



July 19, 2022
 Stallings Town Hall
 321 Stallings Road
 Stallings, NC 28104
 704-821-8557
www.stallingsnc.org

Planning Board Meeting Agenda

	Time	Item	Presenter	Action Requested/Next Step
	7:00 pm	Invocation Call Meeting to Order	Chair	N/A
1.		Approval of Agenda	Chair	Approve Agenda Motion: I make the motion to: 1) Approve the Agenda as presented; or 2) Approve the Agenda with the following changes: -----
2.		RZ22.07.01 A. General rezoning where the 2125 Stallings Rd, PID 07099002 will transition from MU-2 to SFR-1 B. B. Statement of Consistency and Reasonableness	Max Hsiang	Approval/Denial of RZ22.07.01 Motion: I make the motion to recommend: 1) Approval of the request as presented. 2) Defer the request to ----- 3) Denial of the request as submitted.
3.		TX22.07.01 A. Conditional Zoning Amendments to occur for Articles 5.4-3, 5.4-4, 8.2, and 8.3 B. B. Statement of Consistency and Reasonableness	Max Hsiang	Approval/Denial of TX22.07.01 Motion: I make the motion to recommend: 4) Approval of the request as presented. 5) Defer the request to ----- Denial of the request as submitted.

	Time	Item	Presenter	Action Requested/Next Step
4.		<p>TX22.07.02</p> <p>A. Development Agreement Amendments to Articles 7.15-1(B), 8.4-6(B), and 8.5-1(B) to make the process better suited for the Town of Stallings and the developer</p> <p>B. B. Statement of Consistency and Reasonableness</p>	Max Hsiang	<p>Approval/Denial of TX22.07.02</p> <p>Motion: I make the motion to recommend:</p> <p>6) Approval of the request as presented.</p> <p>7) Defer the request to ----- Denial of the request as submitted.</p>
5..		Adjournment	Chair	1) Motion: I make the motion to adjourn.



MEMO

To: Planning Board
From: Max Hsiang, Planning Director
Date: 7/19/2022
Re: RZ22.07.01

Request:

The owner of the property at 2125 Stallings Rd, PID 07099002, is requesting a general rezoning from Mixed Use-2 (MU-2) to Single-Family Residential -1 (SFR-1).

Property Details:

- Address: 2125 Stallings Rd
- Parcel #: 07099002
- Owner: David Drye
- Acreage: 22.885 ac
- Existing Use: Single-Family Home
- Current Zoning: MU-2
- Future Land Use: Walkable Activity Center
- Small Area Plan: Monroe Expressway Corridor for Single-Family & Multi-Family Residential

MU-2 compared to SFR-1:

	MU-2	SFR-1
Allowed Uses	Mixed-Use Residential and Commercial	Single-Family Residential
Density	4 units/acre: single family-detached*	1.6 units/acre
Lot size	6000sf: single family-detached*	20,000 sq ft min
Lot width frontage	40': single family-detached*	100'
Front Setback	16': single family-detached*	40'
Rear Setback	12': single family-detached*	40'
Side Setback	5': single family-detached*	12' (22' on Corner lots)

*Dimensional Standards only apply to Single Family Detached. No standards for other uses other than building type.

Tree save, buffers, stormwater, and open space apply if the property were to be developed.

History:

The property has been zoned MU-2 since the adoption of the 2018 Stallings Development Ordinance. Before 2018 the property was zoned R-20. The property was zoned MU-2 because it was included in the Monroe Expressway Small Area Plan.

Aerial Map:



Zoning Map:



Land Use:

The Future Land Use is identified as **Walkable Activity Center**. Walkable activity centers serve broader economic, entertainment and community activities as compared to walkable neighborhoods. Uses and buildings are located on small blocks with streets designed to encourage pedestrian activities. Buildings in the core of a walkable activity center may stand

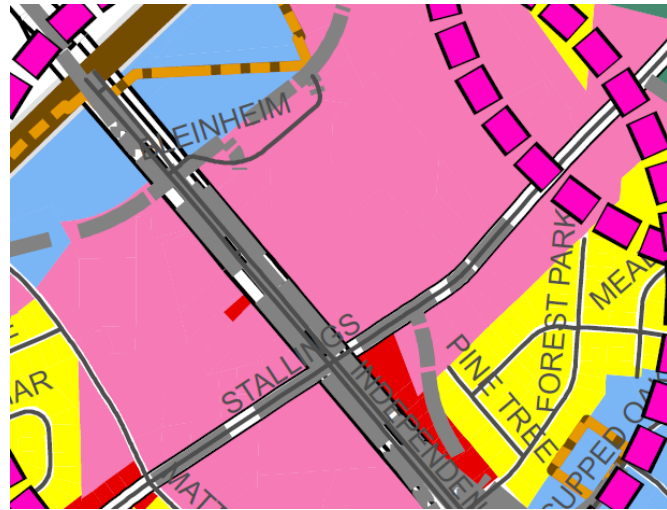
three or more stories. Residential units or office space may be found above storefronts. Parking is satisfied by using on - street parking, structured parking and shared rear - lot parking strategies. A large - scale walkable activity center may be surrounded by one or more neighborhoods that encourage active living, with a comprehensive and interconnected network of walkable streets.

The Primary Land Uses are:

- Sit Down Restaurant
- Community-serving Retail
- Professional Office
- Live/work/shop units
- Townhome
- Condominium
- Apartment
- Public Plaza
- Movie Theater

Secondary Land Uses

- Farmer's Market
- Church

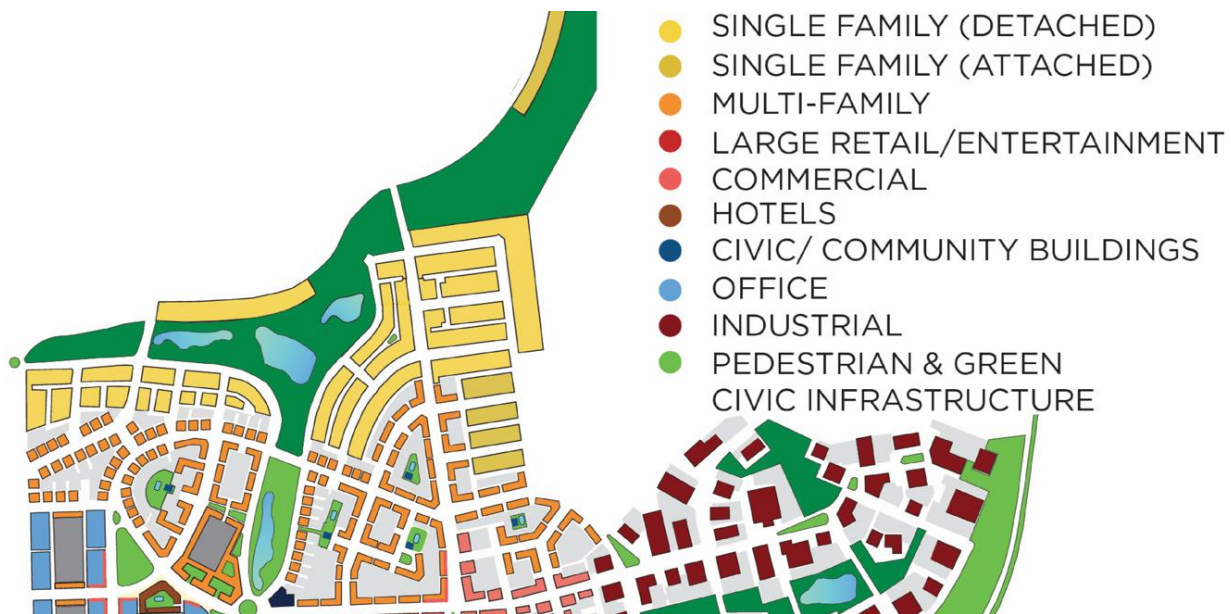


Land use consistency: SFR-1 is inconsistent with the Walkable Activity Center FLU Designation.

Small Area Plan:

The Monore Expressway Corridor, Small Area Plan, identifies the area as single-family detached and multi-family.

Small Area Plan Consistency: SFR-1 is inconsistent with the Small Area Plan as it also includes a Multi-family component.



Response from the applicant:

Please know this rezoning request is critical for our family. Having our property tax increase from \$2,626.81 to \$20,509.48 is financial hardship of biblical proportions!

I believe our situation to be a result of unintended consequences.

- Property use is residential/agriculture. This usage has continued without change since our parent's built their home on this property in the mid-1950's.
- As part of its Long Range Plan, the Town of Stallings rezoned our property from R-20 to Mixed Use-2.
- In the 2021 revaluation, Union County valued and taxed the property based on its "highest and best use" as MU-2.
- County records show inconsistent application of properties being taxed at "highest and best use".
 - adjacent and nearby properties zoned MU-2 or MU-1 are neither valued nor taxed as mixed use.
- Union County staff has unequivocally stated the property will be taxed at its "highest and best use".
 - County staff advises they will take no action on our tax rate until such time as the Town of Stallings rezones the property.
- There is limited sewer capacity in the Crooked Creek WWTP.
 - Unless projects are in the approval process, developers are unable to get building permit for new projects.
 - According Brian Matthews, Assistant County Manager, if a new sewer plant was approved today, "it would take 8-10 years from today for it to be operable."
- Results:
 - This property is zoned MU-2 but used as single family residential
 - This property cannot be developed for Mixed Use until Union County provides additional sewer capacity.
 - This property can only be used for its current use as a one single-family residence on 22 acres.



Town of
Stallings

315 Stallings Road ▪ Stallings, North Carolina 28104

Zoning Map Amendment/Rezoning Application

Application # (Staff): _____

Date Filed: _____

Hearing Date: _____

Planning Board Date: _____

Town Council/Final Decision Date:

Zoning Map Amendment - Conventional	
Less than 2 acres	\$150.00
2-10 acres	\$300.00
Greater than 10 acres	\$900.00
Zoning Map Amendment – Conditional Zoning	
Less than 2 acres	\$300.00
2-10 acres	\$600.00
Greater than 10 acres	\$1200.00
Conditional Use Permit Request	\$300.00
Zoning Text Amendment - UDO	\$500.00

To the Planning Board and Town Council of Stallings, NC:

I (we) the undersigned do hereby respectfully make application and request the Planning Board and Town Council to amend the zoning map of the Town of Stallings: In support of this application, the following facts are shown:

Current Zoning (Circle One)	<i>SFR - 1 SFR - 2 SFR - 3 MU - 1 MU - 2 MFT AG TC</i> <i>CIV C - 74 CP - 485 VSR IND</i>
Proposed Zoning (Circle One)	<i>SFR - 1</i> <i>SFR - 2 SFR - 3 MU - 1 MU - 2 MFT AG TC</i> <i>CIV C - 74 CP - 485 VSR IND</i>
Conditional District Zoning?	<i>Yes</i> <i>No</i>

Physical Property Address:

2125 Stallings Road, Matthews, NC 28105

Description of Rezoning:

One single-family residence on 22-acres rezoned by Town of Stallings from R-20 to MU-2. Property is not permitted and cannot be used for Mixed Use until Union County increases sewer capacity in Crooked Creek WWTP service area.

Tax Parcel Number(s) (PID Number): 07099002		Total Acreage: 22.885 Acres	
Property Owner(s): PHILIP DAVID DRYE TRUST			
Owner's Address: P. DAVID DRYE, III, TRUSTEE 4254 HOPE PLANTATION DRIVE			
City: JOHNS ISLAND		State: SC	Zip: 29455
Contact Phone Number : 704-651-9822		Property Owner Email Address: pddrye3@gmail.com	
Applicant Name if different than owner:		Applicant's Address:	
Applicant Email Address :		Applicant's Phone Number:	

MAP REQUIREMENTS

This application shall be accompanied by two (2) maps drawn to scale. Such maps shall be produced at 18' x 24". An electronic version of the map shall also be submitted. The maps shall contain the following information:

- The subject property plus such property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other feature identifiable on the ground.
- All properties which abut the property.
- If the property is in a subdivision of record, a map of such portion of the subdivision that would relate to the subject property to the closest street intersection.
- A written metes and bounds description of the property or properties.
- The present and proposed zoning classification of the lot(s) in question.
- The property identification number(s) of the lot(s) in question as issued by the Union County Tax Department.
- Full schematic design/site plan as described in Article 10.10 of the Stallings Unified Development Ordinance (*only if the application is for a conditional district*).

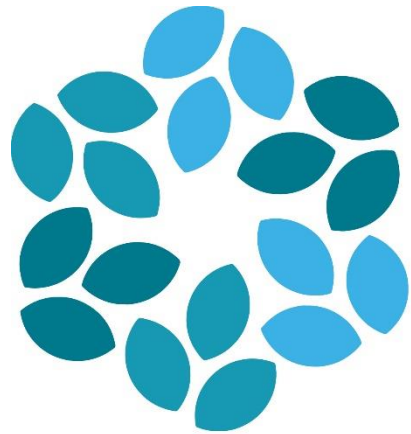
MAP AMENDMENT REQUIRMENTS

If a straight rezoning (not a CD) is requested, then please leave the space below blank.

If a Conditional District (CD) is requested, you must list the specific sections of the Unified Development Ordinance from which you seek changes. You may list these on a separate sheet of paper.

- Whenever there is a zoning map amendment, the Town of Stallings is required to notify the owner of said parcel of land as shown on the county tax listing, and the owner of all parcels of land abutting that parcel of land as shown on the county tax listing. The required notice shall be mailed by first class mail at least 10 days but not more than 25 days prior to the date of the public hearing.

RZ22.07.01



**PLANNING
& ZONING**
TOWN of STALLINGS

Request



□ Zoning Request:

- The owner of the property at 2125 Stallings Rd, PID 07099002, is requesting a general rezoning from Mixed Use-2 (MU-2) to Single-Family Residential -1 (SFR-1).
- MU-2 > SFR-1

Current Conditions



Street View



Project Summary



Location:

- 2125 Stallings Rd

Ownership:

- David Drye

Current Zoning:

- MU-2

Existing Use:

- Single-Family Residential

Required Setbacks:

- Only for Single-Family Residential

Density Limits:

- 4 units/acre only for Single-Family Residential

Site/Project Size:

- 22.885 ac

Zoning Map:



Dimensional Standards only apply to Single Family Detached. No standards for other uses other than building type.

Land Use & Adopted Policies



Land Use Plan:

- The Land Use Plan shows the property as a **Walkable Activity Center**.

Primary Land Uses:

- Sit-Down Restaurant, Retail, Offices, Townhome, Apartments

Secondary Land Uses:

- Famer's Market, Church

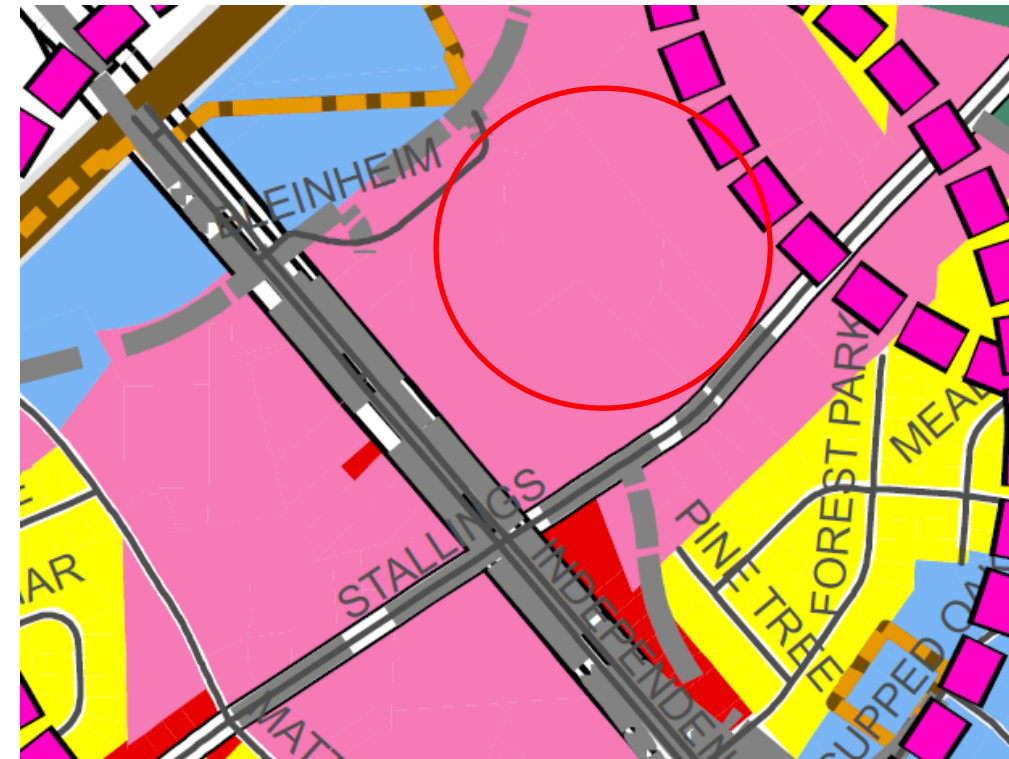
Small Area Plan:

- Monroe Expressway Small Area Plan

Consistency:

- SFR-1 is inconsistent

Future Land Use Map



History



- The Drye's property has been zoned MU-2 since the Town of Stallings UDO was adopted in 2018. When the property's tax value was recently re-assessed by Union County, the property value increased dramatically due to the new commercial uses allowed on the land. The applicant is seeking to return the property to a lower use, residential exclusive zoning of SFR-1.

Meetings



Planning
Board Hearing:
07/19/2022



Town Council
Hearing:
08/08/2022

Vote and Statement of Consistency & Reasonableness



The request is consistent with the Comprehensive Plan and future planning goals of the Town of Stallings, and it is reasonable and in the public interest. It will allow for an urban scale density consistent with the (FLU Type) Future Land Use designation recommended by the Stallings Comprehensive Plan.

Or

The request is inconsistent with the Comprehensive Plan and future planning goals of the Town of Stallings and is not reasonable and in the public interest for the following reasons:

Staff suggested reasons:

- 1) The proposed use is in harmony (or not in harmony) with the goals of the Town.



Statement of Consistency and Reasonableness

ZONING AMENDMENT: RZ22.07.01

REQUEST: General rezoning for 2125 Stallings Rd, PID 07099002, from MU-2 to SFR-1.

WHEREAS, The Town of Stallings Town Council, hereafter referred to as the “Town Council”, adopted the Stallings Comprehensive Land Use Plan on November 27, 2017; and

WHEREAS, the Town Council finds it necessary to adopt a new land development ordinance to maintain consistency with the Comprehensive Land Use Plan; and

WHEREAS, the Town Council finds it necessary to revise the Unified Development Ordinance to comply with state law found in NCGS § 160D.

WHEREAS, the Town Council finds it necessary to consider the Planning Board’s recommendations.

THEREFORE, The Planning Board hereby recommends that the proposed text amendment is consistent and reasonable with the Comprehensive Land Use Plan adopted on November 27, 2017, based on the goals and objectives set forth in the document of promoting quality development and consistency with all state-mandated land-use regulations established through NCGS § 160D. The Planning Board recommends to **APPROVE** the proposed amendment and stated that the Planning Board finds and determines that the text amendment is consistent and reasonable with the key guiding principles, goals, and objectives of the Comprehensive Land Use Plan for the following reasons:

- 1) The proposed amendment is consistent with the Comprehensive Land Use Plan.

Recommended this the ___ day of _____, 2022.

Planning Board Chair

Attest:

Planning Staff



MEMO

To: Planning Board
From: Max Hsiang, Planning Director
Date: 07/19/2022
Re: TX22.07.01 Conditional Zonings

Request 1:

Conditional zonings require public hearings for the Planning Board, meaning they need mail notices and newspaper ads. Changing hearings to meetings, make it optional for mail notices and newspaper ads to go out for conditional zonings for Planning Board.

Amendments:

5.4-3 General requirements.

- (B.) Before a public ~~meeting hearing~~ may be held on a petition for a conditional zoning request, the petitioner must file in the planning office at least ten (10) days prior to the Planning Board meeting a written report of at least one community meeting held by the petitioner. ~~Reasonable notice of such a meeting shall be sent by first class mail by the Development Administrator, or their designee, to all property owners within five hundred (500') feet of the subject parcel(s). The report shall include, among other things, a listing of these persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. The adequacy of a meeting held, or report filed pursuant to this section shall be considered by the Town Council but shall not be subject to judicial review.~~

5.4-4 Application procedure.

- (C.) Following review by the Development Administrator, the Planning Board shall hold a public ~~meeting hearing~~ on applications for Conditional Zoning. Notice of the public ~~meeting hearing~~ shall be provided in accordance with the provisions of the requirements of this ordinance for zoning map amendments. After holding the ~~meeting hearing~~, the Planning Board may recommend approval of the application, including recommending conditions for the zoning; recommend denial of the application; or continue the consideration of the application in order to receive further information regarding the application. In those cases where, upon hearing the application, the Planning Board feels that more information is needed, questions have arisen, or other circumstances occur in which additional time is needed to enable the Planning Board to make a decision, consideration of the application may be continued. The Planning Board may, by a majority vote of members present, continue the consideration of the application until the next regularly scheduled Planning Board meeting. The Board shall direct the appropriate person(s) to obtain the needed information, and provide answers to questions, or other action(s) during this time to enable the Planning Board to make a decision at the next regularly scheduled meeting. The Planning Board shall take action

(affirmative or negative recommendation) on continued items at their next regularly scheduled meeting.

Request 2:

The only way an applicant can apply for conditional zoning is if the use table labels the use as CZ. Adding a floating CZ zoning district will allow applicants to apply for conditional zoning for any use in any zoning district.

Amendments:

8.2. Districts Created.

In addition to the base zoning districts established, the following conditional zoning districts correspond to the base zoning districts. Conditional zoning districts can be requested only by an applicant with owner consent. The process for rezoning to a conditional zoning district is found in Article 5.4.

(18.) Conditional Zoning (CZ)

8.3 Description of Districts.

The **Conditional Zoning Districts (CZ)** are established as companion districts to the general use districts, except for the overlay zones. References in this Ordinance to a general use district shall also be construed to include the corresponding conditional zoning district. Each conditional zoning district is intended to accomplish the purposes of the corresponding general use district through the development of identified uses at a specific location in accordance with a site plan approved by the Town Council. All regulations which apply to a general use district also apply to the corresponding conditional zoning district. Additional reasonable site plan conditions which may be required by the Town Council and agreed to by the petitioner as part of the rezoning process also apply.



Statement of Consistency and Reasonableness

ZONING AMENDMENT: TX22.07.01

REQUEST: Amend the Stallings Development Ordinance to amend Article 5.4-3, 5.4-4, 8.2, and 8.3 for Conditional Zonings.

WHEREAS, The Town of Stallings Town Council, hereafter referred to as the “Town Council”, adopted the Stallings Comprehensive Land Use Plan on November 27, 2017; and

WHEREAS, the Town Council finds it necessary to adopt a new land development ordinance to maintain consistency with the Comprehensive Land Use Plan; and

WHEREAS, the Town Council finds it necessary to revise the Unified Development Ordinance to comply with state law found in NCGS § 160D.

WHEREAS, the Town Council finds it necessary to consider the Planning Board’s recommendations.

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- 1) The proposed amendment is consistent with the Comprehensive Land Use Plan.

Recommended this the ___ day of _____, 2022.

Planning Board Chair

Attest:

Planning Staff



MEMO

To: Planning Board
From: Max Hsiang, Planning Director
Date: 06/19/2022
Re: TX22.07.02

In the wake of the Stinson Farms lawsuit, Planning Staff and the Land Use Attorney have reviewed the sections of the SDO that require the use of a development agreement in specific situations. As you may remember, one of the principal legal theories put forward by the plaintiffs in that lawsuit was a challenge to the *requirement* of a development agreement. The plaintiffs argued that a development agreement is a voluntary process for the developer and the local government and that it was beyond the Town's authority to require a development agreement. This theory is supported by the fact that references in the authorizing statutes are worded as permissive:

160D-1001(b); "Local governments *may* enter into development agreements with developers..."

160D-1004: "A local government *may* enter into a development agreement with a developer ..."

No provision explicitly states that a local government may require a development agreement in a specific instance, nor is there a prohibition. Although staff and the Land Use Attorney believe that the Legislature intended to allow local governments to require development agreements, the law is unclear at this time. Thus we recommend the repeal of Sections 7.15-1(B), 8.4-6(B), and 8.5-1(B) until the statute or case law is clear on this authority.

Second, the development agreement process is best suited to working out the details of coordinating public and private investment in a complex multi-phase development. Since most of the infrastructure in a development in Stallings will either be transportation improvements built by the developer or be public utilities provided by the County, there is very little left to negotiate between the Town and a developer that can't be accomplished in a CZ rezoning or site plan review. Removing the unnecessary requirement will save time and money for both the development community and the Town.

The repeal of these sections does not mean that staff can't suggest a development agreement in appropriate circumstances. Given the extended vesting periods available under a development agreement, and the current uncertainty of utility availability in Union County, we expect that some developers will want the added benefits of a development agreement for their projects.

Amendments:

7.15-1(B): ~~Delete entirely~~

~~(B.) — In addition to any Development Agreement proposed for an eligible project, a Development Agreement, established pursuant to Sub-section 7.15-3 of this Ordinance,~~

~~shall be required as part of all projects that are larger than twenty-five (25) acres in size.
(Amended August 24, 2020)~~

8.4-6 (B) Delete entirely

~~(B.) — A Development Agreement, established pursuant to Section 7.15 of this Ordinance, shall be required as part of all Mixed Use (MU-1 and MU-2) District and Town Center (TC) applications and shall apply to all projects within the MU-1, MU-2, and TC Districts that are twenty-five or more acres in size.~~

8.5-1(B): Delete entirely

~~(B.) — A Development Agreement, established pursuant to Section 7.15 of this Ordinance, shall be required as part of all Traditional Neighborhood Development Overlay (TNDO) District applications and apply to all projects within the TNDO District that are twenty-five (25) or more acres in size. (Amended August 24, 2020)~~



Statement of Consistency and Reasonableness

ZONING AMENDMENT: TX22.07.02

REQUEST: Amend the Stallings Development Ordinance to amend Article 7.15-1(B), 8.4-6(B), and 8.5-1 (B) for Development Agreements.

WHEREAS, The Town of Stallings Town Council, hereafter referred to as the “Town Council”, adopted the Stallings Comprehensive Land Use Plan on November 27, 2017; and

WHEREAS, the Town Council finds it necessary to adopt a new land development ordinance to maintain consistency with the Comprehensive Land Use Plan; and

WHEREAS, the Town Council finds it necessary to revise the Unified Development Ordinance to comply with state law found in NCGS § 160D.

WHEREAS, the Town Council finds it necessary to consider the Planning Board’s recommendations.

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- 1) The proposed amendment is consistent with the Comprehensive Land Use Plan.

Recommended this the ___ day of _____, 2022.

Planning Board Chair

Attest:

Planning Staff