



# TOWN OF WAYNESVILLE Planning Board

9 South Main Street  
Suite 110  
Waynesville, NC 28786  
Phone (828) 456-8647 • Fax (828) 452-1492  
[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

Development Services  
Director  
Elizabeth Teague

Planning Board Members  
Susan Teas Smith (Chairman)  
Ginger Hain (Vice Chair)  
Stuart Bass  
John Baus  
R. Michael Blackburn  
Travis Collins  
Jan Grossman  
Tommy Thomas  
Blake Yoder

**Regular Meeting of the Planning Board**  
**Town Hall, 9 South Main Street, Waynesville, NC 28786**  
**Monday, January 13, 2024, 5:30 PM**

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## A. CALL TO ORDER

1. Welcome/Calendar/Announcements
  - Council Meetings available: <https://www.youtube.com/@TownofWaynesville/streams>
  - Minutes available at: <https://www.egovlink.com/waynesville/docs/menu/home.asp>
2. Approval of Minutes as presented (or as amended):
  - October 21, 2024 Regular Meeting
  - November 18, 2024, Regular Meeting

## B. BUSINESS

1. Public Hearing for a zoning map amendment to rezone 4 Elysinia Ave (PIN 8605-73-8236) from Hazelwood Urban Residential to Hazelwood Business District.
2. Public Hearing related to general corrections of the Land Development Standards.
3. Discussion of revised ordinance to regulate GMSP, solar arrays, and EV Chargers.
4. Discussion of new Legislation and potential ordinance to create a new zoning category of Rural Preservation.

## C. PUBLIC COMMENT/CALL ON THE AUDIENCE

## D. ADJOURN

## Waynesville Town Council Votes on the Planning Board Items 2024-2025

### January 9, 2024

- Rezoning request for the portion of the property at 1460 Russ Avenue from Dellwood Residential Medium Density Mixed-Use Overlay (D-RM MXO) to Russ Avenue Regional Center District (RA-RC) district.

*The map amendment passed unanimously.*

### March 12, 2024

- The Town Council approved the Conditional District Rezoning for Biltmore Baptist Church with the following conditions:
  1. Comply with the façade standards and include architectural elements on the north and south side building elevations in accordance with Land Development Standards (LDS) section 5.10.
  2. Preserve existing street trees along Asheville Rd (LDS 8.4.1).
  3. Require 5-ft sidewalks along Asheville Rd and Ratcliff Cove Rd (LDS 6.6.2 B, D).
  4. Allow parking at the principal frontage, as proposed on the Master Plan (LDS 9.3).

The applicant submitted the Transportation Impact Analysis study at the hearing, and the Council accepted it with no further comments.

*The map amendment passed unanimously.*

### March 26, 2024

The Town Council approved the Conditional District Rezoning for the 10.99-acre portion of the unaddressed parcels at Waynesville Inn and Golf Club PIN 8614-27-1901 and PIN 8614-27-7912, Greenview Conditional District Map Amendment (Rezoning), with the following conditions attached:

1. Lot width standards for CC-RL shall not apply
2. LDS standards for the proposed "Lane" within the subdivision shall not apply (LDS 6.6.2. E)
3. At both hydrant locations, the proposed "Lane" needs to be at least 26 ft wide. The plan needs to be adjusted prior to issuance of the building permit to comply with Fire and Building Codes.
4. The developer will pay payment-in-lieu for sidewalk construction with the easement granted to the Town to construct a sidewalk in order to fill the existing gaps in the neighborhood, per staff recommendations, with priority along the northern part of Longview Drive.
5. Civic space requirements of the LDS Chapter 7 shall not apply as the project claims credit for the existing amenities. Access to existing civic space must be guaranteed for all the residents of the development.
6. Landscape requirements of the LDS Chapter 8 shall not apply as the project will propose custom landscaping plan
7. Minimum spacing requirements between the driveways in CC-RL of the LDS Chapter 9 shall not apply

*The map amendment passed unanimously.*

### May 14, 2024

1. The Council closed the public hearing on the Longview Conditional District Subdivision and directed the Town Attorney (Martha Bradley) and Development Services staff to negotiate some conditions of approval with the applicant to ensure better compliance with the LDS. The Council will vote on the application on May 28, 2024 with consideration of negotiated conditions.

<p>2. The Council continued the public hearing on general 160-D corrections and tree preservation until June 11<sup>th</sup>, 2024.</p>
<p><b>May 28, 2024</b></p> <p>1. The Council unanimously voted to deny the Longview Conditional District Map Amendment.</p>
<p><b>June 12, 2024</b></p> <p>1. Text amendment related to 160D corrections, definition of townhomes, elimination of protest petitions, and tree preservation.</p> <p><i>The text amendment passed unanimously.</i></p>
<p><b>June 25, 2024</b></p> <p>1. Railroad Overlay Map Amendment (RR-O) to the official Waynesville Land Development Map (a.k.a. zoning map). The overlay district is applied to 111 properties, with 81 of them being in the Frog Level area and 30 in Hazelwood.</p> <p><i>The map amendment passed unanimously.</i></p>
<p><b>August 13, 2024</b></p> <p>1. Zoning map amendment at 225 Church Street, Waynesville, NC 28786 (PIN 8615-27-0218) from Main Street Neighborhood Residential (MS-NR) to Main Street Neighborhood Residential Mixed-Use Overlay (MS-NR-MXO).</p> <p><i>The map amendment passed unanimously.</i></p>
<p><b>September 10, 2024</b></p> <p>1. The Council returned the text amendment on accessory dwellings and manufacturing housing to the Planning Board for further analysis of its potential impacts on properties.</p>
<p><b>November 12, 2024</b></p> <p>1. Text amendment related to accessory structures and manufactured housing, LDS sections 3.2.1, 3.2.6, 4.5, and 17.3.</p> <p><i>The text amendment passed unanimously.</i></p>
<p><b>December 10, 2024</b></p> <p>1. Text amendment to allow the use of temporary, alternative housing for victims of disaster, Land Development Standards (LDS) Sections 2.5.3, 4.6.4, and 17.3.</p> <p><i>The text amendment passed unanimously.</i></p> <p>2. Text amendments related to signage and addressing, LDS Sections 11.3, 11.5.7, and 11.7.1</p> <p><i>The text amendment passed unanimously.</i></p>

3. A rezoning request from Pigeon Street Neighborhood Residential (PS-NR) to Ninevah Neighborhood Residential (N-NR) for a 0.61-acre property at 28 Addie Lane in Waynesville, NC (PIN 8615-42-0757).

*The map amendment passed unanimously.*

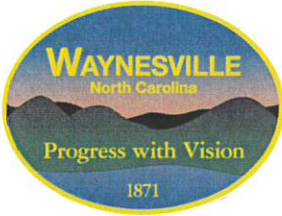
4. Text amendments to the Flood Damage Prevention Ordinance, LDS Sections 4.4.2, 12.3, and 17.5.

*The Council provided feedback and continued the hearing until January 14, 2025.*

**January 14, 2025**

1. Continuation of the public hearing: Text amendments to the Flood Damage Prevention Ordinance, LDS Sections 4.4.2 and 17.5.

You can access previous minutes and agendas by visiting the following site: <http://www.egovlink.com/waynesville/>.



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Jan Grossman  
Tommy Thomas  
Blake Yoder

## MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD

### Regular Meeting

Town Hall – 9 South Main St., Waynesville, NC 28786

Monday October 21<sup>st</sup>, 2024, 5:30 p.m.

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THE WAYNESVILLE PLANNING BOARD held a Regular Meeting on Monday, October 21<sup>st</sup>, 2024, at 5:30 p.m. in the Board Room of the Town Hall at 9 South Main Street, Waynesville, NC 28786.

### A. CALL TO ORDER

#### 1. Welcome/Calendar/Announcements

The following members were present:

Susan Teas Smith (Chair)  
Ginger Hain (Vice Chair)  
Stuart Bass  
John Baus  
Travis Collins  
Jan Grossman  
Tommy Thomas  
Blake Yoder

The following board member was absent:

Michael Blackburn

The following attorney was present:

Ron Sneed, Board Attorney

The following staff members were present:

Elizabeth Teague, Development Service Director  
Olga Grooman, Assistant Development Service Director

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Alexander Mumby, Land Use Administrator  
 Esther Coulter, Administrative Assistant  
 David Kelley, Senior Code Enforcement Official  
 Darrell Calhoun, Fire Marshall

Chair Susan Teas Smith welcomed everyone and called the meeting to order at 5:30 p.m.

Ms. Smith asked for announcements. Development Services Director Elizabeth Teague informed the board that Town Council meetings are available on YouTube. Ms. Teague also mentioned that on November 5<sup>th</sup>, 2024, there will be a quasi-judicial procedure training by attorney Ron Sneed at the Zoning Board of Adjustment meeting, and the Planning Board members are invited to attend.

Ms. Smith asked for a motion to approve the minutes.

*A motion was made by Board member Jan Grossman and seconded by Board member Travis Collins to approve the minutes of the August 19<sup>th</sup>, 2024, meeting as presented. The motion passed with 8 members voting for, and Board Chair Susan Teas Smith abstaining due to being absent on August 19<sup>th</sup>, 2024.*

## B. BUSINESS

1. Discussion on the Fire Code Officials' request for a text amendment to include addressing on ground signs, Land Development Standards, section 11.6.

Assistant Development Services Director Olga Grooman said the proposed text amendment was requested by the Town's Fire Marshall, Darrell Calhoun, to require street addressing on new ground signs, while clarifying that the addressing would not count toward the sign's face size calculation. Ms. Grooman stated the text amendment cross-references requirements for premises identification that specify that addresses should be affixed to something on the property, be visible from the street, and help emergency vehicle personnel better locate properties. Ms. Grooman told the board that this was a discussion to gather feedback from the Planning Board.

Board member Tommy Thomas asked how this would be administered and what are the penalties if businesses do not comply with the ordinance. He also inquired about the existing buildings. Ms. Grooman said that this provision would apply to new signs and existing signs would be grandfathered in.

Senior Code Enforcement Official David Kelley stated that the residential addressing code is different, and when any remodeling is done, the Town asks owners to place the address on the structure. Mr. Kelley clarified that this text amendment will apply only to commercial properties. He further stated that during the business's annual fire inspection, the visibility of the address is a requirement.

2. Public Hearing on text amendments related to accessory structures and manufactured housing, Land Development Standards sections 3.2.1, 3.2.6, 4.5, and 17.3.

Chair Suzan Teas Smith read through the procedures and rules of conduct for the Public Hearing.

She opened the public hearing at 6:05 p.m.

Ms. Grooman explained that at the Town Council meeting on September 10, 2024, the Council returned the text amendment on accessory dwellings and manufacturing housing to the Planning Board for further analysis of its potential impact on properties. On September 16, 2024, the Planning Board discussed potential revisions to the draft ordinance. Today, the staff presents the revised ordinance. The main provisions are:

- A. **Number:** Accessory dwelling units (ADUs) may only be located on a lot with an existing single-family dwelling. The number of accessory dwellings on a lot shall be as specified in Table 4.5.2. Accessory dwellings count toward, and may not exceed, the density of the underlying zoning district.
- B. **Other Applicable Laws:** Accessory dwellings must comply with all applicable local, state and federal laws, and building codes.
- C. **Placement on the Lot:** The placement of detached accessory dwellings on a lot shall be in accordance with Table 4.5.2.
- D. **Yard Requirements:** The accessory dwelling shall meet all yard/setback requirements as established for principal uses within the land development district in which it is located.
- E. **Compatibility:** Accessory dwellings shall be clearly subordinate in size, height, footprint, and other design elements, to the main structure. Existing accessory structures that are converted or partially converted to ADUs shall be subordinate to the main structure, as determined by the Administrator.
- F. **Campers, park models, tiny homes on wheels, travel trailers and recreational vehicles are not permitted for use as an accessory dwelling**, unless granted under a temporary housing permit for emergencies. Manufactured housing is allowed as an accessory dwelling only if it is permitted as a use in the underlying zoning district, subject to additional standards and design guidelines in Chapters 3 and 5. Manufactured housing is not allowed as accessory dwelling in Mixed-Use Overlay Districts except for the westside of the Dellwood Medium Density District and within the Railroad Overlay District

Ms. Grooman explained the more restrictive square footage limit for ADUs on smaller lots (1 acre or less), where the footprint for accessory structures, including ADUs, must be less than 10% of the lot size, with a maximum aggregate footprint. Currently, on lots under 0.5 acres, the ordinance allows 1,000 square feet for accessory structures and does not regulate the footprint of accessory dwellings. The proposed ordinance would cap all accessory structures at 10% of the lot size or 1,500 sf for lots under 0.5 acres, and 1,800 sf for lots between 0.5 and 1 acre, whichever is less. This change is much more restrictive than the current allowance

### **Public Comment**

Judith Gentry: Ms. Gentry expressed concern that her son and his family were unable to afford to rent or purchase a home in Haywood County. Ms. Gentry's family owns land and wants to allow her son to place a manufactured home on the property. Ms. Gentry thanked the board.

Chair Suzan Teas Smith closed the public hearing at 6:35 p.m.

*A motion made by Board members Jan Grossman, seconded by Board members Travis Collins, to find the recommended text amendment as presented, to be consistent with 2035 Land Use Plan Goal 1 to promote smart growth and Goal 2 to create a range of housing opportunities and choices. The text amendment is also reasonable and in the public interest. The motion passed 8 to 1.*

*A motion made by Chair Susan Teas Smith, seconded by Board members Jan Grossman to recommend the text amendment as presented to the Town Council. The motion carried unanimously.*

3. Discussion of the text amendment to allow use of temporary emergency housing while a home is being repaired from damage caused by a natural disaster or fire.

Development Services Director Elizabeth Teague said after the damage assessments were completed from Hurricane Helene, several single-family homes had significant damage and should not be occupied while repairs are being made. Ms. Teague told the board that the Town's Land Development Standards (LDS) prohibit campgrounds, campers, recreational vehicles, travel trailers as accessory dwellings units. Ms. Teague received guidance from the School of Government for temporary emergency housing. She asked the board to consider the draft text amendment to LDS Section 4.6.4: Temporary Uses with Specific Requirements.

The text amendment proposes to allow temporary uses of a travel trailer, FEMA trailer, or Recreational Vehicle as interim housing in any residential district in cases where the permanent home has been destroyed or damaged so that it is no longer safe as a dwelling. A land use permit for temporary housing must be obtained from the Development Services Department and will be valid for 180 days. Ms. Teague clarified that temporary housing permits may be extended while construction and repair activities take place and there is an active building permit. Ms. Teague also

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added that these temporary shelters will be restricted to the private property of the person whose residence has been damaged, or they must be located in a Town-designated emergency campground area to be determined.

4. Continuation of the discussion on the draft ordinance related to short-term rentals (STRs).

Board member John Baus asked the board to clarify which direction to pursue the STR research. Mr. Baus said he has been researching rules from other municipalities and exploring how other states handle short-term rentals.

Ms. Smith and Ms. Teague suggested that the board hold a special called meeting on December 5<sup>th</sup>, 2024, at 5:30 pm to work on STRs, EVs, and emergency housing text amendments. Ms. Teague asked the board to read the staff reports and draft ordinances before the next meeting.

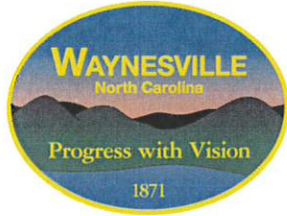
**C. ADJOURN**

*Board Chair Susan Teas Smith adjourned the meeting at 7:18 p.m.*

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Susan Teas Smith, Board Chair

Esther Coulter, Administrative Assistant



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## MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD

### Regular Meeting

Town Hall – 9 South Main St., Waynesville, NC 28786

Monday November 18<sup>th</sup>, 2024, 5:30 p.m.

THE WAYNESVILLE PLANNING BOARD held a Regular Meeting on Monday, November 18<sup>th</sup>, 2024, at 5:30 p.m. in the Board Room of the Town Hall at 9 South Main Street, Waynesville, NC 28786.

### A. CALL TO ORDER

#### 1. Welcome/Calendar/Announcements

The following members were present:

Susan Teas Smith (Chair)  
Ginger Hain (Vice Chair)  
Stuart Bass  
John Baus  
Michael Blackburn  
Travis Collins  
Jan Grossman  
Tommy Thomas  
Blake Yoder

The following board members were absent:

None

The following attorney was present:

Ron Sneed, Board Attorney

The following staff members were present:

Elizabeth Teague, Development Service Director  
Olga Grooman, Assistant Development Service Director

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Alexander Mumby, Land Use Administrator  
Esther Coulter, Administrative Assistant  
David Kelley, Code Enforcement Official  
Darrell Calhoun, Fire Marshall

Chair Susan Teas Smith welcomed everyone and called the meeting to order at 5:30 p.m.

Ms. Smith announced that the meeting will consist of 3 public hearings for text amendments and 1 public hearing for a map amendment. She read through the procedures and public conduct rules for the hearings.

Ms. Smith asked if there were any announcements. Assistant Development Services Director Olga Grooman introduced the Town's Stormwater Management Coordinator, Tyler Anderson. Ms. Grooman informed the board that Town Council meetings can be watched on YouTube. She stated that the special called meeting of the Planning Board would take place on December 5<sup>th</sup>, 2024, at 5:30 p.m. Ms. Grooman also announced the Town's holiday closure dates and the dates of Christmas parades.

There were no minutes to approve.

## **B. BUSINESS**

1. Public Hearing to consider the text amendment to allow the use of temporary, alternative housing for victims of disaster, Land Development Standards (LDS) Sections 2.5.3, 4.6.4, and 17.3.

Ms. Smith opened the public hearing at 5:40 p.m.

Ms. Teague started reading the staff report and noticed that the draft ordinance was missing from packet.

*A motion was made by board member Jan Grossman, seconded by board member Stuart Bass to table this public hearing. Motion passed unanimously.*

Ms. Smith re-opened the public hearing at 6:49 p.m.

Ms. Teague read through the proposed text amendment. It would allow temporary emergency housing as a use in all districts except the Commercial-Industrial District under the Table of Permitted Uses, Land Development Standards (LDS), section 2.5.3. Temporary use of travel trailers, FEMA-issued transportable housing units, Recreational Vehicles, or campers would be allowed in cases where a permanent home has been destroyed or damaged and is no longer safe as a dwelling, or when there is need for emergency housing because of a natural disaster or fire.

Ms. Teague explained that a permit for temporary emergency housing must be obtained from the Development Services Department and will be valid for 180 days. Temporary housing permits may be extended while construction and repair activities take place and there is an active building permit.

Ms. Teague further noted that temporary emergency housing would be restricted to the private property of the person whose residence has been damaged or in a Town designated emergency area established for housing. Only property owners, occupants, or tenants with damage from a natural disaster or fire, as identified by the Town's building inspections division, and those assisting with recovery assistance and construction, are allowed to occupy temporary emergency housing units. Additionally, a temporary housing unit must be placed within the property boundary of the house that is being repaired and with the permission of the owner. Alternative locations or placement of units in a designated area is subject to approval by the Administrator.

Ms. Smith closed the public hearing at 6:57 p.m. There was no discussion among the board.

***A motion was made by Board member Stuart Bass, seconded by Chair Susan Teas Smith, to find that the ordinance is consistent with the 2035 Comprehensive Plan's Goal 2 to create a range of housing opportunities and choices and is reasonable and in the public interest. The motion passed unanimously.***

***A motion was made by Board member Stuart Bass, seconded by board member Jan Grossman, to recommend the approval of the ordinance as presented to Town Council. The motion passed unanimously.***

2. Public Hearing to consider text amendments related to signage and addressing, LDS Sections 11.3, 11.5.7, and 11.7.1.

Ms. Smith opened the public hearing at 5:47 p.m.

Ms. Grooman read through the staff report to amend the Land Development Standards as follows:

- Street addressing will not count toward the calculation of the ground sign's face, but the use of the street address in the business name does not allow for an increase the area of the sign face.
- Signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant, must be placed in such a manner as to be visible from the street and as specified in Sec. 30-7.- Premises Identification of the Town of Waynesville Code of Ordinances.
- All businesses with new ground signs must display their street address number prominently on the sign, with address legible and maintained in a good and clean condition at all times.

Chair Susan Teas Smith closed the Public Hearing at 5:53 p.m.

*A motion was made by Vice Chair Ginger Hain, seconded by board member Michael Blackburn, to recommend the text amendment as being consistent with the 2035 Comprehensive Plan's Goal 1 to promote smart growth principles in the land use planning and zoning and encourage infill, mixed-use and context-sensitive development. The amendment is also reasonable and in the public interest because it promotes public safety and the efficiency of emergency operations. Motion passed unanimously.*

*A motion made by Michael Blackburn, seconded by Travis Collins, to recommend the text amendment as attached to the Town Council. Motion passed unanimously.*

3. Public Hearing to consider a rezoning request (map amendment) from Pigeon Street Neighborhood Residential (PS-NR) to Ninevah Neighborhood Residential (N-NR) for a 0.61-acre property at 28 Addie Lane in Waynesville, NC (PIN 8615-42-0757).

Assistant Development Service Director Olga Grooman read through the staff report and explained that the subject property is currently located within Pigeon Street Neighborhood Residential District (PS-NR), where manufacturing housing is not allowed. The applicant is seeking to rezone the property to the adjacent Ninevah Neighborhood Residential District (N-NR), where manufacturing housing is permitted. The rezoning would allow for the improvement of the property and the replacement of the dilapidated single-wide home currently on site, which represents a pre-existing nonconformity.

Ms. Grooman explained that the subject 0.61-ac property is surrounded by manufactured homes on three sides, and there is a manufactured home park approximately 300 ft to the northeast ("Meadows and Mountain Views Mobile Home Park"). The 119-acre property to the east contains a single-family home facing Pigeon Street.

Ms. Grooman said the property is designated as Residential Low to Medium Density on the Land Use Map. This map amendment is consistent with the Town of Waynesville's 2035 Comprehensive Land Use Plan and that it's reasonable and in the public interest because it meets the following goals of the Comp. Plan:

Goal 1: Continue to promote smart growth principles in land use planning and zoning.

- Encourage infill, mixed-use, and context-sensitive development.

Goal 2: Create a range of housing opportunities and choices.

- Encourage new housing within Waynesville's city limits and Extraterritorial Jurisdiction (ETJ).
- Promote a diverse housing stock including market rate, workforce housing, and affordable options that appeal to a variety of households.

Ms. Grooman also stated that both existing PS-NR and proposed N-NR districts fall under the same "umbrella"/category of Neighborhood Residential. In addition to their similar purpose and intent, there is no difference in dimensional standards, such as density, minimum lot size, required pervious surface (green area of the site), lot width, building setbacks, building height, and accessory structure standards (height, setbacks) between them. They also have similar purpose in intent in the LDS.

**Applicant:**

John Mason, the owner of the property, said Waynesville suffers from a lack of affordable housing. Residents of Haywood County struggle to find housing that they can afford. The average house price is \$525,000, and with a down payment, taxes, and insurance, your payment is around \$3,000 dollars a month. Regular people living in town and raising a family are not able to pay that much without a 2-person income. Mr. Mason said when he purchased the property he had that in mind and wanted to give 3 families an opportunity of home ownership.

**Public Comment:**

Jonathan Roundy of Waynesville had concerns of the medium home price, the property being subdivided into 3 lots with 3 homes, design guidelines, density, and name of the organization that owns the property.

Ms. Teague said the challenging thing about zoning is that you're dealing with people's property, which is most valuable asset for them.

Ms. Smith closed the public hearing at 6:34 p.m.

The board deliberated, and several concerns were raised, including: spot zoning, the need for manufactured houses as a means of providing affordable housing, the importance of considering areas for rezoning rather than focusing on a single lot, and the possible development plan that would create 3 lots, which could potentially lead to 6 homes through the addition of accessory dwelling units (ADUs).

*A motion was made by board member Tommy Thomas, seconded by board member Stuart Bass, to find the rezoning request as being consistent with the 2035 Land Use Plan's Goals 1 and 2 and reasonable and in the public interest. The motion passed 7:2.*

*A motion was made by board member Tommy Thomas, seconded by Vice Chair Ginger Hain, to recommend the map amendment to the Town Council. The motion passed unanimously.*

Ms. Smith called for a short recess at 6:58 p.m.

4. Public Hearing to consider text amendment to the Flood Damage Prevention Ordinance, LDS Sections 4.4.2, 12.3, and 17.5.

Ms. Smith opened the public hearing at 6:59 p.m.

Assistant Development Service Director Olga Grooman stated that the text amendments were related to the impact of Hurricane Helene that happened September 27, 2024, post-storm damage assessments, as well as feedback and recommendations from the NC Division of Emergency Management and the National Flood Insurance Program Coordinator. Strengthening local floodplain ordinances could help reduce future risks to life and property, while promoting public safety and community resilience.

Ms. Grooman explained to the board the Development Services Department inspected a total of 446 structures for damage and watermarks, and 342 of these structures had at least some level of damage. Properties raised 1 ft above the Base Flood Elevation (BFE) suffered less damage. Based on the intensity of Hurricane Helene and the extent of damage, staff propose an amendment to the ordinance to increase the required elevation from 1 ft to 2 ft above BFE for all new construction and substantial repairs within the regulatory floodplain.

Ms. Grooman continued to explain that although the properties that sustained the most flood damage occurred within a 100-year floodplain, significant damage also occurred along the bordering 500-Year Floodplain. Therefore, staff recommend expanding the floodplain regulations, including but not limited to building elevations, flood vents, etc. to the 500-year floodplain as well.

*A motion was made by board member Tommy Thomas, seconded by board member Michael Blackburn, to find the recommend text amendment as presented as being consistent with 2035 Land Use Plan's Goal 1 promoting smart growth and Goal 3 to protect and enhance Waynesville's natural resources and water quality. It is also reasonable and in the public interest. The motion passed unanimously.*

*A motion was made by board member Tommy Thomas, seconded by Chair Susan Teas Smith, to recommend the text amendment as presented to the Town Council. The motion passed unanimously.*

### C. ADJOURN

*The meeting was adjourned by Chair Susan Teas Smith at 7:18 p.m.*

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Susan Teas Smith, Board Chair

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Esther Coulter, Administrative Assistant

## Planning Board Staff Report

**Meeting Date:** January 13<sup>th</sup>, 2025  
**Subject:** Owner initiated Map Amendment (Rezoning) Request  
**Process Type:** Legislative  
**Location:** 4 Elysinia Ave, Waynesville, NC 28786 (PIN 8605-73-8236).  
**Area:** 0.68 ac  
**Requested Rezoning:** Hazelwood Urban Residential (H-UR) to Hazelwood Business District (H-BD)  
**Applicants:** William P Burgin Trust (John Burgin – Owner)

### Background:

This is a legislative hearing on the proposed zoning amendment for the property at 4 Elysinia Ave, Waynesville, NC 28786 (PIN 8605-73-8236). The subject property is approximately .68 acres and is in the 100-year floodplain. There is a vacant single-family home and an accessory structure currently on the property. The property is triangularly shaped with roads on two sides and single-family properties to the north. Hazelwood Ave runs along the south side of the property with Westwood Circle along the east and Elysinia Ave to the west. Richland Business Park is east of the property, across the street.

The subject property is currently zoned within the Hazelwood Urban Residential District. To the east is the Hazelwood Business Railroad Overlay District. To the south and west is the Hazelwood Business District. 200 feet to the south of the subject property is the Commercial Industrial District and Railroad Overlay District. The railroad corridor itself is located 400 feet to east. Only the north side of the subject property abuts the rest of the Hazelwood Urban Residential District. The rezoning would extend the Hazelwood Business District to Elysinia – linking two commercial districts along Hazelwood Avenue.

The purpose of the Hazelwood Business District as specified in LDS Section 3.3.6B states

**The Hazelwood Business District (H-BD)** is a small-scale center for business, retail and institutional activity serving the residents of Hazelwood, Plott Creek, Eagles Nest and other surrounding neighborhoods. A broad mixture of uses is permitted, however, development in the future must be sensitive in design and provide for a high level of pedestrian safety and comfort. The large undeveloped tracts of land in this district must be well connected both to the neighborhood and the center as they develop. On-street Created: 2024-12-20 15:36:09 [EST] (Supp. No. 15) Page 13 of 282 parking is permitted and encouraged on many streets. Articulation in this area should occur at the scale of the pedestrian with buildings built at the scale of a neighborhood center. Connections among properties within this district and to surrounding districts are very important.

The applicant is making the request for rezoning to allow commercial uses to be placed on the property. In the short term, the property owner would like to allow Gaby's Food Truck to relocate from its current location at Charlie's Corner to 4 Elysinia Ave. In the aftermath of Hurricane Helene, the Depot Street bridge in Frog Level is closed for an undetermined amount of time, limiting traffic and making it difficult to operate a food truck. The applicant wants to allow Gaby's Food Truck to change locations to 4 Elysinia Avenue. Food trucks are currently only allowed in commercial-industrial, regional center, and business districts (LDS 4.6.4). They are considered a temporary use and not a Neighborhood Restaurant or Restaurant, which is permitted in Hazelwood Urban Residential in designated locations. Because of the district zoning restrictions for food trucks, the application of the mixed-use overlay would still not allow



the relocation of Gaby’s. Therefore, the applicant is requesting the change from Hazelwood Urban Residential to Hazelwood Business District.

In addition to the potential for a food truck, the change in zoning would allow many more potential uses in accordance with the permitted uses table (LDS Section 2.5.3). Office, service, and commercial uses allowed in the business district would now also be allowed on that lot. The change in zoning will also remove the base density from the subject property from 16 units/acre to no maximum base.

**Staff Comment:**

The subject property is a corner lot surrounded on both sides by commercial zoning - Hazelwood Business District and Hazelwood Business Railroad Overlay District and is across the street from the Commercial-Industrial District and the Giles Chemical plant. The uses of the surrounding properties include heavy vehicle storage, retail, and an urgent care. The allowance for commercial uses on the lot would be consistent with the character of the area along Hazelwood Avenue and create new opportunities for commercial and/or residential redevelopment in downtown Hazelwood.

In other zoning districts such as East Waynesville Urban Residential (EW-UR) and Howell Mill Urban Residential (HM-UR), additional and more intense uses are allowed on corner lots. This is not the case for Hazelwood Urban Residential. With the subject property’s location along a bustling commercial corridor and being surrounded by intense uses, it is a prime location for commercial development and the expansion of the Hazelwood Business District.

Many of our zoning districts run along one side of the street, preventing cohesion in the streetscape. In this case, uses allowed in most of the adjacent lots are not allowed on the subject property. This rezoning allows for the creation of a more cohesive commercial corridor.

On the north side of the property that is adjacent to the Hazelwood UR District, commercial development will require a Type C buffer in accordance with LDS Section 8.4.1 Required Buffer Yards, “that shall be required ...when any use is being established on a property that abuts an existing developed lot or less intense zoning district.” This requirement will mitigate impacts to the adjacent residential properties.

		Adjacent Zoning District					
		RL/RM	NR/UR	NC	BD	RC	CI
District of Proposed Development	RL/RM	X	X	X	X	A <sup>1</sup>	A <sup>1</sup>
	NR/UR <sup>2</sup>	C	X	X	X	X	X
	NC <sup>2</sup>	B	C	X	X	X	X
	BD	C	C	X	X	X	X
	RC	A	A	B	C	X	X
	CI	A	A	A	A	B	X
<sup>1</sup> Only required where adjacent, more intense use is pre-existing and no equivalent buffer is provided on the adjacent property							X = No Buffer Required
<sup>2</sup> Only multifamily and non-residential uses shall provide buffers between adjacent single family uses in detached homes							

<b>C. Type C Buffer Yard</b>	<i>A Type C buffer yard is a planting strip intended to separate uses, provide vegetation in densely developed areas and enhance the appearance of individual properties.</i>			
	<b>Minimum Depth</b>	<b>Minimum Plantings per 100 linear feet</b>	<b>Wall, Fence, or Berm</b>	<b>Required Opacity</b>
<b>1. Option A</b>	20 feet	1 Canopy Tree 2 Understory Trees 8 Shrubs	Not Required	Semi opaque (i.e., having only seasonal horizontal openings not exceeding 25% of the total width from the ground to a height of 6 feet within two 2 years of planting)
<b>2. Option B</b>	10 feet	2 Canopy Trees 2 Understory Trees 12 Shrubs	Not Required	

**Consistency Statement Information:**

The Future Land Use Map shows the subject property designated as Residential – Medium to High Density, with Mixed-Use – Community to the east and west and Industrial to the south. The use of the subject property commercially would transition between the industrial uses to the south and the residential area to the north.

The Staff recommends that the Planning Board find that this map amendment is consistent with Waynesville’s Comprehensive Land Use Plan and amend the Land Use Map. The map amendment is reasonable and in the public interest because it meets the following goals of the Comp. Plan:

Goal 1: Continue to promote smart growth principles in land use planning and zoning.

- Create Walkable and attractive neighborhoods and commercial centers
- Encourage infill, mixed-use and context sensitive development

Goal 5: Create opportunities for a sustainable economy

- Promote Waynesville’s downtown districts, inns, restaurants, and reputation as the “Gateway to the Smokies.”

**Public Notifications**

The applicant submitted the application on 12/6/24. Public notices of the public hearing were provided with the site posting (12/23/24), letters to adjacent property owners within 100 ft via first class mail (12/23/24), and the Mountaineer newspaper (12/22/24 and 12/29/24). The notice was also emailed to the local media on 12/31/24.

**Requested Actions:**

1. Motion to find the rezoning request as being consistent/inconsistent with the 2035 Land Use Plan and reasonable and in the public interest.
2. Motion to recommend the map amendment for approval/denial by the Town Council.

**Attachments:**

1. Rezoning application
2. Payment
3. Draft Ordinance
4. Property images: aerial view, zoning map, street view
5. Public notices: 100-ft mailing list, letters, newspaper notice, sign on property
6. Consistency Statement Worksheet

*DRAFT FOR COUNCIL CONSIDERATION*

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE OFFICIAL LAND DEVELOPMENT MAP OF THE TOWN OF WAYNESVILLE**

**WHEREAS**, the Town of Waynesville has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

**WHEREAS**, the Town of Waynesville Planning Board has reviewed the proposed map amendment to the Official Land Development Map (Zoning Map) and recommends that it is consistent with the 2035 Comprehensive Plan and that it is reasonable and in the public interest because it supports the following goals of the Comp. Plan:

Goal 1: Continue to promote smart growth principles in land use planning and zoning.

- Create walkable and attractive neighborhoods and commercial centers
- Encourage infill, mixed-use, and context-sensitive development.

Goal 5: Create opportunities for a sustainable economy

- Promote Waynesville’s downtown districts, inns, restaurants, and reputation as the “Gateway to the Smokies”.

**WHEREAS**, the Town of Waynesville Planning Board recommends that this map amendment is reasonable and in the public interest because it is also consistent with the purposes of the proposed zoning district- Hazelwood Business District (HBD), as described in Section 2.3.3.D of the Land Development Standards (LDS):

- Development in the future must be sensitive in design and provide a high level of pedestrian safety and comfort
- Connections among properties within this district and to surrounding districts are very important

**WHEREAS**, the Planning Board has reviewed and recommends the proposed map amendment for enactment by the Town Council; and

**WHEREAS**, the Town Council finds this Ordinance is consistent with the Town’s 2035 Comprehensive Plan, and that it is reasonable and in the public interest to “make decisions about resources and land use in accordance with North Carolina General Statutes.” and

**WHEREAS**, after notice duly given, a public hearing was held on **January 13, 2025**, at the regularly scheduled meeting of the Waynesville Planning Board, and on \_\_\_\_\_ at the regularly scheduled meeting of the Town Council;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON \_\_\_\_\_, AND WITH A**

**MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:**

That the Official Land Development Map be amended with the property at 28 Addie Lane in Waynesville, North Carolina 28786 (PIN 8605-73-8236) rezoned from Hazelwood Urban Residential (H-NR) to Hazelwood Business District (HBD) District.

**ADOPTED** this \_\_\_\_\_ Day of \_\_\_\_\_, 2025.

TOWN OF WAYNESVILLE

\_\_\_\_\_  
J. Gary Caldwell, Mayor

ATTEST:

\_\_\_\_\_  
Candace Poolton, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Martha Bradley, Town Attorney



TOWN OF WAYNESVILLE  
Development Services Department  
PO Box 100  
9 South Main Street  
Waynesville, NC 28786  
Phone (828) 456-8647 • Fax (828) 452-1492  
[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

**Application for Land Development Standards Map Amendment**

Application is hereby made on December 6, 2024 to the Town of Waynesville for the following map amendment to establish or amend a Conditional District:

Property owner of record: William P. Burgin Trust  
Address/location of property: 4 Elysian Ave, Waynesville, NC 28786  
Parcel identification number(s): 8605-73-8236  
Deed/Plat Book/Page, (attach legal description): 559/883  
The property contains 0.68 acres.  
Current district: Hazelwood Urban Residential  
Requested district: Hazelwood Business District

The property is best suited for the requested change for the following reason(s), (attach additional sheets if necessary):

Property located on Hazelwood Ave with driveway access on a corner lot surrounded on all adjacent sides by Hazelwood Business District. Commercial lot use for retail and/or restaurant businesses

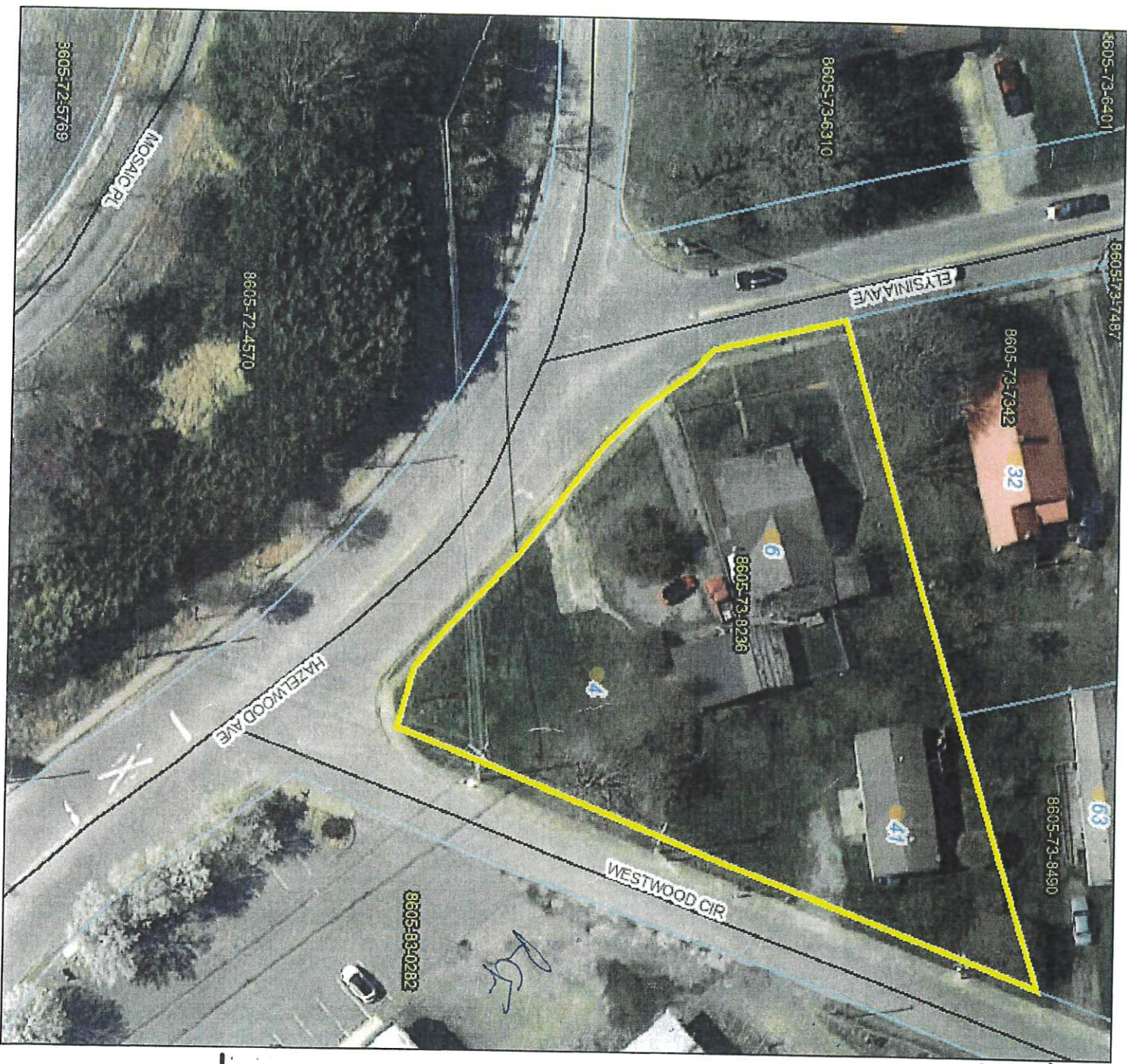
**Applicant Contact Information**

Applicant Name (Printed): JOHN BURTIN  
Mailing Address: 466 Hazelwood Ave, Waynesville, NC 28786  
Phone(s): 828 734 6521  
Email: jbc.office@icloud.com

Signature of Property Owner(s) of Record Authorizing Application:

Note: Map Amendment Request fee is \$500 for one acre or less and \$50 for each additional acre. The request will be scheduled for a hearing before the Waynesville Planning Board before being forwarded to the Board of Aldermen. Please submit application to: Town of Waynesville Development Services Department, 9 South Main Street, Waynesville, NC 28786.

*This institution is an equal opportunity provider*



### Report For

BURGIN, JOHN H/TR  
 WILLIAM P BURGIN TRUST  
 275 WILDCAT MOUNTAIN RD  
 WAYNESVILLE, NC 28786

### Account Information

Account PIN: 8605-73-8236  
 Deed: 793/2229

A93/819  
 A88/2

### Site Information

#### DWELLING

4 ELYSINIA AVE

Heated Area: 1248  
 Year Built: 1925  
 Total Acreage: 0.68  
 Township: Town of Waynesville

### Site Value Information

Land Value: \$23,000  
 Building Value: \$94,800  
 Market Value: \$117,800  
 Deferred Value: \$0  
 Assessed Value: \$117,800  
 Sale Price: \$155,000  
 Sale Date: 11/24/2010  
 Tax Bill 1: \$806  
 Tax Bill 2: \$806



1 inch = 50 feet  
 December 3, 2024

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the above mentioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

TRANSFER MADE ON RECORD

Date 5/30/03  
By WHM

HAYWOOD COUNTY TAX CERTIFICATION

There are no delinquent taxes due that are in a lien  
against parcel number(s) 8605-73-8236

David B. Francis, Haywood County Tax Collector  
Date 5/30/03 By: S. Morris

Haywood County--Register of Deeds  
Amy R. Murray  
Inst #585852 Book 559 Page 883  
Excise Tax Paid \$ 230.00  
05/30/2003 10:28:35am

NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax: \$230.00

Parcel Identifier No 8605-73-8236 Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_,

By: \_\_\_\_\_

Mail/Box to: WHG

This instrument was prepared by: Woodrow H. Griffin

Brief description for the Index: \_\_\_\_\_

THIS DEED made this 30<sup>th</sup> day of May, 2003, by and between

GRANTOR  
BERLION GREEN, Executor of the  
Estate of Burton Green

GRANTEE  
WILLIAM P. BURGIN, JR., a one-half  
undivided interest, and JOHN H.  
BURGIN and wife, ANITA BURGIN, a  
one-half undivided interest  
  
Address: PO Box 246  
Hazelwood, NC 28738

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Waynesville, Waynesville Township, Haywood County, North Carolina and more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein by reference for a complete property description.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 452 page 1758

A map showing the above described property is recorded in Plat Book \_\_\_\_\_ page \_\_\_\_\_.



TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple. Inst # 585852 Book 559 Page: 884

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

\_\_\_\_\_  
(Entity Name) Berlion Green (SEAL)  
Berlion Green, Executor

By: \_\_\_\_\_ (SEAL)

Title: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)

Title: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)

Title: \_\_\_\_\_

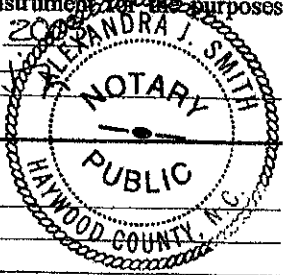
State of North Carolina - County of Haywood

I, the undersigned Notary Public of the County and State aforesaid, certify that Berlion Green, Executor of the Estate of Burton Green

personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 30 day of May, 2003

My Commission Expires: 9/29/03

Alexandra J. Smith  
Notary Public



State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, personally came before me this day and acknowledged that he is the \_\_\_\_\_

of \_\_\_\_\_, a North Carolina or \_\_\_\_\_

corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Notarial stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

Notary Public

State of North Carolina - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_

Witness my hand and Notarial stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

Notary Public

The foregoing Certificate(s) of \_\_\_\_\_ is/are certified to be correct. This is shown on the first page hereof.

State of North Carolina, Haywood County  
The Foregoing Certificate(s) of ALEXANDRA J. SMITH /NP is (are) Certified to be Correct. \_\_\_\_\_ and in the Book and Page

This Instrument was filed for Registration on this 30th Day of \_\_\_\_\_ County  
May, 2003 in the Book and Page shown on the First Page hereof.

By: \_\_\_\_\_

Amy R. Murray By: Sylvia M. Malone  
Asst.

## Exhibit "A"

BEGINNING at a stake at the intersection of the west margin of Pine Street with the North margin of Main Street, and runs with said margin of Pine Street North  $17^{\circ}$  E. 255.00 feet to a stake, corner between Lots Nos. 2 and 3; thence with the line between said Lots, S.  $73^{\circ} 15'$  W. 234.00 feet to a stake in the East margin of Elysinia Avenue; thence with said avenue, S.  $16^{\circ} 45'$  E. 43.00 feet to a stake; thence with the margin of Main Street, S.  $34^{\circ}$  E. 185.5 feet to the BEGINNING. Being lots Nos. 1 and 2 of the Waynesville Furniture Company property, as surveyed and platted by W. A. Schoolbred for Chas. W. Perry, Receiver, 11/16/29.

COMPREHENDING and INCLUDING the identical property conveyed to Burton Green by Commissioner's Deed, Gavin A. Brown, Commissioner dated 4/29/96 and recorded on 4/30/96 in Deed Book 452, Page 1758, Haywood County Registry.

BEING a part of the property devised to Grantor, Berlion Green, Executor of the Estate of Burton Green. See Estate File 02-E-487, Haywood County Superior Court.

PAYMENT SUMMARY RECEIPT

TOWN OF WAYNESVILLE  
16 S MAIN ST

DATE: 12/18/24 CUSTOMER#:  
TIME: 10:34:08  
CLERK: 2044ecou

RECPT#: 3128788 PREV BAL: 500.00  
TP/YR: P/2025 AMT PAID: 500.00  
BILL: 3128788 ADJSTMNT: .00  
EFF DT: 12/18/24 BAL DUE: .00

Misc Cash Receipts

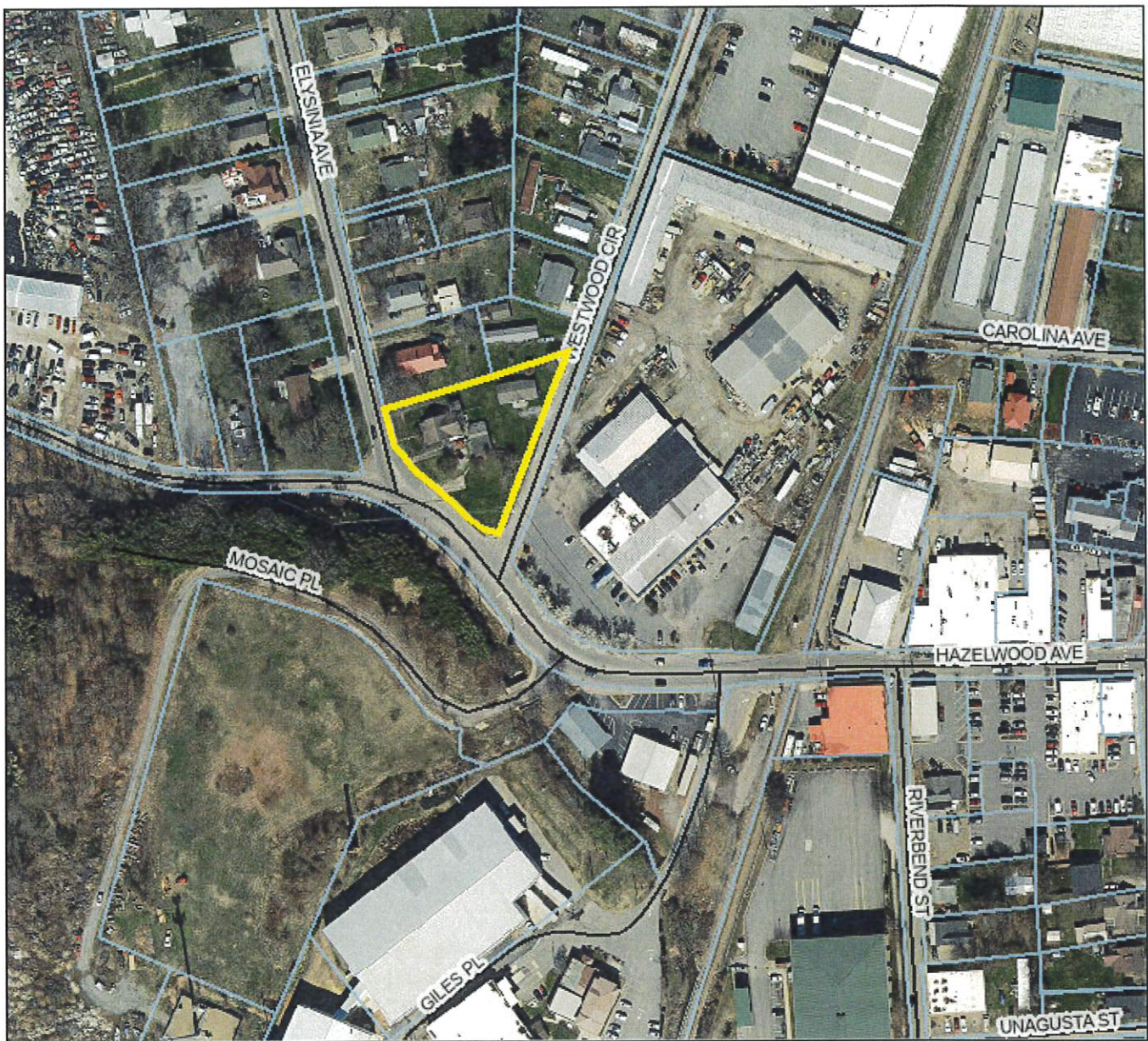
-----TOTALS-----

PRINCIPAL PAID: 500.00  
INTEREST PAID: .00  
ADJUSTMENTS: .00  
DISC TAKEN: .00

AMT TENDERED: 500.00  
AMT APPLIED: 500.00  
CHANGE: .00

PAID BY: Burgin- LDS Map Amen  
PAYMENT METH: CHECK  
PAYMENT REF: 5644

TOT PREV BAL DUE: 500.00  
TOT BAL DUE NOW : .00



Report For

BURGIN, JOHN H/TR  
 WILLIAM P BURGIN TRUST  
 275 WILDCAT MOUNTAIN RD  
 WAYNESVILLE, NC 28786

DWELLING

4 ELYSINIA AVE

Heated Area: 1248

Year Built: 1925

Total Acreage: 0.68

Township: Town of Waynesville

Land Value:

Building Value:

Market Value:

Deferred Value:

Assessed Value:

Sale Price:

Sale Date: 11/24/2010

Tax Bill 1:

Tax Bill 2:

Account Information

PIN: 8605-73-8236  
 Deed: 793/2229

A93/819  
 A88/2

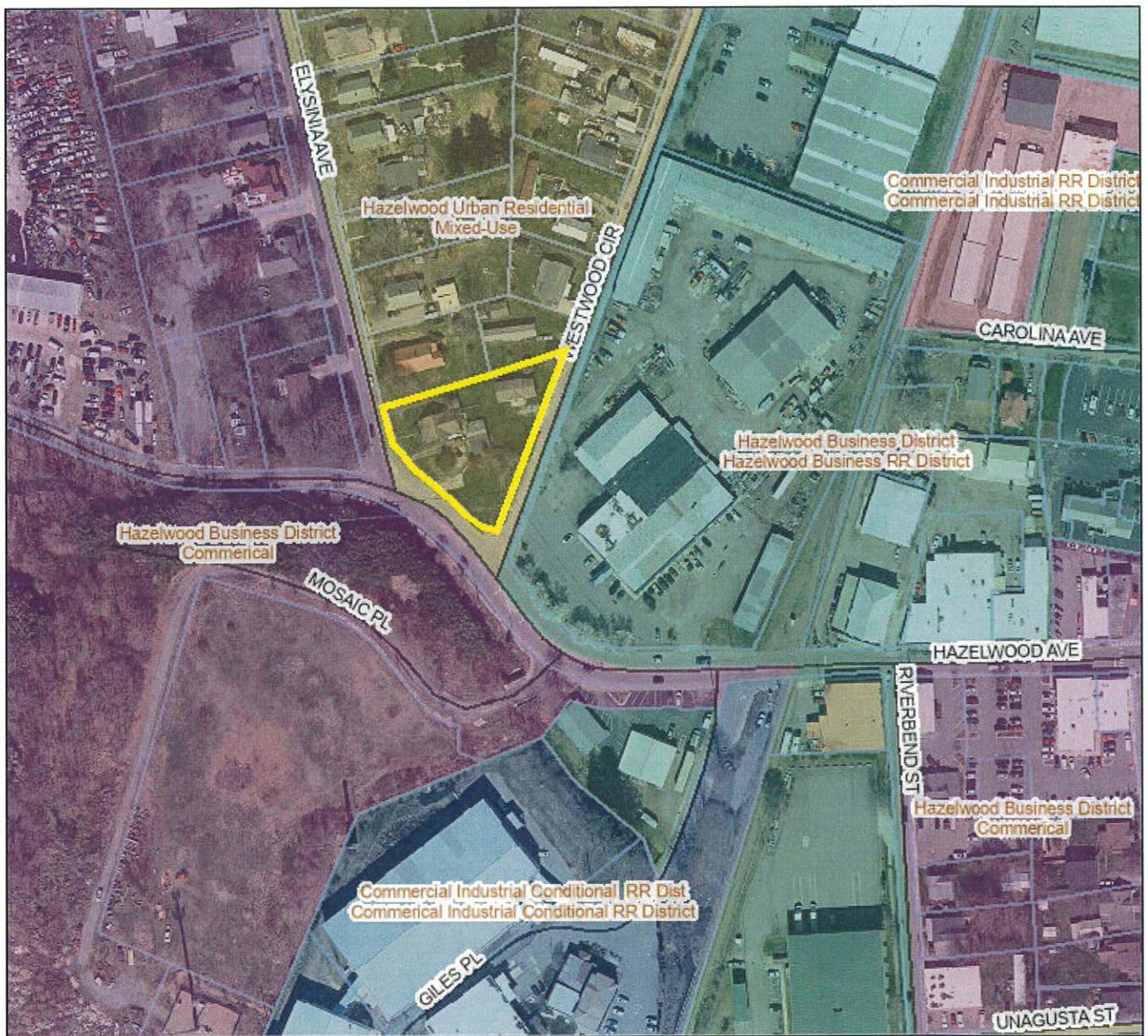


January 3, 2025



1 inch = 200 feet

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Report For

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January 3, 2025



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# TOWN OF WAYNESVILLE

Development Services Department

9 South Main Street

Suite 110

Waynesville, NC 28786

Phone (828) 456-8647 • Fax (828) 452-1492

[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

December 23rd, 2024

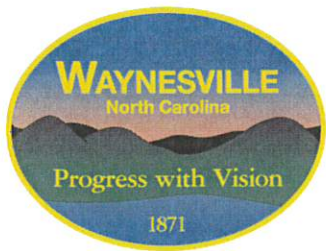
## Notice of Public Hearing: Land Development Map Amendment Waynesville Planning Board

The Town of Waynesville Planning Board will hold a public hearing on Monday, January 13th, 2025, at 5:30 pm, in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider:

1. A Land Development Standards Map amendment to rezone 4 Elysinia Ave (PIN 8605-73-8236) from Hazelwood Urban Residential to Hazelwood Business District.



For more information, contact the Development Services Department at: (828) 452-0401, email: [amumby@waynesvillenc.gov](mailto:amumby@waynesvillenc.gov) mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.



## TOWN OF WAYNESVILLE

### Development Services Department

9 South Main Street

Suite 110

Waynesville, NC 28786

Phone (828) 456-8647 • Fax (828) 452-1492

[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

FOR PUBLICATION IN THE MOUNTAINEER: December 22<sup>nd</sup> and December 29<sup>th</sup> (Sunday) editions

Date: December 17<sup>th</sup>, 2024

Contact: Alex Mumby, (828) 452-0401

### **Notice of Public Hearings Town of Waynesville Planning Board**

The Town of Waynesville Planning Board will hold a public hearing on Monday, January 13th, 2025, at 5:30 pm, in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider:

1. A Land Development Standards Map amendment to rezone 4 Elysinia Ave (PIN 8605-73-8236) from Hazelwood Urban Residential to Hazelwood Business District.

For more information contact the Development Services Department at: (828) 452-0401, email: [amumby@waynesvillenc.gov](mailto:amumby@waynesvillenc.gov) mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.







To: Town of Waynesville Planning Board  
 From: Alex Mumby, Land Use Administrator  
 Date: January 13<sup>th</sup>, 2025  
 Subject: Map Amendment Statement of Consistency  
 Description: Map amendment related to a rezoning request from Hazelwood Urban Residential (H-UR) to Hazelwood Business District (H-BD) for a 0.68-acre property at 4 Elysinia Ave in Waynesville, NC (PIN 8605-73-8236).  
 Contact: Town of Waynesville Planning Department (“Development Services”)

The Planning Board hereby adopts and recommends to the Governing Board the following statement(s):

The zoning map amendment **is approved and is consistent with the Town’s Comprehensive Land Use Plan** because: \_\_\_\_\_  
 \_\_\_\_\_

The zoning map amendment and **is reasonable and in the public interest** because:  
 \_\_\_\_\_  
 \_\_\_\_\_

The zoning map amendment **is rejected because it is inconsistent with the Town’s Comprehensive Land Use Plan and is not reasonable and in the public interest** because \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

In addition to approving this zoning map amendment, this approval is **also deemed an amendment to the Town’s Comprehensive Land Use Plan**. The change in conditions taken into account in amending the zoning ordinance to meet the development needs of the community and why this action is reasonable and in the public interest, are as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Planning Board Member \_\_\_\_\_, made a motion, seconded by \_\_\_\_\_

The motion passed \_\_\_\_\_. (*unanimously or vote results here*)

\_\_\_\_\_  
 Susan Teas Smith, Planning Board Chair

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Esther Coulter, Administrative Assistant

\_\_\_\_\_  
 Date

## Planning Board Staff Report

Subject: Text amendment related to general corrections and updates  
 Ordinance Section: Land Development Standards Section 11.9.2  
 Applicant: Staff initiated text amendment; Development Services Department  
 Meeting Date: January, 13, 2025

### Background

The proposed text amendments include removal of sections of the sign ordinance which are ill defined and unenforceable. Light generated from signs will still be regulated through measurement of candelas, angle of the light, and light trespass.

### Staff Recommended Text Changes:

The proposed text amendments include:

- Removing lines C and D from LDS sections 11.9.2

The proposed changes to the current Land Development Standards are in red and ~~struck through~~

### Consistency with the 2035 Comprehensive Land Use Plan

Staff submits that the proposed text amendments to the LDS are consistent with the first goal of the 2035 Comprehensive Plan:

Goal 1: Continue to promote smart growth principles in land use planning and zoning.

- Create walkable and attractive neighborhoods and commercial districts
- Reinforce the unique character of Waynesville

The Town will also maintain adequate legal authority through the most up-to-date ordinance.

### Attachments

1. Proposed Text Amendment
2. Consistency Statement Worksheet

### Recommended Motions

1. Motion to find the recommended changes to the Land Development Standards as attached (or amended) as being consistent with the 2035 Land Use Plan and reasonable and in the public interest.
2. Motion to recommend staff initiated text amendment as attached (or as amended) to the Town Council.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE TEXT OF THE  
TOWN OF WAYNESVILLE LAND DEVELOPMENT STANDARDS**

**WHEREAS**, the Town of Waynesville has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

**WHEREAS**, the Town of Waynesville Planning Board has reviewed the proposed text amendments to the Land Development Standards (LDS) and recommends that they are consistent with the 2035 Comprehensive Plan and that they are reasonable and in the public interest because:

- The Town of Waynesville will continue to “promote smart growth in land use planning and zoning” (Goal #1);
- The proposed text amendment will “reinforce the unique character of Waynesville” (Goal #1);
- The Town will maintain adequate legal authority through the most up-to-date ordinance that is clear and enforceable.

**WHEREAS**, the Planning Board has reviewed and recommends the proposed text amendments for enactment by the Town Council; and

**WHEREAS**, the Town Council find this Ordinance is consistent with the Town’s 2035 Comprehensive Plan and that it is reasonable and in the public interest to “make decisions about resources and land use in accordance with North Carolina General Statutes.” and

**WHEREAS**, after notice duly given, a public hearing was held on April 15, 2024 at the regularly scheduled meeting of the Waynesville Planning Board, and on \_\_\_\_\_, 2024 at the regularly scheduled meeting of the Waynesville Town Council;

**NOW, THEREFORE, BE IT ORDAINED BY THE WAYNESVILLE TOWN COUNCIL, MEETING IN REGULAR SESSION ON \_\_\_\_\_ AND WITH A MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:**

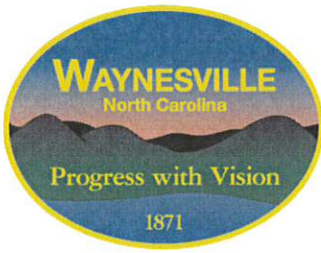
That the Land Development Standards be amended as follows:

**Amend LDS Section 11.9.2 as follows:**

11.9.2 Internal Illumination.

Where internally illuminated signs are permitted they must meet the following requirements:

- A. Such signs shall consist of light lettering or symbols on a dark background.
- B. The lettering or symbols shall constitute no more than forty (40) percent of the surface area of the sign.
- ~~C. The luminous transmittance for the lettering or symbols shall not exceed thirty five (35) percent.~~
- ~~D. The luminous transmittance for the background portion of the sign shall not exceed fifteen (15) percent.~~
- E. Light sources shall be fluorescent tubes, spaced at least twelve (12) inches on center, mounted at least 3.5 inches from the translucent surface material.
- F. Channel letter type signs may use neon tubing as an internal illumination source, provided that the light source is shielded by translucent faces or that a silhouette type sign is used where the light source illuminates the sign background and the letters or symbols are opaque.
- G. Outdoor advertising signs of the type constructed of translucent materials where the copy only is illuminated from within do not require shielding provided the light source or bulb is not showing.
- H. Electronic changeable face signs shall comply with the following:
  - 1. The outdoor advertising sign shall have an automatic dimmer (factory set to the illumination intensities set below) and a photo cell sensor to adjust the illumination intensity or brilliance of the sign so that it shall not cause glare or impair the vision of motorists, and shall not interfere with any driver's operation of a motor vehicle.
  - 2. The sign shall not exceed a maximum illumination of 7,500 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits between dusk to dawn as measured from the sign's face at maximum brightness.
  - 3. Any illumination devices shall be effectively shielded so as to prevent beams or rays of light from being directed at any portion of a street or highway. Illumination intensity or brilliance shall not cause glare or impair the vision of motorists, and shall not interfere with any driver's operation of a motor vehicle.



## TOWN OF WAYNESVILLE

Development Services Department

9 South Main Street

Suite 110

Waynesville, NC 28786

Phone (828) 456-8647 • Fax (828) 452-1492

[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

FOR PUBLICATION IN THE MOUNTAINEER: December 29<sup>th</sup> and January 5<sup>th</sup> (Sunday) editions

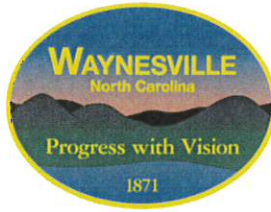
Date: December 23rd, 2024

Contact: Alex Mumby, (828) 452-0401

### **Notice of Public Hearing Town of Waynesville Planning Board**

The Town of Waynesville Planning Board will hold a public hearing on Monday, January 13th, 2025, at 5:30 pm, in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider text amendments related to general corrections and updates to the land development standards (LDS), various sections.

For more information contact the Development Services Department at: (828) 452-0401, email: [amumby@waynesvillenc.gov](mailto:amumby@waynesvillenc.gov) mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.



To: Town of Waynesville Planning Board  
 From: Alex Mumby, Land Use Administrator  
 Date: January 13<sup>th</sup>, 2025  
 Subject: Text Amendment Statement of Consistency  
 Description: Text Amendment to remove outdated section of Sign Ordinance 11.9.2  
 Contact: Town of Waynesville Planning Department (“Development Services”)

The Planning Board hereby adopts and recommends to the Governing Board the following statement(s):

The zoning map amendment **is approved and is consistent with the Town’s Comprehensive Land Use Plan** because: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The zoning map amendment and **is reasonable and in the public interest** because:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The zoning map amendment **is rejected because it is inconsistent with the Town’s Comprehensive Land Use Plan and is not reasonable and in the public interest** because \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

In addition to approving this zoning map amendment, this approval is **also deemed an amendment to the Town’s Comprehensive Land Use Plan**. The change in conditions taken into account in amending the zoning ordinance to meet the development needs of the community and why this action is reasonable and in the public interest, are as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Planning Board Member \_\_\_\_\_, made a motion, seconded by \_\_\_\_\_

The motion passed \_\_\_\_\_. (*unanimously or vote results here*)

\_\_\_\_\_  
 Susan Teas Smith, Planning Board Chair      Date      Esther Coulter, Administrative Assistant      Date

## Town of Waynesville Planning Board Staff Report

**Subject:** Ground Mounted Solar Panels and Electric Vehicle Installations in the LDS  
**Ordinance Sections:** Multiple  
**Applicant:** Request for text amendment from the Environmental Sustainability Board  
**Meeting Date:** December 16, 2024  
**Presenter:** Alex Mumby, Land Use Administrator  
 Elizabeth Teague, Development Services Director

### Background:

This ordinance addresses several technologies: stand-alone, ground mounted solar panels, EV charging stations, and solar array farms. The Development Services Department was asked by the Environmental Sustainability Board to examine how the Land Development Standards could be applied to the use of ground mounted solar panels and arrays on residential and commercial lots. In discussion of this topic, the Planning Board asked staff to also look at how large-scale, commercial solar arrays, or “solar farms” are handled in the ordinance. Additionally, staff would like to incentivize the installation of electric vehicle charging stations and integrate EV Charging into common parking and civic space areas in major site plans.

Roof-mounted solar panels and EV Charging ports attached to buildings are already allowed, permitted and inspected by Town’s Building Inspections under the North Carolina Building Codes as part of a structure. Only a few stand-alone, ground-mounted solar arrays and panels (GMSPs) have been permitted in Town and were treated simply as mechanical equipment, without the application of zoning standards. Generally, residential solar ground mounted arrays and solar panels on poles must meet North Carolina electrical and wind load requirements and are not connected structurally to buildings.

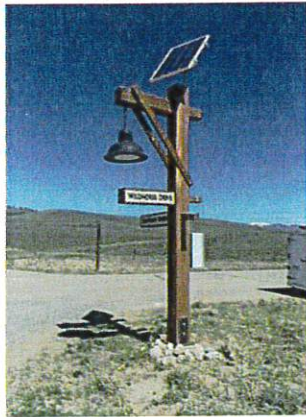
Larger scale solar arrays used to generate power for a utility or commercial purpose, should fall under the category of “Utilities – Class 3” in the LDS Section 3.10.6 of Supplemental Standards which refers to uses that meet the definition of “generation, production, or treatment facilities such as power plants, water and sewerage plants, and landfills,” as having to meet the requirements for a Special Use Permit, and the administrative guidelines found in LDS Section 15.10, and requiring of a quasi-judicial procedure.

A draft ordinance based on zoning rules from Weaverville and Asheville was presented to the Planning Board on December 5<sup>th</sup>, 2024, and amendments to the draft have been made based on that discussion and Board feedback. Specifically, concern was raised regarding the number of pole-mounted solar panels which could be placed on a lot. The new draft ordinance now limits the number to 1 pole-mount per .2 acres rounded up. The maximum height of pole mounted solar panels is now recommended to be limited to 20 feet. A solar farm use type has been created and follows the same placement restrictions as existing power generation types. An additional cap of 1000 square feet now limits the EV charging civic space type.

WLOS did a good story on Waynesville’s EV chargers which can be found here:

<https://wlos.com/news/local/more-places-coming-to-plug-in-for-ev-drivers-in-and-around-waynesville>

Examples:





### **Staff Recommendation**

Staff recommend that the Town develop an ordinance that defines and allows GMSPs in all districts, so that there is no zoning question in the future.

- Pole mounts should not count as accessory structures but should stay within the same height as a ground mounted light fixture, which is 25' or less, and should be limited to the side or rear yard. A variance from the ZBA could allow for extended height or front yard placement where the height of neighboring structures and trees prevent the collection of solar energy, and when alternative placement is needed for tree preservation. Additionally, variance criteria should include evidence that the panel would not interfere with the neighboring properties or take away from the character of the neighborhood.
- Ground mounts should be counted as accessory structures with placement in the side and rear yard, meeting the accessory structure setbacks of 5' feet. Front yard placement should be allowed through a variance, showing that the proposed placement is the optimal location for panel performance and that it does not interfere with the neighboring properties or take away from the character of the neighborhood. Additionally, installation should also comply with the pervious surface requirements of the Town's Dimensional Standards (LDS Section 2.6)
- EV Charging stations should be encouraged in all large-scale development. As incentive for residential placement, EV chargers with adjacent designated parking could count toward civic space in addition to parking requirements. This would give design flexibility and hopefully give some incentive to include them.

Staff also recommends that solar arrays for commercial use or by utilities be distinct from residential use of solar arrays, and be limited to the Commercial Industrial and Regional Center Districts as a Special Use Permit.

### **Consistency with Comprehensive Plan**

Goal 3 of the 2035 Comprehensive Plan is to "protect and enhance Waynesville's natural resources." This includes the goal "to engage in and promote the best management practices related to energy use..."

Goal 5 of the Plan is to "create opportunities for a sustainable economy." This includes, "Support 21<sup>st</sup> century technology and infrastructure by broadening the availability of high-speed internet, modernizing wireless communication facilities, and promoting green building and the use of solar and wind technologies."

### **Recommended Motion**

Staff only seeks continued Planning Board input and direction at this time in order to refine a draft ordinance for public hearing.

DRAFT FOR PLANNING BOARD DISCUSSION 12/05/24

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE TEXT OF THE TOWN OF WAYNESVILLE LAND DEVELOPMENT STANDARDS

WHEREAS, the Town of Waynesville has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, the Town of Waynesville Planning Board has reviewed the proposed text amendments to the Land Development Standards (LDS) and recommends that they are consistent with the 2035 Comprehensive Plan and that they are reasonable and in the public interest because:

- Goal 1: Continue to promote smart growth principles in land use planning and zoning
  - Promote conservation design to preserve important natural resources
- Goal 3: Protect and enhance Waynesville’s natural resources.
  - Continue to engage in and promote best management practices related to energy use, efficiency, and waste management
  - Protect and enhance water quality and forests
  - Protect rural lands, iconic views, and mountain vistas

WHEREAS, the Planning Board has reviewed and recommends the proposed text amendments for enactment by the Town Council; and

WHEREAS, the Town Council find this Ordinance is consistent with the Town’s 2035 Comprehensive Plan and that it is reasonable and in the public interest to “make decisions about resources and land use in accordance with North Carolina General Statutes.” and

WHEREAS, after notice duly given, a public hearing was held on \_\_\_\_\_, 2024 at the regularly scheduled meeting of the Waynesville Planning Board, and on \_\_\_\_\_ 2024 at the regularly scheduled meeting of Town Council;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON \_\_\_\_\_, 2024 AND WITH A MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:

That the Land Development Standards be amended as follows (in red):

1. Amend Section 2.5.3 Table of Permitted Uses as follows:

Solar Farms are hereby added as a permitted use with a "Special Use Permit" ("SUP") in the Commercial Industrial zone and in all Regional Center zones on the Table of Permitted Uses.

2. Amend Section 4.5.3 Other Requirements as follows:

**4.5.3 Other Requirements.**

A. **Buffering:** Accessory structures with a footprint greater than six hundred (600) square feet shall be buffered from any adjacent residential developments with a Type C Buffer (Section 8.4.2.C).

B. **Lighting:** Exterior lighting for accessory uses and/or structures shall meet the requirements by which principal structures are governed as set forth in Section 10.2.

**C. Ground Mounted Solar Panels:**

- Pole-mounted solar panels shall not count towards the Maximum Number Permitted and Maximum Area of accessory structures (Section 4.5.2). One pole-mounted solar panel shall be allowed for each .2 acres of a parcel rounded up.
- The height of ground-mounted and pole-mounted solar panels shall be limited to 20 feet.
- Ground-mounted and pole-mounted solar panels may be placed in the front yard with approval of a variance through the Zoning Board of Adjustment, if surrounding trees, structures, or topography prohibit the effective capture of solar energy in the rear and side yards.
- Ground-mounted solar arrays that are mounted on a frame and require multiple supports are subject to the requirements of accessory structures in Sections 2.4 and 2.5.

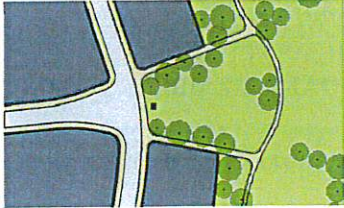
3. Amend Section 7.2. Civic Space Standards as follows:



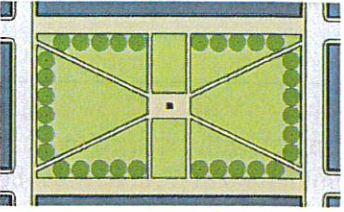
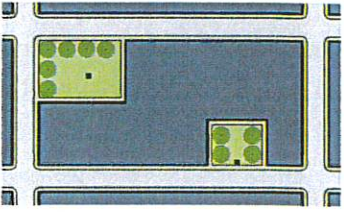
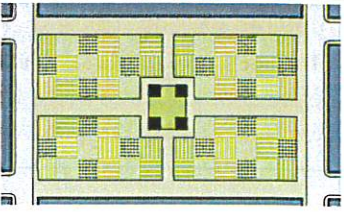

**7.2 Civic Space Standards.**

All land dedicated for required civic spaces shall meet the criteria below in this section. Stormwater facilities cannot be counted towards civic space. Delineated wetlands and required stream buffers can be counted towards civic space only when adjacent to, or a part of, a greenway or designated preserve.

**7.2.1 Required Civic Space Types.**

Civic space, as required by the district provisions, shall conform to one or more of the following typologies.

<p><b>A. Park/Greenway:</b> A natural preserve available for unstructured recreation. Its landscape shall consist of paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be linear, following the trajectories of natural corridors as part of a greenway. The minimum size shall be .16 acre (except with Greenways where there is no minimum).</p>	
---	--

<p><b>B. Green:</b> An open space available for unstructured recreation. A Green may be spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be .16 acre.</p>	
<p><b>C. Preserve:</b> Natural preserves include any area of existing or restored open lands such as riparian corridors and wetlands, unique geological formations, important habitats, or substantial groupings of important plant types. The goal is to protect and maximize intact and undisturbed spaces that provide valuable ecosystem services for the community, support preservation goals, and enhance the aesthetics and amenities of the area. Active recreation, such as trails and paths, can be a part of these areas. The minimum size is 1 acre of contiguous preserved area.</p>	
<p><b>D. Square:</b> An open space available for unstructured recreation and civic purposes. A Square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important streets. The minimum size shall be .16 acre.</p>	
<p><b>E. Playground:</b> An open space designed and equipped for the recreation of children. A playground shall be fenced and may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a block. Playgrounds may be included within other civic spaces. There shall be no minimum or maximum size.</p>	
<p><b>F. Community Garden:</b> A grouping of garden plots available for small-scale cultivation, generally to residents of apartments and other dwelling types without private gardens. Community gardens should accommodate individual storage sheds. There shall be no minimum or maximum size.</p>	
<p><b>G. Greenway:</b> A linear parcel of land set aside to contain a trail for non-motorized transportation and/or recreation, usually connecting to a planned corridor. There shall be no minimum or maximum size.</p>	

<p>H.</p>	<p><b>Dog Park:</b> An off-leash dog area. A dog park shall be enclosed with a galvanized or coated chain link fence or metal fence measuring four (4) to six (6) feet in height and include a double gate entry system (like a sally port). The dog park shall also have a designated waste disposal facility, signage with applicable rules, a shade area (with either a structure or mature shade trees). The area may also include a plumbed drinking water station. There shall be no minimum or maximum size.</p>	
<p>I.</p>	<p><b>Community Area:</b> Designated indoor or outdoor facilities to support social and recreational activities of the residents. Examples include a pavilion, fire pit, picnic area, grill area, gym, pool, community building, club house, basketball court, tennis court, golf course, or similar amenities determined to be appropriate by an Administrator. There shall be no minimum or maximum size.</p>	
<p>J.</p>	<p><b>Electric Vehicle (EV) Charging Space:</b> Dedicated parking spaces with installed EV charging equipment. A minimum of 1 space must be ADA accessible. All spaces must be clearly marked with signage, green striping, and bollards at the front of the space to protect the equipment. The maintenance and repair of EV stations and equipment shall be clearly outlined in the HOA covenants. In the absence of HOA, individual owners or management company shall be responsible for the upkeep and repairs of the charging stations. Square footage for EV charging spaces will count toward the overall civic space requirement and may count toward required parking. There shall be no maximum number of spaces, but the total square footage of EV charging space should not be more than 30% of the required civic space or 1000 square feet.</p>	

2. Add a definition to the section 17.3-Definitions, General:

**Electric Vehicle (EV).** A motor vehicle that is either partially or fully powered on electric power received from an external power source. For the purposes of this regulation, this definition does not include golf carts, electric bicycles, or other micromobility devices.

**Solar Farms.** This U.S. industry comprises establishments primarily engaged in operating solar electric power generation facilities. These facilities use energy from the sun to produce electric energy. The electric energy produced in these establishments is provided to electric power transmission systems or to electric power distribution systems [NAICS 221114].

**Solar Panel, Ground-Mounted.** A solar panel array attached directly to the ground either through posts or racks.

**Solar Panel, Pole-Mounted.** A solar panel attached directly to the ground through the use of a single pole.

ADOPTED this \_\_\_\_\_ Day of \_\_\_\_\_, 2024.

TOWN OF WAYNESVILLE:

\_\_\_\_\_  
J. Gary Caldwell, Mayor

ATTEST:

\_\_\_\_\_  
Candace Poolton, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Martha Bradley, Town Attorney

## Town of Waynesville Planning Board Staff Report

**Subject:** Ground Mounted Solar Panels and Electric Vehicle Installations in the LDS  
**Ordinance Sections:** Multiple  
**Applicant:** Request for text amendment from the Environmental Sustainability Board  
**Meeting Date:** December 16, 2024  
**Presenter:** Alex Mumby, Land Use Administrator  
 Elizabeth Teague, Development Services Director

### Background:

This ordinance addresses several technologies: stand-alone, ground mounted solar panels, EV charging stations, and solar array farms. The Development Services Department was asked by the Environmental Sustainability Board to examine how the Land Development Standards could be applied to the use of ground mounted solar panels and arrays on residential and commercial lots. In discussion of this topic, the Planning Board asked staff to also look at how large-scale, commercial solar arrays, or “solar farms” are handled in the ordinance. Additionally, staff would like to incentivize the installation of electric vehicle charging stations and integrate EV Charging into common parking and civic space areas in major site plans.

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Larger scale solar arrays used to generate power for a utility or commercial purpose, should fall under the category of “Utilities – Class 3” in the LDS Section 3.10.6 of Supplemental Standards which refers to uses that meet the definition of “generation, production, or treatment facilities such as power plants, water and sewerage plants, and landfills,” as having to meet the requirements for a Special Use Permit, and the administrative guidelines found in LDS Section 15.10, and requiring of a quasi-judicial procedure.

A draft ordinance based on zoning rules from Weaverville and Asheville was presented to the Planning Board on December 5<sup>th</sup>, 2024, and amendments to the draft have been made based on that discussion and Board feedback. Specifically, concern was raised regarding the number of pole-mounted solar panels which could be placed on a lot. The new draft ordinance now limits the number to 1 pole-mount per .2 acres rounded up. The maximum height of pole mounted solar panels is now recommended to be limited to 20 feet. A solar farm use type has been created and follows the same placement restrictions as existing power generation types. An additional cap of 1000 square feet now limits the EV charging civic space type.

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Examples:





### **Staff Recommendation**

Staff recommend that the Town develop an ordinance that defines and allows GMSPs in all districts, so that there is no zoning question in the future.

- Pole mounts should not count as accessory structures but should stay within the same height as a ground mounted light fixture, which is 25' or less, and should be limited to the side or rear yard. A variance from the ZBA could allow for extended height or front yard placement where the height of neighboring structures and trees prevent the collection of solar energy, and when alternative placement is needed for tree preservation. Additionally, variance criteria should include evidence that the panel would not interfere with the neighboring properties or take away from the character of the neighborhood.
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- EV Charging stations should be encouraged in all large-scale development. As incentive for residential placement, EV chargers with adjacent designated parking could count toward civic space in addition to parking requirements. This would give design flexibility and hopefully give some incentive to include them.

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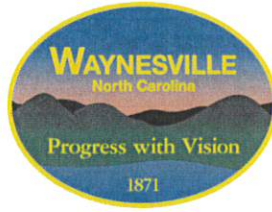
### **Consistency with Comprehensive Plan**

Goal 3 of the 2035 Comprehensive Plan is to "protect and enhance Waynesville's natural resources." This includes the goal "to engage in and promote the best management practices related to energy use..."

Goal 5 of the Plan is to "create opportunities for a sustainable economy." This includes, "Support 21<sup>st</sup> century technology and infrastructure by broadening the availability of high-speed internet, modernizing wireless communication facilities, and promoting green building and the use of solar and wind technologies."

### **Recommended Motion**

Staff only seeks continued Planning Board input and direction at this time in order to refine a draft ordinance for public hearing.



To: Town of Waynesville Planning Board  
 From: Alex Mumby, Land Use Administrator  
 Date: January 13<sup>th</sup>, 2025  
 Subject: Text Amendment Statement of Consistency  
 Description: Text Amendment to address solar panels and EV charging stations.  
 Contact: Town of Waynesville Planning Department (“Development Services”)

The Planning Board hereby adopts and recommends to the Governing Board the following statement(s):

The zoning map amendment **is approved and is consistent with the Town’s Comprehensive Land Use Plan** because: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The zoning map amendment **and is reasonable and in the public interest** because:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The zoning map amendment **is rejected because it is inconsistent with the Town’s Comprehensive Land Use Plan and is not reasonable and in the public interest** because \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

In addition to approving this zoning map amendment, this approval is **also deemed an amendment to the Town’s Comprehensive Land Use Plan**. The change in conditions taken into account in amending the zoning ordinance to meet the development needs of the community and why this action is reasonable and in the public interest, are as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Planning Board Member \_\_\_\_\_, made a motion, seconded by \_\_\_\_\_

The motion passed \_\_\_\_\_. (*unanimously or vote results here*)

\_\_\_\_\_  
 Susan Teas Smith, Planning Board Chair

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Esther Coulter, Administrative Assistant

\_\_\_\_\_  
 Date

Subject: Analysis from the School of Government on recent legislation that will  
Impact Land Use Practice and the Density Work Group recommendations  
Meeting Date: January, 13, 2025

With appreciation to Stuart Bass who passed along this article, staff wanted to share with you the UNC School of Government's thoughts on recent legislation, known as SB 382, which was passed into Session Law by override of a VETO. This legislation will require the Town to reframe the approach we were taking to accommodate recommendations of the 2035 Comprehensive Plan. You will recall that the efforts of the Density Work Group were to reduce zoning density in agricultural and rural areas, in order to promote land preservation and conservation approaches to new development. This material is for the Planning Board's information and for possible discussion as time allows at the January 13<sup>th</sup> meeting.

### **UNC SOG Coates' Canons NC Local Government Law: Limits on "Down-Zoning"**

**Published: 12/20/24**

**Author: Adam Lovelady**

The North Carolina General Assembly amended state law to greatly restrict local government discretion to amend local zoning ordinances. The statutory provision, amended as part of the Disaster Recovery Act of 2024 – Part III, Session Law 2024-57 (S.B. 382), broadly defines "down-zoning" and provides that local governments cannot adopt a down-zoning without written consent from all impacted owners.

The precise interpretation and breath of impact of this law are not perfectly clear. There are many questions. One thing is clear: the law dramatically alters the authority for local governments to amend local zoning ordinances.

This blog seeks to decipher the meaning and scope of the new limits on down-zoning. The blog outlines the amended statutory language; it investigates the meaning and scope of "down-zoning" as defined by state law; and it identifies some of the ways that local zoning administration may be impacted by the new limits.

#### **Property Rights and Ordinance Changes**

State and local law has long addressed this question of fairness that is central to land use regulations: To what extent should new regulations apply to existing development? Vested rights allow a property owner to develop land pursuant to an approved development permit even if the regulations are changed after the permit is issued.

The permit choice rule ensures that if a property owner has already applied for a development approval (but not yet received approval) and then the regulations are changed, the property owner can choose for the permit to be reviewed under the old rules or reviewed under the new rules. As for existing development, local ordinance provisions about nonconforming situations generally allow existing land uses and development to continue, even if new regulations would not allow that existing development if it was proposed as new development. All of these rules—vested rights, permit choice, and nonconformity provisions—provide protection for property owners against regulatory changes that might otherwise limit planned and existing development.

Additionally, North Carolina law has limited down-zonings by third parties. The prior version of G.S. 160D-601(d) prevented an individual from requesting to reduce the development rights on their neighbor's property without consent from the neighbor. The old law, though, maintained local government authority to make decisions about rezoning property and adjusting zoning standards. The local legislative body—the town council or county commission—had authority under prior law to make local legislation decisions to adjust rules according to local needs and priorities.

New legislation goes further: It prohibits local government-initiated down-zoning and it broadens the definition of down-zoning. Session Law 2024-57 (S.B. 382), Section 3K.1.(a), amends G.S. 160D-601(d) to read as follows (strike-throughs show text that was cut and underlines show text added):

(d) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. amendment. For purposes of this section, “down-zoning” means a zoning ordinance that affects an area of land in one of the following ways:

1. By decreasing the development density of the land to be less dense than was allowed under its previous usage.
2. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
3. By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element.

It should be noted that there are media reports that the General Assembly may revisit this topic in a future legislative session. For now, though, it is law.

### **Applicability**

Section 3K.1.(c) of the session law states that the limits on down-zoning are effective upon adoption and apply retroactively to any “down-zoning” adopted after June 14, 2024. Here’s the language:

“This section is effective when it becomes law [December 11, 2024] and applies to local government ordinances adopted on or after that date and any local government ordinance enacting down-zoning of property during the 180 days prior to the date this section becomes effective [i.e., zoning amendments adopted after June 14, 2024]. Ordinances adopted in violation of this section shall be void and unenforceable.”

This retroactive application means that some previous local government zoning actions—including actions that property owners and developers have relied upon—may be unenforceable without written consent from all affected property owners.

### **“Down-Zoning” Defined Broadly**

In land use law generally, “down-zoning” refers to rezoning a property to a new zoning district that is less intense or less dense than the prior district. Rezoning property from an industrial zoning district

to a residential zoning district, for example, is a down-zoning. North Carolina law, however, defines down-zoning much more broadly.

To be clear, two of the three provisions discussed below were already in state law. But, those provisions are much more impactful now that they apply to local government-initiated amendments, not just third-party requests.

Let's consider each of the three ways in which the state law would consider a zoning amendment to be a down-zoning.

### **DENSITY**

**“By decreasing the development density of the land to be less dense than was allowed under its previous usage.”**

Under the new law, an amendment to the zoning text or map may not reduce the density of development unless the owner consents to it.

Zoning ordinances commonly regulate the density of residential units in each residential zoning district. Plainly a zoning ordinance amendment or rezoning that reduced the residential density would be prohibited under the new law unless the owner consented to the reduction.

For example, a local government can no longer rezone a corridor or small area of properties from multifamily zoning to single family zoning without the consent of all the owners within the corridor or area. Beyond that, other regulatory provisions could be implicated. Setbacks, buffers, and open space requirements limit the amount of a lot that can be developed. Does increasing such requirements decrease the development density of the land? Potentially. If so, then changes to such development standards may be limited by the new law.

### **USES**

**“By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.”**

Under the new law, an amendment to the zoning text or map may not reduce the permitted uses of the land unless the owner consents to it.

The phrasing of this provision suggests two different aspects of a zoning amendment that might trigger the down-zoning limits: *substantively* prohibiting a use that was previously allowed (“reducing the permitted uses”) and *numerically* reducing the number of uses allowed (“to fewer uses”). Moreover, this new law applies to text amendments *and* map amendments, so the two different aspects could come up through a text change to a use table or through a rezoning.

A common understanding of down-zoning would suggest that this provision should be interpreted to focus on the substantive uses allowed, but the language is not clear. Under the new law, is a zoning amendment a down-zoning when it prohibits a use that was previously allowed? Or is it a downzoning when the number of permitted uses is less than the number previously allowed (regardless of the substantive uses allowed)?

Here's a simplified scenario to explore the potential implications. Consider a zoning ordinance use table that includes these districts and permitted uses.

<b>R-1, Residential</b>	<b>NC, Neighborhood Commercial</b>	<b>HC, Highway Commercial</b>
Single-family residential	Retail and restaurant	Gas station
Two-family residential	Multifamily residential	Truck stop
Bed and Breakfast	Religious assembly	Large format retail
Religious assembly	Gas station	
Short-term rental		
[Three-unit residential]		
[Four-unit residential]		

First, consider a text amendment. Suppose a local government is amending the zoning ordinance to strike "short-term rental" from the permitted uses for R-1. Such an action would "reduc[e] the permitted uses," so potentially that could not be "initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment." (Such consent would be nearly impossible across an entire jurisdiction.)

Alternatively, suppose the text amendment struck "Short-term rental," but added "Three-unit residential" and "Four-unit residential" as permitted uses. In this case, the text amendment would result in more permitted uses, not less. Under the statutory language, arguably that is not a down-zoning.

Next, consider how this plays out for a rezoning action. Imagine that the town is seeking to encourage commercial development along a highway corridor, so the town seeks to amend the zoning map so properties along the corridor are rezoned from the Neighborhood Commercial zoning district to the Highway Commercial zoning district. Such action would allow for more intense uses (commonly thought of as "up-zoning"), but fewer uses.

Additionally, some of the uses permitted under Neighborhood Commercial would no longer be permitted. Substantively and numerically that would be a down-zoning under the law.

The phrasing of this provision raises two more questions worth exploring: What is included in "permitted uses"? And, what is meant by "previous usage"?

The phrase "permitted uses" raises questions. Surely principal land uses listed on the use table as allowed are permitted uses. What about uses allowed with special development standards? What about uses allowed by a special use permit? If a use is moved from "permitted" to "permitted by special use permit" is that a down-zoning? What about temporary uses or accessory uses? Are they permitted uses? It is not clear.

With regard to “previous usage,” the statute refers to “fewer uses than were allowed under its *previous usage*.” Is *previous usage* referring to how the property was actually used (it’s usage)? Or is that referring to the *previous regulation* or *previous district*? It is not clear.

## **NONCONFORMITIES**

**“By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element.”**

Under the new law, an amendment to the zoning text or map may not create nonconforming situations in non-residential zoning districts unless the owner consents to it.

A bit of context may be helpful. Most zoning ordinances allow for nonconforming situations to continue. So, when an ordinance is revised in a way that makes a current building, activity, or lot out-of-compliance, the property owner is allowed to continue that situation as a lawful nonconformity. In other words, the ordinance would not allow that building, activity, or lot if the property owner proposed it new, but since the situation was already there before the ordinance changed, the owner is allowed to continue.

There is no general state law requirement for nonconforming provisions, but local zoning ordinances typically include them. Commonly an ordinance will require that a nonconforming use cannot be expanded or intensified and that if the use is ceased for a period of time (12 months, for example) the owner loses status as a lawful nonconformity and must come into compliance with the new rules.

There are circumstances when a local government requires immediate compliance rather than allowing a situation to continue as a lawful nonconformity. These typically arise for public health and safety reasons. For example, consider if a town ordinance did not address camping and the owner of a vacant lot near downtown began hosting dozens of individuals sleeping in tents. The town might adopt requirements to address sanitation and crowding, and the ordinance might require property compliance right away. In other words, the use would not continue as a lawful nonconformity.

The new legislation against down-zoning clouds the rules for nonconforming provisions and situations. Outside of residential zoning districts, a zoning amendment cannot create any type of nonconformity. That plainly prohibits the common approach of allowing situations to continue as a lawful nonconformity. The law leaves open the possibility of requiring immediate compliance.

As discussed more below under Amending Development Standards, this provision on nonconformities will greatly impact local government updates to an array development standards like parking, setbacks, landscaping, signage, and more.

What about vacant land? In some cases new development standards might apply to vacant land without triggering a “down-zoning.” In order to create a nonconformity, there must be development that becomes nonconforming. For vacant land, though, new rules may not create a nonconformity so it might not amount to a down-zoning under the law.

What about old nonconformities? It appears that nonconformities existing prior to June 14, 2024, will continue unaffected by the new law. Local nonconforming provisions will still apply to those situations.

### **Implications for Local Zoning**

So, what does this broad definition of down-zoning mean for local zoning ordinances? Here are some topics and considerations.

#### **Rezoning Requested by Property Owners**

A standard rezoning—where the property owner requests for property to change from one zoning district to another—will be unaffected, generally, by the new law because the property owner will be inclined to consent to the change. A local government will want to obtain written consent to the rezoning, especially if it falls within the broad definition of “down-zoning.” An application for rezoning might be implied consent to the change, but local governments would be wise to obtain clear, written consent to the down-zoning.

Conditional zoning already requires consent from the property owner. Given that the new legislation greatly limits authority for generalized amendments and updates to zoning, local governments may be inclined to shift rezonings toward conditional rezoning to ensure consent and to address standards for development.

#### **Addressing New Uses**

North Carolina is home to creative folks. They come up with all kinds of new, entrepreneurial uses for property. Additionally, industries are constantly evolving and seeking new ways to operate. Zoning ordinances cannot address any and all future land uses. They must be amended from time to time. Recent examples are food trucks, solar farms, backyard chicken coops, short-term rentals, crypto-mining operations, and vape shops. As new uses arise, local governments must determine if current ordinance provisions address the use sufficiently or if new regulations are needed.

The rule against down-zoning will complicate the process of addressing new uses. Ordinance amendments addressing new uses commonly restrict uses and add development standards. Such actions likely will be down-zonings.

#### **Amending Development Standards**

Zoning ordinances have a wide range of development standards: parking requirements, vegetative buffering, setbacks, height limits, and more. The limits on down-zoning will complicate the process of amending development standards. Amendments to these development standards may amount to a “down-zoning” under the new law if the new development standard limits development density on any property or creates a nonconformity on property in non-residential zoning districts.

Going forward, local governments may consider re-characterizing how rules apply so that rules are not creating nonconformities in non-residential districts: in other words, making new ordinance rules only apply to development occurring after the effective date of the ordinance.

So, for example, new parking rules do not apply to existing development, but do apply to applications for new development. Such action would not be “creating any type of nonconformity on land not in a



residential zoning district.” Existing development conforms with the rules applicable at the time of that existing development. And new development must conform with the new rules.

While such an approach may avoid the terminology “nonconformity,” it is accomplishing similar ends to typical nonconforming provisions, so it may still run afoul of the new law. Additionally, it may prove difficult for local governments to keep track of which development standards apply to new developments and which apply to old development.

### **Changes in Jurisdiction**

Jurisdictional boundaries change commonly: the general assembly might de-annex property from a town, a town might extend (or relinquish) extraterritorial jurisdiction, or a new survey might correct a county boundary. Regardless of the reason for the change, whenever property changes jurisdiction the local government receiving the property must take action to apply zoning rules to the property. My colleague, Jim Joyce, has written on this topic in the blog, [What Happens When Property Changes Jurisdiction?](#) Essentially, the local government must go through a rezoning process to amend the zoning map and apply the zoning regulations to the new property.

The limits on down-zoning will complicate the process of applying zoning after a change in jurisdiction. Without consent from the owner, an action to apply zoning to property that is newly added to the jurisdiction cannot reduce density or reduce uses, and for nonresidential districts, the action cannot create nonconformities. In cases of voluntary annexation, this may be a nonissue (the owner is requesting the new jurisdiction and presumably will provide written consent to the down-zoning), but in many other cases of changed jurisdiction, the owner may oppose the jurisdictional change and/or oppose the new zoning.

### **New Ordinances and New Maps**

Local governments commonly adopt updated or overhauled zoning ordinances and unified development ordinances. Along with that, they commonly adopt wholly new zoning maps to align the zoning map with the new ordinance and districts.

The limits on down-zoning will complicate the process. Given the broad definition of “down-zoning,” ordinance updates and adoption of new maps will surely be impacted. Consent from every owner is impractical and unlikely. A local government potentially could allow for parallel zoning regulations (whereby the old rules are still available, but an owner could opt into the new rules), but such a system is unwieldy.

Even short of a comprehensive re-write or map update, any general changes to a zoning ordinance or map will be challenging. Imagine a new highway corridor district or gateway district overlay. Even if only one property was more restricted by the change, the law would require “written consent of all property owners whose property is the subject of the down-zoning amendment.”

### **Incorporating Maps by Reference**

G.S. 160D-105 authorizes local governments to “incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and federal agencies.” As part of that, a local ordinance may be “automatically amended to remain consistent with changes in the officially promulgated State or federal maps.” The limits on down-zoning likely

will conflict with such automatic updates since maps with altered boundaries are likely to impose use and density limits as well as create nonconformities.

### **Compliance with Federal and State requirements**

Local governments implement a range of state and federal requirements through zoning and related development regulations. The limit on down-zoning will complicate the process of implementing such requirements.

The National Flood Insurance Program requires that local governments must adopt minimum standards for flood damage prevention in order to participate in the program and for property owners to have access to federal flood insurance.

The state Water Supply Watershed Program requires development regulations at the local level to protect drinking water supplies for North Carolina communities. When the standards are revised or the maps are updated, local governments must take action to update local ordinances accordingly.

Such action could amount to a down-zoning, and the local government may be caught between the federal or state requirement and adhering to the limits on down-zoning.

### **What about related development ordinances? What about floodplain regulations?**

The language of G.S. 160D-601(d) is focused on zoning (“No amendment to *zoning* regulations or a *zoning* map . . .”). The heading of the subsection (“Down-Zoning”) suggests this is about zoning. And “down-zoning” is defined to be “a zoning ordinance that affects an areas of land . . .”

Other provisions of Article 6 of Chapter 160D also distinguish between zoning and other development regulations. G.S. 160D-604 requires planning board review for *zoning amendments* and allows planning board review for amendments to other *development regulations*. With all of that, it seems that the limitation on “down-zoning” applies only to zoning ordinances, not other development regulations.

There is some statutory language and some practical implications that suggest that the limit may apply more broadly. Section 160D-601 itself is titled “Procedure for adopting, amending, or repealing *development regulations*.” Moreover, subsection (d)(2) refers to permitted land uses “that are specified in a zoning ordinance or *land development regulation*.” So perhaps the limit on down-zoning applies further than the zoning ordinance.

Floodplain regulations are a particularly tricky topic here. Floodplain regulations are authorized separately from zoning (G.S. 143-215.51 through -215.61 and G.S. 160D-923). Floodplain regulations, however, are zoning-like—maps identify different regulatory districts and land uses and development densities are regulated in those districts. Floodplain regulations commonly are incorporated into zoning regulations or are very closely related to the zoning ordinance.

Floodplain ordinances adopted as part of a zoning ordinance would be subject to the limitations on down-zoning. For a floodplain ordinance that is adopted as stand-alone development regulation, perhaps the down-zoning limitations of G.S. 160D-601(d) do not apply. Even then, the floodplain ordinance is establishing districts and regulating land uses so may be viewed as zoning anyway.

Presuming that the limits on down-zoning do apply to floodplain regulations, that could create significant problems for compliance with the National Flood Insurance Program (NFIP).

As noted above, NFIP regulations require that local governments adopt certain minimum regulations for flood damage prevention and those regulations must align with the federal floodplain mapping. If a local government failed to maintain an adequate ordinance or adopt current maps, residents may lose access to federal flood insurance. For more on floodplain rules, check out these [FAQs](#).

## Conclusion

G.S. 160D-601(d), as amended, sets a new, broader definition of “down-zoning” and greatly limits local government authority to amend zoning ordinances and maps without property owner consent. Many questions remain about the precise meaning of the law, the breadth of the implications, and whether the General Assembly may revisit the legislation.

In the meantime, here is a simple list of questions for evaluating “down-zonings.”

Is it a “down-zoning”?

- Is the change an amendment to the zoning text or map?
  - If yes, continue to next question. If no, evaluate if the amendment is effectively a zoning amendment (like in the case of floodplain ordinances).
- Does the text or map amendment reduce development density?
  - If yes, it’s a “down-zoning” (jump down to next section). If no, continue to next question.
- Does the text or map amendment limit a use that was previously permitted and/or reduce the number of uses allowed? (Reminder: There is ambiguity as to whether this is substantive, numeric, or both.)
  - If yes, it’s a “down-zoning” (jump down to next section). If no, continue to next question.
- Does the text or map amendment affect property in a nonresidential zoning district?
  - If yes, continue to next question. If no, it likely is not a “down-zoning.”
- For text or map amendments affecting nonresidential zoning districts, does the text or map amendment create a nonconforming situation?
  - If yes, it’s a “down-zoning” (jump down to next section). If no, it likely is not a “down-zoning.”

If it is a “down-zoning”:

- Can the local government get written consent from all affected property owners?
  - If yes, then the amendment may proceed with proper written consent. If no, then the amendment cannot be initiated, enacted, or enforced.