.</u></p> <p><u>(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.</u></p> <p><u>(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.</u></p> <p><u>(4) The requested variance is consistent with the spirit, purpose, and intent of the zoning ordinance, such that public safety is secured and substantial justice is achieved.</u></p> <p><u>(B) Condition and Violation The Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this Ordinance provided the conditions are reasonably related to the variance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Ordinance and shall be punishable as prescribed in Section §153.999 of this Ordinance.</u></p> <p><u>C) Non-conforming uses.</u></p> <p><u>(1) A non-conforming use shall not be extended; except, however, a non-conforming use of any building may be extended to any portion or portions of said building which were at the time such use became non-conforming manifestly arranged or designed for such use.</u></p>

(2) No structural alterations shall be made in a building housing a non-conforming use, except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building.

(3) (a) The non-conforming use of any building or structure which is damaged to an extent exceeding 50% of its then reproduction value, exclusive of foundations, by fire, flood, explosion, earthquake, war, riots or Act of God, shall be discontinued, and such building or structure shall thereafter be used only in conformance with the provisions of the zone in which located.

(b) Any non-conforming use in existence five years prior to October 8, 2019 that is located within the B-3 Central Business District may continue to operate as its current non-conforming use in the event that the building or structure housing the non-conforming use is damaged, regardless of the extent, as long as a zoning and building permit as required for rehabilitation to resume operations is obtained within nine months of the damage occurrence.

(4) A non-conforming use shall not be changed to any but a conforming use. When a non-conforming use has been changed to a conforming use it shall not be changed again to any non-conforming use.

(5) No changes shall be made in the landscaping, grading of the lot, or external appearances of a non-conforming use without the grant by the Board of Adjustment of a special use permit for non-conforming use authorizing such change. The Board shall grant such a special use only upon an affirmative finding that the proposed change will have no adverse effect upon neighboring properties or upon the public and safeguards upon any such special use which it grants for the further protection of neighboring properties in the public welfare.

(B) *Non-conforming buildings or structures.* Non-conforming buildings or structures shall be allowed to remain subject to the following provisions:

(1) A non-conforming building or structure shall not be extended unless such extension shall comply with all the requirements of this chapter for the zone in which it is located.

(2) A non-conforming building or structure which is damaged to an extent exceeding 75% of its then reproduction value, exclusive of foundation by fire, flood, explosion, earthquake, war, riot or Act of God, shall not be reconstructed except in conformance with the provisions of this chapter.

(3) Non-conforming signs or billboards shall be eliminated or changed to conform with the provisions of this chapter within 18 months of the date such signs or billboards become non-conforming.

(relocated from prior section)

The Board shall conduct public evidentiary hearings to pass upon any applications for special exceptions and variances and special use permits for non-conforming uses in the zoning ordinance of the town. It shall have the power to fix a reasonable time for the evidentiary hearings and shall cause

	<p>notice of such <u>public-evidentiary</u> hearing to be published in a newspaper of general circulation in the town once a week for two successive calendar weeks, said to the date fixed for said hearing. <u>Said notice for evidentiary hearings shall also be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; all contiguous property owners affected including those separated by a street, railroad, or other transportation corridor, and owners within five hundred (500) feet; and to any other persons entitled to receive notice as provided by the local development regulation. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Notice of the hearing shall be placed on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.</u> Any party may appear in person or by agent or attorney, and the Board may make such decision and order as in its opinion ought to be made in the matter. The Board shall have power, in passing upon such application in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, to adapt the application of this chapter to the necessities of the case to the end that the spirit of this chapter shall be observed and public safety and welfare secured and substantial justice done.</p>
<p>153.123 Amendments and Changes, 142</p>	<p>A) The Board of Aldermen may from time to time on its own motion or on petition after <u>public-legislative</u> notice and hearing as provided by law, amend, supplement change, modify, or repeal the boundaries or regulations herein or subsequently established after submitting the same to the Town Planning Board for its recommendations and report.</p> <p>(B) In addition to the public notice required by law, the Town Planning Board shall cause to be erected on the property, with regard to which any petition is filed to have the provisions of this chapter amended, supplemented, changed or modified, a sign of at least one foot by two feet in size giving notice that it is attached a copy of the notice required by law to be posted or advertised, which sign shall be so maintained on said property for at least 15 days prior to the date of the required public hearing.</p> <p>(C) Every petition to have the provisions of this chapter amended, supplemented changed, or modified as to any property shall be submitted on forms prepared by the town and shall be accompanied by a payment in the amount as set forth in the current fee schedule, to be used by the city toward defraying the advertising costs and other expenses in connection with such petition.</p> <p>(D) (1) In any case where a petition for a change in zoning classification has been denied by the Board of Aldermen after a public hearing, no new petition for the same change of the same property or any part thereof shall be filed within a period of 12 months from the date of such decision by the Board of Aldermen; further, no new petition for any other change in the zoning classification of the same property or any part thereof shall be filed within a period of six months form the date of such decision by the Board of Aldermen.</p>

	<p>(2) In any case where a petition for a change in zoning classification receives an unfavorable recommendation from the Town Planning Board after a public hearing and the petition either withdraws his application or fails to prosecute it before the Board of Aldermen within a period of 60 days thereafter no new petition for any change in zoning classification of the same property or any part thereof shall be filed within a period of 90 days immediately following the withdrawal of the petition or the expiration of the time limit for prosecuting such petition before the Board of Aldermen.</p> <p><u>(E) Zoning Map amendments that would result in a third-party down-zoning are not permitted in accordance with G.S. Chapter 160D-601. However, down-zonings initiated by the Town or landowner are permissible.</u></p>
<p>153.124 Notification of <u>Public Legislative</u> Hearings, 143</p>	<p>Notification of required <u>public-legislative</u> hearing(s) shall be as follows:</p> <p>(A) A notice shall be published in a newspaper having general circulation in the Town of Dallas once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the public hearing.</p> <p>(B) A notice of the proposed zoning map change shall be sent by first class mail by the Administrator to the applicant and owners of all contiguous properties <u>affected including those separated by a street, railroad, or other transportation corridor, and owners within five hundred (500) feet as herein defined</u> as indicated on the most up-to-date records of the Gaston County Tax Department at least ten but not greater than 25 days prior to the public hearing. <u>To expand extraterritorial jurisdiction notice shall be mailed at least 30 days prior to the date of hearing. A single notice may be mailed at least (30) days prior for extraterritorial jurisdiction expansion in conjunction with zoning map amendment.</u></p> <p>(C) The Administrator shall post at least one notice on the site proposed for rezoning or an adjacent public street or highway right-of-way, <u>including those separated by a street, railroad, or other transportation corridor</u>, at least ten days prior to the scheduled <u>public-legislative</u> hearing. Where multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons. Such notice shall state the nature of the public hearing and its date, time, and location at which it is to be held. The notice shall be removed only after final action has been taken on the matter. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the proposed amendment (the zoning administrator may relocate the placement of the sign(s) where the literal application of this provision would serve no meaningful purpose).</p> <p>(D) Additional first class mail notice of any appeal made to the Board of Alderman from a decision by the Planning Board or Board of Adjustment shall be provided by the Administrator to any person who makes a written request for such notice during the Planning Board or Board of Adjustment hearing.</p>

(E) Any public hearing notice published or mailed shall state the nature of the public hearing, the date, time, and place at which the hearing is to occur, and who to call and/or see for more information.

(F) The first class mail notice required may be waived if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners. Under such circumstances, the town may elect to mail such first class notices or publish the notice of the hearing as required by G.S. ~~160A-364~~160D-601 . Such advertisement shall not be less than one-half (½) of a newspaper page in size. The newspaper advertisement shall be effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper's circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. In addition to the newspaper notice, the Town shall post one or more prominent signs on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning.

[153.999 Vested Rights Procedures](#)

§ 153.999 VESTED RIGHTS PROCEDURES.

(A) Purpose Pursuant to G.S. 160D-108 and not withstanding any other provision of this Ordinance or amendment thereto, a landowner may establish vested rights which shall entitle said landowner to develop property in accordance with the permit for which he/she is seeking approval. To apply for vested right, a landowner shall first submit to the Zoning Administrator an application for a development approval. Once the Zoning Administrator deems the application to be complete, it shall follow the Town approval process applicable for said permit.

(B) Permit Choice If an application is submitted for development review and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the applicant chooses the version of this ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the said map or text amendment prior to acting on the development permit.

(C) Completeness and Determination Applicants shall submit applications to the Zoning Administrator in accordance with the applicable published schedule of submittal dates. Until an application is determined to be complete in accordance with the provisions of this Ordinance, an application has not been submitted. On receiving a development application, the Zoning Administrator shall, within a reasonable time, determine whether the application is complete or incomplete. A complete application is one that:

(1) Contains all information and materials required by Zoning Administrator for submittal of the applicable type of application, and in sufficient detail, format, and readability for Dallas staff to evaluate the application for compliance with applicable review standards; and
Is accompanied by the fee established for the applicable type of application

(D) Application Incomplete On determining that the application is incomplete, the Zoning Administrator shall, as appropriate, provide the applicant written notice of the submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for a completeness review.

____ (1) If the applicant fails to resubmit an application within 15 calendar days after being first notified of submittal deficiencies, the application submittal shall be considered abandoned. If an applicant submits a request in writing to the Town Clerk within 15 calendar days of the application abandonment date, the application fee paid for the withdrawn application shall be refunded.

(E) Application Complete On determining that the application is complete, the Zoning Administrator shall:

____ (1) Accept the application as submitted in accordance with the procedures and standards of this Ordinance in effect at the time of the submittal; and

____ (2) Provide the applicant written notice of application submittal acceptance.

(F) Development Approval The effect of a development approval shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests, however, the Town Council may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any development approval beyond a two (2) year period may only be authorized by the Town Council where it is found that due to:

____ (1) sizing and phasing of the development; or

____ (2) level of investment; or

____ (3) need for the development; or

____ (4) economic cycles; or

____ (5) market conditions, building permits for all phases of the development cannot be secured within two years

(G) Multiphase Developments For multi-phase developments of at least 25 acres, vesting can be up to seven years for the entire development at the time a site plan approval is granted for the initial phase of the long-term development.

(H) Substantially Commencing Development A valid development approval shall not expire if work on the project

	<p><u>has substantially commenced within the initial validity period. Substantial commencement of work shall be determined by the Zoning Administrator based on any of the following:</u></p> <p>(1) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;</p> <p><u>(2) The development has installed substantial on-site infrastructure; or</u></p> <p><u>(3) The development has received and maintained a valid building permit for the construction and approval of a building foundation</u></p> <p><u>(I) Even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to G.S. 160D-108.</u></p>
<p>153.999- 154.000 Penalty, 147</p>	<p>(A) This chapter may be enforced by any means or any remedy provided for in G.S. 160A-175 and 160A-389<u>G.S. 160D-404(c)</u> otherwise expressly prohibited in this section. In addition, the Town may seek a mandatory or prohibitory injunction and an order of abatement commanding the responsible person(s) to correct the unlawful condition or cease the unlawful use of the subject premises. Penalties are cumulative, and the Town may pursue any or all of the same either individually or simultaneously at its discretion.</p>
<p>153.999- 154.000 Penalty, 150</p>	<p>(F) <i>Enforcement.</i></p> <p>(1) Whenever the Administrator has reason to believe that a person is violating any of the provisions of this chapter or any plan, order, or condition that has been approved, issued, or imposed pursuant to this chapter, the Administrator shall <u>provide a written notice by hand, email, or first-class mail to the person responsible for the violation.</u>notify that person of this violation.</p>

<p>153.999 154.000 Penalty, 150</p>	<p>(5) The Administrator may deny or withhold all permits, certificates, or other form of authorization to use or develop any land, structure, or improvement until an alleged violation and, where applicable, associated civil penalty associated with that violation are properly corrected and/or addressed. <u>A permit shall be revoked using the same development review and approval process that was required for issuance of the development approval.</u> This provision shall apply whether or not the current owner applicant for the permit or other approval is responsible for the violation.</p>
<p>Appendix C: Permitted Use Chart</p>	<p>All references to Conditional Use Permit “C” changed to Special Use Permit “S”</p>
<p>Subdivision Ordinance Amendments</p>	
<p>152.003 Authority, 1</p>	<p>This chapter is hereby adopted under the authority and provisions of G.S. Chapter 160A160D, Article 198, Part 2. (Ord. passed 1-16-2001)</p>
<p>152.004 Jurisdiction, 1</p>	<p>The regulations contained herein, as provided in G.S. Chapter 160A160D, Article 198, Part 2 shall govern each and every subdivision of land within the town and its extraterritorial jurisdiction as shown on the town’s official zoning map. (Ord. passed 1-16-2001)</p>
<p>152.050 Plat Shall be Required on Any Subdivision of Land, 11</p>	<p>Pursuant to G.S. § 160A160D-372804, a final plat shall be prepared, approved and recorded pursuant to the provisions of this chapter whenever any subdivision of land takes place, except as herein provided. (Ord. passed 1-16-2001)</p>
<p>152.051 Approval Prerequisite to Plat Recordation, 11</p>	<p>Pursuant to G.S. § 160A160D-373803, no final plat of a subdivision within the jurisdiction of the town as established in § 152.004 shall be recorded by the County Deeds office until it has been approved as provided herein. (Ord. passed 1-16-2001)</p>
<p>152.999 Penalty, 34</p>	<p>(A) (1) After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this chapter, thereafter subdivides his or her land in violation of this chapter or transfers or sells land by reference to, exhibition of or any other use of a plat showing a subdivision of land before the plat has been properly approved under the terms of this chapter and recorded in the County Deeds office, shall be found in violation of this chapter. (2) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from violation of this chapter. The town, through its attorney or other</p>

official designated by the Board of Alderman, may enjoin an illegal subdivision, or transfer or sale of land by action for injunction. Building permits required by G.S. ~~160A-417~~160D-403 may be denied for any lot that has been illegally subdivided.