

**MOORE COUNTY PLANNING BOARD  
REGULAR MEETING  
THURSDAY, JANUARY 7 2016, 6:00 PM  
MOORE COUNTY HISTORIC COURTHOUSE – 2<sup>nd</sup> Floor**

**CALL TO ORDER – 6 PM**

**INVOCATION – (Member Volunteer)**

**PLEDGE OF ALLEGIENCE – (Member Volunteer)**

**MISSION STATEMENT – (Member Volunteer)**

**I. PUBLIC COMMENT PERIOD (*Procedures are attached*)**  
**Please sign up on the Public Comment Sign In sheet near the door**

**II. APPROVAL OF CONSENT AGENDA**

All items listed below are considered routine and will be enacted by one motion. No separate discussion will be held except by a member of the Planning Board:

- A. Approval of Meeting Agenda
- B. Approval of Minutes of December 3, 2015
- C. Consideration of Abstentions

**III. PUBLIC HEARING**

1. Pinesage Solar Farm, LLC is requesting a General Use Rezoning of ParID 00018479, owned by McDonald Family Farms as identified in Moore County tax records; the overall parcel is approximately 53.06 acres. A recombination plat was recorded on December 3, 2015 to combine an approximate 26 acres located to the south of the parcel. The request is to rezone the entire 53.06 parcel from Residential & Agricultural-5 (RA-5) and Highway Commercial (B-2) to Rural Agricultural (RA). The parcel is located north of NC Highway 211.

**IV. WORK SESSION**

**V. OTHER BOARD MATTERS**

**VI. PLANNING DEPARTMENT REPORTS**

**VII. BOARD COMMENT PERIOD**

**VII. UPCOMING EVENTS**

- Tuesday, January 19, 2016 5:30 PM Board of Commissioners Meeting to be held at the Historic Courthouse in Carthage.
- Thursday, February 4, 2016 6:00 PM Planning Board Meeting to be held at the Historic Courthouse in Carthage
- Tuesday, February 2, 2016 5:30 PM Board of Commissioners Meeting to be held at the Historic Courthouse in Carthage.

**VIII ADJOURNMENT**

*Special accommodations for individuals with disabilities or impairments will be made upon request to the extent that reasonable notice is give to the County.*

*Please see attached procedures for the Public Comment Period and public comment during Public Hearing*

**PUBLIC COMMENT PROCEDURES  
MOORE COUNTY PLANNING BOARD**

*The Moore County Planning Board is committed to allowing members of the public an opportunity to offer comments and suggestions for the efficient and effective administration of government. In addition to public hearings, a special time is set aside for the purpose of receiving such comments and suggestions. All comments and suggestions addressed to the Board during the Public Comment Period shall be subject to the following procedures:*

- 1. The Public Comment period will be held at the beginning of the Board meeting. The comment period will be limited to a maximum of thirty minutes*
  
- 1. Persons who wish to address the Board during the Public Comment Period will register on a sign-up sheet available on the table outside the entrance door to the Meeting Room indicating contact information and topic. Sign-up sheets will be available beginning 30 minutes before the start of the meeting. No one will be allowed to have his/her name placed on the list by telephone request to County Staff.*
  
- 2. Each person signed up to speak will have three (3) minutes to make his/her remarks. Each person signed up to speak will only be entitled to the time allotted to each speaker and one additional time period which may be yielded to him/her by another individual who has also signed up to speak on a particular topic.*
  
- 1. Speakers will be acknowledged by the Board Chairperson in the order in which their names appear on the sign up sheet. Speakers will address the Board from the lectern at the front of the room and begin their remarks by stating their name and address.*
  
- 2. Public comment is not intended to require the Board to answer any impromptu questions. Speakers will address all comments to the Board as a whole and not one individual member. Discussions between speakers and members of the audience will not be allowed.*
  
- 3. Speakers will be courteous in their language and presentation. Matters or comments which are harmful, discriminatory or embarrassing to any citizens, official or employee of Moore County shall not be allowed. Speaker must be respectful and courteous in their remarks and must refrain from personal attacks and the use of profanity.*
  
- 4. Only one speaker will be acknowledged at a time. If the time period runs out before all persons who have signed up get to speak, those names will be carried over to the next Public Comment Period.*
  
- 5. Any applause will be held until the end of the Public Comment Period.*
  
- 6. Speakers who have prepared written remarks or supporting documents are encouraged to leave a copy of such remarks and documents with the Chairperson.*
  
- 7. Information sheets outlining the process for the public's participation in Board meetings will also be available in the rear of the Meeting Room.*
  
- 8. Action on items brought up during the Public Comment Period will be at the discretion of the Board.*

*Adopted on the 4<sup>th</sup> day of February, 2010 by a 8 to 1 vote of the Moore County Planning Board*

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**MOORE COUNTY PLANNING BOARD  
PUBLIC HEARINGS PROCEDURES**

*The Moore County Planning Board serves the public as well as the Board of Commissioners. During each public hearing a special time has been set aside for the purpose of receiving comments and suggestions. To insure that comments and suggestions are productive and not unnecessarily long, procedural rules for conducting public hearings are necessary. The following procedural rules will be utilized during public hearings of the Moore County Planning Board:*

- 1. Anyone who would like to address the Board during a public hearing should register on the appropriate sign-up sheet indicating their name and address. Sign-up sheets will be available on the table outside the entrance door to the Meeting Room 30 minutes before the start of the meeting. Information sheets outlining the process for the public's participation in Board meetings and public hearings will also be available. No one will be allowed to have his/her name placed on the list by telephone request to County Staff.*
- 2. Each speaker will be called by the Chairman to the lectern, will state their name and address clearly into the record before providing their comments.*
- 3. Speakers will address all comments to the Board as a whole and not to any one individual member. Speakers will be respectful, courteous, refrain from personal attacks and the use of profanity.*
- 4. Any applause will be held until the end of the public hearing.*
- 5. Speakers who have prepared written remarks or supporting documents are encouraged to leave a copy of such remarks and documents with the Secretary.*
- 6. Action on items brought up during the public hearing will be at the discretion of the Board.*

*Adopted on the 5<sup>th</sup> day of May, 2011 by a 9 to 0 vote of the Moore County Planning Board*

**MINUTES**  
**MOORE COUNTY PLANNING BOARD**  
**THURSDAY DECEMBER 3 2015, 6:00 PM**  
**MOORE COUNTY HISTORIC COURTHOUSE – 2<sup>nd</sup> FLOOR**

**Board Members Present:** Eli Schilling, Gene Horne, Eddie Nobles, David Lambert, Scott McLeod, Joseph Garrison

**Board Members Absent:** Rich Smith (Chair), Aaron McNeill (Vice Chairman), Buck Mims

**Staff Present:** Debra Ensminger, Planning Director  
Brenda White, Deputy County Attorney  
Theresa Thompson, Senior Planner  
Lydia Cleveland, Administrative and Transportation Program Manager

**CALL TO ORDER**

Planning Board Member Joseph Garrison called the meeting to order and turned the meeting over to the Moore County Planning Director Debra Ensminger.

Ms. Ensminger explained that the Chairman and Vice Chairman are absent for the meeting and the next move is for the Board to nominate the Planning Director Chairman Pro Tem. Board Member Garrison made a motion to appoint Debra Ensminger Planning Chairman Pro Tem. The motion was seconded by Board Member Gene Horne and the motion passed unanimously (6-0).

**INVOCATION**

Board Member Eddie Nobles offered the invocation.

**MISSION STATEMENT**

Board Member Horne read the Moore County Mission Statement.

**PUBLIC COMMENT PERIOD**

There was no public comment.

**APPROVAL OF THE CONSENT AGENDA**

- A. Approval of Meeting Agenda
- B. Approval of Minutes of November 5, 2015
- C. Consideration of Abstentions

Board Member Horne motioned to approve the Consent Agenda and the motion was seconded by Board Member Garrison. The motion passed unanimously (6-0).

## **PUBLIC HEARING(S)**

Prior to opening the public hearings Debra Ensminger explained the Planning Department has received many inquiries about the intent of the rezoning hearings tonight, however the intent is not what the Board is voting on and cannot be considered.

Debra Ensminger opened and described Public Hearing #1 as follows;

**Pine Valley Solar Farm, LLC is requesting a General Use Rezoning of a portion of ParID 00022606, owned by McDonald Family Farms as identified in Moore County tax records; the overall parcel is approximately 89.44 acres. The request is to rezone approximately 65 acres located south of the Norfolk Southern - Aberdeen Carolina and Western Railroad Right-of-Way and outside of the existing RA-CUD area from Residential and Agricultural-40 (RA-40) to Rural Agricultural (RA). The parcel is located south of NC Highway 211.**

Senior Planner Theresa Thompson stated the following as part of her presentation. “The request is to rezone approximately 65 acres of the property. The portion of the property located north of the railroad right of way will remain highway business or B2. Adjacent zoning districts include a mixture of residential, residential agriculture, and highway. The request is to rezone RA-40 to RA, differences in the two rezoning districts include in the RA-40 district the minimum lot size is 40,000 square feet where as the RA zoning district has a minimum lot size of one acre which is 43,560 square feet. There are a few additional uses that are allowed through the conditional use permit process which would require additional board approval and is a quasi judicial process as indicated in the table of uses. If rezoned to RA the applicant can apply for administrative approval of any use that is permitted by right which is indicated by “P” in that zoning district and can apply for a conditional use permit for any use which is indicated by “C”. Staff recommends that the Board make two separate motions. The first is to adopt the Moore County Land Use Plan Consistency Statement and the second is to endorse to the Board of Commissioners to approve or deny this request.”

Ms. Ensminger asked the Board if they had any questions before the applicant provides his presentation.

Mr. Brian Quinlan stated that he worked closely with the county on this rezoning and stated the site has the right characteristics to make it applicable to RA. He further explained the community was reviewed and found to be applicable as well. Mr. Quinlan further stated there are few characteristics he wanted to point out, first there isn't good public access. The only access is from 211 and it is very limited, adjacent wetlands should stay undisturbed, and finally there is a substation currently nearby that would make the property difficult for other uses. Mr. Quinlan concluded his presentation by explaining that letters were sent out to the community and there was good community support.

Board Member Scott McLeod asked if the right angle in the aerial photos is power lines. Mr. Quinlan confirmed these are two sets of power lines.

Board Member Garrison asked if the adjacent property is Pinewild and Mr. Quinlan stated that it is Pine Valley and the Pine Valley Homeowners Association was represented at the meeting.

Board Member David Lambert asked how many people attended the meeting and Mr. Quinlan explained about 4 people out of the 14 letters sent showed up for the meeting.

Ms. Ensminger called on individuals who wished to speak for or against the proposed request.

Mr. Tony Hill expressed his concern that the turnout at the community meeting was not good and the community is still in a cloud of what is going to happen because of the clear cutting that happened years ago. Mr. Hill asked the Board what they are going to do to maintain the integrity of the properties in the area.

Ms. Ensminger stated that the Planning Department and the Board protects all uses in the unincorporated areas of Moore County and asked if he is referring to the mining. Mr. Hill stated no because you cannot see the mining but the solar farm will be right out his door. Mr. Hill stated his hands are tied and the community cannot do anything.

Board Member Scott McLeod stated that the Community does have rights but the Board must consider all uses of the requested zoning district.

Board Member Eli Schilling made a motion to adopt the attached Moore County Planning Board Consistency Statement and authorize its Chairman to execute the document as required by North Carolina General Statute 153A-341. The motion was seconded by Board Member Horne and the motion passed unanimously 6-0.

Board Member Schilling made a motion to endorse the Moore County Board of Commissioners to approve the general use rezoning of the parcel known as ParID 00022606 as identified in Moore County tax records from Residential and Agricultural-40 (RA-40) to the Rural Agricultural District (RA) as proposed. The motion was seconded by Board Member Horne and the motion passed 5-1. (*Dissenting Vote – Board Member Garrison*)

Ms. Ensminger closed public hearing #1

Debra Ensminger opened and described Public Hearing #2 as follows;

**Doubs Chapel Solar, LLC is requesting a General Use Rezoning of a portion of ParID 00019441, owned by “Darlene Peterson & Others” as identified in Moore County tax records; the overall parcel is approximately 102.68 acres. The request is to rezone approximately 23 acres located in the northeast corner of the parcel from Residential &**

**Agricultural-40 (RA-40) to Rural Agricultural (RA). The parcel is located south of Doubs Chapel Road**

Senior Planner Theresa Thompson stated the following as part of her presentation. “The request is to rezone approximately 23 acres of the property, adjacent zoning districts include RA-40 and RA. Adjacent uses include single family homes and undeveloped land. The property has access to Doubs Chapel Road through an easement that the applicant is currently working on obtaining. The site has access to county water. The request is rezone from RA-40 to RA. This is similar to the first rezoning and the differences include RA-40 is 40,000 square feet minimum lot size whereas RA is 43,560. RA allows additional uses through the conditional use permit process which requires additional board approval through the quasi judicial process. Staff recommends that the Board make two separate motions. The first is to adopt the Moore County Land Use Plan Consistency Statement and the second is to endorse to the Board of Commissioners to approve or deny this request.”

Ms. Ensminger asked the Board if they had any questions for Theresa before the applicant provides their presentation.

Mr. Cullen Morris representing Doubs Chapel Solar thanked the staff for their report and the Board for considering this matter. Mr. Morris stated that we are here to talk about the rezoning and Doubs Chapel does ultimately intend to build a solar farm on this property and that a subsequent decision will be held. Mr. Morris stated for the Board and individuals present that he is present to answer any questions.

Board Member Schilling asked Mr. Morris if he will be applying for an easement for access to Doubs Chapel. Mr. Morris confirmed that the Petersons and their family are interested in selling the proposed parcel and that there is a small parcel that has road frontage where we are asking to create an easement. Board Member Schilling asked for confirmation if the individuals selling are the same as the property owner’s of the easement. Mr. Morris confirmed that this is correct.

Ms. Ensminger called on individuals who wished to speak for or against the proposed request.

Mr. Paul Chavez stated he is bothered by the location of the recent solar farms and that the Board members do not have any questions. Mr. Chavez stated that the lack of questions show him discussion was held before the meeting.

Board Member McLeod stated that there has been no discussion before tonight and we are not recommending anything in regards to a solar farm.

Mr. Chavez considered this the first step to a solar farm. Board Member McLeod stated he takes public comment very seriously and would like him to return for the conditional use permit process. Mr. Chavez concluded that he does not want this in his backyard.

Ms. Marie Crowder of 151 Lisa Lane stated she lives directly behind the rezoning request. Ms. Crowder explained that most of the area is rural residential and majority are on well water with some on county water. Ms. Crowder's additional concerns are of any type of business being introduced in this rural area because she would like it to remain the same as well as the notification process.

Board Member McLeod asked Ms. Ensminger to remind him of the notification requirements. Ms. Ensminger replied that general statutes require the Planning Department to notify all adjacent property owners by certified letter and the property is posted.

Ms. Ensminger stated that no one else has signed up but asked for others that wished to speak.

Ms. Sarah Fisher Hughes of 101 Fisher Lane stated that she was one of the people that did not know about this until they received a flyer. Ms. Fisher Hughes was curious if any research has been done in regards to the solar farm in Chatham County off White Cross Road. Including issues they may have had because it is similar to this request.

Board Member McLeod stated that any research like that would be superficial at this point because the Board is not considering a solar farm. Ms. Fisher Hughes explained she was bringing it to attention and asked if it is only going to be used for solar farm or do we know that yet as well as how long does a permit last. Ms. Ensminger explained the building permit process and Ms. Fisher Hughes stated she understood this but wanted to know how long the lease would be allowed. Board Member McLeod stated that this would be an agreement between the company and the land owner. Finally Ms. Fisher Hughes asked if any of the maps and applications would be able available to everyone to review. Ms. Ensminger explained yes and they would be available online.

Ms. Terri Curry of 115 Lisa Lane stated that the area has small kids and elderly and did not think it was fare for this area to suffer. Mr. Scott McLeod stated that the rezoning was only being considered tonight not the solar farm. Ms. Curry stated that this is wrong because it will poison the water. Board Member Schilling explained to Ms. Curry that any of her concerns may be addressed by the applicant after the hearing.

Board Member Lambert asked for clarification between the zoning districts that are being considered and stated he noticed many are the same with a small few exceptions including horse farms, produce farms, pottery shops, and family care centers which now be allowed with the new zoning. Ms. Thompson confirmed Mr. Lambert's statement and stated that most of the county is zoned RA.

Ms. Josephine Roland of 105 Lisa Lane stated that the proposed parcel is between and in the back of her home and that whoever wants to rezone the property is not considering the public because of the research she has done.

Board Member McLeod encouraged Ms. Roland to bring her research to the future meeting and stated that he feels a lot of people have an incorrect impression of what is happening. The Board takes public comment seriously and at the future dates of the conditional use permits opinions will be heard. Mr. Chavez who spoke during public hearing #1 stood and discussed his concerns further with the Board. Board Member Garrison reiterated that all concerns will be heard at a future meeting but right now we are only considering the rezoning.

Deputy County Attorney Brenda White stated that the public comment period is not for an open debate. It is just time for comments to be made and heard by the Board.

Mr. Rich Moretz of 400 Virginia Avenue, Carolina Beach spoke on behalf of the applicant. Mr. Moretz stated he wanted to make two comments, the first that he is open to a community meeting after the meeting or just with the neighborhood and the request is for a less intensive use.

Board Member Lambert made a motion to adopt the attached Moore County Planning Board Consistency Statement and authorize its Chairman to execute the document as required by North Carolina General Statute 153A-341. The motion was seconded by Board Member Garrison and the motion passed unanimously 6-0.

Board Member Lambert made a motion to endorse the Moore County Board of Commissioners to approve the general use rezoning of the parcel known as ParID# 00019441 as identified in Moore County tax records from Residential and Agricultural-40 (RA-40) to the Rural Agricultural District (RA) as proposed. The motion was seconded by Board Member Schilling and the motion passed 5-1. (*Dissenting Vote – Board Member Garrison*)

Ms. Ensminger closed public hearing #2

Debra Ensminger opened and described Public Hearing #3 as follows;

**Bob Koontz is requesting a General Use Rezoning of a portion of ParID 00031790, owned by Valerie Brown Trustee as identified in Moore County tax records; the overall parcel is approximately 108 acres. A recombination plat was approved in November 12, 2014 to combine an approximate 10 acres located to the south of the parcel. The request is to rezone the entire parcel from Residential and Agricultural-40 (RA-40) to Residential and Agricultural-20 (RA-20). The parcel is located south of Airport Road.**

Senior Planner Theresa Thompson stated the following as part of her presentation. “This request is to rezone the entire 108 acres of the property. The property has direct access to Airport Road and Camp Easter Road. Adjacent zoning districts include RA-40 and Southern Pines Rural Residential zoning district as illustrated on the vicinity map. Adjacent uses include single family homes, agricultural and undeveloped land. The property has access to county water and sewer. The request is to rezone the property from RA-40 to RA-20. The only main difference between the two zoning districts is RA-40 minimum lot size is 40,000 square feet and RA-20 allows for 20,000 square feet. The

table of uses is essentially the same for both districts the only difference is family child care is a permitted use in RA-40 and a conditional use in the RA-20 zoning district. Staff recommends that the Board make two separate motions. The first is to adopt the Moore County Land Use Plan Consistency Statement and the second is to endorse to the Board of Commissioners to approve or deny this request”

Ms. Ensminger asked the Board if they had any questions for Theresa before the applicant provides their presentation.

Board Member Schilling asked if the rezoning is for a portion or the entire property because the report has it written as both. Ms. Thompson explained one is a typo and it should be the entire.

Bob Kootz stated he is representing the land owner Camp Easter Management, LLC. Mr. Kootz explained that they are requesting this rezoning with the intent to place a new elementary school on the site and to add a residential subdivision. Mr. Kootz continued with the following “The aerial photograph as Theresa mentioned on the south side of the property is Camp Easter Road and the north side is Airport Road. There is direct connection throughout the property and they envision a connector road that will connect Camp Easter and Airport Road to help with traffic dispersion and this will be discussed in the conditional use process. The intent and the densities of Whispering Pines are consistent with the surrounding area and the Moore County Land Use Plan. If we reach the conditional use permit stage there will be extensive reports completed as part of the process.”

Board Member McLeod asked Mr. Kootz if the chicken houses are still there and Mr. Kootz replied that they are still on the property on the map. Board Member McLeod asked if it was a good idea to build a school next to a chicken farm. Mr. Kootz explained that it is envisioned the school will be on the southern portion of the site and the chicken houses are older and the applicant is not sure what is happening with them. Mr. Kootz stated he believes there have been some discussions between the applicant and property owners.

Board Member Schilling asked if he was building the school and Mr. Kootz replied no this is a potential site for Moore County Schools.

Board Member Lambert confirmed this is a rezoning request and we are not concerned about the intent and Board Member McLeod confirmed yes but it is a more dense consideration.

Board Member Schilling asked what is the zoning of the surrounding properties.

Ms. Ensminger stated RA-40.

Board Member McLeod asked if the adjoining properties are RA-40 and Ms. Thompson stated all adjoining is RA-40. Ms. Thompson further explained the following in regards

to zoning; “The RA-40 allows for single family subdivisions like RA-20. So there are two types of subdivisions, Conventional and Neighborhood Conservation. The minimum lot size is variable between RA-40 and RA-20. It doesn’t necessarily mean if it’s RA-40 you can’t go less than RA-40 just for clarification, if you go the Conservation route it just need s a minimum percent to open space. The Land Use Plan Consistency Statements included for you include the proximity to adjacent areas that provide maximum accessibility between living, working, and shopping areas. Encourage the development of mixed land use development where applicable to easy access, reduce travel time, and improve convenience among uses, surrounding counties, and existing towns and villages. So Staff looked at the proximity to Whispering Pines and taking into account the RA-20 deduction it still met the Land Use Plan Consistency.”

Board Member McLeod asked if the land to the west is currently owned by the applicant and Mr. Kootz stated no.

Ms. Ensminger asked for anymore questions.

Ms. Pam Ring of 900 Airport Road stated that she is the current owner of poultry houses and that they are still in use. Ms. Ring stated her concern of the nuisance the poultry houses may bring for the intended use and the potential lawsuits that may be brought against her business.

Ms. Ensminger asked if the farm is within the Voluntary Agriculture District and Ms. Ring was not certain. Ms. Ensminger explained that if it is within this district it is protected.

Board Member McLeod asked Ms. Ring if they plan to expand and she stated no. They may replace the burned existing poultry house.

Mr. Louis Ring stated he is the owner of the property as well and opposed the rezoning because it is the first step of a done deal.

Mr. Kootz explained that the RA-20 has been requested because the amount of infrastructure required for a school can only be obtained through this zoning type.

Board Member Lambert explained that he has a family member on the School Board and even though he has no legal interest he would like to sustain from the vote.

Board Member Schilling made a motion to allow Board Member Lambert to sustain from the vote. The Motion was seconded by Board Member Garrison; the motion passed unanimously 5-0.

Board Member Garrison made a motion to adopt the attached Moore County Planning Board Consistency Statement and authorize its Chairman to execute the document as required by North Carolina General Statute 153A-341. The motion was seconded by

Board member Horne, and the motion passed unanimously 5-0. (*Board Member Lambert Sustaining*)

Board Member Garrison made a motion to endorse the Moore County Board of Commissioners to approve the general use rezoning of the parcel known as ParID 00031790 as identified in Moore County tax records from Residential and Agricultural-40 (RA-40) to the Rural Residential and Agricultural-20 (RA-20) as proposed. The motion was seconded by Board Member Horne; the motion was denied 2-3 (*Dissenting Votes – Board Members Nobles, McLeod, and Schilling.*)

### **OTHER BOARD MATTERS**

Board Member Schilling resigned from the Board due to new employment in another county.

### **PLANNING DEPARTMENT REPORTS**

Ms. Ensminger wished the Board a Merry Christmas and thanked them for what they do.

### **BOARD COMMENT PERIOD**

There was no discussion.

### **ADJOURNMENT**

Board Member Garrison made a motion to adjourn, the motion was seconded by Board Member Schilling, and the motion passed unanimously 6-0.

Respectfully submitted by,

Lydia Cleveland

**MEMORANDUM TO THE PLANNING BOARD**

**FROM:** Debra Ensminger  
Planning & Transportation Director

**DATE:** December 6, 2015

**SUBJECT:** General Use Rezoning Request: Residential & Agricultural-5 (RA-5) and Highway Commercial (B-2) to Rural Agricultural (RA)

**PRESENTER:** Theresa Thompson

**REQUEST**

Pinesage Solar Farm, LLC is requesting a General Use Rezoning of ParID 00018479, owned by McDonald Family Farms as identified in Moore County tax records; the overall parcel is approximately 53.06 acres. A recombination plat was recorded on December 3, 2015 to combine an approximate 26 acres located to the south of the parcel. The request is to rezone the entire 53.06 parcel from Residential & Agricultural-5 (RA-5) and Highway Commercial (B-2) to Rural Agricultural (RA). The parcel is located north of NC Highway 211. This case was properly advertised, a public hearing sign was posted on the property, and all adjacent property owners were notified.

**EXISTING ZONING AND SURROUNDING LAND USE**

- The proposed rezoning area is currently undeveloped. The property was formerly utilized by NCDOT as a temporary construction site and borrow pit for the NC Hwy 211 widening project. The applicant is in the process of securing a 50' access easement to NC Hwy 211 as illustrated on the attached recombination plat.
- There are twenty-one (21) adjacent properties. Adjacent properties comprise of a mixture of zoning districts including RA-5, B-2, and PUD-Hamlet. Adjacent land uses include single family homes, family cemetery, and undeveloped property.

**WATER AND SEWER**

- County Water is located on NC Hwy 211.
- The nearest gravity sewer is located at Westgate Drive approximately 4 miles from the site so an extension would be required to serve the lots with sewer.

**OVERLAY DISTRICTS**

- Watershed – The property is located in WS-III-BW Nick's Creek Watershed.
- Wetlands – Per the applicant's wetland delineation report there are wetlands located on the property.

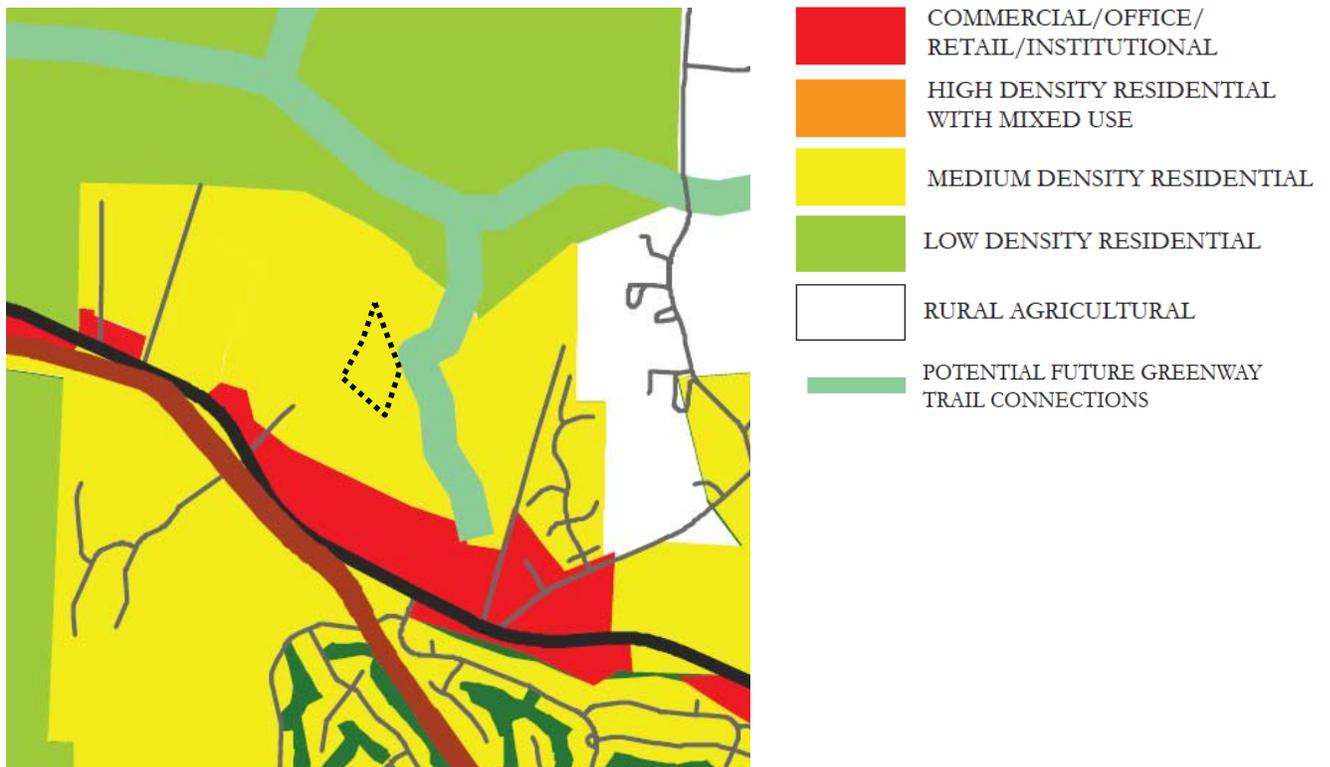
**ZONING DISTRICT COMPATIBILITY**

The requested zoning to RA will place generally compatible uses within the area and neighboring zoning districts. The following is a summary list of general uses. For specific permitted uses refer to the Permitted Use Table, which is attached.

GENERAL USE CATEGORIES	<u>EXISTING</u> RA-5	<u>EXISTING</u> B-2	<u>REQUESTED</u> RA
Agricultural	<b>X</b>	<b>X</b>	<b>X</b>
Recreational	<b>X</b>	<b>X</b>	<b>X</b>
Single Family	<b>X</b>		<b>X</b>
Multi-Family			
Retail		<b>X</b>	
Commercial Services		<b>X</b>	
Institutional	<b>X</b>	<b>X</b>	<b>X</b>
Industrial			

**CONSISTENCY WITH THE ADOPTED 2013 LAND USE PLAN**

The requested zoning to RA is generally compatible with the Medium Density Residential Land Use Classification. The MDR LUC encourages a mixture of housing types and may also include certain non-residential neighborhood supportive uses such as schools, daycares, churches, and others. The intent of the RA Zoning District is to reflect the pattern of development in rural Moore County by preserving and protecting current uses and way of life while also protect property rights. A Planning Board Consistency Statement is included for the Board’s review and consideration.



## **RECOMMENDATION**

Staff recommends the Moore County Planning Board make two separate motions:

**Motion #1:** Make a motion to adopt the attached Moore County Planning Board Consistency Statement and authorize its Chairman to execute the document as required by North Carolina General Statute 153A-341.

**Motion #2:** Make a motion to endorse the Moore County Board of Commissioners to approve/deny the general use rezoning of the parcel known as ParID 00018479 as identified in Moore County tax records from Residential & Agricultural-5 (RA-5) and Highway Commercial (B-2) to Rural Agricultural (RA) as proposed.

## **ATTACHMENTS**

- Land Use Map and Pictures of Property
- Rezoning Application
- Submitted Boundary Map
- Rezoning Map
- UDO Article 7. Table of Uses
- Planning Board Consistency Statement

**LAND USE MAP**



**Forward-facing view of property and surrounding area from NC Hwy 211**



**Eastern view of property from First Baptist Church of Pinehurst back parking lot**



**Eastern view of property from NC Hwy 211 near Glasgow Drive entrance**



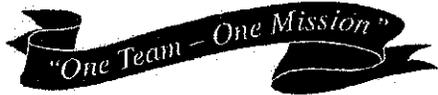
**Western view of property from NC Hwy 211 near Pine Valley Lane entrance**



app # 12694

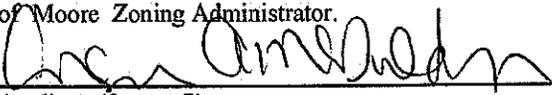
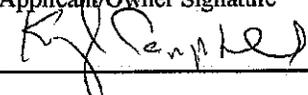
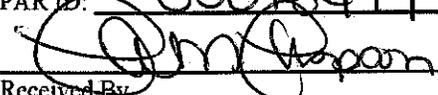


# PLANNING & COMMUNITY DEVELOPMENT



P.O. Box 905  
1048 Carriage Oaks Drive  
Carthage, NC 28327  
Planning: 910.947.5010  
Central Permitting: 910.947.2221  
Fax: 910.947.1303  
www.moorecountync.gov

## General Use Rezoning Application

Application Date: 11/05/2015			
Location/Address of Property: 7353 NC Highway 211, West End, NC 27376			
Applicant: Pinesage Solar Farm, LLC		Phone: 407.915.5436	
Applicant Address: 4150 St. Johns Parkway Suite 1000		City: Sanford	St: FL Zip: 32771
Owner: McDonald Family Farms, LLC		Phone: 910.695.6652	
Owner Address: 3286 NC 73 Hwy PO Box 349		City: West End	St: NC Zip: 27376-0349
Current Zoning District: RA-5/B-2		Proposed Zoning District: RA	
Comments: Pinesage Solar Farm, LLC is requesting to recombine parcel 0018479 and a portion of parcel 00022595. We are proposing the zoning to be changed from the current zoning identification to RA which allows use for a solar farm. The use and or development will be in harmony with the area in which it is located and will be in general conformity with the plan of development in the County. Please see attached map.			
<b>Application Submittal</b> The applicant must submit a complete application packet on or before the submittal deadline. This includes: <input type="checkbox"/> Completed Moore County General Use Rezoning Application. <input type="checkbox"/> Application Fee (\$300). <input type="checkbox"/> Postage sufficient to notify all adjacent landowners FOR TWO MAILINGS. (One for Planning Board meeting, and one for Board of Commissioners meeting.) The rate for postage FOR EACH CERTIFIED MAIL LETTER is \$6.49. This includes \$3.30 (certified mail) plus \$2.70 (return receipt) plus \$0.49 (first class stamp).			
I (We), the undersigned, certify that all statements furnished in this application are true to the best of my (our) knowledge, and do hereby agree to follow all reasonable requests for information as designated by the County of Moore Zoning Administrator.			
 Applicant/Owner Signature		11-5-15 Date	
 Applicant/Owner Signature		11-5-15 Date	
Office Use Only:			
PAR ID: 00018479			
 Received By		12/2/15 Date	

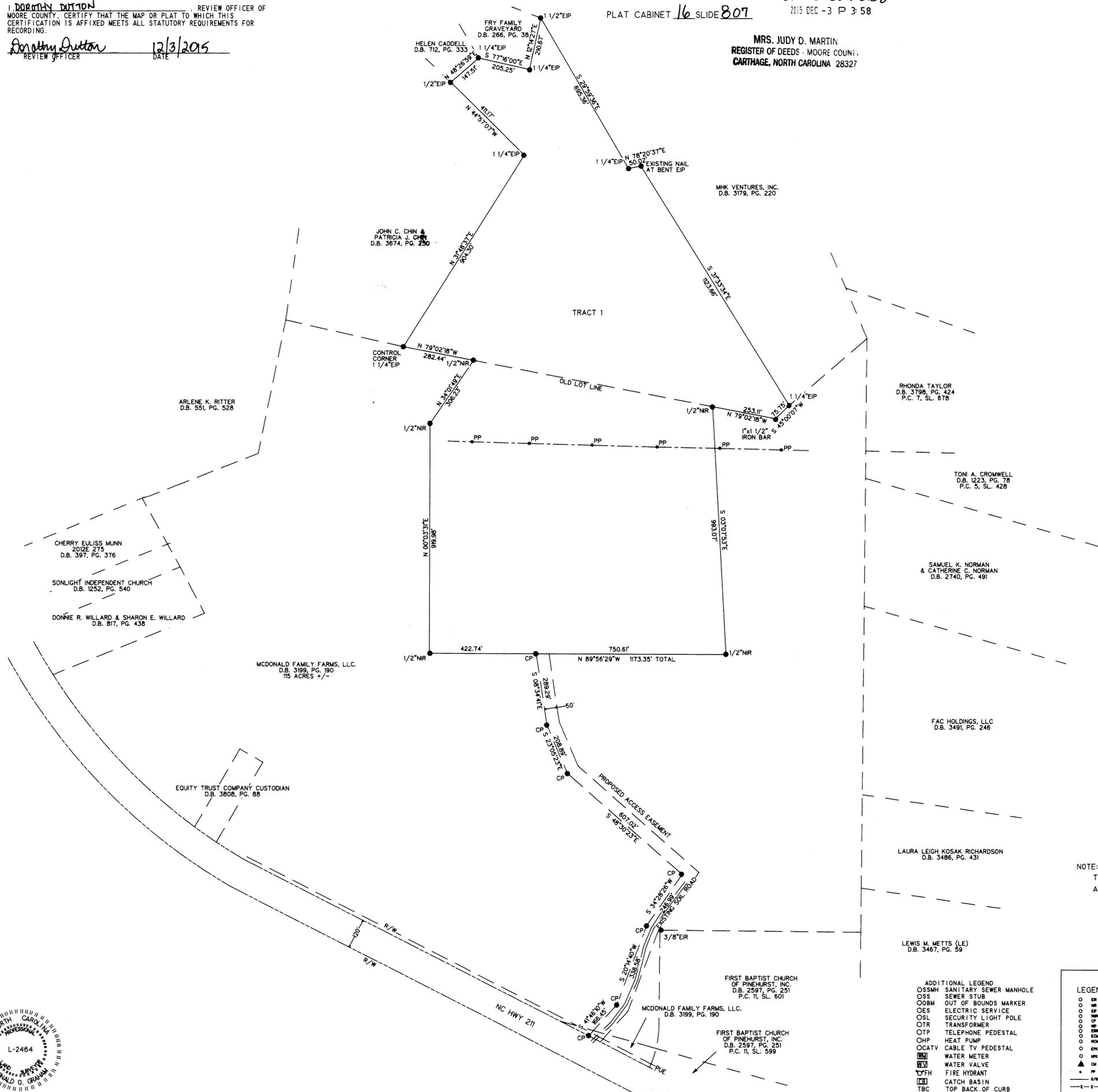
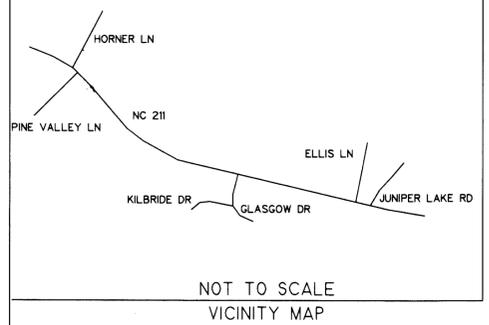
STATE OF NORTH CAROLINA  
 COUNTY OF MOORE  
 I, DOROTHY DUTTON, REVIEW OFFICER OF  
 MOORE COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS  
 CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR  
 RECORDING.  
Dorothy Dutton 12/3/2015  
 REVIEW OFFICER DATE

2015 DEC 3 P 3:58  
 2015 DEC -3 P 3:58

PLAT CABINET 16 SLIDE 807

MRS. JUDY D. MARTIN  
 REGISTER OF DEEDS - MOORE COUNTY  
 CARTHAGE, NORTH CAROLINA 28327

RECOMBINATION SURVEY OF  
**MCDONALD FAMILY FARMS, LLC**  
 MINERAL SPRINGS TWP., MOORE CO., N.C.  
 OWNER: MCDONALD FAMILY FARMS, LLC  
 DEED REFERENCE: D.B. 3199, PG. 190  
 TAX PIN NUMBER: 00018479  
 PARCEL ID NUMBER: 8543-01-46-9914  
 OWNER: MCDONALD FAMILY FARMS, LLC  
 DEED REFERENCE: D.B. 3199, PG. 190  
 MAP REFERENCE: PLAT CABINET 5, SLIDE 221  
 TAX PIN NUMBER: 00022595  
 PARCEL ID NUMBER: 8543-00-44-9830  
 TAX PIN NUMBER: 8543-00-53-3258  
 PARCEL ID NUMBER: 20040303



PUBLIC WATER SUPPLY WATERSHED PROTECTION CERTIFICATE  
 I CERTIFY THAT THE PLAT SHOWN HEREON COMPLIES WITH THE MOORE COUNTY WATERSHED PROTECTION ORDINANCE AND IS APPROVED BY MYSELF AS AGENT FOR THE WATERSHED REVIEW BOARD FOR RECORDING IN THE MOORE COUNTY REGISTER OF DEEDS OFFICE.  
 12/3/2015 Dorothy Dutton  
 DATE SUBDIVISION ADMINISTRATOR  
 NOTICE: THIS PROPERTY IS LOCATED WITHIN A PUBLIC WATER SUPPLY WATERSHED - DEVELOPMENT RESTRICTIONS MAY APPLY.  
 CERTIFICATE OF EXEMPTION  
 I HEREBY CERTIFY THAT THE DIVISION OF PROPERTY SHOWN AND DESCRIBED HEREON IS EXEMPT FROM THE MOORE COUNTY SUBDIVISION ORDINANCE BY DEFINITION AND/OR ORDINANCE.  
Dorothy Dutton 12/3/2015  
 SUBDIVISION ADMINISTRATOR DATE  
 APPROVAL OF THIS EXEMPT SUBDIVISION PLAT CONSTITUTES COMPLIANCE WITH NORTH CAROLINA GENERAL STATUTE 153A-335 ONLY. FURTHER DEVELOPMENT OF THE PARCELS SHOWN SUBSEQUENT TO THE DATE OF THIS PLAT SHALL BE SUBJECT TO ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, STATUTES, ORDINANCES AND/OR CODES.

I HEREBY CERTIFY THAT THIS PLAT IS OF THE FOLLOWING TYPE:  
 THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.  
Ronald O. Graham  
 PROFESSIONAL LAND SURVEYOR  
 CERTIFICATE OF SURVEY AND ACCURACY  
 I, RONALD O. GRAHAM, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION. DEED DESCRIPTIONS ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN BOOKS REFERENCED; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:30,000; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE REGISTRATION NUMBER AND SEAL THIS 29th DAY OF DECEMBER, 2015.  
Ronald O. Graham  
 SURVEYOR  
 REGISTRATION NUMBER L-2464



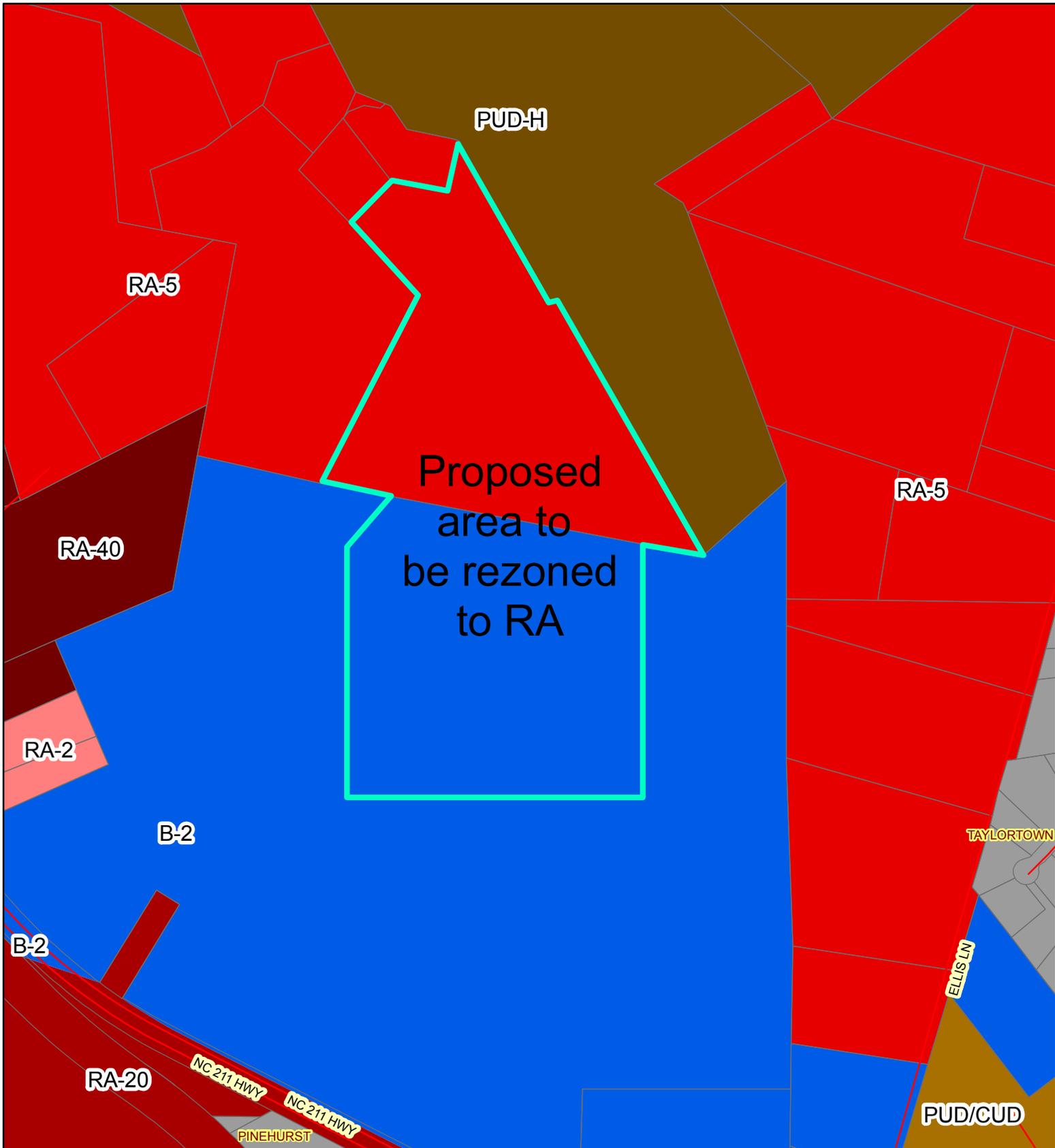
NOTE:  
 TRACT 1 CONTAINS 53.06 ACRES  
 AREA BY COORDINATE METHOD

- ADDITIONAL LEGEND
- OSSM SANITARY SEWER MANHOLE
  - OSS SEWER STUB
  - OOBM OUT OF BOUNDS MARKER
  - OES ELECTRIC SERVICE
  - OSL SECURITY LIGHT POLE
  - OTR TRANSFORMER
  - OTP TELEPHONE PEDESTAL
  - OHP HEAT PUMP
  - OCAV CABLE TV PEDESTAL
  - WM WATER METER
  - WV WATER VALVE
  - FFH FIRE HYDRANT
  - CB CATCH BASIN
  - TBC TOP BACK OF CURB
  - TOC TOE OF CURB
  - FOM FIBER OPTICS MARKER

LEGEND		DATE
○	EXISTING IRON NAIL	11/16/15-11/23/15
○	NEW IRON NAIL	FILE NO.
○	EXISTING IRON PIPE	9315
○	NEW IRON PIPE	SCALE
○	CALCULATED POINT	1" = 200'
○	NEW IRON PIPE	PROJECT NO.
○	EXISTING RAILROAD SPIKE	9315
○	EXISTING CONCRETE MARKING	
○	NEW CONCRETE MARKING	
○	EXISTING PA. NAIL	
○	NEW PA. NAIL	
▲	CONTROL MARKING	
+	POWER POLE	
—	RIGHT-OF-WAY	
—	ELECTRIC LINE	
—	PRIORITY LINE	
—	CENTERLINE	
—	MINERAL BUILDING SETBACKS	

SURVEY FOR:  
**PINESAGE SOLAR FARM, LLC**  
 4150 ST. JOHNS PKWY. STE 1000  
 SANFORD, FL 32771

LICENSE# C-0359  
**CENTRAL CAROLINA SURVEYORS, P.A.**  
 5916 HIGHWAY 211  
 P.O. Box 481  
 West End, North Carolina 27976  
 Phone# 910-673-0151  
 © 2015 CENTRAL CAROLINA SURVEYORS, P.A. ALL RIGHTS RESERVED



1 inch = 500 feet



Vicinity Map  
 Owner: McDonald Family Farms, LLC  
 General Use Rezoning  
 (App. 53.06 Acres)

ParID 00018479

Legend

	B-1		PUD/CUD		RA-40
	B-1-CUD		PUD-H		R-MH
	B-2		RA		RA-CUD
	GC-SL		RA-2		RA-USB
	GC-WL		RA-2-CUD		RE
	I		RA-5		VB
	P-C		RA-20		VB-CUD

Moore County GIS Disclaimer:  
 All the information contained on this media is prepared for the inventory of real property found within Moore County. All data is compiled from recorded deeds, plats, and other public records and data. Users of this data are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information. All information contained herein was created for the County's internal use. MOORE COUNTY, ITS OFFICIALS, AGENTS AND EMPLOYEES MAKE NO WARRANTY AS TO THE CORRECTNESS OR ACCURACY OF THE INFORMATION SET FORTH ON THIS MEDIA WHETHER EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE. Any reuse of this data is strictly prohibited in accordance with North Carolina General Statutes 132-10.  
 Grid is based on North Carolina State Plane Coordinate System NAD83 (ft).

# ARTICLE 7

## TABLE OF USES

### SECTION 7.1 PERMITTED LAND USES

#### 7.1.1 Use Table

The use table is subject to the explanation as set forth below.

- 7.1.101 A “P” indicates that a use is permitted in the respective district subject to the specific use standards in **Article 9** (Specific Use Standards) of this Ordinance. Such uses are also subject to all other applicable requirements of this UDO.
- 7.1.102 A “C” indicates a use that may be permitted in the respective general use district only where approved by the Planning Board in accordance with **§3.9.6** (Conditional Use Permits). Conditional uses are subject to all other applicable requirements of this UDO, including the specific use standards contained in **Article 9** (Specific Use Standards).
- 7.1.103 The “Use Standard” column on the table is a cross-reference to any specific use standard listed in **Article 9** (Specific Use Requirements) of this Ordinance. Where no cross-reference is shown, no additional use standard shall apply.
- 7.1.104 A blank cell in the use table indicates that a use is not permitted in the respective district.

#### 7.1.2 Table of Uses

- 7.1.201 The following table lists the principal uses permitted by this UDO for general use districts.
- 7.1.202 For parallel conditional use districts, see **§6.1.2** (Parallel Conditional Use Districts); for conditional zoning districts, see **§6.1.3** (Conditional Zoning Districts).

Accessory Uses	Residential Districts							Rural/Ag Districts			Commercial & Industrial Districts				Use Standards	
	RA-20	RA-40	RA-2	RA-5	GCSL	GCWL	R-MH	RE	RA-USB	RA	P-C	VB	B-1	B-2		I
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Home Occupation, Standard	P	P	P	P	P	P	P	P		P						§9.2.1
Intensive Home Business			C	C				C		C						§9.2.2
Residential Solar Collectors	P	P	P	P	P	P	P	P	P	P						§9.2.3
Swimming Pools	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	§9.2.4
Residential Uses	RA-20	RA-40	RA-2	RA-5	GCSL	GCWL	R-MH	RE	RA-USB	RA	P-C	VB	B-1	B-2	I	Use Standards
Accessory Dwelling Unit	P	P	P	P			P	P	P	P						§9.1.1
Accessory Dwelling Unit (Manufactured Homes)	P	P	P	P			P	P	P	P						§9.1.2
Additional Dwelling (one for each 10 acres of land)								P	P	P						§9.1.3
Apartments & other Multi-Family Structures with three or more units	C	C				P										§9.1.4
Barn Apartments			P	P				P		P						
Dwellings, Duplexes	P	P				P		P								
Dwellings, Single Family	P	P	P	P	P	P	P	P	P	P						
Manufactured Homes	P	P	P	P			P	P	P	P						§9.1.5
Manufactured Home Parks							C		C	C						Article 15
Personal Workshop/Storage Building	P	P	P	P			P	P	P	P						§9.1.6
Commercial Uses	RA-20	RA-40	RA-2	RA-5	GCSL	GCWL	R-MH	RE	RA-USB	RA	P-C	VB	B-1	B-2	I	Use Standards
Adult Entertainment															C	§9.3.1
Airfields, General Aviation													C		C	§9.3.2
Alcoholic Beverage Package Store												C	C	P		§9.3.3
Ambulance Services						C						P	P	P	P	§9.3.4
Animal Training Facility										C		C	C			§9.3.5
Animal Shelters and Kennels						C				C		C				§9.3.6
Antique Shops												P	P	P		
Appliance Sales and Service												P	P	P		
Arenas, Assembly and Exhibition Halls				C		P						C	P	P	P	§9.3.7
Auction House				C								C	P	P	P	§9.3.8
Automatic Teller Machine												P	P	P	P	
Automobile Parts Sales												P	P	P	P	
Automobile Rental or Leasing												P	P	P	P	

Commercial Uses	Residential Districts							Rural/Ag Districts			Commercial & Industrial Districts				Use Standards	
	RA-20	RA-40	RA-2	RA-5	GCSL	GCWL	R-MH	RE	RA-USB	RA	P-C	VB	B-1	B-2		I
Automobile Sales and Service												C	P	P	P	§9.3.9
Automobile Service												P	P	P	P	
Bakeries, commercial													P	P	P	
Bakeries, retail												P	P	P		
Banks, including drive-thru						P						P	P	P	P	
Beauty and Barber Shops						P						P	P	P		
Bed and Breakfast Operations	C	C	C	C									P			§9.3.10
Billboards															C	§9.3.11
Boat Sales and Service <i>(outdoor storage in rear/side yard only)</i>					P							P				
Building Material and Lawn and Garden Equipment Supplies												P	P	P		
Camp or Care Centers										P						
Campground, Public and Private				C									C		P	§9.3.12
Car or Truck Wash												P	P	P	P	
Cartage and Express Facilities															P	
Child Care Facility	C	C	C	P		C		C	C	P		C	P	P		§9.3.13
Child Care, Family	C	P	P	P				C	P	P						§9.3.13
Clothing and Apparel Stores												P	P	P		
Clubs and Places of Entertainment, and Billiard or Pool Hall									C	C		C	C	P		§9.3.14
Contractor/Construction Business												P	P	P	P	
Convenience Stores <i>(including self-service gas pumps)</i>						P		C				P	P	P		§9.3.15
Department Stores												P	P	P		
Drug Stores and Gift Shops												P	P	P		
Dry Cleaning and Laundries						P						P	P	P	P	
Electronic Stores												P	P	P	P	
Farm Equipment Sales and Services													P	P	P	
Feed and Seed Sales								C					P	P	P	§9.3.16
Flea Market										C			C	P	P	§9.3.17
Florist										P		P	P	P	P	
Funeral Homes												P	P	P	P	
Furniture and Home Furnishing Store												C	C	P		§9.3.18
Grocery Store												P	P	P		

Commercial Uses	Residential Districts							Rural/Ag Districts				Commercial & Industrial Districts				Use Standards
	RA-20	RA-40	RA-2	RA-5	GCSL	GCWL	R-MH	RE	RA-USB	RA	P-C	VB	B-1	B-2	I	
Gun and Ammunition Sales and Service												P	P	P		
Hobby, Toy and Game Stores												P	P	P		
Hotels and Motels						P						C		C		§9.3.19
Ice Machine, Self Service												P	P	P	P	
Internet Sweepstakes Café												P	P	P		
Jewelry Stores												P	P	P		
Locksmith												P	P	P		
Manufactured or Modular Home Sales															P	
Mini-Warehouse / Storage Facilities						P						C	C	C	P	§9.3.20
Mixed Commercial and Residential												P	P	P		
Movie Theaters (including outdoor drive-in)												P		P	P	
Moving Companies															P	
Nursing & Convalescent Homes	C	C	C	C					C	C		C	P	P		§9.3.21
Offices - Business						C						P	P	P	P	§9.3.22
Offices - Professional and Medical						P						P	P	P	P	
Other Vehicle Equipment Sales and Services					P							C	P	P	P	§9.3.23
Pawn Shop												C	C	P	P	§9.3.24
Pet and Pet Supplies												P	P	P		
Printing, Publishing and Binding												P		P	P	
Private Utilities					P	P						P				
Radio and Television Studios														P	P	
Restaurants						P						P	P	P	P	
Restaurants (including drive-ins and fast food)												P	P	P	P	
Restaurants, Fast Food												P	P	P	P	
Retail, General Retail Store (includes retail trade not specifically listed in other uses)												P	P	P		
Road Side Stand										P		P	P	P		
Sawmill										C			C		P	§9.3.25
Sculpting													P		P	
Sculpting (no outdoor storage)												P				
Service Industries related to the Horse Industry								P				P	P	P	P	
Services not elsewhere listed												C	P	P		§9.3.26
Solar Collector Facility										C			C	C	C	§9.3.27





<b>Agricultural Uses</b>	RA-20	RA-40	RA-2	RA-5	GCSL	GCWL	R-MH	RE	RA-USB	RA	P-C	VB	B-1	B-2	I	Use Standards
Agricultural Uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Greenhouses			C	C				P	P	P		P	P	P	P	§9.6.1
Horse Farms		P	P	P	P			P	P	P						
Intensive Swine Farms										C						Article 16
Produce Stands								P		P			P	P	P	
<b>Recreational Uses</b>	RA-20	RA-40	RA-2	RA-5	GCSL	GCWL	R-MH	RE	RA-USB	RA	P-C	VB	B-1	B-2	I	Use Standards
Airstrips, Private									P	C					C	§9.3.2
Amusement Park														C	C	§9.7.1
Bowling Alley												P	P	P	P	
Driving Range					C	C						C		C	C	§9.7.2
Go Cart and Motor Cross Tracks										C					C	§9.7.3
Golf Courses, Par 3				C	C	C					P			P		§9.7.4
Golf Courses				C	C	C					P					§9.7.4
Golf Courses, miniature golf												P		P		
Health Clubs and Gyms												P	P	P		
Parks and Playgrounds	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Recreation, Indoor												C	P	P		§9.7.5
Recreation, Outdoor					P	P			P	P		C	C	C		§9.7.6
Skating Rinks and Facilities													P	P	P	
Zoos				C						C				P	P	§9.7.7
<b>Temporary Uses</b>	RA-20	RA-40	RA-2	RA-5	GCSL	GCWL	R-MH	RE	RA-USB	RA	P-C	VB	B-1	B-2	I	Use Standards
Construction Office, Temporary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	§9.8.1
Itinerant Merchant												P	P	P	P	§9.8.2
Manufactured Office as a Temporary Use												P	P	P	P	
Manufactured Home or Recreational Vehicle, Temporary Use	P	P	P	P			P	P	P	P						§9.8.3
Parking Lot, Temporary		P	P	P				P		P	P	P	P	P	P	
Secondary Temporary Dwelling (for hardship circumstances, usually family)									P	P						
Special Event	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	§9.8.4
Temporary Construction Building (must be removed within 30 days or receiving Certificate of Occupancy)	P	P	P	P							P	P	P	P		

**Moore County Planning Board  
Land Use Plan Consistency Statement  
General Use Rezoning from  
Residential & Agricultural-5 (RA-5) and Highway Commercial (B-2)  
to Rural Agricultural (RA)  
ParID: 00018479**

The Moore County Planning Board recommends approval of the request by Pinesage Solar Farm, LLC for a General Use Rezoning of +/-53.06 acres of the parcel known as ParID 00018479 as identified in Moore County tax records from Residential & Agricultural-5 (RA-5) and Highway Commercial (B-2) to Rural Agricultural (RA) advises that it would not have an unreasonable impact on the surrounding community, will maintain the public health, safety, and general welfare due to the rezoning placing property in the area in appropriate complementary categories, and is consistent with the following goals in the 2013 Moore County Land Use Plan:

Goal 1: Preserve and Protect the Ambiance and Heritage of the County of Moore (inclusive of areas around the municipalities)

- Action 1.2.1: Continue current support of operating environments for agriculture.
- Action 1.3: Preserve large tracts of prime agricultural land to ensure that farming remains a viable part of the local economy.
- Action 1.5.2: Support new developments that utilize existing or implement planned infrastructure that most economically preserves open space and important historical, natural and cultural features.

---

Rich Smith, Chair  
Moore County Planning Board

---

Date

**Agenda Item: \_\_\_\_\_**  
**Meeting Date: January 7, 2016**

**MEMORANDUM TO THE PLANNING BOARD**

**FROM:** Debra Ensminger  
Planning & Transportation Services Director

**DATE:** December 22, 2015

**SUBJECT:** UDO Text Amendment Review

**PRESENTER:** Theresa Thompson

Staff is pursuing amendments to the Unified Development Ordinance at the discretion of the Moore County Planning Board and Board of Commissioners. The following chapters are included for review:

**Article 7.** Non-residential Screening (combined with Highway Corridor Overlay Districts)  
**Article 20.** Watershed Overlay Districts

# ARTICLE 7

## NON-RESIDENTIAL SCREENING

### 7.1 Applicability

Any new development or use listed in the Table of Uses (except agricultural, temporary uses, standard home occupations, non-intensive outdoor recreation, single family residential, and duplexes) shall install screening along the side and rear lot lines that abut any residentially zoned district.

### 7.2 Screening Types

Existing preservation can count toward landscaping requirements provided the spirit and intent of this Section is maintained at the discretion of the Zoning Administrator. Unless specified elsewhere in this Ordinance, the screening shall be one of the following:

- Type 1. A six (6) foot high attractive blind barrier (such as a masonry wall, block wall, basket weave chain link fence, or opaque wooden fence) with the finished side of fence facing the adjoining property.
- Type 2. A row of evergreen shrubs not placed more than four (4) feet apart, dependant on the expected mature width of the plant. Low limbs are not to be trimmed from the planting higher than twenty-four (24) inches from the ground. Minimum height of three (3) feet at time of installation with the intent to grow to six (6) feet in height within two (2) years.
- Type 3. A twenty (20) foot wide strip of plantings designed to simulate a wooded natural vegetative area. The planting will include a minimum of fifteen (15) trees, at least half evergreen, plus ~~seven (7) shrubs~~ fifteen (15) shrubs, at least half evergreen, per one hundred (100) linear feet of lot boundary prorated for less than 100 foot sections. The trees shall be a minimum height of six (6) feet at the time of installation with the intent to grow to ten (10) feet within two (2) years. The shrubs shall be a minimum of three (3) feet at time of installation with the intent to grow to six (6) feet within two (2) years.

### 7.3 General Standards

- A. The width of the screening shall be included as part of the required yard (or setback).
- B. In the event that the unusual topography or elevation of a site that would negatively impact the property or make it physically impossible to install and maintain the required landscaping, the Administrator may alter the requirements of this chapter provided the spirit and intent of this Section is maintained.

- C. No landscaping materials shall be located or planted on any portion of a street right-of-way, utility or access easements.
- D. Any irrigation system connected to the Moore County public water system shall require the installation of a double backflow prevention device.
- E. On a corner lot in any district, no hedge, shrubbery, tree, natural growth, sign, fence, wall, or other obstruction shall be placed or maintained within the sight triangle.
- F. All landscaping material shall be installed prior to the issuance of a Certificate of Occupancy. A written request to defer the installation of landscaping due to the installation of the plant material at the time would jeopardize the health of the plants may be approved for no longer than six (6) months on condition that the applicant provides the Zoning Administrator a bond in the form of a cashier's check, or similar bank check, payable to the County of Moore and valid for a minimum period of six (6) months. The security shall equal one and a half (1.5) times the entire cost of installing all required landscaping, based on a landscaper's bid.
- G. The owner(s) of the property shall be responsible for the maintenance of all landscaping required under this Section. All dead or substandard materials shall be removed and replaced in conformance with the approved landscape or site plan within thirty (30) days unless an extension, not exceeding six (6) months is approved if the Zoning Administrator determines there is a hardship to the property.

**7.5 List of Recommended Native Species**

The following list of non-invasive plants are best adapted to the region's climate and soil conditions and are known to better resist drought, freezing temperatures, and diseases. In addition to their benefit to wildlife species, the use of native plants greatly reduces the need for water, fertilizers, and pesticides:

**Canopy Trees (evergreen options are in bold)**

<b>Longleaf pine (<i>Pinus palustris</i>)</b>	Black gum ( <i>Nyssa sylvatica</i> )
White oak ( <i>Quercus alba</i> )	Red maple ( <i>Acer rubrum</i> )
Scarlet oak ( <i>Quercus coccinea</i> )	Pin oak ( <i>Quercus palustris</i> )
Southern red oak ( <i>Quercus falcata</i> )	<b>Live oak (<i>Quercus virginiana</i>)</b>
Sweetgum ( <i>Liquidambar styraciflua</i> )	Mockernut hickory ( <i>Carya glabra</i> )
<b>Red cedar (<i>Juniperus virginiana</i>)</b>	Pignut hickory ( <i>Carya glabra</i> )

**Midstory Trees (evergreen options are in bold)**

<b>American holly (<i>Ilex opaca</i>)</b>	Sassafras ( <i>Sassafras albidum</i> )
American persimmon ( <i>Diospyros virginiana</i> )	<b>Southern magnolia (<i>Magnolia grandiflora</i>)</b>
Blackjack oak ( <i>Quercus marilandica</i> )	Sourwood ( <i>Oxydendrum arboreum</i> )
Flowering dogwood ( <i>Cornus florida</i> )	Turkey oak ( <i>Quercus laevis</i> )
Redbud ( <i>Cercis canadensis</i> )	<b>Yaupon holly (<i>Ilex vomitoria</i>)</b>
Sand post oak ( <i>Quercus margarettiae</i> )	

**Shrubs (evergreen options are in bold)**

Beautyberry ( <i>Callicarpa americana</i> )	Sparkleberry ( <i>Vaccinium arboreum</i> )
Dangleberry ( <i>Gaylussacia frondosa</i> )	<b>Waxmyrtle (<i>Myrica cerifera</i>)</b>
<b>Devilwood (<i>Osmanthus americanus</i>)</b>	Wild azalea ( <i>Rhododendron periclymenoides</i> )
<b>Inkberry holly (<i>Ilex glabra</i>)</b>	Wild rose ( <i>Rosa carolina</i> )
Nestronia ( <i>Nestronia umbellata</i> )	

**7.6 List of Native Species Not Recommended**

The following trees are native to the region but are typically found in wetlands, floodplains and bottomland forests. They will not flourish without frequent and constant irrigation:

Canopy Trees (none are evergreen)

Bald cypress ( <i>Taxodium distichum</i> )	Tulip poplar ( <i>Liriodendron tulipifera</i> )
River birch ( <i>Betula nigra</i> )	Willow oak ( <i>Quercus phellos</i> )
Shumard oak ( <i>Quercus shumardi</i> )	

Midstory Trees (evergreen option is in bold)

Carolina silverbell ( <i>Halesia carolina</i> )	Serviceberry ( <i>Amelanchier canadensis</i> )
Fringetree ( <i>Chionanthus virginicus</i> )	<b>Sweetbay (<i>Magnolia virginiana</i>)</b>

**7.7 Invasive Species or Prohibited**

The following list of non-native and/or diseased ridden plants are prohibited due their negative effect on the ecosystem:

Asian bittersweet ( <i>Celastrus orbiculatus</i> )	Japanese barberry ( <i>Berberis thunbergii</i> )
Autumn olive ( <i>Elaeagnus umbellata</i> )	Japanese honeysuckle ( <i>Lonicera japonica</i> )
<b>Azalea (<i>Azalea indica</i>) -need specific types</b>	Japanese privet ( <i>Ligustrum japonicum</i> )
Bradford pear ( <i>Pyrus calleryana</i> )	Japanese wisteria ( <i>Wisteria floribunda</i> )
Burning bush ( <i>Euonymus alata</i> )	Kudzu ( <i>Pueraria montana</i> )
Camellia ( <i>Camellia japonica</i> )	Leyland cypress ( <i>Cupressus leylandii</i> )
Chinese privet ( <i>Ligustrum sinense</i> )	Mimosa ( <i>Albizia julibrissin</i> )
Chinese silver grass ( <i>Miscanthus sinensis</i> )	Multiflora rose ( <i>Rosa multiflora</i> )
Chinese wisteria ( <i>Wisteria sinensis</i> )	Nandina ( <i>Nandina domestica</i> )
Common periwinkle ( <i>Vinca minor</i> )	Oregon grape ( <i>Mahonia bealei</i> )
English ivy ( <i>Hedera helix</i> )	Princess tree ( <i>Paulownia tomentosa</i> )
Holly hybrid ( <i>Ilex cassine</i> )	Tree of heaven ( <i>Ailanthus altissima</i> )

**7.8 Highway Corridor Overlay District**

- A. Applicability. The use and development of land or structures shall comply with the underlying zoning district, except that the following regulations apply wherever they are more restrictive than those of the underlying zoning district.
- B. New Development. All new building construction and major subdivisions shall comply with the regulations of this chapter.
- C. Existing Development. Expansions of five hundred (500) square feet or more and any change of use as defined by the North Carolina Building Code shall comply with the regulations of this chapter. In these cases, the Administrator shall determine the level of compliance technically feasible, excluding the removal of asphalt.
- D. Exemptions. Single family, duplexes and their associated buildings and uses, building expansions less than 500 square feet and minor utility structures. These buffer requirements shall not apply when a non-corridor public street or railroad right-of-way separates a non-single family use from a residential property.
- E. General Standards. Screening shall be in accordance with Section 7.3.

**7.9 Minimum Lot and Building Standards**

	Urban Village	Urban Transition	Rural Highway
District Boundaries from ROW	300 feet	400 feet	500 feet
Front Building Setback	50 feet	75 feet	75 feet
Front Parking Setback	30 feet	50 feet	50 feet
Setback from Residential Districts	25 feet	50 feet	50 feet
Setback from Non-Residential Districts	5 feet	25 feet	25 feet
Maximum Built Upon Surface	70%	70%	70%
Maximum Building Height	35 feet	35 feet	35 feet
Required Buffer Plantings	Type 3 Screening – See Section 7.2		

# EXISTING NON-RESIDENTIAL SCREENING & HCOD LANGUAGE WITH CHANGES HIGHLIGHTED

## SECTION 8.2 SCREENING REQUIREMENTS

### 8.2.1 Applicability

- 8.2.101 Screening is automatically required on the side and rear lot lines that abut a residential or residential agricultural district for all non-residential uses including intensive home businesses, but not including home occupations, standard as listed under ~~Article 9 (Specific Use Standards) and Article 18 (Definitions and Word Interpretations)~~. (reworded to clearer language)
- 8.2.102 ~~Information is to be submitted to the Planning Staff showing details of the proposed barrier as to the location and type of screening. Screening and buffers may also be required under the Article 11 (Watershed Overlay Districts).~~ (redundant... included in site plan submittal requirements)
- 8.2.103 ~~In cases where the use of a building or land is changing, there may be impediments to compliance with this Article. The Planning Department staff shall determine the level of compliance that is practical in these cases.~~ (relocated to standards sections)

### 8.2.2 Screening Types

Unless specified elsewhere in this Ordinance, a screen shall be one of the following:

- 8.2.201 Type 1 - A seven (7) foot (6 feet is standard fence height) high attractive blind (specified types) barrier that shall not permit the passage of light from one side to the other and it must also dampen noise where needed (removed due to impossible standard). Such barrier may be a decorative masonry wall, a wood plank or basket weave type fence, an open type fence with evergreen vegetation (minimum three (3) feet wide), or the like which is planted facing the adjoining property. (removed vegetation b/c it is not adding additional bufferage and is basically Type 2 with a fence... making a fence option more expensive and obsolete option.)
- 8.2.202 Type 2 - A three (3) foot wide (width is unnecessary/ impossible to enforce), seven (7) (keep 6 feet the standard) foot high dense evergreen planting that shall be of a species that will normally be expected to reach a height of seven (7) feet in three (3) years time (harder to check compliance in 3 years, larger planting at installation). Low limbs, etc. are not to be trimmed from the planting higher than twenty-four (24) inches from the ground.

8.2.203 Type 3 - A minimum of twenty (20) feet wide ~~natural~~ vegetative or planted strip. ~~(already stated as an option to use existing vegetation.)~~ The ~~natural vegetative or planted strip shall be either undisturbed, natural low bushes, shrubs, or trees, or a strip of plantings designed to simulate a wooded natural vegetative area.~~ The trees planted in this screen shall be of such size for the trees to grow to a height of at least twelve (12) feet within three (3) years ~~(2 years is easier to guage)~~ and the shrubs to grow to a height of two (2) feet within two (2) years. The planting will include a minimum of fifteen (15) trees, at least half evergreen, plus seven (7) shrubs per one hundred (100) linear feet of lot boundary prorated for less than 100 foot sections. ~~(harder to check compliance in 3 years, , larger planting at installation)~~ Previously existing trees and shrubs shall count toward this requirement.

### ~~8.2.3~~ — ~~Screening Location~~ Add all sections to “General Screening Standards”

8.2.301 The width of the screening shall be included as part of the required yard (or setback).

~~8.2.302~~ A fence or barrier may also be installed in addition to the required screening, at the discretion of the property owner. ~~(additional fences aren’t permitted, already stated in UDO.)~~

### ~~8.2.4~~ — ~~Construction and Maintenance~~

8.2.401 Screening must be installed or constructed, as appropriate, prior to the issuance of an Occupancy Permit. ~~Added Deferring language here.~~

8.2.402 Once erected, the screening shall be properly maintained at all times.

8.2.403 The construction and maintenance of all required screening shall be the responsibility of the landowner or developer.

### 8.2.5 Waiving of Screening Requirements

8.2.501 The screening requirements of this section may be waived by the Zoning Administrator along any boundary that is naturally screened by topography and/or existing vegetation that naturally screens the use from adjoining property.

8.2.502 Development that results in a one-time building footprint expansion of 250 square feet or less, or exterior building remodeling are exempted from the landscaping requirements of this section.

### ~~8.2.6~~ — ~~Deferring of Screening Requirements~~ Condensed section, removed redundancy.

The required landscaping portion of the screening may be deferred for up to six (6) months, or the next appropriate growing season, whichever comes first. The deferment shall be approved by the Zoning Administrator upon receipt of a landscaping guarantee security payable to Moore County meeting the following requirements:

- 8.2.601 The developer may deposit cash, cashier's check, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with Moore County or in escrow with a financial institution designated as an official depository of Moore County.
- 8.2.602 The developer or property owner shall obtain a landscaping plan and guaranteed cost estimate (official bid) from a landscaping firm.
- 8.2.603 The security shall equal one and a half (1.5) times the entire cost of installing all required landscaping, based on the landscaper's bid.
- 8.2.604 Any bond must be in the form of a cashier's check, or similar bank check, payable to the County of Moore and valid for a minimum period of six (6) months.
- 8.2.605 In the case of a failure on the part of the property owner to complete the landscaping, if any funds are not spent in completing the work, the County shall retain, as a service charge, ten (10) percent of its total cost and return the balance to the developer.
- 8.2.606 That said escrow account shall be held in trust until released by the Planning Director and may not be used or pledged by the developer in any other manner during the term of the escrow
- 8.2.607 That in the case of a failure on the part of the property owner to complete said improvements, the financial institution shall, upon notification by the Planning Director and submission to the financial institution of an estimate of the amount needed to complete the improvements, immediately pay to Moore County the funds estimated to complete the improvements up to the full balance of the escrow account, or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County.

**8.2.7 Enclosure Requirements – will move to different section.**

- 8.2.701 In the residential and residential agricultural districts all outside storage of governmental, commercial, and industrial inventory or equipment or any other use which may represent a public hazard must be enclosed with a fence or wall at least seven (7) feet in height.
- 8.2.702 In commercial and industrial districts all business, servicing, processing, or storage, except off-street parking and loading, shall be within completely enclosed buildings or enclosed by a wall or fence (including entrance and exit gates) not less than seven (7) feet in height.

**SECTION 6.5 HIGHWAY CORRIDOR OVERLAY DISTRICTS – CONDENSED TO SECTION 7.8**

**6.5.1 Rural Highway Corridor Overlay District**

The Rural Highway Corridor Overlay District shall be five hundred (500) feet from the edge of the Right-Of-Way on each side of the highway and run parallel to the Right-Of-Way.

The following table outlines the dimensional requirements and required yard setbacks for the Rural Highway Corridor Overlay District.

<b>Minimum Yards Adjacent to Highways<sup>1</sup></b>	
Building Setback	75 ft
Parking Area Setback	50 ft
Landscape Buffer <sup>2</sup>	50 ft
<b>Minimum Yards Adjacent to Property Lines</b>	
Setback from Residential Districts	50 ft
Setback from Non-Residential Districts	25 ft
<b>Building Height<sup>3</sup></b>	
Maximum Building Height	35 ft – 40ft
<b>Built Upon Areas<sup>4</sup></b>	
Maximum Built Upon Surface	70%
Maximum Building Footprint	40%
Maximum Front Yard Coverage (Parking)	40%

**6.5.2 Urban Transition Highway Corridor Overlay District**

6.5.205 The Urban Transition Highway Corridor Overlay District shall be four hundred (400) feet from the edge of the Right-Of-Way on each side of the highway and run parallel to the Right-Of-Way.

6.5.206 The following table outlines the dimensional requirements and required yard setbacks for the Urban Transition Highway Corridor Overlay District.

Minimum Yards Adjacent to Highways <sup>5</sup>	
Building Setback	75 ft
Parking Area Setback	50 ft
Landscape Buffer <sup>6</sup>	50 ft
Minimum Yards Adjacent to Property Lines	
Setback from Residential Districts	50 ft
Setback from Non-Residential Districts	25 ft
Building Height <sup>7</sup>	
Maximum Building Height	35 ft
Built Upon Areas <sup>8</sup>	
Maximum Built Upon Surface	70%
Maximum Building Footprint	40%
Maximum Front Yard Coverage (Parking)	40%

6.5.3

Urban/Village

The Urban/Village Highway Corridor Overlay District shall be three hundred (300) feet from the edge of the Right-Of-Way on each side of the highway and run parallel to the Right-Of-Way.

6.5.305 The following table outlines the dimensional requirements and required yard setbacks for the Urban/Village Highway Corridor Overlay District.

Minimum Yards Adjacent to Highways <sup>9</sup>	
Building Setback	50 ft
Parking Area Setback	30 ft
Landscape Buffer <sup>10</sup>	30 ft
Minimum Yards Adjacent to Property Lines	
Setback from Residential Districts	25 ft
Setback from Non-Residential Districts	5 ft
Building Height <sup>11</sup>	
Maximum Building Height	35 ft
Built Upon Areas <sup>12</sup>	
Maximum Built Upon Surface	70%
Maximum Building Footprint	40%
Maximum Front Yard Coverage (Parking)	20%

# ARTICLE 19

## HIGHWAY CORRIDOR OVERLAY DISTRICTS

### SECTION 10.1 GENERAL INFORMATION

#### **10.1.1 Objective and Purpose – Reworded. Simplified. Explained Overlay.**

- 10.1.101 In order to protect the rural character and natural environment of the area and to provide attractive highway corridors and gateways to our communities, Highway Corridor Overlay Districts are created.
- 10.1.102 It is the goal of these districts to enhance the attractiveness of the area to visitors and residents alike.
- 10.1.103 In all instances, coordination with the N.C. Department of Transportation (NCDOT) will be encouraged and policies and recommendations of NCDOT will be taken into consideration when administering this Article.

#### **10.1.2 Highway Corridor Designation and Underlying Zoning – added to Applicability**

The use and development of any land or structures within a designated Highway Corridor Overlay District shall comply with regulations applicable to the underlying zoning districts, as well as the requirements of this Article.

#### **10.1.3 Exemptions to Highway Corridor Overlay Requirements -**

- 10.1.301 Development that results in a one-time building footprint expansion of ~~250-~~ 500 square feet or less, or exterior building remodeling are exempted from the landscaping requirements of this Article. – existing development
- 10.1.302 In cases where the use of a building or land is changing, there may be impediments to compliance with this Article. The Planning Department staff shall determine the level of compliance that is practical in these cases. – shortened
- 10.1.303 Single Family Residential and their associated accessory buildings and uses are exempt from the requirements of this section. This does not include major subdivisions (Neighborhood Conservation or Conventional). - exemptions

#### **10.1.4 Minor Utility Structures – removed. Included as a “exemption” and will simplify as a “definition.”**

Minor utility structures are exempt from the requirements of this article subject to the following requirements:

- 10.1.401 Minor utility structures include sewer, water, storm drainage and collection system structures not limited to pump stations and lift stations. Poles, lines, pipes and onsite drainage facilities are allowed without restriction within the setback.
- 10.1.402 Driveways shall be offset such that they do not line up perpendicular to the building frontage.
- 10.1.403 Large shade trees shall be preserved or planted on 35 foot centers along the driveways and within the required setback.
- 10.1.404 Maximum building size is limited to 800 square feet.
- 10.1.405 Buildings shall be no closer than 20 feet to the edge of right-of-way.
- 10.1.406 Existing vegetation shall be incorporated into the setback where possible. In cases where vegetation is missing or has been thinned, a buffer strip shall be planted with 15 shrubs per 100 feet to help shield the building and parking area. The shrubs shall include at least 60% evergreens and be compatible with the surrounding area.
- 10.1.407 Side entrances and pitched roofs are encouraged.

**10.1.5 Designation Boundaries – Included in Chapter 2. Zoning Districts**

- 10.1.501 In order to carry out the purposes of this Ordinance, the County designates the following types of Highway Corridor Overlay Districts the boundaries of which are shown on the County Zoning Map(s) and described in §6.5 (Overlay Districts) of this Ordinance.
- 10.1.502 The Highway Corridor Overlay Districts shall be measured from the edge of the highway or other public right of way.

**10.1.5 Designation Boundaries - Included in Chapter 2. Zoning Districts**

- 10.1.501 In order to carry out the purposes of this Ordinance, the County designates the following types of Highway Corridor Overlay Districts the boundaries of which are shown on the County Zoning Map(s) and described in §6.5 (Overlay Districts) of this Ordinance.
- 10.1.502 The Highway Corridor Overlay Districts shall be measured from the edge of the highway or other public right of way.

**SECTION 10.2 LANDSCAPE BUFFER REQUIREMENTS –**

**10.2.1 Purpose and Application – Intent language is in Chapter 2. Zoning Districts**

- 10.2.101 The standards of this Section provide for the preservation of existing vegetation and for the installation and maintenance of installed vegetation (preservation of existing vegetation is desirable).

- 10.2.102 The purpose of these standards is to improve corridor appearance, allow for the ecological benefits provided by plants, establish vegetation consistent with site conditions and surroundings and enhance the natural beauty and public safety along highway corridors.
- 10.2.103 Additionally the purpose of these landscaping standards is to create the appearance that manmade development is situated within a forest or naturalized setting.
- 10.2.104 Land used for established buildings and support facilities for buildings should be developed in such a way as to maintain and enhance the pre-existing, and/or surrounding natural landscape conditions and appearance along the highway corridor.
- 10.2.105 The landscaping standards of this Section shall apply to all proposed non-single family development, unless specifically exempted by this Article.

**10.2.2 Permitted Uses Within Buffer Area – Language broad, unnecessary, or inherently recognized.**

- 10.2.201 The intent of buffer areas is to provide a space to separate differing uses, reduce the visual impact of development and provide for the retention or re-establishment of existing landscape conditions.
- 10.2.202 Buffers shall be left in an undisturbed natural vegetative state or provided with supplemental plantings.
- 10.2.203 Selective thinning of vegetation and removal of dead vegetation shall be permitted as long as the intent of the buffer requirement is maintained.
- 10.2.204 Driveways or walkways shall cross a buffer at approximately a perpendicular angle, if practical.
- 10.2.205 Grading in the designated buffer may be allowed with site plan approval, if the re-vegetation plan is determined to meet the intent of this Section.
- 10.2.206 Signs, light poles, and flagpoles as permitted by this Ordinance may be placed in front yard buffers.

**10.2.3 Location of Buffers – Already required in site plan submittal.**

Required buffers shall be provided along the perimeter of any lot or development unless alternate locations are approved. Buffers shall be designated and dimensioned on all site plans.

**10.2.4 Application of Buffer Areas**

- 10.2.401 When non-single family uses submit a site plan for locations next to property zoned or developed for residential uses, including multi-family, buffers shall be provided near the perimeter of the property which is submitting the site plan. – not necessary... buffer would only be for proposed use.

- 10.2.402 These buffer requirements shall not apply when a non-corridor public street or railroad right-of-way separates a non-single family use from a residential property. **– not applicable to HCOD**
- 10.2.403 The required buffer width is dependent on the type of Highway Corridor Overlay District. (see §6.5 Highway Corridor Overlay Districts) – **already addressed in table 9.2**
- 10.2.404 If the adjacent property is zoned for residential use but is vacant at the time of the proposed development, the required buffer shall be installed just as if the adjacent property were developed. **– not applicable to HCOD**

**10.2.5 Existing and Planted Vegetation –addressed in Section 7.2. Removed unnecessary language.**

- 10.2.501 Buffers require provision of both physical separation and landscape elements to meet the intent of this Ordinance.
- 10.2.502 Existing vegetation shall be used to meet all or part of the requirements of this Section, wherever possible, if it provides the same level of obscurity as the planted buffers required below.
- 10.2.503 Vegetation to be saved shall be identified on site plans along with protection measures to be used during grading and construction.
- 10.2.504 Required plantings allow for a mix of larger shade trees, pine trees, understory trees/large shrubs, and smaller shrubs to provide a naturalized planting closely matched to the ecosystem conditions of the site or surroundings.
- 10.2.505 The mix is designed to create a buffer which will give a satisfactory screen within three (3) years of planting, under normal maintenance, while allowing room for the various plants to mature naturally.
- 10.2.506 In calculating buffer planting requirements, areas of driveways and sight distance triangles are excluded.

**10.2.6 Required Vegetative Plantings in the Buffer**

- 10.2.601 The existing and/or planted vegetative buffer must be in a quantity that meets the following requirements:

Required Shade Trees per 100 Linear feet of property along the highway	<del>6 trees</del> <b>15 trees</b>
Required Shrubs per 100 linear feet of property along the highway.	15 shrubs
Refer to <b>Appendix A</b> (Recommended Landscaping Materials) for a list of	

- 10.2.602 Large trees (pines and/or hardwoods) must be of a minimum size of 2 inches caliper, measured at breast height at planting. – caliper is difficult to differentiate between different species.
- 10.2.603 Trees and shrubs shall be distributed along the entire length and width of the buffer.
- 10.2.604 Shrubs shall be a minimum container size of 3 gallons or balled with burlap, with minimum dimensions of 18 inch spread and 24 inch height, of a variety that can be expected to reach 4 feet in height within 3 years of planting. – gallon sizes are difficult to enforce. Future heights of plants are difficult to enforce.
- 10.2.605 A minimum of sixty percent (60%) of required shrubs shall be evergreen. – changed to 50% to match Non-residential screening requirements
- 10.2.606 Shrubs shall not normally be planted closer than 6 feet to planted trees, nor within the drip line of existing, protected trees. – spacing should be determined by landscaper based on types of species.

**SECTION 10.3 PARKING AREA LANDSCAPING – REMOVED ENTIRE SECTION. PARKING AREA IS ALREADY SHEILDED BY THE REQUIRED FRONT BUFFER SCREENING. THERE SHOULD BE A BUFFER BETWEEN TWO VARYING INTENSITY USES LIKE RESIDENTIAL AND COMMERCIAL WHICH IS ALREADY ADDRESSED IN NON-RESIDENTIAL SCREENING CHAPTER.**

### **10.3.1 Purpose**

To reduce reflected sunlight and headlight glare from vehicles, as well as to maintain separation between vehicles and other uses, and to reduce the effects on the environment of vehicle use areas, including loading areas and gas pump areas.

### **10.3.2 Parking Area Perimeter Planting Requirements**

- 10.3.201 Any new parking area, or expansion of 12 or more parking spaces, or new vehicle use area, including loading areas and gas pumps, with visibility from the highway or adjacent property, shall provide landscaped areas meeting the requirements of this Section.
- 10.3.202 Landscaped area, adjacent to and outside the street right of way and/or property line, equal to 5 square feet per linear foot of parking lot edge less driveways and sight distance triangles, shall be provided.
- 10.3.203 This perimeter planting area shall be a minimum of five (5) feet wide. Plants shall be located to not conflict with vehicle overhangs.

- 10.3.204 Required buffers and/or screens required in this Ordinance and located between parking lots and street and/or adjacent adjoining properties may provide relief from this requirement.

### **10.3.3 Planting Requirements**

- 10.3.301 One (1) shade tree per 50 linear feet of right-of-way or property line less driveways and sight distance triangles;
- 10.3.302 One (1) evergreen shrub per 8 linear feet of right-of-way or property line less driveways and sight distance triangles;
- 10.3.303 Two (2) understory trees or pine trees may be substituted for each shade tree.
- 10.3.304 A masonry wall or opaque fence at least 36 inches tall, of a material compatible with the building, may be substituted for the requirements of the shrubs. Tree planting requirements will also apply.
- 10.3.305 A berm may be installed in combination with planting to provide 36 inch height of screening by the shrubs within the perimeter planting area. Tree planting requirements will also apply.

## **SECTION 10.4 GENERAL LANDSCAPING REQUIREMENTS – REQUIRED IN SITE PLAN SUBMITTAL AND ADDRESSED IN CHAPTER 9. ZONING & SIGNS PERMITS**

### **10.4.1 Landscape Plan**

Prior to land disturbance activity for any non-single family development for which there is a landscape requirement, a landscape plan shall be submitted to the Zoning Administrator. Areas where plant material will be preserved shall be marked on-site prior to beginning land-disturbing activities.

### **10.4.2 Landscape Plan Requirements**

- 10.4.201 A North arrow, legend and a location map
- 10.4.202 Zoning and existing land use of adjoining properties
- 10.4.203 Location of flood plains and rock outcroppings
- 10.4.204 Locations, type, size of existing plants to be preserved
- 10.4.205 Methods and details for protecting vegetation to be preserved
- 10.4.206 Proposed plants, size, location, and type
- 10.4.207 Existing buildings and paved areas
- 10.4.208 Proposed buildings, walks and paved areas, drives, loading areas, dumpsters, walls, fences, berms, water features, parking areas, vehicular use areas, lighting, and signs

- 10.4.209 Planting details
- 10.4.210 Underground and above ground utilities
- 10.4.211 Proposed modification to the public street
- 10.4.212 Wall and fence details as applicable
- 10.4.213 Sedimentation and erosion control plan if required.

**10.4.3 Planting Size Requirements - Gallon size is difficult to inspect/ enforce. Caliper sizes vary between species. Height at installation is best way to equitably enforce intent of opaqueness.**

- 10.4.301 Hardwood Trees – Two (2) inch caliper measured at Diameter Breast Height (DBH) at time of planting.
- 10.4.302 Pine and Evergreen Trees – Two (2) inch caliper measured at Diameter Breast Height (DBH) at time of planting.
- 10.4.303 Evergreen shrub – Three (3) gallon container or 18 inch spread and 24 inch height, depending on species (at time of planting). Additionally, the evergreen shrub shall be a species and size expected to reach 36 inch height and 30 inch spread within two (2) years of planting. A larger shrub may be required to reach the desired size within two (2) years.
- 10.4.305 Ornamental or understory tree – six (6) foot height at time of planting.

**10.4.4 Landscape Material, Installation and Maintenance – Necessary language is addressed in Chapter 7 – Non-residential Screening. 7.3(H).**

- 10.4.401 The developer/owner shall provide and furnish all materials included on the landscape plan.
- 10.4.402 Plant materials shall conform to requirements in the latest edition of American Standard for Nursery Stock, which is published by the American Association of Nurserymen.
- 10.4.403 Plant materials shall be from the Recommended Plant Material List or approved at the time the landscape plan is reviewed.
- 10.4.404 Property owners shall ensure the survival and health of required plant materials. If a required plant dies or is in a deteriorating condition, it shall be replaced by the property owner within 90 days, or at the next appropriate planting season.
- 10.4.405 Existing trees shall be preserved per the Landscape Plan and these regulations. Plants to be preserved shall be identified on-site prior to any land disturbing activity.

# ARTICLE 20

## WATERSHED OVERLAY DISTRICTS

### 20.1 Applicability

In accordance with NCGS Chapter 143 Article 21, unless specifically exempt below, the provisions of this chapter shall apply to all development within a Watershed Overlay District, as designated and administered by the NC Environmental Management Commission. The class WS-IV district applies only to new development projects that require a Sedimentation and Erosion Control Plan and/or resulting in the disturbance of one (1) acre or more of land area. Permitted uses and conditional uses listed in the Table of Uses for the appropriate district are allowed in the Watershed Overlay Districts. New sludge application sites and landfills are specifically prohibited in the critical areas of any district.

### 20.2 Exemptions

- A. Existing Development. Structures that were built prior to the original effective date of these regulations (January 4, 1994) are not subject to the requirements of this chapter.
- B. Redevelopment. Redevelopment is allowed if the rebuilding activity does not have a net increase in built-upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on single family residential redevelopment.
- C. Expansions. Expansions to structures classified as existing development shall comply with the regulations of this chapter, however, the built-upon area of the existing development is not required to be included in the impervious calculations.
- D. Nonconforming lots of record. A lot that pre-existed the original effective date of these regulations (January 4, 1994) may be developed for single-family residential purposes without being subject to the regulations of this chapter.
- E. Recombination Plats. Recombination of contiguous nonconforming lots of record owned by the same party is required in order to establish a lot or lots that meet or nearly meet the development restrictions of this Section, as determined by the Administrator.
- F. Silviculture. The NC Forest Service shall be the designated agency for oversight of compliance with water supply watershed protection requirements.
- G. Agriculture. The NC Soil and Water Conservation Commission shall be the designated agency for administration of the applicable water supply watershed protection requirements.

H. NCDOT. Activities that are regulated in accordance with provisions of the National Pollutant Discharge Elimination System (NPDES) Permit No. NCS000250.

**20.3 Density & Built Upon Limits**

Minimum and maximum residential and non-residential density and built-upon limits shall be as indicated in the table below, or as required by the underlying zoning district or applicable subdivision regulations, whichever is most stringent.

Water Supply	Location in the Watershed	Maximum Allowable Density or Minimum Lot Size	
		Single-family residential (except within a Cluster Development - Section 20.6)	All other residential and Non-residential (calculate by total acreage in the tract)
WS-II	Critical Area	1 dwelling unit per 2 acres or 80,000 square foot lot excluding road right-of-way	6% built-upon area
	Balance of Watershed	1 dwelling unit per 1 acre or 40,000 square foot lot excluding road right-of-way	12% built-upon area (up to 70% with SNIA approval)
WS-III	Critical Area	1 dwelling unit per 1 acre or 40,000 square foot lot excluding road right-of-way	12% built-upon area
	Balance of Watershed	2 dwelling units per acre or 20,000 square foot lot excluding roadway right-of-way	24% built-upon area (up to 70% with SNIA approval)
WS-IV	Protected Area	With Curb & Gutter: 2 dwelling units per acre or 20,000 square foot lot excluding roadway right-of-way	With Curb & Gutter: 24% built-upon area (up to 70% with SNIA approval)
		Without Curb & Gutter: 3 dwelling units per 1 acre or 36% built upon area	Without Curb & Gutter: 36% built-upon area (up to 70% with SNIA approval)

## 20.4 Minimum Design Criteria for All New Developments

- A. Vegetated Conveyances. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.
- B. Stream Buffers. Vegetated buffers shall be required along perennial waters indicated on the most recent version of the United States Geological Survey (USGS). No new development is allowed in said buffer except for water-borne structures (e.g., piers, docks, etc.) or other structures such as flag poles, signs and security lights. Minimum widths shall apply:
  - 1. SNIA approved projects – 100 feet
  - 2. All other projects – 30 feet

## 20.5 Special Non-Residential Intensity Allocation (SNIA)

- A. Applicability. Non-residential development, located outside of critical areas, may occupy five percent (5%) of the watershed with up to a seventy percent (70%) built-upon area, when approved as a Special Non-residential Intensity Allocation (SNIA).
- B. Submittal. An application for a SNIA shall be submitted at least thirty (30) days prior to the Planning Board meeting at which it is to be heard. Upon completion of the technical review, the Administrator shall prepare and forward the staff report any related application materials to the Planning Board.
- C. Planning Board. The Planning Board shall act as the Watershed Review Board, shall hold a legislative public hearing, and shall review and approve or deny the SNIA request. Requests requiring revisions shall be returned to the Planning Board within ninety (90) days or the request shall be considered withdrawn.
- D. Approval Criteria. SNIA requests shall not be approved unless the following requirements are met as demonstrated and certified on the site plan by a professional engineer:
  - 1. The request will minimize built-upon surface area;
  - 2. All stormwater will be directed away from any surface waters;
  - 3. Best Management Practices will be incorporated to minimize water quality impacts; and
  - 4. All property subject to a request for a Special Non-Residential Intensity Allocation must be uniformly zoned.
- E. Set Aside for Public Projects and Facilities. In order to assure that sufficient land is available for public projects and facilities within the five identified Watershed areas, 5% of the Special Nonresidential Intensity Allocation shall be set aside for such projects in the Drowning Creek Watershed, the Bear Creek Watershed, the Little River (Vass) Watershed, and the Little River #2 Watershed. Ten percent (10%) of the

Nick's Creek Watershed shall be set aside for these purposes. Public projects and facilities shall include schools, public buildings and other similar uses.

## **20.6 Cluster Developments**

- A. Applicability. Cluster Developments are allowed in all Watershed Areas.
- B. Submittal. Cluster Developments shall be submitted as Conservation Subdivisions and approved by the Subdivision Review Board per Section 24.6 (Major Subdivisions - Preliminary Plat Submittal and Review).
- C. Approval Criteria. Cluster Developments shall not be approved unless the following requirements are met:
  - 1. The development shall meet all applicable density and design requirements per Section 24.9 (Conservation Design Standards);
  - 2. Vegetated setbacks shall meet the requirements of Section 20.4(B).
  - 3. Built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas;
  - 4. Areas of concentrated development shall be located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways;
  - 5. The remainder of the tract shall remain in a vegetative or natural state. The area in the vegetated or natural state may be conveyed to a property owners association, a local government for preservation as a park or greenway, a conservation organization, or placed in a permanent conservation or farmland preservation easement. A maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
  - 6. Cluster developments shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

## **20.7 Density Averaging of Noncontiguous Parcels**

- A. Applicability. Density averaging involves the use of two noncontiguous parcels and is based on the idea that the development plans for a pair of parcels can be submitted together and treated as a single project for purposes of complying with this chapter. Density averaging of two noncontiguous parcels for purposes of complying with this chapter shall be allowed in accordance with this section and NCGS 143-214.5 (d2).
- B. Submittal. The application shall be submitted at least thirty (30) days prior to the Planning Board meeting at which it is to be heard. A site plan prepared in accordance with Section 9.2(C). Upon completion of the technical review, the Administrator shall prepare and forward the staff report any related application materials to the Planning Board.

- C. Planning Board. The Planning Board shall act as the Watershed Review Board, shall hold a legislative public hearing, and shall review and approve or deny the request. Requests requiring revisions shall be returned to the Planning Board within ninety (90) days or the request shall be considered withdrawn.
- D. Approval Criteria. The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the plan as a whole conforms to the requirements of this section.

## 20.8 Watershed Variance

- A. Applicability. In addition to the other requirements of Section 13.2 (Variances), petitions to the standards of the chapter shall comply with the following:
  - 1. Minor Variances. Minor variances shall include petitions for the reduction of any standard of this chapter by a factor of less than ten (10) percent. Minor variances shall be approved by the Board of Adjustments in accordance with Section 13.2 (Variances).
  - 2. Major Variances. (a) Petitions for the reduction of any standard of this chapter by a factor of ten (10) percent or more. Major variances shall comply with Section 13.2 (Variances) except that a decision by the Board of Adjustment to approve a major variance shall be advisory only. The Administrator shall, within 30 days, forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission or other appropriate State agency for final decision.
- B. Notice to Local Governments. Prior to the Board of Adjustment meeting, the Administrator shall notify in writing to the clerks of all local governments having jurisdiction within that watershed of the variance being requested. Written responses from any of these local governments shall become a permanent part of the records.

# EXISTING UDO LANGUAGE WITH CHANGES HIGHLIGHTED - WATERSHEDS

## SECTION 11.1 AUTHORITY AND GENERAL REGULATIONS

### 11.1.1 Authority – Moved to Chapter 3. Zoning

The Legislature of the State of North Carolina has, in NCGS 153A-6.121, General Ordinance Authority and in NCGS 143-21, Watershed Protection Rules, delegated the responsibility and authority to local governmental units to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds, and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

### 11.1.2 Applicability – Reworded.

- 11.1.201 The provisions of this Article shall apply within the areas in Moore County's zoning jurisdiction that are designated as Public Water Supply Watersheds by the N.C. Environmental Management Commission and shall be defined and established on the map(s) entitled, "Moore County Public Water Supply Watershed Overlay Districts," which is adopted simultaneously herewith.
- 11.1.202 The "Moore County Public Water Supply Watershed Overlay Districts" Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance.

### 11.1.3 Exceptions – Changed to Exemptions Section.

- 11.1.301 Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any Ordinance or regulation pertaining thereto except any Ordinance which these regulations specifically replace; nor restrict any provisions of the Code of Ordinances of Moore County.
- 11.1.302 It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- 11.1.303 Existing development, as defined by this Article, is not subject to the requirements of this Article. Expansions to structures classified as existing development must meet the requirements of this Article; however, the built-upon area of the existing development is not required to be included in the density calculations.
- 11.1.304 A lot that pre-existed the original effective date of these regulations (December 31, 1993 or before), regardless of whether or not a vested right has been established,

may be developed for single-family residential purposes without being subject to the restrictions of this Article.

**11.1.4 Application of Regulations – Language addressed in other Sections of UDO.**

- 11.1.401 No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- 11.1.402 No area required for the purpose of complying with the provisions of this Ordinance shall be included in the area required for another building.
- 11.1.403 If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

**11.1.5 Rules Governing the Interpretation of Watershed Area Boundaries – Language joined into Interpretations of District Boundaries.**

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

- 11.1.501 Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- 11.1.502 Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the [County][Town] as evidence that one or more properties along these boundaries do not lie within the watershed area.
- 11.1.503 Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- 11.1.504 Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- 11.1.505 Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

**11.1.6 Set Aside for Public Projects and Facilities – Kept the same language**

- 11.1.601 In order to assure that sufficient land is available for public projects and facilities within the five identified Watershed areas, 5% of the Special Nonresidential Intensity Allocation shall be set aside for such projects in the Drowning Creek Watershed, the Bear Creek Watershed, the Little River (Vass) Watershed, and the Little River #2 Watershed.

11.1.602 Ten percent (10%) of the Nick’s Creek Watershed shall be set aside for these purposes. Public projects and facilities shall include schools, public buildings and other similar uses.

~~11.1.7~~ ~~Watershed Certification for Subdivisions~~ – **Apparent Language**

~~11.1.701~~ All subdivisions of land are subject to the provisions contained in ~~Article 17~~ (Subdivision Regulations).

~~11.1.702~~ All subdivision of land meeting the requirements of this Article shall contain the certificate entitled ~~Public Water Supply Watershed Protection Certificate in Appendix C~~ (Subdivision Plat Certificates and Statements).

~~11.1.8~~ ~~Establishment of Watershed Areas~~ – **Already in Zoning Districts Chapter**

~~The purpose of this Article is to list and describe the watershed areas herein adopted. For purposes of this Ordinance the County of Moore is hereby divided into the following area[s], as appropriate:~~

~~11.1.801~~ WS II CA (Critical Area)

~~11.1.802~~ WS II BW (Balance of Watershed)

~~11.1.803~~ WS III CA (Critical Area)

~~11.1.804~~ WS III BW (Balance of Watershed)

~~11.1.805~~ WS IV PA (Protected Area)

SECTION 11.2 WS-II-CA WATERSHED REGULATIONS

**11.2.1 Allowed Uses – Moved to Exemptions**

11.2.101 Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.

11.2.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

11.2.103 Residential development. **– Moved Density Table**

11.2.104 Non-residential development, excluding landfills and sites for land application of residuals or petroleum contaminated soils. **– Moved to Applicability**

**11.2.2 Density and Built-upon Limits – Moved Density Table**

11.2.201 Single Family Residential development shall not exceed one dwelling unit per two (2) acres on a project by project basis.

11.2.202 No residential lot shall be less than two (2) acres [80,000 square feet excluding roadway right-of-way], except within an approved cluster development.

- 11.2.203 All Other Residential and Non-Residential--development shall not exceed six percent (6%) built-upon area on a project by project basis. for the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

## SECTION 11.3 WS-II-BW WATERSHED REGULATIONS

### 11.3.1 Allowed Uses – Moved to Exemptions

- 11.3.101 Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- 11.3.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- 11.3.103 Residential development. – Moved Density Table
- 11.3.104 Non-residential development excluding discharging landfills. – Moved to Applicability

### 11.3.2 Density and Built-upon Limits – Moved Density Table

- 11.3.201 Single Family Residential development shall not exceed one dwelling unit per acre (1 du/ac) on a project by project basis.
- 11.3.202 No residential lot shall be less than one acre (or 40,000 square feet excluding roadway right-of-way), except within an approved cluster development.
- 11.3.203 All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis except that up to ten percent (10%) of the balance of the watershed may be developed at up to seventy percent (70%) built-upon area on a project by project basis as approved by the Watershed Review Board (see §3.13 Special Non-Residential Intensity Allocation). For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

## SECTION 11.4 WS-III-CA WATERSHED REGULATIONS

### 11.4.1 Allowed Uses – Moved to Exemptions

- 11.4.101 Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
- 11.4.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- 11.4.103 Residential development.

11.4.104 Non-residential development, excluding: 1) landfills and 2) sites for land application of residuals or petroleum contaminated soils. – Moved to Applicability

**11.4.2 Density and Built-upon Limits – Moved Density Table**

11.4.201 Single Family Residential--development shall not exceed one dwelling unit per acre (1 du/ac) on a project by project basis.

11.4.202 No residential lot shall be less than one acre (or 40,000 square feet excluding roadway right-of-way), except within an approved cluster development.

11.4.203 All Other Residential and Non-Residential development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed.

**SECTION 11.5 WS-III-BW WATERSHED REGULATIONS**

**11.5.1 Allowed Uses – Moved to Exemptions**

11.5.101 Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

11.5.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).

11.5.103 Residential development. – Moved Density Table

11.5.104 Non-residential development excluding discharging landfills. – Moved to Applicability

**11.5.2 Density and Built-upon Limits – Moved Density Table**

11.5.201 Single Family Residential development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis.

11.5.202 No residential lot shall be less than one-half (1/2) acre (or 20,000 square feet excluding roadway right-of-way), except within an approved cluster development.

11.5.203 All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis except that up to ten percent (10%) of the balance of the watershed may be developed with new development and expansions to existing development at up to seventy percent (70%) built-upon area on a project by project basis as approved by the Watershed Review Board (see §3.13 Special Non-Residential Intensity Allocation). For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

## SECTION 11.6 WS-IV-PA WATERSHED REGULATIONS

### 11.6.1 Allowed Uses – Moved to Exemptions

- 11.6.101 Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- 11.6.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- 11.6.103 Residential development. – Moved Density Table
- 11.6.104 Non-residential development. – Moved Density Table

### 11.6.2 Density and Built-upon Limits – Moved Density Table

- 11.6.201 Single Family Residential development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis.
- 11.6.202 No residential lot shall be less than one-half (1/2) acre (or 20,000 square feet excluding roadway right-of-way), or one-third (1/3) acre for projects without a curb and gutter street system, except within an approved cluster development.
- 11.6.203 All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

## SECTION 11.7 DEVELOPMENT REGULATIONS

### 11.7.1 Cluster Development – Reworded. Simplified.

Cluster development is allowed in all Watershed Areas under the following conditions:

- 11.7.101 Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments for each watershed overlay district.
- 11.7.102 Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
- 11.7.103 All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- 11.7.104 Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainage ways.

- 11.7.105 The remainder of the tract shall remain in a vegetated or natural state.
- 11.7.106 The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.
- 11.7.107 Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
- 11.7.108 Cluster developments that meet the applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

**11.7.2 Buffer Areas Required – Moved to Section 20.4(B)**

- 11.7.201 A minimum one hundred (100) foot natural vegetative buffer is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot natural vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.
- 11.7.202 No new development is allowed in the natural vegetative buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

**11.7.3 Vacant Lots – Moved to Exemptions**

- 11.7.301 This category consists of vacant lots for which plats or deeds have been recorded in the Office of the Register of Deeds of Moore County as of December 31, 1993 or before.
- 11.7.302 Vacant lots may be used for any of the uses allowed in the Watershed Overlay District in which it is located.
- 11.7.303 Where the lot area is below the minimum specified in this Article, the Watershed Administrator or Deputy is authorized to issue a Watershed Protection and Zoning Permit provided the use is allowed in the Watershed Overlay District in which it is located.

#### **11.7.4 Occupied Lots – Moved to Exemptions**

- 11.7.401 This category consists of lots occupied for residential purposes prior to the original adoption of these regulations (December 31, 1993 or before).
- 11.7.402 These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the original adoption of these regulations, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed zoning overlay district in which it is located, such lots may be required to be combined to create lots that meets the minimum size requirements or that minimize the degree of nonconformity.

#### **11.7.5 Uses of Land – Addressed in Nonconformity Chapter**

This category consists of uses existing at the time of original adoption of these regulations where such use of the land is not permitted to be established hereafter in the watershed zoning overlay district in which it is located. Such uses may be continued except as follows:

- 11.7.501 When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
- 11.7.502 Such use of land shall be changed only to an allowed use.
- 11.7.503 When such use ceases for a period of at least one hundred eighty (180) days, it shall not be reestablished.

#### **11.7.6 Reconstruction of Buildings or Built-upon Area – Moved to Exemptions**

Any existing building or built-upon area at the time of original adoption of these regulations not in conformance with the restrictions of this Article that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:

- 11.7.601 Repair or reconstruction is initiated within twelve (12) months and is completed within two (2) years of such damage.
- 11.7.602 The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided. –

### ~~SECTION 11.8 – PUBLIC HEALTH –~~

#### ~~11.8.1 – General Public Health – Too broad of categories to abate. Sewer abated by Environmental Health, Sediment Erosion Control abated by NCDENR, solid waste is abated by Public Works, staff not qualified to enforce stormwater issues.~~

- ~~11.8.101 – No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare.~~

~~11.8.102~~ Such conditions may arise from inadequate on site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

### ~~11.8.2~~ **Abatement**

~~11.8.201~~ The Zoning Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

~~11.8.202~~ The Zoning Administrator shall report all findings to the Watershed Review Board. The Zoning Administrator may consult with any public agency or official and request recommendations.

~~11.8.203~~ Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

## SECTION 6.7 PUBLIC WATER SUPPLY WATERSHED OVERLAYS – ENTIRE SECTION REPEATED FROM SECTION 11.1-11.6

### **6.7.1 Watershed II Critical Area Overlay (WS-II-CA) District**

6.7.101 In order to maintain a predominately undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per 80,000 sq. ft. or a maximum of six percent (6%) built-upon area.

6.7.102 All other residential and nonresidential development shall be allowed at a maximum of six percent (6%) built-upon area.

6.7.103 New sludge application sites and landfills are specifically prohibited.

### **6.7.2 Balance of Watershed II Overlay (WS-II-BW) District**

6.7.201 In order to maintain a predominately undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one (1) dwelling unit per 40,000 sq. ft. or a maximum of twelve percent (12%) built-upon.

6.7.202 All other residential and nonresidential development shall be allowed a maximum of twelve percent (12%) built-upon area.

6.7.203 In addition, all new Development may occupy five percent (5%) of the balance of the watershed which is outside the critical area, with a seventy percent (70%) built-upon area when approved as a Special Non-residential Intensity Allocation (SNIA).

### **6.7.3 Watershed III Critical Area Overlay (WS-III-CA) District**

- 6.7.301 In order to maintain a low to moderate land use intensity pattern, single family residential uses are allowed at a maximum of one (1) dwelling unit per 40,000 sq. ft. or a maximum of twelve percent (12%) built-upon area.
- 6.6.302 All other residential and nonresidential development shall be allowed to a maximum of twelve percent (12%) built-upon area.
- 6.7.303 New sludge application sites and landfills are specifically prohibited.

### **6.7.4 Balance of Watershed III Overlay (WS-III-BW) District**

- 6.7.401 In order to maintain low to moderate land use intensity pattern, single family detached uses shall develop at a maximum of one (1) dwelling unit per 20,000 sq. ft. or a maximum of twenty-four percent (24%) built-upon area.
- 6.7.402 All other residential and nonresidential development shall be allowed a maximum of twenty-four percent (24%) built-upon area.
- 6.7.403 In addition, all new Development may occupy five percent (5%) of the watershed with a seventy percent (70%) built-upon area when approved as a Special Non-residential Intensity Allocation (SNIA).

### **6.7.5 Protected Area of Watershed IV Overlay (WS-IV-PA) District**

- 6.7.501 Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this Ordinance when located in the WS-IV-PA Watershed.
- 6.7.502 In order to address a moderate to high land use intensity pattern, single family residential uses shall develop at a maximum of one (1) dwelling unit per 20,000 sq. ft. or a maximum of twenty-four percent (24%) or thirty-six percent (36%) built-upon area.
- 6.7.503 All other residential and nonresidential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area.
- 6.7.504 A maximum of one (1) dwelling unit per 14,000 sq. ft. or thirty-six percent (36%) built-upon area is allowed for projects without a curb and gutter street system.

Language not required / not necessary. Chapter 2 (Review Bodies) covers Administrator Duties.

The Zoning Administrator or his/her Authorized Agent shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

2.1.221 The Zoning Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Division of Water Quality on or before January 1 of the following year.

2.1.222 The Zoning Administrator shall keep records of the jurisdiction's utilization of the provision that a maximum of five percent (5%) of the non-critical area of WS-II-BW and WS-III-BW watersheds may be developed with nonresidential development to a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical area of nonresidential development to a maximum of seventy percent (70%) built-upon surface area. Records of each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information; location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials as applicable.

2.1.223 The Zoning Administrator and his/her Authorized Agent are granted the authority to administer and enforce the provisions of this Article, exercising in the fulfillment of his/her responsibility the full police power of Moore County. The Zoning Administrator, or his/her duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Article.

2.1.224 The Zoning Administrator shall keep a record of variances to the Moore County Water Supply Watershed Protection Ordinance. This record shall be submitted to the Division of Water Quality on or before January 1 of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

## SECTION 2.5 WATERSHED REVIEW BOARD – MOVED TO CHAPTER 2. REVIEW BODIES

### 2.5.1 Establishment of Watershed Review Board

The Moore County Planning Board is hereby appointed to serve as the Watershed Review Board.

### 2.5.2 Final Authority

The Watershed Review Board shall be responsible for final action regarding the following:

- 2.5.201 Special Non-Residential Intensity Allocations
- 2.5.202 Public Health and/or Water Quality Abatement
- 2.5.203 Density Averaging Certificates

## SECTION 3.12 SPECIAL NON-RESIDENTIAL INTENSITY ALLOCATION – REWORDED. SIMPLIFIED.

### 3.12.1 Applicability

Non-residential development may occupy five percent (5%) of the watershed with a seventy percent (70%) built-upon area when approved as a Special Non-residential Intensity Allocation (SNIA).

### 3.12.2 Pre-Application Conference

Prior to submitting a formal application, a pre-application consultation may be conducted at the applicant's request. It is recommended that the applicant prepare a sketch plan or some depiction of the proposed development concept to a pre-application meeting with the Planning Staff to be sure the project will meet all requirements. Notwithstanding any provision contained in this Ordinance to the contrary, neither the staff's review of the plan submitted for review nor staff's comments to the Applicant relating thereto shall be considered a denial, approval or decision concerning the application.

### 3.12.3 Application Requirements

- 3.12.301 An application for Special Non-Residential Intensity Allocation shall be submitted in accordance with §3.2 (Common Review Procedures).
- 3.12.302 A site plan prepared by a professional engineer must be submitted with the application demonstrating compliance with §3.12.6 (Approval Criteria).

### 3.12.4 Action by the Zoning Administrator

- 3.12.401 The Zoning Administrator shall review the application for compliance with the appropriate sections of the Ordinance and it shall be considered officially filed

only after it is examined by the Staff and found to be in compliance with this Ordinance.

- 3.12.402 The Zoning Administrator shall prepare a staff report that reviews the request in accordance with the adopted plans and policies of the County and the general requirements of this UDO. Following completion of technical review by staff, the Zoning Administrator shall forward the completed request and any related materials to the Planning Board.

### **3.12.5 Action by the Planning Board**

- 3.12.501 The Planning Board shall act as the Watershed Review Board when hearing requests for Special Non-Residential Intensity Allocations.
- 3.12.502 The Planning Board shall consider the application and comments at the public hearing and may grant or deny the Special Non-Residential Intensity Allocation either of which requires a simple majority vote to pass.
- 3.12.503 Requests requiring revisions shall be returned to the Planning Board within 90 days or the request shall be considered withdrawn.

### **3.12.6 Approval Criteria**

No Special Non-Residential Intensity Allocation shall be approved unless the following requirements are made.

- 3.12.601 Site Plan must demonstrate that the request will minimize built-upon surface area
- 3.12.602 All stormwater will be directed away from any surface waters
- 3.12.603 Best Management Practices will be incorporated to minimize water quality impacts.
- 3.12.604 All property subject to a request for a Special Non-Residential Intensity Allocation must be uniformly zoned.

## **SECTION 3.13 WATERSHED DENSITY AVERAGING CERTIFICATE – CONDENSED. ADDRESS MOST LANGAUGE BY REFERENCING STATUTE**

### **3.13.1 Applicability**

- 3.13.101 Density averaging involves the use of two noncontiguous parcels and is based on the idea that the development plans for a pair of parcels can be submitted together and treated as a single project for purposes of these regulations. The amount of development allowed for the paired parcels taken together cannot exceed the amount of development that would be allowed if the parcels were developed separately.

- 3.13.102 A Density Averaging Certificate shall be obtained from the Planning Board sitting as the Watershed Review Board to ensure that both parcels considered together meet the standards of the Ordinance and that potential buyers have notice of how the watershed regulations were applied to the parcel pair. Only buyers of both of the paired parcels may submit the application for Density Averaging Certificate.
- 3.13.103 Development projects in the Balance of Watershed or Protected Area may incorporate undeveloped land elsewhere in the Balance of Watershed, Protected Area or Critical Area. The amount of additional undeveloped acreage required shall be determined by dividing the appropriate density or impervious coverage area factor into the number of dwelling units or impervious coverage area in excess of the amount permitted on the project site by these regulations to determine the amount of other land to be reserved as undeveloped so that the overall density or intensity of the project shall not exceed the density or intensity that would be allowed if the parcels were developed separately.
- 3.13.104 The parcel pair shall be preferably in the same drainage area of the watershed.
- 3.13.105 Parcels to be used in pairs may be located in the Balance of Watershed, Protected or Critical Areas. However, if one of the parcels is located in the Balance of Watershed or Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed. Density Averaging is not allowed between two parcels when both are in the Critical Area.

### **3.13.2 Application Requirements**

- 3.13.201 A site plan for both parcels must be submitted and approved as part of the Density Averaging Certificate. If the certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the permit is amended.
- 3.13.202 Sufficient information shall be submitted so that it may be determined that overall density of the paired parcel averaged density development, calculated either by dwelling units per acre or built upon area, shall not exceed the density that would be allowed if the parcels were developed separately.
- 3.13.203 Buffers shall at a minimum meet the appropriate minimum statewide water supply watershed protection requirements on both parcels in the parcel pair according to the density of development occurring on each parcel.
- 3.13.204 Sufficient information shall be submitted so that it may be demonstrated that the parcels are designed to:
- Minimize storm water runoff impact to the receiving waters by minimizing concentrated storm water flow;
  - Maximize the use of sheet flow through vegetated areas;
  - Minimize impervious surface areas;
  - Locate development away from surface waters and drainage ways to the maximum extent practicable; and

- Stormwater runoff from density averaged development shall be controlled by vegetative conveyance to the maximum extent practicable.

3.13.205 Applicants shall agree to bind themselves and their successors in title, individually and collectively, to maintain the pattern of development proposed for so long as the requirements of this section are applicable.

3.13.206 Parties to enforcement of such agreement shall include Moore County. No such agreement shall be accepted without approval of the County Attorney as to the legal sufficiency of the documents involved.

### **3.13.3 Action by the Zoning Administrator**

Upon issuance of a Density Averaging Certificate, the Zoning Administrator shall forward one copy to the Local Government Assistance Unit of the Division of Water Quality. Included with the approved certificate will be a site plan, registered plats for both properties, and a description of both properties and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.

### **3.13.4 Action by the Watershed Review Board**

The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the plan as a whole conforms to the intent and requirements of this section, and that the proposed agreement assures protection of the public interest and achievement of the objectives of this section.

### **3.13.5 Approval Criteria**

3.13.501 Parcel pairs being submitted for approval under this provision shall be submitted for development approval as a single unitary proposal.

3.13.502 Projects in the critical area may not utilize density averaging.

3.13.503 Undeveloped land included to meet the requirements of one project shall not be included as meeting the requirement of any existing or proposed project nor shall any land included in a parcel pair for which a watershed variance has been granted or would be required.

3.13.504 The preservation of undeveloped floodplain land, steep slopes, or other environmentally sensitive lands within the Critical Area is encouraged. All such land shall be properly vegetated.

3.13.505 The undeveloped parcel(s) or portion(s) thereof shall remain in a vegetated or natural condition and shall be placed in a permanent conservation easement granted under G.S. 121-35 to the County, a land conservation organization or other entity capable of providing for the ongoing maintenance of the undeveloped property.

- 3.13.506 At the time of the issuance of the Zoning Permit, the Density Averaging Certificate and conservation easement shall be caused to be recorded in the office of the Register of Deeds and filed with the Moore County Planning and Community Development Department. Notations shall be made by the Planning Director on the official Zoning Map and the approved development plans and or plats for future guidance in administration and as a public record.
- 3.13.507 The pattern of development and the agreement between the owners shall not be changed except by the issuance of a new or amended Density Averaging Certificate in the manner herein established.

**SECTION 5.4 WATERSHED REGULATION ENFORCEMENT – ALREADY ADDRESSES IN CHAPTER 22. ENFORCEMENT & PENALTIES**

**5.4.1 Criminal Penalties**

Any person, firm, or corporation violating any provision of **Article 11** (Watershed Overlay Districts) shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS [14-4](#). The maximum fine for each offense shall not exceed \$500.00. Each day the violation continues shall constitute a separate and distinct offense.

**5.4.2 Civil Penalties**

- 5.4.201 If any subdivision, development and/or land use is found to be in violation of any provision in **Article 11** (Watershed Overlay Districts), the Zoning Administrator shall, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$500.00.
- 5.4.202 In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with NCGS [143-215.6\(a\)](#). Each day that the violation continues shall constitute a separate and distinct offense.
- 5.4.203 If the Zoning Administrator finds that any of the provisions of **Article 11** (Watershed Overlay Districts) are being violated, they shall notify in writing the person responsible for such violation, indicating the nature of the violation, and that orders the action necessary to correct it.
- 5.4.204 The Zoning Administrator shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
- 5.4.205 If a ruling of the Zoning Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Moore County Board of Adjustment in accordance with [§3.14](#) (Administrative Appeals).

**SECTION 3.14 ADMINISTRATIVE APPEAL – ALREADY ADDRESSED IN CHAPTER 13. APPEALS & VARIANCES**

**3.14.1 Applicability**

An appeal by any person aggrieved by a final order, interpretation or decision of the Zoning Administrator, or his deputy, of this UDO in regard to the provisions of this UDO may be taken to the Board of Adjustment.

**3.14.2 Application Requirements**

- 3.14.201 An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Clerk to the Board and the Board of Adjustment.
- 3.14.202 An application for appeal of an administrative decision shall be submitted in accordance with §3.2 (Common Review Procedures).
- 3.14.203 A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Clerk to the Board. The date and time of filing shall be entered on the notice.
- 3.14.204 An appeal of an administrative decision shall be filed with the Board of Adjustment within 30 days of receipt of the decision.
- 3.14.205 The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

**3.14.3 Notice and Public Hearings**

The County shall hold all required evidentiary hearings and give notice in accordance with §3.2.4 (Public Notice) and §3.2.5 (Public Meetings).

**3.14.4 Action by the Zoning Administrator**

The Zoning Administrator shall transmit to the Board of Adjustment all the papers constituting the record upon which the appealed action was taken and provide a copy of the record to the appellant and to the owner of the property that is subject of the appeal if the appellant is not the owner. The Zoning Administrator who made a decision shall be present at the hearing as a witness.

**3.14.5 Action by the Board of Adjustment**

- 3.14.501 The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the appealed approval, requirement, decision, or determination and shall make any requirement, decision or determination that is deemed necessary. To this end, the Board of Adjustments shall have all the powers of the officer from whom the appeal is taken.
- 3.14.502 A motion to reverse, affirm or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
- 3.14.503 If a motion to reverse or modify is not made, or fails to receive approval by the majority of the members eligible to vote, then the appeal shall be denied.
- A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
- 3.14.504 Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

### **3.14.6 Effect of Administrative Appeal**

An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from, unless the administrative official from who the appeal is taken certifies to the Board of Adjustment that, because of facts stated in the affidavit, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this UDO. In that case, proceedings shall not be stayed except by restraining order which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with this Ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

### **3.14.7 Appeal to Court**

No appeal may be taken from the action of the Board of Adjustment except through the Moore County Superior Court as outlined in [NCGS 153A-345\(e2\)](#) or forever be barred.

## **SECTION 3.15 VARIANCES – CONDENSED LANGUAGE. ADDRESSED MOST LANGUAGE BY REFERENCING CHAPTER 13. APPEALS & VARIANCES**

### **3.15.1 Applicability**

- 3.15.101 The Board of Adjustment may vary certain requirements of this UDO that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this UDO, will, in an individual case, result in unnecessary hardship. The Board of Adjustment shall ensure that the spirit of this UDO shall be observed, public safety and welfare secured, and substantial justice done.
- 3.15.102 The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance.

### **3.15.2 Application Requirements**

- 3.15.201 An application for a variance shall be submitted in accordance with §3.2 (Common Review Procedures).
- 3.15.202 Applications for variances shall include a detailed site plan as described in §8.1.2 (Detailed Site Plan).

### **3.15.3 Notice and Public Hearings**

- 3.15.301 The County shall hold all required evidentiary hearings and give notice in accordance with §3.2.4 (Public Notice) and §3.2.5 (Public Meetings).
- 3.15.302 The Board shall fix a date for hearing the variance request, to be held within forty-five (45) days of the date a complete application was submitted, giving notice to the applicant by certified mail.

### **3.15.4 Burden of Proof**

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below as well as the burden of persuasion on those issues.

### **3.15.5 Action by the Zoning Administrator**

- 3.15.501 The Zoning Administrator shall provide the Board of Adjustment with a copy of the application and all relevant materials pertaining to the request.
- 3.15.502 For Variances from **Article 11** (Watershed Overlay Districts), the Zoning Administrator shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Zoning Administrator prior to a decision by the Board of Adjustment. Such comments shall become a part of the record of the proceedings of the Board of Adjustment and must be received within a reasonable period of time.

### **3.15.6 Action by the Board of Adjustment**

- 3.15.601 The Board of Adjustment may approve the request, deny the request, or continue the request.
- 3.15.602 Each decision shall be accompanied by a finding of fact that specifies the reason for the decision.
- 3.15.603 If a motion to approve a variance is made, or fails to receive approval by four-fifths of the members eligible to vote, the variance shall be denied.
- 3.15.604 In approving the variance, the Board of Adjustment may prescribe appropriate conditions provided that the conditions are reasonably related to the variance.
- 3.15.605 Conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this UDO.

### **3.15.7 Findings of Fact**

No variance shall be approved by the Board of Adjustment unless all of the following findings are made:

- 3.15.701 That unnecessary hardship would result from the strict application of the UDO and it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- 3.15.702 That the hardship results from conditions that are peculiar to the property, such as location, size, or topography, and 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;
- 3.15.703 That 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; and
- 3.15.704 That the requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

### **3.15.8 Reapplication of Variance Request**

The Board of Adjustment shall not hear an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the application.

### **3.15.9 Appeal to Court**

Any decision by the Board of Adjustment may be appealed in accordance with G.S. § Chapter 7A of the North Carolina General Statutes.