MINUTES – NOVEMBER 30, 2020

The Caswell County Board of Commissioners met in special session at 9:00 a.m. on Monday, November 30, 2020. The meeting was held electronically using Zoom Webinar software. Members present: Rick McVey, Chairman, David J. Owen, Vice Chairman, William E. Carter, Nathaniel Hall, Jeremiah Jefferies, Steve Oestreicher and N. Kent Williamson. Also present: Bryan Miller, County Manager and Brian Ferrell, County Manager. Paula P. Seamster, Clerk to the Board, recorded the minutes.

WELCOME

Chairman McVey welcomed everyone to the special meeting.

MOMENT OF SILENT PRAYER

Chairman McVey opened the meeting with a moment of Silent Prayer.

PLEDGE OF ALLEGIANCE

The Board of Commissioners and all the guests in the attendance recited the Pledge of Allegiance.

PUBLIC HEARING – HIGH IMPACT DEVELOPMENT ORDINANCE (HIDO)

Commissioner Owen moved, seconded by Commissioner Jefferies to go into public hearing to hear comments on the High Impact Development Ordinance (HIDO). After a roll call vote, the motion carried unanimously. (Commissioners W. Carter, Hall, Jefferies, McVey, Oestreicher, Owen, and Williamson voted in favor.)

Mr. Bryan Miller went through the draft of the High Impact Development Ordinance (HIDO).

He added that Matthew Hoagland, Planning Director, was also in the meeting if the Board had any questions for him.

**AMENDMENTS TO AND RESTATEMENT OF ARTICLE III, CHAPTER 14, OF THE CASWELL COUNTY, NORTH CAROLINA CODE OF ORDINANCES**

**WHEREAS,** Caswell County’s original Environmental Impact Ordinance was adopted in 2003 (the “EIO”); and

**WHEREAS**, the EIO is currently codified in Article III, Chapter 14, of the Caswell County, North Carolina Code of Ordinances, and

**WHEREAS**, sufficient time has elapsed to make a determination as to the effectiveness of the EIO; and

**WHEREAS,** recent high impact development activity within the County has revealed confusion and misunderstandings over language and requirements of the EIO; and

**WHEREAS,** high impact development is a source of significant environmental, community, and human health impacts, the full extent of which the EIO did not fully consider; and

**WHEREAS,** business, jobs, and growth are necessary to the economy and continued vitality of Caswell County; and

**WHEREAS,** industrial land uses, by their very nature, can produce objectionable secondary effects, including aesthetic impact, traffic, noise, odors, vibrations, fumes, light, smoke, water quality and supply impacts, and/or other impacts, upon the lands adjacent to them; and

**WHEREAS,** the existing EIO did not adequately address the unique nature of Caswell County, and was not achieving its intended goal of allowing for the placement and growth of industrial land uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Caswell County; and

**WHEREAS,** the Caswell County Board of County Commissioners hereby repeal the existing EIO and replace it with a more comprehensive Hight Impact Development Ordinance as more specifically set forth herein (the “HIDO”) which is intended to balance the needs of all the residents of Caswell County; and

**WHEREAS,** the Caswell County Board of County Commissioners finds that this HIDO is consistent with the needs of Caswell County and the Caswell County Comprehensive Plan.

**NOW THEREFORE THE BOARD OF COMMISSIONERS OF THE COUNTY OF CASWELL HEREBY ORDAINS AS FOLLOWS:**

1. The EIO is hereby repealed in its entirety and replaced as provided herein. The EIO shall have no further force or effect within Caswell County as of the date hereof and shall not be applied to any project.

2. Article III, Chapter 14, of the Caswell County, North Carolina Code of Ordinances is hereby amended as follows.

**ARTICLE III. HIGH IMPACT DEVELOPMENT ORDINANCE**

**Sec. 14-66. Authority.**

The Caswell County Board of Commissioners enacts this High Impact Development Ordinance pursuant to its police powers, as set forth in and authorized by Section 153A-121 (a) of the North Carolina General Statutes; pursuant to its power to regulate businesses as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate noise as set forth and authorized by Section 153A-133 of the North Carolina General Statutes; pursuant to its power to regulate solid waste as set forth and authorized by Section 153A-134 of the North Carolina General Statutes; pursuant to its power to regulate explosive, corrosive, inflammable, or radioactive substances as set forth and authorized by Section 153A-128 of the North Carolina General Statutes and pursuant to its planning and zoning powers, as set forth in and authorized by Chapters 153A and 160D of the North Carolina General Statutes.

**Sec. 14-67. Purpose.**

The following regulations of high impact development are adopted for the purpose of promoting the health, safety, and general welfare of the residents of Caswell County, and to promote the peace and dignity of the County. The Caswell County Commissioners hereby establish certain criteria relating to high impact development and associated land uses. These uses by their very nature may produce objectionable levels of aesthetic impact, traffic, noise, odors, vibrations, fumes, light, smoke, water quality and supply impacts, and/or other impacts upon the lands adjacent to them. These standards shall allow for the placement and growth of such uses, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Caswell County.

**Sec. 14-68. Territorial Coverage.**

This ordinance shall apply to all unincorporated areas of Caswell County in which no town or city is exercising extraterritorial jurisdiction as permitted by law.

**Sec. 14-68. Regulated Land Uses and Exceptions.**

High impact development industries and uses covered by this ordinance are listed in the Table of Classifications set forth in this Section 14-68. Each Class has unique requirements for minimum Lot Spacing, Building Height, Land Use Spacing, Operations Setbacks and Stream Setbacks as provided herein. Refer to the Land Use Table in Sec 14-71 for specific required regulations and standards.

1. *Table of Classifications.*

|  |
| --- |
| **Class I** |
| Fuel Bulk Storage  Inert Debris Landfills  Renewable Energy Generating Facilities |
| **Class II** |
| Metal Recycling & Salvage Facilities  Saw Mills  Tub Grinding |
| **Class III** |
| Asphalt Plants  Biomass Facilities  Chemical Manufacturing  Chip Mills  Electric Generating Facilities  Explosives Manufacturing  Explosives Storage Facilities  Landfills -except inert debris  Medical Waste Incinerators  Paper Mills  Race Tracks  Ready-Mix Concrete Suppliers  Resource Extraction  Stone Crushing  Waste Processing Facilities |
| **Class IV** |
| Mining/Quarrying  Resource Extraction  Cement Manufacturing  Coal Ash Storage  Nuclear Waste Storage |

(b) *Exceptions to Applicability.* The following uses are exempt from the provisions of this Ordinance and not subject to the provisions hereof:

1) Property used for Agricultural Farming Operations;

2) Property used for residential purposes; and

3) Municipal or Community Drinking Water or Wastewater Treatment Facilities.

4) Uses that exempt from the provisions of this Ordinance shall comply with all other applicable County ordinances, including, but not limited, to, the Caswell County Noise Ordinance, Watershed Protection Ordinance, Flood Hazard Protection Ordinance, etc.

(c) *General Applicability.*

1. Proposed non-residential uses not explicitly listed in the table above which, as an integral part of the operation, involve more than 10,000 gallons per day of water usage, exclusive of domestic water (25 gallons per day, per employee), and water used for climate control (air conditioning and heating), shall conform to the standards of a Class II use.
2. Proposed non-residential uses not explicitly listed in the table above which qualify as a generator of hazardous waste as defined by the NC Department of Environmental Quality (Hazardous Waste Section of Waste Management Division) shall conform to the standards of a Class III use.
3. Proposed non-residential uses not explicitly listed in the table above which meet any of the criteria listed below shall conform to the standards of a Class IV use.

a. Requires a state NPDES (National Pollutant Discharge Elimination System) permit,

as administered by the state division of environmental management.

b. Requires a non-discharge permit for a land Application waste disposal system.

c. Requires a permit for a sludge disposal site.

d. Is located within the water quality critical area of the water supply watershed, as defined in the county’s most recent geographic information systems map.

e. Requires an interbasin transfer certificate for more than 1,000,000 gallons per day.

**Sec. 14-70. Definitions.**

The following definitions shall be used for the purposes of interpreting this Ordinance. For terms not defined below, the common usage of the term shall prevail. In the event a particular use may meet the criteria of more than one definition, and the definitions are in different Classes, the definition that is in the Class with more stringent regulations shall be determinative. In the event multiple uses are co-located, and the uses are in different Classes, the Applicant must comply with the stricter standard of the more stringently regulated Class.

*Applicant* means any person or his/her duly authorized representative who submits an Application as defined herein.

*Application* means any Application for approval of any permit required by this ordinance.

*Agricultural Farming Operations* means a bona fide farming operation whose primary purpose is the production of agricultural products including but not limited to crops, fruits, Christmas trees, forestry, vegetables, ornamental or flowering plants, dairy, livestock, poultry, swine, and all other forms of agricultural products having a domestic or foreign market. When performed on the farm, "agriculture' "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm. Included with this definition is the operation, equipment operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.

*Area of Operations* means the portion of a tract of land on which an industry is situated that is actually under use, or may actually be put to use in the future, for operations by the industry, including the area occupied by buildings, structures, parking, equipment, storage, storm water control measures, and other uses necessary for the business of the industry. Area of operations shall not include required setbacks or those areas required by this Ordinance, or any other regulations, to be kept in a vegetative state.

*Asphalt Plant* includes establishments, with all related equipment, for the manufacture and production of asphalt and tar paving mixtures and blocks from purchased asphaltic materials (NAICS 324121). Also included in this definition are establishments engaged in manufacturing asphalt and tar paving mixtures and blocks and roofing cements and coatings from purchased asphaltic materials and/or saturating purchased mats and felts with asphalt or tar (NAICS 32412 and 324122).

*Assisted Living Facility*includes any group housing and services program for two or more unrelated adults however named, which makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more North Carolina licensed home care or hospice agencies.

*Biomass Facility* includes establishments primarily engaged in energy production from plant or animal material, including but not limited to material such as purposely grown energy crops, wood or forest residues, waste from food crops, horticulture, food processing, animal farming, or human waste from sewage plants.

*Board of Adjustment* means the Caswell County Board of Adjustment.

*Board of Commissioners* means the Caswell County Board of Commissioners.

*Building Height* has the meaning given in Section 14-71(c).

*Cement Manufacturing* includes establishments primarily engaged in manufacturing portland, natural, masonry, pozzolanic, and other hydraulic cements. Cement manufacturing establishments may calcine earths or quarry, manufacture, mine, or purchase lime (NAICS 327310).

*Chemical Manufacturing* includes establishments primarily involved in the production, synthesis, formation, processing, refining, manufacturing, and/or distribution of chemical products in bulk, for other than retail sales on-site (including all chemical manufacturing in NAICS subsector 325).

*Childcare Facility* means a childcare facility as defined in G.S. § 1 10-86 or any successor statute thereto.

*Chip Mill* means any non-portable wood-chipping facility that stands alone and apart from a sawmill or pulp mill, and whose purpose is to provide wood chips to an off-site fabrication facility including but not limited to paper mills, particle board and other products and is capable of producing at least 250,000 tons annually.

*Church* means any building used on a regular basis for the primary purpose of serving as a place of public worship.

*Coal Ash Storage Facility* includes any establishment primarily intended for the storage of coal ash, also referred to as coal combustion residuals or CCRs, which are by-products produced from burning coal.

*Commercial Use* means the use of land for the purpose of operating a business intended to profit, whether or not a profit is actually realized, through the exchange of monies for goods and/or services.

*Construction Activities* includes any studies, investigations, operations, improvements, or other activities undertaken at the site of a proposed regulated industry pertaining to the construction, placement, erection, or establishment of the same, including but not limited to surveys, soil and other environmental tests, clearing and grading, pouring footers or pads, placing building materials or equipment at the site, locating or constructing buildings, structures, or other improvements, or any other similar activities.

*County* means the County of Caswell.

*DCDEQ* means the North Carolina Department of Environmental Quality and its agency divisions.

*D.O.T.* means the North Carolina Department of Transportation.

*Dwelling Unit* (single and multi-family) means any building, manufactured home, or modular home providing complete independent living facilities for a single or multi-family, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Two or more manufactured homes which are combined on one lot or parcel shall be considered as a single dwelling unit if they are joined together in one living unit for the use of a single family and meet all of the requirements for a "dwelling unit" under the amended Caswell County Watershed Protection Ordinance. A dwelling unit which has been condemned by a Government agency (County or State) at the request of the property owner and remains in a condemned state shall no longer be considered a “Dwelling Unit”.

*Educational Facility* means any elementary school, secondary school, charter school, private school, community college, college, university, or any other similar institution or facility for the education of persons, including any property owned by such facility used for educational purposes.

*Electricity Generating Facility* includes any stand-alone plant not ancillary to another land use which is intended for the commercial generation of electric power from any source other than solar, hydroelectric, and wind, including but not limited to fossil fuels, nuclear, or waste products, to be primarily distributed to the public for compensation. This definition shall not apply to an agricultural farm, residence, business, or other facility where the sale of the electricity so produced is secondary to on-site consumption.

*Explosives Manufacturer* means commercial facility used for manufacturing of a chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, and shall include, but is not limited to: dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniting cord, igniters, and display fireworks. Facilities not included in this category are those producing only hand-loaded small arms ammunition.

*Explosives Storage Facility* A commercial facility used for the storage of products created by an explosives manufacturer.

*Fuel Bulk Storage Facilities* includes any establishment whose primary purpose is the wholesale or retail distribution, storage, distribution, mixing, or transfer of flammable or combustible liquids, gases, or solids, received or transferred by truck, train, tank vessel, pipelines, tank car, piping, portable tank or containers, or other method, including propane, methane, ethanol, gasoline, kerosene, oil, coal, and other fuels. This definition shall not include filling stations used solely for distribution to individual consumers; nor shall it include fuel stored at or on an agricultural farm, residence, business, or other facility where use of the fuel stored is limited primarily to on-site consumption (NAICS 424710 and 424720).

*Hospital* means any facility as defined in G.S. § 13 1 E-76(3) or any successor statute thereto.

*Inert Debris* means solid waste which consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

*Intent to Construct Permit* has the meaning given in Section 14-74.

*Landfill* means a disposal facility or part of a disposal facility where waste is placed in the land with the intent of permanent disposal thereby, and not otherwise regulated by this Ordinance.

*Land Use Spacing* has the meaning given in Section 14-71(d).

*Metal Recycling & Salvage Facilities* includes establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. Included in this industry are auto wreckers primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap (NAICS 423930).

*Mining/Quarrying* includes the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, sand, soils, and other solid matter from their original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

Mining/Quarrying does not include excavation or grading when conducted solely in aid of on-site farming or of onsite construction for purposes other than mining; removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area; excavation or grading where all of the following apply:

a) The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 1 13A of the General Statutes.

b) The affected land, including nonpublic access roads, does not exceed five acres.

c) The excavation or grading is completed within one year.

d) The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.

*NAICS* references correspond to the most recent applicable North American Industry Classification System used by Federal statistical agencies in classifying business establishments.

*Nonconformance Permit* has the meaning given in Section 14-72(a)(1).

*Nonconforming Use* has the meaning given in Section 14-72.

*Nuclear Waste Storage Facility* includes establishments primarily engaged in the storage of radioactive waste materials or radioactive materials that result from the processing or reprocessing of nuclear fuel.

*Nursing Home* means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the operator.

*Operations Permit* has the meaning given in Section 14-75.

*Operations Setback* has the meaning given in Section 14-71(e).

*Paper Mill* comprises establishments primarily engaged in manufacturing paper from pulp. These establishments may manufacture or purchase pulp. In addition, the establishments may convert the paper they make. The activity of making paper classifies an establishment into this industry regardless of the output.

*Person* means a firm, corporation, general partnership, limited partnership, Limited Liability Company, sole proprietor, individual, individual acting on behalf of another, or any other entity of any type whatsoever.

*Planning Board* means the Caswell County Planning Board

*Planning Department* means the Caswell County Planning Department.

*Protected Facility* has the meaning given in Section 14-71(d).

*Quarrying* includes open excavations where the works are visible at the surface and intended for the extraction of stone, slate, marble, or other mineral from a mass of surrounding rock.

*Race Track* includes any commercial facility containing a track or path (regardless of surface type and regardless of configuration - oval, course, strip, or otherwise) primarily used for the purpose of racing any type of motorized vehicle, equipment, or device. This includes but is not limited to cars, trucks, lawnmowers, tractors, campers, dune buggies, go-karts, dirt bikes, ATVs, and motorcycles.

*Ready-Mix Concrete Suppliers* includes establishments, such as batch plants or mix plants, primarily engaged in manufacturing concrete delivered to a purchaser in a plastic and unhardened state, where such establishments are not engaged in mining or quarrying sand and gravel (NAICS 327320).

*Renewable Energy Facility* includes any stand-alone plant not ancillary to another land use which is intended for the commercial generation of electric power from solar, hydroelectric, and wind to be primarily distributed to the public for compensation. This shall not include an agricultural farm, residence, business, or other facility where the sale of the electricity so produced is secondary to on-site consumption.

*Replacement Value* means the cost to restore a structure to its previously existing condition as computed by an appraisal which has been conducted by an appraiser holding a North Carolina State Certified General Real Estate Appraisal License and conducted in compliance with generally accepted practices within the appraisal community.

*Residential* means the use of land for the purpose of housing or living accommodations for human occupants. Residential land uses shall also include any accessory uses of the land that is not commercial in nature, as defined by this Ordinance, and incidental to the residential use.

*Resource Extraction* means the commercial removal of any naturally occurring substance from the land not otherwise covered by the definition of mining and quarrying. Such substances include, but not limited to topsoil or fill dirt, sand, and subsurface water. Such substances shall also include oil and gas exploration, development, and production activities, including horizontal drilling and hydraulic fracturing, as defined or governed by the Oil and Gas Conservation Act, N.C. Gen. Stat. section 113-381 et seq., as amended. Such substances do not include timber.

*Rural Medical Center* means a facility staffed on a regular basis by one (l) or more physicians licensed to practice medicine in the State of North Carolina, which facility is located outside the boundaries of a municipality and is established and maintained for the purpose of providing medical care to members of the community in which it is situated.

*Stone Crushing* means a facility engaged in the use of mechanized equipment or machinery to reduce the size of stone material or material having the qualities of stone. Facilities not included in this category are portable stone crushing machines which are temporarily setup on a parcel or site for a period not to exceed 120 days.

*Streams* means an intermittent or perennial stream, pond, lake, or reservoir whose presence and location has been determined by the North Carolina Division of Water Resources, or if it appears on any of the following types of maps: the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture; the most recent version of the I scales ( 7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS); OR a map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission.

*Stream Setback* has the meaning given in Section 14-71(h).

*Saw Mill* means any permanent commercial establishments primarily engaged in sawing dimension lumber, boards, beams, timbers, poles, ties, shingles, shakes, siding, and mulch and wood chips from logs or bolts. Sawmills may plane the rough lumber that they make with a planning machine to achieve smoothness and uniformity of size. Facilities not included in this category are portable sawmills without permanent structures and those employing more than three full-time employees, and in operation for a duration of more than six months at the same Area of Operations.

*Tub Grinding* means a commercial facility engaged in the use of mechanized equipment to produce organic mulch from natural inert or organic material such as tree stumps, tree branches, brush, and other type of natural forestry waste material. Equipment with a grinding tub or tubs less than four (4) feet in diameter are excluded from this definition.

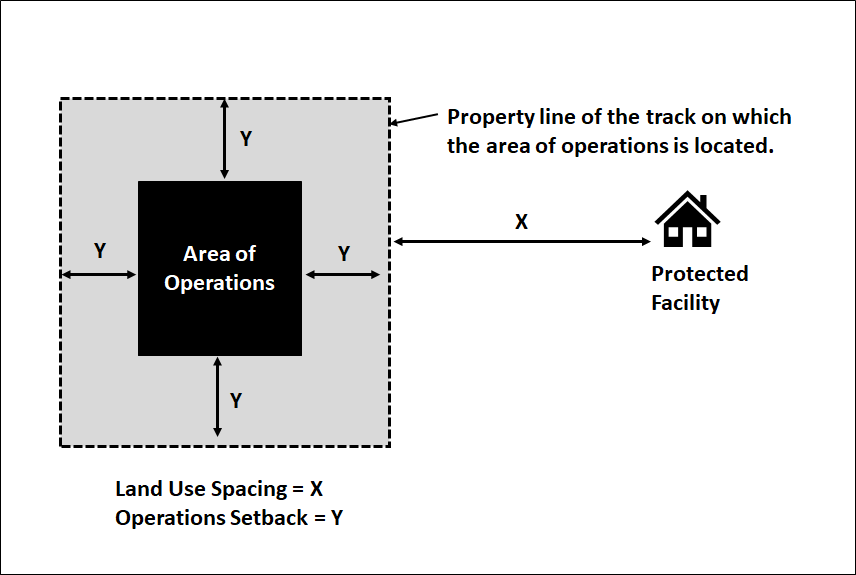
*Waste Processing Facility* includes incinerators, composting facilities, household hazardous waste facilities, waste-to-energy facilities, transfer stations, reclamation facilities or any other location where wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being released into the air or transported to a final disposal site. Specifically included in this definition are medical waste facilities as defined by G.S. § 130A-309.26a.

**Sec. 14-71. Regulations and Standards.**

Prior to the issuance of any permit under this Ordinance, the regulated land use must demonstrate compliance with the regulations and standards imposed by this section.

1. *Land Use Table*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Classification** | **Min. Lot Size** | **Building Height** | **Land Use Spacing (X)** | **Operations Setback (Y)** | **Stream Setback** |
| Class I | 10 acres | 40 feet | --- | 150 feet | 100 feet |
| Class II | 10 acres | 40 feet | 500 feet | 150 feet | 100 feet |
| Class III | 50 acres | 40 feet | 1500 feet | 500 feet | 150 feet |
| Class III (Asphalt Plant) | 50 acres | 40 feet | 1800 feet | 500 feet | 150 feet |
| Class IV | 100 acres | 40 feet | 1800 feet | 500 feet | 150 feet |

 **Illustration 1: Land Use Diagram**

(b)*Minimum Lot Size.* No Class I or Class II land use regulated by this ordinance shall be situated on a single contiguous tract of land less than ten (10) acres in size. Class III land uses shall be located on a single contiguous tract of land no less than fifty (50) acres in size. Class IV land uses shall be located on a single contiguous tract of land no less than one hundred (100) acres in size.

(c) *Building Height Limits.* In order to allow for adequate fire protection, no building which is intended or used for human occupancy shall exceed a vertical height of forty (40) feet, measured from the top of the foundation (entrance grade) to the highest point of the roof assembly as specified in the Land Use Table in Section 14-71(a)(the “Building Height”) . No more than one (l) occupancy story may be below the foundation (entrance grade). Provided, however, the following uses shall be excluded from the building height limitations in this section:

l. Water, radio, telephone (including cellular), or television towers or any equipment for the transmission of electricity or communications, or both; and

2. Structures which are slender in nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires, or windmills, provided no part of the structure which is higher than (forty) 40 feet is intended or used for human occupancy.

### (d) *Land Use Spacing & Protected Facilities.* All uses and industries regulated by this ordinance shall be required at the time of the issuance of an Intent to Construct permit to meet a minimum Land Use Spacing requirement from any Protected Facility as specified in the Land Use Table in Section 14-71(a)(the “Land Use Spacing”). Land use spacing shall be measured in a straight line without regard for intervening structures or objects from the closest edge of the property line of the tract on which the Area of Operations is located to the nearest improvement currently in use as a Protected Facility. The purpose of this requirement is to minimize the potential negative impacts of conflicting uses of land.

For the purpose of this ordinance, the following shall be considered "Protected Facilities":

1. An Educational Facility;

2. A North Carolina licensed Child Care Facility;

3. A North Carolina licensed Assisted Living Facility;

4. A North Carolina licensed Nursing Home;

5. A public or privately owned Hospital;

6. A Rural Medical Center;

7. A Church;

8. A Dwelling Unit; and

9. Historic landmarks recognized by NC Dept of Natural and Cultural Resources.

(e) *Operations Setback.* All uses and industries regulated by this ordinance shall be required to designate and maintain the minimum applicable Operations Setback as specified in the Land Use Table in Section 14-71(a) (the “Operations Setback”). Operations Setbacks shall be measured from the edge of the designated Area of Operations to the property line of the tract on which the Area of Operations is located. No Area of Operations or roads (other than ingress and egress) may be located within the Operations Setback area. Vegetative screening and fencing are required.

### (f) *Traffic Impact Analysis.* Access to all regulated uses and industries regulated by this ordinance shall be directly from a state-maintained road. No access from a private road shall be allowed (except those private roads owned solely by the operator). All uses and industries regulated by this ordinance shall be required to demonstrate that the proposed use will not create an amount of traffic (in terms of vehicle trips per day) that would push the roads by which the industry is gaining access over its practical carrying capacity as defined by the N. C. Department of Transportation (NCDOT). The most updated version of the Institute of Transportation Engineers "Trip Generation Manual" shall be used to determine the average number of daily trips generated by the proposed use or industry. The regulated use or industry shall add these projected daily vehicle trips to the most recent traffic counts performed by NCDOT for the surrounding road network.

If the regulated use or industry will exceed the carrying capacity of the roads which provide access to the property proposed to be developed over the practical carrying capacity, then the Applicant shall provide a traffic impact analysis (TIA) performed by a N.C. licensed engineer or transportation planner. The TIA shall provide specific recommendations for the mitigation of impacts from the proposed traffic, acceleration and deceleration lanes, road design standards, shoulder width, stoplights, and outlying intersection improvements.

(g) *Operations Area.* Operation of the regulated land use or industry outside of the designated Area of Operations is prohibited. Co-location of other land uses regulated by this ordinance within the Area of Operations of the regulated use or industry is prohibited. Each land use or industry required by this Ordinance to designate an Area of Operation must maintain a separate and distinct operations area for each industry or use. The following sensitive areas shall not be allowed in the designated Area of Operation of the regulated use or industry:

l. Any area of land located within a special Flood Hazard Area as defined by the current Caswell County Flood Damage Prevention Ordinance.

2. Any area of land classified as wetlands or woody swamp by the U.S. Army Corp of Engineers.

3. Any area of land designated by the North Carolina Wildlife Resources Commission as habitat for an identified Species of Greatest Conservation Need (SGCN).

(h) *Stream Setbacks.* All uses and industries regulated by this ordinance shall be required to maintain a minimum “Stream Setbacks” from any perennial or intermittent stream as specified in the Land Use Table in Section 14-71(a) (the “Stream Setback”). Stream Setbacks shall be measured from the Area of Operations to the bank of the Stream.

(i) *Landscaping & Screening.* All uses and industries regulated by this ordinance shall be required to provide a landscaping/screening plan. The purpose of this requirement is to minimize/mitigate the visual impacts of the land use on adjacent properties as well as to maximize the buffering of noise and particulate matter. Screening shall be installed and maintained at a minimum of fifty (50) feet in width for Class I and Class Il uses, one hundred (100) feet for Class Ill uses and two hundred (200) feet for Class IV uses. For Class I and Il uses, the screening shall consist of a minimum of two staggered rows of plantings. For Class Ill and Class IV uses, the screening shall consist of a minimum of three staggered rows of plantings. As part of the review process, the Planning Director may, at their discretion, consider existing screening and vegetation on the property. Suggestions for screening plans may be found in Appendix A of this ordinance. The County Planning Department staff shall inspect the landscaping/screening on an annual basis to assure that it is adequate and in compliance with this Ordinance, and to require specific remedial actions as may be needed for that purpose.

In the event that an Applicant is unable to plant or to maintain in existence required screening and/or landscaping; the Applicant may post a bond or certified check in the amount of 1.5 times the engineer's estimate for the completion of the proposed landscaping plan. Should the Applicant fail to install or provide the necessary landscaping/screening within the time specified by the County, the County will be entitled to complete the landscaping plan using the proceeds of the bond or certified check.

(j)*Gating and Fencing.* At a minimum, the Area of Operations of a regulated use or industry shall be completely enclosed by a minimum six (6) foot high fence with a self-locking gate.

(k) *Lighting.* Light trespass on neighboring parcels is prohibited. The Applicant shall demonstrate what preventative measures it shall employ, including, but not limited to, placement and direction of fixtures, and by use of lighting shades, hoods, walls, or fences which control light projection. Applicants are encouraged to use light shielding and fixtures that are approved by the International Dark Sky Association (IDA) as these fixtures conserve energy, reduce monthly costs, and minimize the impact of light pollution on surrounding properties.

### (l) *Compliance With Other Governmental Requirements.* Applicants under this ordinance are required to comply with all other applicable County, State, and Federal regulations. Said regulations include but are not limited to watershed protection, stormwater, erosion control, air quality, water quality, flood protection, building code, and NCDOT requirements. The Planning Director may require the Applicant to submit additional information based on the permitting requirements. Failure to submit any additional information required by the Planning Director within ten (10) days after the request for the same shall result in the denial or revocation of an Operations Permit unless the Applicant can demonstrate extenuating circumstances beyond the Applicants control resulted in the delay.

(m) *Noise.* When an adjacent property is occupied by a Protected Facility, the maximum permissible noise level as measured at the property line of the proposed industry or use shall not exceed 70 dB(A) from 7:00 a.m. to 7:00 p.m., and 65 dB(A) from 7:00 p.m. to 7:00 a.m. Measurements shall be made with an A-weighted filter within the specifications of the American National Standards Institute (ANSI). Impact noises generated by sources that do not operate more than one minute in a one hour period are permissible up to a level of 10dB(A) in excess of those limits from 7:00 a.m. to 7:00 p.m. Racetracks are exempt from the noise measurement criteria but cannot operate before 10am and after 10pm on Friday and Saturday, before 1pm and after 9pm on Sunday and before 10am and after 9pm Monday through Thursday.

**Sec. 14-72. Grandfathering and Nonconforming Uses.**

(a) *Grandfathering.* Any use or industry regulated by this ordinance, existing and in current operation upon the date of initial adoption of this 0rdinance which does not conform to the requirements hereof is a “Nonconforming Use”. Such nonconforming use may continue at the site of said operations, subject to the limitations, provisions, and requirements of this Section 14-72. In all cases the burden shall be upon the owner and operator of the nonconforming use to show substantial, material, and competent evidence that the use qualifies as a nonconforming use under this ordinance.

1. Owners and operators of nonconforming uses shall have a period of one (l) year from the date of adoption of this ordinance to apply, at no cost, for a Nonconformance Permit which will establish the existing use as a nonconforming use grandfathered under this ordinance. Failure to apply for a Nonconformance Permit within the said one-year period will constitute a violation of the ordinance as set forth in Sec. 14-77.

2. As part of the Application for a Nonconformance Permit, the Applicant shall be required to submit a site plan of all existing operations on the property including, but not limited to, the distance from any Area of Operations from existing property lines. For this purpose, the Applicant shall not be required to have a site plan drawn by an engineer or surveyor; however, it is strongly recommended.

1. *Nonconforming Uses.*
2. Alteration or Expansion. A Nonconforming Use may be altered, added to, expanded, or enlarged at the site of its operations, only upon applying for and receiving an Intent to Construct Permit and an Operations Permit under this ordinance and otherwise complying with this ordinance.
3. Reconstructing a Nonconforming Use.In cases of damage to a Nonconforming Use, repairs may be made and the Nonconforming Use may be continued without obtaining an Intent to Construct Permit or Operations Permit; provided, that said damage was not caused by the intentional or negligent conduct of the owner or operator; provided further, that in making repairs the owner or operator shall ensure that the footprint(s) of the original building(s) and all other operational facilities are maintained as they were prior to the date this ordinance was adopted. All repairs to a Nonconforming Use that do not comply with the provisions in this Section 14-72(b)(2) shall require an Intent to Construct Permit and Operations Permit.
4. Discontinuance. Notwithstanding the provisions of Section 2 above, if a Nonconforming Use is, for any reason, discontinued for one hundred eighty (180) or more consecutive days, such use may not resume until the owner and operator obtains an Intent to Construct Permit and Operations Permit. For purposes of this section, a regulated use shall not be deemed to be discontinued during such time as the owner or operator thereof has temporarily suspended operations solely due to the seasonal nature of the business pursuant to industry custom and practice.
5. Transfer of Permits & Sales.An Intent to Construct or nonconformance permit issued for any use of land regulated by this ordinance runs with the land and may be transferred with the property; provided that all operational permits are maintained as required.

**Sec. 14-73. Permitting Procedures**

### *General.* All Applicants proposing to construct a regulated land use under this ordinance shall obtain an Intent to Construct Permit from the Caswell County Planning Department prior to engaging in any construction or site development, and all Applicants proposing to operate a regulated land use under this ordinance shall obtain an Operations Permit prior to engaging in any operations. The following shall be required for all Applications:

1. Photo Identification. Applicants seeking to obtain a permit under this ordinance shall be required to provide a form of photo identification to the Caswell County Planning Department pursuant to County policy.
2. Pre-Application Meeting. The Applicant is required to meet in person with a Planning Staff member to discuss the nature of the proposed Application at least 14 days prior to making a formal Application and submitting a site plan.

At this pre-Application meeting, the Applicant shall identify in writing any additional permits which the Applicant needs in order to operate the regulated use or industry and provide a reasonable timeline for obtaining those permits. Additionally, the Applicant shall identify any components of the proposed development in which a variance may be required.

(b) *Vested Rights.* Upon the issuance of an Operations Permit, the statutory vesting granted shall be a period of one year, so long as the permit remains valid pursuant to all applicable law. Unless otherwise specified by N.C. General Statute 160D-108, said permit shall expire one year after issuance unless work authorized by the permit has substantially commenced.

### Sec. 14-74. Intent to Construct Permits.

An Intent to Construct Permit shall be required before the owner or operator of a use or industry regulated by this ordinance commences any construction or site development activities.

(a) *Approval of Intent to Construct Permit Applications.*

1. All Applicants shall be required to submit a site plan for review as part of the permitting process along with all other information required on the Application form proscribed by the County Planning Department. All site plans shall be drawn to scale by a licensed surveyor or certified engineer pursuant to the guidelines provided in Appendix C of this ordinance.

2. Upon submission of the site plan and the accompanying Intent to Construct Application, the Applicant shall certify that the Application is complete, accurate in all material respects, and ready for review. If an Applicant requests a variance, the variance decision must be fully adjudicated, including the resolution of any applicable appeals, prior to the Planning Board’s consideration of the Application. The Planning Director, or their designee, shall then schedule a public hearing date with the Planning Board as described in subsection (e) below.

3. The Planning Department shall review the site plan and Application based on compliance with the regulations imposed by this ordinance and make a recommendation of approval or denial to the Planning Board. Completed Applications shall be presented to the Planning Board for a public hearing and determination of compliance with the requirements of this ordinance. The Planning Board shall duly consider all public comments submitted during the public hearing. Provided, however, the Planning Board’s decision to approve or deny the Application may be based only upon whether the Application complies with the specific requirements set for this ordinance. Within 45 days of the conclusion of the public hearing, the Planning Board shall make a final determination of approval or denial of the Application. If the Planning Board determines that the Application is not compliant with the requirements of this Ordinance, the Planning Board shall include the reasoning for denial in the motion to deny the Application which shall be reduced to writing.

4. In cases where the Planning Board denies an Application, the Applicant may appeal said decision to the Board of Adjustment for a final determination per subsection (f) of this Section.

5. Planning Staff should review the Application in a reasonable time, taking into account the time necessary for proper public notice requirements and the Planning Board’s meeting schedule.

6. Upon the issuance of an Intent to Construct permit, the Caswell County Land Records System or Geographic Information System shall be changed to include a notice reasonably calculated to alert a person researching a particular parcel that the parcel is located within the spacing requirements of a regulated use.

(b) *Public Hearing and Notice.*

1. Upon the certification of a complete Application for an Intent to Construct Permit by the Planning Department, a public hearing on the proposed permit shall be scheduled for the next regular meeting of the Planning Board.

2. Notice of a public hearing at the Planning Board meeting shall be provided in the following manner:

a. The Applicant shall cause notice of the public hearing to be published in a newspaper of general circulation in Caswell County not less than 10 days nor more than 25 days before the date fixed for the hearing. The notice to be published is set forth in Appendix F to this Ordinance. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

b. The Applicant shall cause notice to be mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice. This list may be obtained from the Caswell County Clerk to the Board of Commissioners.

c. The Applicant shall prominently post a notice of the public hearing on the site proposed for the issuance of the Intent to Construct permit in the adjacent public street or highway right-of-way. When multiple parcels are included within the Application a posting on each individual parcel is not required, but the Applicant shall post sufficient notices to provide reasonable notice to interested persons. The Planning Director must approve placement.

d. The Applicant shall cause to be mailed a notice of the public hearing by certified mail at the last addresses listed on the county tax abstracts for the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, and provide proof of said mailing to the Planning Director.

e. The Applicant shall cause to be mailed a notice of the public hearing by first class mail at the last addresses listed on the county tax abstracts for:

(i) The owners of all parcels of land abutting that parcel of land as shown on the county tax listing,

(ii) The owners of all parcels of land as shown on the county tax listing, any portion of which is located within the spacing limit as described in Sec. 14-71 above.

(iii) The residents of any residential structures located on the parcels listed above

(iv) The holder(s) of any utility or other easement on the parcel(s) included in the Application.

(v) The notice of the public hearing shall be mailed by the Applicant to those property owners and residents identified above at least 21 days prior to the public hearing. The notice to be mailed is set forth in Appendix G to this Ordinance.

(vi) The Applicant shall produce a list showing all names and addresses to whom a notice of public hearing was mailed, and shall certify that proper notice was given to all required persons or organizations. Improper notice or certification shall be grounds to deny an Intent to Construct permit.

f. County administrative staff shall concurrently post notice of the public hearing on the county-managed social media outlet which typically receives the most resident interactions and to any electronic mail list of which residents have intentionally registered their addresses for notifications of this type. The county may also deliver the notice via an electronic mail list of more general circulation.

g. The Planning Director shall concurrently submit written notice to the Board of Commissioners when the date of the public hearing is determined.

3. The Planning Board shall hold a public hearing on the Application for the Intent to Construct Permit. At this public hearing, the regulated industry and community members may comment on the Application.

4. The Planning Board’s public hearing to consider the Application must be hosted no earlier than 5:30 p.m. on any regular business day. The public hearing shall also be held at a location and/or electronic format that invites wide public input. This special meeting may act as a substitute for the Planning Board’s regularly scheduled monthly meeting and other customary agenda items may be considered in addition to the public hearing.

(c) *Appeal of Decision regarding an Intent to Construct Permit.*

Appeals from decisions by the Planning Board regarding an approval or denial of an Intent to Construct Permit must be made within 30 days of the filing of the written decision in the Planning Department to the Board of Adjustment. In the event of a timely appeal, the Board of Adjustment who shall review the Application for compliance with the requirements of this ordinance and in accordance with N.C.G.S. 106D-406. If the Board of Adjustment determines that the Application is compliant with the requirements of this ordinance, it shall then cause the Planning Director to issue the Intent to Construct permit. If the Board of Adjustment determines that the Application is not compliant with the requirements of this ordinance, it shall deny the Application. The Board of Adjustment’s decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NC G.S. 160D-1402.

1. *Groundwater/ Well Study.*

Applicants must certify whether any study or analysis of the impacts of the regulated land use on subsurface aquifers, ground water or wells is required to be undertaken by the Applicant pursuant to state or federal regulations, or for purposes of applying for any state or federal permit. If such a study is required, then the Applicant must submit a copy of the required study or analysis as part of the Application for an Intent to Construct Permit.

(e) *Decommissioning Plan.*

An Application must include a decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following:

1. Defined conditions upon which decommissioning will be initiated (i.e., end of land lease, no production for 12 months, etc.)
2. Restoration of property to condition prior to development for Class IV operations.
3. The timeframe for completion of decommissioning activities.
4. Description of any agreement (e.g., lease) with landowner regarding decommissioning.
5. The party responsible for decommissioning.

(f) *Fees.*

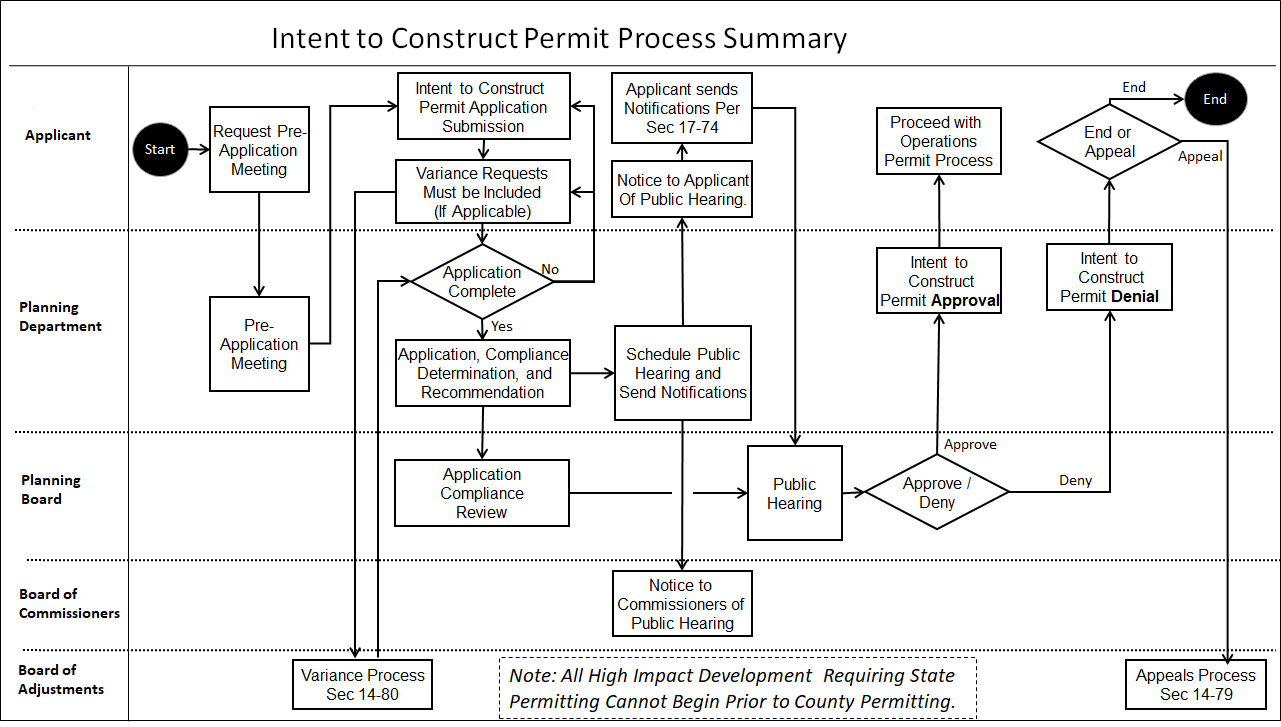
1. All Applicants shall be required to pay a fee at the time of filing an Application as pursuant to the guidelines listed in Appendix F of this ordinance; or as determined by the Caswell County Board of Commissioners during the establishment of the annual budget for the given fiscal year. In addition to the Application fee and renewal fees required by this section, the Board of Commissioners shall, from time to time, assess Applicants fees in such amounts as the Commissioners shall find necessary and sufficient to reimburse the County for the cost of any needed professional assistance that may be required by the County to evaluate the Application and amendments, renewal permits, verify permit Application content, and evaluate the impact of such a permit on the community, public health, and the environment; this assistance may include, but shall not be limited to, the assistance of biologists, geologists, engineers, chemists, hydrologists, other scientific experts, and professional testing laboratories. Fees established as part of the annual budget shall supersede those listed in this ordinance. All fees are non-refundable.

(g) *Duration of Intent to Construct Permits.*

1. Intent to Construct Permits authorize the permit holder to begin construction activities within one (l) year of the date of issuance. Delays due to those permitting requirements previously identified in the pre-Application meeting shall not be grounds for permit expiration. If construction activities have not been undertaken within this year, then the permit will expire and shall require re-Application and review as a new project.

2. If an Operations Permit pursuant to this Ordinance has not been issued within one (l) year of the issuance of the last permitting requirement identified in the pre-Application meeting, then the Intent to Construct Permit will expire and shall require re-Application and review as a new project.

3. If, prior to the issuance of an Operations Industrial Development Permit, any changes or amendments are made to an approved site plan which impact the requirements of this ordinance, the changes or amendments must be submitted to the Planning Department for approval. In the event an Application is resubmitted with substantial impacts, the Planning Director may require an additional public hearing and re-approval of the Application.



**Illustration 2: Intent to Construct Permit Process**

**Sec. 14-75. Operations Permits.**

A valid Operations Permit shall be required before the owner or operator of a land use or industry regulated by this ordinance commences operations. An Operations Permit is required for each regulated use.

1. *Post-Development/As-Built Site Plans.*

1. Prior to receiving an Operations Permit, all Applicants shall be required to submit a final "as built" site survey to the Caswell County Planning Department. Post-Development site survey shall be drawn by a licensed surveyor or authorized engineer pursuant to the guidelines provided in Appendix C of this ordinance. This submission shall consist of two (2) paper copies, not less than 18 inches by 24 inches in size.

2. Operations Permits may be approved prior to the completion of required traffic improvements upon the guarantee of said improvements by the owner/operator within an eighteen (18) month period. The County of Caswell may accept a surety bond issued by any company authorized to do business in this State, a letter of credit issued by any financial institution licensed to do business in this State, or another form of guarantee that provides equivalent security to a surety bond or letter of credit. All surety instruments shall be made payable to Caswell County. Surety must be in an amount equal to one and one-half times (150%) the cost of making the improvements, whereby such improvements may be made without cost to the public or subsequent purchasers of the property in the event of default on the part of the owner/operator. Owner/operators are required to obtain a letter from an engineer registered in North Carolina stating the total construction and surety amounts.

(b) *Final Site Inspection.*

Prior to issuing an Operations Permit, a final site inspection shall be performed by the Caswell County Planning Department to ensure that development was established in strict compliance with the approved Intent to Construct Application and site plan. Upon finding that all requirements have been met, the Planning Director shall issue the Operations Permit.

(c) *Other Requirements.*

1. Proof of an approved spill containment plan as issued by the Caswell County Fire Marshal.

2. Proof that all required permits from other federal and state governmental or regulatory agencies have been issued. Said permits shall be presented only when fully complete and arranged for efficient public disclosure in a format that is easily replicable.

3. The Operations permit must be displayed in a conspicuous place where it may be readily observed by the public upon entering the main business structure of the regulated use if the business is open to the public.

(d) *Appeal of decision regarding an Operations Permit.*

Appeals from decisions by the Planning Director regarding the approval or denial of an Operations Permit may be made to the Caswell County Board of Adjustment in the same manner as the appeals specified in Section 14-74(f).

### 

### Sec. 14-76. Operations Permit Renewal Required.

Operations Permits issued under this Ordinance are valid for a period of two (2) years and shall automatically expire, unless renewed. An Operations Permit renewal is required for each use regulated by this ordinance.

(a)  *Renewal Fees.* Prior to renewing the Operations Permit, the Applicant shall be required to submit a renewal fee pursuant to the guidelines listed in Appendix E of this ordinance; or as determined by the Caswell County Board of Commissioners during the establishment of the annual budget for the given fiscal year. Fees established as part of the annual budget shall supersede those listed in this ordinance. All fees are non-refundable.

1. *Site Visit Required.* A site visit must be conducted by the Caswell County Planning Director, or their designee, prior to issuing a renewed permit. It is the responsibility of the permit holder to schedule a site visit with the Caswell County Planning Department.

(c) *Other Requirements.*

1. Proof of continued compliance with all requirements of this Ordinance and maintenance of all other state, federal, and local permits required for the use.

2. Eligibility for annual renewal is prohibited if unremedied violations exist.

(d) *Appeal of decision regarding an Operations Permit Renewal.* Appeals from decisions by the Planning Director regarding the approval or denial of an Operations Permit renewal may be made to the Caswell County Board of Adjustment in the same manner as the appeals specified in Section 14-74(f).

**Sec. 14-77. Enforcement and Violations.**

(a) *Enforcement.* The Planning Director of the Caswell County Planning Department shall be responsible for the administration and enforcement of this ordinance.

1. The Planning Director, or his/her designee, shall determine whether any of the provisions of this ordinance are or have been violated. If it has been determined that a violation exists, notification shall be sent, in writing, to the person responsible for such violation. All notices shall be sent via certified mail.

2. Those found in violation shall be given thirty (30) days to remedy the violation. At the end of the thirty (30) day period, the Planning Director may, at their discretion, grant additional time to obtain compliance provided that the violator has made a good-faith effort to bring their property into compliance. In no circumstance, unless approved by the Planning Board, shall a person in violation be given more than ninety (90) days to obtain compliance.

3. As part of enforcement, the Planning Director may take any of the following actions, either alone or in combination: order the discontinuance of illegal use of land, buildings, or structures; order the removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; issue a stop work order for any illegal work being done; require the cessation of any actions, conditions, work, or operations which are in violation of this ordinance; revoke any Permit; take any other action reasonably necessary to insure compliance with, or to prevent violations of, the provisions hereof.

(b) *Interference.*

It shall be unlawful for any person to interfere with, hinder, or harass the employees, agents, or authorized representatives of the County in the performance of their duties under this Ordinance.

(c) *Violations; Penalties.*

1. Any violation of this ordinance shall result in a penalties pursuant to Chapter 1, Section 1-11 of the Caswell County Code of Ordinances, except that the amount of the civil penalty shall be $500 per violation, such payment being due within 30 days of the notice of assessment of the penalty.
2. Each day’s continuing violation of this Ordinance, where applicable, shall constitute a separate and distinct offense.

(d) *Equitable Enforcement; Order of Abatement.*

This Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by an order of abatement, as provided under G. S. § 153A- 123(d) and (e).

**Sec. 14-78. Cumulative Remedies.**

The remedies and penalties for violation of this Ordinance shall be cumulative, and the election of a remedy or enforcement of a penalty by the County hereunder shall not preclude the election of any other remedy or enforcement of any other penalty by the County which may be provided under this Ordinance or by law.

**Sec. 14-79. Appeals.**

1. *Appeal of Permit Revocation, or Notice of Violation.*

1. If an applicant, owner, or operator has been cited for a violation of this ordinance, or has had a Permit revoked by the Planning Director, they may appeal the Planning Director’s decision to the Planning Board. Appeals must be submitted, in writing, within 30 days of the notice of violation or notice of denial or revocation. At that time, the Applicant's appeal will be placed on the next available Planning Board agenda for the Planning Board to review and make a decision to uphold or overturn the Planning Director’s decision. If the Planning Director’s decision is upheld by the Planning Board, an appeal may be made to the Board of Adjustment by submitting said appeal in writing within 30 days of the notice of the Planning Board’s decision.

2. If necessary, the Board of Adjustment’s decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. 160D-1402.

3. In cases of appeals of violations or revocations of Permits, notice shall be provided as required by law.

(b) *Transfer of Permits & Sales of Nonconforming Uses*

An Intent to Construct or Nonconformance Permit issued for any use regulated by this ordinance runs with the land and may be transferred with the property; provided that all Operational Permits must be renewed as provided herein.

#### Sec. 14-80. Quorum and Vote Required for Variances.

The Caswell County Board of Adjustment, as established by N.C.G.S. § 160D-302, 160D-406, and 106D-1402, shall hear all requests for variances under this ordinance. A quorum of the Board, necessary to conduct any business of the Board, shall consist of four-fifths of the total membership of the Board. A vote to consider approval for a Variance cannot proceed until after the pre-Application meeting has been conducted. The vote of a four-fifths majority of the total membership of the Board shall be necessary in order to approve an Application for a variance.

1. *Application of the Variance Power.*

A variance shall only be allowed by the Board of Adjustments in cases involving practical difficulties or unnecessary hardships. Any authorizing of a variance shall not destroy the intent of this ordinance. Any authorized variance shall be recorded in the minutes of the Board of Adjustments and filed with the Planning Department. A hardship, as used in the context of this section, shall be considered to be some unique or unusual character of the proposed site, including but not limited to unique size, shape, contour, or distance requirement. An economic hardship to the Applicant is not to be considered for a variance. A hardship resulting from personal circumstances, as well as hardship resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

1. *Grant of Variance.*

The Board may grant a variance upon finding that the following conditions exist:

1. Extraordinary and exceptional conditions exist pertaining to the particular place or property in question because of its size, shape, or topography.
2. The variance will not confer upon the Applicant any special privileges that are, or would be, denied to other similarly situated individuals.
3. Strict Application of this ordinance would deprive the Applicant of rights commonly enjoyed by other similarly situated individuals.
4. The variance would not seriously deter from the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
5. The special circumstances causing the need for variance(s) are not the fault of the Applicant.
6. The reason(s) for the variance meet the requirements of the definition and description of “hardship” described in this section.

The Board may impose reasonable conditions upon the granting of any variance in order to protect the public interest or neighboring property owners and to maintain the spirit of this ordinance. Violation of any such conditions shall be a violation of this ordinance and subject to the penalties set forth in this ordinance.

(c) *Appeals of Board Actions.*

Every such decision of the Board of Adjustment shall be subject to review of the superior court in the nature of certiorari consistent with N.C.G.S. 160D-1402.

**Sec. 14-81. General Provisions.**

1. *Conflict with Other Laws.*

Wherever the provisions or Application of this Ordinance impose higher standards than are required in any other local ordinance or regulation, the provisions or application of this Ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this Ordinance, the provisions of such other statute or local ordinance or regulation shall govern.

1. *Severability Clause.*

If any section or specific provision or standard of this Ordinance is found by a court of competent jurisdiction to be invalid, the decision of the court shall not affect the validity of any other section, provision, or standard of this Ordinance.

(c) *Limit of Liability.*

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

(d) *Screening Guidelines and Suggestions.*

1. Screening buffers should be a minimum of fifty (50) feet in width for Class I and Class Il Industrial Developments. Screening buffers for Class Ill Industrial Developments should be a minimum of one hundred (100) feet in width. Screening buffers for Class IV Industrial Developments should be a minimum of one hundred fifty (150) feet in width.
2. Planting for all screening buffers, in general, should be done in a staggered manner with plants set on 8-10 foot centers. Planting may be allowed further apart, depending on the trees, shrubs, and other vegetation involved, at the discretion of the Planning Director. In all cases, the screening should produce a continuous hedge that significantly reduces or eliminates the visual impact of the land use. Existing vegetation may be deemed adequate, based on a site visit and visual inspection.
3. Staggered Planting:

\* \* \* \* \* \*

**Illustration 3: Staggered Planning Diagram**

1. Suggested Vegetation:

Applicants are strongly encouraged to consult with the County Cooperative Extension Agency to evaluate the quality of soil and probability of survival and proposed plants; including those suggested in these guidelines. Native species are preferred. Plantings which could be considered invasive are prohibited. The following trees are generally approved for visual screening purposes:

* Loblolly Pine (fast growing, 60-90' mature height)
* Arizona Cypress (medium growth, 40-50' mature height)
* Southern Magnolia (slow to medium growth, 60-80' mature height)
* Cryptomeria Yoshino (fast growing, 50' mature height)
* Tree Hollies (Nellie Stevens Holly, Mary Neil Holly, Emily Brunner Holly, Foster Holly, etc. …fast growing, 20-25' mature height)

**Sec. 14-84. Effective Date**

This Ordinance shall become effective and in full force upon the date of adoption.

The Caswell County Board of Commissioners hereby adopts this ordinance,

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2020.

CASWELL COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Chairman Rick McVey**

#### APPENDIX A

High Impact Development Intent to Construct Permit Application

Caswell County Planning Department

Date:

Project Name: Township Name:

Contact Person: Parcel I.D. Number:

Contact Address: Proposed Use:

Acreage of Lot: Property Owner

(If Different)

|  |  |
| --- | --- |
| Contact Phone: |  |
|  |  |

Describe what the land and/or building(s) will be used for:

Please state the proposed days and hours of operation:

Please state any additional comments you would like to make that you feel may be relevant to the consideration of this Application:

By signing this Application, the Applicant hereby certifies to the best of their knowledge the following statements are true:

l. The industry for which the Permit is being requested will at all times comply with the applicable regulations and standards imposed under this Ordinance.

2. No Permit issued to the Applicant under this Ordinance, or under any successor Ordinance hereto, has ever been revoked.

Applicant Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Received By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**APPENDIX B**

High Impact Development Operations Permit

Caswell County Planning Department

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Project Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Township Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact Person:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Parcel I.D. Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact Address: Proposed Use:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Acreage of Lot: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By signing this Application, the Applicant hereby certifies to the best of their knowledge the following statements are true:

l . The industry for which the Permit is being requested will at all times comply with the applicable regulations and standards imposed under this Ordinance.

2. No Permit issued to the Applicant under this Ordinance, or under any successor Ordinance hereto, has ever been revoked.

3. The proposed industry is properly permitted under and complies with, and at all times will be maintained and operated and will continue to be permitted under, all rules, regulations, and other requirements imposed by D.O.T., D.E.N.R., and any other applicable regulatory agency or governmental body.

4. The Applicant is the owner or lessee of the tract or tracts on which the industry is located or is proposed to be located.

5. The Applicant has been duly issued an Intent to Construct Industrial Development Permit by the Planning Department for the same proposed use, which Permit is still valid as of the date of filing of the Application for the Operations Permit.

Applicant Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Received by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPENDIX C

Specifications for High Impact Development Site Plans

**Title & General Information**

a. Date of submission.

b. Location designation (township, county, state).

c. Name and address of surveyor (Surveyor must sign and seal the site plan).

d. Scale in figures and bar graph.

e. North arrow.

f. Vicinity Map

g. Surveyor's or Engineer's Seal

#### Site Data

a. Name and address of owner(s).

b. Parcel Identification Number(s)

c. Name of Project.

d. Total acreage

e. Total percentage of proposed and existing impervious surface area.

#### Project Area (as applicable)

a. Designated Area of Operations; clearly showing all fencing and existing and/or proposed buildings to be located on the site.

b. The distance of the Area of Operations from all property lines.

c. Location of any streams, ponds, or other waterways located on the property.

d. The distance of the Area of Operations from any stream (perennial or intermittent) located on the property.

e. Lake and stream buffers.

f. Location and extent of any marginal land/floodplain.

g. Representative topography.

h. Location and purpose of any existing or proposed rights-of-way or easements.

i. Location of any existing or proposed stormwater control devices.

j. Location of existing or proposed septic tank and drainage field or public utilities

k. Design of the parking lot, showing all points of entrance and exit, proposed lot lighting (if applicable), parking stalls, handicapped-parking stalls, and distance between stalls (aisles); including all dimensions.

l. Location and dimensions of loading berths.

m. Location of proposed gate and signage.

n. An exterior lighting plan showing locations of all lighting and proposed lighting fixtures.

O. Screening/landscaping plan.

**APPENDIX D**

High Impact Development Ordinance Operations Permit

Permit # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Applicant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Permitted Use: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Caswell County Planning Director \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**APPENDIX E**

Proposed Fee Schedule

|  |  |  |
| --- | --- | --- |
| Classification | Permit Application Fee | Renewal Fee |
| Class 1 | $350 | $50 |
| Class 11 | $350 | $50 |
| Class 111 | $350 | $50 |
| Class IV | $500 | $50 |
| Nonconforming /Grandfathered | $0 | $0 |

APPENDIX F

**NOTICE OF PUBLIC HEARING**

Please take notice that the Caswell County Planning Board will hold a public hearing on DATE at TIME to consider the following:

Application of NAME/CORPORATE IDENTITY for a USE.

This USE will be located at ADDRESS.

Please contact COMPANY CONTACT for more information about NAME or USE.

If you would like to view a copy of the complete Application for this proposed USE, please contact the Caswell County Planning Department at NUMBER or view online at: LOCATION.

This public hearing will be held at the Historic Caswell County Courthouse, 144 Court Square, Yanceyville, NC 27379. All interested residents are invited to attend. If any disabled person has a special request for a hearing interpreter or other assistance, please contact the Clerk to the Board at (336) 694-4193.

The clerk read the public comments that were received:

“Jami Haigler, Blaylock Drive, Prospect Hill. The county of Caswell is in a devastating situation if it does not have an effective HIDO.  The consequences to our air and water is in the balance.  SO2 and NOX react in the atmosphere to form fine sulfate and nitrate particles that people can inhale into their lungs. The health problems as a result creates disease of the lungs and heart.  This can result in death and people becoming vulnerable to the Covid virus .The earth becomes more vulnerable to global warming.  Acid rain destroys the trees and our water.  We need an effective HIDO for our county.  Thank you for your time.”

“My name is Kim Steffan.  I live at 3598 Corbett Ridge Road, Mebane, NC in Caswell County.  Thank you for appointing me to serve on the HIDO Committee. I am asking that the Commissioners approve the HIDO in the form drafted by the HIDO Committee.  The Committee based its work on the Alamance County HIDO, which the Commissioners already thought was a good approach.  The Committee was asked to research and compare the Alamance ordinance to HIDOs in other similar rural counties, and draw from those where they had good ideas, which the Committee did.  The Committee used computer modeling based on GIS parcel data to assure that the land use spacing and operations setback rules were workable and practical on the size parcels we have in Caswell County. If anyone tells you that they think the land use spacing and operations setback rules unfairly limit an industry’s choice of parcels in Caswell County, please ask them to show you and the Committee the modeling data they have used (since you may find out that there are no data to support their assertion). Land use spacing and operations setbacks as set out in the HIDO are the best way to have industrial economic development and make it tolerable to the residents, farms, businesses, churches, and schools nearby. The other provisions of the HIDO (like screening, noise rules, and a plan for decommissioning) play an essential supporting role to reach that goal of compatibility. Rural residents, farmers, small businesses, churchgoers, and students should not have to live, work, worship, or learn unprotected in the middle of industrial facility development. In case you are curious, the existing County noise ordinance does not deal with industrial activity, nor is there any state statute that limits noise from an industrial facility. I found that to be a common question, so I thought it would be helpful to share that with you. The one place where I would like to see an improvement and strengthening of the HIDO is protection of water wells near industrial development that either depletes groundwater or tends to cause well failures. Using a no-fault well repair bond idea, the Committee tried, but was unable to find, a solution that the County would have the legal authority to enact under current state law. If you have other ideas on how to meet this goal, it would go a long way toward reassuring residents, farms, businesses, churches, and schools who depend on their wells and who are very near these types of industrial development.  I would encourage the Board to request special legislation in the General Assembly to allow the County to implement a no-fault well repair bond requirement for those industries as a beneficial future amendment to the HIDO.”

“Frankie & Lynn Pendergraft, 3131 Wrenn Road, Prospect Hill. Please, please approve the HIDO for Caswell County WITHOUT CHANGES that would lessen its protection. If you lived on Wrenn Road as we do, you would do everything you could to protect the air, the land & your families health & happiness.  Please protect us!”

“Belinda Layne, Prospect Hill. The HIDO as drafted is great! Please pass this Ordinance in order to effectively protect us from polluting industries. Thank you for serving your county!”

“My name is Evangeline Vinson Gaudette. I live at 441 Baynes Rd., Burlington. I am asking that you vote “YES” to pass the HIDO, as the moratorium on polluting industries will soon expire. I am also requesting that the "Table of Classifications" and the "Land Use Table” not be changed.

I am aware that you will also be voting to repeal the Environmental Impact Ordinance, and I request that you not repeal the EIO until the HIDO is in place, as we currently have no other protection. We, as a community, have and will continue to work hard in order to protect our land, our environment, and our families. This HIDO is a step in the right direction, and we value your support in protecting this community. Thank you.”

“Craig & Barbara Yearley. We are new property owners & future taxpayers for house on Flint Ridge in Prospect Hill. NC. My husband and I urge you to pass the HIDO without changes or reductions to the Table of Classifications. We also have concerns about repealing the Environmental Impact Ordinance and urge you to leave that in place. Please preserve this beautiful area & value that we are counting on to be our future home. Thank you so much.”

“Charlie & Cristina Ward, 5362 NC Highway 62S, Yanceyville. We are emailing to show our support of the HIDO and would appreciate if the Commissioner’s would vote in favor of it. As former business owners in Yanceyville, we are experienced in the difficulties with running a profitable business in a thinly populated area. However, we still find Caswell County to be a great place to open a business and live as the natural beauty of the area is one of our greatest assets. Any polluting industry that would eye Caswell as a place to locate to, would make our area a less desirable place for residents, clean businesses, and any future growth potential. Direct impacts to property values would prevail, and Caswell would be a place to be avoided instead of attracting new residents and businesses. We are hoping the Commissioners see things clearly and vote to pass the HIDO and help preserve Caswell County's natural beauty. Thank you for your time.”

“Heather Langan, 1077 Wilson Road, Hurdle Mills. Thank you for taking the time on behalf of Caswell County to consider the passing of a High Impact Development Ordinance (HIDO). I am writing to express in the strongest possible terms my support of the HIDO for protection of the land, air, and water around polluting industries. Never in the county's history have the stakes been so high. If we do not commit to robust rules regarding land use, irreparable damage will surely be wrought. This will have a cascade effect of discouraging healthy growth in the county. PLEASE implement the HIDO in its current form, which will protect businesses, farms, existing land use, and will not adversely affect the positive growth of the county. Rather, it will ensure the kind of growth we want - that which honors Caswell's legacy and expands on it. Since the moratorium will expire soon and the EIO is inadequate, we will be left with no protection against those who would take advantage of Caswell County's vulnerability to polluting invaders. It is vital that you, the stewards of the county and representatives of the people, stand arm in arm to champion and care for our most precious resources.”

“Our names are Ed and Dawn Dougherty, 2685 Ridgeville Rd., Prospect Hill. We appreciate all the effort and research that have gone into the writing of the proposed HIDO for Caswell County. We urge the Board of Commissioners to pass it with the strongest protections possible and to ensure that it is implemented before the expiration of the current moratorium. Until such time that county-wide zoning can be implemented, especially in Prospect Hill, the HIDO as proposed will be our only defense against the intrusion of polluting industries that seek to exploit our resources. The beauty and rural nature of this county, as well as the health of ourselves, loved ones, water, and environment, is deserving of our protection and demands the immediate action of the Board of Commissioners. We are currently witnessing the cost of past inaction in this county, and our home and way of life here are directly impacted by this.”

“Ed & Sharon Williams, 396 John Russell Road, Prospect Hill. The one year moratorium on polluting industries will expire soon.  We urge you to vote “yes” on the HIDO.  In its final draft, if passed without changes, it will give us the unparalleled protection needed to preserve Caswell County’s agricultural past while looking towards a future that safeguards the environment. This allows for measured progress that enhances rather than harms our citizens’ well being now and in the years to come. Thank you.”

“Mark Zimmerman, Leasburg. There is only one reason to pass the HIDO. It is needed to help provide safeguards to Caswell County residents and landowners from high impact industries. The HIDO is all about protection from potentially harmful businesses which can operate here. Therefore, the HIDO needs to have adequate protections. It needs to have ample spacing and setbacks, for land use and operations. It needs to have ample screening buffers. Neighboring and downstream property owners need strong safeguards.  The proposed HIDO provides the shields necessary to ensure this security. Do not water down the HIDO. Do not shrink from protecting our citizens. Keep Caswell a safe and healthy place to live. Thank you.”

“This is Jennifer and John Connor at 1321 Vinson Rd., Burlington, NC.  We would like to express how important it is to pass the HIDO especially with the 1 year moratorium on polluting industries soon to expire.  The HIDO will be the only protection for us so please vote “YES” to pass.  We would also like to encourage you to pass the HIDO without changes to the Table of Classifications (Sec 14-68) and without changes or reductions to the Land Use Table (Sec 14-71).  Thanks so much to everyone on the Board of Commissioners and everyone on the HIDO committee.”

“Mimi Logothetis, 9501 NC Highway 86N, Cedar Grove. As we look down the barrel at the close of the year long Moratorium on Polluting Industries in Caswell County, I urge you to accept, support and vote YES on the newly drafted protective measure of the HIDO, developed by special committee and the planning board. This set of regulations will assist the success and shape the future of development and health of the land and citizens of Caswell County for generations to come. You have the power now to decide whether history will remember this time as one in which we acted for the greater good, and did not sit on our hands and pass the buck, for our children to pay the dues. I ask that you vote YES to accept the Table of Classifications as written, no changes or amendments. I ask that you vote YES to keep the land use and operations set backs as written, certainly do not diminish what is written, but if desired, feel free to strengthen those set backs with more distance, as poison does not abide by man made borders or set backs. More is better in this instance, please do not lessen any distances here. I ask that you reconsider repealing the EIO and in fact, keep it in place, as well as installing the HIDO. The EIO serves a very different function that the HIDO. It is an added measure security, of study and information gathering so that WHEN an industry is approved by the parameters of the HIDO, the EIO can act as an even stronger back-up to ascertain exactly which impacts on the environment will be tolerated or allowed. If we have learned anything at all from this pandemic, it is that one's health and the health of the community is the foremost important aspect of life. Please vote YES to safeguard our community from adverse health effects which are created by industry which has no regard nor monetary benefit for our community. Thank you for listening to this community.”

“This is Sylvia and Homer Saunders at 386 Vinson Rd., Burlington, NC.  We live less than a mile from the Anderson asphalt site.  We would truly like to express how very important it is to pass the HIDO especially with the 1 year moratorium on polluting industries expiring soon.  The HIDO will be the only protection for us so please vote “YES” to pass.  Thanks so much to everyone on the Board of Commissioners and everyone on the HIDO committee.”

“Melvin Butler, Cherry Grove Road. I just found out about the HIDO proposal before the board and wanted the board to know my feelings. The people of this county just voted down zoning and the HIDO is just a backdoor zoning ordinance. The setbacks and some other issues are excessive and some other issues are not addressed sufficiently. The moratorium should be extended to give the people time to get involved and come up with an ordinance to fit Caswell County.”

“Scott Oakley, 1425 Baynes Road. Thank you for holding this public hearing today and it has been a privilege to serve on the HIDO Committee.  I would request that no reductions be made to the minimum lot sizes, land use setback, operations setbacks and stream setbacks listed in the final draft. You can be assured that the committee performed extensive research of other rural counties, GIS research of Caswell County and modeling of all the numbers contained in Land Use Table (Section 14-71) to arrive at these numbers. The Committee evaluated all of the industries included in the Table of Classifications (Sec 14-68) and we feel we have a comprehensive list of high impact industries and also included proper exemptions to not burden small and temporary operations. It is my humble opinion that the HIDO in its current draft is superior to any other rural County in North Carolina. However, it could be further strengthened by adding protections for water wells located near high impact industries and I would request that the Board of Commissioners direct further work to find a solution. Thank you again for putting the 1 year moratorium in place which gave the County sufficient time to develop the HIDO. I ask for your unanimous support of the HIDO.”

“Blanche Wilkerson, Marvin Wilkerson, Arnold Wilkerson, Kathleen Wilkerson, Tim Wilkerson, Allen Wilkerson, Lendi Williamson, and Leigh Meadows, Pelham. Please support economic progress and economic development. Our county desperately needs jobs for our families to make a living. The EPA and the State of North Carolina already have strict rules regulating heavy industry and protecting the environment. The HIDO draft has setbacks and spacing requirements that will be detrimental to industry. The HIDO is unnecessary and will destroy industry and eliminate jobs for our citizens. Caswell County is one of the poorest counties in the state. We need jobs. We need opportunities. Please vote against HIDO so that we can bring jobs into the county. Please help.”

“Annette & Robert Jeffers. To The Commissioner, pass the HIDO (high impact development ordinance) WITHOUT CHANGES OR REDUCTIONS TO ANY OF THE LAND USE TABLE NUMBERS and without changes to the table of classifications.”

“Margaret M. Martin, MD. It is my understanding that the moratorium on polluting industries is set to expire this year. As a Caswell resident and physician, I can see no reason to allow this to happen. The HIDO offers protections for our air and water which preserve our pristine waterways and woodlands which are the hallmarks of this county and the reason we are known for excellent hunting, fishing, and recreation. In addition, it affords our citizens the healthy environment we currently enjoy in which to pursue work and play. I am concerned that recent proposed industries for the area will encourage this board to place profit over protection and result in irreparable damage to our flora and fauna. Specifically the release of sulfur dioxide and nitrogen oxides from these endeavors will result in acid rain, and thereby the leeching of aluminum from the soil into the waterways. The cascade of events from acid rain is well described and known to be a detriment to fish, mammals and birds who depend upon our lakes and streams for their very existence, not to mention the trees and plants that anchor our shoreline soil and prevent erosion. The latter could change the physical landscape we have come to enjoy. As a physician, I am also concerned about the release of tiny NOx and SO2 into the air we all breathe. It is also well known that these two chemicals, when released as fine particles by industry, are inhaled into the lungs causing respiratory tract irritation and inflammation. They are implicated by medical research as a contributor to heart disease, cancers, emphysema, and other human morbidities. Children with asthma and adults with COPD are at particular risk from these exposures. I implore you to consider the beauty of this area in which we are all blessed to reside and vote yes to keeping the HIDO, as well as not repealing the EIO which has its own many merits in preserving what we now enjoy. The damage that just one episode of pollution can cause may take decades to reverse or worse yet, may be impossible to reverse it at all!”

“My name is Sharon Vinson. I live at 703 Vinson Rd, Burlington, NC in the Anderson community. I am requesting that you please vote YES to pass the HIDO and that you do NOT make any changes or reductions to any of the current Land Use Table numbers in the HIDO. Also, do NOT make any changes to the Table of Classifications. What numbers would you want in place in the HIDO if an asphalt plant or quarry was about to be located next to the home of your own children or your grandchildren?”

“Pat Warren, 36 Main Street, Prospect Hill. It is with great respect that I make this public comment regarding the High Intensity Development Ordinance (HIDO). Considering that the zoning referendum lost by a slim margin in the county at-large, the protections that the HIDO will offer may possibly be the only protections that the citizens of Caswell County will have when it comes to the encroachment of polluting industries and other undesirable businesses locating near our homes and neighborhoods. The highly capable HIDO Committee painstakingly conducted research, met numerous times, and studied the legal aspects of the submitted HIDO draft so I trust that you will take that into serious consideration in your deliberations and that you will accept the HIDO as submitted. Among other aspects of the HIDO draft, it is particularly important that the following conditions are held into full account. I am requesting that:

* The HIDO is passed before the Moratorium on Polluting Industries expires in early January
* Section 14-18 defines screening buffers. It is critical that the screening buffers are not reduced but remain intact as submitted by the Committee.
* Section 14-68 contains the Table of Classifications which classifies all industries that will be regulated, specifically placing asphalt plants as Class III industries and quarries as Class IV industries. It is crucial that the Table of Classifications is kept intact as submitted by the Committee.
* Section 14-71 contains the Land Use Table. It is urgent that it is kept intact as submitted by the Committee in that it protects Caswell citizens in the following ways:
  1. By reasonably creating land use spacing, operations setbacks, and stream setbacks for each class. It is imperative that these spacing and setbacks are not reduced.
  2. By reasonably defining minimum lot size
  3. By reasonably defining “Protected Facilities”
  4. By reasonably protecting our water by determining stream setbacks
  5. By reasonably determining operations setbacks

I also urge the Board of Commissioners to seek legislation for a no-fault well repair fund amendment to be added to the HIDO after the special legislation is passed. The majority of Caswell County citizens depend on well water. A no-fault well repair fund is critical for current and future citizens of the County. You have been entrusted with the daunting task of studying and understanding the comprehensive HIDO draft as submitted by the highly capable HIDO Committee. They have done their job of protecting Caswell County citizens while also considering industrial growth. I am requesting that the Board of County Commissioners do its part to care for and protect Caswell citizens as well. Thank you for your service to Caswell County and its citizens.”

“Karen Tate Gray, 948 Union Ridge Road, Burlington, Anderson Community. My name is Karen Tate Gray, and I am supporting the passage of the HIDO as it has been submitted from committee. I am a lifelong resident of Caswell County. I chose to return to the county after college due to it rural nature. While it is important to bring in new industry, it is even more important to have parameters in place to protect citizens as businesses and industry look at our county. In the past year, we have seen what can possibly happen without having appropriate measures in place in our county as an asphalt company is trying to come into our county. We are nearing the end of the moratorium on polluting industries so it is vital to our county that you vote to pass the HIDO for our county as it has come out of committee without making changes. Two areas of concern in the HIDO that should be passed without changes are the Table of Classifications and the Land Use Table. In regard to the Land Use Table, the HIDO should be passed without changes or reductions to the setbacks put forth as well as the minimum lot size and land use spacing. I understand that the original document included protection of our wells but has been omitted in the final document. I feel that you should consider this option since most residents depend on well water. In reading the document, it states that you are repealing the Environmental Impact Ordinance. I encourage you to reconsider this. This is an added level of protection for our county that continues to be needed in addition to the HIDO. I have a deep love for our county, and I am concerned about the number of acres being bought by those from outside of our county. My brother's farm was recently purchased by someone from outside of the county. This person is not concerned about the people who are also lifelong residents and own land adjacent to the farm. I had many sleepless nights being concerned about who might buy it and what they might do with it. I was not concerned for myself but for those whose live adjacent to the land. I should not have to lose sleep because our county has failed in the past to put in place protections for our lands and citizens. Daily, I gaze out upon acres that are occupied by cows, goats, and sheep. But if that land is sold in the future, I fear, without this HIDO, what I may have at my front door. Many of us took a stand for zoning, and with little public education about the issue, it came close to passing which shows that county's citizens are concerned about land use. Again, I am advocating for passage of the HIDO as it has been presented by the committee to protect our land, our environment, our citizens, and our county for future generations.  Thank you.”

“Art & Joyce Miller. This email is a plea and request for you to pass the HIDO without changes or reductions to any of the land use tables. Thank you very much!”

“Anita Foust, 2501 Hughes Mill Road. It seems that the health and safety of the residents are not being safe guarded. Perhaps the idea is that this will be revisited to add things in later. We know how that goes. Certain companies will jump in to apply as soon as the moratorium is expired so that they can benefit from this lapse of care for the residents or the concerns are NEVER added in. Certain companies will then be “grandfathered in” to a HIDO that does not specify about the payment for residents stay in hotels in case of an emergency caused by dried up wells and fire. The fire can be in the wee hours of the morning when fire and police officials will knock on the sleeping residents doors telling them to evacuate. Some are sick, on a fixed income and don’t have transportation. All they have is their home. In this scenario, how are they to evacuate? What is the plan? Where is the evacuation plan and the commitment that is needed to compensate the residents along with the time that the offending company must handle these emergency evacuations and damage? Please follow this link to a news report of a fire from an asphalt plant next to a residential area. They had no alarm to warn them of the danger. The foam with PFAS was used to put out the fire. If they had wells, the water may be contaminated. The link is: <https://www.youtube.com/watch?v=ckFJoS5j63A>. Please take care of the resident’s and the environment by being more detailed as I have described in the attached document and my previous comments below. You are our first line of protection and we are depending on you. Thank you.”

“Stephen M. Harris, Semora. Please help the citizens and vote no to HIDO. Please support economic progress and economic development. Our county desperately needs jobs for our families to make a living. The EPA and the State of North Carolina already have strict rules regulating heavy industry and protecting the environment. The HIDO draft has setbacks and spacing requirements that will be detrimental to industry. The HIDO is unnecessary and will destroy industry and eliminate jobs for our citizens. Caswell County is one of the poorest counties in the state. We need jobs. We need opportunities. Please vote against HIDO so that we can bring jobs into the county. Please help.”

“Brian Harris. Please vote for common sense HIDO. Please reduce the land use spacing and operations setbacks in the HIDO. The strict requirements will cause good paying jobs to leave Caswell County. We need pavement for our highways and gravel for our driveways. We need good paying jobs for our citizens. Most of us have to drive outside of Caswell County just to make a living. Please support common sense regulations for industry. We all travel on roads made of pavement or gravel. Caswell County has lost population over the last 10 years while areas around us have prospered. Caswell County citizens need an economic future. Please help us and vote against HIDO.”

“William Blackard. Please say No to HIDO. According to NCDEQ there are 135 crushed stone quarries in the state of North Carolina. However, we do not hear about problems with our state’s existing quarries. Caswell County citizens use pavement and gravel too. Heavy industry provides opportunities for our citizens to make a living. Please don’t abandon the working citizens of Caswell County. We need jobs and opportunities for our community and for our children. Caswell County keeps losing citizens because we don’t have jobs. Please turn down HIDO. Please help us.”

“William Tatum. HIDO is ZONING. Please turn away HIDO. The citizens of Caswell County turned down zoning. It seems suspicious that no one is talking about HIDO, but it appears that HIDO will be the same as zoning. HIDO has restrictions that will deter any industry from investing in Caswell County. The HIDO has 2,300 feet of spacing and setbacks requirements, which will make it impossible for any jobs or businesses to move in the county. Caswell County needs economic assistance. Caswell County needs industry. Please help us bring in jobs. Please vote away HIDO.”

“Steve Blackard. HIDO will destroy opportunities in our Industrial Parks. Please vote against HIDO. Caswell County has designated industrial parks in Pelham, Gatewood, and Yanceyville. The industrial parks can create jobs for the citizens of Caswell County and enhance our workforce. However, the HIDO restrictions allow for no economic investment in our county. This will prevent businesses from coming to our industrial parks. The spacing and setbacks with a combined 2,300 feet will most land in this county useless. Please help us attract businesses, not drive them away. Please protect our economic future. Please reject HIDO.”

“James H. Webster. NO to HIDO. Please vote against HIDO. HIDO will prevent industry and jobs from coming into Caswell County. Caswell County is in terrible economic shape compared to our neighboring counties. We have one of the largest tax rates in our immediate area. We need economic relief so that the tax burden is not placed on our citizens. Please encourage industry to come to Caswell County to help us with our tax base and provide jobs for us. We have industrial parks in our county. However, HIDO will eliminate any industry from moving into the parks. We need more jobs to come to Caswell County so that our citizens can have better livelihoods and provide for our families. We need to keep our kids here and give them jobs right here in Caswell County. Please help us.”

“Phil Barfield, Yanceyville.  Thank you for forming a highly qualified committee to draft this HIDO and present it to the Board and the public in a timely manner.  This ordinance promotes a clear understanding between local government, potential industries, and citizens on the requirements of high impact activities in our county.  The activities are well defined and classified with adequate minimum lot sizes, land use spacings, and operations setbacks for protected facilities.  Together these requirements provide needed protections to Caswell County residents that are lacking in our current ordinances and state and federal regulations.  I urge you to maintain the current spacings and setbacks as presented to ensure these industries can be properly located within our county without impacting the health and welfare of our communities.  Please finalize and adopt this ordinance before the moratorium expires. Thank you. Great work on this!  Well thought out. Some suggested corrections to the draft HIDO:1. DCDEQ in definition should be NC DEQ. 2. D.O.T. should be NCDOT in definition and in Appendix B. 3. D.E.N.R. should be NC DEQ in Appendix B. 4. Resource Extraction is listed as Class III and Class IV in Table of Classifications.  Should it only be in one Class?. 5. In the definition for Saw Mills, should it read “*Facilities not included in this category are portable sawmills without permanent structures and those employing not**more than three full-time employees, and in operation for a duration of not more than six months at the same Area of Operations.*”? 6. In Section 14-74(g)3., “Operations Industrial Development Permit” should be “Operations Permit” to be consistent with the rest of the document. 7. In Section 14-75(d), reference to “Section 14-74(f)” should be “Section 14-74(c)”. 8. In Section 14-76(d), reference to “Section 14-74(f)” should be “Section 14-74(c)”. Some recommendations: 1. In the definition for Saw Mills, change it to read “… *for a duration not to exceed a single 180 day period at the same Area of Operations*”.  This may eliminate confusion whether the six months needs to be continuous or whether a new six month period begins if operations are restarted after a temporary shutdown. 2. In the definition for Stone Crushing, change it to read “…*for a duration not to exceed a single 120 day period*” for the similar reason as above.

3. Require the Planning Department to notify the Planning Board, Board of Commissioners, and County Manager by email within 2 business days after a pre-Application meeting giving a brief summary of the proposed Application. 4. Require the Planning Board and Board of Commissioners to place the notice on their next agenda and read the summary for record during their next meeting.  This allows for more communication and transparency.”

“Elizabeth Norman, 1811 Wilson Road, Hurdle Mills. I am writing to encourage you to pass the HIDO in tomorrow’s meeting, as well as to maintain the EIO. We need all the protection we can get from polluting industries and any encroachments on maintaining a clean and healthy environment in our county. Clean water and air are irreplaceable and our family is in strong support of any appeals to strengthen these protections. Many thanks for your careful forethought.”

“Virginia & Stephen Pietsch. We are writing this letter in support of the HIDO. It is very important to us that the HIDO be passed in December, before the expiration of the Moratorium, to give the citizens of Caswell County as much protection as possible. Our wells are the only viable source of water for life support.  Please do everything you can to protect healthy life in the areas around industry. We also ask you NOT to repeal the Environmental Impact Ordinance (EIO). The HIDO and EIO are necessary pieces of legislation to protect the citizens of Caswell County from industries that may cause harm to the health of our citizens, as well as the deterioration of the surrounding environment, through the unregulated dispersal of pollutants into the air, land, and water. Please keep us All safe! Thank you.”

“My name is William Compton, and I reside at 12068 S NC Hwy 62, Burlington, NC, near the proposed Burlington North Asphalt/Concrete site. I adamantly oppose any approvals for this polluting operation at this site. It has already been established by NCDAQ/NCDEQ and several other scientists that the emissions from any such operation onto nearby neighborhoods would result in extreme negative health effects, such as Death, to those residents, including my wife and myself.

Please do not allow this company to kill us!

1. Accessive SO2 and NOx in the air would result in acid rain.  The ecological effects of acid rain are most clearly seen in aquatic environments, such as streams, lakes, and marshes where it can be harmful to fish and other wildlife.
2. As it flows through the soil, acidic rain water can leach aluminum from soil clay particles and then flow into streams and lakes (USEPA). Dead or dying trees are a common sight in areas effected by acid rain. Acid rain leaches aluminum from the soil.  That aluminum may be harmful to plants as well as animals. Acid rain also removes minerals and nutrients from the soil that trees need to grow.
3. SO2 and NOX react in the atmosphere to form fine sulfate and nitrate particles that people can inhale into their lungs.  Many scientific studies have shown a relationship between these particles and effects on heart function, such as heart attacks resulting in death for people with increased heart disease risk, and effects on lung function, such as breathing difficulties for people with asthma. (These may also be the preconditions for COVID 19)
4. In addition, NOX emissions also contribute to ground level ozone, which is also harmful to [human health](https://www.epa.gov/ozone-pollution/ozone-basics#effects).

We elected you to represent us and we depend on you to protect us and to project our voices.

Don’t let us down.”

“Kim Merritt. As a concerned citizen, I am writing to the Caswell County Board of commissioners and asking that you please pass the HIDO (High Impact Development Ordinance) WITHOUT CHANGES OR REDUCTIONS TO ANY OF THE LAND USE TABLE NUMBERS and without changes to the Table of Classification. Please help keep this beautiful County, that the majority of you probably grew up in, beautiful and clean for us and all of the future generations. Please think of the future health and we'll being of your families when you are making this very important critical decision. Thank you!”

“Dawn Hurdle Compton, 12068 NC Highway 62 South, Anderson Community. I as a concerned county resident and a family who has lived here for 4 generations on the same land, deeply hope you consider the lives you will be affecting in the Anderson Community and also consider the lives of those to already suffer from environmental factors. Please ask yourself how allowing a polluting industry would affect your decision if you were living within a short distance of it?

I ask all of you to vote YES for HIDO and to please leave the original setbacks in place that the planning board has tried to change. All of us have worked hard to safeguard our HEALTH, our land, our wells, and our families. Please give us the protection we need! I suffer from Lupus and breathing problems. Please do not rob us of the betterment of living conditions. Thank You for your thoughtful consideration.”

“Denise Burnette, Prospect Hill. I am writing to express my support for the Caswell HIDO to pass without any changes.  Caswell County is a beautiful place to live.  It is heartbreaking to hear stories of the families who have an asphalt plant and/or a rock quarry moving in right next to their homes.  Many of these families have owned land in Caswell County for generations.  Now they will have to live with noise, pollution, the smell of asphalt, trucks running up and down their street all day long, the destruction of the beauty they once woke to every day, and the danger to their health magnified by the current Covid crisis.  For their sake and for all of us who call Caswell County home, please consider how you would feel if one of these facilities was to move in next to your home.  Almost no one in this county is immune to this possibility.  Everywhere you look there is open, undeveloped land.  I ask you to imagine that the open land closest to your home is the land being purchased and developed by a rock quarry or other polluting industry.  Certainly, you would all want the strongest protections to shield you from the environmental pollutants as well as the other negative consequences that come with such a facility.  I strongly urge you to make the choice to provide Caswell County with the strongest HIDO possible.  There is no way to know if and when more polluting industries will choose to call Caswell County home, and there is currently no way to know where they will be located.  Please pass the HIDO promptly, before the moratorium runs out, and in its current form, with no changes that will water it down or take away any protections from the people of our community. I also urge you to use caution as you are considering removing the current environmental impact ordinance.  It is my understanding that Sunrock did not follow the current ordinance in the process of bringing their facility to our community.  Please consider how removing this ordinance might effect any legal battle that the people may have against Sunrock due to their lack of compliance before you make the decision to remove it.  I thank you for your consideration of this request, and for all you do to protect and serve our community.”

“Helen Lunsford, Sabrina Tate, David Crumpton, Keith Blalock, Frances Blalock, Ronnie Lunsford, Thomas Fuquay, Jennifer Lunsford, Michael Lunsford, Ashley L. Tate, Bo Tate, Kenneth Yalst, Charles S. Crumpton, Sr., Linda B. Crumpton, Shirley B. Yarbrough, John Yarbrough, Timothy Yarbrough, Robbie Jean Yarbrough, Coty Tyler Redding, Rebecca Redding, Rachel Yarbrough, Bettie Satterfield, Robert Satterfield. Please say YES to jobs and NO to HIDO. Please vote against HIDO. HIDO will prevent industry and jobs from coming into Caswell County. Caswell County is one of the poorest counties in the State of North Carolina. Over 17% o four citizens live in poverty. If HIDO is going to keep jobs away from Caswell County then how do our leaders plan to solve the poverty in Caswell County? According to census statistics, our incomes are almost $10,000 less annually than the state average. We need more jobs to come to Caswell County so that our citizens can have better livelihoods and provide for our families. We need to keep our kids here and give them jobs right here in Caswell County. Please help us.”

Cheryl H. Scearce, Kelly H. Scearce, Duran Corbett, Thomas L. Hoskins, Brenda Hoskins, Wesley Hoskins, Carolyn Hoskins, Jennifer Lunsford, Michael Lunsford, and Greg Hoskins. Please say yes to economic opportunity and vote no to HIDO. Please support economic progress and economic development. The HIDO will prevent Pelham Industrial Park from bringing jobs to our community. The setbacks and spacing requirements will make it impossible for companies to build in the industrial park. We need jobs for Pelham. We need economic investment in Pelham. Please help us bring business to Pelham and Caswell County. Please do not scare away businesses from coming here and creating jobs for us and our families. We need economic opportunities. Please vote against HIDO so that we can see economic progress for our community. Please help.”

Commissioner Owen stated that he had received quite a few calls on the land use and setbacks.

Mr. Brian Ferrell stated that written public comments can be received for the next 24 hours.

RECESS

At 10:29 a.m. Commissioner Owen moved, seconded by Commissioner Carter to recess the public hearing on the High Impact Development Ordinance until Tuesday, December 1, 2020 at 9:00 a.m. After a roll call vote the motion carried unanimously. (Commissioners W. Carter, Hall, Jefferies, McVey, Oestreicher, Owen, and Williamson voted in favor.)

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Paula P. Seamster Rick McVey

Clerk to the Board Chairman

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