

ZONING MOTION 2012-5
INITIATED BY MATTHEWS BOARD OF COMMISSIONERS

MOTION TO CHANGE: x TEXT
 DISTRICT BOUNDARIES
(IF FOR A CHANGE IN DISTRICT BOUNDARIES, LIST PARCEL(S) AFFECTED)

DATE OF INITIAL DISCUSSION TO SET HEARING 6-11-12

PUBLIC HEARING DATE 7-9-12

PROPOSED ACTION

- 1) Revise provisions for certain limited rear yard encroachments, to better utilize available buildable space on existing lots
- 2) Add a minimum parking standards for internet sweepstakes uses as 1 parking space per machine
- 3) End provision for new Cluster subdivisions and define existing ones to not become nonconforming
- 4) Revise "grandfathering" date from when storm water detention was required

AFFECTED AND/OR ADJACENT PROPERTY OWNERS NOTIFIED NA

ATTACHMENTS INCLUDE Proposed new text at various sections within the Zoning Ordinance, with explanations for each

PROTEST PETITION FILED? YES (IF YES, DATE)
 NA NO

OTHER COMMENTS: These revisions result from issues that have been recently observed and could be easily remedied through minor text changes, and although they could be part of the update process into the UDO, they would assist both residential and commercial locations today if reviewed and determined to be appropriate now. Any revisions made through this Motion will be incorporated in the new UDO.

zonmot2012-5 cover

Zoning Motion 2012-5 Miscellaneous Text Amendments

1) Extensions into Residential Rear Yards

For more than three decades, Matthews has not amended the generous rear yard requirements for its single-family districts, which means plenty of private space behind a house for the family there to enjoy. These rear yard requirements have also at time limited the placement of a deck or other structure at the back of the house. Many communities have reduced their minimum lot sizes and rear yard requirements. A growing number of jurisdictions now allow a minimal expansion into a required rear yard, or have reduced their rear yard dimensions. Our UDO consultant noted that he had observed “a trend toward greater restrictions on encroachments in the front and side yards, including fences, and more liberal in the rear yard.”

One potential issue with allowing rear yard encroachments is defining new limits – types of structures that may be allowed, and how large. The City of Charlotte has provisions for rear yard encroachments for garages, decks and patios of single-family homes, and that language can be applied here as a possible revision to the Matthews code as well. Current text at 153.081, below, is shown with suggested new text in red:

§ 153.081 CERTAIN EXTENSIONS INTO YARDS ALLOWED.

(A) Architectural features such as cornices, eaves, steps, gutters, and fire escapes may project up to three feet into any required yard or beyond any required setback unless that feature would obstruct driveways which may be used for service or emergency vehicles.

(B) A portion of the required rear yard on a single-family zoned lot used for a single family home may be utilized for an extension of the principal structure, including garage, porch, deck, greenhouse, covered patio, or similar unheated space when meeting the following criteria.

(1) No more than 20% of the area of the required rear yard may be used to accommodate an extension of the principal structure.

(2) No such extension may encroach into the rear yard more than 25% of the depth of the required rear yard.

(3) No such extension may be more than 50% of the width of the dwelling at the rear building line.

(4) Any such extension shall meet the required minimum front setback and side yard requirements for a principal structure on the lot, including street side yard requirements on corner lots.

(5) Such extension shall not be allowed into any utility easement.

(6) Such extension shall maintain a minimum four foot building separation from any other building within the lot.

(7) No extension of the principal structure into the required rear yard shall be converted to an enclosed heated area.

2) Parking for Internet Sweepstakes Facilities

Internet sweepstake cafes, or “business centers”, or other names have recently sprung up as a new type of commercial endeavor has taken root across North Carolina. The courts have determined that this is a legal gaming operation at this time. Matthews zoning allows this type of use within a catch-all category of “professional, financial, personal, and recreational services” in the B-1, B-2, B-3, HUC, I-1, and I-2. Because patrons to this type of business are adults and because each patron must utilize one gaming station, whether a computer desk, or carrel, or other piece of equipment, it is likely to use a greater number of parking spaces than a typical retail or office operation. Therefore a separate minimum parking

requirement is being proposed for this type of use. The table of minimum parking spaces per establishment, Section 153.117, is proposed to be revised by adding a new listing as shown in red:

§ 153.117 SCHEDULE OF OFF-STREET PARKING.

Off-street parking must be provided and maintained as specified in the following schedule. These requirements will apply to all new buildings and uses and to additions to existing buildings and uses in all districts.

Types of Uses	Bicycle Standards	Motor Vehicle Standards
Internet sweepstakes facilities and similar personal recreational uses with a one patron/one station location arrangement	5% of auto parking	One space per each patron station/computer/gaming equipment station

3) End Provision for New Cluster Subdivisions and Define Existing Ones to Not Become Nonconforming

Matthews has had provisions for Cluster subdivisions within the single and multi-family zoning districts since the 1988 ordinance was adopted. These standards have been applied to subdivisions as they were designed, allowing a reduction in minimum lot size and yard requirements in exchange for some open space within the development. Some Cluster subdivisions, such as Brightmoor, have developed well-utilized community recreation facilities within their assigned common open space, while other Cluster subdivisions designated unusable land in small chunks or narrow strips as their open space contribution. In a future revision to any similar provisions, Matthews can include standards about the shape and development opportunities for any common open space, so that it becomes a valuable amenity to the new neighborhood.

While the concept of a Cluster subdivision is excellent, the standards in place today need to be revised. Because proposed SB731 may impact the design criteria that can be applied within single-family development unless certain other options are made available to the subdivider, it may be better for us to wait until the final wording of SB731, if approved, is settled. Meanwhile, to prevent any new development from using the current provisions, the amendment proposes to end the existing Cluster availability. To do so, language at a few places within the code will need revision. Current text at 153.054, 153.055, and 153.093 follows, with proposed changes shown in red:

§ 153.054 SINGLE-FAMILY RESIDENTIAL DISTRICTS.

(F) *Development standards for various uses.* Cluster developments may be permitted in single-family residential districts in accordance with the provisions of § 153.093 **when platted and recorded prior to August 13, 2012.**

§ 153.055 MULTI-FAMILY RESIDENTIAL DISTRICTS.

(F) *Development standards for various uses.*
~~(1) Cluster developments may be permitted in multi-family districts in accordance with the provisions of § 153.093.~~

§ 153.093 CLUSTER DEVELOPMENT.

A cluster development is a tract of land of at least ten acres owned by a single person, firm, partnership, association, or corporation which is planned and developed as a single project. **A cluster development under these provisions shall have been platted and recorded prior to August 13, 2012. Any existing cluster development shall be considered to be in conformance with all lot dimensions and minimum required setbacks and yards as long as the subdivision remains substantially the same as recorded. Minor revisions to individual lots may be made and the cluster dimensional standards provided here may be applied to those altered lots.** The development may take place all at once or over a period of time in stages, but always in accordance with one approved preliminary site plan as required in this section. Cluster developments may be established in ~~Rural~~, R-9, R-12, ~~R-12MF~~, R-15, ~~R-15MF~~, and R-20, ~~R-VS, 0-9 and/or 0-15~~ districts in accordance with the standards below.

4) Revise “Grandfathering” Date for When Storm Water Detention Was Required on Development Parcels

Mecklenburg County first adopted a storm water detention ordinance in 1979 which could be applied County-wide. In Matthews, however, we have found that very few nonresidential sites have storm water improvements until ones developed in the late 1990s. Matthews adopted its own storm water detention requirement within the Matthews Zoning Ordinance on July 10, 2000, and at that time stated any development in place prior to July 2, 1979 would be exempt from needing any on-site storm water controls.

As previously developed sites seek some revisions or expansions, many of them are stopped from proceeding with growth because they cannot meet the storm water detention requirements for the existing and new improvements. In many cases, the parcel of land is too small to fit surface detention and underground detention is cost-prohibitive. Some sites may not be able to drain off-site, especially if placing the facilities underground. Revising the date in the Matthews code before which development would not be subject to retroactive improvements may be a novel approach to resolving what has become a stumbling block for business growth.

Because storm water detention issues inter-relate to engineering, utility and street infrastructure construction, and grading concerns, this revision needs to be vetted by other Town and County departments, and an alternate date needs to be determined by all. Therefore, further revision of this revision may be offered during review. Current text at 153.101 is shown below, with the 1979 date that needs to be revised highlighted in red:

§153.101 STORM WATER COLLECTION AND DRAINAGE

(A) Purpose. The purpose of this section is to control the peak flow of less-common storm events and should be used in conjunction with the Post Construction Ordinance, when it also applies, to any parcel of land.

(B) Plan required. No development or use of land that involves or would create more than 20,000 square of impervious ground cover, shall be permitted without the submission and approval of a storm water management plan. Division of a parcel on or after July 10, 2000 into two or more parcels that, when combined, would create impervious surface areas of 20,000 or more square feet shall be required to provide a storm water management plan for the combined total built-open surface. No certificates of occupancy or building permits for such development shall be issued until the storm water management plan is approved by the County Engineer and/or Town Engineer, whichever is appropriate. Built-upon ground cover in existence prior to ~~July 2, 1979~~ **July 10, 2000**, and not altered or removed after that date, shall not be used in measuring the 20,000 square feet.