

## EXHIBIT A

Section 1. Section 4-104 of the Code of Ordinances, Gaston County, North Carolina is hereby amended to read as follows:

### **Sec. 4-104. Definitions.**

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

*Housing board* shall mean the Gaston County Housing Board as appointed by the Gaston County Board of Commissioners. Members of the housing board shall be composed of members of the Gaston County Planning and Zoning Board of Adjustment.

Section 2. Section 4-123 of the Code of Ordinances, Gaston County, North Carolina is hereby amended to read as follows:

### **Sec. 4-123. Definitions and terms of construction.**

The following definitions shall apply in the interpretation and enforcement of this article:

...

*Housing board* shall mean the Gaston County Housing Board as appointed by the Gaston County Board of Commissioners. Members of the housing board shall be composed of members of the Gaston County Planning and Zoning Board of Adjustment.

Section 3. Section 4-136 of the Code of Ordinances, Gaston County, North Carolina is hereby amended to read as follows:

### **Sec. 4-136. Administration; housing appeal board.**

The housing board shall review all appeals from property owners relating to orders given by the housing inspector. At the appeals hearings the owners may present evidence to the board to show proof that the violations noted in the inspections report do not violate the minimum housing standards of Gaston County established by this article. The housing board shall consist of five (5) members to serve for three-year staggered terms who shall be appointed by the board of commissioners. The composition of this housing board shall consist of five (5) members from the Gaston County Planning and Zoning Board of Adjustment. The board shall have the power to elect its own offices, to fix the date and place of its meetings, to adopt the necessary rules of procedure, and to

adopt other rules and regulations for the proper discharge of its duties. The board shall perform the duties prescribed by section 4-139 as well as the North Carolina General Statutes and shall keep an accurate record of all of its proceedings.

Section 4. Sections 5.5-35(6) and (7) of the Code of Ordinances, Gaston County, North Carolina are hereby amended to read as follows:

(6) Any development in which the owner has accrued a vested right. A vested right is recognized if either a preliminary plan has been approved by the Planning and Zoning Board that meets the required specifications and standards of Gaston County ordinances, or a Land Disturbing Permit has been issued pursuant to Gaston County Soil Erosion and Sedimentation Control ordinance in effect on or before the effective date of this ordinance, and that such plan or permit remains unexpired.

(7) A party in interest to a particular plan found to have no vested right to construct or develop on or before the effective date of this ordinance may appeal to the Gaston County Planning and Zoning Board of Adjustment for a hearing de novo. Such hearing shall be expedited and shall be limited to the issue of whether the landowner has a vested right to construct or develop his site under plans submitted prior to the effective date of this chapter.

Section 5. Section 5.5-37(q) of the Code of Ordinances, Gaston County, North Carolina is hereby amended to read as follows:

q. Residential high density development plans located in unincorporated parts of the county shall not be approved until a variance is received from the county ~~planning~~ Planning and Zoning board.

Section 6. Sections 13-2, 13-3, and 13-4 of the Code of Ordinances, Gaston County, North Carolina are hereby amended to read as follows:

**Sec. 13-2. Planning board Creation; membership; organization. Reserved**

~~A county planning board to be appointed by the board of commissioners is hereby created consisting of seven (7) members, one (1) member to be appointed from each township, except Gastonia Township which shall have two (2) members. Initially, the members from Cherryville, Crowders Mountain Township shall serve for a term of one (1) year; the member from Dallas Township and one (1) member from the Gastonia Township shall serve a term of two (2) years; Riverbend, Southpoint and the other Gastonia Township member shall serve a term of three (3) years. Thereafter each member shall serve for a term of three (3) years. No member shall serve more than two (2)~~

~~complete terms. There shall be a chairman of the planning board who shall be appointed from the seven (7) members by the board of commissioners annually, to serve at the will of the board of commissioners.~~

**Sec. 13-3. ~~Same~~—Powers and duties generally. Reserved**

~~The planning board shall:~~

- ~~(1) Make studies of the county and surrounding areas;~~
- ~~(2) Determine objectives to be sought in the development of the study areas;~~
- ~~(3) Prepare and adopt plans for achieving these objectives;~~
- ~~(4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;~~
- ~~(5) Advise the board of commissioners concerning the use and amendment of means for carrying out plans;~~
- ~~(6) Exercise many functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;~~
- ~~(7) Perform any other related duties that the board of commissioners may direct.~~

**Sec. 13-4. ~~Same~~—Supplemental powers. Reserved**

~~(a) The planning board may accept, receive and disburse in furtherance of its functions funds, grants and services made available by the federal government, or its agencies, any local government, or its agencies and private or civic sources as provided in G.S. 153A-322.~~

~~(b) With the concurrence and approval of the board of commissioners, enter into and carry out contracts with the state or federal government or other agencies, under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.~~

~~(c) With the concurrence and approval of the board of commissioners, enter into and carry out contracts with any other county, city, regional council or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency and to enter into and carry out contracts with any other county, city, regional council or planning agency under which it agrees to pay the other local government or planning agency for technical planning assistance.~~

~~(d) Make recommendations pertaining to any grant assistance program, to facilitate the preparation of the capital improvement budget, and provide support for needed continuous technical assistance, including preparation of various grant applications.~~

~~(e) Make recommendations for coordination of the various existing county programs.~~

Section 7. Section 13-26 of the Code of Ordinances, Gaston County, North Carolina is hereby amended to read as follows:

**Sec. 13-26. Appeals.**

(a) Any party aggrieved by the decision of the historic preservation commission to grant or deny a certificate of appropriateness may appeal to the Gaston County Planning and Zoning Board of Adjustment.

(b) The appeal shall be made in writing within ten (10) days of the decision of the historic preservation commission. The appeal must state the reason(s) the decision should be overturned.

(c) An appeal from the Planning and Zoning Board's ~~board of adjustment's~~ decision shall be heard by the Superior Court of Gaston County.

Section 8. Section 14-24 of the Code of Ordinances, Gaston County, North Carolina is hereby amended to read as follows:

**Sec. 14-24. Definition of terms.**

For the purposes of this chapter, certain terms and words used herein shall be defined as follows:

...

*Planning and development services:* Provides direction to citizens of Gaston County and to those whose actions may directly impact citizens, in maintaining orderly and responsible growth by developing and enforcing ordinances, policies and procedures relating to the use of land. The department provides direction, administration, and support services in special projects and programs undertaken by Gaston County. It also provides direction and recommendations to the Gaston County Board of Commissioners and Gaston County Planning and Zoning Board.

Section 9. Section 14-185b of the Code of Ordinances, Gaston County, North Carolina is hereby amended to read as follows:

(b) The board of commissioners hereby authorizes the Planning and Zoning Board ~~planning board~~ and planning and development services to develop procedures for the numbering of structures in unincorporated areas of Gaston County.

Section 10. Section 2.2 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

If it is alleged by any party that an error exists on the zoning maps with respect to any zoning district designation, zoning district boundary, special use permit or conditional district boundary, the lines showing the effective dates of zoning enactment or any other matter with respect to the provisions of this ordinance relating to zoning information, the party may request a review of the alleged error by the Planning and Zoning Board of Adjustment, per Section 4.5.1(A)().

Section 11. Section 2.6 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 2.6 Interpretations of terms and words.**

The following rules shall be followed in interpreting words and terms used in this Ordinance:

...

11. The term "Planning Board" shall mean the "Planning and Zoning Board of Gaston County, North Carolina". The Planning and Zoning Board shall also act as the Watershed Review Board.

12. The term "Board of Adjustment" shall mean the "Planning and Zoning Board ~~of Adjustment~~ of Gaston County, North Carolina."

...

15. The Planning and Zoning Board ~~of Adjustment~~ shall also act as the Flood Control Appeal (or Control) Board.

...

19. The following acronyms may be used throughout this ordinance:

...

xvi. ~~BOA~~ BOA ~~Board of Adjustment~~

Section 12. Section 3.5 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 3.5 Nonconforming situations.**

The purpose of this section is to regulate the continued existence of uses and structures established prior to the effective date of these regulations or any subsequent amendment that does not conform to these regulations. Given the fact that the implementation of this UDO and previous zoning ordinances has in the past and will in the future result in the creation of a number of nonconformities, some of which are viable uses that do not produce substantial negative impacts, this Ordinance allows the Administrator and the Planning and

Zoning Board of Adjustment to issue permits for the expansion and or replacement of nonconforming uses and structures in certain situations.

Section 13. Section 3.5.9B of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

B. A Certificate of Occupancy may be issued when there has been a change in a principal use and the number of off-street parking spaces required for the new use (per Chapter 10 of this Ordinance) is within ten percent or ten spaces, whichever is less, of the number of off-street parking spaces actually provided. For a greater reduction of off-street parking space requirements, but not to exceed 15 percent of the required number of parking spaces, the expansion may only occur through the issuance of a variance by the Planning and Zoning Board of Adjustment in accordance with all applicable provisions of Section 5.14 of this Ordinance.

Section 14. Section 3.5.10B of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

B. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign or causes a previously conforming sign to become nonconforming, except with the issuance of a Minor Modification by the ~~Zoning Administrator~~ Administrator in accordance with all applicable provisions of Section 5.15 of this Ordinance. One such provision is that a Variance may be issued by the Planning and Zoning Board of Adjustment. This provision shall not apply when the nonconformity is the result of the acquisition of a right-of-way by a public entity. The administrator of such jurisdiction in such instances may authorize the continuation or replacement of a sign in the right-of-way with prior approval of the NCDOT.

Section 15. Section 4.1.1 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 4.1.1 Ordinance administration and review bodies.**

The following persons and entities shall have roles in administering the provisions of this Ordinance:

- A. County Board of Commissioners.
- B. Administrator and any designees (Public Officers).
- C. Planning and Zoning Board.
- ~~D. Board of Adjustment.~~

~~E.D.~~ Technical Review Committee.

Section 16. Section 4.2.1 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 4.2.1 Powers and duties.**

The governing board shall have the following powers and duties:

- A. To appoint members to the Planning and Zoning Board ~~and the Board of Adjustment~~ per NCGS 160D.
- B. To initiate, adopt, and amend a Comprehensive Plan.
- C. To initiate amendments to the text of this Ordinance.
- D. To review recommendations of the Planning and Zoning Board and make final decisions on applications for amendments to the text of this Ordinance pursuant to NCGS 160D-604.
- E. To adopt and amend a schedule of fees for a variety of procedures addressed in this Ordinance.
- F. To hear, review, and approve, conditionally approve, or deny amendments to the Official Zoning Map after a recommendation of the Planning and Zoning Board has been submitted pursuant to NCGS 160D-604.
- H. To hear appeals of decisions made by the Planning and Zoning Board regarding subdivision plats as provided for in Section 13.6.

Section 17. Section 4.3.2 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 4.3.2 Appeals from the decisions of the Administrator.**

Appeals of decisions made by the Administrator shall be made to the Planning and Zoning Board. ~~of Adjustment in accordance with Section 5.13 of this Ordinance.~~

Section 18. Section 4.4 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 4.4 Planning and Zoning Board.**

Pursuant to NCGS 160D-~~604~~ 301 and 302, there is hereby established a unified planning-agency board known as the Gaston County Planning and Zoning Board, designated to perform any of the duties of a board of adjustment in addition to its other duties.

Section 19. Section 4.4.1 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 4.4.1 Powers and duties.**

The Planning and Zoning Board shall have the following powers and duties:

~~A. To prepare or hear, review, and make recommendations on the content of a comprehensive plan, land use plan, and other plans that address land use and planning related issues and to submit such plan to the Board of Commissioners.~~

~~B. To initiate or hear, review, and make recommendations to the Board of Commissioners for amendments to the text of this Ordinance or to the Official Zoning Map.~~

~~C. To adopt rules of procedure for the conduct of its meetings and for any other purposes deemed necessary and consistent with this Ordinance and all other applicable local and State regulations.~~

~~D. To grant exceptions to the Subdivision Chapter and Water Supply Chapter.~~

A. Interpret the official Zoning Map and Unified Development Ordinance

B. Propose and review changes to the Comprehensive Land Use Plan and other plans as deemed appropriate

C. Facilitate and coordinate citizen engagement and participation in planning processes

D. Develop and recommend policies, ordinances, development regulations, and other means for carrying out plans in a coordinated and efficient manner

E. Advise the Board of Commissioners in the implementation and amendments of plans, including but not limited to, the Comprehensive Land Use Plan, the Unified Development Ordinance, and amendments to the official Zoning Map

F. Hear and decide appeals and other quasi-judicial matters, including, but not limited to, appeals from the decisions of staff and of the Zoning Administrator, special use permits, and variances

G. Exercise any powers granted to planning boards and boards of adjustment through state statutes regulating land use in North Carolina

H. Exercise any powers granted to the Housing Board and the Watershed Board as outlined in the County Code of Ordinances and the Unified Development Ordinance.

Section 20. Section 4.4.2 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 4.4.2 Membership Composition.**



~~A. The Board of Commissioners shall appoint ten regular members to the Planning Board as provided in this Ordinance. Except in the case of filling a vacancy, each appointment shall be for a term of three years.~~

~~B. The members of the Planning Board shall elect one of their members as Chair and one as Vice Chair. In the absence of the Chair, the Vice Chair shall act as Chair and shall have all powers of the Chair. In the absence of both, the Board shall elect a temporary chair to conduct the meeting. The Chair, or in the Chair's absence the Vice Chair, shall be in charge of all proceedings before the Board, and take actions necessary to preserve the order and integrity of all proceedings before the Board.~~

A. Members shall be appointed by the Gaston County Board of Commissioners.

B. Appointments shall be for three-year terms. In appointing the original members, or in filling vacancies caused by the expiration or resignation of the terms of existing members, the Board of Commissioners may appoint certain members for less than three years so that the terms of all members shall not expire at the same time.

C. No member may serve more than two complete terms at a time. At the end of serving two complete terms, a member will be eligible to reapply after three years from the end date of their last term.

D. The unified Planning and Zoning Board shall be comprised of nine members and two alternate members.

E. Alternate members shall be appointed in the same manner as regular members and serve in place of any absent regular member and have all the powers and duties of a regular member. Alternate members do not have to represent a specific category below but should still have a strong background in development fields.

F. Compensation shall be provided in the form of \$25.00 per meeting attended. At no point shall there be more than nine members seated at each meeting. Regular members will be notified first, and if they are unable to attend, alternate members will be contacted.

G. Membership on the Board shall have one representative from the following:

- i. Cherryville Township
- ii. Crowders Mountain Township
- iii. Dallas Township
- iv. Gastonia Township
- v. Riverbend Township
- vi. Southpoint Township
- vii. Board of Education/Designee

- viii. Home Builders Association - President/Designee
- ix. Soil & Water Conservation Board/Designee
- x. Board of Education
- xi. Home Builders Association President / Designee
- xii. Soil/Water Conservation Board Designee

Section 21. Section 4.4.3 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 4.4.3 Secretary-Appointment Process.**

~~A secretary shall be appointed to serve the Planning Board. The Secretary shall keep Planning Board minutes showing the vote of each member on all voting matters. In addition, the Secretary shall maintain all records of Planning Board meetings, hearings, and proceedings, as well as the correspondence of the Planning Board. All minutes, records, and files shall be housed in the office of the Building and Development Services Department as a public record.~~

A. Initial appointments shall be made to staggered terms. Any staggered or partial term of less than three years shall not count as a full term. Members appointed to a staggered or partial term, including those filling a vacancy, may be reappointed for up to two additional full terms thereafter.

B. Staggered terms shall not apply to the representatives of the Home Builders Association, the Soil & Water Conservation Board, or the Board of Education. These representatives must be active members of the boards/organizations they represent, and the terms shall be coterminous with the respective boards/organizations. These boards/organizations must recommend potential members to the Board of Commissioners, and the Board of Commissioners shall make the appointments as outlined herein in Exhibit A.

Section 22. Section 4.4.4 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 4.4.4 Staff-Quorum.**

~~The Director (or their designee) shall serve as the professional staff to the Planning Board. No meeting of the unified Planning and Zoning Board shall be called to order without a simple majority of members present.~~

Section 23. The Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended by adding a section, to be numbered 4.4.5, which section reads as follows:

**Sec. 4.4.5 Voting.**

A. A simple majority vote shall be required to pass or recommend approval on text amendments, rezonings, appeals, and special use permits.

B. A four-fifths super majority vote of the unified Planning and Zoning Board shall be required for variances. Vacancies or members who are disqualified from voting on quasi-judicial matters under NCGS 160D-109(d) shall not be considered members of the board for the calculation of the required majority if there are no qualified alternatives to take the place of regular members.

Section 24. The Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended by adding a section, to be numbered 4.4.6, which section reads as follows:

**Sec. 4.4.6 Decisions and Recommendations.**

A. The unified Planning and Zoning Board shall provide a formal recommendation on amendments to the Unified Development Ordinance and Zoning Map to the Board of Commissioners, who will make the final determination on the request.

B. The unified Planning and Zoning Board shall be the deciding board on special use permits, appeals on decisions of the Zoning Administrator, and variances unless otherwise specified for specific uses in the Unified Development Ordinance.

C. Rehearing for Quasi-Judicial Cases – An application for rehearing shall be made in the same manner as provided for in the original hearing within a period of fifteen (15) days after the unified Planning and Zoning Board has rendered a decision. The unified Planning and Zoning Board shall deny a rehearing if, in its judgment, a major change in facts, evidence, or conditions has not been presented in their hearing application. If the Planning and Zoning Board finds that a new hearing is warranted, it shall proceed as it did in the original hearing.

D. Appeals of quasi-judicial decisions – an appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the Superior Court.

E. Appeals of Special Use Permit decisions shall be made to the Board of Commissioners.

Section 25. The Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended by adding a section, to be numbered 4.4.7, which section reads as follows:

**Sec. 4.4.7 Staffing and Meeting Schedule.**

A. The Planning and Zoning Department staff shall act as the staff liaisons to the unified Planning and Zoning board. Staff shall appoint a secretary to

maintain all records of meetings, appointments, hearings, and correspondence between appointed board members.

B. Regular meeting calendars shall be adopted no later than October 1<sup>st</sup> of the previous calendar year.

C. The unified Planning and Zoning Board shall hear no more than six cases per regular meeting.

D. The Chairperson may call special meetings with at least 48 hours' notice to all members.

Section 26. The Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended by adding a section, to be numbered 4.4.8, which section reads as follows:

**Sec. 4.4.8 Application Procedure.**

A. All applications for cases to be heard by the unified Planning and Zoning Board shall be submitted online along with any applicable fees in accordance with the adopted fee schedule.

B. Cases will be reviewed and presented in the order they were received. Completeness and readiness of an application and case overall will be taken into consideration when assigning hearing dates.

C. The filing of any application stays all proceedings unless the Zoning Administrator certifies that a stay in his/her opinion will cause imminent peril to life or property, or that because the violation charged would seriously interfere with the enforcement of the ordinance. In that event, proceedings shall not be stayed except by an order granted by the Board of Commissioners.

Section 27. The Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended by adding a section, to be numbered 4.4.9, which section reads as follows:

**Sec. 4.4.9 Public Hearing Notification.**

A. Rezoning – the owners of the subject property and the owners of all parcels of land abutting the subject parcel that is the subject of the hearing shall receive a mailed notice of the hearing date with the Board of Commissioners. The notice must be deposited in the mail at least ten (10) days, but no more than 25 days, before the date of the hearing with the Board of Commissioners. Within the same period, the County shall also prominently post a notice of hearing sign on the site or on an adjacent street right-of-way. A notice of the hearing with the Board of Commissioners shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time, not less than ten days and no more

than 25 days before the date scheduled for the hearing with the decision-making body, the Board of Commissioners.

i. If the zoning map amendment is in conjunction with the acceptance of extraterritorial jurisdiction, a single hearing on the map amendment may be held. The initial notice of the amendment may be combined with the boundary hearing notice, and the combined hearing notice shall be mailed at least 30 days prior to the hearing.

ii. Public information meetings shall no longer be required for Conditional Rezoning cases. They will be highly encouraged; however, applicants will be solely responsible for coordinating public information meetings and sharing all information with Planning and Zoning staff. Should the applicant request staff to coordinate public information meetings, the fees in the adopted fee schedule shall be implemented.

B. Quasi-judicial hearings – the owners of the subject property and the owners of all parcels of land abutting the subject parcel that is the subject of the hearing shall receive a mailed notice of the hearing. The notice must be deposited in the mail at least ten (10) days, but no more than 25 days, prior to the date of the hearing. Within the same time period, the local government shall also prominently post a notice of hearing sign on the site or on an adjacent street right-of-way. A legal notice shall not be required as it is not required by general statutes.

C. Adopting, amending, or repealing development regulations – A notice of the hearing with the Board of Commissioners shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten days and no more than 25 days before the date scheduled for the hearing with the decision-making body, the Board of Commissioners.

D. All cases shall be noticed online in a manner that allows the public to comment and provide feedback on proposed changes. Planning and Zoning Staff shall be responsible for making this available once a complete application and all applicable fees have been submitted and received.

Section 28. Section 4.5 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

#### **Sec. 4.5 Board of Adjustment. Reserved.**

##### **Sec. 4.5.1 Establishment and duties.**

Pursuant to NCGS 160D-302, a Board of Adjustment is hereby established. The duties of the Board of Adjustment shall be as follows:

~~A. To hear and decide appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance pursuant to Section 5.13.~~

~~B. To hear and decide on applications for variances from the terms of this ordinance pursuant to Section 5.14.~~

~~C. To interpret the Official Zoning Map and shall make final decisions on disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance.~~

~~D. To adopt rules of procedures for the conduct of its meetings, so long as such policies and procedures are consistent with this Ordinance and all other applicable local and state regulations.~~

~~E. To hear and decide applications for Special Use Permits per Section 5.11.~~

~~F. The Board of Adjustment shall exercise any other powers as granted by this Ordinance. In carrying out its duties, the Board of Adjustment may subpoena witnesses and compel the production of evidence.~~

~~The Board of Adjustment shall not have power, jurisdiction, or authority to amend any ordinance or grant use variances.~~

#### **Sec. 4.5.2 Quasi-judicial procedures.**

~~The consideration and final decision on any application for an appeal, variance, special use, permit or interpretation, as provided above, shall be made by the Board of Adjustment only after a quasi-judicial evidentiary hearing has been properly advertised and convened. The Board shall follow quasi-judicial procedures as specified in G.S. 160D-406 when making quasi-judicial decisions.~~

#### **Sec. 4.5.3 Membership.**

~~The Board of Adjustment shall consist of seven regular and two alternate members, each appointed by the Board of Commissioners. Membership shall be for three year terms. When appointing the original members or filling vacancies caused by the expiration of the terms of existing members, the Board of Commissioners may appoint certain members for less than three year terms so that all members' terms shall not expire at the same time. All of the members of the Board of Adjustment shall be residents of Gaston County who reside in the area in which the UDO has jurisdiction as indicated on the Official Zoning Map. Alternate members who attend any regular or special meeting of the Board and who serve in the absence of any regular member at any such meeting shall have and exercise all the powers and duties of such regular member so absent.~~

#### **Sec. 4.5.4 Secretary.**

~~A secretary shall be appointed to serve the Board of Adjustment. The Secretary shall keep Board of Adjustment minutes showing the vote of each member on~~

~~all voting matters. In addition, the Secretary shall maintain all records of Board of Adjustment meetings, hearings and proceedings, as well as the correspondence of the Board of Adjustment. All minutes, records, and files shall be housed in the office of the Building and Development Services Department as a public record.~~

**~~Sec. 4.5.5 Staff.~~**

~~One or more persons shall be appointed to serve as the staff to the Board of Adjustment.~~ **~~Sec. 4.5.6 Quorum.~~**

~~No meeting of the Board of Adjustment may be called to order, nor may the Board of Adjustment transact any business not requiring a public hearing without a quorum consisting of a majority of the appointed regular membership of the Board of Adjustment.~~

**~~Sec. 4.5.7 Application procedure.~~**

~~The following regulations apply to all applications submitted to the Board of Adjustment:~~

~~A. Before a petition for an administrative appeal, Special Use Permit, interpretation of the zoning ordinance maps, or variance is heard and an evidentiary hearing conducted by the Board of Adjustment, an application (on a form provided by the Administrator) shall be submitted to the Administrator along with a fee in accordance with the fee schedule established by the Board of Commissioners. Said fee shall be waived for any petition or request made by Gaston County or the State of North Carolina.~~

~~B. The filing of any application stays all proceedings unless the Administrator certifies that a stay in their opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment, Board of Commissioners, or by the superior court of Gaston County.~~

~~C. Within five working days after having received an application for an appeal, interpretation, variance, or Special Use Permit, the Administrator shall determine whether the application is complete. If the Administrator determines that the application is not complete, they shall provide a written notice to the applicant specifying the application's deficiencies. The Administrator shall take no further action on the application until the deficiencies are remedied. If the Administrator fails to notify the applicant within said five working day period, the application shall be deemed complete.~~

**~~Sec. 4.5.8 Public hearing notification.~~**

~~The County shall give notice of all Board of Adjustment evidentiary hearings. Per NCGS 160D-406, notice of evidentiary hearings shall be mailed to the person/entity whose appeal, application, or request is the subject of the hearing;~~

~~the owners of the property that is the subject of the hearing if the owner did not initiate the hearing, to the owners of all parcels of land abutting the parcel of land that is subject of the hearing; and any other persons or entities to receive notice as provided by this Ordinance. Notices must be deposited in the mail at least ten days, but no more than 25 days, prior to the date of the hearing. Within that same time period, staff shall post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. Note: The Administrator may waive the sign posting requirement or relocate the placement of the sign(s) where the literal application of this provision would serve no meaningful purpose.~~

#### **~~Sec. 4.5.9 Board of Adjustment decision.~~**

~~A. The Board of Adjustment shall hold a quasi-judicial evidentiary hearing on an application no later than 30 working days after a complete application has been filed with the Administrator. The Board of Adjustment shall decide on the matter within a reasonable amount of time.~~

~~B. The concurrent vote of four fifths of the voting members of the Board of Adjustment shall be necessary to grant a variance. A majority vote of the members shall be required to decide on any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant members of the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the required majority if there are no qualified alternatives available to take the place of such members. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application.~~

~~C. All decisions of the Board of Adjustment shall be in writing and filed with the Administrator. A copy of the decision shall be sent to the applicant (and, in the case of map interpretations, to all owners of property that gave rise to the interpretation request) within ten working days of the date of decision of the Board of Adjustment.~~

#### **~~Sec. 4.5.10 Appeals from the Board of Adjustment/rehearing.~~**

~~A. An application for a rehearing shall be made in the same manner as provided for in the original hearing within a period of 15 days after the decision of the Board of Adjustment is filed in the office of the Administrator. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. The Board of Adjustment shall deny a rehearing, if, in its judgment, such change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held by the Board of Adjustment to consider holding such a rehearing. Approval of said consideration, however, shall require an affirmative vote of at least four-fifth of the Board of Adjustment's voting membership. In the event that the~~



~~Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing.~~

~~B. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application affecting all or any portion of the same property(ies) may not be filed for a period of one year after the date of denial of the original application.~~

~~C. Every decision of the Board of Adjustment shall be subject to review by the Superior Court of Gaston County by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the clerk of Superior Court within 30 days after the decision of the Board of Adjustment is filed in the office of the Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Administrator or the chairman of the Board of Adjustment at the time of the Board's hearing of the case, whichever is later.~~

Section 29. Section 5.8.2B of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

B. Otherwise, if a temporary use is not listed in Table 5.8-1 the use may only be granted a zoning permit after: (i) a public hearing has been conducted by the Planning and Zoning Board of Adjustment, and (ii) the Planning and Zoning Board of Adjustment has made the following determinations:

1. The proposed use will not materially endanger the public health, welfare and safety; and
2. The proposed use will not have a substantial negative effect on adjoining properties.

In approving such permit, the Planning and Zoning Board of Adjustment may authorize conditions regarding the duration of the use, hours of operation, signage, lighting, and any other factors deemed necessary by the Administrator. Such conditions shall be made part of the permit issued. Violations of such conditions shall be considered a violation of this Ordinance.

Section 30. Section 5.11.2C of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

C. In the course of evaluating the proposed special use, the Planning and Zoning Board of Adjustment may request additional information from the applicant in order to assist in the review process. A request for such additional information shall stay any further consideration of the application by such agency. Such additional requested information may include (but shall not be limited to) the following:

Section 31. Section 5.11.3A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

A. For a Special Use Permit to be considered for approval, a public hearing must be held by the Planning and Zoning Board of Adjustment. Any complete application shall be submitted to the Administrator at least 30 working days prior to the public hearing. This shall be sufficient time period for the staff to review the application and produce a staff report and to ensure that all applicable notification requirements can be met. Notification of the public hearing shall be as follows:

Section 32. Section 5.11.5A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.11.5 Final decision.**

A. Conduct of public hearing.

1. The Planning and Zoning Board of Adjustment public hearing shall be held in a quasi-judicial manner. In approving an application for a Special Use Permit, the Planning and Zoning Board of Adjustment may attach fair and reasonable conditions to the approval. Such conditions shall be limited to those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Planning and Zoning Board of Adjustment. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found in the zoning district in which the property is located except for minor modifications as indicated in Table 5.15-1 and except where otherwise specifically allowed in this Ordinance. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this Ordinance that pertain to that development. The Planning and Zoning Board of Adjustment may not impose conditions on Special Use Permits that the local government does not otherwise have statutory authority to impose. Such conditions shall be mutually agreeable by the County and the petitioner.

Section 33. Section 5.11.5B(2) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

2. The Planning and Zoning Board of Adjustment may only issue a Special Use Permit if it has evaluated an application and found each of the following findings in the affirmative:

Section 34. Sections 5.11.5E(1) and E(2) of the Unified Development Ordinance of the County of Gaston, North Carolina are hereby amended to read as follows:

E. Binding effect.

1. Any Special Use Permit herein authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Planning and Zoning Board of Adjustment. All conditions contained in the Special Use Permit shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns, unless subsequently changed or amended as provided for herein. However, the Administrator may approve minor changes in the detail of the approved application. A "minor change" to the approved Special Use Permit shall be deemed to be a change which:

...

2. Further changes to the development may be made only by the Planning and Zoning Board of Adjustment in accordance with Section 5.11.2 through 5.11.5 of this Ordinance.

Section 35. Section 5.11.5F of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

F. Period of Validity of Special Use Permit. Unless the Planning and Zoning Board of Adjustment issues a Special Use Permit, which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit (or certificate of compliance) within 24 months from date of issuance of the Special Use Permit. If a building permit or certificate of compliance is not issued at the end of said time period, the Special Use Permit shall automatically expire and shall be deemed rescinded. Such rescission shall not occur if the applicant has secured the vesting of a site development plan (in accordance with Section 5.10) for a period of greater than 24 months. The County shall file and record a copy of the SUP in the office of the Register of Deeds for Gaston County.

Section 36. Section 5.11.7B of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

B. If said petition is withdrawn at least two working days prior to the Planning and Zoning Board of Adjustment public hearing, a similar petition submitted by that property owner (or his agent) shall not be accepted by the Administrator within 180 days of the date of withdrawal.

Section 37. Section 5.11.9 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.11.9 Appeals.**

A. An appeal to the decision of the Planning and Zoning Board of Adjustment shall be filed with the Clerk of Superior Court in the nature of certiorari no later than 30 days after said decision has been filed in the Administrator's office and as otherwise provided for in NCGS 160D-406. Staff will presume that notice of determination sent by mail is received on the third business day after determination was sent.

Section 38. Sections 5.13 and 5.13.1-5.13.4 of the Unified Development Ordinance of the County of Gaston, North Carolina are hereby amended to read as follows:

**Sec. 5.13 Administrative appeals/interpretations.**

Except as provided herein, the Planning and Zoning Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, interpretation or citation made by the Administrator and apply such interpretation to particular fact situations. In addition, the Administrator may ask the Planning and Zoning Board of Adjustment to interpret the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance.

Any decision made by the Administrator relative to Chapter 13 shall first be appealed to the Planning and Zoning Board ~~per Section 13.6~~. Any such decision made by the Planning and Zoning Board may be appealed to the governing board ~~in accordance with Section 13.6~~.

The Administrator, or zoning official, who made the administrative decision must appear as a witness in the appeal process.

**Sec. 5.13.1 Filing of appeal; effect of filing.**

A. An appeal to the Planning and Zoning Board of Adjustment may be brought by any person, firm, corporation, office, department, board aggrieved by the order, requirement, or decision made by the Administrator. A complete application including a fee, in accordance with a fee schedule approved by the governing board, shall be filed with the Administrator within 15 days from the date the decision being appealed was made. The Administrator may ask for an interpretation of the Zoning Map at any time.

B. The filing of an appeal shall stay all proceedings in furtherance of the contested action, unless the Administrator certifies to the Planning and Zoning Board of Adjustment that, in his/her opinion by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order granted by the Planning and Zoning Board of Adjustment or the Gaston County Superior Court on notice to the Administrator, with due cause shown.

**Sec. 5.13.2 Action by the Planning and Zoning Board of Adjustment.**

A. Upon receiving the application materials from the Administrator, the Planning and Zoning Board of Adjustment shall hold a quasi-judicial public hearing on the appeal. ~~Notice of the public hearing shall be per Section 4.5.10 of this Ordinance.~~

B. Upon conclusion of the public hearing, the Planning and Zoning Board of Adjustment shall adopt a resolution that either reverses, affirms, or modifies the contested action. Similarly, the Planning and Zoning Board of Adjustment shall have the ability to make an interpretation of the zoning district boundaries as shown on the Zoning Map. In making such a decision, the Planning and Zoning Board of Adjustment shall have all the powers of the with respect to the action being contested or decision being made.

**Sec. 5.13.3 Effect of reversal or modification.**

In the event that the Planning and Zoning Board of Adjustment reverses or modifies a contested action, all subsequent actions taken by the Administrator with respect to the subject matter shall be in accordance with the reversal or modification granted by the Planning and Zoning Board of Adjustment.

**Sec. 5.13.4 Effect of interpretation.**

Upon a ruling regarding an interpretation of the Official Zoning Map, said map shall be altered to accurately depict the Planning and Zoning Board's Board of Adjustment's ruling and all uses of land on the affected properties shall thereafter be in harmony with the rules of regulations of the appropriate zoning district(s) for such properties.

Section 39. Section 5.14.1 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.14.1 Purpose.**

The variance process is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create practical difficulties or unnecessary hardships. This process is not intended so that variances can be granted so as to merely remove inconveniences or financial burdens that the requirements of this Ordinance may otherwise impose on property owners. Rather, it is intended to provide relief where the requirements of this Ordinance render land unduly difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is being requested. Any state or federal requirements may not be varied through the granting of a variance. Furthermore, use variances (i.e., the allowance for a use

to be developed in a zoning district where that use is otherwise not allowed) may not be granted by the Planning and Zoning Board of Adjustment.

Section 40. Section 5.14.4 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.14.4 Action by the Planning and Zoning Board of Adjustment.**

A. In considering an application for a variance, the Planning and Zoning Board of Adjustment shall review the application, the approval criteria set forth in Section 5.14.5 and all testimony and evidence received at the public hearing.

B. After conclusion of the public hearing, the Planning and Zoning Board of Adjustment shall have the following options:

1. Approve the application for a variance as requested; or,
2. Approve the application for a variance with fair and reasonable conditions attached that the Planning and Zoning Board of Adjustment feels are necessary to satisfy one or more of the findings contained in Section 5.14.5; or,
3. Deny the variance application.

C. Unless otherwise authorized by the Planning and Zoning Board of Adjustment and included in its decision to grant a variance, any order of the Planning and Zoning Board of Adjustment in granting a variance shall expire, if a building permit, or certificate of occupancy (for a use for which a building permit is not required), has not been obtained within 24 months from the date of the Planning and Zoning Board's Board of Adjustment's decision.

Section 41. Section 5.14.5 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.14.5 Variance approval criteria.**

The Planning and Zoning Board of Adjustment may grant a variance only having first held a public hearing on the matter and having found that each of the following findings exist:

Section 42. Section 5.14.6 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.14.6 Variance approval.**

A. The concurring vote of four-fifths of the Planning and Zoning Board of Adjustment shall be necessary to grant a variance.

B. Following approval of a variance, the County shall expeditiously file and record a copy of the variance in the office of the Register of Deeds for Gaston County.

C. Once the Planning and Zoning Board of Adjustment approves a variance, the applicant shall follow the procedures found elsewhere in this Ordinance for securing the requisite permit to proceed with the development of his property. All orders, decisions, determinations and interpretations made by the Administrator under those procedures shall be consistent with the variance granted by the Planning and Zoning Board of Adjustment.

Section 43. Section 5.15.1C of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

C. Procedures. The Administrator may approve a minor modification in conjunction with a site plan review, the issuance of a zoning permit, or certificate of compliance. The Administrator may not approve a request for a minor modification in cases where the development application must go to the Board of Commission or Planning and Zoning Board of Adjustment for approval or to another approval body even in cases where the requested modification is small enough to be granted by the Administrator. In such cases, the Administrator shall transmit his/her recommendations with respect to the minor modification and the designated approval body shall have the authority to approve such minor modification in conjunction with their approval process.

Section 44. Section 5.16.3 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.16.3 Zoning map amendment process—General district rezoning.**

When considering a petition for the reclassification of property to a general zoning district, neither the Planning and Zoning Board nor the Board of Commissioners shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district.

A. *Filing of petitions; determination of completeness.* For a reclassification of property proposed by any person or entity other than the Planning and Zoning Board or Board of Commissioners, such petition shall be on an application form prescribed by the Administrator, signed by the applicant and accompanied by the fee in accordance with a fee schedule adopted by the governing board. Said

application form and fee shall be filed with the Administrator. Said fee shall be waived for any petition submitted by any official or agency acting on behalf of the Gaston County or the State of North Carolina. No application shall otherwise be considered complete unless accompanied at the time of submittal by said fee. An application will otherwise be deemed complete if it is:

Section 45. Section 5.16.3C of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

*C. Submittal and review procedures.*

1. In order for an amendment to the Official Zoning Map to be made by the Board of Commissioners, the Planning and Zoning Board shall have had an opportunity to review and make a recommendation on the application. Such Planning and Zoning Board review shall take place after a public meeting held by the Planning and Zoning Board to discuss the proposal. This legislative hearing, once opened, may be continued to a later date. Any complete application shall be submitted to the Administrator at least 30 working days prior to the legislative hearing. Notification of the legislative hearing shall be as follows:

Section 46. Section 5.16.3D of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

*D. Planning Board action.*

1. Once the Planning and Zoning Board public meeting has been concluded, the Planning and Zoning Board shall have 30 days to submit a recommendation to the Board of Commissioners regarding the proposed change. Said recommendation shall address whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the Board of Commissioners and any other officially adopted plan that is applicable along with other matters that the Planning and Zoning Board deems appropriate and a statement as to why the Planning and Zoning Board considers its recommendation to be reasonable and in the public interest. If a recommendation is not made during said time period, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning and Zoning Board.

2. The Planning and Zoning Board recommendation shall be as follows:

Section 47. Section 5.16.3E of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:



E. *Governing Board action.* Once the legislative hearing has been conducted and: (i) the Planning and Zoning Board has submitted its recommendation or (ii) the 30-day review period has expired, whichever comes first, the Board of Commissioners shall render a decision on the petition. The decision of the Board of Commissioners shall be in the form of any of the various options listed in Section 5.16.3.D.2. and 3. Alternately, the Board of Commissioners may send the application back to the Planning and Zoning Board for further study and consideration. (NOTE: Such resubmittal by the Board of Commissioners to the Planning and Zoning Board may not occur more than one time for any rezoning request.) If a resubmittal to the Planning and Zoning Board occurs, the Planning and Zoning Board shall hear the case and have an additional 30-day period (from the date it re-reviewed the application) to resubmit a recommendation to the Board of. Any final decision made by the Board of Commissioners shall be accompanied by a statement that addresses: (i) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable, and (ii) other matters that the Board of Commissioners deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest.

Section 48. Section 5.16.3E(4) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

4. Notwithstanding the above, any amendment petition initiated by the Planning and Zoning Board or Board of Commissioners shall be exempt from any time restraints on resubmittal.

Section 49. Sections 5.16.5A(3) and A(4) of the Unified Development Ordinance of the County of Gaston, North Carolina are hereby amended to read as follows:

3. The Administrator may require the petitioner to submit more than one copy of the rezoning application in order to have enough copies available to circulate to other government agencies for review and comment. When dealing with the Conditional District zoning process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. The Planning and Zoning Board or Board of Commissioners may request additional information as they deem necessary.

4. The deadline for submittal shall be 45 working days prior to the public meeting with the Planning and Zoning Board. Applications with proposed projects comprised of 50 acres or more shall have a deadline submittal of 90 working days prior to the public meeting with the Planning and Zoning Board.

Section 50. Section 5.16.5B(1) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

1. Once the complete application has been submitted to the Administrator and fees paid prior to the public meeting on the rezoning request, two Public Information Meetings (PIMs) shall be scheduled and held. Such meetings shall occur prior to any recommendation by the Planning and Zoning Board and approval by the Board of Commissioners. The PIMs are designed to provide a framework for creating a shared vision with community involvement directed by the applicant in accordance with the following requirements:

Section 51. Section 5.16.5C of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

*C. Administrator approval.* The Administrator shall have up to seven days following any revision of the application to make comments. If the Administrator forwards no comments to the applicant by the end of any such seven-day period, the application shall be submitted to the Planning and Zoning Board for their review without any further comment.

Section 52. Section 5.16.5E(1) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

1. Before any property is rezoned to a Conditional District, the Planning and Zoning Board shall have an opportunity to review and make a recommendation on the application. Planning and Zoning Board review shall take place after the PIMs are completed and a public meeting has been held by the Planning and Zoning Board. Notification of the legislative hearing, which is conducted by the Board of Commissioners, shall be as follows:

Section 53. Section 5.16.5E(1)(c) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

- c. The Administrator shall post at least one notice on the site proposed for rezoning or an adjacent public street or highway right-of-way at least ten days prior to the Planning and Zoning Board/Board of Commissioners' legislative hearing. Where multiple parcels are included within a proposed Zoning Map amendment, posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons.

Such notice shall state the nature of the legislative hearing and its date, time, and location at which it is to be held. The notice shall be removed only after final action has been taken on the matter. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the conditional district zoning requested.

Section 54. Section 5.16.5F of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

F. *Planning Board review.* The Planning and Zoning Board shall have at least 30 days to make a recommendation on the proposed change, said 30 days being measured from the date of the closing of the Planning and Zoning Board public meeting. Any such Planning and Zoning Board recommendation shall be accompanied by statements that address: (i) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable, and (ii) other matters that the Planning and Zoning Board deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest. If a recommendation is not made during said time period, the application shall be forwarded to the Board of Commissioners without a recommendation.

Section 55. Section 5.16.5G(4) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

4. Submit the application to the Planning and Zoning Board for further study. The Planning and Zoning Board shall have up to 30 days from the date of such submission to make a report to the Board of Commissioners. If no report is issued, the governing board can take final action on the petition. The governing board reserves the right to schedule and advertise a new legislative hearing based on the Planning and Zoning Board's report.

Section 56. Section 5.16.5H of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

H. *Conditions for approval of petition.* In approving a petition for the reclassification of a property to a Conditional District, the Planning and Zoning Board may recommend, and the Board of Commissioners may require that reasonable and appropriate conditions be attached to approval of the petition. Such conditions shall be limited to those that address the conformance of the

development and use of the site to County ordinances and officially adopted Comprehensive Land Use Plan or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. Such conditions may exceed or relax applicable standards and any performance criteria or minimum requirements listed elsewhere in this Ordinance that pertain to that development: (i) analyze whether the rezoning is consistent with an adopted comprehensive plan and any other officially adopted plan, and (ii) other matters that the Board of Commissioners deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each final decision relative to the Conditional District zoning request.

Section 57. Section 5.17.2 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.17.2 Initiation of a text amendment.**

Any proposed amendment to the text of this Ordinance may be initiated by the governing board, Planning and Zoning Board, by any owner of a legal or equitable interest in a piece of property located within the geographical boundaries of this Ordinance, by a local government agency, or by any other person in accordance with the procedures set forth herein.

Section 58. Section 5.17.5 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.17.5 Planning and Zoning Board action.**

A. Once the Planning and Zoning Board public meeting has been concluded, the Planning and Zoning Board shall have 30 days from the date the public hearing was completed to make a written recommendation to the Board of Commissioners. If a recommendation is not made during said time period, the application shall be forwarded to the governing board without a recommendation from the Planning and Zoning Board. Statements that: (i) analyze whether the amendment is consistent with an adopted comprehensive plan and any other officially adopted plan, and (ii) other matters that the Planning and Zoning Board deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each recommendation relative to the text amendment request.

B. A Planning and Zoning Board recommendation shall be in one of the following manners:

Section 59. Section 5.17.6 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 5.17.6 Governing Board action.**

Once the legislative hearing has been conducted and (i) the Planning and Zoning Board has submitted its recommendation or (ii) the 30-day Planning and Zoning Board review period has expired, whichever comes first, the Board of Commissioners shall render a decision on the petition. The decision of the Board of Commissioners shall be in the form of any of the various options listed in Section 5.17.5 above. Statements that: (i) analyze whether the amendment is consistent with an adopted comprehensive plan and any other officially adopted plan, and (ii) other matters that the Board of Commission deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each final decision relative to the text amendment request. Furthermore, the Board of Commissioners shall have the authority to make additional amendments to the text change request, based on the proceedings of the public hearing so long as such changes are in keeping with the spirit and intent of the originally requested amendment. Alternately, the Board of Commissioners may send the application back to the Planning and Zoning Board for further study and consideration. (NOTE: Such resubmittal by the Board of Commissioners to the Planning and Zoning Board may occur not more than one time for any text amendment request.) If a resubmittal to the Planning and Zoning Board occurs, the Planning and Zoning Board shall hear the case and have an additional 30-day period (from the date of re-referral by the Board of Commissioners) to resubmit a recommendation to the Board of Commissioners.

Section 60. Section 7.1A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 7.1 Table of uses/uses not expressly listed or addressed.**

A. Table 7.1-1 shows the principal uses that are allowed in each zoning district. Supplemental regulations are discussed in Chapter 8; Parking Requirements are discussed in Chapter 10. Other district regulations may apply which are not expressly listed in this Chapter, such as Flood Plain, Watershed Water Supply, etc.

Certain uses predating the adoption of this Ordinance are allowed to remain as nonconforming uses in accordance with Chapter 3 of this Ordinance. Unless a use is allowed as a "permitted," "conditional," "nonconforming use," "temporary use," "Special Use Permit" per Section 5.12, or otherwise specifically addressed in this Ordinance, then such use shall be expressly prohibited in that zoning district. The Planning and Zoning Board of Adjustment shall have no authority to grant a variance or Special Use Permit to allow for such prohibited use.

Section 61. Section 7.4 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 7.4 Conversion of residential structures to non-residential uses or mixed-use dwelling.**

In any non-residential zoning district, a residential structure that existed on or before the date of adoption of this Ordinance, may be converted to a permitted nonresidential use (or a mixed-use dwelling), so long as all applicable off-street parking and landscaping, and screening requirements are met. If such use is a Special Use Permit, the Planning and Zoning Board of Adjustment may attach fair and reasonable conditions which would serve to mitigate any existing nonconforming situations arising from such conversion.

Section 62. Section 7.6.2B(5) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

5. An affected property owner shall have the right to appeal the thoroughfare setback requirements as provided herein to the Planning and Zoning Board of Adjustment for ~~avariance~~ a variance to these regulations. The Planning and Zoning Board of Adjustment may grant the variance in accordance with the procedures contained in Section 5.14.

Section 63. Section 7.6.4C(1)(b) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

b. Where, due to unusual property configuration, a pier cannot be constructed within the above-described area, the property owner may apply for, and the Board of Adjustment may grant a variance from this requirement. The Planning and Zoning Board of Adjustment in granting the request must find that the construction of pier facilities on other property affected by the variance would not be preempted.

Section 64. Section 8.2.1C(10) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

10. The Planning and Zoning Board of Adjustment shall have no authority to modify or grant variances from the separation distance requirements listed herein.

Section 65. Section 8.2.23C(2) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

2. In the OM district only, each of the additional findings of fact must be found in the affirmative by the Planning and Zoning Board of Adjustment prior to the issuance of a Special Use Permit for a hotel:

Section 66. Section 8.3.21 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

...

*Approval:*

...

C. *Planning and Zoning Board:* Prior to mining and quarrying Special Use Permit applications being heard by the Board of Commissioners, the application shall be submitted for recommendation to the Gaston County Planning Board. The Planning and Zoning Board shall recommend to the Board of Commissioners that the Special Use Permit be approved, denied, or approved with conditions. If the Planning and Zoning Board fails to provide a recommendation to the Board of Commissioners within 30 days after the public meeting, the application shall be calendared for a public hearing before the Board of Commissioners without a Planning and Zoning Board recommendation.

...

F. *Public Information Meetings:* Applicants requesting a Special Use Permit for a mine shall conduct no less than two Public Information Meetings (PIMS) prior to the public hearing before the Board of Commissioners in accordance with the following requirements:

Once the complete application has been submitted to the Administrator and fees paid prior to the public hearing on the Special Use Permit, two Public Information Meetings (PIMs) shall be scheduled and held. Such meetings shall occur prior to any recommendation by the Planning and Zoning Board and approval by the Board of Commissioners. The PIM is designed to provide a framework for creating a shared vision with the community involvement directed by the applicant in accordance with the following requirements:

...

H. *Administrator Approval:* The Administrator shall have up to seven days following any revision of the application to make comments. If the Administrator forwards no comments to the applicant by the end of any such seven-day period, the application shall be submitted to the Planning and Zoning Board for their review without any further comment.

Section 67. Section 9.19.1 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 9.19.1 Introduction.**

Per G.S. 136-66.10, dedication of right-of-way in conformance with the locally adopted transportation plan shall be required for subdivisions of land which embrace areas where thoroughfare improvements are proposed. Should such a dedication be required in association with a plat approval, density credits may be used, in a manner as provided herein, on the remaining portions of the tract(s) in question. The granting of such density credits shall be made by the Planning and Zoning Board. The application of density credits shall not affect whether a use is allowed or not on that lot. Such use shall remain governed by the list of permitted (and, if applicable, special) uses for that particular zoning district as listed elsewhere in this Ordinance.

Section 68. Section 9.19.3 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 9.19.3 Right-of-way dedication.**

Per G.S. 136-66.10, the Planning and Zoning Board may grant density credits whenever right-of-way dedication, in accordance with the thoroughfare plan, is required for a tract of land located within the planning jurisdiction of the County, and such tract is proposed for subdivision or use of land pursuant to a zoning permit.

Right-of-way dedication may be so required by the Planning and Zoning Board where a subdivision, as herein defined, occurs or in situations where land subdivision is not involved, when the Planning and Zoning Board determines that:

Section 69. Section 9.26D of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

D. *Traffic Impact Analysis (TIA) Appeal.* Final action on a Traffic Impact Analysis (TIA) may be appealed to the Gaston County Planning and Zoning Board. The Gaston County Planning and Zoning Board may approve the Traffic



Impact Analysis (TIA) if the Board determines that the applicant has satisfactorily mitigated adverse traffic effects; or additional traffic from the project has an insignificant effect on Gaston County roads.

Section 70. Sections 10.1D(4) and (5) of the Unified Development Ordinance of the County of Gaston, North Carolina are hereby amended to read as follows:

4. A reduction by greater than ten percent may only be granted by variance by the Planning and Zoning Board of Adjustment in accordance with Section 5.4.
5. Uses are strongly encouraged to provide off-street parking in keeping with the requirements of Table 10.5-1. The provision of off-street parking spaces greater than what is required shall be allowed. If a use seeks to provide off-street parking in excess of 150 percent of what is required in Table 10.5-1, a variance must be granted by the Planning and Zoning Board of Adjustment in accordance with Section 5.14.

Section 71. Section 10.8A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

A. Cooperative provisions for off-street parking may be made by contract between two or more adjacent property owners. The end result shall be that the sum of the parking spaces for the uses computed cooperatively shall be the same or more than if the uses were computed separately. Any such cooperative parking mechanism first must be submitted to the Administrator for his review and approval prior to the issuance of a certificate of occupancy. The agreement shall contain a provision that the Administrator will be immediately notified if the agreement is changed or annulled in the future. If the location of the cooperative parking area (which satisfies the needs of the off-street parking requirements shown in Section 10.5) lies greater than 500 feet (measured in walking distance), a variance must be issued by the Planning and Zoning Board of Adjustment in accordance with Section 5.14 of this Ordinance.

Section 72. Section 10.7A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

A. Off-street parking spaces generally shall be provided on: (i) the same lot as the principal use; (ii) on a lot adjoining the principal use; or (iii) on a lot separated by a street or street intersection from the principal use. In instances where such parking for a principal nonresidential use cannot be reasonably provided on the same lot, it may be provided on a separate lot. At least one-half

of the required parking shall be provided on the lot containing the principal use, or an adjoining lot or a lot separated by a street or street intersection from the principal use. The remaining parking may be provided on a satellite lot, provided all parking spaces on such satellite lot lie within a 500-foot pedestrian accessible walking distance of the lot containing the principal use. If a distance of greater than 500 feet is required, a variance must be issued by the Planning and Zoning Board of Adjustment in accordance with Section 5.14. Such satellite parking lots located in a Residential zoning district may only be for uses that are allowed in the underlying Residential zoning district.

Section 73. Section 10.14 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

The Board of Commissioners (as a CD rezoning) or Planning and Zoning Board of Adjustment (as a variance or SUP) may approve valet parking as a means of satisfying otherwise applicable off-street parking requirements where all of the following standards have been met:

Section 74. Section 11.1.2B of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

B. *Landscape Plans*. Landscape materials shall be planned and installed in conformity with an approved landscape plan. Such landscape plan shall accompany any application for site plan approval (refer to Section 5.2). Approval of a site plan shall indicate that the requirements of this Chapter, as well as other applicable provisions of this Ordinance among others, have been met. If a specific use or development plan requires review and approval by the governing board, Planning and Zoning Board of Adjustment or another approval body, the landscaping plan shall be submitted as part of such plan or application. The landscaping plan shall be drawn at such scale to enable the Administrator (or other approval body) to clearly determine whether or not the proposed buffers or landscaped areas shown are in compliance with this Chapter.

Section 75. Section 11.7C(4) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

C. Any open space dedicated in association with a subdivision shall be owned and maintained by one or more of the following entities or organizations:

...

4. Any other organization approved by the Planning and Zoning Board.

Section 76. Section 11.7.2A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 11.7.2 Nature of land to be dedicated.**

Except as otherwise required by the Planning and Zoning Board at the time of preliminary plat approval, all dedications of land shall meet the following criteria:

A. *Unity.* The dedicated land shall form a single parcel of land, except where the Planning and Zoning Board determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Planning and Zoning Board, in approving the preliminary or final plat, may require that such parcels be connected by a dedicated strip of land at least 30 feet in width. Where practical, the strip shall be placed in the subdivision to enable persons to walk between the two open space areas.

Section 77. Section 11.7.3A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 11.7.3 Payments of fees in lieu of land dedication.**

A. *General.* The payment of fees, in lieu of the dedication of land as required above, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Planning and Zoning Board after having received a recommendation from the TRC and having evaluated the proposed dedication and the relationship such dedication would have with the County's overall recreational needs. Payments of fees in lieu shall not be allowed for traditional neighborhood developments (TNDs), planned residential developments (PRDs) and planned unit developments (PUDs).

Section 78. Section 11.7.4 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 11.7.4 Procedures.**

A. At the time of filing a preliminary plat, the subdivider shall designate thereon the area or areas to be dedicated. If the subdivider desires to make a

payment in lieu of the dedication of land, a letter to that effect shall be submitted with the preliminary plat. The Planning and Zoning Board reserves the right to refuse to accept dedication of parcels for Public Park, recreation, or open space and to require a fee in lieu thereof.

B. Where a dedication of land is required, such dedication shall be shown on the final plat when submitted. Where a payment in lieu of dedication is approved by the Planning and Zoning Board, such payment will be made before the final plat is signed and recorded.

Section 79. Section 12.5.10C(1) of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

*C. Approval Procedure.*

1. If the use being proposed requires the issuance of a Special Use Permit or is in association with a Conditional District rezoning, the Administrator may recommend to the ~~Board of Adjustment~~, Planning and Zoning Board, or Board of Commissioners that the sign flexibility option be applied as proposed by the applicant or as otherwise recommended by the Administrator.

Section 80. Section 13.1C of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

C. In cases where 51 percent or greater of a proposed subdivision lies within a municipal jurisdiction; where the municipal subdivision standards meet or exceed the standards set forth in this ordinance; and at the request of the developer, the Planning and Zoning Board may relinquish the jurisdiction control of the ordinance to the municipal government for the review and approval of the development under the standards of the municipal ordinance.

Section 81. Section 13.6 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 13.6 Appeals.**

The applicant may appeal any decision of the Planning and Zoning Board made in regard to this Chapter in accordance with NCGS 160(D)-1403.

Any decision of this chapter by the Administrator may be appealed to the Planning and Zoning Board in accordance with Section 5.13 procedures of this Ordinance.

Section 82. Section 13.9.2 of the Unified Development Ordinance of the County of Gaston, North Carolina are hereby amended to read as follows:

**Sec. 13.9.2 Approval process for Major subdivisions.**

A. Submit application for (CD) zoning review and public hearing (with the Board of Commissioners) minimum 90 working days prior to the public meeting with the Planning and Zoning Board to which the subdivision plans are to be considered. CD zoning procedures are found in Section 5.16.5.

B. If approved, submit complete subdivision plans and application for subdivision review and Planning and Zoning Board review.

Section 83. Section 13.9.3 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 13.9.3 Approval of preliminary plat for major subdivision.**

A. The owner or subdivider seeking preliminary plat approval shall submit the application and all required paper copies of the plat to the Administrator at least 40 working days prior to the next regularly scheduled Planning and Zoning Board meeting. The plat shall contain all information listed in Section 13.11.

...

C. Upon recommendation from the TRC, the Planning and Zoning Board shall consider the subdivision plat so long as the TRC decision is rendered no less than ten days prior to the Planning and Zoning Board meeting at which the plat is to be considered. The Planning and Zoning Board shall have the authority to: (i) approve the preliminary plat, or (ii) conditionally approve the preliminary plat with needed changes to bring the preliminary plat into compliance with this Ordinance, or (iii) disapprove the preliminary plat.

Section 84. Section 14.6 of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 14.6 Standards.**

This section sets forth the standards required for all Manufactured Home Parks. Where the intent of the standards herein contained can be met by other means not specifically listed, the Planning and Zoning Board may approve other methods and designs to solve unique problems on an individual basis.

Section 85. Section 14.7A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

A. Land Use Services or the Planning and Zoning Board may request Building Inspections to revoke any and all building permits issued for a Manufactured Home Park should the owner not comply with the Manufactured Home Park standards set forth in this ordinance. Upon written request from the Planning Board or Land Use Services, under authority given in NC General Statute 153A-362, Building Inspections may revoke building permits in the Manufactured Home Park until such time when the owner has brought the park into compliance with this ordinance.

Section 86. Section 15.8.1A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 15.8.1 Establishment of Watershed Review Board.**

A. The Gaston County Planning and Zoning Board is hereby appointed as the Watershed Review Board.

Section 87. Section 16.4.5A of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

**Sec. 16.4.5 Variance procedures.**

A. The Flood Control Board, as established by Gaston County, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance. Unless designated otherwise by the Board of County Commissioners, the Gaston County Planning and Zoning Board of Adjustments shall serve as the Flood Control Appeal Board.

Section 88. Section 18.5B of the Unified Development Ordinance of the County of Gaston, North Carolina is hereby amended to read as follows:

B. The notice of violation shall describe the violation, shall identify the provision(s) of this Ordinance that are alleged as having been violated, shall specify what actions must be taken to correct the violation, shall direct the person to correct the violation within a specified period of time, and shall warn that more severe measures may be brought against the person if he/she fails to take appropriate and timely actions to cure or correct the violation. The notice shall also state that the alleged violator or property owner shall have a period of up to 15 days from the date the notice was received to either correct the situation or appeal the Administrator's decision to the Planning and Zoning Board of

~~Adjustment~~ in accordance with Section 5.13 of this Ordinance. Depending on the nature of the violation, the Administrator may grant one or more extension of time to cure or correct said violation. Such extension of time shall not be granted unless the alleged violator or property owner can demonstrate to the Administrator that the violation ~~can not~~ cannot be cured or corrected within the time period specified in the notice of violation due to extraordinary circumstances or to circumstances beyond the control of the alleged violator or property owner.

