



Access for the Electronic Meeting

Via phone: 1-646-558-8656

Via web:

<https://zoom.us/j/91647054363?pwd=WGZpd2hNUGVISFVSUZYacS9VSnVGdz09>

Via Zoom App:

Meeting ID: 916 4705 4363

Password: 768503

April 12, 2021

Stallings Town Hall

315 Stallings Road

Stallings, NC 28104

704-821-8557

www.stallingsnc.org

Town Council Agenda

	Time	Item	Presenter	Action Requested/Next Step
	7:00 p.m.	Invocation Pledge of Allegiance Call the Meeting to Order	Wyatt Dunn, Mayor	NA
	7:05 p.m.	Public Comment	Wyatt Dunn, Mayor	NA
1.	7:15 p.m.	Consent Agenda A. Minutes from the following meetings: (1) 02-08-2021 – special (2) 02-08-2021 – closed (3) 02-08-2021 (4) 02-22-2021 (5) 02-27-2021 – special B. Indian Trail 5K Road Closure Request C. Interim Town Engineer Contract D. Contract Approval - Hawthorne Drive Stormwater Drainage Improvement Project	Wyatt Dunn, Mayor	Approve Consent Agenda <i>(All items on the Consent Agenda are considered routine, to be enacted by one motion. If a member of the governing body requests discussion on of an item, the item will be removed from the Consent Agenda and considered separately.)</i> Motion: I make the motion to: 1) Approve the Consent Agenda as presented; or 2) Approve the Consent Agenda with the following changes: _____
2.	7:17 p.m.	Reports A. Report from Mayor B. Report from Council Members/Town Committees C. Report from Town Manager/Town Departments	Council and Staff	NA
3.	7:45 p.m.	Agenda Approval	Wyatt Dunn, Mayor	Approve agenda as written. <i>(ADD, IF APPLICABLE: with changes as described by Mayor Dunn)</i> Motion: I make the motion to: 1) Approve the Agenda as presented; or 2) Approve the Agenda with the following changes: _____
4.	7:50 p.m.	Open Space Amendment	Lynne Hair, Town Planner	Presentation and information
5.	8:05 p.m.	DFI - Proposal to Provide Phase 1 Downtown District Feasibility Assessment Services	Alex Sewell, Town Manager	Approve/Deny contract

6.	8:15 p.m.	Potter/Pleasant Plains Intersection Funding	Alex Sewell, Town Manager	Discussion and possible action
7.	8:45 p.m.	2020-2021 Road Resurfacing Contract with Indian Trail	Alex Sewell, Town Manager	Discussion and possible action
8.	9:15 p.m.	Closed Session Pursuant to NCGS143-318.11(a)(3)	Alex Sewell, Town Manager	Recess into closed session
9.	9:30 p.m.	Adjournment		Motion to adjourn

**MINUTES OF A SPECIAL TOWN COUNCIL MEETING
OF THE
TOWN OF STALLINGS, NORTH CAROLINA**

The Town Council of the Town of Stallings met for a special meeting on February 8, 2021 at 6:00 p.m. via Zoom, a virtual electronic platform, due to the North Carolina declared state of emergency because of COVID-19. Public could access the meeting via phone (1-646-558-8656), web link (<https://zoom.us/j/97523815895?pwd=Q20ycEtlK0puajBsUjVNemtYT0V4UT09>), or the Zoom app (Meeting ID: 975 2381 5895; Password: 800785).

Those present and visible on camera were: Mayor Wyatt Dunn; Mayor Pro Tempore Lynda Paxton; Council Members Steven Ayers, Heather Grooms, John Martin, Brad Richardson, and David Scholl.

Staff present were: Alex Sewell, Town Manager; Erinn Nichols, Assistant Town Manager/Town Clerk; Lynne Hair, Town Planner; and Mac McCarley, Planning and Zoning Town Attorney.

1. Call the meeting to order

Mayor Dunn called the meeting to order.

2. Closed Session pursuant to NCGS 143-318.11(a)(3)

Council Member Richardson made the motion to go into closed session pursuant to NCGS 143-318.11(a)(3) and invite Town Planner Hair to join the session. The motion was seconded by Council Member Ayers and passed unanimously by the Council.

Council went into closed session and reconvened in open session at approximately 6:29 p.m.

3. Adjournment

Council Member Richardson moved to adjourn the meeting, seconded by Council Member Scholl, and the motion received unanimous support. The meeting was adjourned at 6:29 p.m.

Approved on _____, 2021.

Wyatt Dunn, Mayor

Erinn E. Nichols, Town Clerk

Approved as to form:

Cox Law Firm, PLLC

**MINUTES OF THE TOWN COUNCIL MEETING
OF THE
TOWN OF STALLINGS, NORTH CAROLINA**

The Town Council of the Town of Stallings met for a meeting on February 8, 2021, at 7:00 p.m. via Zoom, a virtual electronic platform, due to the North Carolina declared state of emergency because of COVID-19. Public could access the meeting via phone (1-646-558-8656), web link (<https://zoom.us/j/98678066763?pwd=QkJWL1hacU96NU9oZU5oYXhmTGdmQT09>) or the Zoom app (Meeting ID: 986 7806 6763; Password: 922123).

Those present and visible on camera were: Mayor Wyatt Dunn; Mayor Pro Tempore Lynda Paxton; Council Members Steven Ayers, Heather Grooms, John Martin, Brad Richardson, and David Scholl.

Staff present were: Alex Sewell, Town Manager; Erinn Nichols, Assistant Town Manager/Town Clerk; Marsha Gross, Finance Officer; Chris Easterly, Town Engineer; Ashley Platts, Parks and Recreation Director; Lynne Hair, Town Planner; Police Chief Dennis Franks; and Mac McCarley, Planning Attorney.

Invocation, Pledge of Allegiance and meeting called to order

Mayor Wyatt Dunn welcomed everyone to the meeting and Council Member Grooms gave the invocation. Mayor Dunn then led the Pledge of Allegiance and called the meeting to order.

Public Comments

Jeannie Lindsay, Anglesy Court, was against the idea of more high-density projects due to limited roads and school capacity and tax burden on the residence. The high density caused need for more services and the county was too dense for comfort with no regard for responsible growth. She wanted to know how long it would be before units started losing value. Ms. Lindsay wanted to know what the end point was to unsustainable growth. Everything the Stinson Farms project was offering the Town was already offering. She felt that the land could be used for something else that would benefit the Town.

Gina Burke, Anglesy Court, agreed with what Ms. Lindsay presented. She wanted to stress the overcrowding, streets, and property value. Ms. Burke was concerned about the type of development and thought it would negatively affect the neighborhood (Shannamara). She encouraged the Council to preserve what it had and encouraged Stinson Farms not to be town homes or apartments.

Greg Pillar, 634 Rosecrea Court, agreed with the previous two citizens. He felt the Stinson Farms project would cause a lot of damage on the environment and was a direction of the opposite to what Stallings was saying. The residents were objecting the project.

1. Consent Agenda Items

A. Minutes from the following meetings:

- (1) 12-14-2020
- (2) 01-11-2021 – special
- (3) 01-11-2021 – closed
- (4) 01-11-2021
- (5) 01-25-2021
- (6) 01-25-2021 – closed

Council Member Scholl made the motion to approve the Consent Agenda as presented. The motion was seconded by Council Member Paxton. Council passed the motion unanimously.

2. Reports

A. Report from the Mayor

Mayor Dunn reported that he had been in continued contact with Rep. Dean Arp regarding the Hotel Tax and hoped that Rep. Arp would continue to advocate for the tax for Stallings.

B. Reports from Council Members/Town Committees

Council Member Martin reported the Union County Comprehensive 2050 Plan was open for public comment and was going out to committee again for review. He thanked Code Enforcement for the work on the Aqua Plant.

Council Member Scholl had no report.

Council Member Paxton announced that she had been reelected the Vice Chairman of CRTPO for another year. She would be seeking support from CRPTO and TCC to address concerns on the widening of Idlewild Road to six lanes.

Council Member Grooms had no report.

Council Member Ayers gave an update from WUMA and would be sending out an email to the Mayor about decisions from that group. The group was working on getting donut holes in front of Union County development group and coordinate that with the Union County Comprehensive 2050 Plan.

Council Member Richardson joined the meeting late and therefore was not present for Reports.

C. Report from Town Manager/Town Departments

Town Manager Sewell reported on the following:

- U4913 - Idlewild Road Widening Project: The Town did not agree with the NCDOT design and staff would be engaging CRTPO leadership to discuss possible options in early March.
- Downtown streetscape: Cost of burying utility lines was explored and was found to be extremely expensive. However, an actual cost estimate would be brought to Council.
- Town attorney not needed tonight and therefore was not present.

Parks and Recreation Director Ashley Platts updated the Council on the Blair Mill Greenway Project. The Vickery agreement had been approved by the Vickery HOA and was with the attorney for review. She would bring the Council any updates and discuss the next steps of the bidding phase in the near future.

Chief Dennis Franks reported that Stallings was now an intoxicilyzer site and would be installed the following day. The only other facility of this nature was on the western side of the county.

3. Agenda Approval

Mayor Dunn requested the Council move Agenda Item 5, *Participation Renewal in Union County's CDBG Urban County Consortium*, to Agenda Item 4, *Stinson Farms (Recessed from 01-25-2021)*, and vice versa.

Council Member Scholl made the motion to approve the Agenda with the above changes. The motion was seconded by Council Member Ayers and passed unanimously by Council.

4. Participation Renewal in Union County's CDBG Urban County Consortium *Original Agenda Item 5*

Patrick Niland, Assistant Manager for Union County, gave a presentation to the Council regarding the Community Development Block Grant (CDBG). This presentation is attached to these minutes and therefore incorporated herein. It was noted that Stallings would most likely have to do income surveys to qualify for projects.

5. Stinson Farms (Recessed from 01-25-2021) *Original Agenda Item 4*

Clerk's Note: Council Member Richardson joined the meeting at the beginning of this item.

Mayor Dunn noted that the public hearing on this item would be held at the Stallings Town Council regular meeting on February 22, 2021.

Town Planner Hair then gave a presentation to Council on the Stinson Farms project noting that this item was for Stinson Farms, a 72-acre mixed-use project located on the northeast corner of Idlewild Road and I-485. Ms. Hair's presentation is attached to these minutes and therefore incorporated herein.

There were eleven major concessions negotiated by the Town Council:

1. A 100' buffer (or 70' with a fence) where adjacent to the Shannamara neighborhood.
2. Provided single family residential adjacent to the existing single family residential in the Shannamara neighborhood.
3. The 3 homes in the Shannamara neighborhood that do not have single family residential behind them do have the 100' buffer (or 70' with a fence), a road and the side yard of a town home building behind them. The applicant has agreed to plant additional tall, fast growing evergreens in this area.
4. Provided green way trails as shown on the Stallings Parks, Recreation and Greenway plan, including the Stallings Spine segment on Idlewild Road frontage.
5. Will be providing road improvements including the widening of Idlewild Road to 4 lanes from I-485 to Stevens Mill Road.
6. Reduced the overall residential unit count on the DA site from 618 to 504, an overall reduction of 114 units, or 18%.
7. Agreed to reduce the allowable number of fast-food restaurants from 3 to 1 on the DA site.
8. Remove two multi-family buildings and convert area to single family attached (townhome) buildings.
9. Moved the convenience store and one multi-family building to property at the interchange of I-485 and Idlewild Road, moving away from the existing and proposed residential units.
10. The applicant has agreed that they will not pursue private sewer treatment if County sewer is not available.
11. Agreed in concept to increase the setback size on Idlewild Road so that green space between the edge pavement the knee wall is much closer to what is depicted on the Exhibit shared at the Planning Board after the widening of Idlewild Road to 6 lanes by NCDOT. Please note the details of this need to be further worked out and confirmed.

Elam Hall and Nick Bushon with DR Horton, the developer, were present to speak with Council regarding the project and answer any questions. John CarMichael, DR Horton's attorney, was also present. Mr. CarMichael had a short presentation for Council. This presentation is attached to these minutes and therefore incorporated herein.

6. Union County Revaluation

Vann Harrell, Union County Tax Collector, presented the Council with information on Union County's Revaluation. This presentation is attached to these minutes and therefore incorporate herein.

It was noted that the medium home price for Union County was going from \$196,700 to \$293,377, and for Stallings (Union County only), the medium home price went from \$210,200 to \$300,585.

7. Open Space Improvements Update

Town Planner Hair reminded the Council that it has requested staff to do research on the open space requirements. Council had concerns that the Town's current ordinance did not allow the Town to acquire as much open space as the Town desired. The Town contracted with Centralina Regional Council to rewrite Article 21 of the Development Ordinance which discussed open space requirements

Justin Longino of Centralina Regional Council presented the Council options for rewriting Article 21 in hopes to gain Council's feedback. This presentation is attached to these minutes and therefore incorporated herein.

Council held consensus to send Ms. Hair each Council Member's feedback by the following Friday.

8. Finance Items

A. Quarterly Finance Report

Finance Officer Marsha Gross presented the Council with the Quarterly Finance Report. This report is attached to the minutes and therefore incorporated herein.

B. Amended Budget Ordinances 4, 5, & 6

Finance Officer Gross explained that Amended Budget Ordinance 4 – Second Floor Renovations was for the Town Hall second floor renovations. Council Member Richardson made a motion to approve Amended Budget Ordinance 4 – Second Floor Renovations which was seconded by Council Member Martin. Council approved the motion unanimously. The Amended Budget Ordinance 4 – Second Floor Renovations is attached to these minutes and therefore incorporated herein.

Finance Officer Gross explained Amended Budget Ordinance 5 – New Town Hall and Public Works Buildings Wiring. Council Member Richardson made a motion to approve Amended Budget Ordinance 5 – New Town Hall and Public Works Buildings Wiring which was seconded by Council Member Grooms. Council approved the motion unanimously. The Amended Budget Ordinance 5 – New Town Hall and Public Works Buildings Wiring is attached to these minutes and therefore incorporated herein.

Finance Officer Gross explained Amended Budget Ordinance 6 – Planning Department Legal Services. Council Member Richardson made a motion to approve Amended Budget Ordinance 6 –

Planning Department Legal Services which was seconded by Council Member Paxton. Council approved the motion unanimously. The Amended Budget Ordinance 6 – Planning Department Legal Services is attached to these minutes and therefore incorporated herein.

9. Balanced Scorecard Mid-Year Report

This item was tabled until 02-22-2021.

10. 325 Stallings Road

Town Manager Sewell reminded the Council that it approved Council Member Paxton to represent the Town on real estate transactions for 325 Stallings Road at no charge to the Town.

Council Member Paxton explained that the Town now had a fully executed contract for the purchase of the property at 325 Stallings Road. During the due diligence period, the Council could perform various tests, etc. Council then discussed the following regarding the property:

1. Council held consensus not to conduct an asbestos inspection prior to purchase.
2. Council held consensus not to conduct soil boring on the property.
3. Council held consensus to survey the property.
4. Council held consensus to try to sell the house structure on GovDeals. (The cost to demo the house would be around \$16,000.)
5. The public hearing regarding the purchase of the property would be scheduled in late March/early April.

11. Adjournment

Council Member Scholl moved to adjourn the meeting, seconded by Council Member Ayers, and the motion received unanimous support. The meeting was adjourned at approximately 10:05 p.m.

Approved on _____, 2021.

Wyatt Dunn, Mayor

Erinn E. Nichols, Town Clerk

Approved as to form:

Cox Law Firm, PLLC

**MINUTES OF THE TOWN COUNCIL MEETING
OF THE
TOWN OF STALLINGS, NORTH CAROLINA**

The Town Council of the Town of Stallings met for a meeting on February 22, 2021, at 7:00 p.m. via Zoom, a virtual electronic platform, due to the North Carolina declared state of emergency because of COVID-19. Public could access the meeting via phone (1-646-558-8656), web link (<https://zoom.us/j/93636060951?pwd=QVBCbINPRW1XcE5GNG9BOUZ5SU83Zz09>) or the Zoom app (Meeting ID: 936 3606 0951; Password: 978864).

Those present and visible on camera were: Mayor Wyatt Dunn; Mayor Pro Tempore Lynda Paxton; Council Members Steven Ayers, Heather Grooms, John Martin, Brad Richardson, and David Scholl.

Staff present were: Alex Sewell, Town Manager; Erinn Nichols, Assistant Town Manager/Town Clerk; Marsha Gross, Finance Officer; Chris Easterly, Town Engineer; Ashley Platts, Parks and Recreation Director; Lynne Hair, Town Planner; Police Chief Dennis Franks; and Mac McCarley, Planning Attorney.

Invocation, Pledge of Allegiance and meeting called to order

Mayor Wyatt Dunn welcomed everyone to the meeting and Council Member Ayers gave the invocation. Mayor Dunn then led the Pledge of Allegiance and called the meeting to order.

Public Comments

No one joined the meeting who wished to give public comment.

1. Agenda Approval

Council Member Martin requested the Council add Agenda Item 7.A., *Council Meeting Videos on Website*, and Agenda Item 7.B. as *Union County Planning Session*. Town Manager Sewell requested adding Agenda Item 7.C. as *Budget Workshop Meeting Dates*.

Council Member Scholl made the motion to approve the Agenda with the above additions. The motion was seconded by Council Member Martin and passed unanimously by Council.

2. DA19.01.06/DA19.11.02 - Development Agreement for the Stinson Farms Development
(Tabled from 01-25-2021)

The applicant for this item requested deferral of this item until March 22, 2021. Council Member Richardson made the motion to defer this item and the public hearing until March 22, 2021. The motion was passed unanimously by Council after Council Member Martin seconded.

3. TX21.01.01 – Bob Richards

Mayor Dunn opened the public hearing. Town Planner Hair explained to the Council this was a request by Bob Richards to amend Article 8, Table 8.1 Table of Uses to allow Sports Academy, Dance Schools/Academy, Gymnastics/Cheerleading Academy, Personal Training Facility as “L” Listed uses in the IND district. Mrs. Hair’s memo to the Council on this item is attached to these minutes and therefore incorporated herein.

After a discussion by Council, the Council held consensus to place this item on the March 8, 2021 Agenda in order to give the Economic Development Work Group time to review and bring back recommendations and additional information about current uses in Union West Business Park; municipal/county zoning in the area; and the input of other business owners in the area.

4. CZ20.01.01 – The Charlotte Mecklenburg Hospital Authority

Town Planner Hair explained this was a request to conditionally zone a .6295-acre parcel located in PID#07102182 and 07102032C for parking and storage. Mrs. Hair’s presentation to the Council on this item is attached to these minutes and therefore incorporated herein.

The Planning Board unanimously approved the request with the following conditions:

1. Gravel parking be allowed for the 0.6 acres of conditionally zoned property.
2. Opaque fencing be required to meet requirements of Article 11.6-2.
3. Approval is limited to the requested Vehicle Parking/Storage and Maintenance Building Use.
4. Any necessary permits will need to be acquired from the State, County, and Town as applicable.
5. Any change in use will need to receive conditional zoning approval from the Town.
6. A landscape plan showing compliance with any required buffers will be submitted and reviewed during the permitting process.

Mayor Dunn opened the public hearing. No one joined the meeting who wished to speak on this item.

Council would vote on this item at its March 8, 2021 meeting. Mayor Dunn then closed the public hearing.

5. Balanced Scorecard Mid-Year Report
(Tabled from 02-08-2021)

Town Manager Sewell presented the Balanced Scorecard Mid-Year Report to the Council. Town Manager Sewell's presentation on this item is attached to these minutes and therefore incorporated herein.

6. Economic Development Strategic Plan Draft

Council Member Richardson presented the Council with the Economic Development Strategic Plan Draft from the Economic Development Work Group. The Economic Development Strategic Plan Draft is attached to these minutes and therefore incorporated herein.

The Council held consensus to put this plan on the March 8, 2021 Agenda for adoption consideration. The Council also requested the draft plan be placed on social media for public comment.

7. Upcoming 2021 Annual Retreat

Town Manager Sewell outlined the schedule for the 2021 Annual Retreat as well as the expectations for the meeting. This information is attached to these minutes and therefore incorporated herein.

7.A. Council Meeting Videos on Website (Martin)

Council Member Martin requested that the ZOOM videos of the Town Council Meeting be placed on the website.

Council held consensus to have the videos, beginning January 2021, added to the Town's YouTube Channel, and linked from the Town's website.

7.B. Union County Planning Session (Martin)

Town Manager Sewell explained the Union County Board of Commissioners was holding a workshop to discuss growth and development pressures on infrastructure on March 11, 2021. Each municipality would have fifteen minutes to present infrastructure challenges.

7.C. Budget Workshop Meeting (Sewell)

Town Manager Sewell went over the draft schedule for the Council's budget meetings. Council held consensus to have four budget sessions at 5:30 p.m. prior to their regular meetings (April 12, April 26, May 10, and May 24, 2021).

8. Adjournment

Council Member Scholl moved to adjourn the meeting, seconded by Council Member Ayers, and the motion received unanimous support. The meeting was adjourned at approximately 9:11 p.m.

Approved on _____, 2021.

Wyatt Dunn, Mayor

Erinn E. Nichols, Town Clerk

Approved as to form:

Cox Law Firm, PLLC

**MINUTES OF A SPECIAL TOWN COUNCIL MEETING
OF THE
TOWN OF STALLINGS, NORTH CAROLINA**

The Town Council of the Town of Stallings met for a special planning conference meeting on February 27, 2020, at 9:00 a.m. via Zoom, a virtual electronic platform, due to the North Carolina declared state of emergency because of COVID-19. Public could access the meeting via phone (1-646-558-8656), web link (<https://zoom.us/j/96124193466?pwd=bmo2SHd2ei9YNTNmUFMzNVF1WENldz09>) or the Zoom app (Meeting ID: 961 2419 3466; Password: 712183).

Those present and visible on camera were: Mayor Wyatt Dunn; Mayor Pro Tempore Lynda Paxton; Council Members Steven Ayers, Heather Grooms, John Martin, Brad Richardson, and David Scholl.

Staff present were: Alex Sewell, Town Manager; Erinn Nichols, Assistant Town Manager/Town Clerk; Marsha Gross, Finance Officer; Karen Williams, Human Resources Director; Chris Easterly, Town Engineer; Ashley Platts, Parks and Recreation Director; Lynne Hair, Town Planner; and Police Chief Dennis Franks.

1. Call the meeting to Order

Mayor Dunn called the meeting to order.

2. 2021 Planning Conference

Town Manager Sewell introduced Geraldine Gardner from the Centralina Regional Council (CRC). Ms. Gardner would serve as the facilitator for the first half of the meeting. She then introduced the guest panelists: Eric Thomas (UNC School of Government), Mac McCarley (Planning Attorney), Michelle Nance (CRC), and Jeff Emory (NC Dept of Commerce).

Each panelist lead discussions on downtowns, specifically the key ingredients to a downtown:

- Michelle Nance, CRC - positive vibe to attract people
- Jeff Emory, NC Dept of Commerce - series of opportunities
- Eric Thomas, UNC SOG, destination for community
- Mac McCarley, Attorney, clear vision that matches the community

The panelists then conducted a SWOT (Strengths, Weakness, Opportunities, Threats) on the Stallings Downtown Master Plan. The facilitator and panelist's report of the discussion is attached to these minutes and therefore incorporated herein.

Council took a brief recess at 10:33 a.m. and reconvened at 10:40 a.m.

Following the break, various department heads presented items to the Council which were on the Council's previous year's priority list in order to get feedback on the Council desire to continue or not with that previously prioritized item. These presentations are attached to these minutes and therefore incorporated herein.

- Farmers Market - Ashley Platts, Parks and Recreation Director
Council held consensus to move forward with the Farmer's Market.
- Land Use - Lynne Hair, Town Planner
Council held consensus to have staff come back to council with ideas on a Downtown Action Plan Overlay and to rewrite the supporting language.
- Economic Development - Erinn Nichols, Assistant Town Manager
Council held consensus to have moved forward with Economic Development Plan as presented. Council also held consensus to have a business highlighted on social media until the mailed newsletter resumed.

Council took a brief recess at 11:33 a.m. and reconvened at 12:00 p.m.

- Transportation - Chris Easterly, Town Engineer
- Communications - Erinn Nichols, Assistant Town Manager
Consensus was held by Council to bring different levels of service and salaries to budget sessions to consider the addition of a new communications staff member.
- Blair Mill Park - Ashley Platts, Parks and Recreation Director
Council held consensus to move forward with Blair Mill Park improvements.

The Council then engaged each other in miscellaneous topics and discussions but no formal actions were taken. *Please note: The following items were mentioned and not necessarily the opinion of the Council as a whole.*

- Tax break/credit to elderly over 70 years old
- Atrium - Due to COVID, revenue was down so Atrium requested delay road improvement to Gribble Road.
- Revisiting HOA sponsored Christmas trees in Stallings Park
- Re-hanging banner around the substation at Stevens Mills and Idlewild
- Poplin Road Sewer Capacity - more information by Alex
- Possible delay in elections by the State due to the census delay

- Signage for new communities (road signs, fences, etc.)
- Processes/communications for Land Development/Planning Board level of expertise

3. Adjournment

The meeting was adjourned at 1:15 p.m.

Approved on _____, 2021.

Wyatt Dunn, Mayor

Erinn E. Nichols, Town Clerk

Approved as to form:

Cox Law Firm, PLLC

DRAFT



Resolution to Allow Indian Trail 5K Through A Portion of the Town of Stallings Roads

WHEREAS, the Town of Indian Trail desire to hold a 5K race in partnership with Common Hear to raise funds that would occur in the jurisdictions of Indian Trail and Stallings; and

WHEREAS, the Town of Stallings desires to allow the Town of Indian Trail to hold such an event on streets within the Town of Stallings based on certain basic conditions to ensure a safe event and ensure the Town of Stallings is protected including:

1. The Town of Indian Trail provides the Town of Stallings with an indemnity agreement and certificate of insurance naming the Town of Stallings as additional insured satisfactory to the Stallings Town Attorney;
2. The Town of Indian Trail will be responsible for all facets of the event including but not limited to planning, organization, setup, safety and cleanup;
3. The Town of Indian Trail will provide the Stallings Deputy Town Manager with information that can be advertised on social media by the Town of Stallings;
4. The Town of Indian Trail will provide Sheriff's Deputies to handle the road closure and ensure a safe event; and
5. The Town of Indian Trail will operate the event in accordance with best safety practices and all applicable laws and regulations;

NOW THEREFORE BE IT RESOLVED THAT the Stallings Town Council, pursuant by the authority granted by NCGS 20-169, does hereby declare a temporary road closure, contingent to NC DOT approval and Indian Trail meeting the conditions expressed herein, during the day and times set forth below on the following described portion of the State/Local Road System:

- Date: Saturday, May 29, 2021
- Times: 7:00am-11:30am
- The entire course will be between Indian Trail and Stalling. Runners will leave Chestnut Square Park and turn right onto Matthews-Indian Trail Road, continue down to Flowe Drive and make a left, continue down to Smith Farm Road until it reaches Matthews-Indian Trail Road and continue back to the Chestnut Square Park. The portions of this route within the Town of Stallings need closure include the intersections of Matthew-Indian Trail Road and Stallings Road, Smith Farm Road and Stallings Road, and Drye Lane and Stallings Road.

The Town Council hereby authorizes and directs the Town Manager to take any actions needed to implement this resolution including executing documents.

Adopted this the XX day of XX, 2021.

Wyatt Dunn, Mayor

Attest:

Erinn Nichols, Town Clerk

Approved as to form:

Melanie Cox, Town Attorney



5k Loop

Chestnut Square Park

Start / Finish

1365

Stallings Rd

Dry Ln

Smith Cir

Smith Farm Rd

1366

1367

STATE OF NORTH CAROLINA)
)
TOWN OF INDIAN TRAIL)

ORDINANCE #O210309-349

AN ORDINANCE DECLARING ROAD CLOSURES FOR COMMUNITY EVENTS FOR 2021 IN THE TOWN OF INDIAN TRAIL, UNION COUNTY, NORTH CAROLINA:

WHEREAS, the Town of Indian Trail acknowledges a long tradition of providing community events for the pleasure of its citizens; and,

WHEREAS, the Town of Indian Trail acknowledges its citizens and realizes a quality of life benefit from holding such events; and

WHEREAS, the Town of Indian Trail acknowledges each event and requires approximately two hours of preparation prior to each event in which the Town will install traffic controls and informative signs and an additional two hours following each event to remove said traffic controls and signs and to clean up litter.

NOW, THEREFORE, IT SHALL BE ORDAINED by the Town Council of the Town of Indian Trail, North Carolina, pursuant to authority granted by NCGS 20-169, to hereby declare temporary road closures during the days and times stated below for each event and for the State Highways(s) as set forth below on the Route Description:

Date: Saturday, May 29, 2021 – Road Race

Roads Closed From: 7:00 am to 11:30 am

Route Description: Matthews Indian Trail Road between Indian Trail Road and Stallings Road; AND Flowe Drive; AND Smith Farm Road between Stallings Road and Matthews Indian Trail Road

Date: Sunday, July 4, 2021 – 4th of July Parade

Roads Closed From: 10:00 am to 2:00 pm

Route Description: Indian Trail Road between post Office Drive and Old Monroe Road

Date: Sunday, December 5, 2021 – Christmas Parade

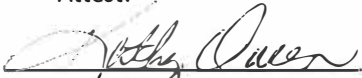
Roads Closed From: 2:00 pm to 7:00 pm

Route Description: Indian Trail Road between Post Office Drive and Blythe Drive; AND Matthews Indian Trail Road between Smith Farm Road and Indian Trail Road

This Ordinance is to become effective when signs are erected giving notice of the limits and times of said events and upon the installation/implementation of adequate traffic controls to guide vehicles through the event routes.

AND IT IS SO ORDAINED this 9th day of March 2021.

Attest:



Kathy Queen, Town Clerk

Approved as to Form


Karen Wolter, Town Attorney



TOWN OF INDIAN TRAIL


Michael L. Alvarez, Mayor



MEMO

To: Mayor and Council
From: Alex Sewell, Town Manager
Date: April 6, 2021
RE: **Interim Town Engineer Contract**

Purpose: This memorandum provides background information regarding the Interim Town Engineer contract with Kimley-Horn.

Background: As you know, the Town Engineer position recently became vacant. To ensure Town services continue until a permanent replacement is selected, the Town has arranged for Mr. Bo Conerly to serve as the Interim Town Engineer through a contract with Kimley-Horn. Mr. Conerly is a registered professional engineer and a certified floodplain manager with over 22 years of experience in the management, design, and permitting of stormwater, utility, and roadway projects, as well as project management, master planning, hydraulic/hydrologic analysis, stormwater treatment, NPDES permitting, stormwater pollution prevention plan, and agency coordination. Contracts \$20,000 or greater must be approved by Town Council per our policies. While this contract has not exceeded \$20,000, it is likely to exceed that amount in the coming months and staff are being proactive in getting Council approval to ensure we follow our local policies. This contract has been reviewed and approved by the Town Attorney. The goal is to keep interim engineering costs within budgetary allocations for typical daily operations/routine services. However, there are several pressing issues that might require a budget amendment in the future including U-5112 Potter-Pleasant Plains intersection improvements and MS4 Stormwater Permit compliance work. Staff will keep the Council abreast on the need for any budget amendments.

Recommendation: Approval of the Interim Town Engineer contract.

INDIVIDUAL PROJECT ORDER NUMBER 5

Describing a specific agreement between Kimley-Horn and Associates, Inc. (the Consultant), and the Town of Stallings (the Client) in accordance with the terms of the Master Agreement for Continuing Professional Services dated January 31, 2019, which is incorporated herein by reference.

Identification of Project: Interim Town Engineering Services

Specific scope of basic Services:

TASK 1 – ENGINEERING SERVICES

Kimley-Horn will provide the following engineering services to the Client:

1. The Consultant will coordinate with staff to Review Development Plans submitted to the Town of Stallings for approval and review construction activities. This effort will consist of:
 - A. Reviewing design drawings, calculations, reports, application forms, and exhibits;
 - B. Providing comments and/or requests for additional information to the applicant;
 - C. Meeting and coordinating with the applicant to address comments and/or requests for additional information;
 - D. Coordinating with Town staff to issue approval;
 - E. Coordinating with Town staff to review applicant construction activities; and
 - F. Reviewing certification documentation upon completion of construction.
2. The Consultant will coordinate with staff to address street and sidewalk maintenance within the Town limits. This effort will consist of:
 - A. Coordinating with staff to evaluate the streets and sidewalks and develop maintenance/improvement priorities (this occurs on an annual basis);
 - B. Coordinating the annual street resurfacing and sidewalk maintenance contracts; and
 - C. Managing the NCDOT Powell Bill Program.
3. The Consultant will coordinate with staff to address the Town's stormwater management facilities. This effort will consist of:
 - A. NPDES MS4 Permit management and coordination;
 - B. Identifying stormwater deficiencies and coordinating the design, permitting, and construction of facility improvements;
 - C. Managing ongoing stormwater projects;
 - D. Managing and documenting the annual cleaning of the Town's storm sewer system; and
 - E. Coordinating the annual street sweeping activities.
4. The Consultant will coordinate with staff and the Town Manager for the preparation of the annual engineering budget;
5. The consultant will coordinate work tasks for:
 - One (1) Associate Engineer
 - Two (2) Public Works Staff
6. The Consultant will coordinate with staff to finalize the punch list items associated with the Town Hall and 2nd Floor Renovations project.
7. Any other responsibilities/tasks of the Town Engineer position as indicated in the attached job description ("ATTACHMENT A").

8. The Consultant will represent the Town through coordination with the NCDOT regarding projects and grants.
9. The Consultant will represent the Town at the CRTPO TCC meetings.
10. The Consultant will coordinate with the public on behalf of the Town to respond to engineering related inquiries and requests.
11. The Consultant will work from the Town's administration building one (1) day per week.
12. The Consultant will attend up to two (2) Town Council meetings each month as directed by the City Manager.
13. As the date listed below, the Contractor certifies that it is not listed on the Final Divestment List created by the State Treasurer pursuant to Article 6E of Chapter 147 of the North Carolina General Statutes.
14. This instrument has been pre-audited in a manner required by the Local Government Budget and Fiscal Control Act.

Terms of compensation:

It is assumed that the Consultant will spend up to **40 hours per month of senior engineer time** for services identified in TASK 1. The Consultant may substitute these hours with analyst time at a rate of **two (2) hours of analyst time per one (1) hour of senior engineer time**. The services identified in Task 1 will be performed for a total lump sum fee of **\$9,000 per month**. Any additional costs will require the City Manager's written approval.


Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project will be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client.

Other special terms of Individual Project Order: Either party may cancel this contract with 7 days written notice.

ACCEPTED:

TOWN OF STALLINGS

BY:  _____

TITLE: Town Manager

DATE: 3/18/21

KIMLEY-HORN AND ASSOCIATES, INC.

BY:  _____

TITLE: Senior Vice President

DATE: 3/18/2021

ATTACHMENT A

TOWN ENGINEER

General Statement of Duties

Performs difficult professional and administrative work ensuring construction plans comply with applicable ordinances and statutes; administers storm water regulations; manages the public works functions.

Distinguishing Features of the Class

An employee in this class supervises the Engineering Division and directs plan review, site inspection, project design and construction-industry relations functions to assure quality construction projects for the Town. Enforces storm water regulations; reviews, approves and oversees design and construction of public and privately-owned subdivision, land development and transportation projects; administers engineering contracts; coordinates work with other agencies and other departments; maintains records and files; and prepares reports. Work involves managing the day to day and long-term activities of the division and the public works functions; assigning and tracking projects; ensuring all necessary permitting is obtained for projects; managing permit and legal compliance. Work also includes department administration functions such as budget planning and administration, management and oversight of the Town's Capital Improvement Program (CIP), and coordination with the construction industry and other Town departments and divisions. Work may subject the employee to environmental conditions including working in both inside and outside environments, extreme temperatures, and construction noise and hazards. Work is performed under general supervision and is evaluated through conferences and review of records for quality of overall construction in the Town, relationship with development community, and for acceptance of the general community.

Duties and Responsibilities

Essential Duties and Tasks

Plans, organizes, and directs the work of the division to provide timely, thorough and effective response to construction within the Town.

Responsible for preparation of municipal design projects, including transportation and storm water management improvements.

Serves as staff liaison to other municipalities, NCDOT and other regulatory agencies.

Oversees, coordinates and resolves right-of-way complaints which require corrective design resolution, including but not limited to hazard mitigation, storm water drainage, and sidewalks.

Supervises staff, overseeing construction inspection of Town projects, construction monitoring of private land development projects and public works projects; assigns work.

Supervises and participates in the preparation of construction plans, bid packages, design criteria, analysis, specifications, plans, rights of way maps, investigations, cost estimates, and tabulation of contract bids for construction projects; authorizes contract payments; establishes schedules for work; recommends selection of contractors.

Oversees and participates in capital improvement program (CIP) projects for the Town; coordinates design needs with other departments, other related staff, and citizen user needs; ensures designs meet long term quality and functionality as well as regulatory requirements; updates and applies Town engineering standards to achieve desired outcomes.

Oversees storm water and sediment control plan review, site inspection and handling of citizen complaints.

Reviews applications for development permits; ensures development plans are in compliance with applicable ordinances, codes and regulations.

Reviews and approves plans for proposed subdivisions and planned unit developments.

Prepares department budget and monitors expenditures; manages the stormwater budget.

Maintains files and records; prepares technical reports, studies and correspondence.

Additional Job Duties

Performs related duties as required.

Recruitment and Selection Guidelines

Knowledges, Skills, and Abilities

Extensive knowledge of the principles, practices, and methods of engineering related to the design, maintenance and construction of streets, sidewalks, stormwater systems, Town facilities and other Town infrastructure.

Extensive knowledge of related laws, guidelines, ordinances, codes, standards, policies and regulations affecting public works and engineering, maintenance and construction.

Extensive knowledge of engineering mathematics and computer applications and ability to make complex engineering computations, including estimating time and materials' costs.

Considerable knowledge of effective supervisory practices related to employee communication, motivation, performance coaching and evaluation.

Considerable knowledge of municipal personnel, budgeting, and purchasing policies and practices.

Ability to provide concise and professionally sound consultation to Town staff, Town Council, Town Manager, and/or other interested parties on public works, building and engineering issues.

Ability to effectively negotiate and represent the Town and to prepare and administer construction and development agreements.

Ability to present technical information and communicate effectively, both orally and in writing.

Ability to establish effective working relationships with public officials, engineers, contractors, developers, construction workers, the general public, and other employees.

Ability to prepare comprehensive and concise technical reports and conduct effective public presentations.

Physical Requirements

Must be able to physically perform the basic life operational support functions of climbing, balancing, stooping, kneeling, reaching, standing, walking, pulling, lifting, grasping, fingering, talking, and hearing.

Must be able to perform sedentary work exerting up to 10 pounds of force occasionally, and a negligible amount of force frequently or constantly to move objects.

Must possess the visual acuity to maintain records and reports, review maps and drawings, inspect work for quality of methods and materials, operate a computer and use measuring devices.

Desirable Education and Experience

Graduation from an accredited college or university with a degree in civil engineering or closely related field and considerable related engineering and construction experience, including considerable supervisory experience; or an equivalent combination of education and experience.

Special Requirement

Possession of a valid North Carolina driver's license.

Registration as Professional Engineer in North Carolina.



MEMO

To: Mayor and Council
Via: Alex Sewell, Town Manager
From: Justin Russell, Associate Engineer
Date: April 7, 2021
RE: **Hawthorne Drive Drainage Improvement Project**

Purpose: This memorandum provides background information on the Hawthorne Drive drainage improvements and seeks Council authorization to proceed with the proposed improvements.

Background: Staff was contacted by the resident of 1132 Hawthorne Drive in the Country Woods East subdivision regarding stormwater leaving the right-of-way at their property and inundating their backyard with standing water during storm events. To resolve this issue, it is proposed that the ditch line that runs along the street will be regraded across two properties (1132 and 1126 Hawthorne Drive) which requires installing two new driveway culverts, pouring new driveway aprons, and redressing the work area upon completion. According to Town Policy, Staff acquired three (3) estimates from contractors due to the total project cost possibly exceeding \$20k. The bids that were received are attached for your reference.

Recommendation: Staff seeks Council approval to accept lowest, responsible bidder (KHC Environmental) with a 20% contingency for the Hawthorne Drive drainage improvement project. This provides for a total approved project budget of \$22,280.

Privette Enterprises, Inc.
P.O. Box 1189
Monroe, N.C. 28111-1189
Phone: (704) 821-9161
Fax: (704) 821-4150



Price Quotation

Date	Estimate #
1/24/2020	3081

CUSTOMER INFORMATION
Town of Stallings 315 Stallings Road Matthews, NC 28104

JOBSITE / TYPE
Hawthorne Drive Project

QUOTE VALID FOR 30 DAYS.

CONDITIONS: Prices are based on costs and conditions existing on date of quotation and are subject to change by the Seller. When quotation specifies material to be furnished by the purchaser, ample allowance must be made for reasonable spoilage and material must be suitable quality to facilitate efficient production. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs/labor will be done upon a written change order. These costs will become an extra charge over and above the estimate. Warranty claims are handled once payment for the completed job has been made and account is current. PEI is not responsible for any damage to the sidewalk, leadwalk or driveway as a result of our machinery or trucks crossing them to enter or exit the project. This estimate is based on dry suitable weather conditions.

ITEM	DESCRIPTION & SCOPE OF WORK	TOTAL
Bid Job	Bid to help the drainage issues on Hawthorne drive between addresses 1130 & 1120. We will take out the driveway aprons at 1132 & 1126 and haul away. We will then install 12" N-12 plastic pipes 20' on each of those driveways. We will remove the two trees from the front yard of 1132. We will then excavate out soil and haul away all the cut to make the water flow. in the ditch line. We will then grade across the entire area to create the fall to make this work. The inlet in the front yard of 1120 has a concrete bottom in it that is poured 6" above outlet pipe, we will need to take that out to gain the additional 6' if needed. Once we have it graded out we will place rip rap around the pipes. We will build up the aprons to keep water from running down the driveway before pouring the concrete back. We will then pour the driveway aprons back over the new culvert pipes. We will then topcoat all disturbed areas with topsoil and back fill new concrete aprons. Once complete we will seed, mat and straw all disturbed areas.	0.00
Concrete Work	Concrete tear out and haul off of aprons/ and Repour of driveway apron	8,947.48

We thank you & look forward to the opportunity to serve you!

Sales T...
TOTAL

Customer's signature serves as a contract with Privette Enterprises, Inc. to perform the scope of work including items listed & agrees to pay the total amount due upon invoice receipt. A monthly late charge of 1.5% will be applied to past-due accounts. If payment is not made within stated payment terms, customer shall be liable for all costs incurred in collection, including attorney's fees and court costs. An internal processing fee of 3% will be applied to CREDIT CARD payments. No processing fee is applied with check & cash payments.

SIGNATURE:

DATE:

Privette Enterprises, Inc.
P.O. Box 1189
Monroe, N.C. 28111-1189
Phone: (704) 821-9161
Fax: (704) 821-4150



Price Quotation

Date	Estimate #
1/24/2020	3081

CUSTOMER INFORMATION
Town of Stallings 315 Stallings Road Matthews, NC 28104

JOBSITE / TYPE
Hawthorne Drive Project

QUOTE VALID FOR 30 DAYS.

CONDITIONS: Prices are based on costs and conditions existing on date of quotation and are subject to change by the Seller. When quotation specifies material to be furnished by the purchaser, ample allowance must be made for reasonable spoilage and material must be suitable quality to facilitate efficient production. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs/labor will be done upon a written change order. These costs will become an extra charge over and above the estimate. Warranty claims are handled once payment for the completed job has been made and account is current. PEI is not responsible for any damage to the sidewalk, leadwalk or driveway as a result of our machinery or trucks crossing them to enter or exit the project. This estimate is based on dry suitable weather conditions.

ITEM	DESCRIPTION & SCOPE OF WORK	TOTAL
Tree Removal	Removal of two trees and stumps in the front yard and haul off.	2,314.51
Union County - AB...	Union County Special - ABC - 18 tons 4 loads	1,903.52
Rip Rap - NC - ton	Rip Rap -needed for the end of the pipe	790.00
Pipe	Pipe needed to complete the project 12" N-12 plastic pipe 20' sticks	1,700.00
Hauling	Haul off old driveway culvert and disposal	200.00
Hauling - dirt & stri...	Hauling off dirt/strippings & disposal. to create ditchline	2,000.00
Topsoil-Tandem L...	Screened Topsoil - needed for topcoat for grass growth 60 yards	1,200.00
Seed and Straw	Seed and straw all disturbed areas	2,485.21
Equipment Labor	Equipment labor , manual labor and utility locating across the entire length (sewer lines and utilities)	15,051.49
Discount Applied	for changing from concrete to plastic pipe	-1,132.00

Sales T...	\$0.00
TOTAL	\$35460.21

We thank you & look forward to the opportunity to serve you!

Customer's signature serves as a contract with Privette Enterprises, Inc. to perform the scope of work including items listed & agrees to pay the total amount due upon invoice receipt. A monthly late charge of 1.5% will be applied to past-due accounts. If payment is not made within stated payment terms, customer shall be liable for all costs incurred in collection, including attorney's fees and court costs. An internal processing fee of 3% will be applied to CREDIT CARD payments. No processing fee is applied with check & cash payments.

SIGNATURE: _____

DATE: _____

ESTIMATE

Modern Construction Services
 PO Box 92
 CORNELIUS, NC 28031
 (704) 765-9937

Sales Representative
 Matthew Green
 (704) 746-5589
 MGreen@ModernConstructionSvc.com



Town of Stallings/RFQ
Hawthorne Dr
Matthews, NC 28104

Estimate #	4180
Date	4/5/2021

Item	Description	Qty	Price	Amount
Drainage Ditch				
Labor and Materials	Removal and disposal of two trees in drainage ditch area. Demo Driveways and excavate proper slope for drainage ditch to insure water does not run down drive way. Install piping and back fill. Install rip rap Repair/repour drive ways. Seed, mat, and straw all disturbed areas.	1.00	\$24,688.50	\$24,688.50
Supervisory Labor	On site supervision and labor.	80.00	\$87.50	\$7,000.00

Sub Total	\$31,688.50
Union County NC (6.7500 %)	\$2,138.97
Total	\$33,827.47

SPECIAL INSTRUCTIONS

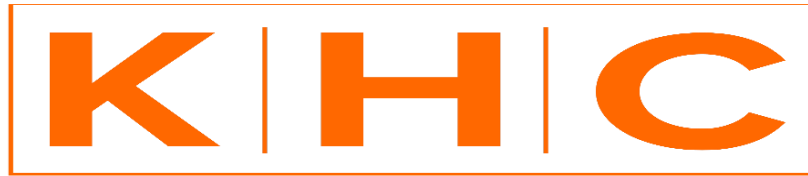
Includes leaving driveways in usable state at the end of each day.

Estimate valid for 30-days unless otherwise noted

GC License Numbers:

North Carolina #76919
 South Carolina #G120629
 Virginia #2705162221
 Tennessee #70271
 Georgia #GCLT-QA000505

Signature for Approval _____ Date _____



Environmental

Town of Stallings
1132-1126 Hawthorne Dr

<u>ITEM</u>	<u>UNIT PRICE</u>	<u>UNITS</u>	<u>TOTAL</u>
Mini Ex	\$95.00	20	\$1,900.00
Skid Steer	\$95.00	20	\$1,900.00
Labor	\$150.00	30	\$4,500.00
Fill Dirt	\$50.00	5	\$250.00
Rip Rap	\$50.00	10	\$500.00
Haul Off / Dump Fee	\$125.00	16	\$2,000.00
Permanent Seed	\$1,000.00	1	\$1,000.00
Double Net Straw Matting	\$1.65	400	\$660.00
15" Concrete pipe	\$200.00	2	\$400.00
Tree Removal	\$700.00	2	\$1,400.00
Replace concrete Driveways	\$6.50	624	\$4,056.00
		<u>TOTAL</u>	\$18,566.00

This bid to improve drainage in front of 1132 and 1126 Hawthorne Rd. It includes reworking or installing 200' of ditch line. In the process we will need to remove 2 large trees and 2 driveway aprons. The driveway apron at 1126 Hawthorne will need to be taken back to the second joint due to erosion under the slab. The catch basin to the right of 1126 may need to be reworked depending on slope needed for drainage. In the event we remove any concrete we will reinstall rip rap to stop erosion. This bid does not include moving any gas, water, or waste lines. In the event we encounter a line not deep enough we will inform the Town and work with them to move necessary utilities.



MEMO

To: Town Council
From: Matthew West, Planning Technician
Date: April 5th, 2021
RE: Town of Stallings Unified Development Ordinance – Article 21 Open Space Rewrite

Background:

To address concerns that the Open Space article of the Town's UDO does not adequately provide for the needs of the Town, Council directed staff to contract Centralina to assist with making adjustments to the ordinance to better serve the community:

1. Town of Stallings Unified Development Ordinance Open Space update:

Staff would recommend language be added to the Development Ordinance as follows:

Article 2 General Standards and Specifications

ADD:

OPEN SPACE, COMMON. Open space that is (1) owned in common and maintained by the owners of lots in a subdivision (i. e., a homeowner's association), or (2) owned by a private individual or entity but managed and maintained for common use by residents, occupants or customers of the development.

OPEN SPACE, IMPROVED. Open space that is improved with recreational areas and amenities such as, but not limited to, ballfields, tennis courts, swimming pools, nature trails, clubhouses, etc.

OPEN SPACE.PUBLIC. Open space that is accessible to the general public and maintained by the Town.

OPEN SPACE, UNIMPROVED.. Any area of land or water that is left natural and undisturbed or revegetated to enhance the purposes of natural resource preservation.

OPEN SPACE, URBAN AMENITIES. Facilities for active and passive recreational use located in urban areas that include sidewalks, widened beyond what is required by code, plazas, street furniture, outdoor eating or gathering areas, fountains, rooftop gardens, areas featuring public art, or other urban related amenities.

REMOVE:

SUBURBAN OPEN SPACE AMENITIES. Land available for and containing active and passive recreational elements, including parks, trails, clubhouses, playgrounds, athletic fields and courts, picnic facilities, benches, community gardens, and pools. It can include natural areas including floodplains, water bodies, wetlands, woodlands, land used for stormwater retention, and slopes over 15%.

Article 11 Subdivisions

CURRENT LANGUAGE

Article 11.6 Landscape Requirements of the Stallings Development Ordinance currently states the following:

Type B Buffer Yard: A medium-density screening buffer to partially block visual contact between uses with a minimum of *seventy-five (75%)* opacity.

Table 11.1 Buffer Yard Chart

Re-formatted buffer chart:

Table 11.1- BUFFER YARD CHART		
DEVELOPMENT DISTRICT <i>(Residential)</i>	ADJACENT DISTRICTS	BUFFER YARD REQUIRED
Single Family Residential - <i>SFR</i> Multi-Family Residential Transitional – <i>MFT</i> Traditional Neighborhood Development Overlay – <i>TNDO</i> Conditionally Zoned – <i>CZ</i> Mixed Use – <i>MU-1</i>	All other districts	Type A
DEVELOPMENT DISTRICT <i>(Non-Residential)</i>	ADJACENT DISTRICT	BUFFER YARD REQUIRED
Agriculture - <i>AG</i>		

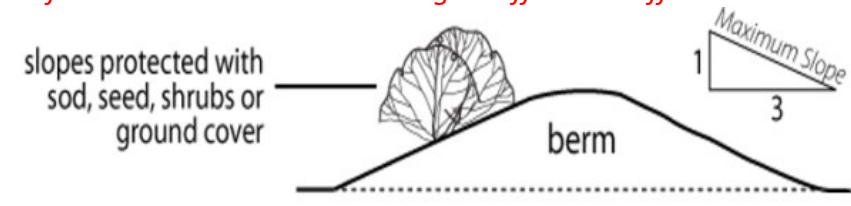
<p>Industrial - <i>IND</i></p> <p>Heavy Industry Overlay – <i>HIO</i></p> <p>Conditionally Zoned - <i>CZ</i></p>	<p>All other districts</p>	<p>Type A</p>
<p>Mixed Use – <i>MU-2</i></p> <p>US Highway 74 Commercial – <i>C-74</i></p> <p>Interstate Highway 485 Corporate Park – <i>CP-485</i></p> <p>Vehicle Service and Repair – <i>VSR</i></p>	<p>Single Family Residential – <i>SFR</i></p> <p>Multi-Family Residential Transitional – <i>MFT</i></p> <p>Civic – <i>CIV</i></p> <p>Traditional Neighborhood Development Overlay - <i>TNDO</i></p>	<p>Type B</p>
<p>Town Center – <i>TC</i></p> <p>Civic – <i>CIV</i></p>	<p>Single Family Residential – <i>SFR</i></p> <p>Multi-Family Residential - <i>MFR</i></p>	<p>Type C</p>
<p>Vehicle Service Repair – <i>VSR</i></p>	<p>Town Center – <i>TC</i></p> <p>Mixed Use – <i>MU</i></p> <p>US Highway 74 Commercial – <i>C-74</i></p> <p>Interstate Highway 485 Corporate Park – <i>CP-485</i></p>	<p>Type C</p>
<p>Town Center – <i>TC</i></p> <p>US Highway 74 Commercial – <i>C-74</i></p> <p>Interstate Highway 485 Corporate Park – <i>CP-485</i></p>	<p>Mixed Use – <i>MU</i></p> <p>Industrial – <i>IND</i></p>	<p>Type C</p>
	<p>Town Center – <i>TC</i></p> <p>US Highway 74 Commercial –</p>	

Mixed Use – MU-2	<p style="text-align: center;">C-74</p> <p style="text-align: center;">Interstate Highway 485 Corporate Park – CP-485</p> <p style="text-align: center;">Vehicle Service and Repair - VSR</p>	Type D
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Article 11.6-1 Buffering and Screening of Different Districts

ADD:

(F.) Berms. In all residential districts that adjoin a state or local thoroughfare as listed in Section 2.18-2, an earthen berm shall be used in conjunction with densely planted vegetation (i.e. a row of evergreen shrubs not less than 24 inches tall at the time of installation and planted not more than 3 feet apart), provided that the combined height of the berm and planted vegetation shall be at least four feet (4') and provide approximately seventy five percent (75%) opacity within two (2) years of planting. The maximum slope of any berm will be 3:1 and side slopes will be designed to ensure the prevention of soil erosion and practical maintenance. The figure below illustrates the combination of a berm and shrubs in creating an effective buffer.



Berms shall not be required when the development consists of four (4) or fewer homes or front-loading homes.

Article 21 Open Space

Article 21.1 Purpose

... Preservation of open space in developing areas serves a variety of purposes, including meeting the recreational needs of residents, improving the aesthetic character of the community, reducing stormwater runoff, improving stormwater runoff water quality, and enhancing air quality. *Where applicable, the addition of active open space shall adhere to the Stallings Recreation and Greenway Master Plan.* The standards set forth below establish regulations for open space.

Article 21.1 Open Space should now be written:

The following standards are hereby established for open space. Percentage of required open space is calculated on the gross project acreage. Open space areas shall be identified and calculated on development proposals. For linear improvements, such as a greenway, open space shall be calculated by multiplying the length of the greenway by fifty (50) feet, unless obstructed by property lines.

Open Space shall consist of improved and unimproved areas. The total requirement for open space is shown in Table 21.1. Improved open space shall be fifty percent (50%) of the total requirement as shown in Table 21.1. The remaining fifty percent (50%) of open space may be unimproved and consist of land as listed in Section 21.2-10. The maximum unimproved open space allowed, as defined in Section 21.2-10, may be less than fifty percent (50%) of the total required open space. If this is the case, the remaining total open space must be met with improved open space.

Table 21.1 is to be changed to the following:

ZONING DISTRICT	REQUIRED TOTAL OPEN SPACE	REQUIRED IMPROVED OPEN SPACE
Single Family Residential (SFR-1) Single Family Residential (SFR-2) Single Family Residential (SFR-3)	25%	12.5%
Multi-Family Residential Transitional (MFT)	15%	7.5%
Traditional Neighborhood Development Overlay (TNDO)	10%	5%
Mixed Use (MU-1)	12%	6%
Mixed Use (MU-2) – When residential components are included, open space shall be centrally and internally located so as to provide focal points throughout the development.	10%	5%
Agriculture (AG) Civic (CIV) US Highway 74 Commercial (C 74) Interstate Highway 485 Corporate Park (CP 485)	n/a	n/a

Vehicle Service and Repair (VSR) Industrial (IND) Scenic Corridor Overlay (SCO) Heavy Industry Overlay (HIO)		
Town Center (TC) <i>as defined in Article 8. New development must adhere to the Parks and Greenway Master Plan when applicable.</i>	n/a	n/a

Article 21.2-2 Land designated as future open space. should be written:

Regardless of the requirements and exemptions of this subsection, any portion of the site of the proposed development that is designated as future open space or greenway in the adopted Comprehensive Land Use Plan ~~and/or the Stallings Parks and Greenway Master Plan adopted by the Town of Stallings~~, as amended from time to time, shall be reserved for open space. This area may be counted toward the total amount of open space required for the development.

ADD:

Greenway, Park and Open Space Access: When a development abuts greenways, parks and/or public open space areas, public access to such features must be provided at a minimum of every 61000 feet when feasible, as determined by the Development Administrator. Such access shall be provided through greenway connectors a minimum of six feet wide. Connectors shall be paved or crushed gravel, engineered to allow water runoff, and connected to the pedestrian system within the development, and will be maintained by the Owner's Association.

Article 21.2-3 should be written:

Improved of open space. ~~With the exception of Natural and Agricultural Open Space, Improved usable~~ open space shall be planned ~~and improved~~, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and shall contain ~~improvements that include, but are not limited to: four or more of the following improvements:~~ landscaping, walls/fences, walks, statues, fountains, demarked ball fields, ~~picnic areas, pools, gazebos, barbeque areas~~, picnic areas, pools, gazebos, barbeque areas, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height with the following exceptions: fences used in conjunction with ball fields, tennis courts, swimming pools, and/or play grounds.

Article 21.2-6 Focal Point

REMOVE:

A central square or green, for example, may comprise a majority of the open space.

Article 21.2-7 Types of open space. **REMOVED** entirely, including parts (A.) through (F.)

Article 21.2-10 – Rename to Land Acceptable for *Unimproved* Open Space Designation

ADD:

In order to meet the open space requirements, A maximum of fifty percent (50%) of the following areas may each be counted toward unimproved open space:

(A.) Land which exceeds sixteen percent (16%) slope if existing slopes and vegetation remain undisturbed;

(B.) Land used for stormwater retention provided such land is natural in appearance and is not separately fenced. Additionally, land used for stormwater retention, provided such land is natural in appearance and is not separately fenced, that is developed using best management practices (e.g., constructed wetlands, rain gardens, green roofs or similar features), and either exceeds the required amount of retention or treats off-site stormwater at the discretion of the Development Administrator.

(C.) Stream buffers.

The remaining fifty percent (50%) of unimproved open space shall be:

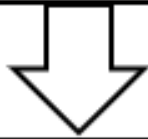
(D.) Grassed lands with no improvements that are accessible and maintained.

(E.) Naturally wooded areas not including required buffers, steep slopes, or stormwater retention areas as defined in this section.

Example Improved/Unimproved Open Space Calculation:

Single Family Residential Open Space
Total Requirement: 25%

25% Required Total Open Space			
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Minimum Improved Open Space 12.5%	Maximum Unimproved Article 21.2-10(A)(B)(C) 6.25%
	Minimum Unimproved Article 21.2-10(D)(E) 6.25%

REMOVE:

(A.) - (G.)

Article 21.2-11

ADD:

(D.) Land used for landscape buffers (Type A, B and C only), public sidewalks in excess of standard sidewalk requirements, streetscape and hardscape areas accessible to the public including sidewalk cafe areas, areas containing public art, and similar high density area open space amenities. Sidewalks that run through or are internal to improved open space shall be counted toward improved open space.

(E.) Surface water, wetlands, utility transmission rights-of-way, and undisturbed floodplains.

Re-order list as necessary.

REMOVE:

(D.) Playgrounds and athletic fields that have not been maintained to adequate standards for safe and sanitary use.

Article 21.2 Fee-in-Lieu.

Re-written to the following:

All proposed developed within the Town shall provide the improvements identified in the Stallings Parks, Recreation and Greenway Master Plan when those improvements are located on property involved with the proposed development.

When no improvements as identified by the Stallings Parks, Recreation and Ggreenway Master Plan are associated with a proposed project, the developer shall be required to pay a fee in lieu thereof, in accordance with this section. This fee shall be calculated as follows:

1/35 of an acre per lot multiplied by the tax value of the property (per acre).

Example: a 100-lot subdivision with a per acre tax value of \$10,000:

$$\begin{aligned} 1/35 &= .02857143 \\ &\quad \times 100 \\ &= 2.85714286 \\ &\quad \times \$10,000 \\ &= \$28,571.43 \end{aligned}$$

(1). At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plan or development.

(2). The payment of fees, in lieu of the dedication of land under subsection above shall be made by the Town Council after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship the dedication would have with the town's Parks, Recreation and Greenway Master Plan.

(3). The fees in lieu of dedication shall be paid prior to final plat approval.

(4). The amount of the payment shall be the product of:

(a). The number of acres to be dedicated, as required by subsection, above;

(b). The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time the payment is due to be paid.

NONCONFORMITY, LAWFUL. Any current legal lot, structure, or use of property not otherwise permitted under current zoning regulations constructed or established in conformity with the then-applicable development requirements of the Town, but subsequently not permitted by action of the Town through a zoning map or unified development code text amendment. See *GRANDFATHERED*.

NONENCROACHMENT AREA. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

NONPROCESS DISCHARGE. Industrial effluent not directly resulting from the manufacturing process. An example is noncontact cooling water from a compressor.

NURSING HOME. An establishment which provides full-time convalescent and/or chronic care, including food, shelter, and caregiver or nursing care, for persons who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. This term includes assisted care facility, convalescent home, home for the aging, sanitarium, rest home, or any similar facility.

OCCUPANCY. A separately leased or owned area within a building having ground level frontage on a right-of-way or parking facility.

OFF-PREMISES. Not located on the property to which it pertains.

OFFICE, PROFESSIONAL. The office of a member of a recognized profession maintained for the conduct of that profession, including, but not limited to, the offices of doctors, lawyers, dentists, landscape architects, architects, stockbrokers and financial analysts, chiropractors, engineers, surveyors, or town planners.

OFFICE-WAREHOUSE. A land use that includes offices that support showroom or warehouse uses.

ON-PREMISES. Located on the property to which it pertains.

OPEN SPACE. Any publicly dedicated or privately-owned area of land or water that is permanently preserved and maintained. Such an area may be predominately in a natural condition or modified for uses such as recreation, education, aesthetics, cultural or natural resource management or public health and safety.

OPEN SPACE, COMMON. Open space that is (1) owned in common and maintained by the owners of lots in a subdivision (i. e., a homeowner's association),

or (2) owned by a private individual or entity but managed and maintained for common use by residents, occupants or customers of the development.

OPEN SPACE, IMPROVED. Open space that is improved with recreational areas and amenities such as, but not limited to, ballfields, tennis courts, swimming pools, nature trails, clubhouses, etc.

OPEN SPACE, PUBLIC. Open space that is accessible to the general public and maintained by the Town.

OPEN SPACE, UNIMPROVED. Any area of land or water that is left natural and undisturbed or revegetated to enhance the purposes of natural resource preservation.

OPEN SPACE, URBAN AMENITIES. Facilities for active and passive recreational use located in urban areas that include sidewalks, widened beyond what is required by code, plazas, street furniture, outdoor eating or gathering areas, fountains, rooftop gardens, areas featuring public art, or other urban related amenities.

PASSIVE RECREATION ELEMENT. Trails, open space, uncovered picnic areas, and similar facilities provided for recreational use.

PERENNIAL AND INTERMITTANT STREAMS. Those streams (and rivers), with associated lakes and ponds as indicated on the following:

- (A.) On the most recent version of the United States Geological Survey 1:24,000 scale (7.5-minute quadrangle) topographical map;
- (B.) On the most recent version of the Soil Survey of Union County developed by the United States Department of Agriculture (USDA) Natural Resource Conservation Service (formerly the USDA Soil Conservation Service);
- (C.) By other site-specific evidence that indicates to the North Carolina Division of Water Quality (DWQ) the presence of such waters not shown on either of these two
 - (1) maps or evidence that no actual stream or water-body exists; or
- (D.) Upon determination following field inspection by a qualified professional.

ARTICLE 11

LANDSCAPE REQUIREMENTS AND TREE PROTECTION

11.1 Purpose

The regulations set forth in this Article are intended to reduce tree canopy loss and implement urban forest management improvements through requirements for tree protection, tree preservation, the planting of trees and the maintenance of existing and newly planted trees within the Town of Stallings. Additionally, this Article will establish minimum standards for the design of landscapes so as to improve the community aesthetically, economically, and environmentally. The requirements are intended to enhance the quality of life through sustainable urban forest practices and increase the benefits trees provide, including, but not limited to the following.

- (A.) Absorption of carbon dioxide and returning oxygen
- (B.) Reduction of soil erosion and increase in rainwater infiltration
- (C.) Provision of shade for cooling
- (D.) Screening of noise, dust, glare, and visual intrusions
- (E.) Reduction of storm-water runoff
- (F.) Maintenance and improvement of Town appearance and aesthetics
- (G.) Provision of habitat for wildlife
- (H.) Preservation, protection and enhancement of the natural environment

11.2 Administration

The following personnel have responsibility for administering and enforcing the provisions of this section:

- (A.) The *Development Administrator* shall have responsibility for overseeing the administration of this article.
- (B.) The *Public Works Administrator* shall have responsibility and control over all trees and shrubbery planted or growing upon Town property including public street right-of-way.
- (C.) The *Development Administrator* shall have the authority to enforce the standards of this Article in the event of compliance failure. The *Development Administrator* shall also have responsibility and control over all regulated, unsafe, and diseased trees located on public and private property.

11.3 Applicability

The provisions of this article shall apply to the following:

- 11.3-1 All new major subdivisions with four (4) or more new lots, all new non-residential developments, and all new multi-family developments with four (4) or more units except for those projects listed under Exemptions below.
- 11.3-2 Changes in use, expansions, and new buildings for already existing residential, non-residential, or mixed-use developments as per the following:
- (A.) Changes in use to a higher intensity, such as a change from residential to commercial. The requirements shall be applicable to the entire lot;
 - (B.) All non-residential expansions of buildings, except the first three thousand (3,000) square feet of gross leasable area. The requirements of this article shall be applicable only to the expansion area;
 - (C.) Expansions exceeding 50 percent of the pre-expansion floor area must bring the entire site into compliance, super-ceding 11.3-2(B);
 - (D.) Renovations with a total cost exceeding 50 percent of the appraised value of the building as established by the Union County Tax Office. The value of any expansions or reconstruction of such structures over a three-year period shall be considered in calculating the 50 percent threshold.
- 11.3-3 Vehicular use areas shall be subject to the landscape requirements as outlined under the Parking Lot Landscape Requirements as follows:
- (A.) Any new parking lot with six (6) or more spaces;
 - (B.) Expanded portions of existing parking lots which are less than 50 per cent of the total vehicular use areas shall landscape the area included in and around the expansion;
 - (C.) Expansions exceeding 50 percent of the paved area must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements;
 - (D.) Existing unpaved parking lots which are paved or existing paved lots which are demolished and repaved must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements.
- 11.3-4 Any land disturbing activities or tree removal shall require a Tree Disturbance Permit as per section 11.10 of this Article.

11.4 Exemptions:

The provisions of this Article shall not apply to the uses and activities listed below. Any applicable requirements of Article 19 apply:

- 11.4-1 Properties within and abutting the Town Center (TC) District shall be exempt from the buffer and tree conservation area requirements but are still required to meet the street trees and parking lot landscaping requirements;
- 11.4-2 Property lines abutting utility easements in excess of sixty (60) feet in width and all railroad rights-of-way;
- 11.4-3 Property lines abutting dedicated street rights-of-way, which have remained unopened for a period of at least fifteen (15) years;
- 11.4-4 Tree removal on an area of three thousand (3,000) square feet or less, after the *Development Administrator* has determined that such a removal is not associated with a forthcoming development proposal and will not be inconsistent with any plan previously approved by the Town; however, watershed and/or soil erosion requirements may still apply if triggered;
- 11.4-5 Property covered by an active forestry management plan prepared by a North Carolina Registered Forester, provided that documentation has been furnished to the *Development Administrator*.

11.5 Landscape Plan Procedure

- 11.5-1 Landscape Plan Approval Required. An applicant must receive approval of a landscape plan from the *Development Administrator* prior to grading or before site work may begin.
- 11.5-2 Installation of Plant Materials Required. Installation of plant material shall occur prior to the issuance of a Certificate of Occupancy.
- 11.5-3 Performance Guarantee In lieu of Installation of Plant Materials.
 - (A.) If at the time of a request for a Certificate of Compliance, the required planting areas are not complete the developer may provide a performance guarantee in accordance with N.C.G.S. 160A-372, guaranteeing the installation of the plant materials if the following conditions are met:
 - (1.) Plant materials are unavailable,
 - (2.) Completion of the planting areas would jeopardize the health of the plant materials, or
 - (3.) Weather conditions prohibit completion of the planting areas.
 - (B.) The Performance Guarantee shall be in an amount equal to 125 percent of the

estimated cost of the installation of the required plant materials, as determined by the Town. The *Development Administrator* may accept a valid contract assignable to the Town containing a ninety-day (90) termination and/or cancellation notice to the Town by any party exercising such action incorporated therein for the remaining materials and turn-key installation, as a form of cost estimation. The performance guarantee shall secure the installation of the plant materials as shown on the approved landscape plan. The performance guarantee shall remain in full force and effect until such time as the installation of plant materials is completed, inspected, and accepted by the Town of Stallings. Failure to maintain the required performance guarantee shall result in the revocation of the approval of the site development plan and any permits issued as a result of the plan approval. The performance guarantee shall be renewed by the applicant unless all parties, including the Town, agree not to renew it at least sixty (60) days prior to its scheduled expiration date.

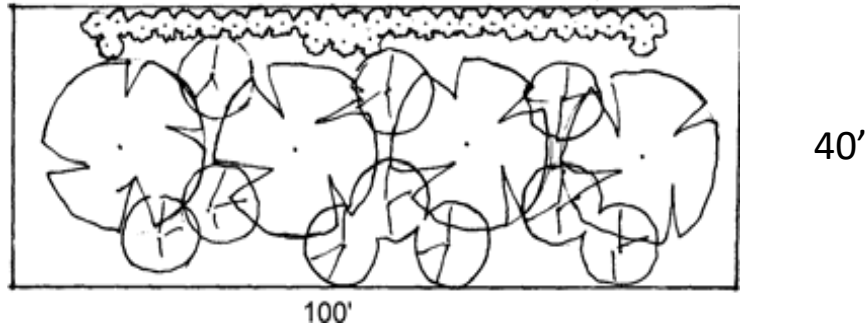
A temporary construction easement permitting the Town of Stallings or its designee(s) to access the property for the purpose of installing the guaranteed plant materials shall be provided with the performance guarantee. The temporary construction easement shall be valid until all guaranteed plant materials have been installed and approved by the Town. The temporary construction easement shall bind all successive owners until the guaranteed plant materials have been installed and approved by the Town.

- (C.) Failure to initiate installation of the plant materials within one year of the date the performance guarantee was accepted by the Town of Stallings may result in the Town, at its sole discretion, directing and/or installing the plant materials, with the cost to be paid from the performance guarantee. The performance guarantee shall, if requested by the Town, pay all or any portion of the performance guarantee to the Town up to the amount needed to complete the installation of the plant materials based on an estimate by the Town as described in 11.5-3(B) above. The Town at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required plant installation. The Town shall return to the developer any funds not spent in completing the plant installation, less reasonable administrative, professional and legal services cost resulting from the failure of the developer. Default on a project does not release the developer from responsibility for the completion of the plant installation. The Town may release a portion or all of any performance guarantee as the plant installation is completed and approved by the Town. In the event the amount of the performance guarantee on hand is insufficient to pay for completion of the plant installation, the property owner shall pay to the Town of Stallings the total amount of the insufficiency. If the Town is not re-paid in full, the amount of the insufficiency shall be the basis for a claim against the property and constitute a lien on the property in favor of the Town upon filing with the Register of Deeds.

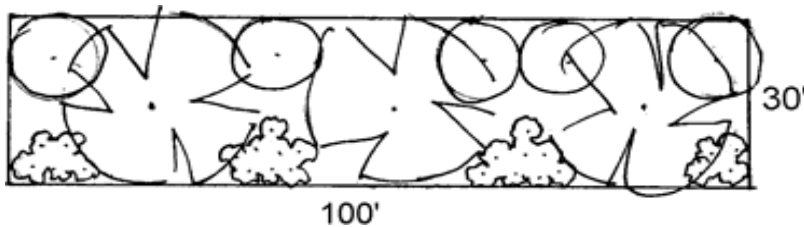
11.6 Landscape Requirements

The following buffer yards are hereby established and shall be required where applicable:

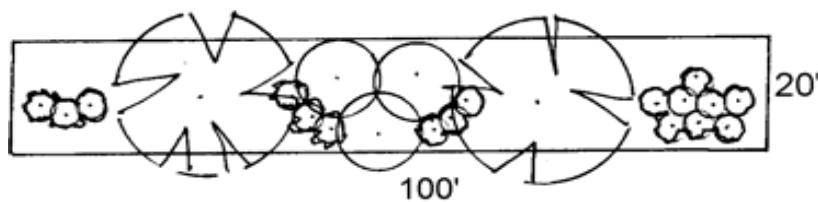
Type A Buffer Yard: A high-density screening buffer to substantially block visual contact between adjacent uses with a minimum of ninety percent (90%) opacity.



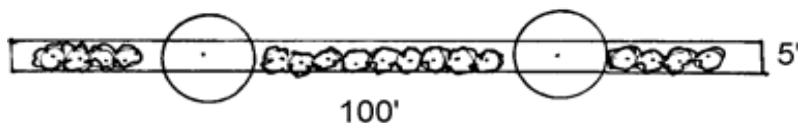
Type B Buffer Yard: A medium-density screening buffer to partially block visual contact between uses with a minimum of seventy-five percent (75%) opacity.



Type C Buffer Yard: A low-density screen intended to partially block visual contact between uses with a minimum of sixty percent (60%) opacity.



Type D Buffer Yard: A peripheral planting strip intended to separate uses, provide vegetation in densely developed areas, and to enhance the appearance of individual properties.



11.6-1 Buffering and Screening of Different Districts. Buffer yards, in accordance with section 11.3 above, to separate development in certain districts from adjacent districts are specified in Table 11.1 below. The buffer yards are required on the sides and rear of property being developed abutting the identified adjacent district. The following buffer yards shall be provided when property in an identified development district abuts one or more of the identified adjacent districts. To determine the required buffer yard for a development, first identify the development district in which the development is to be located. Then identify the adjacent district abutting the proposed development to determine the type buffer yard applicable to the project.

Table 11.1- BUFFER YARD CHART		
DEVELOPMENT DISTRICT <i>(Residential)</i>	ADJACENT DISTRICTS	BUFFER YARD REQUIRED
Single Family Residential - <i>SFR</i> Multi-Family Residential Transitional – <i>MFT</i> Traditional Neighborhood Development Overlay – <i>TNDO</i> Conditionally Zoned – <i>CZ</i> Mixed Use – <i>MU-1</i>	All other districts	Type A
DEVELOPMENT DISTRICT <i>(Non-Residential)</i>	ADJACENT DISTRICT	BUFFER YARD REQUIRED
Agriculture - <i>AG</i> Industrial - <i>IND</i> Heavy Industry Overlay – <i>HIO</i> Conditionally Zoned - <i>CZ</i>	All other districts	Type A
Mixed Use – <i>MU-2</i> US Highway 74 Commercial – <i>C-</i>	Single Family Residential – <i>SFR</i>	

<p style="text-align: center;"><i>74</i></p> <p style="text-align: center;">Interstate Highway 485 Corporate Park – <i>CP-485</i></p> <p>Vehicle Service and Repair – <i>VSR</i></p>	<p style="text-align: center;">Multi-Family Residential Transitional – <i>MFT</i></p> <p style="text-align: center;">Civic – <i>CIV</i></p> <p style="text-align: center;">Traditional Neighborhood Development Overlay - <i>TNDO</i></p>	<p style="text-align: center;">Type B</p>
<p style="text-align: center;">Town Center – <i>TC</i></p> <p style="text-align: center;">Civic – <i>CIV</i></p>	<p style="text-align: center;">Single Family Residential – <i>SFR</i></p> <p style="text-align: center;">Multi-Family Residential - <i>MFR</i></p>	<p style="text-align: center;">Type C</p>
<p style="text-align: center;">Vehicle Service Repair – <i>VSR</i></p>	<p style="text-align: center;">Town Center – <i>TC</i></p> <p style="text-align: center;">Mixed Use – <i>MU</i></p> <p style="text-align: center;">US Highway 74 Commercial – <i>C-74</i></p> <p style="text-align: center;">Interstate Highway 485 Corporate Park – <i>CP-485</i></p>	<p style="text-align: center;">Type C</p>
<p style="text-align: center;">Town Center – <i>TC</i></p> <p style="text-align: center;">US Highway 74 Commercial – <i>C-74</i></p> <p style="text-align: center;">Interstate Highway 485 Corporate Park – <i>CP-485</i></p>	<p style="text-align: center;">Mixed Use – <i>MU</i></p> <p style="text-align: center;">Industrial – <i>IND</i></p>	<p style="text-align: center;">Type C</p>
<p style="text-align: center;">Mixed Use – <i>MU-2</i></p>	<p style="text-align: center;">Town Center – <i>TC</i></p> <p style="text-align: center;">US Highway 74 Commercial – <i>C-74</i></p> <p style="text-align: center;">Interstate Highway 485 Corporate Park – <i>CP-485</i></p> <p style="text-align: center;">Vehicle Service and Repair - <i>VSR</i></p>	<p style="text-align: center;">Type D</p>

Plantings shall be provided in buffer yards as indicated in Table 11.2 below:

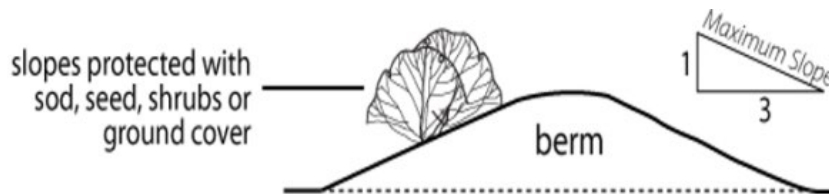
Table 11.2 - PLANTING RATES						
Buffer Yard Type	Average Width (ft.)	Minimum/Maximum Width (ft.)	Evergreen Tree Rate per 100 lf	Canopy Tree Rate	Understory Tree Rate	Shrubs Rate
Type A Yard	40	35/65	8	4/100 lf 25 feet on center	10/100 lf 10 feet on center	33/100 lf 3 feet on center
Type B Yard	30	25/50	6	3/100 lf	5/100 lf	25/100 lf
Type C Yard	20	15 /40	4	2/100 lf	3/100 lf	17/100 lf
Type D Yard	5	5/10	0		2/100 lf	18/100 lf

(A.) Buffer Yard Alternative Standards and Conditions.

- (1.) The minimum landscaping requirements for all buffer yards except the Type D yard may be reduced by 30% with the use of an opaque wall or fence constructed of masonry, stone or pressure treated lumber providing such reductions do not disturb the Critical Root Zone (CRZ) of existing trees. The wall or fence should be a minimum of five (5) feet in height. The wall or fence shall be set back from the property line a minimum of five (5) feet and shall be planted with half the required plantings, including all types of shrubs and trees required, on the outside of the wall or fence (facing the adjacent property).
 - (2.) Understory trees shall be substituted for canopy trees at the rate of two (2) understory trees for every canopy tree to be planted within fifteen (15) feet of an overhead utility line.
 - (3.) Canopy trees may be substituted for shrubs at the rate of one (1) canopy tree for eight (8) shrubs and understory trees may be substituted for shrubs at the rate of one (1) understory tree for five (5) shrubs if approved by the *Development Administrator*.
- (B.) Location of Buffer Yard. Required trees and shrubs shall not be installed in street rights-of-way. Required trees and shrubs may be placed in water quality conservation easements, electric utility easements below overhead lines, and in drainage maintenance and utility easements upon approval by the *Development Administrator*.
- (C.) Setback Less Than Buffer Yard. If the required building setback is less than the required buffer yard width, the building setback shall reduce the required planting yard width only alongside the building. The planting rate of the required planting yard shall still apply.
- (D.) Encroachments Permitted in Required Planting Yards. The following are permitted in required planting yards provided the landscaping requirements are met and there is no interference with any sight area: Cornices, steps, canopies, overhanging eaves and gutters, windowsills, bay windows or similar architectural features, at-grade patios, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half (2 1/2) feet into any required planting yard, but in no case shall be closer than three (3) feet to any property line or handicap ramps except for porches and landings.
- (E.) Obstructions. Landscaping shall not be placed in the sight visibility triangle which would obstruct the view of motorists using any street, driveway, or parking aisle.
- (F.) Berms. In all residential districts that adjoin a state or local thoroughfare as listed in Section 2.18-2, an earthen berm shall be used in conjunction with densely planted vegetation (i.e. a row of evergreen shrubs not less than 24 inches tall at the time of installation and planted not more than 3 feet apart), provided that the

~~combined~~ height of the berm and ~~planted vegetation~~ shall be at least four feet (4') and provide approximately seventy five percent (75%) opacity within two (2) years of planting.

The maximum slope of any berm will be 3:1 and side slopes will be designed to ensure the prevention of soil erosion and practical maintenance. The figure below illustrates the combination of a berm and shrubs in creating an effective buffer.



Berms shall not be required when the development consists of four (4) or fewer homes or front-loading homes.

11.6-2 Screening of Dumpsters, Outdoor Storage, and Utility Structures. All dumpsters, loading docks, outdoor storage areas over 40 square feet, and utility structures must be screened if they are visible to adjacent public or private streets or any adjacent properties. Screening of a dumpster shall not be required in the Industrial District, unless the dumpster is located within one hundred (100) feet of an existing non-industrial land use. Screening options include:

- (A.) A single opaque material wall or fence with a minimum height of 6 feet.
- (B.) A combination of opaque materials, berming, and/or evergreen landscaping spaced at 8 feet on center that provides the required screening effect. The combination of opaque materials, berming, and/or evergreen landscaping shall have a minimum height of 6 feet within three (3) years of planting.
- (C.) The wall(s) of a principal or accessory structure may also count for screening.
- (D.) Chain-link fencing with woven slats of opaque material is *not* acceptable.

11.6-3 Street Trees. Street trees are required along all street frontages for all new developments described in Sections 11.3-1 and 11.3-2, unless excepted in Section 11.4. Trees are required at the following rate:

- (A.) One large maturing tree required for every 80 linear feet of street frontage. If overhead utilities are present, planting of one small maturing tree for every 40 linear feet of property abutting a street is required.
- (B.) Where the street abuts a parking lot over 3000 square feet in area and located within 50 feet of the edge of the pavement, shrubs shall be planted at the rate of one deciduous or evergreen shrub for every 5 linear feet of vehicular use area abutting the street in addition to the required street trees. The shrubs must achieve a minimum

height of three feet at maturity.

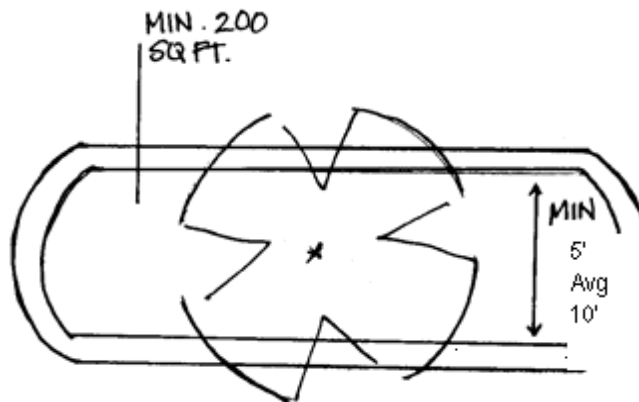


- (C.) Street trees may be evenly spaced or spaced to accommodate existing site features. Street trees shall be a minimum of fifteen (15) feet apart and a maximum of ninety (90) feet apart. No street tree shall be located more than twenty five (25) feet from the edge of pavement.
- (D.) Street trees shall be planted in the planting strip within the public right-of-way. In the Town Center (TC) and Mixed-Use (MU) Districts, the trees may be placed in tree pits with grates that are a minimum of sixteen (16) square feet.
- (E.) Existing Trees: See Section 11.9 for information regarding credits for preservation of existing trees.
- (F.) No more than fifteen (15) percent of the street-planting yard may be used for walkways serving individual lots, except in the TC, and MU districts. Parking, merchandise display, and off-street loading are prohibited in the street-planting yard.

11.6-4 Parking Lot Planting Areas.

- (A.) Applicability. Parking lot landscaping buffers shall be required to separate parking areas from adjacent uses for new and/or expanding parking lots with six (6) or more spaces. Required canopy trees and shrubs shall be located within the parking lot and adjacent to parking spaces in planting areas between rows of parking spaces, at the end of parking bays, in tree islands, and/or around the periphery of the parking lot. The following buffer requirements shall apply to parking lots with six (6) or more spaces:
 - (1.) A minimum of a type D buffer shall be provided for all parking lots with six (6) or more spaces.
 - (2.) A type C buffer shall be provided along any edge of a parking lot with a minimum of six (6) spaces and occupying less than 1/2 acre that abuts an AG, SFR, or MFT zoning district.

- (3.) A type C buffer shall be provided along all edges of any parking lot with a minimum of six (6) spaces and occupying less than 1/2 acre that is located within an AG, SFR, or MFT zoning district.
- (4.) A type D buffer shall be provided along any edge of a parking lot with a minimum of six (6) spaces and occupying 1/2 acre or more that abuts an AG, SFR, or MFT zoning district.
- (5.) A type D buffer shall be provided along all edges of any parking lot with a minimum of six (6) spaces and occupying 1/4 acre or more that is located within an AG, SFR, or MFT zoning district.
- (B.) Planting Rate. For every fifteen hundred (1500) square feet of vehicular use area (VUA), one (1) deciduous tree and four (4) shrubs must be planted. At least seventy five (75) percent of the trees shall be large maturing species. Trees and shrubs must be planted within fifteen (15) feet of the VUA to meet the requirement.
- (C.) Existing Trees. See Section 11.9 for information regarding credits for preservation of existing trees in parking lots.
- (D.) Reduction in Parking Requirements. To allow an existing development to retrofit parking to conform to the landscaping regulations, or for an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced by the *Development Administrator* by up to ten (10) percent.
- (E.) Tree Islands and Medians. When more than four trees are required in a lot with interior rows, fifty (50) percent of the trees and shrubs must be planted in islands or medians located within the parking lot. The planting islands or medians shall be a minimum size of 200 square feet with no dimension smaller than five (5) feet and an average width of ten (10) feet.



- (F.) Multiple Parking Bays. When there are more than 4 bays of parking, an interior island with an average width of twenty (20) feet and a length equivalent to the parking bay shall be constructed. It should include a pedestrian walkway five (5) feet or more wide and a planted strip on one or both sides. The median should be located

in such a way as to enhance pedestrian circulation within the development, leading to the entrance or to an adjacent sidewalk and/or walkway.

- (G.) Perimeter Parking. All continuous runs of fifteen (15) or more parking spaces shall be interrupted by a tree island.
- (H.) Grouping. Shrubs and trees may be grouped or clustered in the required planting yards, except for the perimeter landscaping adjacent to parking lots, outside storage, access drives, and loading and unloading areas. The remainder of the materials shall be distributed throughout the planting yard. There shall be at least one (1) row of evergreen shrubs or evergreen understory trees in all Type A planting yards used in parking areas.
- (I.) Plant Protection. Whenever planting areas are adjacent to parking lots or drives, such areas shall be protected from damage by vehicles, lubricants, or fuels. Curbing or some other structural barrier is required to be placed around trees within five feet of a car bumper. Allowances may be made if rain gardens are incorporated into the planting area. Trees and shrubs in islands should be set back at least three feet from the curb to allow for the operation of car doors.



11.7 Reforestation of Slopes Steeper than 3:1

11.7-1 Tree Cover Required. Areas having slopes steeper than 3:1 must be reforested to provide tree cover over the entire area.



The following standards apply:

- (A.) Reforestation shall include a minimum of one (1) tree per two hundred (200) square feet of surface area and shall be made up of a mixture of deciduous hardwood and

evergreen trees that are a minimum of twelve (12) inches high at planting and approved by the *Development Administrator*.

(B.) The trunk of any required tree shall be no closer than ten (10) feet from any other existing tree.

11.8 Tree Conservation and Protection

11.8-1 Purpose of Tree Conservation Area. The purpose of the Tree Conservation Area (TCA) is to encourage the preservation of healthy trees that are four (4) inches or greater in diameter at breast height (DBH).

11.8-2 Tree Conservation Area Determination. The TCA shall be provided in accordance with the chart below. If trees of four (4) inches or greater DBH exist within or partially within these areas, such trees must be saved to the extent possible. The area will be designated a TCA and shall not be disturbed except as allowed herein below in Table 11.3.

Table 11.3 – Tree Conservation Area (TCA)

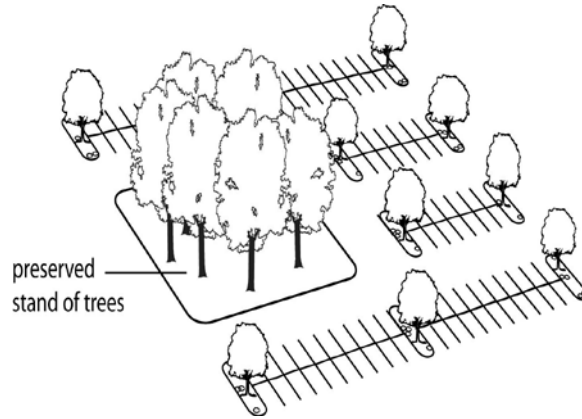
Size of Parcel	TCA Required to Include
0 – 55,000 sq. ft.	One percent (1%) of lot area and located within the required planting yard
55,000 sq. ft. – 5 acres	One and one-half percent (1.5%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yards
5.01 – 10 acres	Three percent (3%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yard or within fifteen (15) feet of the side and rear property lines, whichever is greater
Greater than 10 acres	Six percent (6%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yard or within twenty-five (25) feet of the side and rear property lines, whichever is greater

11.8-3 Tree Conservation Area Selection.

(A.) In selecting which existing tree stands are to be designated as Tree Conservation Area (TCA), the landowner shall give due consideration to building, parking lot, driveway, street, and utility location as they relate to the practicality of preservation and shall use the following tree preservation priority list:

(1.) Existing stands of mature hardwoods as highest priority, then

- (2.) Existing stands of younger hardwoods, then
- (3.) Existing specimen trees (as determined by the *Development Administrator*), then
- (4.) Existing stands of hardwoods and Pine mix, and lastly
- (5.) Existing stands of Pine trees. Preservation of a single Pine tree is not typically encouraged.



(B.) If it is necessary to pick among two or more stands of trees within a category listed above, then Tree Conservation Areas adjacent to the following priority list shall be used in order of significance:

- (1.) Type A buffer yards, as a first priority, then
- (2.) Type B buffer yards, then
- (3.) Type C buffer yards, then
- (4.) Type D buffer yards, then
- (5.) Street tree yards, and lastly
- (6.) Vehicular use areas

(C.) Smaller Trees: Trees less than four (4) inches DBH within the TCA may be preserved at the landowner's option and counted toward buffer yard, street tree, or vehicular use area requirements.

11.8-4 Tree Conservation Flexibility Standards. Flexibility can be granted in the following circumstances:

(A.) Trees in Sensitive Areas: If there are trees that meet the TCA requirements on other areas of the site (riparian buffers, stream corridors, floodplains, etc.), the landowner may request that the required TCA be designated around such trees instead of the usual locations.

(B.) Stream Buffer Credits: Properties falling under the Stormwater Management Control Requirements, which are required to maintain an undisturbed stream buffer, may use some of or the entire buffer to satisfy the required TCA, provided that the undisturbed stream buffer contains trees that are a minimum of four (4) inches in DBH.

- (C.) Land Dedication: Land dedicated to the Town that is contiguous to the property being developed may be used towards the tree preservation requirement, if the dedicated land contains trees that are a minimum of four (4) inches in DBH.
- (D.) Reforestation Credits: In situations where TCA requirements cannot be met based on site conditions and when approved by the *Development Administrator*, reforestation efforts on the property can be used to satisfy up to fifty (50) percent of the required TCA.
- (E.) Reduction in the Amount of TCA Required for Specimen Tree Preservation Within the Lot: To allow developers the flexibility to manipulate the location of required Tree Conservation Areas, and to encourage the preservation of certain specimen trees or tree stands within developed lots rather than just at the periphery, the *Development Administrator* may, at his or her discretion, allow the developer the right to reduce the total amount of required TCA using the following table:

Table 11.4

DBH of Existing Specimen Tree(s) in Inches	Allowable Reduction in TCA
8 – 12	5 % reduction
13 – 20	10% reduction
21 – 30	25% reduction
31+	40% reduction

- (F.) Waivers: The *Development Administrator* shall have the authority to allow reduced buffer yards or to waive the buffer yard requirements to allow for a greater TCA in another area or make other exceptions, which meet the cause and intent of this section. Additionally, if the *Development Administrator* concludes that due to existing unusual or unique site characteristics, preserving some or all required trees in the TCA(s) would create an undue or unreasonable hardship, the protection of some or all of required trees in the TCA(s) may be waived.

Applicants for such a waiver shall submit their request in writing, along with any necessary site plans to demonstrate the hardship. The findings of the *Development Administrator* shall be final and binding to all parties. Appeals of the *Development Administrator's* decisions may be made to the *Board of Adjustment*, following the procedure outlined in Article 6 of this ordinance.

11.9 Tree Credits

- 11.9-1 Buffer Yards. All trees of appropriate size and type preserved in the Tree Conservation Area (TCA) that are within the buffer yard shall be credited toward meeting all or part of the buffer yard requirements. The protection of tree stands, rather than individual trees, is strongly encouraged.
- 11.9-2 Street Trees. Existing preserved trees may count toward up to 100% of the street tree requirement, providing there is no more than 65' between trees.
- 11.9-3 Parking Lots. For new, expanded, or rebuilt parking lots where trees are being preserved adjacent to the parking lot in order to meet the parking lot planting requirements, trees preserved in a TCA and within fifteen (15) feet of the parking lot may be used to satisfy up to fifty (50) percent of the required number of parking lot trees. Non-TCA trees located within the parking area may count towards up to 100% of the requirement. Trees in the TCA counted toward planting yard requirements may not count for required parking lot trees.
- 11.9-4 Tree Health. No credit will be allowed for any dead tree, any tree in poor health, or any tree subjected to grade alterations. Trees should have a life expectancy of greater than ten (10) years and have a relatively sound and solid trunk with no extensive decay, major insect, or pathological problems. For the purposes of determining the health or condition of any tree, the *Development Administrator* may defer to a qualified expert with the cost of the expert to be reimbursed by the applicant.
- 11.9-5 Tree Replacement. Except for storm damage, the death of any tree used for preservation credit within two (2) years of site development shall require the landowner to plant new trees equal to the number of credited trees. After two (2) years any trees that were used for preservation credit that die shall be replaced.
- 11.9-6 Calculation of Credit. Credits are to be given in accordance with the chart below.

Table 11.5 – Tree Credits

DBH of Existing Tree(s) in Inches	Number of Trees Credited
4" – 6"	1
7"-12"	2
13"-18"	3
19"-24"	4
25"+	5

11.9-7 Protection of Existing Trees. To receive credit, trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following standards shall apply:

- (A.) Critical Root Zone. To preserve existing trees within the designated TCA, the Critical Root Zone (CRZ) of the trees shall be preserved. The CRZ includes a radius around the tree equal to, or at least, one foot for every one inch of DBH. It is recommended to preserve the entire CRZ of each preserved tree.
- (1.) If the entire CRZ cannot be preserved, tree roots must be cut prior to the grading of the site and no closer than 10 feet from the tree trunk.
 - (2.) Disturbance within the CRZ will be allowed only on one side of the tree(s) to be saved and only with prior approval by the *Development Administrator*.
 - (3.) Construction site activities such as parking, material storage, dirt stockpiling, concrete washout, and other similar activities shall not be permitted within the TCA.
 - (4.) The same land uses can encroach in the TCA as established in the Buffer Yards Section 11.6 provided there is no disturbance to the CRZ of the preserved trees.
 - (5.) Changes that significantly raise the grade of soil adjacent to the TCA shall be avoided.
 - (6.) Utility line trenches and similar uses shall avoid the TCA. Due to certain site conditions, where disturbance within the TCA is unavoidable, underground tunneling or directional boring of utilities is preferred and allowed on one side only. Trenching shall be used only as the last alternative and root-pruning equipment specifically designed for that purpose shall be used. The *Development Administrator* shall be notified prior to this type of activity and an on-site meeting shall be performed to ensure compliance. See the Town of Stallings Technical Standards & Specifications Manual for trenching detail.
 - (7.) Protective fencing shall be installed around the TCA prior to any tree disturbing activities. Such fences shall be at least four (4) feet high and shall consist of orange polyethylene safety fencing. Fencing shall remain in place until construction is complete and other landscaping has been installed, and the *Development Administrator* has approved its removal. See the Town of Stallings Technical Standards & Specifications Manual fencing detail.
 - (8.) The TCA should be designated as such with "Tree Conservation Area" signs (in both English and Spanish) posted visibly on the outside of the fenced-in area. Signs may not be posted on the trees.
- (B.) Tree Removal within the TCA. Trees less than four (4) inches DBH not being preserved, undergrowth and plant material in poor condition may be removed from the TCA. No roots shall be removed from the TCA. Stumps may be removed only

by grinding. All requests for tree removal within the TCA must have prior approval by the *Development Administrator* pursuant to the provisions of this chapter. Any tree within the TCA, including the CRZ, which the landowner chooses to remove or that must be removed due to poor health or impractical means of preservation shall be removed in a manner that is in accordance with standard arboricultural practice (Per American National Standards Institute (ANSI) Standards) so as to cause as little disturbance or harm to those trees intended to be saved as practical. However, in an emergency situation due to storm damage; to alleviate an immediate hazard to the health, safety, and welfare of the citizens; or to repair property damage, prior approval for tree removal in previously approved designated areas is not required.

- (C.) Tree Conservation Plan Procedures. Approval of a Tree Protection Plan is required for all projects described in Section 11.3, except those listed in Section 11.4 Exemptions and Section 11.10-2 below, and shall be submitted along with all other necessary drawings to the Technical Review Committee. Tree protection items shall be included on all grading plans, erosion control plans, and tree disturbance permit plans. Upon approval of the plan, a Tree Disturbance Permit will be issued prior to any tree-disturbing activities.

11.10 Activities Requiring a Tree Disturbance Permit

11.10-1 Purpose. Except as otherwise exempted herein, it shall be unlawful to:

- (A.) Remove, excessively prune, apply chemicals that are harmful to, or disturb any tree or the soil within the CRZ of any tree; or
- (B.) Clear vegetation from a site; or
- (C.) Begin any excavation, remove soil, or place fill on a site within Stallings and its extraterritorial jurisdiction until the *Development Administrator* has issued a permit certifying that such activity complies with the applicable provisions of this Ordinance.

11.10-2 Applicability and Exceptions. The provisions of this section shall apply to all Land Development except:

- (A.) Routine maintenance of existing vegetation outside the public rights-of-way, such as pruning, watering and fertilizing.
- (B.) The removal of dead trees and shrubs or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, with the burden of proof being placed on the remover.
- (C.) Removal of soil or vegetation from undeveloped land to allow for non-commercial

open space no greater than one-quarter (1/4) acre, providing this activity does not take place within the CRZ of any rare or specimen tree.

(D.) Land disturbing activity normally associated with the occupancy of an existing single family or two-family dwelling.

(E.) Any new construction or expansion of a single family or two-family dwelling requiring a building permit and involving land disturbance less than ten thousand (10,000) square feet, unless the cumulative land disturbance is over ten thousand (10,000) square feet.

11.10-3 Tree Protection Plan Requirements. A Tree Protection Plan for all development projects to which these standards apply, along with all other necessary drawings, shall be submitted to the *Development Administrator*. Tree protection items shall be included on all grading plans, erosion control plans, and tree disturbance permit plans. Drawings shall identify the following items.

(A.) Boundaries of the required Tree Conservation Area (TCA)

(B.) Required planting yard

(C.) Protected trees within the TCA including tree size and species

(D.) CRZ of each proposed protected tree or group of trees

(E.) Limits of clearing

(F.) Grading

(G.) Trenching

(H.) Required tree protection measures including protective fencing and signage

(I.) Overhead and underground utilities, rights-of-way, and easement

(J.) Areas of reforestation, if any

(K.) Stream buffers, if any

(L.) A complete survey of all trees on the *site* (outside the labeled TCA) that exceed 18 inches DBH, including tree size and species.

11.10-4 Plan Notes. The following required notes shall be indicated on tree protection plans, erosion control plans, grading plans, and Tree Disturbance Permit plans in **CAPITAL LETTERS:**

(A.) Contact the Planning Department to set up a pre-construction meeting.

(B.) All tree protection devices must be installed prior to inspection by the *Development Administrator* and prior to any tree disturbance activities.

(C.) Removal or damage of trees in the conservation area will be subject to the penalties established in the Section 11.18, Enforcement, of this Ordinance.

11.10-5 Plan Review. The aforementioned plans shall be reviewed by the *Development Administrator* for conformance with applicable provisions of this section and for tree and vegetation viability. The plans will either be approved or returned for revisions. Reasons for return shall be noted on the proposed plan.

11.10-6 Installation of Protective Measures. All tree protection measures shall be installed prior to inspection by the *Development Administrator or his/her designee* and prior to tree disturbance.

11.10-7 Site Inspections. The *Development Administrator or his/her designee* will conduct follow-up site inspections for enforcement of the tree protection requirements.

11.10-8 Permit Display. All permits issued hereunder shall be so displayed as to be clearly visible from a public right-of-way.

11.10-9 Emergency Waiver. The provisions of this section are waived if compliance would hamper the rescue of life or property from immediate danger or the repair of utilities in the event of emergencies such as wind storms, ice storms, or other disasters.

11.11 Rare and Specimen Trees

11.11-1 Rare and Specimen Trees on Developing Land

(A.) Rare and specimen trees shall be shown on all Tree Protection Plans if such trees are within one hundred (100) feet of areas where soil disturbance or construction activity is proposed. In addition, these trees shall be identified and located by survey on the Tree Protection Plan if such trees are located on the development site or adjacent public property. The *Development Administrator* may visit the site to determine the accuracy of identification.

(B.) Proposed development shall be designed to preserve rare and specimen trees. Where rare and specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces, and location of utilities shall be pursued in order to save them.

(C.) No soil disturbance from construction, trenching, grading, paving, or storage of equipment or materials shall take place within the critical root zone of any rare or specimen tree to be preserved unless the *Development Administrator* determines there is no reasonable way the property can be developed without such disturbance or

unless the proposed work will be carried out in accordance with the specifications for such work in the Stallings Technical Standards & Specifications Manual.

- (D.) No rare tree shall be removed from land being developed unless the *Development Administrator* determines there is no reasonable way the property can be otherwise developed, improved or properly maintained and the tree saved.

11.11-2 Voluntary Protection of Rare and Specimen Trees on Private Land.

Rare and specimen trees that are located on individual lots with single and two-family homes shall be protected if voluntarily registered by the property owner.

11.12 Land Being Developed Outside the Tree Conservation Area (TCA)

11.12-1 Protective Fencing.

- (A.) Vegetation located outside the TCA that is to be protected on land being developed, as indicated on a Tree Protection Plan, shall be protected by fences or other equally effective measures during construction activity. Such fencing shall be located and erected according to Town standards and be located as shown on the Tree Protection Plan and site grading plans. All land disturbing activity, storage of equipment, building material, soil, and other debris shall be kept within the area of development activity and outside of the protective fencing.

- (B.) Vegetation that is to be retained during rights-of-way clearing of single family or two-family residential subdivisions, as indicated on a Tree Protection Plan, shall be delineated by high visibility flagging during construction activity. Such flagging shall be located and installed according to Town standards and be located as shown on the landscape protection and site grading plans. The use of flagging shall be limited to those specific applications where no rare or specimen trees will be affected by development activity and the *Development Administrator* determines it to be as effective as protective fencing.

- (C.) Landscaping activities taking place after the removal of protective fencing shall be accomplished with light machinery or hand labor and in accordance with the Town of Stallings Technical Standards & Specifications Manual.

11.12-2 Treatment of Trees During Construction.

- (A.) No nails, ropes, cables, signs or fencing shall be attached to any part of any tree that is to be preserved.
- (B.) Trees that are damaged during construction shall be treated so as to promote their continued health.

11.12-3 Removal of Regulated Trees. No regulated tree shall be removed without first acquiring a permit from the *Development Administrator*. Failure to do so shall constitute a violation of this chapter and shall be subject to the penalty provisions in Section 11.18, Enforcement, of this Ordinance.

(A.) Enforcement. Upon a determination that work does not conform to the provisions of this section, the *Development Administrator* shall cause issue of a *Stop Work Order* which shall remain in effect until all corrections are made in conformance with this Ordinance.

(B.) Pre-construction Conference. Prior to the commencement of any activities requiring a permit, a pre-construction conference with the *Development Administrator* shall take place to review procedures for protection and management of all protected landscape elements identified on the landscape protection plan and to designate one or more persons as landscape protection supervisor(s).

11.13 Public Trees and Trees Interfering with Public Space – Maintenance and Protection

The following standards are hereby established for the maintenance and protection of public trees:

11.13-1 Approved Personnel. No person except an authorized employee or contractor of a public utility or other approved public personnel shall cut, prune, or remove any living tree on or in a public highway, right-of-way, public park, sidewalk, or other public property; or cut or disturb or interfere in any way with the roots of any tree on public property.

11.13-2 Owner Responsibility for Private Trees Interfering with Public Space. Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not significantly obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) feet above the street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased or unsafe trees, or broken or decayed limbs that constitute a nuisance to the safety of the public. The Town shall have the right to prune any tree or shrub on private or public property when it constitutes a public safety hazard, interferes with pedestrian traffic or the visibility of any traffic control device, sign, or sight triangle.

11.13-3 Placement of Materials Around Plants. No person shall pile building or other material around any tree or shrub in a public right-of-way in any manner that will injure such tree or shrub.

11.13-4 Paving Adjacent to Trees. No person shall pave or place gravel, soil, or other such material within eight (8) feet of any tree on public property, unless approved by

the *Development Administrator*. Plans which fail to identify an impacted tree shall not constitute a transfer of responsibility to the Town or its *Development Administrator*.

- 11.13-5 Dumping of Deleterious Matter. No person shall dump, pour or spill any oil, pesticide, or other deleterious matter upon any tree or tree space in any public rights-of-way, or keep or maintain upon any public rights-of-way, any receptacle from which any oil, pesticide, or other deleterious matter leaks or drips onto any soil, parking area, or concrete gutter so as to injure any tree on any public property.
- 11.13-6 Disposal of Materials on Public Places. No person shall use parks, sidewalks, utility easements, or other public places to dump grass clippings, tree trimmings, rocks or other organic refuse. This shall not apply to properly placed yard waste that is intended for pickup by Town of Stallings Public Services or Solid Waste crews.
- 11.13-7 Decoration, Posting and/or Advertising on Public Trees. No person shall decorate a tree or shrub in any public right-of-way, neutral ground, park, sight triangle or sidewalk, either with or without lights, or place advertising material, posters, political placards, rope, or wire on trees in public properties.
- 11.13-8 Planting of Street Trees. No part of this section is intended to prohibit the planting of street trees by adjacent property owners within tree planter strips, providing that the selection and location of said trees is in accordance with planting specifications set forth in this section and that any such planting conducted under utility lines shall be limited to planting material taken from the list of recommended small-maturing trees in this Ordinance.

11.14 Hazard Trees

The following standards are hereby established for trees and shrubs determined to be hazardous.

- 11.14-1 Removal of Trees. The *Development Administrator* may order the removal of any tree, shrub, or part thereof on private or public property, which is unsafe or injurious to sewers or other public improvements, structures, or to the general public.
- 11.14-2 Right to Enter upon Property. The *Public Works Administrator* or his/her designee may enter upon public or private property in the Town to spray or otherwise treat any tree infected or infested by any parasite, insect, or disease to prevent the breeding or scattering of any parasite or animal pest and to prevent danger to persons or property or to trees planted on Town property.
- 11.14-3 Owner Notification and Opportunity to Correct. Prior to exercising the authority conferred by this section, the *Development Administrator* shall give the owner notice and an opportunity to correct the condition by requesting that corrective action be

taken. The request shall be in writing and sent via First Class Mail to the owner of the property in question and shall be acted upon within twelve (12) days (or a lesser period of time if an imminent threat to life or property exists) from the date of the receipt of the request. If, after twelve (12) days, the owner has not corrected the condition or undertaken action that would lead to a timely correction of the condition, the *Development Administrator* may enter upon the property, perform the work necessary to correct the condition, and bill the owner for the actual costs incurred. If the property owner fails to pay the bill for such work within thirty (30) days of such notice, the amount of the bill and any collection costs, including attorney's fees and court costs, incurred shall become a lien against the subject property and shall be collected in the same manner provided for the collection of delinquent taxes. In situations involving an immediate threat to public health, safety, or welfare, the Town may act without prior notification to the property owner.

11.15 Species Selection and Planting Techniques

In order to ensure that landscaping required by this article is suitable and is planted in the correct manner, the following selection and planting techniques are hereby established.

11.15-1 Plant Species: Species used in required planting yards and parking lots shall be of a locally adapted nature. Other species may be approved by the *Development Administrator*. See the Town of Stallings Technical Standards & Specifications Manual for: "recommended", "not recommended" and/or "prohibited species."

11.15-2 Plant Size: Specific plant sizes are listed below:

(A.) Canopy Tree Size: When mature, a canopy tree should have a minimum height of forty (40) feet and have a minimum crown width of thirty (30) feet. Canopy trees must be a minimum of two (2) inches in caliper, measured six (6) inches above grade, when planted.

(B.) Understory Tree Size: When mature, an understory tree should have a height of twenty-five (25) to forty (40) feet. Understory trees must be a minimum of one and one half (1.5) inches in caliper measured six (6) inches above grade at the time of installation.

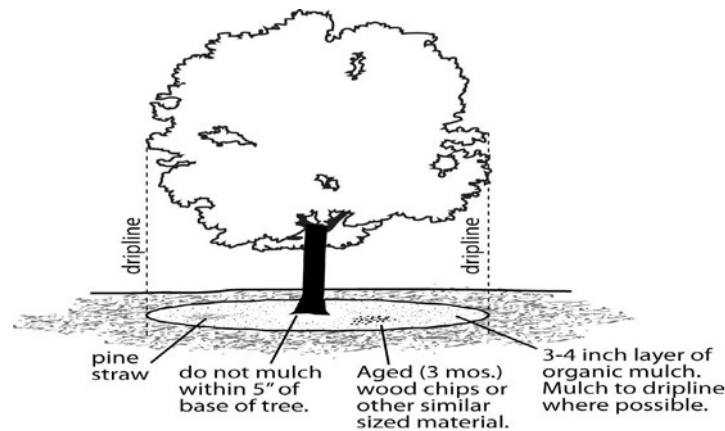
(C.) Shrub Size and Type: All shrubs approved for landscaping of vehicle use areas, loading and unloading areas, and outside storage areas shall be evergreen, with a minimum size of eighteen (18) inches, spread or height, when installed and reach a minimum height of thirty-six (36) inches and a minimum spread of thirty (30) inches. Such shrubs shall be planted using required planting techniques and located parallel to the edge of parking lots, access drives, loading and unloading areas, and outside storage areas. Required shrubs in other locations, outside of the areas listed above,

may be evergreen or deciduous and shall be three (3) gallon in size as per American National Standards Institute (ANSI) standards at the time of installation.

11.15-3 Planting Techniques

The following soil preparation techniques shall be used for all required landscape areas:

- (A.) Soil preparation for the entire landscape yard includes the addition of organic amendments tilled to a depth of eight (8) to twelve (12) inches.
- (B.) All plantings in landscape yards shall be mulched, including interior parking lot islands less than five hundred (500) square feet, to a depth of three to four (4) inches. The mulch shall be free of trash and maintained weed free thereafter. The sketch below and Figure 2 herein, illustrate these principles.



- (C.) Earthen basins are to be constructed around the installed plants.
- (D.) Plants, as required by this section, are to be grouped together where possible.
- (E.) For establishment and survival, plants shall be watered by the landowner or contractor for the first year after planting.

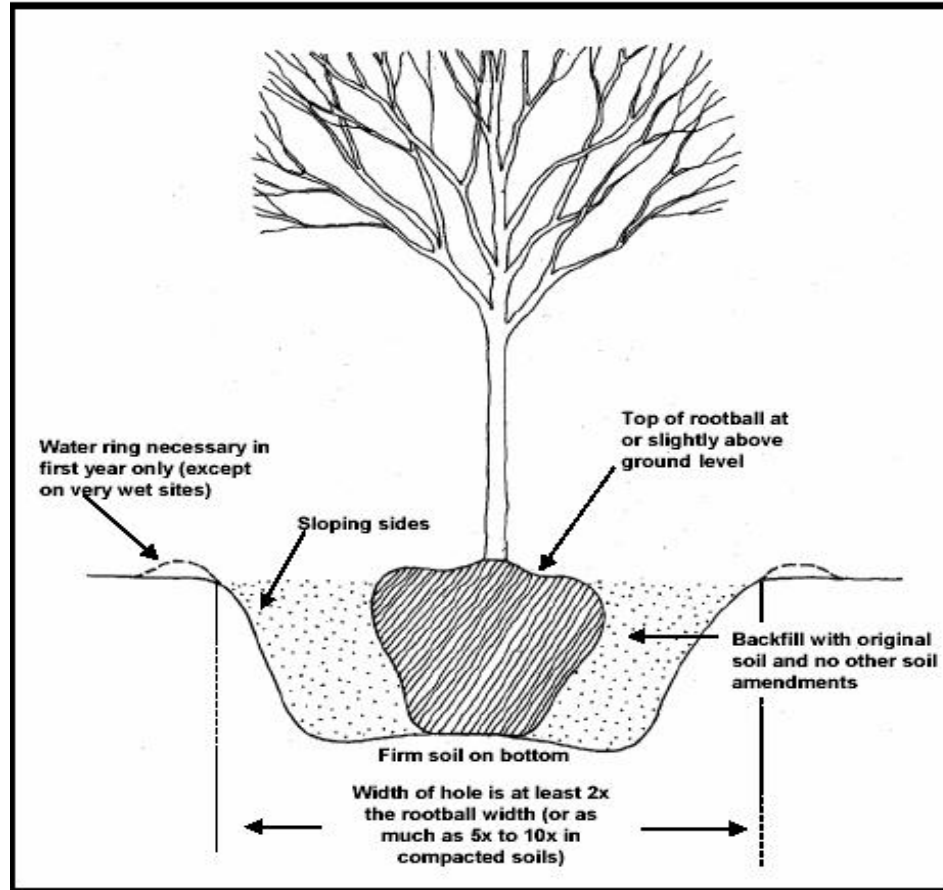


Figure 2. Recommended Tree Planting Method

11.16 Maintenance of Regulated Planting Spaces

11.16-1 Owner Responsibility. The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Any dead, unhealthy, or missing plants (preserved or planted) shall be replaced with new plant material equal to the number of credited plants planted or preserved, subject to the provisions of this Ordinance. The replacement plant material shall be sized according to the requirements of this section and shall conform to the initial planting rates and standards. The replacement plant material shall be planted within one hundred eighty (180) days of the date that dead, unhealthy, or missing plants are identified. Regulated spaces include those physical areas in which trees and landscape materials are required by this section.

11.16-2 Failure to Maintain. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall (where such fence or wall is considered a required portion of the landscape as outlined by this section) shall constitute a violation of this Ordinance and shall be subject to the provisions in Section 11.18,

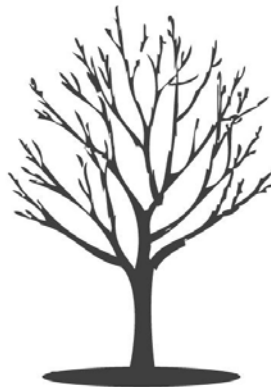
Enforcement, if not replaced within 30 days of notification.

- 11.16-3 Destruction by Natural Event. In the occurrence of a natural event which destroys a large quantity of vegetation, the owner or lessee shall have 180 days to replant. Replaced plant material must be in compliance with the minimum size, spacing and quantity standards of this section.
- 11.16-4 Irrigation. It is suggested that drip irrigation, which includes drip misters, be used for required landscaping planting beds during the required establishment period. After establishment, supplemental watering can be reduced and used on an as needed basis. Traditional spray irrigation is prohibited except for turf areas.
- 11.16-5 Pruning. All required trees shall be allowed to reach their mature size and shall be maintained at their mature size. Trimming and pruning shall be done in strict accordance with the (ANSI) standards. Topping is not an acceptable pruning practice. Topping is the reduction of a tree's size using heading cuts that shorten limbs or branches back to a predetermined crown limit. The *Development Administrator* may require the removal and replacement of any tree(s) located in required planting yards or TCA's that have been topped or excessively trimmed.



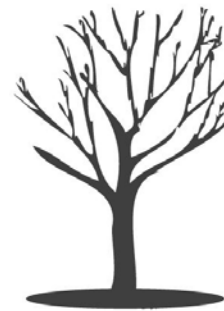
Before Pruning

Mature trees often need pruning due to crowded foliage, broken and dead branches, and asymmetrical shape.



After Proper Pruning

After pruning, trees should retain a symmetrical appearance and tree-like form. A minimum canopy spread of 20 feet must be maintained.



After Excessive Pruning

Pruning in excess of one fourth (25%) of the required canopy spread is prohibited. Tree-topping (hatracking) is prohibited.

11.17 Regulation of Tree Care Professionals

The following standards are established for tree care professionals working within the Town of Stallings and its jurisdiction.

11.17-1 Town-Owned Lands.

(A.) It shall be unlawful for any person or firm to engage in the business or occupation of

pruning, treating, or removing street or park trees or trees within Town owned public rights-of-way without first applying for and procuring a Tree Disturbance Permit. Such a permit will only be granted to individuals, businesses, or companies who employ a Certified Arborist to perform or supervise all tree work.

- (B.) In order to receive a Tree Disturbance Permit, applicants must first sign an affidavit agreeing to abide by ANSI 300 Standards for tree care. Specifically, the “topping” of trees shall be prohibited except in cases where the top of the tree has been injured beyond repair by a storm or related incident.
- (C.) Before any permit shall be issued, each applicant must first file evidence of possession of liability insurance and workman’s compensation insurance, in the minimum amounts as required by the Town of Stallings, indemnifying the Town or any person injured or damage resulting from the pursuit of such endeavors as herein described.
- (D.) The *Development Administrator* is authorized to suspend or revoke the right of any person or business to perform work for the Town of Stallings that engages in work practices that do not comply with tree care standards as specified in this section and the related ANSI Standards.

11.17-2 Private Lands.

- (A.) The Town of Stallings shall not directly regulate private companies providing tree care services on private property. However, the *Development Administrator* may direct property owners to the International Society of Arboriculture (ISA) website or other resources to assist in the location of Certified Arborists, who have specific training in tree care.

11.18 Enforcement

Enforcement of the standards and requirements set forth in this article shall be as provided below.

11.18-1 Notice and Appeal.

- (A.) Notice of Violation. The *Development Administrator* shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and the notice shall set forth the nature of the violation, the measures required to comply with this section, if compliance is at all practicable, and a reasonable time period (not less than 30 days and not to exceed 180 days) within which compliance must be met.

- (B.) Appeal. If any aggrieved party disagrees with a decision of the *Development*

Administrator, such party may request a hearing within twelve (12) working days of receipt of the violation. The request must be in writing and directed to the *Board of Adjustment*. The hearing will be conducted at the next regularly scheduled meeting of the *Board of Adjustment*.

- (C.) Decision of *Board of Adjustment*. The *Board of Adjustment* may modify, amend or revise the decision appealed. The decision of the *Board of Adjustment* shall be served upon the appealing party by registered or certified mail, return receipt requested, or by hand delivery.
- (D.) Appeal to Superior Court. If any aggrieved party is dissatisfied with the decision of the *Board of Adjustment*, an appeal may be filed with the Union County Superior Court. Notice of the appeal must be filed within thirty (30) days of receipt of the *Board of Adjustment* decision. Any appeals to the Superior Court shall be in the nature of certiorari.
- (E.) Injunction. Any aggrieved party may request an injunction to preserve the status quo during the pending of any appeal in accordance with applicable North Carolina law.

11.18-2 Penalties.

- (A.) Tree Disturbance Prior to Permit Approval. The penalty for the removal of or damage to trees, prior to the issuance of a tree disturbance permit shall be a civil penalty of ten thousand dollars (\$10,000.00) per acre or prorated fraction thereof. (i.e., the civil penalty for a site of 0.35 acres that is cleared prior to approval or prior to the issuance of a tree disturbance permit is three thousand five hundred dollars (\$3,500.00)). Additionally, the Town of Stallings, under G.S. 160A-458.5, may deny a building permit to any landowner who clears land in anticipation of development in violation of this section for up to three (3) years after completion of the timber harvest. If it is determined that the timber harvest was a “willful violation” of this Ordinance, then the Town of Stallings reserves the right to deny development approvals for a period of two (2) years following the timber harvest.
- (B.) Removal or Damage to Individual Trees after Permit Approval: The penalty for removal of or damage to the CRZ of protected trees after the issuance of a tree disturbance permit within an approved TCA without approval by the *Development Administrator* shall result in a civil penalty as determined by the *Development Administrator*, up to the amount shown in the chart below, in addition to the replacement of those trees with quality specimens native to the Appalachian region of North Carolina.

Table 11.6 – Penalties for Unauthorized Tree Removal

DBH of Tree(s) Removed or Damaged	Maximum Civil Penalty	Reforestation (4 inch DBH minimum)
4 – 11.9 inches	\$800	1 tree
12 – 20.9 inches	\$1,600	2 trees
21 – 28.9 inches	\$2,400	3 trees
29 – 35.9 inches	\$3,200	4 trees
36+ inches	\$4,000	5 trees

- (C.) Removal of an Area of Trees after Permit Approval. The penalty for removal of or damage to an area of protected trees that have not been surveyed after the issuance of a tree disturbance permit within an approved TCA without approval of the *Development Administrator*, shall result in a civil penalty of ten thousand dollars (\$10,000.00) per acre or prorated fraction thereof but not less than one thousand dollars (\$1,000.00). Such areas shall be reforested at a rate one (1), two-inch caliper canopy tree per two hundred (200) square feet.
- (D.) Failure to Install or Maintain Tree Protection Devices. There shall be a civil penalty of five hundred dollars (\$500.00) per day for failure to install or maintain approved tree protection measures sufficient to protect the TCA beginning with the date the citation is issued and ending when the site is in compliance. The property owner may be subject to any penalties for damage under Section 11.18-2 above.
- (E.) Failure to Comply with the provisions of Section 11.6 Landscape Requirements. There shall be a penalty of five hundred dollars (\$500.00) per day for failure to install required landscape material or to replace dead landscape material beginning with the date the citation is issued and ending when the site is in compliance.
- (F.) Civil Penalties Considered Restorative. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the Town for costs associated with the Town’s program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the Town for its costs. The decision of the *Development Administrator* to assess a civil penalty may be delivered by personal service, by registered mail, or certified mail return receipt requested or by any means authorized under G.S. 1A-1, Rule 4. Each day of a continuing violation shall constitute a separate violation.

- 11.18-3 Appeal to Superior Court. Every decision of the *Development Administrator* or the *Board of Adjustment* to assess a civil penalty shall be subject to review by the Union County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the *Development Administrator* or *Board of Adjustment* to assess a civil penalty.
- 11.18-4 Failure to Appeal and/or Pay: Any civil penalty that is assessed against a person who violates the provisions of this Ordinance shall be recovered by the Town in a civil action in the nature of a debt (placement of liens against properties, etc.), to be brought in the Union County Superior Court if the violator fails to give notice of timely appeal and fails to pay the penalty within the prescribed period of time after he or she has been cited for the violation.
- 11.18-5 Violations Not Criminal: A violation of this Ordinance shall not be considered a misdemeanor under N.C. General Statute 14-4.

ARTICLE 21

OPEN SPACE

21.1 Purpose.

The open space standards contained herein are established to provide for the reservation of various forms of open spaces, including parks and greenways in all forms of developments located in the Town of Stallings territorial jurisdiction. Preservation of open space in developing areas serves a variety of purposes, including meeting the recreational needs of residents, improving the aesthetic character of the community, reducing stormwater runoff, improving stormwater runoff water quality, and enhancing air quality. Where applicable, the addition of active open space shall adhere to the Stallings Recreation and Greenway Master Plan. The standards set forth below establish regulations for open space.

21.2 Open Space.

The following standards are hereby established for open space. Percentage of required open space is calculated on the gross project acreage. Open space areas shall be identified and calculated on development proposals. For Greenways as identified on the Stallings Parks and Greenway Master plan, open space shall be calculated by creating a fifty (50) foot buffer, unless obstructed by property lines.

Open Space shall consist of improved and unimproved areas. The total requirement for open space is shown in Table 21.1. Improved open space shall be fifty percent (50%) of the total requirement as shown in Table 21.1. The remaining 50% of open space may be unimproved and consist of land as listed in Section 21.2-10. The maximum unimproved open space allowed, as defined in Section 21.2-10, may be less than fifty percent (50%) of the total required open space. If this is the case, the remaining total open space must be met with improved open space.

21.2-1 Open space land area requirements. Open space shall be provided in accordance with the following table for:

- (A.) initial residential development containing eight or more units,
- (B.) redevelopment or additional development that adds eight or more

residential units, (C.) initial non-residential or mixed-use development greater than 0.6 acres, and

(D.) re-development or additional development that adds 25 percent more non-residential or mixed-use floor area on a site that exceeds 0.6 acres within any 36-consecutive month period.

TABLE 21.1

ZONING DISTRICT	REQUIRED TOTAL OPEN SPACE	REQUIRED IMPROVED OPEN SPACE
Single Family Residential (SFR-1) Single Family Residential (SFR-2) Single Family Residential (SFR-3)	25%	12.5%
Multi-Family Residential Transitional (MFT)	15%	7.5%
Traditional Neighborhood Development Overlay (TNDO)	10%	5%
Mixed Use (MU-1) –	12%	6%
Mixed Use (MU-2) – When residential components are included, open space shall be centrally and internally located so as to provide focal points throughout the development.	10%	5%

Agriculture (AG) Civic (CIV) US Highway 74 Commercial (C 74) Interstate Highway 485 Corporate Park (CP 485) Vehicle Service and Repair (VSR) Industrial (IND) Scenic Corridor Overlay (SCO) Heavy Industry Overlay (HIO)	n/a	n/a
Town Center (TC) as <i>defined in Article 8. New development must adhere to the Parks and Greenway Master Plan when applicable.</i>	n/a	n/a

21.2-2 Land designated as future open space. Regardless of the requirements and exemptions of this subsection, any portion of the site of the proposed development that is designated as future open space or greenway in the *adopted Comprehensive Land Use Plan and/or the Stallings Parks and Greenway Master Plan*, as amended from time to time, shall be reserved for open space. This area may be counted toward the total amount of open space required for the development.

Greenway, Park and Open Space Access: When a development abuts greenways, parks and/or public open space areas, public access to such features must be provided at a minimum of every 1000 feet when feasible, as determined by the *Development Administrator*. Such access shall be provided through greenway connectors a minimum of six feet wide. Connectors shall be paved, engineered to allow water runoff, and connected to the pedestrian system within the development, and will be maintained by the Owner’s Association.

If the total amount of land designated as future open space or greenway is less than the total amount of open space required for the development by Table 21.1, then the developer shall provide additional open space to meet the requirement of Table 21.1. If the amount of land designated as future open space or greenway exceeds the total amount of open space

required by Table 21.1, then the developer must provide the open space designated in the official adopted plan.

As compensation for any open space dedication associated with implementing any official adopted plan above that requirement listed in Table 21.1, the developer is eligible for a density bonus of one dwelling unit per each 4,356 square feet of land area in excess of that required in Table 21.1 or 500 square feet of non-residential gross floor area per each 2,178 square feet of land area in excess of that required in Table 21.1, up to a maximum of a fifteen (15%) percent increase above the maximum density or intensity allowed in the applicable zoning district. The density bonus in the proposed development is limited to additional yield that can be configured with less than a ten (10%) percent reduction in(s) in lot area and/or setback dimensions specified in Article 8.

- 21.2-3 Minimum open space area. Individual areas designated as open space areas shall not contain less than 500 square feet, although smaller areas may be approved by the *Development Administrator* if the intent of this Ordinance is determined to be met.
- 21.2-4 Improved open space. Improved open space shall be planned, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and shall contain improvements that include, but are not limited to: landscaping, walls/fences, walks, statues, fountains, demarked ball fields, picnic areas, pools, gazebos, barbeque areas, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height with the following exceptions: fences used in conjunction with ball fields, tennis courts, swimming pools, and/or play grounds.
- 21.2-5 Design and location. In major subdivisions and multi-building developments in all zoning districts, except Agricultural, open space shall be integrated into the design of the site. In subdivisions where 50% or more of the lots are less than 0.75 acre in size, open space shall be located within ¼ mile of at least 90% of the building lots, as measured along the rights-of-way of streets providing access between the two. In subdivisions where 50% or more of the lots are 0.75 acre or more in size, open space shall be located within ½ mile of at least 90% of the building lots, as measured along the rights-of-way of streets providing access between the two.
- 21.2-6 Focal point. Open space features should provide focal points for the

neighborhood. .

There should be a hierarchy of open space within new neighborhoods so that openspace serves the needs of multiple age groups.

21.2-7 Intentionally left blank.

21.2-8 Open Space Ownership and Conservation Easement. Open space may be owned or administered by one or a combination of the following methods: fee simple ownership by a unit of government or private non-profit land conservancy; owned by a property association; or by individual private ownership such as a farmer, developer or other private entity that maintains the open space (i.e. farming, equestrian facility, etc.)

All lands within areas required to be maintained as open space shall be protected by a permanent conservation easement, prohibiting further development, and setting other standards safeguarding the site's special resources from negative changes.

Public use of the open space may be limited to residents of the development, except for land used for public sidewalks and multi-use trails, provided that such open space is held in private or property association ownership.

21.2-9 Maintenance. The owner or lessee of the property designated as the open space shall be responsible for the maintenance of the open space area. Landscaped areas shall be maintained in good condition and the entire area shall be kept clear of debris. Failure to maintain the area shall constitute a violation of this or other applicable ordinances. Alternatively, if acceptable to the Town Council, as applicable, the land may be dedicated to the Town for public use and thereafter maintained by the Town.

21.2-10 Land Acceptable for Unimproved Open Space Designation. The classes of land enumerated below may be utilized to meet the requirements of this section.

In order to meet the open space requirements, A maximum of fifty percent (50%) of the following areas may each be counted toward unimproved open space:

(A.) Land which exceeds sixteen percent (16%) slope if

existing slopes and vegetation remain undisturbed;

- (B.) Land used for stormwater retention provided such land is natural in appearance and is not separately fenced. Additionally, land used for stormwater retention, provided such land is natural in appearance and is not separately fenced, that is developed using best management practices (e.g., constructed wetlands, rain gardens, green roofs or similar features), and either exceeds the required amount of retention or treats off-site stormwater at the discretion of the *Development Administrator*.
- (C.) Stream buffers.

The remaining ~~fifty percent (50%)~~ of unimproved open space shall be:

- (D.) Grassed lands with no improvements that are accessible and maintained.
- (E.) Naturally wooded areas not including required buffers, steep slopes, or stormwater retention areas as defined in this section.

Example Improved/Unimproved Open Space Calculation:

**Single Family Residential Open Space
Total Requirement: 25%**

25% Required Total Open Space			
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Minimum Improved Open Space 12.5%	Maximum Unimproved Article 21.2-10(A)(B)(C) 6.25%
	Minimum Unimproved Article 21.2-10(D)(E) 6.25%

.21.2-11 Land not Acceptable for Open Space Designation: The classes of land enumerated below shall not be utilized to meet the requirements of this section:

- (A.) Land that is contaminated with hazardous or toxic waste or materials as defined by state or Federal regulations, with the exception of land covered by an approved mitigation plan and deemed acceptable by the Town Council or land that is designated in an officially adopted Open

Space, Park or Greenway master plan.

- (B.) Land occupied by streets, drives, parking areas, or structures other than recreational structures.
- (C.) Land with a minimum width less than twenty (20) feet. Mixed use developments in the TND district are exempt from the minimum width requirement.
- (D.) Land used for landscape buffers (Type A, B and C only), public sidewalks in excess of standard sidewalk requirements, streetscape and hardscape areas accessible to the public including sidewalk cafe areas, areas containing public art, and similar high density area open space amenities. Sidewalks that run through or are internal to improved open space shall be counted toward improved open space.
- (E.) Surface water, wetlands, utility transmission rights-of-way, and undisturbed floodplains.

21.3 Fee-in-Lieu.

All proposed developed within the Town shall provide the improvements identified in the *Stallings Parks, Recreation and Greenway Master Plan* when those improvements are located on property involved with the proposed development.

When no improvements as identified by the Stallings Parks, Recreation and greenway Master Plan are associated with a proposed project, the developer shall be required to pay a fee in lieu thereof, in accordance with this section. This fee shall be calculated as follows:

1/35 of an acre per lot X tax value of the property (per acre).
Example: a 100-lot subdivision with a per acre tax value of \$10,000:

$$\begin{aligned} 1/35 &= .02857143 \\ &\quad \times 100 \\ &= 2.85714286 \\ &\quad \times \$10,000 \\ &= \$28,571.43 \end{aligned}$$

- (1). At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plan or development.
- (2). The payment of fees, in lieu of the dedication of land under subsection above shall be made by the Town Council after having received a recommendation from the Planning Board and

having evaluated the proposed dedication and the relationship the dedication would have with the town's Parks, Recreation and Greenway Master Plan.

(3). The fees in lieu of dedication shall be paid prior to final plat approval.

(4). The amount of the payment shall be the product of:

(a). The number of acres to be dedicated, as required by subsection, above;

(b). The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time the payment is due to be paid.



MEMO

To: Mayor and Council
From: Alex Sewell, Town Manager
Date: 4/6/21
RE: **DFI - Proposal to Provide Phase 1 Downtown District Feasibility Assessment Services**

Purpose: In accordance with the Town Council priority of creating a downtown and the Town's Downtown Action Plan, this memorandum provides background and context on the Development's Finance Initiative's ("DFI") proposal to assist the Town in downtown development (Phase 1 of Feasibility Assessment Services) in advance of the 4/12/21 Council Meeting. DFI representatives plan to attend this meeting to discuss the proposal with Council.

Background:

- A Town Council top priority is downtown creation.
- During the Council's 2021 Annual Retreat, downtown expert panelists expressed concerns as to whether the Town's vision aligns with market realities and whether the Town's implementation strategy was "underfunded" in resource commitment, expertise capacity for various development efforts including public-private partnership creation, and site control.
- To address the concerns raised by the downtown expert panel, the Town's downtown action plan calls for the Town to consider partnering with the DFI for expert guidance and support on proactively spurring positive downtown development.
- DFI has submitted a proposal for start assisting the Town with downtown development.

What is Development Finance Institute?

- Development Finance Initiative was established in 2011 by the UNC Chapel Hill School of Government to assist communities in North Carolina with achieving their community economic development goals. DFI partners with communities to attract private investment for transformative projects by providing specialized finance and real estate development expertise.

DFI Proposal:

- Enclosed is DFI's proposal to Provide Phase 1 Downtown District Feasibility Assessment Services.
- The flat fee cost for the services is \$70,500, which can be paid in 2 installments of \$35,250 each.
- The timeline for completion is 6 months.
- Expressed next steps would be for a subsequent phase 2 agreement where DFI would provide additional pre-development services for the site(s) over which the Town gains site control. Phase 2 services would involve an additional refined financial feasibility

analysis and the identification of a private development partner. Phase 2 services would require a separate contract and fee.

Next Steps: If Council wishes to proceed with working with DFI, then the next step would be to authorize and direct staff to execute a contract with DFI per the terms of enclosed proposal contingent on Town Attorney approval and begin work. A budget amendment would be needed. Alternatively, the Council could wait until budget workshops to decide on this or make any other decision the Council deems appropriate.

MEMORANDUM

To: Alex Sewell, Town Manager, Town of Stallings
From: Marcia Perritt, Associate Director, Development Finance Initiative
Date: March 12, 2021
Re: Proposal to Provide Phase 1 Downtown District Feasibility Assessment Services

UNC-Chapel Hill Development Finance Initiative

The UNC Chapel Hill School of Government (SOG) established the Development Finance Initiative (DFI) in 2011 to assist communities in North Carolina and beyond with achieving their community economic development goals. The SOG is the largest university-based local government training, advisory, and research organization in the United States. DFI partners with communities to attract private investment for transformative projects by providing specialized finance and real estate development expertise.

Request for Technical Assistance

The Town of Stallings requested technical assistance from DFI in March 2021 with evaluating the feasibility of establishing a downtown district and attracting private investment to assist in realizing this vision. The largely new construction, mixed-use downtown district is a top community economic development priority for the town. Several factors, including historic and projected population growth, indicate that the Town of Stallings may be well-poised to support a new downtown district. There are significant transportation investments underway, such as the widening of Old Monroe Road and the expansion of the LYNX Silver Light Rail to better connect Stallings to the Charlotte metro region. Additionally, Atrium Health recently broke ground on a new 150,000 square foot hospital within the town limits.

In anticipation of this project, the Town of Stallings has made significant public investments in the proposed downtown district area, including an award-winning central park, new Town Hall and public works facility, and streetscape enhancements. The town also developed a design-driven small area plan that outlines a conceptual vision for a mixed-use downtown, created a downtown steering committee, and began land acquisition outreach to private property owners within the proposed downtown district.

While that visioning work is helpful in gaining consensus among key stakeholders for a general development concept, to make the concept become a reality, it should be tested

through feasibility analysis and brought to the market—that is, the concept should be proven in a way that would satisfy developers, investors, and lenders that the vision is feasible given current market and development conditions. DFI proposes to conduct this necessary feasibility analysis and create a market-feasible program of development, while regularly seeking feedback and engagement with Stallings officials. Once a market-feasible development program has been endorsed by Town Council, DFI will identify development partners with the experience and track record to make the vision a reality within the context of the actual market in Stallings.

Scope of Services

The following Scope of Services outlines the activities that DFI would conduct to support the Town of Stallings in evaluating the feasibility of its downtown district vision and formulating an implementation strategy to execute this vision. DFI proposes conducting this work in phases. The first phase, described below, would focus on 1) understanding current market and development conditions and 2) advising the Town on additional site control of privately-owned parcels that present key development opportunities within the proposed downtown district, herein referred to as the “Project Area”.

Phase 1: Public Interests, Market Analysis, & Acquisition Strategy

1. Conduct a community scan, which is an analysis of market-relevant demographic and socioeconomic data, as well as a review of current and historic plans, visioning documents, studies, research, development proposals, conceptual renderings, notes from public input sessions, and other materials relevant to the Project Area;
2. Collect and analyze relevant data for a parcel analysis to understand current market conditions (sales trends, vacancy, land use, common ownership, and underutilization, pending available data) for the Project Area;
3. Conduct small group community engagement activities (approximately 8 to 10 one-on-one telephone conversations) as it relates to stakeholder priorities and input for downtown development;
4. Conduct a market analysis to assess the supply and demand for different uses within the Project Area including retail, multifamily residential, office, and hospitality;
5. Establish guiding public interests for the Project Area in collaboration with the Town of Stallings;
6. Conduct a high-level site analysis, examining topography, hydrology, infrastructure, etc. to gain a general understanding of development opportunities and constraints within the Project Area;
7. Identify opportunities for additional site control within the Project Area;

8. Provide high-level advising on financing and structuring public participation in the Project Area, if necessary, including use of development finance tools (federal and state tax credits, district designations, etc.); and
9. Make recommendations related to acquisition of key parcels and advise the Town on next steps.

This Scope of Services does not include services that require a licensed broker or licensed attorney to perform. In addition, the scope does not include tasks associated with site planning expertise from architects or engineers, nor does it include site preparation expenses such as land survey, soil samples, and environmental testing (if such services are required, DFI will advise the Town of Stallings to obtain such services from third parties). The fee accounts for efficiencies gained from utilizing virtual meeting tools rather than in-person meetings.

Deliverables

Deliverables include presentations, summaries, and other documentation intended by DFI to be delivered to the Town regarding the above Scope of Services.

Timeline

The timeline for the above Scope of Services is estimated to be 6 months.

Fee

The flat fee for the above Scope of Services is \$70,500. This flat fee is payable over two installments of \$35,250 each.

Potential for Phase 2: Attract Private Development Partner

Pending the outcome of this analysis and the Town's interest, DFI is able to provide additional pre-development services for the site(s) over which the Town gains site control. Phase 2 services would involve additional refined financial feasibility analysis and the identification of a private development partner. Phase 2 services would require a separate contract and fee.



MEMO

To: Town Council
From: Alex Sewell, Town Manager
Date: 4/8/21
RE: U-5112 – Potter-Pleasant Plains Intersection

Purpose: This memorandum’s purpose is to provide background, an update on the above referenced project, and seek Council direction.

Background:

- The Town has been working in partnership with NCDOT and Union County to expedite needed improvements to the intersection of Potter Road and Pleasant Plains Road using a mix of local and State/Federal funds.
- In January 2014, the Town entered into two separate agreements, one with NCDOT and the other with Union County.
 - o The 2014 Union County agreement called for the County to be responsible for certain sewer improvements.
 - o The 2014 NCDOT agreement is enclosed below. This was agreed to be a locally administered project with NCDOT providing oversight. Here is the agreement’s funding table:

Funding Source	Federal Funds Amount	Notes
HSIP (Federal)	\$825,000	Reimbursable
STP-DA (Federal)	\$1,600,000	Reimbursable
STP-DA (Local)	\$400,000	Non-Reimbursable
Total NCDOT Agreement	\$2,825,000	
Total Reimbursed	\$2,425,000	

- This agreement specifies that activities eligible for reimbursement include:
 - ROW acquisition;
 - Utility relocation; and
 - Construction.

- Please note that the above list does not include design costs, which is to be covered 100% by the Town (except for the sewer work agreed to by the County) and is in addition to the \$400,000 Town commitment.
 - Also note that the Town agreed to assume all maintenance responsibilities for the safety improvements to Potters Road (SR 1357).¹
 - The agreement contemplated the project being completed by 12/31/2016. DOT has advised a supplemental agreement will be needed here.
- The Town has completed engineering/design² and ROW acquisition.
 - Private utilities have been relocated.
 - In 2020, NCDOT indicated it was suspending the construction phase for the project due to declining revenues because of the pandemic.

Update:

- Please see an estimated breakdown of expenditures to date, estimated future expenses, and funding in the table below. **Unless otherwise noted, please note that these numbers are preliminary estimates. They can and likely will change for a variety of reasons as we move closer to and into actual construction.**

POTTER ROAD/ PLEASANT PLAINS SUMMARY				4/6/2021	
<u>ORIGINAL PROJECT FUNDING</u>					
FUND SOURCE	FEDERAL FUNDS AMOUNT	REIMBURSEMENT RATE	NON-FEDERAL MATCH \$ FROM TOWN	NON-FEDERAL RATE	
HSIP	\$825,000	100%			
STP - DA	\$1,600,000	80%	\$400,000	20%	
Total	\$2,425,000				
<u>COSTS TO DATE</u>					
ITEM	DESCRIPTION		TOTAL PAID TO DATE		
1	RIGHT OF WAY ACQUISITION		\$1,183,091.59		
2	LEGAL		\$11,459.38		

¹ This is something that both the Town and NCDOT may want to reconsider. It may be disadvantageous for both sides if the Town were to maintain such a critical State thoroughfare.

² Landscape design has not been initiated yet. Adding landscaping was not part of the original budget (just sodding the area) but this is included in the construction budget (design + actual landscaping costs).

3	KIMLEY HORNE - DESIGN SERVICES		\$431,612.81
4	THC - ROW ACQUISITION WORK		\$131,549.22
5	SURVEY		\$760.00
6	SEPTIC SERVICES		\$4,800.00
TOTAL	TOTAL COSTS TO DATE		\$1,763,273.00

CONSTRUCTION COSTS - MOVING FORWARD

ITEM	DESCRIPTION		TOTAL ESTIMATED COSTS TO COMPLETE
1	CONSTRUCTION ESTIMATE		\$3,960,399.25
2	CONTINGENCY (10%)		\$396,039.93
3	CEI and NCDOT OVERSITE (10%)		\$435,643.92
4	DUKE ENERGY UTILITY RELOCATION		\$240,007.09
5	STATE SAP COMPUTER COSTS (2%)		\$87,128.78
6	ENGINEER OF RECORD COORD.		\$35,000.00
7	LANDSCAPING		\$50,000.00
8	LANDSCAPING DESIGN		\$5,000.00
	TOTAL ESTIMATED COSTS TO COMPLETE		\$5,209,218.97

SUMMARY OF FUNDING AND POTENTIAL OUT OF POCKET COSTS

	DESCRIPTION	FUNDING	REMAINING FUNDING BALANCE
ORIGINAL FUNDING	TOTAL FEDERAL FUNDS	\$2,425,000.00	
	LESS REIMBURSEMENT FROM NCDOT	(\$1,215,505.05)	
	LESS NCDOT COSTS	(\$68,589.46)	
	REMAINING FEDERAL FUNDS AVAILABLE		\$1,140,905.49
	ESTIMATED COSTS TO COMPLETE	(\$5,209,218.97)	
UNION CO FUNDING	COUNTY SEWER REIMBURSEMENT (COSTS INCLUDED ABOVE)		\$936,175.00
TOTAL	TOTAL (POTENTIAL ADDITIONAL OUT OF POCKET COSTS)		(\$3,132,138.48)

- Per the above chart, the Town's estimated additional out of pocket cost for this project is **\$3,132,138.48**. In contrast, the original 2014 agreement with NCDOT appears to contemplate a local commitment of \$400,000 (not including design).

- NCDOT has indicated that the Town is responsible for any budget funding shortfalls above the amounts set in the 2014 agreement unless the Town can secure funds through the Charlotte Regional Transportation Planning Organization (CRTPO) or by other means. NCDOT has offered to assist in pursuing CRTPO funds.
- CRTPO has a discretionary funding source for projects that have funding shortfalls. Several important notes about this potential CRTPO funding source:
 - o The total funding available is \$8.4 million. CRTPO guidance is that up to 25% of this project can be awarded to one project (the decision to award the project is up to the Project Oversight Committee (POC), Technical Coordinating Committee (TCC), and ultimately the CRTPO Board. Notably, the CRTPO Board could choose to exceed the 25% guidance number). Unless the CRTPO Board decides to not follow the guidance, this would mean the Town could potentially be awarded up to \$2.1 million toward the funding shortfall.
 - o To be eligible, the Town must apply no later than 4/30/21 and funding distribution decisions would likely be made at the July CRTPO Board meeting.
 - o If approved by the CRTPO Board, an updated supplemental agreement would need to be executed with NCDOT and approval might not occur until September or October 2021.
- Below is the timeline of the CRTPO process:



Item 6. 2021 Spring Shortfall Call Schedule

2021 Shortfall Call Timeline



Options for Council's Consideration:

- 1.) Move forward with construction with the understanding that the Town is responsible for covering budget funding shortfalls not covered by the NCDOT and Union County agreements.
 - a. Pros
 - i. The intersection improvements could proceed.
 - ii. Project will likely be done quicker than the other options.
 - iii. Staff field more calls with concerns regarding this intersection than any other singular issue in Town.
 - b. Cons
 - i. Spending most of the Town's unassigned fund balance reserve funds on State roads.
 - ii. Would take away available funding for Town operations, priorities, etc. and thus may potentially hinder future Town efforts.
 - iii. Could be spending Town local funds when other funding may be potentially available.
 - iv. Numbers are estimates so the actual bids/construction cost could turn out to be higher (and again the Town would cover any additional costs above estimate).
- 2.) Direct staff to seek CRTPO funding with goal of filling most of the budget funding shortfall, then move forward if sufficient funding is received.
 - a. Pros
 - i. Continuing to work towards getting intersection project addressed.
 - ii. If awarded, would lessen the Town burden to fix a State road.
 - b. Cons
 - i. No guarantee that the Town would receive funding.
 - ii. Per CRTPO guidance, the maximum the Town could receive would be \$2,100,000. However, the decision makers could make an exception.
 - iii. Delays project compared to option #1. Best case scenario would likely be to let project in October 2021.
 - iv. Still a significant Town commitment at 20%.
 - v. Spending local Town reserves on State roads.
 - vi. Numbers are estimates and so any actual higher costs would likely be the Town's responsibility.
 - vii. Many members of the public would be unhappy with further delays, and the infrastructure would continue to function poorly in the meantime.

3.) Postpone the project, seek CRTPO funding, and then also see what additional funding may become available in the future.

a. Pros

- i. Possible that more transportation funding could be found in the future to address this State intersection using non-local funding. For example, if a federal infrastructure bill is passed those potential funds could potentially help.
- ii. Potentially allows the Town to focus local reserves on local responsibilities.

b. Cons

- i. Many members of the public would be unhappy with further delays, and the infrastructure would continue to function poorly in the meantime.
- ii. No guarantee that additional funding could be found.
- iii. The intersection would continue to function poorly with no clear timetable for fixing. Likely longer delays than options #1 and #2.
- iv. Construction costs could continue to go up (or possibly down too).

4.) Do not move forward with this project.

a. Pros

- i. The Town would not have to cover the estimated funding shortfall.
- ii. Would potentially put the responsibility of fixing the state road intersection with the state (NCDOT).

b. Cons

- i. NCDOT has indicated that the federal government would likely request back funds received by the Town thus far (approximately \$1.216 million).
- ii. The Town would forego the benefit of the \$1,763,273 in project expenses paid by the town to date.
- iii. The intersection would continue to function poorly and there would be no anticipated timeframe/plan of when/how it would be fixed.
- iv. Would likely be very controversial with members of the public and likely increase distrust/confidence in the Town with some.

Note: With any of the options above, the Town could also reach out to our elected representatives in Raleigh and ask for help given this is a state intersection.

NORTH CAROLINA

**LOCALLY ADMINISTERED PROJECT -
FEDERAL**

UNION COUNTY

DATE: 12/2/2013

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: U-5112

AND

WBS Elements: PE _____

ROW 42374.2.FD1

TOWN OF STALLINGS

CON 42374.3.FD1

OTHER FUNDING: _____

FEDERAL-AID NUMBER:

CFDA #: 20.205

Total Funds [NCDOT Participation] \$2,425,000

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Stallings, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, Title 23, Sections 133(d)(3) and 133(f) of the US Code require suballocation of Surface Transportation Program Funds to urbanized areas; and,

WHEREAS, the Town of Stallings has requested federal funding for safety improvements to Potters Road (SR 1357), hereinafter referred to as the Project, in Union County, North Carolina; and,

WHEREAS, subject to the availability of federal funds, the Municipality has been designated as a recipient to receive funds allocated to the Department by the Federal Highway Administration (FHWA) up to and not to exceed the maximum award amount of \$2,425,000 for the Project; and,

WHEREAS, the Department has agreed to administer the disbursement of said funds on behalf of FHWA to the Municipality for the Project in accordance with the Project scope of work and in accordance with the provisions set out in this Agreement; and,

WHEREAS, the Department has programmed funding in the approved Transportation Improvement Program for the Project; and,

WHEREAS, the governing board of the Municipality has agreed to participate in certain costs and to assume certain responsibilities in the manner and to the extent as hereinafter set out; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.1, Section 136-71.6, Section 160A-296 and 297, Section 136-18, Section 136-41.3 and Section 20-169, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation.

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

1. GENERAL PROVISIONS

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

AGREEMENT MODIFICATIONS

Any modification to this Agreement will be agreed upon in writing by all parties prior to being implemented.

Any increases to the funding amount will be agreed upon by all parties by means of a Supplemental Agreement.

LOCAL PUBLIC AGENCY TO PERFORM ALL WORK

The Municipality shall be responsible for administering all work performed and for certifying to the Department that all terms set forth in this Agreement are met and adhered to by the Municipality and/or its contractors and agents. The Department will provide technical oversight to guide the Municipality. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.

PERSON IN RESPONSIBLE CHARGE

The Municipality shall designate a person or persons to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the Municipality, but the duties may be split among several employees, if necessary.

COMPLIANCE WITH STATE/FEDERAL POLICY

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the *Local Programs Management Handbook*.

FAILURE TO COMPLY - CONSEQUENCES

Failure on the part of the Municipality to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

2. SCOPE OF PROJECT

The Project consists of widening improvements to Potters Road (SR 1357) and construction of selected turn lanes at its intersection with Pleasant Plains Road (SR 1364) in Stallings.

The Department's funding participation in the Project shall be restricted to the following eligible items:

- ROW Acquisition
- Utility Relocation
- Construction

as further set forth in this Agreement.

3. FUNDING

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall participate up to a maximum amount of Two Million Four Hundred Twenty Five Thousand Dollars (\$2,425,000), as detailed below. The Municipality shall provide a local match, as detailed in the FUNDING TABLE below, and all costs that exceed the total estimated cost. The HSIP funds are only applicable towards reimbursement for right of way and turn-lane improvements at the intersection of Potters Road and Pleasant Plains Road.

FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
HSIP	\$825,000	100%		
STP-DA	\$1,600,000	80 %	\$400,000	20 %
Total Estimated Cost			\$2,825,000	

4. TIME FRAME

The Municipality, and/or its agent, shall complete pre-construction activities, to include Environmental Document, Right of Way Certification and final PS&E package, by 06/30/2015, in order to authorize construction funds prior to the end of the Federal Fiscal Year (September 30). In the event additional time is required to complete pre-construction activities, the Department will accept a written request for an extension of time as long as authorization of construction funds can still occur in the same Federal Fiscal Year. Any extensions of time beyond the current Federal Fiscal Year will require a supplemental agreement.

The Municipality shall complete the Project by 12/31/2016. Completion for this Agreement is defined as completion of all construction activities, acceptance of the project, and submission of a final reimbursement package to the Department.

The Department and/or FHWA reserves the right to revoke the funds awarded if the Municipality is unable to meet milestone dates included herein.

5. PRELIMINARY ENGINEERING AUTHORIZATION

If Preliminary Engineering is an eligible expense, then upon receipt of an executed agreement, the Department will authorize Preliminary Engineering funds and shall notify the Municipality, in writing, once funds have been authorized and can be expended. The Municipality shall not initiate any work, nor solicit for any professional services prior to receipt of written authorization from the Department to proceed. Any work performed, or contracts executed, prior to receipt of written authorization to proceed will be ineligible for reimbursement.

6. PROFESSIONAL AND ENGINEERING SERVICES

The Municipality shall comply with the policies and procedures of this provision if Preliminary Engineering and/or Construction Contract Administration is an eligible expense.

PROCUREMENT POLICY

When procuring professional services, the Municipality must adhere to Title 49 Code of Federal Regulations Part 18.36; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; NCGS 143-64, Parts 31 and 32; and the Department's *Policies and Procedures for Major Professional or Specialized Services Contracts*. Said policies and standards are incorporated in this Agreement by reference at www.fhwa.dot.gov/legregs/legislat.html and www.ncleg.net/gascripts/Statutes/Statutes.asp.

- The Municipality shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.
- All Professional Services Firms shall be pre-qualified by the Department.
- If the proposed contract exceeds \$30,000, a pre-negotiation audit must be requested from the Department's External Audit Branch.

SMALL PROFESSIONAL AND ENGINEERING SERVICES FIRMS REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Small Professional Services Firms (SPSF). This policy conforms with the SPSF Guidelines as approved by the North Carolina Board of Transportation.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

WORK BY ENTITY

If the Professional and Engineering Services required for this project will be undertaken by the Municipality, and the Municipality requests reimbursement, then the Municipality must submit a request and supporting documentation to the Department for review and approval, prior to any work being initiated by the Municipality.

7. PLANNING / ENVIRONMENTAL DOCUMENTATION

The Municipality shall prepare the environmental and/or planning document, including any environmental permits, needed to construct the Project, in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulations. All work shall be performed in accordance with Departmental procedures and guidelines. Said documentation shall be submitted to the Department for review and approval.

- The Municipality shall be responsible for preparing and filing with all proper agencies the appropriate planning documents, including notices and applications required to apply for those permits necessary for the construction of the desired improvements. Copies of approved permits should be forwarded to the Department.
- The Municipality shall advertise and conduct any required public hearings.
- If any permit issued requires that action be taken to mitigate impacts associated with the improvements, the Municipality shall design and implement a mitigation plan. The Department will determine if any mitigation costs are eligible for reimbursement. The

Municipality shall bear all costs associated with penalties for violations and claims due to delays.

- The Municipality shall be responsible for designing an erosion control plan if required by the North Carolina Sedimentation Pollution Control Act of 1973, NCGS 113A, Article 4, incorporated in this Agreement by reference at www.ncleg.net/gascripts/Statues/Statutes.asp and obtaining those permits required thereby in order to construct the Project. During the construction of the improvements, the Municipality, and its contractors and agents, shall be solely responsible for compliance with the provisions of said Act and the plan adopted in compliance therewith.

8. DESIGN

CONTENT OF PLAN PACKAGE

The Municipality, and/or its agent, shall prepare the Project's plans, specifications, and a professional estimate of costs (PS&E package), in accordance with the Department's guidelines and procedures, and applicable Federal and State standards. All work shall be submitted to the Department for review and approval. The plans shall be completed to show the design, site plans, landscaping, drainage, easements, and utility conflicts.

9. RIGHT OF WAY / UTILITY AUTHORIZATION

If the costs of right of way acquisition or utility relocation are an eligible expense, the Municipality shall submit a letter of request to the Department to authorize and set up right of way and/or utility funding. The acquisition for right of way, construction easements, and/or utility relocation may be undertaken only after the Municipality receives written authorization from the Department to proceed.

10. PROJECT LIMITS AND RIGHT OF WAY (ROW)

SPONSOR PROVIDES ROW

The Municipality, at no liability whatsoever to the Department, shall be responsible for providing and/or acquiring any required ROW and/or easements for the Project.

ROW GUIDANCE

The Municipality shall accomplish all ROW activities, including acquisition and relocation, in accordance with the following: Title 23 of the Code of Federal Regulations, Part 710, Subpart B and Title 49 of the Code of Federal Regulations, Part 24, [Uniform Act] incorporated by reference at www.fhwa.dot.gov/legregs/directives/fapgtoc.htm; NCGS, Chapter 133, Article 2, Sections 133-5 through 133-18, Relocation Assistance, incorporated by reference at www.ncleg.net/gascripts/Statutes/Statutes.asp; and the North Carolina Department of Transportation Right of Way Manual.

APPRAISAL

If the costs of ROW acquisition are an eligible expense, the Municipality shall submit the appraisal to the Department's Right of Way Branch for review and approval in accordance with Departmental policies and procedures.

CLEARANCE OF PROJECT LIMITS / ROW

The Municipality shall remove and dispose of all obstructions and encroachments of any kind or character (including hazardous and contaminated materials) from said ROW, with the exception that the Municipality shall secure an encroachment agreement for any utilities (which shall remain or are) to be installed within the ROW. The Municipality shall indemnify and save harmless the Department, Federal Highway Administration, and the State of North Carolina, from any and all damages and claims for damages that might arise on account of said right of way acquisition, drainage, and construction easements for the construction of said Project. The Municipality shall be solely responsible for any damages caused by the existence of said material now and at any time in the future and will save the Department harmless from any legal actions arising as a result of this contaminated and/or hazardous material and shall provide the Department with documentation proving the proper disposal of said material.

RELOCATION ASSISTANCE

The Municipality shall provide relocation assistance services and payments for families, businesses, and non-profit organizations being displaced by the Project in full accordance with the Federal relocation requirements of Title 49 Code of Federal Regulations, Part 24 [Uniform Act], as amended. Relocation assistance services and payments may be accomplished by contract with any other municipal corporation, or State or Federal agency, rendering such services upon approval by the Department and Federal Highway Administration.

11. UTILITIES

The Municipality, and/or its agent, at no liability to the Department, shall relocate, adjust, relay, change or repair all utilities in conflict with the Project, regardless of ownership. All utility work shall be performed in a manner satisfactory to and in conformance with State and Federal rules and regulations, prior to Municipality beginning construction of the project. This Agreement does not modify or supersede any existing Utility Encroachment Agreements that may be in place.

12. RIGHT OF WAY CERTIFICATION

The Municipality, upon acquisition of all right of way/property necessary for the Project, shall provide the Right of Way Agent, located at the Department's Local Right of Way Office, all required documentation (deeds/leases/easement/plans) to secure right of way certification from that office. Certification is only issued after all ROW is in public ownership or property is publicly accessible by a legal document and utilities in conflict with the project are relocated.

13. CONSTRUCTION AUTHORIZATION

The Municipality shall submit the required environmental and/or planning document, ROW certification, final construction plans, total contract proposal, and an estimate of Project costs (final PS&E package) to the Department for review and approval.

- After approval of all documentation, the Department will request construction authorization from the Federal Highway Administration.
- The Municipality shall not advertise for bids prior to receiving written construction authorization from the Department.

14. CONTRACTOR PROCUREMENT

ADVERTISE FOR BIDS

Upon receipt of written construction authorization from the Department, the Municipality may advertise the Project. The Municipality shall follow applicable Federal and/or State procedures pertaining to the advertisement of the Project, bid opening, and award of the contract, according to Title 49 of the Code of Federal Regulations, Part 18.36 and Title 23 of the Code of Federal Regulations, Part 633 and Part 635, incorporated by reference at

www.fhwa.dot.gov/legregs/directives/fapgtoc.htm; and NCGS, Chapter 143, Article 8 (Public Contracts), incorporated by reference at www.ncleg.net/gascripts/Statutes/Statutes.asp.

CONSTRUCTION CONTRACTOR REQUIREMENTS

All Contractors submitting bids on the project shall be pre-qualified by the Department. All proposed subcontractors must be pre-qualified before construction work begins. Any subcontractors who are proposed to meet the Disadvantaged Business Enterprise goal must be certified by the Department.

CONSTRUCTION SUBCONTRACTOR REQUIREMENTS

Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Disadvantaged Business Enterprises (DBEs), or as required and defined in Title 49 of the Code of Federal Regulations, Part 26 and the North Carolina Administrative Code. These provisions are incorporated into this Agreement by reference

<https://connect.ncdot.gov/projects/Contracts/Pages/LGA-Projects.aspx>.

- The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

AWARDING CONTRACT

After the advertisement of the Project for construction bids, the Municipality shall request concurrence from the Department to award the construction contract by submitting a letter along with tabulated bids received depicting Disadvantaged Business Enterprises (DBE) goals, and a resolution recommending award of the Project to the lowest responsible, responsive bidder. The Department will review the submitted information and provide written approval to the Municipality prior to the contract being awarded by the Municipality.

DELAY IN PROCUREMENT

In the event the Project has not been let to contract within six (6) months after receiving construction authorization from the Department, the Municipality shall be responsible for

documenting to the Department justification for project delay and that the Project remains in compliance with the terms of this Agreement, the approved plans and specifications, and current codes.

FORCE ACCOUNT

Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than a contract awarded by a competitive bidding process, or there is an emergency. Written approval from the Department is required prior to the use of force account by the Municipality. Federal Highway Administration regulations governing Force Account are contained in Title 23 Code of Federal Regulations, Part 635.201, Subpart B; said policy being incorporated in this Agreement by reference www.fhwa.dot.gov/legregs/directives/cfr23toc.htm. North Carolina General Statutes governing the use of Force Account, Chapter 143, Article 8 (Public Contracts) can be found at www.ncleg.net/gascripts/Statutes/Statutes.asp.

15. CONSTRUCTION

The Municipality, and/or its agents shall construct the Project in accordance with the plans and specifications of the Project as filed with, and approved by, the Department. During the construction of the Project, the procedures set out below shall be followed:

CONSTRUCTION CONTRACT ADMINISTRATION

The Municipality shall comply with the NCDOT Construction Manual as referenced at <http://www.ncdot.org/doh/operations/dp%5Fchief%5Feng/constructionunit/formsmanuals/construction/>, which outlines the procedures for records and reports that must be adhered to in order to obtain uniformity of contract administration and documentation. This includes, but is not limited to, inspection reports, material test reports, materials certification, documentation of quantities, project diaries, and pay records. The Municipality, and/or its agent, shall perform the construction engineering, sampling and testing required during construction of the Project, in accordance with Departmental procedures, including the Department's Guide for Process Control and Acceptance Sampling and Testing. The Municipality shall document that said compliance was accomplished in accordance with State and Federal procedures, guidelines, standards and specifications.

RETAINAGE

The Municipality shall not retain any portion of a payment due the contractor.

SIGNAGE

The Municipality shall provide and maintain adequate signage and other warning devices for the protection of the public in accordance with the approved traffic control plans for the Project and the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, or any subsequent revision of the same, published by the Federal Highway Administration and effective at the time of award of the contract.

SITE LAYOUT

The Municipality shall be responsible for ensuring that all site layout, construction work, and Project documentation are in compliance with applicable city, state and federal permits, guidelines, and regulations, including American Association of State Highway and Transportation Officials (AASHTO) guidelines and Americans with Disabilities Act (ADA) Standards for Accessible Design (www.usdoj.gov/crt/ada/stdspdf.htm).

RIGHT TO INSPECT

The Department and representatives of the Federal Highway Administration shall have the right to inspect, sample or test, and approve or reject, any portion of the work being performed by the Municipality or the Municipality's contractor to ensure compliance with the provisions of this Agreement. Prior to any payment by the Department, any deficiencies inconsistent with approved plans and specifications found during an inspection must be corrected.

CONTRACTOR COMPLIANCE

The Municipality will be responsible for ensuring that the contractor complies with all of the terms of the contract and any instructions issued by the Department or FHWA as a result of any review or inspection made by said representatives.

CHANGE ORDERS

If any changes in the Project plans are necessary, the Department must approve such changes prior to the work being performed.

SHOP DRAWINGS

Shop Drawings shall be submitted in accordance with the approved plans and specifications and may require review by the Designer.

16. CLOSE-OUT

Upon completion of the Project, the Municipality shall be responsible for the following:

FINAL INSPECTION

The Municipality shall arrange for a final inspection by the Department. Any deficiencies determined during the final field inspection must be corrected prior to final payment being made by the Department to the Municipality. Additional inspection by other entities may be necessary in accordance with the Department's guidelines and procedures. The Municipality shall provide the Department with written evidence of approval of completed project prior to requesting final reimbursement.

FINAL PROJECT CERTIFICATION

The Municipality will provide a certification to the Department that all work performed for this Project is in accordance with all applicable standards, guidelines, and regulations.

17. MAINTENANCE

The Municipality, at no expense or liability to the Department, shall assume all maintenance responsibilities for the safety improvements to Potters Road (SR 1357), or as required by an executed encroachment agreement.

18. REIMBURSEMENT

SCOPE OF REIMBURSEMENT

Activities eligible for funding reimbursement for this Project shall include:

- ROW Acquisition
- Utility Relocation
- Construction

REIMBURSEMENT GUIDANCE

The Municipality shall adhere to applicable administrative requirements of Title 49 Code of Federal Regulations, Part 18 (www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm) and Office of Management and Budget (OMB) Circulars A-102 (www.whitehouse.gov/omb/circulars/index.html) "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." Reimbursement to the Municipality shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm and by Office of Management and Budget (OMB) Circular A-87 (www.whitehouse.gov/omb/circulars/index.html) "Cost Principles for State, Local, and Indian Tribal Governments." Reimbursement to the Municipality shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the Municipality with all applicable federal policy and procedures.

REIMBURSEMENT LIMITS

▪ WORK PERFORMED BEFORE NOTIFICATION

Any costs incurred by the Municipality prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.

▪ NO REIMBURSEMENT IN EXCESS OF APPROVED FUNDING

At no time shall the Department reimburse the Municipality costs that exceed the total federal funding.

▪ UNSUBSTANTIATED COSTS

The Municipality agrees that it shall bear all costs for which it is unable to substantiate actual costs or any costs that have been deemed unallowable by the Federal Highway Administration and/or the Department's Financial Management Division.

▪ WORK PERFORMED BY NCDOT

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, shall reduce the maximum award amount of

\$2,425,000 available to the Municipality under this Agreement. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the Total Estimated Cost.

- **CONSTRUCTION ADMINISTRATION**

Reimbursement for construction contract administration will be made as governed by Departmental policy that limits reimbursement for construction contract administration to no more than fifteen (15%) percent of the actual construction contract of the Project. These costs will also include any cost overruns and charges to the Project by the Department during the Construction Phase.

- **CONSTRUCTION CONTRACT UNIT PRICES**

Reimbursement for construction contract work will be made on the basis of contract unit prices in the construction contract and any approved change orders.

- **RIGHT OF WAY**

Reimbursement will be limited to the value as approved by the Department. Eligible costs for reimbursement of Right of Way Acquisition include: realty appraisals, surveys, closing costs, and the approved appraised fair market value of the property, at the reimbursement rate as shown in the FUNDING TABLE.

- **FORCE ACCOUNT**

Invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in Office of Management and Budget (OMB) Circular A-87 (http://www.whitehouse.gov/omb/circulars_default) "Cost Principles for State, Local, and Indian Tribal Governments." Reimbursement shall be based on actual eligible costs incurred with the exception of equipment owned by the Municipality or its Project partners. Reimbursement rates for equipment owned by the Municipality or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.

BILLING THE DEPARTMENT

- **PROCEDURE**

The Municipality may bill the Department for eligible Project costs in accordance with the Department's guidelines and procedures. Proper supporting documentation shall accompany each invoice as may be required by the Department. By submittal of each invoice, the Municipality certifies that it has adhered to all applicable state and federal laws and regulations as set forth in this Agreement.

Along with each invoice, the Municipality is responsible for submitting the FFATA Subrecipient Information Form, which is available at <http://www.ncdot.gov/programs/Enhancement/ProjectAdministration/Forms/>.

- **INTERNAL APPROVALS**

Reimbursement to the Municipality shall be made upon approval of the invoice by the Department's Financial Management Division.

- **TIMELY SUBMITTAL OF INVOICES**

The Municipality may invoice the Department monthly for work accomplished, but no less than once every six (6) months to keep the Project funds active and available. If the Municipality is unable to invoice the Department, then they must provide an explanation. Failure to submit invoices or explanation may result in de-obligation of funds.

- **FINAL INVOICE**

All invoices associated with the Project must be submitted within six (6) months of the completion of construction and acceptance of the Project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement.

19. REPORTING REQUIREMENTS AND RECORDS RETENTION

PROJECT EVALUATION REPORTS

The Municipality is responsible for submitting quarterly Project evaluation reports, in accordance with the Department's guidelines and procedures, that detail the progress achieved to date for the Project.

PROJECT RECORDS

The Municipality and its agents shall maintain all books, documents, papers, accounting records, Project records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of payment of the final voucher by the Federal Highway Administration, for inspection and audit by the Department's Financial Management Section, the Federal Highway Administration, or any authorized representatives of the Federal Government.

20. OTHER PROVISIONS

REFERENCES

It will be the responsibility of the Municipality to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

INDEMNIFICATION OF DEPARTMENT

The Municipality agrees to indemnify and hold harmless the Department, FHWA and the State of North Carolina, to the extent allowed by law, for any and all claim for payment, damages and/or liabilities of any nature, asserted against the Department in connection with this Project. The Department shall not be responsible for any damages or claims, which may be initiated by third parties.

DEBARMENT POLICY

It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Municipality certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

TITLE VI - CIVIL RIGHTS ACT OF 1964

The Municipality shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

OTHER AGREEMENTS

The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department is not responsible for any expenses or obligations incurred for the Project except those specifically eligible for STP-DA funds and obligations as approved by the Department under the terms of this Agreement.

E-VERIFY COMPLIANCE

Each of the parties covenants that if it enters into any subcontracts in order to perform any of its obligations under this contract, it shall require that the contractors and their subcontractors comply with the requirements of NC Gen. Stat. Article 2 of Chapter 64. In this E-Verify Compliance section, the words contractors, subcontractors, and comply shall have the meanings intended by N.C. Gen. Stat. § 160A-20.1.

AVAILABILITY OF FUNDS

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IMPROPER USE OF FUNDS

Where either the Department or the FHWA determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, the Department will bill the Municipality.

TERMINATION OF PROJECT

If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.

AUDITS

In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" (http://www.whitehouse.gov/omb/circulars_default) and the Federal Single Audit Act Amendments of 1996, the Municipality shall arrange for an annual independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the annual independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.

REIMBURSEMENT BY MUNICIPALITY

For all monies due the Department as referenced in this Agreement, reimbursement shall be made by the Municipality to the Department within sixty (60) days of receiving an invoice. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with NCGS 147-86.23.

USE OF POWELL BILL FUNDS

If the other party to this agreement is a Municipality and fails for any reason to reimburse the Department in accordance with the provisions for payment hereinabove provided, NCGS 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to Municipality by NCGS 136-41.1, until such time as the Department has received payment in full.

GIFT BAN

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

21. SUNSET PROVISION

All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

IT IS UNDERSTOOD AND AGREED that the approval of the Project by the Department is subject to the conditions of this Agreement, and that no expenditures of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

ATTEST:

TOWN OF STALLINGS

BY: Signell S Hillhouse

BY: [Signature]

TITLE: Interim Town Clerk

TITLE: Erinn E. Nichols
Interim Town Manager

DATE: 01.14.14

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by Town Council of the Town of Stallings as attested to by the signature of Lynell Hillhouse ^{Interim} Clerk of the Council on 01.14.14 (Date)

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

[Signature]

(FINANCE OFFICER)

(SEAL)

Federal Tax Identification Number

56-114-6643

Town of Stallings

Remittance Address:

P. O. Box 4030

Stallings, NC 28106

DEPARTMENT OF TRANSPORTATION

BY: [Signature]
(CHIEF ENGINEER)

DATE: 2/13/14

APPROVED BY BOARD OF TRANSPORTATION ITEM O: 1-9-14 (Date)



MEMO

To: Mayor and Council
 From: Alex Sewell, Town Manager
 Date: April 6, 2021
 RE: **FY 2020-21 Road Resurfacing Contract**

Purpose: This memorandum provides background information on Town road resurfacing plans and seeks Council direction.

Background: The Town budgets for annual resurfacing and maintenance for Town streets and sidewalks. Each year Town engineers assess and quantitatively determine the streets with the greatest resurfacing needs using an engineering methodology originally developed by the Army Corp of Engineers. Using this evaluation system, funding is applied to streets deemed to be in the worst condition. Using this framework, the Town is resurfacing roads based on the greatest objective need.

In FY 2020-21, the Town is tentatively scheduled to resurface 11 streets totaling 0.85 miles (Town streets total 53.23 miles) using Powell Bill funds. The current amount budgeted is \$320,000. Below is the list of streets scheduled to be resurfaced in FY 2020-21:

AMHURST	Chestnut	CT	Strawberry Rd	Cul-de-sac	605	41	FY2020-2021	41-43
FAIRFOREST	Fairforest	DR	Stonehedge	Cul-de-sac	1,603	41	\$ 312,545.84	
GLAMORGAN	Shannamara	LN	Kidwelly Ln	Dilwyn Ct	2,500	41		
LIMERICK DR	Shannamara	DR	Donegal Ct	Killian Ct	430	41		
GALWAY	Shannamara	CT	Clonmel Dr	Cul-de-sac	260	42		
QUINCE	Country Woods East	CT	Hawthorne Dr	Cul-de-sac	668	43		
FLAGSTICK	Emerald Lake	DR	Dogleg Ct	Wedge Ct	1,051	43		
THREE WOOD	Emerald Lake	DR	Birdie Ct	Four Wood Dr	1,527	43		
BLARNEY	Shannamara	CT	Clonmel Dr	Clifden Dr	1,418	43		
CLONMEL	Shannamara	DR	Rosecrea Ct	Galway Ct	2,084	43		
DRUMCLIFF	Shannamara	CT	Killian Ct	Cul-de-sac	257	43		

Previously, the Council expressed an interest in partnering with Indian Trail to take a more collaborative approach to street resurfacing. The idea was that partnering together would potentially lead to greater economies of scale/more bidders which could potentially reduce the cost to both jurisdictions. The staffs of Indian Trail and Stallings have been working towards that goal over the past year and were anticipating doing a joint resurfacing contract in the Late Spring/Early Summer timeframe.

At the 3/22/21 Council Meeting, several Council Members expressed an interest in using Powell Bill funds originally planned for use for street resurfacing and putting those funds towards the downtown streetscape (creating a downtown is a top Council priority and the downtown streetscape is part of the Downtown Action Plan). The effect of not doing street resurfacing this year means that the Town roads rated as being in the poorest condition would have improvements delayed until next fiscal year, staff would try to patch potholes where appropriate, and some members of the public could be frustrated.

Next Steps: Staff are seeking direction from the Council as to whether we should plan to do street resurfacing in partnership with Indian Trail or whether those Powell Bill funds will be reserved for streetscape work. If the Council provides direction to proceed with resurfacing by the end of April, then that should still give staff enough time to coordinate with Indian Trail on the resurfacing schedule per the below timeline:

May 10 - Interlocal Agreement approved by Stallings
May 11 - Interlocal Agreement approved by Indian Trail
May 12 - Advertisement
May 24 - Pre-Bid Meeting
May 27 - Bid Opening
June 8 - Notice to Award
TBD - Notice to Proceed (based on Pre-construction meeting discussions)

Alternatively, the Council opts to reserve the Powell Bill funds to the downtown streetscape, then it would be advisable to make that decision by the end of April so that Indian Trail can plan accordingly and move forward with its on singular resurfacing efforts. Staff will still recommend leaving \$20,000 to leave in the budget for routine street repairs, meaning the reservation amount would be \$300,000 plus whatever remained at the \$20,000 at the end of the fiscal year.