



## Town of Waynesville, NC

### Board of Aldermen – Regular Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786

Date: **February 14, 2017**

Time: **6:30 p.m.**

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#### **A. CALL TO ORDER - Mayor Gavin Brown**

1. Welcome/Calendar/Announcements
2. Adoption of Minutes

**Motion:** *To approve the minutes of the January 24, 2017 regular meeting, as presented [or as corrected].*

3. Introduction of New Fire Fighters by Fire Chief Joey Webb

#### **B. PUBLIC HEARINGS**

4. Public Hearing to consider the approval of the Town of Waynesville Recreation Master Plan
  - Rhett Langston, Recreation Director

**Motion:** *To approve of the Town of Waynesville Parks and Recreation Master Plan.*

5. Public Hearing to consider a request to rezone 1678 Brown Avenue, PIN 8605-70-6170 from Hyatt Creek Regional Center Commercial District (HCRC) to Hyatt Creek Regional Center Commercial District Conditional District (HCRC-CD)
  - Elizabeth Teague, Development Services Director

**Motion:** *To find/not find the proposed rezoning request consistent with the 2020 Land Development Standards, as presented.*

**Motion:** *To approve (or not approve, or approve with conditions) Ingles Markets, Inc. request for a Conditional District based on the submitted site plan and draft ordinance, as presented.*

#### **C. NEW BUSINESS**

6. Request Support for Proposed Additional 2% Occupancy Tax
  - Lynn Collins, Executive Director, Haywood County TDA

**TOWN OF WAYNESVILLE – REGULAR SESSION AGENDA**

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**Motion:** *To support the introduction of legislation in support of an additional two percent (2%) Occupancy Tax for establishing a Tourism Product Development Fund and approve the Haywood County Tourism Development Authority (HCTDA) Product Development Fund Policy and Process Guidelines.*

7. Request approval of Memorandum of Agreement between Haywood County Public Library and Town of Waynesville for Story Walk at Vance Street Park

**Motion:** *To approve the Memorandum of Agreement between Haywood County Public Library and the Town of Waynesville for the installation and maintenance of the story walk at 550 Vance Street, as presented.*

8. Authorization to Advertise Delinquent Property Tax Accounts in the Town of Waynesville for the Year Ending 2016

- James Robertson, Tax Collector

**Motion:** *To authorize staff to advertise all 2016 delinquent property taxes in The Mountaineer on or about March 3, 2017, as required by NCGS §105-369.*

9. Request approval to award bid for purchase of vehicles

- Lisa Burnett, Purchasing Supervisor

**Motion:** *To award the bid for the purchase of two dump trucks in the amount of \$139,440.00 to the lowest, responsible, responsive bidder, Ken Wilson Ford of Canton, as presented.*

10. Request approval to submit a grant application to the State Historic Preservation Office Certified Local Government Program for the purpose of conducting a survey of resources historically associated with Waynesville's African American community

- Elizabeth Teague, Development Services Director

**Motion:** *to direct staff to prepare an application to the Certified Local Government Grant program of the state Historic Preservation Office, as presented.*

**D. COMMUNICATIONS FROM STAFF**

11. Manager's Report –Town Manager Rob Hites

Proposed contract for legal services involving potential litigation

**Motion:** *To approve the proposed contract with Cannon Law, P.C., for legal services involving potential litigation, as presented.*

12. Attorney's Report – Town Attorney Woody Griffin

**TOWN OF WAYNESVILLE – REGULAR SESSION AGENDA**

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**E. COMMUNICATIONS FROM THE MAYOR AND BOARD**

**F. CALL ON THE AUDIENCE**

**G. ADJOURN**

**THERE WILL BE A SPECIAL CALLED MEETING OF THE BOARD OF ALDERMEN ON  
FRIDAY, FEBRUARY 24, 2017 BEGINNING AT 8:30 A.M.  
AT THE WELLS EVENTS CENTER.  
THE PURPOSE OF THIS MEETING IS FOR A BOARD RETREAT.**



# TOWN OF WAYNESVILLE

PO Box 100  
16 South Main Street  
Waynesville, NC 28786  
Phone (828) 452-2491 • Fax (828) 456-2000  
[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

## CALENDAR

February 14, 2017

2017	
<b>Tues, Feb 14</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Fri, Feb 24</b> 8:30 AM Wells Events Center	Board of Aldermen – Special Called Meeting – <b>BOARD RETREAT</b>
<b>Mon, Feb 27</b> 5:30 PM Location TBA	Haywood County Council of Governments (COG) meeting Town of Canton Hosting
<b>Tues, Feb 28</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tues, March 14</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Sat, March 18</b> 8:00 AM WMS and Hazelwood	Mountaineer 2-miler – benefitting WMS PTA (Approved by Aldermen at November 8, 2016 meeting)
<b>Tues, March 28</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Wed, March 29</b> Raleigh, NC	Town Hall Day – NC Legislature
<b>Tues, April 11</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Fri, April 14</b>	Good Friday Town Offices Closed
<b>Mon, April 24</b> 5:30 PM Location TBA	Haywood County Council of Governments (COG) Meeting Town of Clyde Hosting
<b>Tues, April 25</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tues, May 9</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tues, May 23</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session



<b>Mon, May 29</b>	Memorial Day Town Offices Closed
<b>Tues, June 13</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Mon, June 26</b> 5:30 PM Location TBA	Haywood County Council of Governments (COG) Meeting Haywood County Hosting
<b>Tues, June 27</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tue, July 4</b>	Independence Day Town Offices Closed
<b>Tues, July 11</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tues, July 25</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tues, Aug 8</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tues, Aug 22</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Mon, Aug 28</b> 5:30 PM Location TBA	Haywood County Council of Governments (COG) Meeting Town of Maggie Valley Hosting
<b>Mon, Sept 4</b>	Labor Day Town Offices Closed
<b>Tues, Sept 12</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tues, Sept 26</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Tues, Oct 10</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Mon, Oct 23</b> 5:30 PM Location TBA	Haywood County Council of Governments (COG) Meeting Town of Waynesville Hosting
<b>Tues, Oct 24</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Fri, Nov 10</b>	Veteran's Day Town Offices Closed
<b>Tues, Nov 14</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session

<b>Thur &amp; Fri, Nov 23-24</b>	Thanksgiving Town Offices Closed
<b>Tues, Dec 12</b> 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
<b>Mon – Wed, Dec 25-27</b>	Christmas Town Offices Closed

## Board and Commission Meetings –February/March 2017

ABC Board	ABC Office – 52 Dayco Drive	<b>February 21</b> 3 <sup>rd</sup> Tuesdays 10:00 AM
Board of Adjustment	Town Hall – 9 S. Main Street	<b>March 7</b> 1 <sup>st</sup> Tuesdays 5:30 PM
Downtown Waynesville Association	UCB Board Room – 165 North Main	<b>February 24</b> 4 <sup>th</sup> Thursdays 12 Noon
Firefighters Relief Fund Board	Fire Station 1 – 1022 N. Main Street	<b>Meets as needed;</b> <i>No meeting currently scheduled</i>
Historic Preservation Commission	Town Hall – 9 S. Main Street	<b>March 1</b> 1 <sup>st</sup> Wednesdays 2:00 PM
Planning Board	Town Hall – 9 S. Main Street	<b>February 20</b> 3 <sup>rd</sup> Mondays 5:30 PM
Public Art Commission	Town Hall – 9 S. Main Street	<b>March 9</b> 2 <sup>nd</sup> Thursdays 4:00 PM
Recreation & Parks Advisory Commission	Rec Center Office – 550 Vance Street	<b>February 22</b> 3 <sup>rd</sup> Wednesdays 5:30 PM
Waynesville Housing Authority	Waynesville Towers – 65 Church Street	<b>February 22</b> 3 <sup>rd</sup> Wednesdays 3:30 PM

## BOARD/STAFF SCHEDULE

<b>Mon– Fri, Feb 14 – 17, 2017</b>	Assistant Town Manager	Municipal and County Administration Course Chapel Hill, NC
<b>Mon- Fri, Feb 13 - Feb 17, 2017</b>	Administrative Assistant	IIMC Clerks Certification Course – week 1 Chapel Hill, NC
<b>Tue – Fri, March 14 – 17, 2017</b>	Assistant Town Manager	Municipal and County Administration Course Chapel Hill, NC
<b>Mon – Fri., May 8 – 12</b>	Administrative Assistant	IIMC Clerks Certification Course – week 2 Chapel Hill, NC
<b>Tue – Fri, April 25 – 28, 2017</b>	Assistant Town Manager	Municipal and County Administration Course Chapel Hill, NC
<b>Mon- Thurs, August 28-31</b>	Administrative Assistant	IIMC Clerks Certification Course – week 3 Chapel Hill, NC
<b>Mon-Fri., October 23-27</b>	Administrative Assistant	IIMC Clerks Certification Course – week 4 Chapel Hill, NC

**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REGULAR MEETING**  
**January 24, 2017**

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**THE WAYNESVILLE BOARD OF ALDERMEN** held a regular meeting on Tuesday, January 24, 2017 at 6:30 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

**A. CALL TO ORDER**

Mayor Gavin Brown called the meeting to order at 6:30 p.m. with the following members present:

Mayor Gavin Brown  
Alderman Gary Caldwell  
Alderman Jon Feichter  
Alderman Julia Freeman  
Alderman LeRoy Roberson

The following staff members were present:

Rob Hites, Town Manager  
Woody Griffin, Town Attorney  
Amie Owens, Assistant Town Manager/Town Clerk  
Elizabeth Teague, Development Services Director  
Rhett Langston, Recreation Director

The following media representatives were present:

Allison Richmond, the Mountaineer  
Cory Vaillancourt, Smoky Mountain News

1. Welcome /Calendar/Announcements

Mayor Gavin Brown welcomed everyone to the meeting and noted the following calendar events including:

- February 1 – Historic Preservation Commission (HPC) Public Comment Session regarding the addition of Greenhill Cemetery to the National Register.
- February 2 – HPC Winter Speaker Series begins at 4:00 p.m. in the Board Room of Town Hall. These offerings will be held on the first Thursdays of each month through May and offer different topics on the history of Waynesville
- February 24 – Board Retreat – Wells Events Center – 8:30 a.m. until 4:30 p.m. Providing the board a review of where we are and where we are going and allow them to prioritize for the future
- February 1 to 3 – NC City and County Managers Association Annual Meeting – Town Manager and Assistant Town Manager to attend.

2. Adoption of Minutes

***Alderman Caldwell made a motion, seconded by Alderman Roberson, to approve the minutes of the January 5, 2017 special called meeting and the January 10, 2017 regular meeting, as presented. The motion carried unanimously.***

**B. PRESENTATIONS/CALL FOR PUBLIC HEARINGS**

3. Tuscola High School Air Force Junior ROTC – Annual Report

Lt. Col. Kevin Sutton thanked the board for the opportunity for the cadets to present and noted that this presentation was an explanation of the activities from the past year.

Cadet Lt. Col. Joy Kelley began the presentation by noting that she was honored to participate in her fourth presentation to the Board. She explained that the Corps had been serving the community for 44 years. She provided an overview of the current year goals and accomplishments of the group during the past year. Cadet Kelley noted that the goals were developed by the unit and had to be measurable in order to help them stay on track and know where to focus manpower. She highlighted the various unit, school and community activities that had occurred over the past year.

Cadet 2<sup>nd</sup> Lt. Jack Leslie reported on the Cadet Core Wellness and Community Service activities of the group. He explained that there were 83 cadets participating to achieve high goals in 5 training regimens of physical and mental fitness areas. Those who were participating took first place out of 12 teams at a recent competition. Cadet Leslie noted that Community Service was paramount for the unit. As of January 23, each participant averaged 18 hours of volunteer work with more hours to be added as the year progresses. Some of the events where service was provided included: bell ringing for Salvation Army, assisting with the Mountains to Coast bicycle ride and at Haywood Christian Ministry sorting items received from the Postal Workers annual food drive.

Cadet 2<sup>nd</sup> Lt. Mayra Rios explained that the Cadets in Action (CIA) had two trips planned this year, one to the Civil Air Patrol in Asheville and a joint trip with Pisgah's NJROTC to Pensacola, Florida to Eglin Air Force Base. She elaborated on the various activities of the color guard and drill team and the Kitty Hawk Air Society which is an academic honor society and offers tutoring to other cadets. Cadet Rios added that the purpose of the CIA trips was to challenge the cadets to use what they were learning in a hands-on and concrete fashion.

Cadet Staff Sergeant Aaleiah Cagle concluded the presentation by highlighting some of the activities such as instructing elementary school students on the proper way to fold the US Flag, caroling at local nursing homes during the holidays, and the annual Veterans Day Luncheon. She added that this is her first year and has truly loved the experience. In addition to the other activities, cadets raise and lower the flag each day at the Tuscola campus and provide color guard service at all football and basketball games, as well as other special events.

Mayor Brown thanked the cadets for their participation and their instructors for mentoring these young people and applauded their potential for the future. Mayor Brown added that he sees the future of Haywood County, Waynesville and the United States in this room and that they are doing exactly what this country needs. He thanked Lt. Col. Sutton for his tutelage of the students and for their participation.

#### 4. Recreation Master Plan Presentation and Call for Public Hearing

Rhett Langston, Recreation Director introduced Derek Williams, VP and Senior Project Manager from Alfred Benesch who had worked with him on this six-month planning process. Mr. Langston thanked the Board for the opportunity for Mr. Williams to present the information obtained during his study. He also acknowledged the attendance of the Recreation Advisory Commission at this meeting and thanked them for their support.

Mr. Williams began by stating he enjoyed working with staff and citizens during this six month planning process. He had the opportunity to study what the Town had as resources and what may be lacking. Mr. Williams provided two plans, a system-wide plan and a site specific plan for the two larger parks, Vance Street and Recreation Park.

Mr. Williams explained the various steps in development of this master plan including:

Step 1 – Inventory of existing parks and amenities. Mr. Williams worked with Recreation staff to visit all of the various parks and greenways, reviewed what potential needs were noted by staff and prepared for the public input process.

Step 2 - Public Input. Mr. Williams explained the public input process noting that there were 3 public workshops held with over 100 attendees and approximately 450 individuals responding to an electronic survey. This information provided a basis for the development of standards.

Step 3 – Development of Standards. Mr. Williams provided an overview of the various park sizes in comparison with other like-sized municipalities. This information would allow for benchmarking to determine next steps and where to focus resources.

Step 4 – Plan of Action. Park Needs – Mr. Williams highlighted that the parks system is usually made up of different types of facilities and that Waynesville had a good mix, but there were some improvements to be made. He outlined specific plans for improvements to the larger community parks – Vance Street and Recreation Park. His general recommendations at Recreation Park included expanding the greenway and develop it beyond what it is currently, as well as improvements to the tennis courts, addition of restrooms, renovations to the playgrounds and lighting for the skate park. The anticipated costs for these improvements are \$2.5 million dollars.

Facility Needs. Improvements to the recreation center include additional programming space in the weight room/aerobics room, addition of a therapy pool and installation of an outdoor splash pad and sunning area. Mr. Williams also recommended a garden and gazebo area for gardening clubs or community garden at the upper edge of the property. Other proposed changes included renovations to the walking track and improvements to the restrooms. The anticipated cost for these improvements is \$2.7 million dollars.

Mr. Williams added that with additional renovation projects and neighborhood parks and potential land acquisition, the full cost of the master plan would be approximately \$9.8 million dollars over 10 years. He explained that this was a vision plan that tried to identify the needs and provide options to move forward with future capital planning. The master plan has some grant opportunities, and can be divided into a variety of smaller plans.

Mayor Brown thanked Mr. Williams for his presentation and asked if there were a grading system for the existing parks, what would it be? Mr. Williams offered a letter grade of “B” based on the improvements that need to be made. He added that the indoor facilities are absolutely phenomenal and that the town should be proud of what it has. Mayor Brown noted that previous boards were very forward thinking in their planning for recreation and the building of the Recreation Center.

Alderman Roberson inquired about the prioritization of projects. Mr. Williams noted that he had separated the costs into two five year increments. Those items in the first five years would be the higher priorities.

Alderman Feichter asked where the 10-year window originated. Mr. Williams answered that as part of many grant programs and applications, a 10 year plan is required. He acknowledged that there is some difficulty in looking at a 10-year period as it can be difficult to predict future needs. Alderman Feichter commented that he had learned much about the parks system but did inquire about the Kiwanis playground. Due to its continual use, would it be possible to keep some of the main structures and build on to it or modify it to be ADA compliant. Mr. Williams explained that there were some ADA access issues that would make it difficult to take that structure to make it inclusive where someone could move around in the space and the wooden equipment is steadily being phased out due to safety concerns.

Mayor Brown thanked Mr. Langston and the Recreation Advisory Board for their participation and for the presentation by Mr. Williams.

Mr. Langston added that he felt this was a good product that did not include drastic or over the top changes to the existing parks system, but some needed improvements.

Town Manager Rob Hites added that the Board should consider their priorities for this plan and set an action agenda so that proper budgeting can occur. He added that he worked with Mr. Williams in the past and that the Alfred Benesch firm had a good reputation. Manager Hites expressed that he has been in larger cities with far less impressive facilities and parks.

***Alderman Feichter made a motion, seconded by Alderman Caldwell to call for a public hearing to be held on Tuesday, February 14, 2017 at 6:30 p.m. or as closely thereafter as possible in the Board Room of Town Hall located at 9 South Main Street, Waynesville, to consider the approval of the Town of Waynesville Parks and Recreation Master Plan. The motion carried unanimously.***

5. Call for Public Hearing to consider request to rezone 1678 Brown Avenue, PIN 8605-70-6170 from Hyatt Creek Regional Center Commercial District (HCRC) to Hyatt Creek Regional Center Commercial District Conditional District (HCRC-CD)

Elizabeth Teague, Development Services Director explained that this was a call for public hearing to consider a conditional district for the redevelopment of the Ingle’s property located at 1678 Brown Avenue. This matter has been before the Planning Board and received unanimous approval.

Mayor Brown added that he had been involved with the technical review of the site plan and that utilizing the special conditional district zoning; the Board can more freely negotiate regarding potential changes or requests for waiver. Ingle’s was amenable to working on all issues and was willing

to discuss any potential changes with staff. Mayor Brown added that Ingle's was known in the community and willing to discuss potential improvements to help in redevelopment of South Main Street.

***Alderman Freeman made a motion, seconded by Alderman Roberson to call for Public Hearing on Tuesday, February 14, 2017 at 6:30 p.m. or as closely thereafter as possible in the Board Room of Town Hall located at 9 South Main Street, Waynesville, to consider request to rezone 1678 Brown Avenue, PIN 8605-70-6170 from Hyatt Creek Regional Center Commercial District (HCRC) to Hyatt Creek Regional Center Commercial District Conditional District (HCRC-CD). The motion carried unanimously.***

### **C. PUBLIC HEARING**

6. Public Hearing to consider a map and text amendment to rezone 59 Able Lane, 48 Misti Lane and 12 Misti Lane from Howell Mill Road Medium Density Residential to Howell Mill Urban Residential

Ms. Teague explained that a request was received from Thomas Moody to rezone the three properties to Howell Mill Urban Residential District. She reminded the Board that the Howell Mill Urban Residential District was created in May 2016 in response to the need to create transitional zoning between the neighborhood along Howell Mill Road and the heavy commercial development along Russ Avenue. Mr. Moody brought his request before the Planning Board at the December 21, 2016 meeting and the Board voted to grant the request with seven Board members voting for the rezoning and one objection. Ms. Teague highlighted the location of the properties noting the proximity to the industrial property.

**Town Attorney Woody Griffin called the public hearing to order at 7:40 p.m.** and reminded those who wished to speak to raise their hand, be recognized and once at the podium provide their name and address for the minutes.

Ms. Ginger Hain, 267 Calhoun Road, spoke noting that she was a member of Waynesville's Planning Board representing the ETJ and lived adjacent to Howell Mill Road. She commented that she appreciated the conversations with the residents and the public meetings from May 2016. Ms. Hain added that residents of Howell Mill Road are an older population and the general consensus was that they did not want the zoning to change. Ms. Hain did request that the Board and staff look forward to the next comprehensive plan and limit the piecemeal requests and parcel by parcel requests.

Mr. Thomas Moody, requestor, asked the board to consider their town motto when making their decision. He added that this change in zoning was simply progress with vision and would allow growth in the area. Mr. Moody commented that the Board was kind enough to approve the new zoning district last year and would like consideration on this request as well.

**Town Attorney Griffin closed the public hearing at 7:44 p.m.**

Mayor Brown commented that he appreciated Ms. Hain's comments and their validity but noted that the comprehensive plan is organic and changes the day you adopt it. Sometimes it does grow a bit before you are ready for it. When the NC DOT fixed the road, we had to be ready to make some changes.



Alderman Feichter added that he agreed with the Mayor that plans change and the town needs to be nimble when dealing with circumstances that arise in 15 to 20 years. However, there should be thought put into how we deal with these in the next plan. He added that these were the same issues that he struggled with when he was on the Planning Board. In approaching the next plan, we need to find a way to deal better with how to make changes.

Alderman Roberson noted that this change in zoning would allow for increased density in the area and could allow for multi-family units. Housing is one of the problems we are having as a town. He added that there would still be a required buffer from commercial zone to maintain the residential feel.

A question was presented from the audience related to the increase in density under the urban residential district. It was explained that under the table of permitted uses includes the ability for any development to go for higher density under the special use permitting process which includes site plan approval by the Planning Board. The ordinance allows such special use permitting in any district to increase as long as you go through the process.

Ms. Hain added that there is no requirement that the development has to be residential in nature. Ms. Teague confirmed that there are a limited number of commercial uses allowed including professional services like physician offices. The goal was to allow some commercial uses with a residential style and scale – truly a mixed use environment.

***Alderman Caldwell made a motion, seconded by Alderman Feichter to find the request to rezone consistent with the 2020 Land Development Standards, as presented. The motion carried unanimously.***

***Alderman Freeman made a motion, seconded by Alderman Feichter to approve a map and text amendment to rezone 59 Abel Lane, PIN 8616-42-9030; 48 Misti Lane, PIN 8616-51-0949; and 12 Misti Lane PIN 8616-52-0138 from Howell Mill Road Medium Density Residential to Howell Mill Road Urban Residential, as presented. The motion carried unanimously.***

#### **D. COMMUNICATION FROM STAFF**

##### **7. Manager's Report – Town Manager Rob Hites**

###### **Polar Plunge**

Assistant Town Manager Amie Owens made a request to the Board for their permission to make a donation to Haywood Waterways for their Polar Plunge event in lieu of jumping into cold water and having absences from work. Previously the board has matched the funds raised by the Town staff for this event. Ms. Owens requested a \$500.00 donation.

***Alderman Feichter made a motion, seconded by Alderman Roberson to approve a \$500.00 donation to Haywood Waterways for their Polar Plunge event. The motion carried unanimously.***

Board Priorities/Retreat

Town Manager Rob Hites requested that the Board members provide their thoughts on what they would like to see as priorities for the upcoming budget year. Manager Hites will send out a form for all Board members to catalogue their ideas.

8. Attorney's Report – Town Attorney Woody Griffin

Town Attorney Griffin had nothing to report.

**D. NEW BUSINESS**

There was no new business to discuss.

**E. COMMUNICATION FROM THE MAYOR AND BOARD**

**F. CALL ON THE AUDIENCE**

No one addressed the Board.

**F. ADJOURN**

*There being no further business to discuss, Alderman Feichter made a motion, seconded by Alderman Freeman to adjourn the meeting at 8:00 p.m. The motion carried unanimously.*

ATTEST

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Gavin A. Brown, Mayor

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Robert W. Hites, Jr., Town Manager

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Amanda W. Owens, Town Clerk

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 14, 2017**

**SUBJECT:** Public Hearing for approval of the Waynesville Parks and Recreation Department Systemwide Parks Master Plan: 2017-2026

**AGENDA INFORMATION:**

**Agenda Location:** Public Hearing  
**Item Number:** 4-B  
**Department:** Parks and Recreation  
**Contact:** Rhett Langston, Parks and Recreation Director  
**Presenter:** Rhett Langston, Parks and Recreation Director

**BRIEF SUMMARY:**

The Waynesville Parks and Recreation Department Systemwide Parks Master Plan: 2017-2026 and the Site Specific Plan for Vance and Recreation Park were created through a public survey and three public meetings. Derek Williams presented the plan to the Waynesville Parks and Recreation Department Advisory Commission on Monday, January 9. The commission voted to approve the plans.

The plan was presented to the Board of Aldermen on January 24, 2017 and a public hearing was called for February 14 to gain citizen input on the presented Master Plan.

**MOTION FOR CONSIDERATION:** To approve the Town of Waynesville Parks and Recreation Master Plan, as presented.

**FUNDING SOURCE/IMPACT:**

The overall cost is \$9,820,000. This is a 10 year plan. The estimate for 2017 to 2021 is \$5,720,000 and for 2022 to 2026 is \$4,100,000. Funds would come from the general fund and any grants that are awarded to help in offsetting the costs.

**ATTACHMENTS:**

- Copy of Powerpoint presentation by Derek Williams
- Minutes from Waynesville Parks and Recreation Department Advisory Commission approving the plans

**MANAGER'S COMMENTS AND RECOMMENDATIONS:**

# Systemwide Parks Master Plan

## Site Specific Master Plans: Vance Street Park & Recreation Park

### *Waynesville, North Carolina*

January 24, 2017





# Step One: Inventory



*Skate Park*



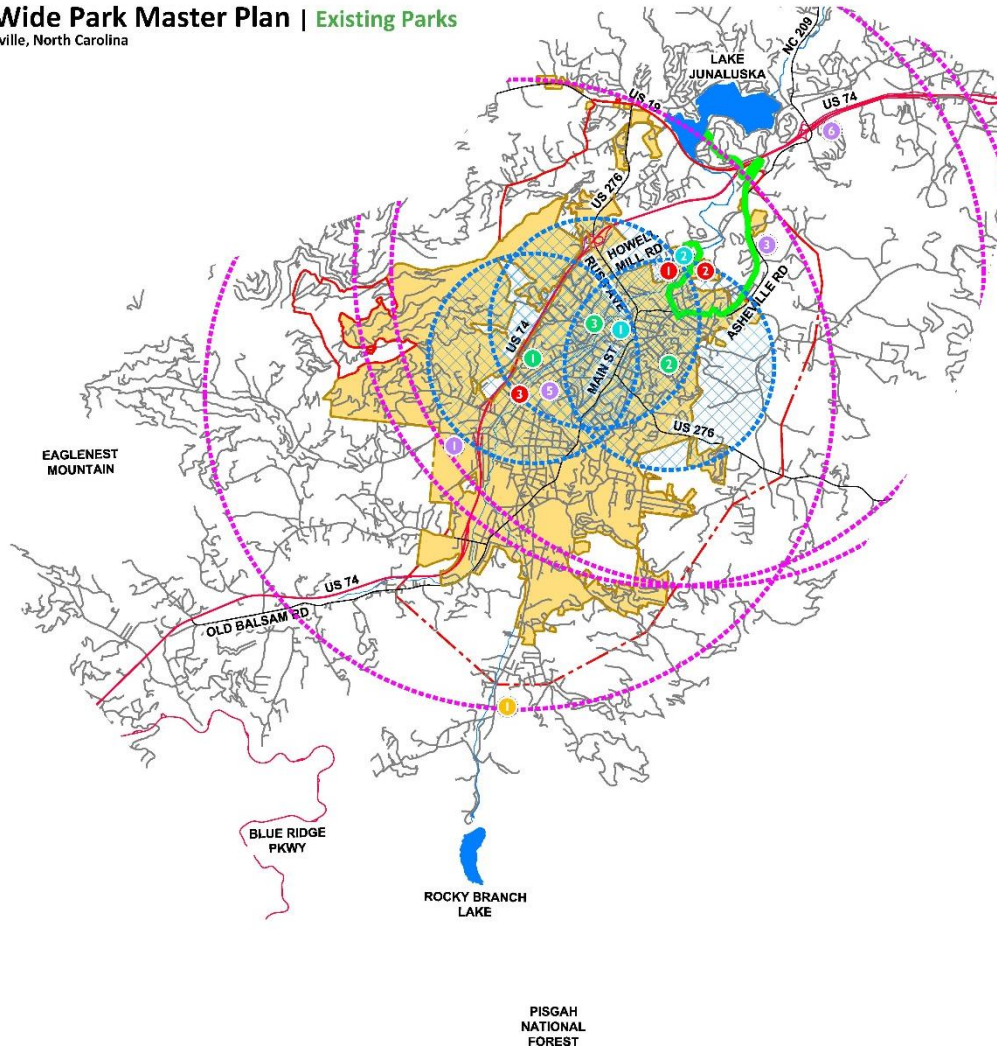
*Waynesville Recreation Center*

- Inventory of public parks and open space
  - Municipal Facilities
  - County Facilities
  - State/Federal Parks
- Review of existing school facilities

# Step One: Inventory

## System-Wide Park Master Plan | Existing Parks

Town of Waynesville, North Carolina



Town of Waynesville | 09.21.2016

0 2000 4000 Feet



### COMMUNITY PARKS

- 1 Recreation Park
- 2 Vance Street Park
- 3 Hazelwood Park

### NEIGHBORHOOD PARKS

- 1 Sulphur Springs Park
- 2 East Street Park
- 3 Chestnut Park

### COUNTY PARKS

- 1 Allen's Creek Park

### TOWN RECREATION CENTERS

- 1 Old Armory Recreation Center
- 2 Waynesville Recreation Center

### SCHOOLS

- 1 Hazelwood Elementary School
- 2 Jonathan Valley Elementary School- outside limits
- 3 Junaluska Elementary School
- 4 Bethel Middle School-outside of limits
- 5 Waynesville Middle School
- 6 Tuscola High School

- Existing Community Park  
(3 mi Service Radius)
- Existing Neighborhood Park  
(1 mi Service Radius)

Greenway  
Roads



# Step One: Inventory

## Review of current and projected population and demographic information

### QuickFacts

Waynesville town, North Carolina

[What's New & FAQs >](#)

[Tell us what you think >](#)

QuickFacts provides statistics for all states and counties, and for cities and towns with a *population of 5,000 or more*.

-- SELECT A FACT --

CLEAR

TABLE

MAP

CHART

DASHBOARD

MORE

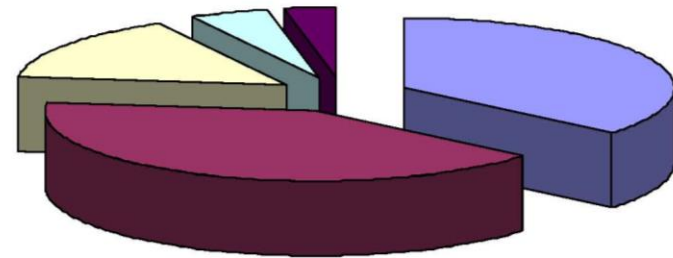
### Table

ALL TOPICS	<a href="#">Browse more datasets</a>	WAYNESVILLE TOWN, NORTH CAROLINA
PEOPLE		
Population		
Population estimates, July 1, 2016, (V2016)		NA
Population estimates, July 1, 2015, (V2015)		9,809
Population estimates base, April 1, 2010, (V2016)		NA
Population estimates base, April 1, 2010, (V2015)		9,863
Population, percent change - April 1, 2010 (estimates base) to July 1, 2016, (V2016)		NA
Population, percent change - April 1, 2010 (estimates base) to July 1, 2015, (V2015)		-0.5%
Population, Census, April 1, 2010		9,869
Age and Sex		
Persons under 5 years, percent, July 1, 2015, (V2015)		X
Persons under 5 years, percent, April 1, 2010		5.5%
Persons under 18 years, percent, July 1, 2015, (V2015)		X
Persons under 18 years, percent, April 1, 2010		17.8%
Persons 65 years and over, percent, July 1, 2015, (V2015)		X
Persons 65 years and over, percent, April 1, 2010		24.6%
Female persons, percent, July 1, 2015, (V2015)		X
Female persons, percent, April 1, 2010		53.4%

# Step Two: Public Input

- Public Workshops
- Community Wide Survey
- Master Plan Steering Committee

2a. How would you rate the overall quality of Waynesville Parks and Recreation facilities which you or members of your household have visited?



■ Excellent - 155 ■ Very Good - 174 ■ Good - 66 ■ Fair - 20 ■ Poor - 13

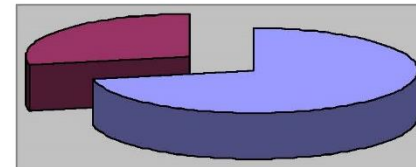


# Step Two: Public Input

## Key Findings

- Existing parks are heavily used and valued
- Waynesville Recreation Center and Recreation Park are the most used facilities
- Strong demand for expansion/ improvement of facilities; especially:
  - Skateboard Park
  - Tennis Courts
  - Waynesville Recreation Center
  - Dog Park
- Willingness to pay for improvements

Would you willing to pay additional taxes and / or higher user fees to support park and recreation facility improvements in Waynesville?

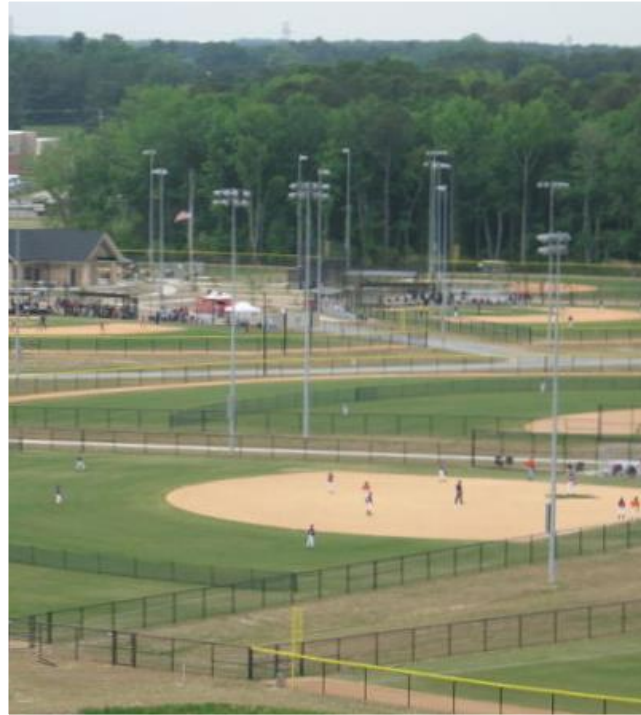


■ Yes - 280 ■ No - 111

# Step Three: Development of Standards



Mini & Neighborhood  
Parks



Community Parks &  
Sports Complexes



Regional Parks &  
Greenways

Special Use Facilities: Aquatics, Nature Preserves, Extreme Sports, Senior Citizens/Teen Centers

# Step Three: Development of Standards

## Parks by Classification

Park Types	NRPA Guidelines	Haywood County	Matthews	Mount Holly	Archdale	Belmont	Waynesville
Mini Parks	1-3 acres .25 acres/1,000	1-2 acres .25 acres/1,000	1-3 acres .25 acres/1,000	1-3 acres .25 acres/1,000	1-3 acres .25 acres/1,000	1-2 acres 0.5 acres/1,000	1-2 acres .25 acres/1,000
Neighborhood Parks	7-15 acres 2 acres/1,000	7-15 acres 1 acres/1,000	7-15 acres 2.5 acres/1,000	7-15 acres 2 acres/1,000	7-15 acres 2.5 acres/1,000	10-15 acres 2 acres/1,000	7-15 acres 2 acres/1,000
Community Parks	40-100 acres 5 acres/1,000	20-30 acres 2 acres/1,000	40-100 acres 5 acres/1,000	30-50 acres 4 acres/1,000	50-100 acres 5.0 acres/1,000	20-30 acres 2.5 acres/1,000	20-30 acres 5 acres/1,000
District Parks		200 acres 3 acres/1,000	± 200 acres 5 acres/1,000	200-400 acres 10 acres/1,000	± 200 acres 5 acres/1,000	200 acres 5 acres/1,000	200 acres 2.5 acres/1,000
Regional Parks*	100-250 acres 10 acres/1,000		100-250 acres 10 acres/1,000	+1,000 acres 10 acres/1,000	100-250 acres 10 acres/1,000	1,000 acres 10 acres/1,000	1,000 acres 10 acres/1,000

Park Type/Typical Acreage (Acres per 1,000 Population)

\* Regional Parks are typically provided by state or federal agencies.

# Step Five: Plan of Action

## Park Needs

- Develop several mini parks
- Expand/Improve Neighborhood Parks
  - Add 1 or 2 Neighborhood Parks
  - Renovate East Street Park
  - Expand Facilities at Sulphur Springs and Chestnut Parks

# Step Five: Plan of Action

## Park Needs

- Improve/Expand Existing Community Parks
  - Redevelop Recreation Park
  - Look for opportunities to expand existing Community Parks

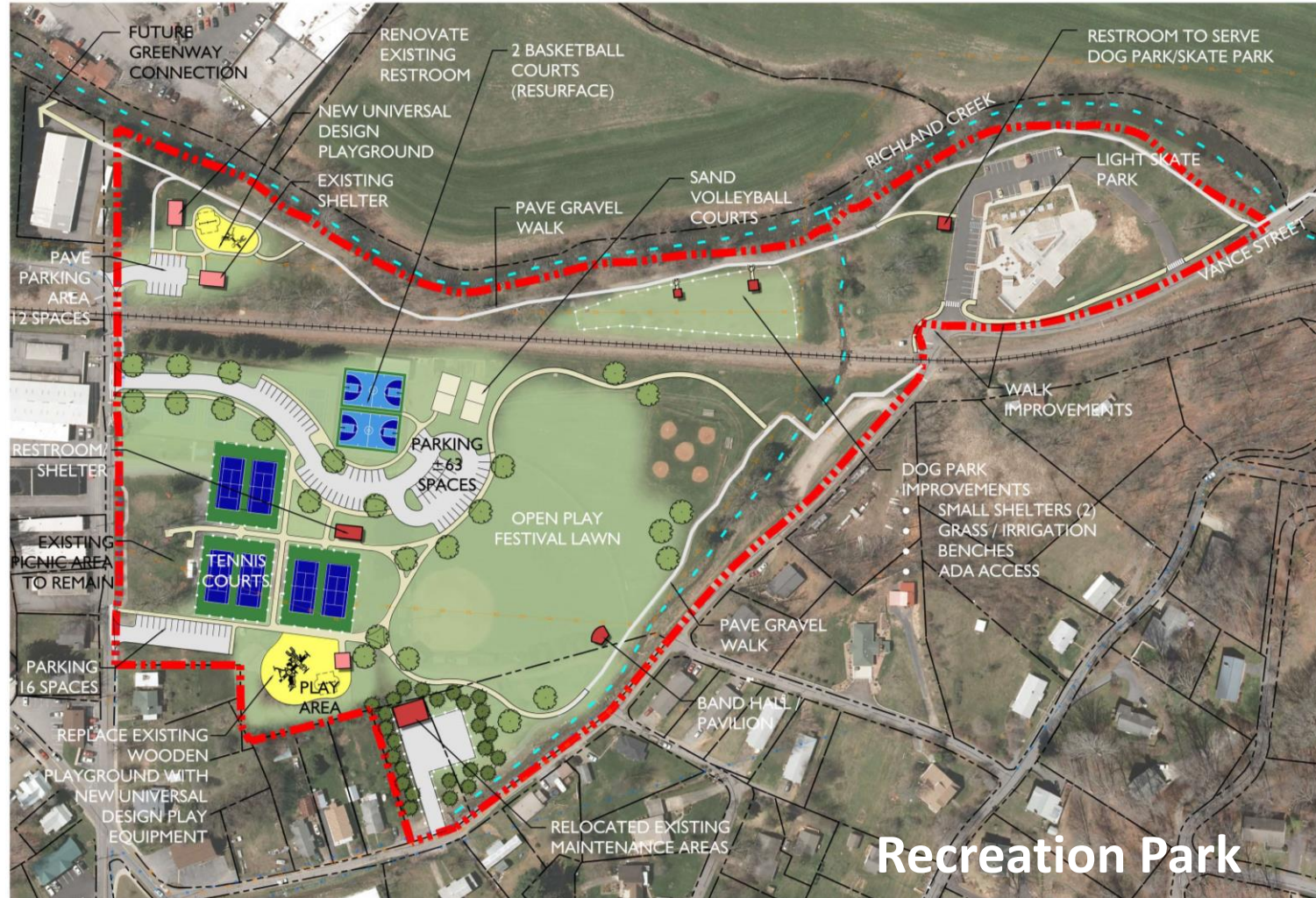
# Step Five: Plan of Action

## Special Use Facilities

- Expand Waynesville Recreation Center
  - Expand Weight Room
  - Expand Aerobics Space
  - Add Therapy Pool
  - Add Outdoor Splash Pad
- Develop Greenway Master Plan/Expand Trails



# Step Six: Site Specific Master Plans





# Step Six: Site Specific Master Plans



**Vance Street Park**

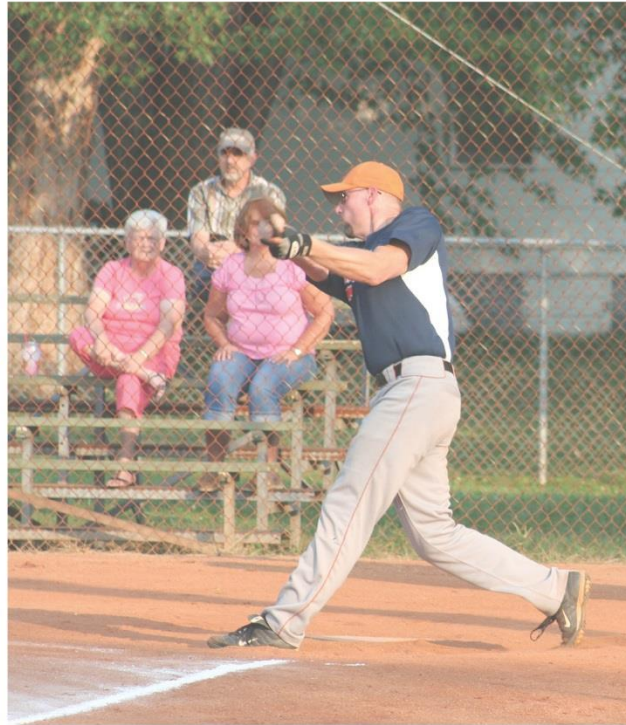


# Step Seven: Project Cost

**Table 5-1**  
**Waynesville Parks and Recreation Department**  
**PARKS AND RECREATION FACILITY DEVELOPMENT MASTER PLAN**  
**CAPITAL IMPROVEMENT PLAN**

<b>Capital Improvement and Land Acquisition</b>	<b>10 Year Total</b>	<b>2017-2021</b>	<b>2022-2026</b>
<b>Existing Parks Renovation/Improvements</b>			
Vance Street Park	\$750,000	\$750,000	
Recreation Park	\$2,500,000	\$2,500,000	
Hazelwood Park	\$250,000		250,000
Chestnut Park	\$500,000		500,000
East Street park	\$500,000		500,000
Sulpher Springs Park	\$250,000		250,000
Planning & Design (10%)	\$475,000	\$325,000	\$150,000
<b>Renovation Total</b>	<b>\$5,225,000</b>	<b>\$3,575,000</b>	<b>\$1,650,000</b>
<b>Land Acquisition</b>			
Mini Park			
Neighborhood & Community Park Expansion (20 Acres	\$250,000		\$250,000
<b>Land Acquisition Total</b>	<b>\$250,000</b>	<b>\$0</b>	<b>\$250,000</b>
<b>Park Development</b>			
New Mini Park	\$250,000		\$250,000
New Neighborhood Park	\$750,000		\$750,000
Planning and Design (10%)	\$100,000		\$100,000
<b>Park Development Total</b>	<b>\$1,100,000</b>	<b>\$0</b>	<b>\$1,100,000</b>
<b>Waynesville Recreation Center Improvements</b>			
Weightroom/Aerobics Expansion	\$650,000	\$650,000	
Therapy pool	\$750,000	\$750,000	
Planning and Design (10%)	\$140,000	\$140,000	
<b>Waynesville Recreation Center Total</b>	<b>\$1,540,000</b>	<b>\$1,540,000</b>	<b>\$0</b>
<b>Special Use Facilities</b>			
Greenway Trail Development	\$1,000,000		\$1,000,000
Sprayground	\$550,000	\$550,000	
Planning & Design (10%)	\$155,000	\$55,000	\$100,000
<b>Special Use Facilities Total</b>	<b>\$1,705,000</b>	<b>\$605,000</b>	<b>\$1,100,000</b>
<b>Total Capital Improvement Budget Cost</b>	<b>\$9,820,000</b>	<b>\$5,720,000</b>	<b>\$4,100,000</b>

# Questions?



**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 14, 2017**

**SUBJECT:** Public Hearing and possible motion to approve a Conditional District map and text amendment request from Ingles Markets, Inc. at 1678 Brown Avenue, PIN 8605-70-6170.

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** 5-B  
**Department:** Development Services  
**Contact:** Elizabeth Teague, Development Services Director  
**Presenter:** Elizabeth Teague, Development Services Director

**BRIEF SUMMARY:** This request is being made by Ingles Markets, Inc. for the purpose of placing a new store and gas express at their current site on Brown Avenue. The proposal is for the Town to apply map and text amendments for 6.02 acres in the Hyatt Creek Regional Center District (HC-RC) in which the site plan and enumerated ordinance amendment requests specific to this location be applied as a Conditional District (HC-RC-CD).

**MOTIONS FOR CONSIDERATION:**

1. Motion to find the project consistent with the 2020 Land Development Plan.
2. Motion to approve (or *not approve*, or *approve with conditions*) Ingles Markets, Inc. request for a Conditional District based on the submitted site plan and draft ordinance.

**FUNDING SOURCE/IMPACT:** N/A

**ATTACHMENTS:**

1. Staff Report
2. Area Map
3. Application

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend approval.

**Board of Aldermen Staff Report  
Ingles Conditional District Master Ingles Store #58  
February 14, 2017**

**Project:** Ingles Market and Gas Express Development Conditional District Request  
**Location:** 1678 Brown Avenue, Waynesville, PINs 8605-70-6170  
**District:** Hyatt Creek Regional Center Commercial District (HC-RC)  
**Applicant:** Ingles Markets, Inc.

**Background:**

Ingles Markets, Inc. would like to redevelop their site on Brown Avenue to create a new store similar in building style, elevation and signage to their store on Russ Avenue. This store however will stand-alone without additional commercial units adjacent to it and will be of a smaller footprint. The site is owned by, and is under the Unified Development Control, of Ingles Markets, Inc.

This proposal includes:

- the existing parcel of 5.88 acres plus 0.54 acres purchased by Ingles from the railroad totaling 6.42 acres and recombined into a unified development plan;
- the demolition of the existing building and adjacent Dollar Store;
- construction of a new, larger building than what exists now (footprint will go from 36,492 square feet to 72,111 square feet);
- construction of a Gas Express facility in the front of the store near Brown Avenue;
- Upgrades to existing parking lot that include the installation of planted islands, sidewalks, and a new parking plan;
- Construction of a new parking lot area to accommodate employee parking and a new loading dock area at the side of the store and accessed from Lea Plan Road.
- Connection to existing sidewalk on the adjacent property owned by Haywood County;
- Installation of a transit stop along Brown Avenue and coordination with sidewalk and other improvements along Brown Avenue; and
- Improved stormwater management practices, including improvements to a shared swale and catchment area within an easement Ingles has established with Haywood County.

In order to accommodate these plans, Ingles is applying for a Conditional District rezoning. If approved, their request would amend the zoning map for this parcel to Hyatt Creek Regional Center Conditional District (HC-RC-CD). It would amend the Land Development Standards as they apply specifically to that property and are shown on the approved Master Plan as enumerated in the proposed ordinance.

According to the Town of Waynesville's Land Development Standards, Section 15.15:

“Conditional Districts (Section 2.6) are districts with conditions voluntarily added by the applicant and approved in a legislative procedure by the Board of Aldermen in accordance with G.S. 160A-382. Conditional Districts provide for orderly and flexible development under the general policies of this Ordinance without the constraints of some of the prescribed standards guiding by-right development.”

Conditional Districts are handled in the same way as a text and map amendment in which the Planning Board holds a hearing and makes a recommendation to the Board of Aldermen. The Board of Aldermen then holds a public hearing on the project and may approve, deny, or approve with conditions. The Ordinance states that the Boards should consider:

- If the proposed use is compatible with surrounding properties,
- Area impacts and adequate facilities, infrastructure, etc.
- Building and site design, and
- Compatibility to the immediate context.

Once approved, the site plan and CD designation will replace any conflicting development regulations which would otherwise apply. Therefore the Board may discuss and recommend “reasonable and appropriate conditions including, but not limited to the location, nature, hours of operation and extent of the proposed use.” Such conditions or additional standards that the Board imposes “shall be limited to improving conformance with the existing ordinance and/or addressing expected impacts generated by the development and use of the site.” If conditions are requested, the applicant will have a reasonable opportunity to consider and respond prior to final action by the Board.

The Plan was reviewed by the Town’s Technical Review committee on Friday, December 23, 2016 and revised plans and complete application were submitted January 3, 2017. Notification of the hearing before the Planning Board on January 19, 2017 was advertised in the Mountaineer on January 9 and 16<sup>th</sup>, letters were sent to property owners within 500 feet of the site and the property was posted on January 6. The Board of Aldermen called for this hearing at their January 24<sup>th</sup> meeting and notifications were mailed January 27, 2017, and advertisement in the Mountaineer scheduled for January 30 and February 3, 2017. The site was posted on February 2, 2017.

#### **Conditional District Application and Ordinance Request:**

The attached application and draft Conditional District Ordinance submitted by Ingles covers the extent of the conditions and requests being submitted as part of the design and text amendments as would apply to the area of the Master Plan. This are listed within “Exhibit B” in the Application and are included in the Proposed Ordinance:

1. **Permitted Uses (Sec 12.5.3)** - that the following uses currently permitted in the HC-RC District be eliminated within the proposed CD area: Agricultural Uses, Adult Establishments, Cemeteries, Kennels, Recycling Collection Centers except as conducted by Ingles Markets within the confines of the store.
2. **Parking (Sec. 9.3)** - that parking be allowed as shown on the Master Plan, rather than limited to rear or side of building or requiring a Special Use Permit. (Note the proposed parking exceeds the Town’s minimum standard).
3. **Parking Lot Plantings (Sec. 8.2.4 and 8.6.2)** – that interior parking lot plantings be provided as shown as “alternative compliance” with several parking spaces *not* within 40 feet of a shade tree.
4. **Building and Development Design (Sec 5.6 and 5.8.6)** – that the Gas Express Store which is 247 square feet be exempt from the design guidelines.
5. **Signage (Sec 11.7.2)** – that maximum number of attached signs be increased from 3 to 11, but to stay within the allowable 15% of the total wall surface area.

### **Planning Board Recommendation:**

At the January 19<sup>th</sup> Meeting of the Planning Board, the Board voted unanimously to find that Ingles Markets Inc. proposal is consistent with the Town's 2020 Comprehensive Land Development Plan and to recommend that the Board of Aldermen approve their application as proposed.

### **Staff Review Comments:**

#### **Zoning:**

This project does not change the primary use of the site as it exists now. It only changes from a grocery store to a larger more modern grocery store, with the addition of a "gas express" facility in the front. The proposed grocery store is permitted outright in the HC-RC district as a General Commercial use of less than 100,000 square feet. The gas/fueling station is permitted with supplemental standards (Sec 3.5.5). These standards are that the pump canopies be at least 50' from any interior side or rear property line that adjoins residentially developed property and buffered from adjoining residential uses with a Type B buffer. This property does not adjoin any residentially used or zoned property and so these supplemental standards would not apply. Therefore the proposed uses as an expanded grocery store and a Gas Xpress are compliant with the existing zoning.

The Gas Xpress is a small structure with the narrow edge of the building, which is only ten feet, facing Brown Avenue. Staff believes that the size of the structure does not warrant a strict application of the Town's design guidelines and that the elevation proposed which includes brick is within the spirit of these Town rules.

#### **Environmental:**

The "pre-development" footprint of the site is 4.36 acres of impervious and 1.66 acres of pervious surface; while the proposed "post development" footprint is 4.62 acres of impervious (an increase of 0.26 acres) and 1.4 acres of pervious (a decrease of 0.26 acres). Therefore the proposed increase of impervious surface is 11,325.6 square feet, below the 24,000 square foot threshold for application of required stormwater management. However, the site plan does include stormwater management facilities to minimize run-off where none existed before and actually improves the retention capability of the site from what is in existence now. In other words, stormwater BMPs are not required but are provided. Portions of the lot fall within the 100 year floodplain and will require a floodplain permit and compliance.

#### **Infrastructure:**

The project installs sidewalk infrastructure to connect pedestrians from Brown Avenue to the front door of the grocery store and provides sidewalk along Lea Plant Drive where there currently is none. It also connects to existing sidewalk along Brown Avenue and along the access road coming from the Haywood County property to the north. The Town was recently approved for NCDOT funding to redesign this section of Brown Avenue to better accommodate bicycles and pedestrians, and this project will not impact that design process. In fact, Ingles has agreed to install a bus stop along Brown Avenue at the Town's request as part of the Town's desired improvements.

Pedestrians may access sidewalks on either side of the parking lot and the sidewalks provide the most practical route between the public sidewalk and the building entrance in accordance with Section 9.4.4. Dedicated pedestrian ways within the interior of the parking are also provided to ADA parking spaces. Staff feels that inclusion of an additional of a 5' interior walkway would impair Ingles ability to install the



amount of parking and landscaping. Staff feels that in grocery store settings wherein people are utilizing carts to transport groceries to cars, an interior pedestrian way is not preferred and the sidewalk provided on the edges of the parking lot are adequate to meet the goals of the ordinance.

There is adequate water and sewer available to the site to accommodate the proposed development.

### **Landscaping and Parking Lot:**

The proposed parking exceeds the Town's minimum standards, Sec 9.2.1, but is below what Ingles would like to provide given their experience at other stores. Applicant seeks relief from Sec 9.3 which limits how parking may be located in the front of the store. In commercial applications within Regional Center Districts, this request would require a Special Use Permit, but can be addressed as part of this Conditional District process instead. Bicycle parking has been provided in compliance with Sec 9.5.

Landscaping on the edge of the property is compliant with the ordinance and provides an adequate parking lot buffer and street trees along the public rights-of-way of Lea Plant Road and Brown Avenue. The landscaping plan provided seeks alternative compliance in regards to interior parking lot landscaping in accordance with Section 8.2.5 because of the lot configuration. The lot is more narrow at the Brown Avenue frontage than it is at the rear boundary line and Lea Plant Road creates an angled side yard boundary. Given the experience with the other commercial sites, the technical review committee felt it was important to maximize the number of parking spaces while providing landscaped areas that are large enough to support healthy shade trees. This means that some parking spaces (approximately 23 of 202 spaces) are not within 40' of a shade tree and interior parking lot trees are placed in locations where the landscaped island could be maximized in size. This configuration also limits the availability of space within the interior of the lot for an additional walkway (see comment above).

### **Signage:**

Chapter 11, Section 7.2(E) states: "No more than three attached signs (excluding a single Pedestrian Sign where permitted) may be erected provided the total surface area permitted is not exceeded." Ingles has proposed 9 separate attached signs. The maximum sign area permitted in this district is 15% of the wall to which the signs are attached and the 9 signs proposed by Ingles total 400.27 square feet, well within the overall 15% limit of the wall of the proposed building, but exceeding the allowed number of signs. The use of multiple signs on a building of this scale does not seem out of place with the intent of the Land Development Standards in that, if this building were broken up into individual store fronts such as within a shopping center, each individual unit would be allowed an attached sign. This request is similar to, and modeled after, the Conditional District Amendment that the Board granted for Ingles for signage on the Russ Avenue store in October of 2015. The proposed monument sign is compliant in dimension for commercial development in Regional Center Districts on sites over 5 acres.

### **Other:**

Brown Avenue and Lea Plant Road are Town Roads included on the Town's Powell Bill map and the site plan is consistent with Town guidelines for driveways. With approval of this proposed Conditional District Master Plan by the Board, the Town is approving the driveway locations. The proposed drawing meets Town development standards in all respects other than those listed in Exhibit B of the application or as described in this report. Demolition, erosion control, lighting, floodplain, and State and Local Building code requirements will be addressed as part of the building permit process.

### **Consistency with the 2020 Land Development Plan**

Staff submits that this Conditional District request is consistent with the Town of Waynesville's 2020 Land Development Plan in that it re-uses and improves an existing commercial site promoting the "orderly growth, development and enhanced land values of the Town." Such re-use of a site is considered "in-fill development" which is the preferred alternative to commercial development outside of the Town or in more rural areas. The Planning Board and the staff concur with the "statement of consistency" as proposed in the attached ordinance.

### **Staff Recommendation:**

Staff believes that the proposed Master Plan and Ordinance is both consistent with the Town's Goals for Land Development as written in the 2020 Plan and an improvement to the area. This site is adjacent to the railroad track and the KMW Holdings Warehouses to the west, adjacent to Lea Plant Road and various commercial sites to the south, Brown Avenue to the east, and the Haywood County Sheriff's Department to the north. The impacts of this project will be positive: expanding the pedestrian network, adding a transit stop, providing landscaping and stormwater controls where there currently are none, and providing a new grocery store and gas station for residents in the area as well as those using the adjacent shopping and restaurants. Therefore, staff recommends that the proposed site plan and use:

- is compatible with surrounding properties,
- has adequate infrastructure to support the use and will improve the surrounding area facilities, infrastructure, etc.
- is of a building and site design which is an improvement to the area, and
- is compatible to the immediate context in which it is located.

Staff recommends approval of the Master Plan and ordinance as presented.

### **Requested Action:**

1. Motion to find the project consistent with the 2020 Land Development Plan.
2. Motion to approve (or *not approve*, or *approve with conditions*) Ingles Markets, Inc. request for a Conditional District based on the submitted site plan and draft ordinance.





## TOWN OF WAYNESVILLE Planning Board

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

### Chairman

Patrick McDowell

### Planning Board Members

Danny Wingate (Vice)

Anthony Sutton

Marty Prevost

Robert Herrmann

Phillip Gibbs

H.P. Dykes, Jr.

Pratik Shah

Ginger Hain

### Development Services

#### Director

Elizabeth Teague

## MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD Regular Meeting Town Hall – 9 South Main St., Waynesville, NC 28786 January 19, 2017

THE WAYNESVILLE PLANNING BOARD held its regular meeting on January 19, 2017, at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC due to a conflict with the Martin Luther King, Jr. holiday.

### A. CALL TO ORDER

#### 1. Welcome/Calendar/Announcements

Vice Chairman Danny Wingate welcomed everyone and called the meeting to order at 5:30 p.m.

The following members were present:

Bucky Dykes  
Danny Wingate – Vice Chairman  
Ginger Hain  
Anthony Sutton  
Phillip Gibbs  
Robert Herrmann  
Marty Prevost  
Pratik Shah

The following Board Members were absent:

Patrick McDowell - Chairman

The following staff members were present:

Elizabeth Teague, Development Services Director  
Amie Owens, Assistant Town Manager/Town Clerk

2. Adoption of Minutes

*A motion was made by Board Member Anthony Sutton, seconded by Board Member Phillip Gibbs, to approve the minutes of the December 19, 2016 regular meeting, as presented. The motion passed unanimously.*

**B. NEW BUSINESS**

1. Public Hearing to consider a Conditional District map and text amendment request for 1678 Brown Avenue, Haywood County Tax Parcel Identification Number 8605-70-6170 within the Hyatt Creek Regional Center District

Vice Chairman Wingate opened the Public Hearing at 5:34 p.m. and asked Development Services Director, Elizabeth Teague, to present background information on this map and text amendment request. The request is from Ingle's Markets, Inc.

**Background:**

Ms. Teague stated this Public Hearing was being held to consider rezoning the parcel as a conditional district. A conditional district is a tool established by statute that allows municipalities to address sites that may be unique in their development and impacts. She explained that what the district designation does is provide a zoning overlay. This particular authority is special in land use law and is a legislative process rather than a quasi-judicial process. The recommendation from this group will go to the Board of Aldermen and they will hold another public meeting at that level. Ms. Teague added that if approved, the decision will amend the zoning ordinance and map at this location and specific to the site plan and request.

Ms. Teague continued by noting that for this project, the existing building would be demolished and a larger building would be erected. There would be upgrades including the addition of a gas express area, improvements to the parking lot areas to include sidewalks and a truck delivery entrance from Lea Plant Road.

Ingle's is asking for a small variation in the landscaping plan regulation to have all parking spaces within 40 feet of a shade tree. In order to maximize parking they have asked to change the areas of where trees are planted. The Town of Waynesville Technical Review Committee (TRC) has recommended this change in order to provide trees within the parking lot a larger planted area. To meet the desired number of parking spaces within the shape of the lot and comply with this regulation would mean some of the trees planted would never fully reach their potential given the small space available. Also, the parking spaces outside of the 40 feet perimeter from a shade tree is minimal. Ms. Teague explained that another recommendation from the TRC was to include a transit stop at the edge of the property closest to South Main Street.

Ms. Teague continued to say that Ingle's owns the site and has unified control of the property. They were able to negotiate with the railroad to gain additional space making the parcel just over six (6) acres.

Board Member Prevost asked if the car wash would be removed. Ms. Teague answered that this was not part of the Ingle's property and the car wash would remain in place.

Sidewalk construction from Brown Avenue to the front door of the store and connecting sidewalk with the existing County property sidewalks will allow for access from all sides. Ingle's has worked with Haywood County to secure temporary easement for construction of the sidewalk. There will be no additional sidewalk connectors in interior to maximize the parking and this is another variation from the ordinance. However, staff feels that adequate pedestrian ways are provided along the edges of the parking lot and to the front door, considering the angled shape of the lot.

Ms. Teague explained that the proposed parking exceeds the minimum standard, but is included as part of the conditional district process. The TRC has discussed with Ingle's and all were in agreement that due to experience with other stores, this was a variance that all could support.

Ms. Teague also noted that there would be stormwater improvements provided with the redevelopment of the parking lot. Ingles has met with Haywood County staff to establish a shared easement to address the existing drainage issues along the shared property boundary. Ingle's plan will make improvements to the existing site, even though the redevelopment is going primarily from impervious surface to impervious surface, with a "pre" and "post" development difference of less than 1 acre.

Ms. Teague added that an additional number of signs was requested for the site, but that the total signage remained below the 15% maximum allowed in the ordinance. The text amendment requests up to 11 signs if within the 15% of wall area, whereas the current ordinance would only allow 3. This would allow signage for the multiple elements within the proposed store, such as Starbucks, the Deli, and pharmacy, similar to the signage of the Russ Avenue store. The Board reviewed the proposed drawings submitted as Exhibit B of the Application.

Ms. Teague explained that the staff feels this is a very well thought-out and complete proposal that will tie in nicely with the existing comprehensive plan, re-using an existing site and making improvements.

Board Member Prevost clarified that this plan is not actually changing the zoning at all since both the main building and gas station are permitted in this district. Ms. Teague confirmed that both uses are permitted outright. She summarized that the variances from the ordinance asked for in the application include the arrangement of trees in the landscaping plan, allowing the sidewalks on either side of the parking lot to meet the pedestrian needs, and the signage package. There are also some requested restrictions of other uses, including keeping the recycling within the store for their customers only.

Preston Kendall, Ingle's Markets showed views of the site plans highlighting the areas where variances were requested. He indicated where the additional land had been purchased from the railroad and where the new store would be built. He continued by noting that catch basins and drains would be included to tie into the Haywood County stormwater system. Mr. Kendall added that the easements for such had already been completed with the County for construction and sidewalk construction.

Board Member Gibbs asked if Ingle's would be the only store on the property. Mr. Kendall clarified that yes, it would be the only building/store on the property and the existing Family Dollar would be demolished.

Board Member Herrmann inquired about the timeline for this project. Mr. Kendall answered that once the project was approved by the Board of Aldermen, demolition and construction could begin as early as March with a tentative completion before Thanksgiving.

Board Member Hain asked where people who used the current store would shop until the new store was open for business. Mr. Kendall offered the other Ingle's location as an option or the grocery section of Walmart. He added that this would be an easier build than the Russ Avenue project.

Board Member Shah inquired as to whether traffic studies would be required for this project. Ms. Teague answered that a study was not required as it is current use is not changing and there is plenty of ingress and egress.

Board Member Herrmann inquired if there would be an impact to the Russ Avenue store. Mr. Kendall answered that he hoped it would take some of the density off of the Russ Avenue stores and be more convenient for those on the south end of town. The gas pumps will be smaller and have only a booth type for transactions – no restrooms and no full walk in facility.

Board Member Shah asked when the typical stabilization would be. Mr. Kendall answered that approximately 5 to 6 weeks after opening, normal business traffic should resume.

Board Member Sutton inquired what would happen to the existing store employees during the construction – would they move to other locations? Mr. Kendall confirmed that employees will be offered jobs at another location during the transition. He added that the renovated store would have many more positions available – 175 employees from 47 with 35% full time and remainder part time.

***Board Member Herrmann made a motion, seconded by Board Member Sutton to close the public hearing at 6:09 p.m. The motion carried unanimously.***

***Board Member Sutton made a motion, seconded by Board Member Gibbs to find the proposed map and text amendment consistent with the Town of Waynesville's 2020 Comprehensive Land Use Plan. The motion carried unanimously.***

***Board Member Sutton made a motion, seconded by Board Member Herrmann to recommend approval of the proposed map and text amendment by Board of Alderman. The motion carried unanimously.***

## **C. PUBLIC COMMENT/CALL ON THE AUDIENCE**

No one addressed the Board.

## **D. ADJOURN**

***With no further business, Board Member Prevost made a motion, seconded by Board Member Sutton to adjourn the meeting at 6:11 pm.***

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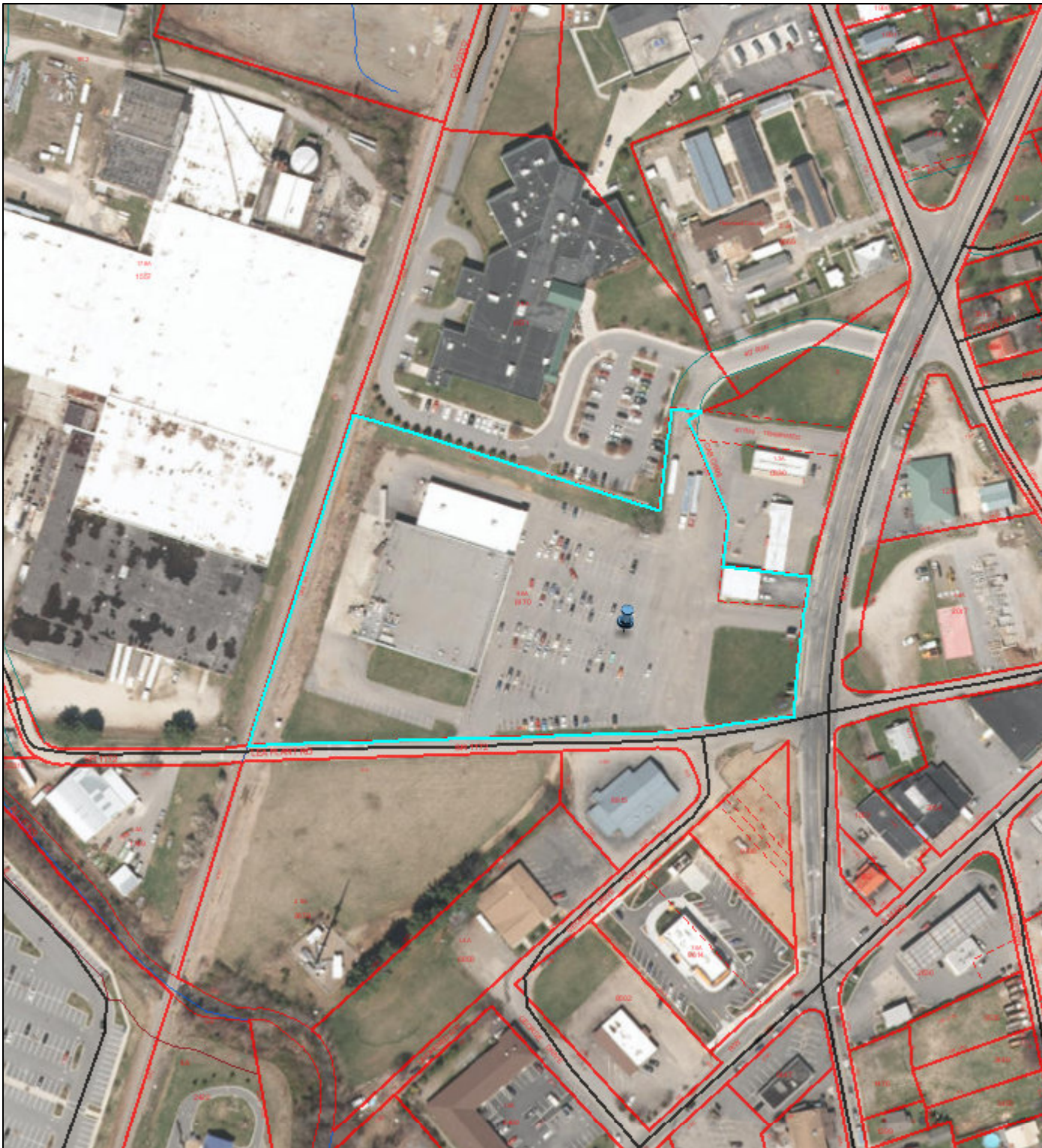
Danny Wingate, Chairman

---

Amanda W. Owens, Town Clerk

DRAFT





## Parcel Report For 8605-70-6170

INGLES MARKETS INC  
2913 HWY 70 W  
BLACK MOUNTAIN, NC 28711

### Account Information

**PIN:** 8605-70-6170

**Legal Ref:** 907/319

907/314

**Add Ref:** 919/2399

885/2155

### Site Information

STORE, SUPERMARKET, OFFICE, GENERAL  
COMMERCIAL USE, COMMERCIAL USE  
1678 BROWN AVE

**Heated Area:** 0

**Year Built:** 0

**Total Acreage:** 5.83 AC

**Township:** TOWN OF WAYNESVILLE

### Site Value Information

**Land Value:** \$622,400

**Building Value:** \$1,104,900

**Market Value:** \$1,727,300

**Deferred Value:** \$0

**Assessed Value:** \$1,727,300

**Sale Price:** \$0

**Sale Date:** 6/2/2016

**Tax Bill 1:** \$0.00

**Tax Bill 2:** \$0.00

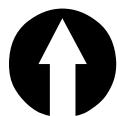


1 inch = 200 feet

January 11, 2017

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 aforementioned 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.



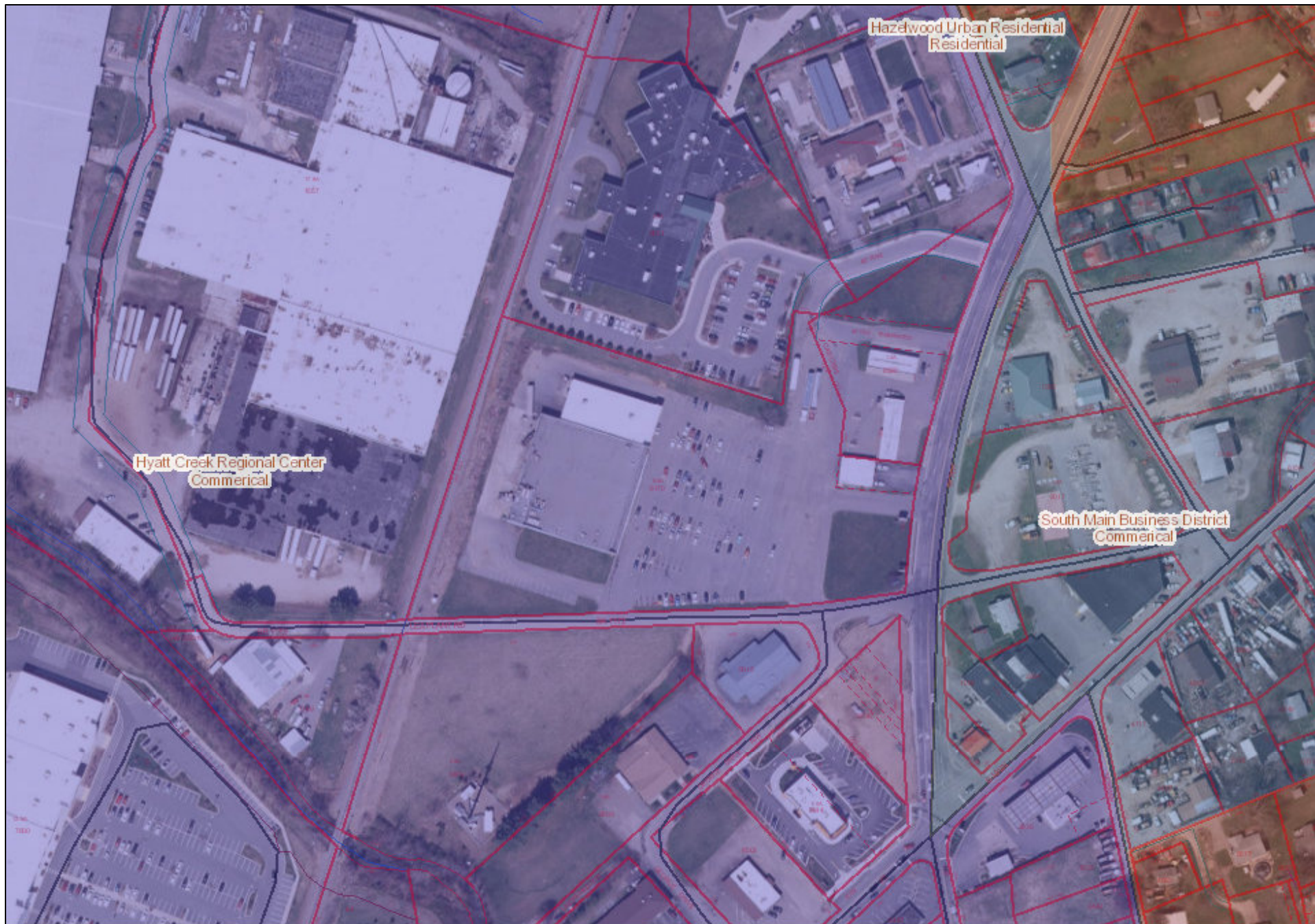


1 inch = 100 feet  
January 11, 2017

## Ingles Flood Data

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 aforementioned 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.

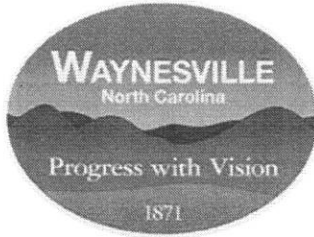




1 inch = 200 feet  
January 11, 2017

## Ingles Zoning

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 aforementioned 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.



**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**

**APPLICATION FOR LAND DEVELOPMENT STANDARDS MAP AMENDMENT**

Application is hereby made on January 3, 2017 to the Town of Waynesville for the following map amendment:

Property owner of record: **INGLES MARKETS, INCORPORATED**

Address/location of Property: **1678 BROWN AVENUE, WAYNESVILLE, NC 28786**

Parcel identification number(s): **8605-70-6170**

Deed/Plat Book/Page, (attach legal description): **DB 891 – PAGE 1; DB 907 – PAGE 314; DB 907 – PAGE 319. [Copies of the vesting deeds and the pertinent legal descriptions are attached.]**

The Property contains **6.02** acres.

Current district: **HYATT CREEK REGIONAL CENTER [HCRC]**

Requested district: **HYATT CREEK REGIONAL CENTER – CONDITIONAL DISTRICT [HCRC-CD]. [Included and submitted with this Application and incorporated herein is the Master Plan, which Master Plan includes the Sign Plan and Environmental Plan.]**

The Property is best suited for the requested change for the following reason(s), (attach additional sheets if necessary): **SEE ATTACHED EXHIBIT "A"**

**Applicant Contact Information**

Applicant Name: **INGLES MARKETS, INCORPORATED [c/o Preston Kendall]**


Mailing Address: **2913 HWY 70 W, BLACK MOUNTAIN, NC 28711**

Phone: **828.768.3992**

Email: **pkendall@ingles-markets.com**

Signature of Property Owner of Record Authorizing Application:

**INGLES MARKETS, INCORPORATED**

By:  **"INGLES MARKETS INC."**  
**Preston Kendall**

**Note: Map Amendment Requests require a fee based on the size and number of lots being requested for amendment. The request will be scheduled for the next agenda opening for the Waynesville Planning Board. Please submit application to: Town of Waynesville Development Services Department, 9 South Main Street, Waynesville, NC 28786.**

#### **EXHIBIT "A"**

In light of market conditions and to better serve the Hyatt Creek community and the greater Town of Waynesville, Ingles Markets, Incorporated proposes a Master Plan [including the Sign Plan and Environmental Plan] which includes but is not limited to the following features:

- 1) The gross floor area of the grocery store will be increased from 36,492 square feet to 72,111 square feet, an increase of 35,619 square feet.
- 2) The construction of the gas station to the eastern side of the Property.
- 3) The redesign of the existing parking lot to add more parking spaces.
- 4) The Master Plan makes the site much more pedestrian-friendly by adding a bus stop, electrical car charging station, bicycle parking and new sidewalk.
- 5) The grocery store is generally well articulated with many changes in massing, front façade height and materials alternating between brick, EIFS and glass with a high degree of permeability from windows and glass doors.
- 6) Dedication of an additional easement, as necessary, for the relocation of a storm sewer line.
- 7) Ingles Markets, Incorporated will coordinate with the Town of Waynesville to endeavor to improve Brown Avenue.
- 8) Building elevation shall be separate from the site plan by showing a variety of services provided by Ingles Markets, Incorporated, to the local community.
- 9) This project will benefit the Town of Waynesville in many ways, which include but are not limited to, a] creating many new jobs, b] substantially increasing sales tax revenues, c] substantially increasing *ad valorem* tax revenues and d] enhancing the design context of the overall Hyatt Creek Regional Center District.



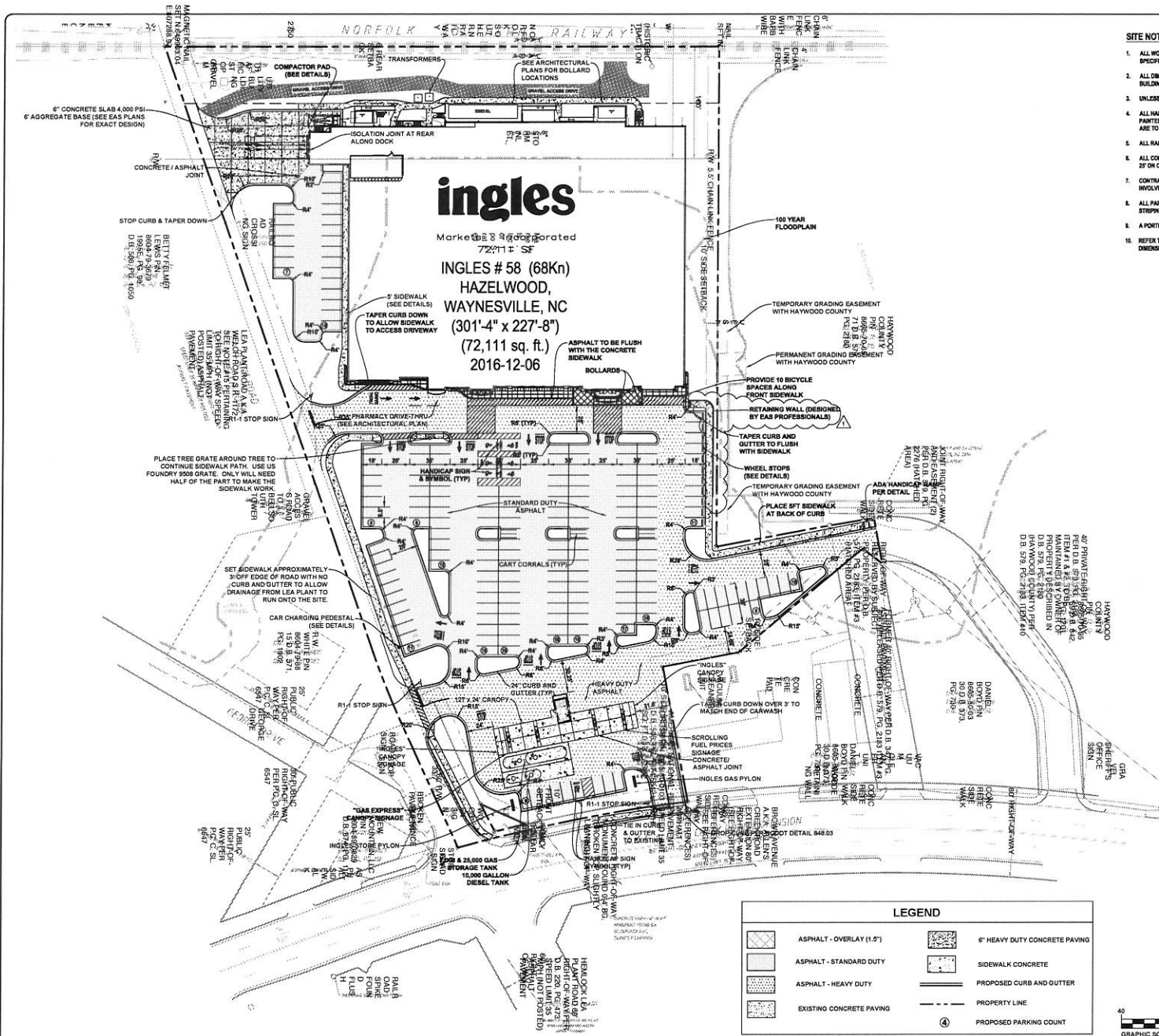
**EXHIBIT "B"**

**LIST OF STANDARDS & CONDITIONS**

**INGLES MARKETS, INCORPORATED HYATT CREEK REGIONAL CENTER – CONDITIONAL  
DISTRICT [HCRC-CD]**

- 1) **Definitions.** Within this List of Standards & Conditions the following terms shall have the meanings articulated:
  - a) "District" refers to the Hyatt Creek Regional Center – Conditional District [HCRC-CD], as depicted on the Master Plan, which is created by the Ordinance to which this List of Standards & Conditions is attached.
  - b) "Master Plan" refers to the documents entitled "Ingles Markets, Incorporated, Store 58, 1678 Brown Ave, Waynesville, NC 28786 – Master Site Plan" [which Master Plan includes the Sign Plan and Environmental Plan] submitted as part of the Application.
  - c) "LDS" refers to the Town of Waynesville Land Development Standards.
- 2) **Future Development.** Future development within the District shall comply with the Master Plan, a copy of which is attached hereto and incorporated herein by reference, and with this List of Standards & Conditions.
- 3) **Land Uses.** Except as modified herein, land uses for the District shall be those permitted in the Hyatt Creek Regional Center [HCRC] Zoning District. The following uses, which are either permitted uses, permitted uses subject to special requirements, or conditional uses within the Hyatt Creek Regional Center [HCRC] Zoning District shall not be permitted within the District:
  - a) Agricultural Uses
  - b) Adult Establishments
  - c) Cemeteries
  - d) Kennels
  - e) Recycling Collection Stations [except as may be part of the grocery bag recycling normally conducted by Ingles Markets, Incorporated within the internal confines of its grocery store].
  - f) Mini-Warehouses
- 4) **Development Standards.** As provided in §15.15.2D of the LDS, the Master Plan replaces all conflicting development regulations set forth in the LDS which would otherwise apply. Development standards which are not modified by the Master Plan or this List of Standards & Conditions shall be those contained in the Hyatt Creek Regional Center [HCRC] Zoning District. Land Development Standards are varied to the extent they conflict with the Master Plan and this List of Standards & Conditions. These include, without limitation, the following:
  - a) **Parking.** Parking and vehicular use areas need not be located to the rear of the principal structure on the site as required by Chapter 9 of the LDS.
  - b) **Landscaping and Buffering.** Landscaping and buffering depicted and noted on the Master Plan is deemed to constitute Alternative Compliance pursuant to §8.2.4 of the LDS.
  - c) **Building & Development Design.** The building design standards in Chapter 5 of the LDS are modified to accommodate development of the convenience store as noted on the Master Plan.
  - d) **Signage.** The signage standards in Chapter 11 of the LDS are modified to allow the number of signs to be attached to buildings to exceed three, but not more than 11, provided that the total surface area of signage is no more than 15% of the wall surface area to which the signs are attached.

Furthermore, prior to the completion of the improvements authorized by the Master Plan, Ingles Markets, Incorporated shall, at its sole expense, relocate and replace the existing storm sewer line as depicted on the Master Plan.



**SITE NOTES:**

1. ALL WORK SHALL BE DONE IN STRICT ACCORDANCE WITH THE STANDARD SITE SPECIFICATIONS.
2. ALL DIMENSIONS, UNLESS OTHERWISE NOTED, ARE TO FACE OF CURB, FACE OF BUILDING, OR CENTERLINE OF PARKING BAY.
3. UNLESS NOTED OTHERWISE, PAVEMENT SHALL BE STANDARD DUTY PAVEMENT.
4. ALL HANDICAP SPACES ARE TO RECEIVE A HANDICAP SIGN AND A HANDICAP SYMBOL, PAINTED ON THE ASPHALT. STALL ADJACENT TO THE RIGHT (BY FOOT STRIPED ARROWS) ARE TO RECEIVE A "VAN ACCESSIBLE" SIGN IN ADDITION TO THE ABOVE.
5. ALL RADI SHALL BE 4' UNLESS OTHERWISE NOTED.
6. ALL CONCRETE SIDEWALKS AND APRONS SHALL RECEIVE CONSTRUCTION JOINTS AT 20' ON CENTER UNLESS OTHERWISE NOTED.
7. CONTRACTOR SHALL COORDINATE AND COMPLY WITH ALL UTILITY COMPANIES INVOLVED IN THE PROJECT AND PAY ALL REQUIRED FEES AND COSTS.
8. ALL PARKING STRIPING IS TO BE YELLOW WITH PROPERTY BOUNDARIES. ALL STRIPING IN D.O.T. RIGHTS-OF-WAY IS TO BE WHITE.
9. A PORTION OF SITE IS WITHIN A FLOOD HAZARD AREA (ZONE AO).
10. REFER TO ARCHITECTURAL PLANS FOR EXACT GAS EXPRESS HOSE AND CANOPY DIMENSIONS.

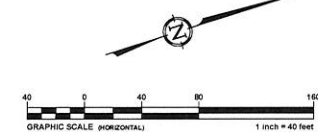
**SITE ANALYSIS**

PROPERTY OWNER	INGLES MARKETS P.O. BOX 6676 ASHEVILLE, NC 28816
CIVIL CONTACT	JOHN COX, P.E. LAND PLANNING ASSOCIATES OF NC, INC. 110 WEST 1ST AVENUE, SUITE A EASLEY, SC 29640 864-242-6072
PROJECT NAME	INGLES #58 HAZELWOOD
PROJECT LOCATION	1678 BROWN AVENUE WAYNESVILLE, NC
PIN NUMBER	8605-70-6079 8605-40-0103
REF. DEED AND PAGE	891 D.B. PG 1 503 D.B. 1674 PG
ZONING	RC-REGIONAL CENTER
EXISTING BUILDING	36,492 S.F. / 0%
PROPOSED BUILDING	72,111 S.F. / 12%
PROPOSED GAS EXPRESS	247 S.F.
EXISTING PARKING	194 SPACES
EXISTING PARKING RATIO	5.3 SPACES/ MSF*
REQUIRED PARKING RATIO	1 SPACE / 400 S.F.
REQUIRED PARKING	120 SPACES
PROPOSED PARKING	202 SPACES
PROPOSED PARKING RATIO	2.8 SPACES/ MSF*
BICYCLE PARKING	10 SPACES
EXISTING SITE AREA	6.022 ACRES
PROPOSED SITE AREA	6.022 ACRES
FRONT SETBACK (REQUIRED)	10'
SIDE SETBACK (REQUIRED)	10'
REAR SETBACK (REQUIRED)	6'
PREDEV. IMPERVIOUS AREA	4.36 ACRES (72%)
PREDEV. PERVIOUS AREA	1.66 ACRES (28%)
POSTDEV. IMPERVIOUS AREA	4.62 ACRES (77%)
POSTDEV. PERVIOUS AREA	1.4 ACRES (23%)

\* MSF = 1000 S.F.

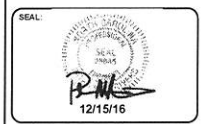
**LEGEND**

	ASPHALT - OVERLAY (1.0")		6" HEAVY DUTY CONCRETE PAVING
	ASPHALT - STANDARD DUTY		SIDEWALK CONCRETE
	ASPHALT - HEAVY DUTY		PROPOSED CURB AND GUTTER
	EXISTING CONCRETE PAVING		PROPERTY LINE
			PROPOSED PARKING COUNT



**REVISIONS:**

NO.	DATE	DESCRIPTION	BY
1	12/15/16	RETAINING WALL ADDED	PCB



CORPORATE SEAL:

**LAND PLANNING ASSOCIATES**  
ENGINEERS

DBA  
LAND PLANNING ASSOCIATES OF NC, INC.  
110 WEST 1ST AVENUE - SUITE A  
EASLEY, SC 29640  
864-242-6072 FAX 252-732-8214  
design@lpa-inc.net

**ingles**  
MARKETS  
STORE #58  
1678 BROWN AVENUE  
WAYNESVILLE, NC 28786

**PROPERTY INFORMATION:**

TAX MAP NUMBER:	8605-70-6079
REFERENCE D.B. & PG:	DB 581 PG 1 DB 503 PG 1674
ADDITIONAL INFO:	8605-40-0103

**ISSUE FOR CONSTRUCTION:**

PERMIT DATE:	
BID DATE:	
DRAWN BY:	PCB
DESIGN BY:	JDC
CHECKED BY:	JDC
DATE:	12/01/16
SCALE:	HORIZ. 1" = 40' VERT.
JOB NUMBER:	16.039

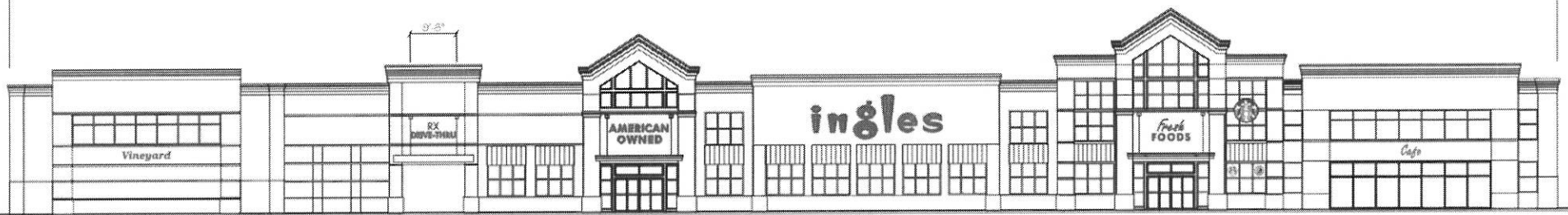
**MASTER SITE PLAN**

**C-104**  
STORE #58  
251 WELCH ROAD  
WAYNESVILLE, NC 28786

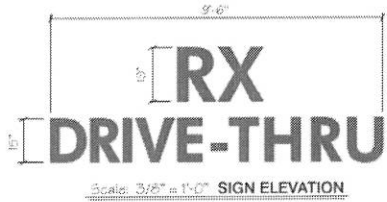




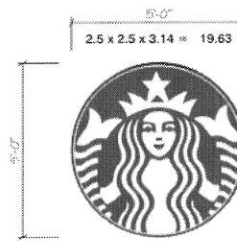
324'-0" ±



Scale: 1/16" = 1'-0" SIGN ELEVATION

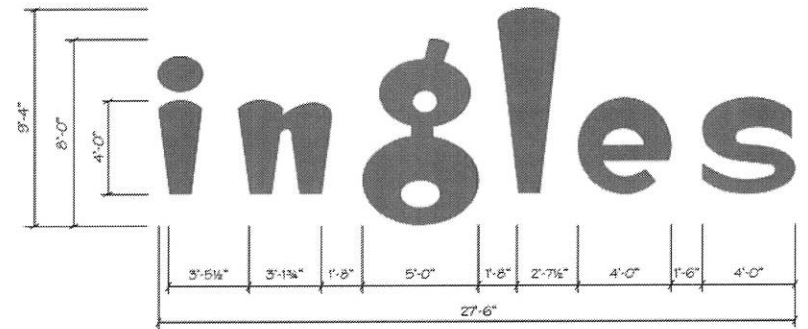


SIGN SQUARE FOOTAGE	
STARBUCKS	@ 1'-2" X 9'-0" = 19.63
AMERICAN OWNED	@ 3'-9" X 12'-0" = 45.00
INGLES	@ 9'-4" X 27'-6" = 256.58
FRESH FOODS	@ 4'-7" X 8'-0" = 36.64
VINEYARD	@ 2'-0" X 10'-4" = 20.66
RX	@ 1'-6" X 1'-3" = 1.88
DRIVE THRU	@ 1'-3" X 9'-6" = 11.88
CAFE	@ 2'-0" X 4'-0" = 8.00
<b>TOTAL</b>	<b>= 400.27</b>



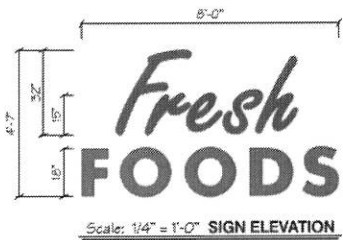
Scale: 3/8" = 1'-0" SIGN ELEVATION

Note: Sign to be installed outside of store



INTERNALLY ILLUMINATED

Scale: 1/4" = 1'-0" SIGN ELEVATION



Scale: 1/4" = 1'-0" SIGN ELEVATION

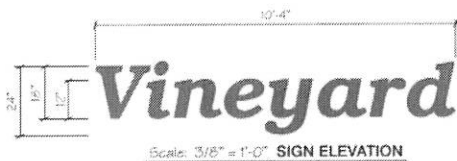


Note: Signs to be installed inside of store

Scale: 3/4" = 1'-0" SIGN ELEVATION



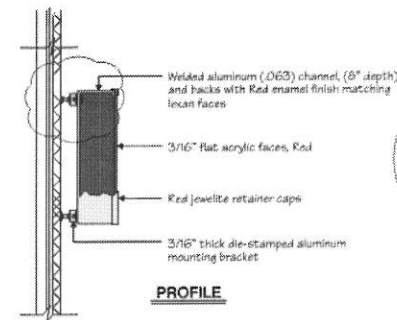
Scale: 3/8" = 1'-0" SIGN ELEVATION



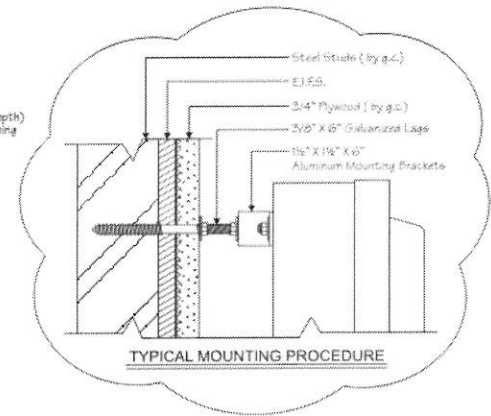
Scale: 3/8" = 1'-0" SIGN ELEVATION



Scale: 3/8" = 1'-0" SIGN ELEVATION



PROFILE



TYPICAL MOUNTING PROCEDURE

Rainbow Signs, Inc.  
GREENWOOD, SC 864-223-8423

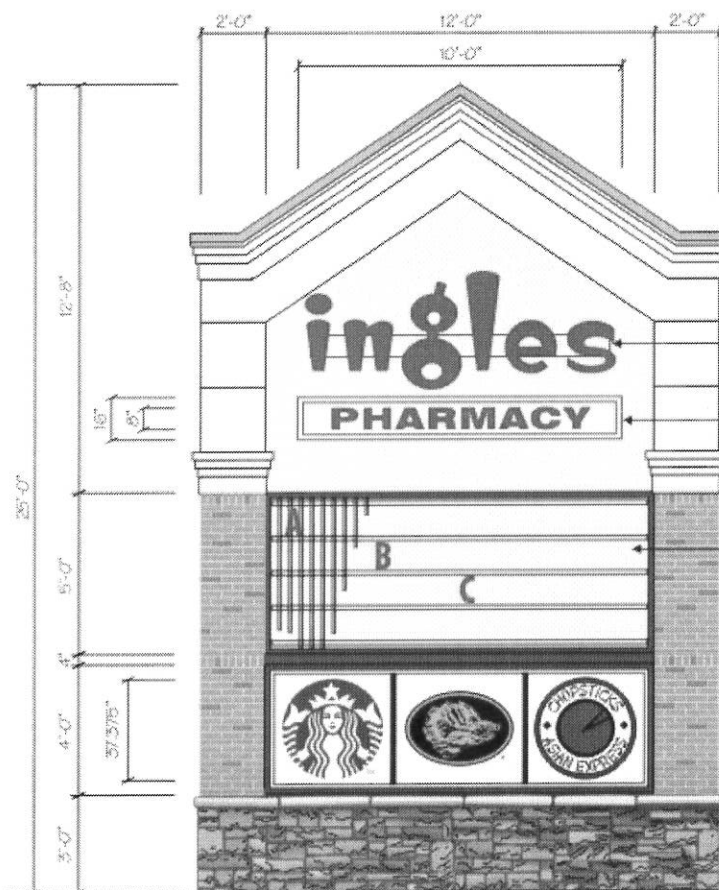
CUSTOMER NAME: INGLES (Store #58)  
ADDRESS: 1678 Brown Ave. Suite 1 - Waynesville, NC  
SIGN TYPE: Illuminated Letters  
COPY RIGHTS NOTICE: This design, artwork and printed presentation is the sole property of Rainbow Sign Company, Inc. and may not be used without written permission from Rainbow Sign Company, Inc.

ADD. EXEC: C. Plead  
DESIGNER: C. Johnson  
SCALE: AS NOTED  
JOB NO: 16-311-2  
DATE: 11/22/16

APPROVED BY CUSTOMER:

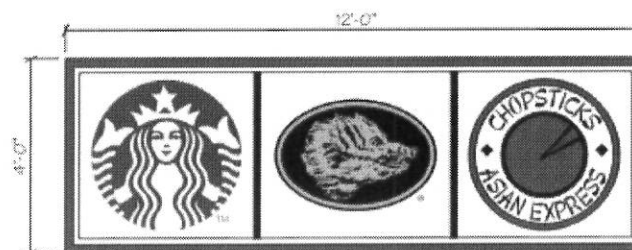
FILE: #58 Waynesville Bldg Front-2

Electrical current to sign elevation and final connection not by Rainbow Sign Co., Inc.

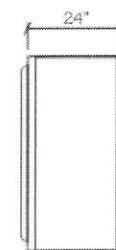


Scale: 1/4" = 1'-0" SIGN ELEVATION

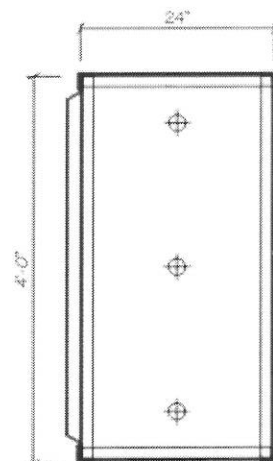
- Opening Required For Ingres Letters Raceway: 8" high X 8" depth X 10'-0" length Electrical (circuit) Requirements: (1) 20 amp
- Opening Required For PHARMACY Signage (recessed): 16" high X 8" depth X 10'-0" length Electrical (circuit) Requirements: (1) 20amp
- 5'-0" X 12'-0" Changeable Copy Sign Electrical (circuit) Requirements: (1) 20 amp



1 Front View  
Scale: 3/8" = 1'-0"



3 Side View  
Scale: 3/8" = 1'-0"



2 Sectional View  
Scale: 3/4" = 1'-0"

#### SIGN SQUARE FOOTAGE

Ingres.....	3'-10" X 10'-0"	= 38.30
PHARMACY.....	1'-4" X 10'-0"	= 13.30
COPY SIGN.....	5'-0" X 12'-0"	= 60.00
SIREN/CHOP.....	4'-0" X 12'-0"	= 48.00
Total Sq. Ft. =		159.60

**STARBUCKS COFFEE COLORS**  
PMS Paint Vinyl  
PMS 3525C Holly Green # 3670-76  
**ILLUMINATED STARBUCKS COFFEE**  
@ 4'-0" X 12'-0" = 48.00 Sq. Ft.

#### SPECIFICATIONS:

- A Double faced, internally illuminated pylon sign. Cabinet width to be 28", fabricated aluminum over welded steel angle iron frame. Retainers are 2" X 2" extruded aluminum.
- B Graphics Starbucks Coffee text to be 1st. Surface 3M translucent Scotchcal vinyl Holly Green #3630-76.
- C Faces are to be White Acrysteel with Green graphics applied to surface.

THIS SIGN TO BEAR  
Underwriters Label **120 VOLTS**

This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.



**ingles**

**Rainbow Signs, Inc.**  
GREENWOOD, SC 864-223-8423

CUSTOMER NAME: **INGLES (Store #53)**  
ADDRESS: 1678 Brown Ave. Suite- 1 Waynesville, NC  
SIGN TYPE: D/F Illuminated  
COPY RIGHTS NOTICE: This design, artwork and printed presentation is the sole property of Rainbow Sign Company, Inc. and may not be used without written permission from Rainbow Sign Company, Inc.

ACC. EXEC. C. Priest  
DESIGNER: C. Johnson  
SCALE: AS NOTED  
JOB NO. **16-310-2**  
DATE: 11/22/16  
12/13/16

APPROVED BY CUSTOMER:  
DATE: / /  
FILE: #58 Waynesville, NC Main Pylon-2

Electrical current to sign location and final connection not by Rainbow Sign Co., Inc.

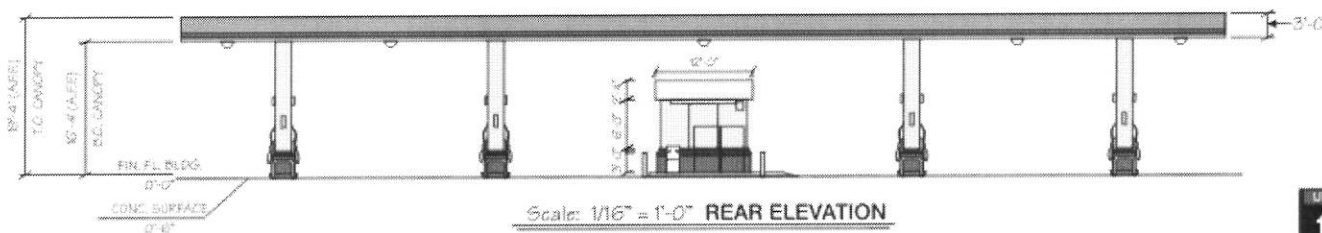
Figure 1 is an elevation view of a building section. It shows a sloped roof and a vertical wall. The roof has a horizontal span of 24'-0" and a vertical rise of 2'-0". The wall is 25'-0" high. The roof is labeled "ingles".

Scale: 1/16" = 1'-0" LEFT SIDE ELEVATION

$2'-9" \times 7'-10" = 21.53 \text{ Sq. Ft.}$   
 $2'-9" \times 7'-10" = 21.53 \text{ Sq. Ft.}$   
 $1'-10" \times 20'-10" = 38.12 \text{ Sq. Ft.}$   
 $1'-6" \times 8'-0" = 12.00 \text{ Sq. Ft.}$   
 $3'-0" \times 13'-0" = 39.00 \text{ Sq. Ft.}$   


---

**Total Sq. Ft. = 132.18 Sq. Ft.**



Scale:  $1/16" = 1'-0"$  REAR ELEVATION

UNL CASH	UNL CREDIT	DIESEL
1.80 <sup>g</sup>	2.00 <sup>g</sup>	2.49

[illegible]

Scale: 1/16" = 1'-0" FRONT ELEVATION

1'6" X 8'-0" = 12.00 Sq. Ft.

$3'-0" \times 13'-0" = 39.00 \text{ Sq. Ft.}$

**ingles**

**Rainbow Signs, Inc.**  
GREENWOOD, SC 864-223-8423

CUSTOMER NAME: INGLES (Store # 58)

ADDRESS: 1678 Brown Ave. Suite 1 - Waynesville, NC

SIGN TYPE Canopy Elevation Plan View

**COPY RIGHTS NOTICE:** This design, artwork and printed presentation is the sole property of Rainbow Sign Company, Inc. and may not be used without written permission from Rainbow Sign Company, Inc.

ACC. EXEC. C. Priest

DESIGNER: C. Sawyer

SCALE: AS NOTED

JOB NO. 16-313

DATE: \_\_\_\_\_

11/22/16

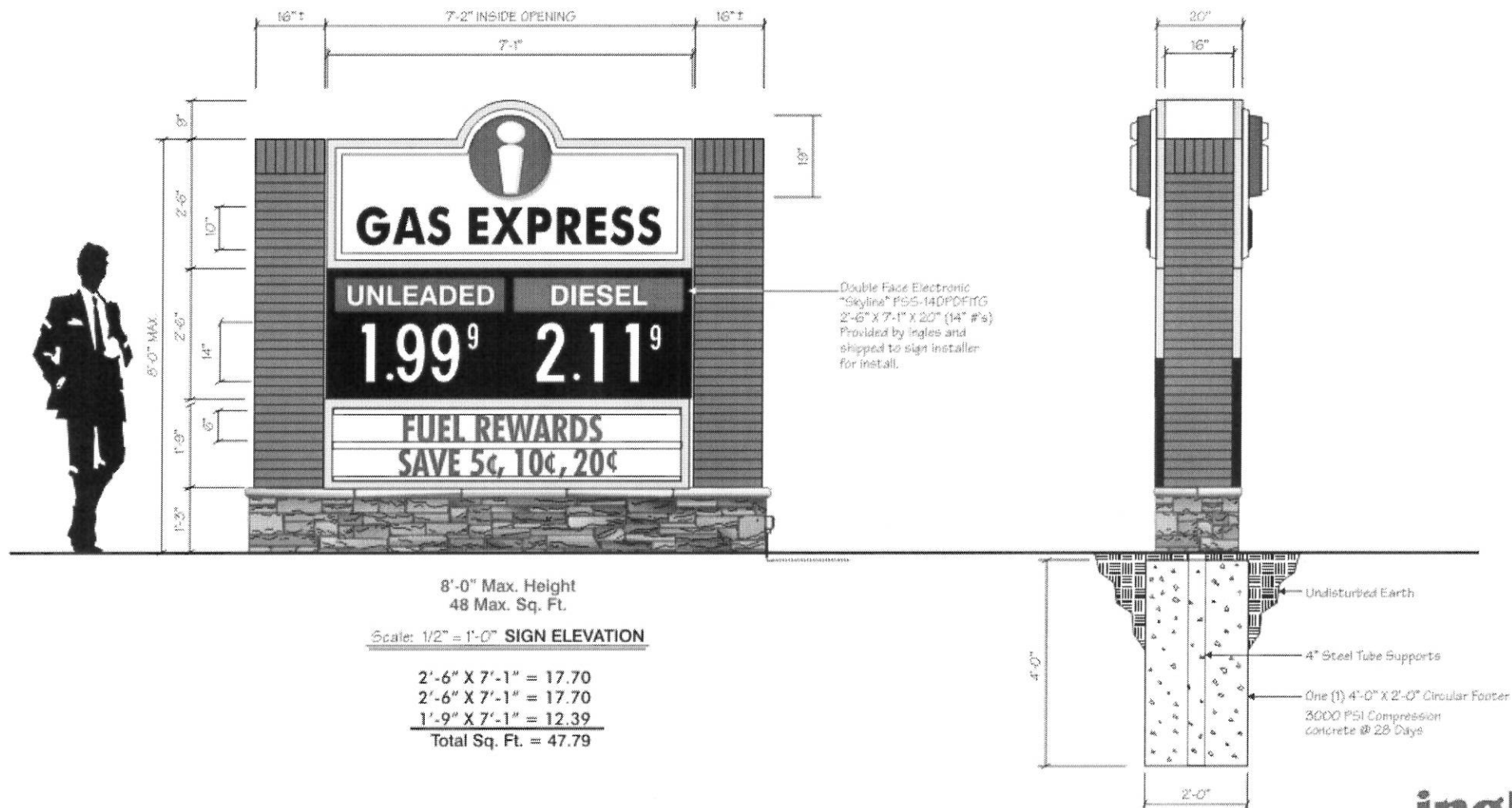
APPROVED BY CUSTOMER:

DATE: / /

FILE: #58 Waynesville 4 Pump Canopy

Electrical current to sign location and final connection not by Rainbow Sign Co., Inc.





**ingles**

<b>Rainbow Signs, Inc.</b> <b>GREENWOOD, SC 864-223-8423</b>	CUSTOMER NAME: <b>INGLES (Store #58)</b>		ACC. EXEC. <i>C. Priest</i>	JOB NO. <b>16-312-2</b>	APPROVED BY CUSTOMER.	
	ADDRESS: <b>1678 Brown Ave. Suite 1 - Waynesville, NC</b>		DESIGNER: <i>C. Johnson</i>	DATE: <b>12/13/16</b>	DATE: <i>12/13/16</i>	
	SIGN TYPE <b>i Gas Express Pylon</b>		SCALE: <b>AS NOTED</b>	FILE: <b>#58 Waynesville i Gas Ex Pylon-2</b>		
	COPY RIGHTS NOTICE: This design, artwork and printed presentation is the sole property of Rainbow Sign Company, Inc. and may not be used without written permission from Rainbow Sign Company, Inc.					

Electrical current to sign location and final connection not by Rainbow Sign Co., Inc.

PENDING REVIEW FOR TAX LISTING

DATE 8/11/15 BY KH.

HAYWOOD COUNTY TAX CERTIFICATION

There are no delinquent taxes due that are a lien  
against parcel number(s) 8605-70-6079

Mike Matthews, Haywood County Tax Collector

Date: 8/11/15 By: [Signature]



**2015006581**

HAYWOOD CO, NC FEE \$26.00

**NO TAXABLE CONSIDERATION**

PRESENTED & RECORDED:  
08-11-2015 01:38:57 PM

SHERRI C. ROGERS  
REGISTER OF DEEDS  
BY AMANDA GUTIERREZ  
DEPUTY

**BK: RB 891**

**PG: 1-6**

**PARCEL IDENTIFIER NO.: 8605-70-6079**

Verified by Haywood County on the \_\_\_ day of \_\_\_, 2015

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

**This instrument prepared by and mail after recording to:**

Burton C. Smith, Jr.  
Burton C. Smith, Jr., P.C.  
675 North Main Street  
Waynesville, North Carolina 28786

Brief Property Description for Index: 5.816 Acres+/-, Brown Avenue (a.k.a. Allen's Creek Road Extension), Waynesville Township, Haywood County, North Carolina, being the same as that certain property conveyed at Deed Book 579, Page 2276, in the Office of the Register of Deeds for Haywood County, North Carolina, and at Deed Book 885, Page 2157-2162, aforesaid records.

Excise Tax Stamp: \$ Ø

**NORTH CAROLINA SPECIAL WARRANTY DEED**

**THIS NORTH CAROLINA SPECIAL WARRANTY DEED** (this "**Deed**") is made as of this 6th day of August, 2015, by and between **INGLES HAZELWOOD EXCHANGE, LLC**, a North Carolina limited liability company (herein "**Grantor**"), and **INGLES MARKETS, INCORPORATED**, a North Carolina corporation (herein, "**Grantee**"). Grantee's address is P.O. Box 6676, Asheville, North Carolina 28816. The designation "Grantor" and "Grantee" as used herein shall include said parties, their heirs, successors and assigns, as applicable, and shall include singular, plural, masculine, feminine or neuter as required by context.

**WITNESSETH**, that the Grantor, for valuable consideration paid by the Grantee, the receipt of



which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey, unto Grantee, in fee simple, that certain lot or parcel of land (the "Property") lying and being situated in the Waynesville Township, Haywood County, State of North Carolina, that is more particularly described on **Exhibit "A"** attached hereto and by this reference made a part hereof, together with any and all appurtenances thereto (including, without limitation, easements described in such **Exhibit "A"**), but subject to the Permitted Encumbrances and, in particular, the Restrictive Covenants hereinafter described.

The Property is conveyed subject to the matters described on **Exhibit "B"** attached hereto and by this reference made a part hereof (to the extent they affect the Property, if at all)(the "**Permitted Encumbrances**").

**TO HAVE AND TO HOLD** the Property and all privileges and appurtenances thereto belonging unto the Grantee in **FEE SIMPLE**, but in all respects always subject to the Permitted Encumbrances.

**AND THE GRANTOR COVENANTS** with the Grantee, that Grantor has done nothing to impair such title as Grantor received, that Grantor is seized of the Property in fee simple, has the right to convey the same in fee simple, that title is free and clear of all encumbrances except for the Permitted Encumbrances, and that Grantor will warrant and defend the title to the Property against the lawful claims of Grantor and all persons claiming by, through or under Grantor, but not otherwise and always subject to the Permitted Encumbrances.

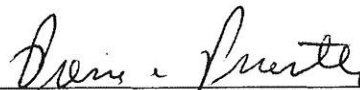
**IN WITNESS WHEREOF**, Grantor has caused this Deed to be executed under seal by its duly authorized representative as of the day, month and year first above written.

**[USE BLACK INK ONLY]**

**GRANTOR:**

**INGLES HAZELWOOD EXCHANGE, LLC**, a  
North Carolina limited liability company

By: **NATIONAL SAFE HARBOR  
EXCHANGES**, a California corporation  
Its: Sole Member

By:   
Name: Pierre W. Priestley  
Its: Senior Vice President

(CORPORATE SEAL)

[ACKNOWLEDGEMENT ON FOLLOWING PAGE]

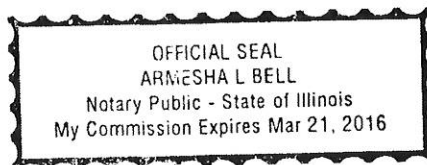
STATE OF Illinois; COUNTY OF Cook

I, a Notary Public of the County and State aforesaid, certify that **Pierre W. Priestley** in his capacity as a Senior Vice President of **NATIONAL SAFE HARBOR EXCHANGES**, a California corporation, being the sole member of **INGLES HAZELWOOD EXCHANGE, LLC**, a North Carolina limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the said company. Witness my hand and official stamp or seal, this 6th day of August, 2015.

My commission expires: 3/21/16

Arnesha L Bell  
NOTARY PUBLIC

NOTARIAL SEAL OR STAMP:



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

**ALL OF THAT CERTAIN LOT OR PARCEL OF LAND** situated in Waynesville Township, Haywood County, North Carolina, containing 5.88 acres, more or less, adjoined on the east by Brown Avenue, American National Red Cross (Deed Book 503, Page 1874), and Daniel Boyd (Deed Book 373, Page 730), on the south by Lea Plant Road (S.R. 1172), on the west by KMW Holdings, LLC (Deed Book 594, Page 209) and Norfolk Southern Railway, and on the north by County of Haywood (Deed Book 579, Page 2180) and being more particularly described as follows:

**BEGINNING** on a magnetic nail flush in the asphalt pavement in the intersection of the centerline of Norfolk Southern Railway, (said railway having a 200 foot right-of-way per Plat Cabinet B, Slide 67 and Deed Book 508, Page 1050, recorded in the Haywood County Register of Deeds Office) and the centerline of Lea Plant Road (S.R. 1172), said nail lying South 47°04'47" East 1333.09 feet (horizontal ground distance) from North Carolina Geodetic Survey Monument "John", said monument having N.C. Grid, NAD 83 (2001) coordinates of N: 650810.62', E: 806312.99'; said nail being a common corner with KMW Holdings, LLC recorded in Deed Book 594, Page 209 of the Haywood County Register of Deeds Office, and running thence from said beginning point and with the common line of KMW Holdings, LLC and the centerline of Norfolk Southern Railway and aid 200 foot right-of-way North 17°27'03" East 495.34 feet to a magnetic nail in a crosstie in the centerline of Norfolk Southern Railway, a common corner with KMW Holdings, LLC and Haywood County, recorded in Deed Book 579, Page 2180, thence leaving the centerline of Norfolk Southern Railway and with the common line of Haywood County for the following four bearings and distances: 1) South 72°29'45" East 446.46 feet to a 5/8" rebar lying 0.1 foot below the adjacent grade; 2) North 06°50'15" East 102.59 feet to a 5/8" rebar lying 0.1 foot below the adjacent grade; 3) North 07°49'57" East 39.99 feet to a 5/8" rebar with yellow plastic cap stamped "Ed Holmes and Assoc.", hereinafter referred to as "EHA" rebar; 4) South 83°01'21" East 41.37 feet to a railroad spike flush in asphalt pavement, a common corner with Daniel Boyd, recorded in Deed Book 373, Page 730; thence with the Boyd property the following three bearings and distance: 1) South 55°27'30" West 21.90 feet to a railroad spike flush in asphalt pavement; 2) South 22°31'17" East 143.52 feet to a magnetic nail flush in the asphalt pavement; 3) South 06°44'08" West, passing a railroad spike flush in the asphalt pavement at 82.02 feet, a common corner with American National Red Cross recorded in Deed Book 503, Page 1874, a total distance of 118.52 feet to a magnetic nail in the asphalt pavement, thence continuing with the common line of American National Red Cross South 85°49'57" East 120.30 feet to an "EHA" rebar, the southeast corner of said American National Red Cross, said rebar lying approximately 4.98 feet east of the western margin of the 80 foot right-of-way of Brown Avenue as shown on State Highway Commission Plans having Project No. 9.7142203; thence inside said right-of-way Brown Avenue, on a curve to the left having a radius of 1632.64 feet, an arc distance of 165.10 feet, and a chord bearing and distance of South 05°12'54" West 165.03 feet to a magnetic nail in the asphalt pavement in the intersection of the centerline of Lea Plant Road (S.R. 1172) and the margin of the asphalt pavement of Brown Avenue; thence with the center of Lea Plant Road (S.R. 1172) the following three bearings and distances: 1) South 82°42'12" West 120.71 feet to an unmarked point in the center of Lea Plant Road, 2) on a curve to the right having

a radius of 730.07 feet, an arc length of 69.95 feet, and a chord bearing and distance of South 85° 26'54" West 69.92 feet to an unmarked point, 3) South 88°11'34" West 571.92 feet to the point and place of **BEGINNING**.

Less and excepting all right, title and interest, if any, of the North Carolina State Highway Commission in and to a 376.93 square foot, more or less, area described in a deed recorded in Deed Book 220, Page 342, and further described as follows:

**BEGINNING** on a 5/8" "EHA" rebar, said rebar being on the northern margin of a 60 foot road right-of-way of Lea Plant Road, described in Deed Book 220, Page 341, said rebar lying North 44°53'18" West 43.69 feet from a magnetic nail in the asphalt pavement in the intersection of the centerline of Lea Plant Road (S.R. 1172) and the margin of asphalt pavement of Brown Avenue, said nail being the southeast corner of the above described property, and running thence from said **BEGINNING** point, North 41°33'50" East 43.93 feet to a concrete right-of-way monument with a broken top, lying 0.4 foot below the adjacent grade, on the western margin of the 80 foot right-of-way of Brown Avenue as referenced above; thence on a curve to the right with a radius of 1472.39 feet, an arc length of 28.21 feet, and a chord bearing and distance of South 04°05'56" West 28.21 feet to an "EHA" rebar; thence on a curve to the right having a radius of 1497.89 feet, an arc length of 27.54 feet, and a chord bearing and distance of South 80°05'14" West 27.54 feet to the point and place of **BEGINNING**, containing 376.93 square feet, more or less.

The tracts described above are shown on an unrecorded survey by Phillip B. White, PLS of Ed Holmes and Associates Land Surveyors, PA, titled "Boundary and Topographic Survey of Property Owned by Hazelwood NC NG, LLC for Ingles Markets, Inc." dated December 22, 2014 and last revised April 30, 2015. All bearings described above are N.C. Grid, NAD 83(2001) bearings. All distances are horizontal ground distances.

**TOGETHER WITH** the Grantor's right, title and interest, if any, in the following:

- 1) Easements in favor of the Property herein conveyed for parking purposes over the "First Tract" and "Second Tract" contained in Right-of-Way Deed from Kenneth Dwight Eatmon (a/k/a Kenneth Eatmon) and wife, Sharon K. Eatmon, to J. Aaron Prevost and Emil Massard dated December \_\_, 1983, and recorded at Deed Book 347, Page 806, in the Office of the Register of Deeds of Haywood County, North Carolina; and
- 2) Easements in favor of the "parties of the first part" and the property of the parties of the first part (being the Property herein conveyed) established by Agreement by and between Jack G. Prevost and Wachovia Bank, NA, Co-Executors of the Estate of J. Aaron Prevost and Successor Co-Trustees under the Amended and Restated Trust Agreement of J. Aaron Prevost, dated August 12, 1989, Blake P. Garrett, Jr., Trustee, and George B. Nalley, Jr., Trustee, parties of the first part; Daniel P. Boyd (a/k/a/Daniel Michael Boyd) and wife, Elizabeth Boyd, parties of the second part; Haywood County, a Unit of Local Government of the State of North Carolina, party of the third part; and State of North Carolina, party of the fourth part, dated October 21, 2003, and recorded at Deed Book 579, Page 2183, in the Office of the Register of Deeds of Haywood County, North Carolina.
- 3) Any and all other property conveyed in that certain North Carolina Special Warranty Deed from Hazelwood NC NG, LLC, to Ingles Hazelwood Exchange, LLC, dated May 19, 2015, and recorded at Deed Book 885, Page 2157-2162, aforesaid records.

PENDING REVIEW FOR TAX LISTING

DATE 6-2-16 BY SA

HAYWOOD COUNTY TAX CERTIFICATION

There are no delinquent taxes due that are a lien

against parcel number(s) 8605 80 0103

Mike Matthews, Haywood County Tax Collector

Date: 6-2-16 By: ell



**2016004301**

HAYWOOD CO, NC FEE \$26.00

**NO TAXABLE CONSIDERATION**

PRESENTED & RECORDED

06-02-2016 03:28:22 PM

SHERRI C. ROGERS

REGISTER OF DEEDS

BY STACY C. MOORE

ASSISTANT

**BK: RB 907**

**PG: 314-318**

**PARCEL IDENTIFIER NO.: 8605-80-0103**

Verified by Haywood County on the \_\_\_ day of June 2016

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

**This instrument prepared by and mail after recording to:**

Burton C. Smith, Jr.

Burton C. Smith, Jr., P.C.

675 North Main Street

Waynesville, North Carolina 28786

Brief Property Description for Index: 0.129 Acres +/-, Brown Avenue (a.k.a. Allen's Creek Road),  
Waynesville Township, Haywood County, North Carolina

Excise Tax Stamp: \$0.00 (EXEMPT SELLER)

**NORTH CAROLINA SPECIAL WARRANTY DEED**

Rwp **THIS NORTH CAROLINA SPECIAL WARRANTY DEED** (this "**Deed**") is made as of this day of June 2016, by and between **THE AMERICAN NATIONAL RED CROSS**, a non-profit corporation, a Federally chartered instrumentality of the United States, and body corporate and politic under the laws of the United States (36 U.S.C. §§300101-300111 (2007)) (herein "**Grantor**"), and **INGLES MARKETS, INCORPORATED**, a North Carolina corporation (herein, "**Grantee**"). Grantee's address is 2913 Highway 70 West, Black Mountain, North Carolina 28711. The designation "Grantor" and "Grantee" as used herein shall include said parties, their heirs, successors and assigns, as applicable, and shall include singular, plural, masculine, feminine or neuter as required by context.

**WITNESSETH**, that the Grantor, for valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey, unto Grantee, in fee simple, that certain lot or parcel of land (the "**Property**") lying and being situated in the Waynesville Township, Haywood County, State of North Carolina, that is more

particularly described on Exhibit "A" attached hereto and by this reference made a part hereof, together with any and all appurtenances thereto.

The Property is conveyed subject to the matters described on Exhibit "B" attached hereto and by this reference made a part hereof (to the extent they affect the Property, if at all)(the "Permitted Encumbrances").

Neither the Property nor any portion thereof herein conveyed includes the primary residence of a Grantor.

**TO HAVE AND TO HOLD** the Property and all privileges and appurtenances thereto belonging unto the Grantee in **FEE SIMPLE**, but in all respects always subject to the Permitted Encumbrances.

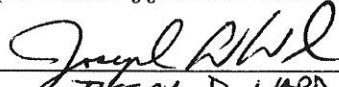
**AND THE GRANTOR COVENANTS** with the Grantee, that Grantor is seized of the Property in fee simple, has the right to convey the same in fee simple, that title is free and clear of all encumbrances except for the Permitted Encumbrances, and that Grantor will warrant and defend the title to the Property against the lawful claims of Grantor and all persons claiming by, through or under Grantor, but not otherwise and always subject to the Permitted Encumbrances.

**IN WITNESS WHEREOF**, Grantor has caused this Deed to be executed under seal by its duly authorized representative as of the day, month and year first above written.

**[USE BLACK INK ONLY]**

**GRANTOR:**

**THE AMERICAN NATIONAL RED CROSS**,  
a non-profit corporation, a Federally chartered  
instrumentality of the United States, and body  
corporate and politic under the laws of the United  
States (36 U.S.C. §§300101-300111 (2007))

By:   
Name: JOSEPH D. WARD  
Title: EXECUTIVE DIRECTOR - REAL ESTATE

Attest: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(CORPORATE SEAL)

**[ACKNOWLEDGEMENT ON FOLLOWING PAGE]**



STATE OF Ohio; COUNTY OF Lucas

I, a Notary Public of the County and State aforesaid, certify that Joseph D. Ward, in his/her capacity as Executive Director of **THE AMERICAN NATIONAL RED CROSS**, a non-profit corporation, a Federally chartered instrumentality of the United States, and body corporate and politic under the laws of the United States (36 U.S.C. §§300101-300111 (2007)), personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the said company.

Witness my hand and official stamp or seal, this 1 day of June 2016.

My commission expires: 10-22-17

Robert W. Menner

NOTARIAL SEAL OR STAMP:



ROBERT W MENNER  
NOTARY PUBLIC - OHIO  
MY COMMISSION EXPIRES 10-22-17

The foregoing Certificates of \_\_\_\_\_ and \_\_\_\_\_ are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Register of Deeds for Haywood County

By: \_\_\_\_\_, Deputy/Assistant - Register of Deeds

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

All of that certain lot or parcel of land situated in Waynesville Township, Haywood County, North Carolina, and being more particularly described as follows:

BEGINNING at a point lying two (2) calls from the most western point of that deed of record in Deed Book 297, Page 747, as follows: S. 25 deg. 30 min. 00 sec. E. 143.55 and S. 03 deg. 49 min. 20 sec. W. 69.21 feet to the point and place of BEGINNING; and from said point of BEGINNING thus established, running S. 86 deg. 05 min. 45 sec. E. 122.64 feet to a point in the western margin of Allen's Creek Road; thence with the margin of said road, with the arc of a circle with a curve to the left, having a radius of 1632.64 feet, a linear distance of 43.82 feet to an iron pipe, thence leaving the road right of way and running, N. 88 deg. 44 min. 45 sec. W. 120.30 feet to an iron pin; thence running N. 03 deg. 49 min. 20 sec. E. 49.32 feet passing a railroad spike set at 36.33 feet on line, to the point and place of BEGINNING. The same identified as Tract III, being .129 acre on that survey captioned "J. A. Prevost" dated December 28, 1984 under the seal of James T. Herron, R.L.S.

BEING the identical property described in a deed dated January 1, 1988, from Erwin Roe Jones, Jr. and wife, Evelyn L. Jones, to Erwin Roe Jones, III and wife, Debra L. Jones, recorded in Deed Book 387, Page 385, Haywood County Registry, and likewise the property conveyed by Erwin Roe Jones, III and wife, Debra L. Jones, to American National Red Cross by North Carolina General Warranty Deed dated October 3, 2001, and recorded at Deed Book 503, Page 1874, Haywood County Registry.

**EXHIBIT "B"**

**PERMITTED ENCUMBRANCES**

1. Taxes for the year 2015, liens not yet due and payable, and for subsequent years.
2. Rights-of-Way of S.R. #1172 (Lea Plant Road, f/k/a Welch Road) and Allens Creek Road Extension to their full legal widths (80' right-of-way for S.R. #1172 and 60' or apparent 40' right-of-way for Allens Creek Road, in each case as shown on Boundary and Topographic Survey of Property Owned by Hazelwood NC NG, LLC for Ingles Markets, Inc. dated December 22, 2014, prepared by Ed Holmes & Associates Land Surveyors, PA and bearing the seal of Phillip B. White, North Carolina Professional Land Surveyor No. L-4994 dated December 31, 2014 (the "Survey").
3. 200' Right-of-Way of Norfolk Southern Railway (now Blue Ridge Southern Railway, LLC) as shown on Survey.
4. Electric easements in favor of Carolina Power & Light recorded at (a) Deed Book 86, Page 322, (b) Deed Book 111, Page 239, (c) Deed Book 220, Page 476, (d) Deed Book 220, Page 510, and (e) Deed Book 244, Page 718, all in the Office of the Register of Deeds of Haywood County, North Carolina.
5. Sewer easement in favor of the Town of Waynesville recorded at Deed Book 289, Page 203, in the Office of the Register of Deeds of Haywood County, North Carolina.
6. Terms and conditions of easements contained in and restrictions regarding pavement set forth in Right-of-Way Deed recorded at Deed Book 347, Page 806, in the Office of the Register of Deeds of Haywood County, North Carolina, but excluding and without exception for the 40' road right-of-way therein described, which has been terminated by virtue of the Agreement described in Item 7 following.
7. Terms and conditions of and restrictions set forth in Agreement recorded at Deed Book 579, Page 2183, in the Office of the Register of Deeds of Haywood County, North Carolina.
8. Terms and conditions of and restrictions set forth in Restrictive covenant in favor of Ingles Hazelwood Exchange, LLC, dated May 19, 2015, and recorded at Deed Book 885, Page 2169, in the Office of the Register of Deeds of Haywood County, North Carolina.

DATE 6-2-16 BY SP

HAYWOOD COUNTY TAX CERTIFICATION

There are no delinquent taxes due that are a lien

against parcel number(s) 8605 80 0103

Mike Matthews, Haywood County Tax Collector

Date: 6-2-16 By: cel



**2016004302**

HAYWOOD CO, NC FEE \$26.00

**NO TAXABLE CONSIDERATION**

PRESENTED & RECORDED

06-02-2016 03:28:23 PM

SHERRI C. ROGERS

REGISTER OF DEEDS

BY: STACY C. MOORE

ASSISTANT

**BK: RB 907**

**PG: 319-323**

**PARCEL IDENTIFIER NO.: 8605-80-0103**

Verified by Haywood County on the \_\_\_ day of June 2016

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

**This instrument prepared by and mail after recording to:**

Burton C. Smith, Jr.

Burton C. Smith, Jr., P.C.

675 North Main Street

Waynesville, North Carolina 28786

Brief Property Description for Index: 6.01 acres +/-, Brown Avenue (a.k.a. Allen's Creek Road),  
Waynesville Township, Haywood County, North Carolina

Excise Tax Stamp: \$0.00

**NORTH CAROLINA QUITCLAIM DEED**

**THIS QUITCLAIM DEED** (this "**Deed**") is made as of the 2nd day of June 2016, by **THE AMERICAN NATIONAL RED CROSS**, a non-profit corporation, a Federally chartered instrumentality of the United States, and body corporate and politic under the laws of the United States (36 U.S.C. §§300101-300111 (2007)) (hereinafter called "**Grantor**"), in favor of **INGLES MARKETS, INCORPORATED**, a North Carolina corporation (hereinafter called "**Grantee**"). Grantee's address is 2913 Highway 70 West, Black Mountain, North Carolina 28711. The words "Grantor" and "Grantee" include the neuter, masculine and feminine genders, and the singular and the plural, as the context requires or permits.

**W I T N E S S E T H:**

**FOR AND IN CONSIDERATION** of the sum of Ten Dollars (\$10.00) in hand paid to Grantor by Grantee at and before the execution, sealing and delivery hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor (a) has remised, released, conveyed and forever quitclaimed, and (b) by these presents does remise, release, convey and forever quitclaim, unto Grantee and the successors, legal representatives and assigns of Grantee, all of Grantors' right, title and interest, if any, in and to that tract or parcel of land lying and being in Waynesville

Township, Haywood County, North Carolina, that is more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter called the "**Property**").

**TO HAVE AND TO HOLD** the Property unto Grantee in order that neither Grantor nor any person claiming by, through or under Grantor shall at any time or by any means or ways have, claim or demand any right, title or interest in or to the Property or any portion thereof or any of the rights, members and appurtenances thereof.

Neither the Property nor any portion thereof herein conveyed includes the primary residence of a Grantor.

This Deed is executed in connection with and as a companion document to the North Carolina Special Warranty Deed, the purpose and intent of this Deed being to transfer to Grantee, for the consideration given for the said North Carolina Special Warranty Deed and for no additional consideration, the property conveyed by such North Carolina Special Warranty Deed utilizing a legal description for same drawn from Grantee's current survey of the Property and certain adjoining property owned or to be acquired by Grantee, so as to divest Grantor, without warranty of any kind, of any right, title and interest Grantor otherwise might have in and to any property contained within such survey legal description, including gaps and gores, not previously conveyed by such North Carolina Special Warranty Deed.

**IN WITNESS WHEREOF**, Grantor has caused this Deed to be executed by its duly authorized representative as of the day, month and year first written above.

**[USE BLACK INK ONLY]**

**GRANTOR:**

**THE AMERICAN NATIONAL RED CROSS**,  
a non-profit corporation, a Federally chartered  
instrumentality of the United States, and body  
corporate and politic under the laws of the United  
States (36 U.S.C. §§300101-300111 (2007))

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

Name: \_\_\_\_\_

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

Attest: \_\_\_\_\_

Name: \_\_\_\_\_

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

(CORPORATE SEAL)

**[ACKNOWLEDGEMENT ON FOLLOWING PAGE]**

STATE OF Ohio; COUNTY OF Crawford

I, a Notary Public of the County and State aforesaid, certify that Joseph A. Ward, in his capacity as the EO. Real Estate of **THE AMERICAN NATIONAL RED CROSS**, a non-profit corporation, a Federally chartered instrumentality of the United States, and body corporate and politic under the laws of the United States (36 U.S.C. §§300101-300111 (2007)), personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the said company. Witness my hand and official stamp or seal, this 1 day of June 2016.

My commission expires: 10.22.17

Robert W. Menner

NOTARY PUBLIC

NOTARIAL SEAL OR STAMP



ROBERT W MENNER  
NOTARY PUBLIC - OHIO

MY COMMISSION EXPIRES 10-22-17

The foregoing Certificates of \_\_\_\_\_ and \_\_\_\_\_ are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Register of Deeds for Haywood County

By: \_\_\_\_\_, Deputy/Assistant - Register of Deeds



**EXHIBIT "A"****SURVEY LEGAL DESCRIPTION OF PROPERTY**

All of that certain lot or parcel of land containing 6.02 acres more or less, situated in Waynesville Township, Haywood County, North Carolina, and being more particularly described as follows:

**BEGINNING** on a magnetic nail flush in the asphalt pavement in the intersection of the centerline of Norfolk Southern Railway, (said railway having a 200 foot right-of-way per Plat Cabinet B, Slide 67 and Deed Book 508, Page 1050, recorded in the Haywood County Register of Deeds Office) and the centerline of Lea Plant Road (S.R. 1172), said nail lying South 47°04'47" East 1333.09 feet (horizontal ground distance) from North Carolina Geodetic Survey Monument "John", said monument having N.C. Grid, NAD 83 (2001) coordinates of N: 650810.62', E: 806312.99'; said nail being a common corner with KMW Holdings, LLC recorded in Deed Book 594, Page 209 of the Haywood County Register of Deeds Office, and running thence from said beginning point and with the common line of KMW Holdings, LLC and the centerline of Norfolk Southern Railway, a 200 foot right-of-way, North 17°27'03" East 495.34 feet to a magnetic nail in a crosstie in the centerline of Norfolk Southern Railway, a common corner with KMW Holdings, LLC and Haywood County, recorded in Deed Book 579, Page 2180, thence leaving the centerline of Norfolk Southern Railway and with the common line of Haywood County for the following four bearings and distances: 1) South 72°29'45" East, passing 5/8" rebars with yellow plastic caps stamped "Ed Holmes and Assoc.", hereinafter referred to as "EHA" rebar, at 50.00 feet and 100.00 feet, a total distance of 446.46 feet to a 5/8" rebar lying 0.1 foot below the adjacent grade; 2) North 06°50'15" East 102.59 feet to a 5/8" rebar lying 0.1 foot below the adjacent grade; 3) North 07°49'57" East 39.99 feet to an "EHA" rebar; 4) South 83°01'21" East 41.37 feet to a railroad spike flush in asphalt pavement, a common corner with Daniel Boyd, recorded in Deed Book 373, Page 730; thence with the Boyd property the following three bearings and distance: 1) South 55°27'30" West 21.90 feet to a railroad spike flush in asphalt pavement; 2) South 22°31'17" East 143.52 feet to a magnetic nail flush in the asphalt pavement; 3) South 06°44'08" West, 69.20 feet to a magnetic nail in the asphalt pavement, thence continuing with said Boyd property South 83°10'57" East 122.64 feet to an "EHA" rebar, said rebar lying approximately 5.35 feet east of the western margin of the 80 foot right-of-way of Brown Avenue as shown on State Highway Commission Plans having Project No. 9.7142203, thence leaving said Boyd property and running inside said right-of-way, on a curve to the left having a radius of 1632.64 feet, an arc distance of 43.82 feet, and a chord bearing and distance of South 09°57'16" West 43.82 feet to an "EHA" rebar, said rebar lying approximately 4.98 feet east of the western margin of the 80 foot right-of-way of Brown Avenue as shown on State Highway Commission Plans having Project No. 9.7142203; thence inside said right-of-way of Brown Avenue, on a curve to the left having a radius of 1632.64 feet, an arc distance of 165.10 feet, and a chord bearing and distance of South 05°12'54" West 165.03 feet to a magnetic nail in the asphalt pavement in the intersection of the centerline of Lea Plant Road (S.R. 1172) and the margin of the asphalt pavement of Brown Avenue; thence with the center of Lea Plant Road (S.R. 1172) the following three bearings and distances: 1) South 82°42'12" West 120.71 feet to an unmarked point in the center of Lea Plant Road, 2) on a curve to the right having a radius of 730.07 feet, an arc length of 69.95 feet, and a chord bearing and distance of South 85° 26'54" West 69.92 feet to an unmarked point, 3) South 88°11'34" West 571.92 feet to the point and place of **BEGINNING**.

The total net area of the above described property contains 6.02 acres, more or less, and is a compilation of parcels owned by Ingles Markets Inc. described in Deed Book 891, Page 1 (without exclusion of an approximately 0.01 acre parcel at the southeasterly corner of the property

shown on the Holmes Survey hereafter described) and American National Red Cross described in Deed Book 503, Page 1874, all in the Office of the Register of Deeds of Haywood County, North Carolina, said parcels being shown on an unrecorded survey by Phillip B. White, PLS of Ed Holmes and Associates Land Surveyors, PA, titled "Boundary and Topographic Survey of Property Owned by Ingles Markets, Inc. and American National Red Cross" dated January 25, 2016, and last revised May 30, 2016 (the "Holmes Survey"). All bearings described above are N.C. Grid, NAD 83(2011) bearings. All distances are horizontal ground distances.

The foregoing parcel includes within its bounds, without limitation (and Grantor conveys hereby to Grantee all right, title and interest, if any, of Grantee in and to), the following described parcel of land conveyed to the American National Red Cross by virtue of deed recorded at Deed Book 503, Page 1874, in the aforesaid records:

All of that certain lot or parcel of land containing 0.13 acres more or less, situated in Waynesville Township, Haywood County, North Carolina, adjoined on the east by Brown Avenue, on the south and west by Ingles Markets, Inc. (Deed Book 891, Page 1), and on the North by Daniel Boyd (Deed Book 373, Page 730), and being more particularly described as follows:

**BEGINNING** on a railroad spike flush in the asphalt pavement, said railroad spike lying South  $68^{\circ}03'02''$  East 1764.50 feet (horizontal ground distance) from North Carolina Geodetic Survey Monument "John", said monument having N.C. Grid, NAD 83 (2001) coordinates of N: 650810.62', E: 806312.99'; said railroad spike being a common corner with property owned by Ingles Markets, Inc., description recorded in Deed Book 891, Page 1 in the Haywood County N.C. Register of Deeds Office, and runs thence from said beginning point and with said Ingles Markets Inc. property South  $06^{\circ}44'08''$  West 36.50 feet to a magnetic nail in asphalt pavement; thence South  $85^{\circ}49'57''$  East 120.30 feet to a  $5/8''$  rebar with plastic yellow cap stamped "Ed Holmes and Assoc.", hereinafter referred to as "EHA" rebar, said rebar lying approximately 4.98 feet east of the western margin of the 80 foot right-of-way of Brown Avenue as shown on State Highway Commission Plans having Project No. 9.7142203; running thence inside said right-of-way of Brown Avenue and leaving said Ingles Markets property, on a curve to the right having a radius of 1632.64 feet, an arc distance of 43.82 feet, and a chord bearing and distance of North  $09^{\circ}57'16''$  East 43.82 feet to an "EHA" rebar, said rebar lying approximately 5.35 feet east of the western margin of the 80 foot right-of-way of Brown Avenue as shown on State Highway Commission Plans having Project No. 9.7142203, said rebar being a common corner with that property owned by Daniel Boyd, described in Deed Book 373, Page 730; thence with said Boyd property and leaving said right-of-way, North  $83^{\circ}10'57''$  West 122.64 feet to a magnetic nail in asphalt pavement, a common corner with said Ingles Markets Inc. property; thence leaving said Boyd property and with said Ingles Markets property South  $06^{\circ}44'08''$  West 12.82 feet to the point and place of **BEGINNING**, containing 0.13 acre more or less and being shown on the Holmes Survey. All bearings described above are N.C. Grid, NAD 83(2011) bearings. All distances are horizontal ground distances.

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

**AN ORDINANCE AMENDING THE ZONING MAP OF THE TOWN OF WAYNESVILLE;  
CREATING THE HYATT CREEK REGIONAL CENTER – CONDITIONAL DISTRICT**

**WHEREAS**, the Town of Waynesville has the authority, pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

**WHEREAS**, this Ordinance is consistent with the 2020 Land Development Plan of the Town of Waynesville for the reasons set out herein; and

**WHEREAS**, this Ordinance is neither consistent with nor inconsistent with other official plans of the Town of Waynesville; and

**WHEREAS**, the Town of Waynesville Planning Board has reviewed the proposed ordinance and has recommended its enactment by the Board of Aldermen.

**NOW, THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION AND WITH A MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, HEREBY ORDAINS THE FOLLOWING:**

**Section One.** Upon the application of Ingles Market's, Incorporated, the Official Zoning Map of the Town of Waynesville is hereby amended to create the Hyatt Creek Regional Center – Conditional District [HCRC-CD] as more particularly set forth herein.

**Section Two.** This Ordinance is found to be consistent with the 2020 Land Development Plan of the Town of Waynesville, in particular with the Land Use Goal contained therein which states the following:

Promote the orderly growth, development and enhanced land values of the Town of Waynesville by preserving and improving Waynesville's existing neighborhoods, creating more attractive commercial centers, maintaining a strong downtown area, taking steps to reduce urban sprawl and protecting the natural beauty of the community.

This Ordinance is further found to be consistent with the 2020 Land Development Plan of the Town of Waynesville by virtue of the following land use objective:

Promote infill development in the Town of Waynesville as an alternative to continued outward expansion.

**Section Three.** The zoning classification of that certain real property described in Exhibit "A", attached hereto and made a part hereof, is hereby changed from Hyatt Creek Regional Center [HCRC] to Hyatt Creek Regional Center – Conditional District [HCRC-CD]. Said property is also identified on Haywood County tax maps by means of Property Identification Number 8605-70-6170.

**Section Four.** The Hyatt Creek Regional Center – Conditional District [HCRC-CD] is a conditional zoning district established pursuant to the Land Development Standards of the Town of Waynesville by means of authority granted by the North Carolina General Statutes. Future development and use of lands situated within the Hyatt Creek Regional Center – Conditional District [HCRC-CD] and the processing of applications to develop and use such lands, shall comply with the conditions set forth on the document entitled, Hyatt Creek Regional Center – Conditional District – List of Standards & Conditions, which is attached to this ordinance as Exhibit "B" attached hereto and made a part hereof. The List of Standards & Conditions, including the Master Plan made a part thereof, shall run with the land and shall be binding on Ingles Markets, Incorporated, its successors and assigns.

**Section Five.** Pursuant to §15.15.2D of the Town of Waynesville Land Development Standards, the Master Plan replaces all conflicting development regulations set forth in the Land Development Standards, and such development regulations are varied to the extent they conflict with the Master Plan and List of Standards & Conditions.

**Section Six.** The signage standards in Chapter 11 of the Town of Waynesville Land Development Standards are modified to allow the number of signs attached to buildings to exceed three, but not more than 11, provided that the total surface area of signage is no more than 15% of the wall surface area to which the signs are attached.

**Section Seven.** Enactment of this Ordinance constitutes the approval of a site-specific development plan resulting in the establishment of a vested right, pursuant to N.C.G.S. Section 160A-385.1, to undertake and complete the development and use of the property under the terms and conditions specified in the List of Standards & Conditions, including the Master Plan. Such vested right shall have a term of two years from the date of adoption of this Ordinance and shall continue thereafter provided that Ingles Markets, Incorporated completes the development and use of the property under the terms and conditions specified in the List of Standards & Conditions, including the Master Plan.

**Section Eight.** The Office of the Zoning Administrator is hereby authorized and directed to modify the Official Zoning Map of the Town of Waynesville consistent with this Ordinance.

**Section Nine.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

**Section Ten.** All ordinances or portions thereof in conflict herewith are hereby repealed to the extent of such conflict.

**Section Eleven.** This ordinance shall be in full force and effect from and after the date of adoption.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2017.

\_\_\_\_\_  
Gavin Brown – Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

Approved as to form:

\_\_\_\_\_  
Town Attorney

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REQUEST FOR BOARD ACTION  
Meeting Date: February 14, 2017**

**SUBJECT:** Request Support for Proposed Additional 2% Occupancy Tax

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** 6-C  
**Department:** Haywood County TDA  
**Contact:** Lynn Collins, Executive Director  
**Presenter:** **Lynn Collins, Executive Director**

**BRIEF SUMMARY:** Haywood County TDA currently collects a 4% occupancy tax on short term rentals in Haywood County. 3% of the funds go directly to the TDA for marketing the county as a destination. The remaining 1% is distributed back to the zip code area where it is collected for the zip code area to utilize the funds for marketing and tourism related expenses.

The proposed Tourism Product Development Fund (TPDF) would provide financial assistance for major tourism capital projects that would drive tourism to Haywood County generating overnight stays in accommodations and creating economic impact. The funds for the capital projects would be generated through occupancy taxes paid by visitors to Haywood County. Tourism in Haywood County represents a \$259.43 tax savings to each county household.

**MOTION FOR CONSIDERATION:** To support the introduction of legislation in support of an additional two percent (2%) Occupancy Tax for establishing a Tourism Product Development Fund and approve the Haywood County Tourism Development Authority (HCTDA) Product Development Fund Policy and Process Guidelines.

**FUNDING SOURCE/IMPACT:** Based on current estimates, the additional 2% would generate approximately \$625,000 annually.

**ATTACHMENTS:**

- HCTDA Resolution
- HCTDA Product Development Fund Policy and Process Guidelines
- Frequently Asked Questions Regarding the Proposed 2%

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend support of the proposed legislation

RESOLUTION  
OF  
HAYWOOD COUNTY TOURISM DEVELOPMENT AUTHORITY

APPROVING THE PROPOSED PRODUCT DEVELOPMENT FUND POLICY GUIDELINES

AND

REQUESTING ACTION BY THE MUNICIPALITIES WITHIN AND THE GOVERNMENT FOR HAYWOOD COUNTY, AS WELL AS THE LAKE JUNALUSKA ASSEMBLY, SUPPORTING AN ADDITIONAL TWO PERCENT (2%) OCCUPANCY TAX TO BE APPLIED AND EXPENDED ACCORDING TO THE PROPOSED GUIDELINES

AND

REQUESTING INTRODUCTION AND PASSAGE BY THE NORTH CAROLINA GENERAL ASSEMBLY OF LEGISLATION AUTHORIZING THE ADDITIONAL TWO PERCENT (2%) OCCUPANCY TAX

WHEREAS, attached hereto as Exhibit A is a Haywood County Tourism Development Authority Proposed Product Development Fund Policy Guidelines which is designed to establish parameters for the application and expenditure of a proposed additional two percent (2%) occupancy tax; and

WHEREAS, the Haywood County Tourism Development Authority, composed of fifteen (15) appointed members, 12 of which are voting members, was established pursuant to Part V, Chapter 908 of the 1984 Session Laws of the North Carolina General Assembly, as amended; and

WHEREAS, the Haywood County Tourism Development Authority promotes economic development in Haywood County through advertising and promotion of Haywood County's recreational and tourism-related facilities, services, and amenities; and

WHEREAS, all funding for this effort is generated through transient occupancy taxes paid by users of accommodations; and

WHEREAS, the additional two percent (2%) occupancy tax designated for Tourism Product Development projects as set forth in the Haywood County Tourism Development Authority Proposed Product Development Fund Policy and Process Guidelines, would fund projects demonstrated to increase economic value and significantly increase patronage of lodging facilities in Haywood County; and

WHEREAS, the Haywood County Tourism Development Authority Proposed Product Development Fund Policy and Process Guidelines is designed to apply to the application and expenditure of the additional two percent (2%) occupancy tax; and

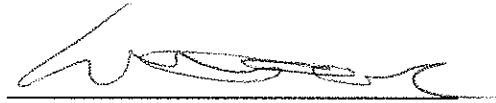


WHEREAS, residents of Haywood County would also receive benefits through additional facilities and amenities with no additional local tax burden.

NOW, THEREFORE, BE IT RESOLVED by the Haywood County Tourism Development Authority by voting as set forth on the tally sheet attached hereto as Exhibit B, that:

1. Approval is hereby given to the Haywood County Tourism Development Authority Proposed Product Development Fund Policy and Process Guidelines, including amendments applicable to a proposed additional two percent (2%) occupancy tax.
2. Governing Boards for all Municipalities within Haywood County, the Haywood County Board of Commissioners and the Governing Body of the Lake Junaluska Assembly are requested and urged to pass resolutions approving the introduction, support and approval by the North Carolina General Assembly of legislation authorizing the levy of an additional two percent (2%) Occupancy Tax designated for Tourism Product Development through the Haywood County Tourism Development Authority in addition to the existing four percent (4%) Occupancy Tax currently in effect.
3. The local delegation and all members of the North Carolina General Assembly are respectfully urged to introduce the local legislation referred to above and to give favorable consideration and expeditious passage of same.

DULY ADOPTED BY A VOTE OF \_\_\_\_ FOR AND \_\_\_\_ AGAINST, this the 25<sup>th</sup> day of January, 2017.

A handwritten signature in black ink, appearing to read 'Lyndon Lowe', is written over a horizontal line.

Lyndon Lowe, Chairman

# HCTDA Resolution for Proposed 2% Occupancy Tax

## Signature Page

### HCTDA Board Member

HCTDA Board Member	Vote Yes	Vote No
<u>Co. Co.</u>	<u>✓</u>	<u>      </u>
<u>J. Wright</u>	<u>✓</u>	<u>      </u>
<u>Ben Mott</u>	<u>✓</u>	<u>      </u>
<u>to</u>	<u>✓</u>	<u>      </u>
<u>Gail Mullen</u>	<u>✓</u>	<u>      </u>
<u>M. DeSoto</u>	<u>✓</u>	<u>      </u>
<u>Ch. K.</u>	<u>✓</u>	<u>      </u>
<u>K.H.</u>	<u>✓</u>	<u>      </u>
<u>Stacy</u>	<u>✓</u>	<u>      </u>
<u>Beth Braun</u>	<u>✓</u>	<u>      </u>
<u>Luzanne</u>	<u>✓</u>	<u>      </u>

### HCTDA Ex Officio Members

<u>John DeSoto</u>	<u>N/A</u>	<u>N/A</u>
<u>Mike Mott</u>	<u>N/A</u>	<u>      </u>
<u>Mark Clasky</u>	<u>N/A</u>	<u>      </u>

## **Proposed Haywood County Tourism Development Authority (HCTDA) Product Development Fund Policy and Process Guidelines**

1. The proposed 2% occupancy tax in support of tourism-related product development funding in Haywood County will be allocated by the HCTDA for capital projects. Eligible capital projects would be land acquisition, improvements to real estate and “bricks and mortar” expenditures. Funding will not be provided to support an applicant’s ongoing operational expenses, marketing and sales, or other similar kinds of spending that does not represent “bricks and mortar” expenditures. HCTDA product development funding may be used for design work and other approved “soft” costs related to the development of a project, but will not be used to pay for speculative feasibility studies for projects.
2. 50% of the net proceeds collected by the proposed 2% occupancy tax shall be credited to the HCTDA. These funds may be allocated to any eligible capital project as defined by these guidelines. The remaining 50% of the net proceeds collected shall be segregated into five separate accounts based on the collection area from which the proceeds were collected. Net proceeds collected in the 28716 zip code will be credited to Canton; net proceeds collected in the 28721 zip code will be credited to Clyde; net proceeds collected in the 28745 zip code will be credited to Lake Junaluska; net proceeds collected in the 28751 zip code will be credited to Maggie Valley and the net proceeds collected in the 28785/28786 zip codes will be credited to Waynesville. Based on recommendations from and in consultation with each of the five collection areas, the funds may be allocated to any eligible capital project as defined by these guidelines.
3. A 5% administrative fee will be retained by the HCTDA to cover management of the fund, including the application process and its implementation.
4. Projects to be funded must be tourism-related and act as drivers of overnight visitation to Haywood County, generating a provable return on investment in the

form of new room nights sold and a resulting positive economic impact for the community. These projects can and should also improve the quality of life for county residents.

5. The 2% occupancy tax collected in support of tourism-related product development funding will be in addition to the 4% currently collected to support promotion of Haywood County as a destination. HCTDA will continue to make grants to support Haywood County events (the 1% fund), but these grants must be for marketing expenditures intended to promote these events and draw visitors to the destination, in order to remain within North Carolina legislative guidelines for the use of occupancy taxes.
6. Funding will only be provided to those organizations which have an established not-for-profit tax status, including governmental entities.
7. The project must be physically located within Haywood County or located in such a way that there is a direct benefit to Haywood County. There will be no restrictions on how much project funding can be granted to a particular community or location within the county.
8. Projects which are located on the property of a for-profit occupancy tax-collecting entity (such as a hotel) will not be eligible for HCTDA 2% funding.
9. Organizations requesting funding from the HCTDA must have commitments in hand for a minimum 50% match of the dollars requested for the project at the time of application. This match could include both cash in hand as well as funding commitments made in writing by donors or financial institutions.
10. As it pertains to the 50% net proceeds credited to the HCTDA and as a tax collecting entity, the HCTDA can only commit to tourism-related project funding support which does not exceed the amount in its current fund balance. It cannot

commit any funding anticipated in future years. The HCTDA may decide that a project is deserving of funding support beyond what is available in the current year and may express its desire to see it supported in future years, but cannot specifically and formally commit to any further funding support.

Upon approval of a major capital project, an applicant could be granted a multi-year allocation from the appropriately designated 2% zip code fund.

11. Product development funding may be made by the HCTDA in the form of a grant, a loan, or in support of debt service.
12. The HCTDA is not obligated to expend all of the money in the product development fund and may decide to carry a balance into the following fiscal year.
13. Funding requests will be made by formal application to the HCTDA. Applicants may be required to demonstrate a proven need for their project by providing a feasibility study and evidence of the potential benefit to the Haywood County tourism sector and the community. Other requirements may include an operational plan for the project (including how the project will be supported financially in future years) and current financial statements in order to demonstrate fiscal viability. Applicants may be asked to make a formal presentation of the project to the HCTDA board.
14. The application process will be open to any entity that meets the above guidelines and will be publicized in local media and on the HCTDA website. HCTDA will notify in advance any organization that has expressed interest in participating in the next application cycle.
15. Funding recommendations will be made by the HCTDA board, which may approve the application; deny funding; or request additional information from the applicant. The HCTDA may also recommend that an applicant be awarded less funding than what has been requested in the application.



16. Even after approval by the HCTDA board, the applicant may still be required to achieve specific project objectives or thresholds before receiving any or all HCTDA funding in hand. Funds will be held in escrow by the HCTDA until their release to the applicant.
17. The Haywood County Board of Commissioners will review the final recommendations made by the HCTDA board and retain final authority to approve project applications. Only those applications recommended for approval by the HCTDA board will be considered by the Board of Commissioners.

## **Frequently Asked Questions about the Proposed 2% Occupancy Tax for Tourism Product Development in Haywood County**

**Q: As a resident of Haywood County, will this increase the taxes I pay?**

A: No. The occupancy tax is collected by overnight accommodations located in Haywood County from their guests. It goes directly to supporting the marketing of the entire county as a destination, overseen by the board and staff of the Haywood County Tourism Development Authority. This does not impact the taxes paid by Haywood County residents.

**Q: I'm the owner of a for-profit business that is tourism-related. Can I apply for money from the proposed fund for an expansion of my business?**

A: No. The fund is only available to not-for-profit organizations which have received that formal designation from the Internal Revenue Service, or to government entities.

**Q: Can an organization apply for funds to assist with their operations or staffing of their expansion?**

A: Tourism product development funds are limited to capital expenditures only and can't be used for operations, staffing, marketing, or any other expenditure that isn't considered as a capital expense.

**Q: Is there a limit as to how much money organizations may apply for from the proposed fund?**

A: No, there is no limit other than what is available in the fund in a given year. But the HCTDA can expend only what it has available in the fund and cannot commit funding anticipated in future fiscal years. There is also no minimum amount for which an organization must apply.

**Q: Why does an applicant have to match the requested funding at least 1-to-1?**

A: The Tourism Product Development Fund isn't intended to provide a project's sole funding, no matter how worthy it may be. The HCTDA's intention is to support eligible applicants by providing a source of funding to facilitate the development of projects which increase overnight visitation to the county. Applicants must demonstrate their own commitment to the project by providing at least half of the funding or showing commitments from other funders for half of a project's cost.

**Q: If an applicant is approved for funding by the HCTDA, and then later decides not to follow through with the project, what happens to the approved funding?**

A: The approved funding is held in escrow by the HCTDA until certain milestones are met by the applicant. If the funding is never used, it is returned to the fund for distribution in future years.

**Q: Would the HCTDA be required to distribute every dollar of the fund each year?**

A: In some years, there may not be sufficient applications representing projects which the HCTDA believes will increase overnight visitation. Any unused money will remain in the fund for distribution to projects in future years.

**Q: Can the HCTDA make a multi-year grant commitment to a large project?**

A: No. As a tax collecting legislatively-created entity, the HCTDA can only commit to the grant funding available to it in its current fiscal year.

**Q: Will the product development fund be distributed according to the amount of money collected within each zip code in the county?**

A: No. In order to maximize the effectiveness of the fund and the objective of supporting capital tourism projects across the entire county, funding will not be limited by zip code.

**Q: How will this affect the so-called "1% fund" granted to support organizations which hold events which draw visitors to Haywood County?**

A: The 1% fund used to support the marketing of events which draw visitors will continue. However, these dollars would be limited to marketing only and would not be available to offset operational expenses or to pay for capital items. Guidelines adopted by the North Carolina House of Representatives governing occupancy tax legislation specifically state that two-thirds of all occupancy taxes collected within a jurisdiction must go to marketing the destination. With the addition of the 2% to support tourism product development (to increase the total occupancy tax to 6%), the 1% fund in support of events must only be used for marketing.

**Q: Does this affect the sales tax that lodging guests in Haywood County pay in addition to the occupancy tax?**

A: No. Guests in overnight accommodations will continue to pay sales tax as they always have, and the use of that revenue is not affected by the additional 2% for tourism product development.

**Q: Will the additional 2% tax apply to all types of accommodations in Haywood County?**

A: The 2% for tourism product development applies to any lodging property that is required by law to collect the 4% occupancy tax. This includes hotels, motels, bed and breakfasts, rental homes and cabins, and short-term rental units.

**Q: If a potential project benefits Haywood County residents as well as visitors, is it eligible for support from the tourism product development fund?**

A: Absolutely. The fund is intended to make the county a better place to live and work as well as visit.

**RESOLUTION – R-04-17  
TOWN OF WAYNESVILLE**

**RESOLUTION OF SUPPORT OF AN ADDITIONAL TWO PERCENT (2%) OCCUPANCY TAX TO BE APPLIED  
AND EXPENDED ACCORDING TO THE PROPOSED GUIDELINES AND  
REQUESTING INTRODUCTION AND PASSAGE BY THE NORTH CAROLINA GENERAL ASSEMBLY OF  
LEGISLATION AUTHORIZING THE ADDITIONAL TWO PERCENT (2%) OCCUPANCY TAX**

WHEREAS, the Haywood County Tourism Development Authority Proposed Product Development Fund Policy Guidelines were designed to establish parameters for the application and expenditure of a proposed additional two percent (2%) occupancy tax; and

WHEREAS, the Haywood County Tourism Development Authority promotes economic development in Haywood County through advertising and promotion of Haywood County's recreational and tourism-related facilities, services, and amenities; and

WHEREAS, all funding for this effort is generated through transient occupancy taxes paid by users of accommodations; and

WHEREAS, the additional two percent (2%) occupancy tax designated for Tourism Product Development projects as set forth in the Haywood County Tourism Development Authority Proposed Product Development Fund Policy and Process Guidelines, would fund projects demonstrated to increase economic value and significantly increase patronage of lodging facilities in Haywood County; and

WHEREAS, the Haywood County Tourism Development Authority Proposed Product Development Fund Policy and Process Guidelines is designed to apply to the application and expenditure of the additional two percent (2%) occupancy tax; and

WHEREAS, the residents of Haywood County would also receive benefits through additional facilities and amenities with no additional local tax burden.

NOW, THEREFORE, BE IT RESOLVED the Board of Aldermen for the Town of Waynesville does hereby support the following actions related to policy, procedure and legislation related to an adjustment in occupancy tax as follows:

1. Approval is hereby given to the Haywood County Tourism Development Authority Proposed Product Development Fund Policy and Process Guidelines, including amendments applicable to a proposed additional two percent (2%) occupancy tax.
2. Approval is hereby given for the introduction, support and approval by the North Carolina General Assembly of legislation authorizing the levy of an additional two percent (2%) Occupancy Tax designated for Tourism Product Development through the Haywood County Tourism Development Authority in addition to the existing four percent (4%) Occupancy Tax currently in effect.
3. The local delegation and all members of the North Carolina General Assembly are respectfully urged to introduce the local legislation referred to above and to give favorable consideration and expeditious passage of same.



DULY ADOPTED BY A VOTE OF \_\_\_ FOR AND \_\_\_ AGAINST, this the 14<sup>th</sup> day of February, 2017.

ATTEST:

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Gavin A. Brown, Mayor  
Town of Waynesville

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Amanda W. Owens, Town Clerk  
Town of Waynesville

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 14, 2017**

**SUBJECT:** Story Walk Agreement for the Waynesville Recreation Center Walking Trail

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** 7-C  
**Department:** Haywood County Public Library  
**Contact:** Sharon Woodrow, Library Director  
**Presenter:** Sharon Woodrow, Library Director

**BRIEF SUMMARY:**

Haywood County Public Library will install and maintain a story walk around the walking trail at Vance Street Park, 550 Vance St., Waynesville, North Carolina 28786. The installation is contingent upon Haywood County Public Library being awarded a Medford grant administered by the Community Foundation of Western North Carolina. The purpose of the “story walk” is to promote literacy, family recreation and healthy lifestyle in Haywood County. Attractive displays featuring a children’s story book will be placed along the walking trail that will allow kids with their guardians to walk and read while enjoying the trail.

**MOTION FOR CONSIDERATION:** To approve the Memorandum of Agreement between Haywood County Public Library and the Town of Waynesville for the installation and maintenance of the story walk at 550 Vance Street, as presented.

**FUNDING SOURCE/IMPACT:**

Haywood County Public Library will implement the story walk project contingent upon receiving a grant from the Community Foundation of WNC. The only costs incurred by the Town of Waynesville would be partnership for oversight of the condition of the displays. HCPL will maintain the displays.

**ATTACHMENTS:**

**MANAGER’S COMMENTS AND RECOMMENDATIONS:**

MEMORANDUM OF AGREEMENT  
BETWEEN  
HAYWOOD COUNTY PUBLIC LIBRARY  
AND  
THE TOWN OF WAYNESVILLE  
INSTALLATION OF STORYWALK

WHEREAS Haywood County Public Library will install and maintain a storywalk around the walking trail at Vance Street Park, 550 Vance St., Waynesville, North Carolina 28786. The installation is contingent upon Haywood County Public Library being awarded a Medford Grant administered by the Community Foundation of Western North Carolina. The purpose of the “storywalk” is to promote literacy, family recreation and healthy lifestyles in Haywood County.

NOW THEREFORE Haywood County Public Library and the Municipality enter into this agreement in accordance with the following Terms:

1. Haywood County Public Library shall maintain and service the following list of equipment (the “Equipment”):  
  
Sixteen (16) storywalk aluminum frames for panel 18H x 24 W x 1/18” thick, 5/16” gap, bottom removable rail, and 3x3x60” post w/plate, 45 degree angle, in ground installation, includes (2) pcs 0.118 acrylic, black texture powdercoat.
2. Haywood County Public library will be responsible for replacing panels if unable to repair any damages that may occur.
3. The Town of Waynesville, Waynesville Parks and Recreation and Haywood County Public Library will share the responsibility of oversight of the Equipment and report any damages or neglect to Haywood County Public Library.
4. Either party may opt out of this agreement by providing a ninety (90) day written notice. In the event that the Equipment needs to be removed, Haywood County Public Library will be responsible for the removal and retain ownership of Equipment.
5. Each party hereto shall be responsible for supervision, compensation and proper insurance including workers compensation, for all its respective agents and employees.

This Memorandum of Agreement is in effect until either party provides ninety (90) day written notice for an end to the agreement.

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(Signature) Haywood County Public Library

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(Signature) Municipality

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(Title)

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(Title)

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(Date)

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(Date)

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Library (Contact Person)

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Municipality (Contact Person)

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(Phone)

(Email)

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(Phone)

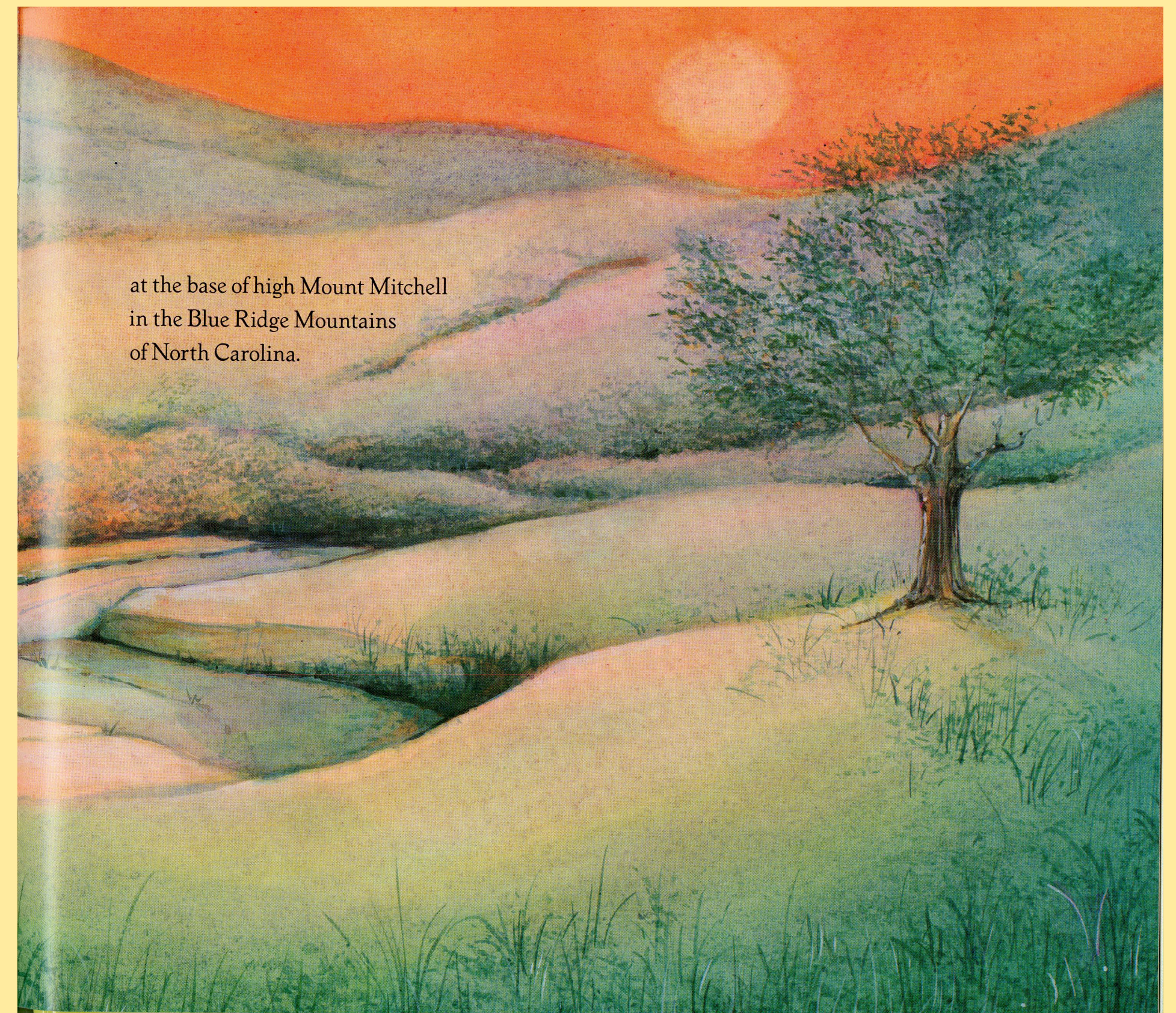
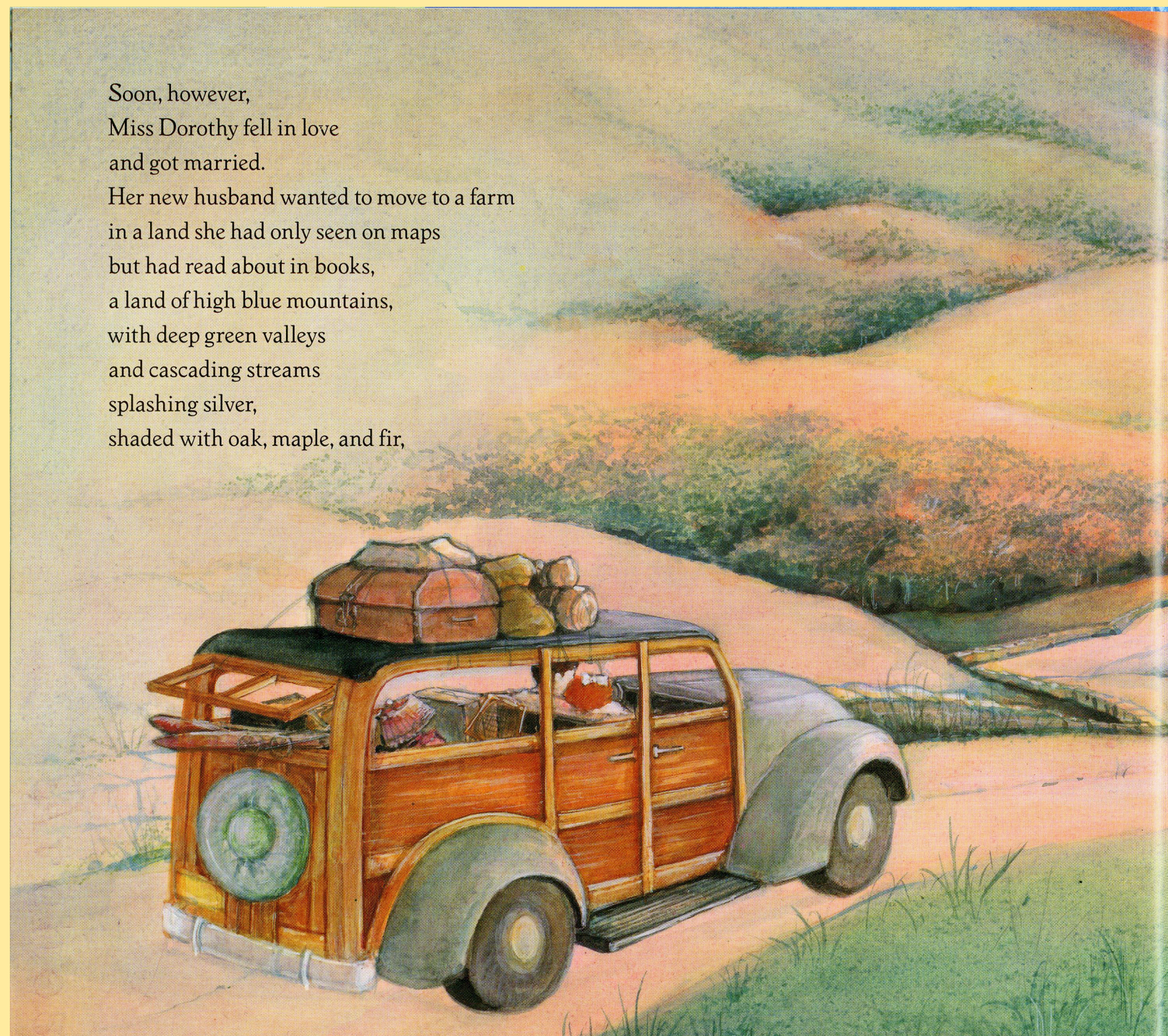
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# Haywood County Public Library

## Story Walk

# Station 5





**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 14, 2017**

**SUBJECT:** Authorization to advertise 2016 Delinquent Property Taxes

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** 8-C  
**Department:** Financial Services  
**Contact:** James Robertson, Tax Collector  
**Presenter:** James Robertson, Tax Collector

**BRIEF SUMMARY:** The tax office respectfully requests that authorization be granted to advertise all 2016 delinquent property taxes in the local newspaper, *The Mountaineer*, as required by NCGS §105-369. These are taxes that were billed on property values as of January 1, 2017, which became due as of September 1, 2016 and became delinquent as of January 6, 2017. After the approval of the Board, a target date of March 3, 2017 has tentatively been set for the delinquent ad. This date may change due to scheduling with the newspaper.

**MOTION FOR CONSIDERATION:** *To authorize staff to advertise all 2016 delinquent property taxes in The Mountaineer March 3, 2017, as required by NCGS §105-369.*

**FUNDING SOURCE/IMPACT:** It has been shown in previous years, that the sooner that the delinquent advertisement is done, there is a better chance of collection of delinquent taxes. This early advertisement also allows the tax collector to see what additional revenue will be collected and how to move forward with further collection proceedings.

**ATTACHMENTS:**

- NCGS §105-369
- List of 2016 Delinquent taxes

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend approval.



**§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.**

(a) Report of Unpaid Taxes That Are Liens on Real Property. - In February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real property. A county tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February. Upon receipt of the report, the governing body must order the tax collector to advertise the tax liens. For purposes of this section, district taxes collected by county tax collectors shall be regarded as county taxes and district taxes collected by municipal tax collectors shall be regarded as municipal taxes.

(b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

(b1) Notice to Owner. - After the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the record owner of each affected parcel of property, as determined as of the date the taxes became delinquent. The notice must be sent to the owner's last known address by first-class mail at least 30 days before the date the advertisement is to be published. The notice must state the principal amount of unpaid taxes that are a lien on the parcel to be advertised and inform the owner that the name of the record owner as of the date the taxes became delinquent will appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before the publication date. Failure to mail the notice required by this section to the correct record owner does not affect the validity of the tax lien or of any foreclosure action.

(c) Time and Contents of Advertisement. - A tax collector's failure to comply with this subsection does not affect the validity of the taxes or tax liens. The county tax collector shall advertise county tax liens by posting a notice of the liens at the county courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. The municipal tax collector shall advertise municipal tax liens by posting a notice of the liens at the city or town hall and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. Advertisements of tax liens shall be made during the period March 1 through June 30. The costs of newspaper advertising shall be paid by the taxing unit. If the taxes of two or more taxing units are collected by the same tax collector, the tax liens of each unit shall be advertised separately unless, under the provisions of a special act or contractual agreement between the taxing units, joint advertisement is permitted.

The posted notice and newspaper advertisement shall set forth the following information:

- (1) Repealed by Session Laws 2006-106, s. 2, effective for taxes imposed for taxable years beginning on or after July 1, 2006.
- (1a) The name of the record owner as of the date the taxes became delinquent for each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order.
- (1b) After the information required by subdivision (1a) of this subsection for each parcel, a brief description of each parcel of land to which a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel.
- (2) A statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items.
- (3) In the event the list of tax liens has been divided for purposes of advertisement in more than one newspaper, a statement of the names of all

newspapers in which advertisements will appear and the dates on which they will be published.

- (4) A statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes.

(d) Costs. - Each parcel of real property advertised pursuant to this section shall be assessed an advertising fee to cover the actual cost of the advertisement. Actual advertising costs per parcel shall be determined by the tax collector on any reasonable basis. Advertising costs assessed pursuant to this subsection are taxes.

(e) Payments during Advertising Period. - At any time during the advertisement period, any parcel may be withdrawn from the list by payment of the taxes plus interest that has accrued to the time of payment and a proportionate part of the advertising fee to be determined by the tax collector. Thereafter, the tax collector shall delete that parcel from any subsequent advertisement, but the tax collector is not liable for failure to make the deletion.

(f) Listing and Advertising in Wrong Name. - No tax lien is void because the real property to which the lien attached was listed or advertised in the name of a person other than the person in whose name the property should have been listed for taxation if the property was in other respects correctly described on the abstract or in the advertisement.

(g) Wrongful Advertisement. - Any tax collector or deputy tax collector who willfully advertises any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid is guilty of a Class 3 misdemeanor, and shall be required to pay the injured party all damages sustained in consequence. (1939, c. 310, s. 1715; 1955, c. 993; 1971, c. 806, s. 1; 1983, c. 808, s. 1; 1983 (Reg. Sess., 1984), c. 1013; 1993, c. 539, s. 725; 1994, Ex. Sess., c. 24, s. 14(c); 1999-439, s. 1; 2000-140, s. 73; 2006-106, s. 2.)

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 14, 2017**

**SUBJECT:** Award Formal Bid FBR 214-17 for Water Maintenance Department Vehicles

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** 9-C  
**Department:** Purchasing  
**Contact:** Lisa Burnett, Purchasing Supervisor  
**Presenter:** Lisa Burnett, Purchasing Supervisor

**BRIEF SUMMARY:** The adopted FY 16–17 annual budget included the purchase of two new dump trucks for the Water Department. On, December 22, a Request for Proposal was distributed and bids were opened on Wednesday, January 18, 2017 at 2:00 p.m. Only two bids were received and evaluated. Upon review of the bids the apparent low bidder is Ken Wilson Ford of Canton, North Carolina in the amount of \$ 139,440.00.

**MOTION FOR CONSIDERATION:** To award the bid for the purchase of two dump trucks in the amount of \$ 139,440.00 to the lowest, responsible, responsive bidder, Ken Wilson Ford of Canton.

**FUNDING SOURCE/IMPACT:** The FY 16-17 adopted budget includes an allocation of \$160,000.00 in the Water Department for the purchase of the vehicles from loan proceeds.

**ATTACHMENTS:**

- Bid Tabulation

**MANAGER’S COMMENTS AND RECOMMENDATIONS:** Recommend approval of the bid to Ken Wilson Ford, as presented.

**Town of Waynesville**  
**FBR 214-17 Water Maintenance Vehicles**  
 January 18, 2017

Vendor		Ken Wilson Ford			Vendor		Piedmont Truck Center		
Quantity	Item Description	Product Information	Unit Price	Extended Price	Quantity	Item Description	Product Information	Unit Price	Extended Price
2	F-750 4 x 2 Dump Truck	Ford	\$69,720.00	\$139,440.00	2	F-750 4 x 2 Dump Truck	Ford	\$70,249.00	\$140,498.00
	Production Year	2017				Production Year	2017		
	Model	F-750				Model	F-750		
	Delivery	120 Days				Delivery	210 Days		
	Total Bid			\$139,440.00		Total Bid			\$140,498.00



# **TOWN OF WAYNESVILLE**

## **REQUEST FOR PROPOSAL**

**FBR 214 – 17 WATER MAINTENANCE VEHICLES**

**SEALED BIDS ARE DUE JANUARY 18, 2017 AT 2:00 PM**

**TOWN OF WAYNESVILLE, NORTH CAROLINA**

**FBR 214 – 17 Water Maintenance Vehicle Package****Bidder:** \_\_\_\_\_**Furnish and Deliver:**

<b>ITEM #</b>	<b>QTY</b>	<b>UNIT</b>	<b>DESCRIPTION</b>	<b>UNIT COST</b>	<b>EXTENDED COST</b>
1	2	Each	2017 Model Year, 31,000# GVWR Diesel 4 x 2 Dump Truck –White in Color		
			<b>Total Amount of Bid</b>		

Company Name	Bid Submitted By (Signature)
Address	Printed Name and Title
City State Zip	Email Address
Telephone No.	Fax No.
	Federal Taxpayer ID No.
Delivery _____ calendar days after receipt of order	<u>Payment Terms are Net 30.</u> No payment discounts apply in determining award.

**Specifications**



Vehicle shall be new, unused and manufacturer's latest production model. All Federal, State and OSHA requirements and standards shall be met.

**Minimum technical specifications for 2017 Model Year, 31,000# GVWR 4 x 2 Dump Truck**

<b>1. <u>Type</u></b>	<b>Comply</b>	<b>IF NO STATE EXCEPTION</b>
A. Wheelbase: 152 inches		
B. GVWR: 31,000 lbs.		
C. CA 84 inches minimum to accommodate specified dump body		
D. 4 x 2		
<b>2. <u>Engine</u></b>		
A. Model a. State Manufacturer_____		
b. Model_____		
c. Year_____		
d. Federal Emissions Certified_____		
B. 6.7 Diesel		
C. 250 minimum Horsepower		
D. 600 lb. ft. Torque		
<b>3. <u>Engine Equipment</u></b>		
A. Engine Block Heater 120V/1000W		
B. Alternator: Extra Heavy Duty 160 amp capacity, pad mount with remote sense		
C. Corrosion resistant oil pan (i.e.: powder coated)		
D. Aluminum radiator, 2 row, over under system with in tank transmission cooler		
E. Engine control, remote mounted provision for PTO controls with ignition switch control		
F. Fuel/Water separator with water in fuel sensor		
G. Extended Life Coolant to minus 40 degrees Fahrenheit		
<b>4. <u>Electrical System</u></b>		
A. Two (2) 12Volt Batteries with 1850 CCA Total. Battery box to be steel with aluminum cover.		
B. Electrical System 12 Volt standard		
C. Dual Horn-electric and air		
<b>5. <u>Transmission</u></b>		
A. Allison 3500 RDS- 5 speed with overdrive		
B. Oil Level Sensor		

<b>5.</b>	<b><u>Transmission</u></b>	<b>Comply</b>	<b>IF NO STATE EXCEPTION</b>
C.	PTO Provision		
D.	Transmission Shift Control ( push button type)		
<b>6.</b>	<b><u>Braking System</u></b>		
A.	Air Brake ABS full wheel control system		
B.	Air Dryer with heater		
C.	Full Air Brake System		
D.	Drain valve, manual with pull chain for air tank		
E.	Front S-Cam 16.5" x 5.0"		
F.	Rear S-Cam 16.5" x 7.0" to include 30/30 sq. in. long stroke brake chamber and spring actuated parking brake		
G.	Air compressor 18.7 CFM minimum		
<b>7.</b>	<b><u>Vehicle Requirements</u> <u>Interior/Exterior Trim and Features</u></b>		
A.	Full width front bumper		
B.	Halogen headlights		
C.	White in color with clear coat		
D.	Grille to be chrome or black in color		
E.	Two (2) Rectangular, dual heated fold away mirrors		
F.	Driver seat-Air Suspension, Mid Back, Vinyl, 2 position adjustment		
G.	Intermittent windshield wipers w/pulse washers		
H.	Air conditioning with integral heater & defroster		
I.	Conventional Cab		
J.	Vinyl flooring with rubber floor mats		
K.	Wheels: Six (6) 22.5 x 8.25, 10-lug powder coat steel rim		
L.	AM/FM Factory Stereo		
M.	Tow Hooks, two (2) front frame mounted		
N.	Front end tilting, fiberglass		
O.	Dash mounted gauge package to include: speedometer tachometer, hour meter, fuel gauge, transmission temp gauge, air pressure gauge, oil temp gauge and DEF fluid level indicator		
P.	Backup alarm to be installed		
Q.	Tailpipe: turn back , non-bright single exhaust		
R.	Heavy duty shocks and front stabilizer bar		

<b>7.</b>	<b><u>Vehicle Requirements</u></b> <b><u>Interior/Exterior Trim and Features</u></b>	<b>Comply</b>	<b>IF NO STATE EXCEPTION</b>
S.	Assist Handles: LH and RH grab handles		
T.	Tilt steering column		
U.	Fuel Tank top draw and minimum of 50 US gallons		
V.	DEF Tank 5 US gallons		
W.	Four (4) standard keys		
<b>8.</b>	<b><u>Front Axle</u></b>		
A.	I-Beam type, 10,000-lb capacity		
B.	Suspension, front, spring, taper leaf with shock absorbers		
C.	Front Tires: Two (2) 11R22.5 Load Range G HSR2 Continental		
<b>9.</b>	<b><u>Rear Axle</u></b>		
A.	Single Reduction, 21,000-lb capacity, R wheel ends		
B.	Controlled Locking Differential <b>Gear Ratio 5.13</b>		
C.	Rear Tires: Four (4) 11R22.5 Load Range G HDR2 Continental		
<b>10.</b>	<b><u>Specifications for Dump Truck Body—Preferred Equipment: Godwin Manufacturing</u></b>		
A.	11' Body Length		
B.	13" Sides-One piece sides with no welded seams. Boxed top rail and fully welded boxed rear corner post. Side board gussets to be 6" with full length rub rails and box-type side braces.		
C.	24" Cab Shield		
D.	19" Double Acting Tailgate-3 Panel fully boxed 10 gauge high tensile A607 grade 50 steel with boxed horizontal reinforcements and sloping lower deflector. Tailgate is 6" higher than side		
E.	Inside bed width to be 84"		
F.	Truck Hoist		
G.	Electric Tarp		
H.	Reese Hitch		
I.	Rear Mud Flaps		
J.	Zinc Primer with powder coat Black paint		
K.	Lights & Reflectors—FMVSS 108 lights minimum, recessed for protection, rubber mounted and shock proof		
L.	Rub Rails to be full length with 45 degree deflector panels		
M.	Floor minimum is 10 gauge-two piece high tensile steel A607 grade 50 steel with 2" floor to side radius.		
N.	Front Wall 10 gauge high tensile A607 grade 50 steel. Full width integral inverted V-type horizontal bracing.		

10.	<u>Specifications for Dump Truck Body</u>	Comply	IF NO STATE EXCEPTION
O.	Tailgate hardware should be heavy duty. Standard upper hardware is offset cast steel hinge. Lower hook is cast steel: engages tailgate pin from top.		
P.	Understructure completely jig built with 3” structural channel cross members on 12” centers and 5” structural channel longitudinal. Cross members should be gusseted and welded to longitudinal.		
11.	<u>Warranty</u>		
A.	2-Year Base Engine		
B.	5-Year Major Components		
C.	5-Year Cab		
D.	7-Year Frame Side Rails		
E.	1-Year Dump Body		
12.	<u>Miscellaneous</u>		
A.	Manuals: Include one (1) operator manual with each vehicle and include one (1) set of repair/service manuals for each vehicle.		
B.	<b>Documentation:</b> All required title, licensing paperwork and a copy of the invoice must be included at time of delivery. North Carolina State Inspection applicable to Haywood County emissions requirements. <b>Any missing paperwork at the time of delivery will result in delay of payment.</b>		

**Instructions to Bidders  
Town of Waynesville  
Water Maintenance Vehicle Package**

1. It is the intent of this RFP package to specify the Town of Waynesville requirements for the purchase and delivery of two 4 x 2 Dump Trucks for the Town of Waynesville Water Department.

The Town of Waynesville reserves the right to reject any and all bids, including, without limitation, the right to reject any or all non-conforming, non-responsive, unbalanced or conditional bids and to reject the bid of any bidder if the Town believes it would not be in the best interest of the Town to make an award to that bidder. The Town of Waynesville also reserves the right to waive informalities.

2. The Bidder must submit their quotation on the enclosed Quotation Form.

Bids may be rejected if they show any omissions, alterations or unauthorized additions to the form; or for conditional bids, or for any irregularities of any kind.

3. No additional charges OF ANY KIND will be allowed on the awarded vendor's invoices. Any and all costs for the bidder, including freight/delivery charges MUST be included in the bidder's quotation. Terms of payment must also be noted, or Terms of Net 30 will be applicable.
4. All questions concerning these bid requirements and/or specifications are to be forwarded in writing to Lisa Burnett, Purchasing Supervisor, no later than January 13 at 4:00 pm. In order to be fair to all known bidders, no oral interpretations will be given to any bidder as to the meaning of the specification documents or any other part of this package. In the event of a major change to requirements and/or specifications, the Town reserves the right to postpone the bid opening, with advance notice via Addendum to all known bidders.
5. This contract shall be awarded to the lowest responsive, responsible bidder, taking into consideration quality, performance and time of delivery. The Town of Waynesville reserves the right to reject any and all bids, including, without limitation, the right to reject any or all non-conforming, non-responsive, unbalanced or conditional bids and to reject the bid of any bidder if the Town believes that it would not be in the best interest of the Town to make an award to that bidder.

6. Quotations and all supporting documentation as required in these specifications must be submitted in a sealed envelope, addressed to:

**Town of Waynesville  
Attn: Lisa Burnett, Purchasing Supervisor  
129 Legion Drive  
Waynesville, NC 28786**

**FBR 214 – 17 Water Maintenance Package Bid Enclosed**

**Quotations must be received on or before 2:00 pm January 18, 2017 at the office of Lisa Burnett, Purchasing Supervisor, 129 Legion Drive, Waynesville, NC 28786.**



### Special Terms and Conditions for Town of Waynesville

1. **Summary:** Bidders please note: This Request for Bids and Proposals includes provisions for the Town of Waynesville Water Maintenance Vehicle Package.

Bids are to be submitted in accordance with the enclosed specifications and these Special Terms and Conditions, both of which require doing all that is necessary, proper, or incidental to the furnishing of the materials identified herein. All things not expressly stated in the attached specifications or Special Terms and Conditions but involved in carrying them out must be included in bidder's proposal as though they were specifically stated.

2. **Notice to Bidders:** All bids are subject to the provisions of the Special Terms and Conditions specific to this Request for Quotation and the Specifications. The Town of Waynesville objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder response. This applies to any response appearing in or attached to the document as part of the bidder's response. This applies to any response appearing in or attached to the documents as part of the bidder's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.** By execution and delivery of a proposal, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect. It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
3. **Issuing Office:** This bid is issued by the Town of Waynesville Purchasing Department, 129 Legion Drive, Waynesville, North Carolina 28786. All correspondence and inquiry should be made to this address. Telephone number (828)456-5114, Fax Number (828) 456-2005.
4. **Clarifications/Interpretations:** Any and all questions regarding this document must be addressed to the Town of Waynesville Purchasing Department. Any and all revisions to this document shall be made only by written addendum from the Town of Waynesville Purchasing Department. Therefore, no oral statements by any person shall modify or otherwise affect the terms, conditions, or specifications stated in this request for bids and proposals. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.
5. **Minor Deviations/Exceptions to Specifications:** Minor deviations from the provisions of these specifications may be considered to permit manufactures to follow their standard manufacturing processes; however, all proposed minor deviations must be explained in detail and submitted within the exceptions to specifications, time frame identified herein.
6. The Town of Waynesville reserves the right to postpone bid openings for its own convenience.
7. **Nonconforming Terms and Conditions:** A bid response that includes terms and conditions in this bid document is subject to rejection as non-responsive. The Town of Waynesville reserves the right to permit the bidder/vendor to withdraw nonconforming terms and conditions from its bid response prior to a determination by the Town of Waynesville of non-responsiveness.
8. **Bidders Submittals:** Bidder must furnish all information requested herein including descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids

which do not comply with these requirements will be subject to rejection. All documents submitted should bear the name of the bidder.

9. **Expenses incurred in Preparing Bid:** The Town of Waynesville accepts no responsibility for any expense incurred by the bidder in the preparation and presentation of a bid. Such expenses shall be borne exclusively by the bidder.
10. **Tax Exemptions:** The Town of Waynesville is exempt from Federal Excise Tax but not State and Local Sales Tax. Sales tax should not be included in bid prices, but may be added as separate items.
11. **Evaluation and Selection of Bids:** The evaluation of bids shall center on the match between the stated specification requirements in the final bid request and the vendor's proposed materials/equipment including selection of the lowest responsible/responsive bidder with consideration of past performance, service record and reliability.

*The statutory provisions controlling purchasing by local governments in N.C. (RE: G.S. 143) includes selection standards for use in making awards. The provision reads, "A;; contracts shall be awarded to the lowest responsible bidder taking into consideration quality, performance and the time specified in the bids for performance of the contract.*

The Town of Waynesville reserves the right to accept or reject any or all bids and proposals further specifically reserves the right to make the award of awards in the best interest of the Town of Waynesville.

12. **Indemnification:** The bidder/vendor covenants to save, defend, keep harmless and indemnify the Town of Waynesville and all of its officers, departments, agencies, agents and employees from and against all claims, loss, damage, injury, fines, penalties and cost-including court costs and attorney's fees, charges, liability and exposure, however caused resulting from, arising out of, or in any way connected with the bidder's/vendor's negligent performance or nonperformance of the terms of the contract.
13. **Assignment:** During the performance of the contract, the bidder/vendor shall not assign, transfer, convey, sublet, or otherwise dispose of any award of or any or all of its rights, title, or interest therein, without the prior written consent of the Town of Waynesville.
14. **All bids shall be made firm for no less than ninety (90) days.**
15. **Invoices and Payments:** All invoices and packaging slip must bear Purchase Order number issued for that order. The Town is not exempt from sales tax. The tax must be shown as separate items on invoice.
16. **E-Verify Affidavit:** Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes for all bids in the formal bidding range for purchase and construction. The Contractor shall submit the E-Verify Affidavit, if included in this bid packet. Bids that do not include this Affidavit will be considered non-responsive.
17. **Iran Divestment Certification:** Vendor shall comply with the Iran Divestment Act as required by North Carolina General Statute 143C-6A-5(a). Form must be signed and returned with bid packet. Bids that do not include this signed certification will be considered non-responsive.

**TOWN OF WAYNESVILLE**  
**E-VERIFY EMPLOYER COMPLIANCE STATEMENT**

**E-Verify for Public Contracts: HB 786 (S.L. 2013-418)**

The legislation referenced prohibits governmental units from awarding to or entering into contracts unless the contractor and the contractor's subcontractors comply with the E-Verify requirements of Article 2 of Chapter 64 of the NC General Statutes.

Contractor, hereafter Employer, understands that E-Verify is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. Employer is defined as: Any person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. This term does not include State agencies, counties, municipalities, or other governmental bodies.

Employer understands that Employers, as Defined Herein, Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).

Therefore, all employers must be in compliance with the E-Verify requirements to enter into contracts with the Town of Waynesville.

**Below check the type of employer and complete the information.**

A) **Employer with less than 25 employees**, not required to use E-Verify: \_\_\_\_\_

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Company Name	Signature and Title	Date
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**OR:**

B) **Employer with 25 or more employees** required by NC S.L.213-418 to use E-Verify:

**Yes, we comply:** \_\_\_\_\_

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Company Name	Signature and Title	Date
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**\*\*\*\*\*Contractor, Vendor or Bidder – Return This Form With All Other Required Documentation\*\*\*\*\***

**IRAN DIVESTMENT ACT CERTIFICATION REQUIRED BY N.C.G.S.  
143C-6A-5(a)**

Name of Contractor, Vendor or Bidder: \_\_\_\_\_

As of the date listed below, the contractor, vendor or bidder listed above, and all subcontractors utilized by the contractor, vendor or bidder listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4.

The undersigned hereby certifies that he or she is authorized by the contractor, vendor or bidder listed above to make the foregoing statement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

***Notes to persons signing this form:***

N.C.G.S. 143C-6A-5(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- ☐ When a bid is submitted
- ☐ When a contract is entered into (if the certification was not already made when the vendor made its bid)
- ☐ When a contract is renewed or assigned

N.C.G.S. 143C-6A-5(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List. The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and will be updated every 180 days.

**\*\*\*\*\*Contractor, Vendor or Bidder – Return This Form With All Other Required Documentation\*\*\*\*\***

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 14, 2017**

**SUBJECT:** Approval to submit a grant application to the State Historic Preservation Office Certified Local Government Program for the purpose of conducting a survey of resources historically associated with Waynesville's African American community.

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** 10-C  
**Department:** Development Services  
**Contact:** Elizabeth Teague, Development Services Director  
**Presenter:** Elizabeth Teague, Development Services Director

**BRIEF SUMMARY:** This request is being made by the Town of Waynesville's Historic Preservation Commission for the purpose of identifying and documenting historic resources within Waynesville's oldest, and most in-tact, African-American neighborhood along Pigeon Street and in other locations. This research would identify structures and locations of historic and/or architectural significance and evaluate the possibility of developing a nomination to the National Register for particular sites or an historic district. Information gathered could be used in future historical markers and interpretive signage such as what the Town may want to place within a future park at Calvary Street. CLG grants require a 40% match, or \$4,000 toward a \$10,000 study project with a grant request of \$6,000.

**MOTIONS FOR CONSIDERATION:**

1. Motion to direct staff to prepare an application to the Certified Local Government Grant program of the state Historic Preservation Office.

**FUNDING SOURCE/IMPACT:** \$4,000 from the FY 2018 general fund for match.

**ATTACHMENTS:**

- Grant information

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Recommend approval; suggest that the HPC apply for special appropriation grant from the Town to cover the match costs.



**North Carolina Department of Natural and Cultural Resources  
State Historic Preservation Office**

Ramona M. Bartos, Administrator


Governor Pat McCrory  
Secretary Susan Kluttz

Office of Archives and History  
Deputy Secretary Kevin Cherry

November 29, 2016

**MEMORANDUM**

**TO:** All Certified Local Governments (CLGs) in North Carolina

**FROM:** Ramona Bartos, Deputy State Historic Preservation Officer 

**SUBJECT:** 2017 Historic Preservation Fund Pass-Through Grants

The State Historic Preservation Office (HPO) is now accepting applications for FY 2017 federal Historic Preservation Fund (HPF) pass-through grants, which are available to Certified Local Governments (CLGs). Eligible projects include architectural and archaeological surveys, nominations of eligible districts and properties to the National Register of Historic Places, survey publication manuscripts, local preservation design guidelines and preservation plans, educational programs, and restoration of National Register-listed properties. Funds for restoration are limited and not available to privately-owned buildings. Eligible applicants are local governments and local historic preservation commissions as well as nonprofit organizations and educational institutions within the jurisdiction of a CLG.

**Please note that before preparing and submitting an application, applicants must contact HPO staff to discuss the scope of work and budget of their potential project along with the grant standards and requirements. HPO staff contacts are listed in the attached instructions.**

An estimated total of \$90,000 to \$95,000 statewide may be available for projects in CLG municipalities and counties, in accordance with federal requirements. A list of CLGs is attached. Unfortunately, funds for non-CLG projects are not available.

Grant awards, which normally cover up to sixty per cent of total project costs, generally range from \$1,000 to \$15,000 and are available on a reimbursement basis. *Local matching funds should try to cover at least forty per cent (40%) of the total project costs.* Grant projects will be selected for funding on a competitive basis.

**Applications must be postmarked by Tuesday, February 28, 2017.** Applicants must submit the signed paper original. Applications sent by email or fax will not be accepted. Nonprofits and educational institutions submitting an application through a CLG should submit their proposed application to the CLG by the beginning of January of 2017. See the *Instructions for Completing the 2017 Application* for more details.

Awards will be announced by May of 2017. Projects should be underway by the fall of 2017. All projects should be completed by Friday, August 24, 2018.



## GUIDELINES FOR CLG GRANT APPLICATIONS

- CLG grant applications must be submitted by or through the CLG.
- CLG governing boards and CLG historic preservation commissions submit their applications to the HPO.
- **NOTE:** Nonprofits and educational institutions may propose an application for a project in a CLG's jurisdiction, but must submit the proposed application to the CLG historic preservation commission, which would then submit it to the HPO with comments. The CLG commission, not the nonprofit or educational institution, would be the CLG grant applicant. The nonprofit or educational institution should submit the proposed application to the CLG commission by early January of 2017, to allow time for the commission and local governing board to evaluate it and submit it with comments to the HPO by the February 28, 2017, deadline. If a grant is awarded for the project, the CLG would be the grant recipient and would administer the grant project, even if the nonprofit or educational institution provides the local matching funds. A list of local CLG staff contacts is on the HPO web site at <http://www.hpo.ncdcr.gov/NCCLGs.pdf>.

If there are questions about the application process, or there is a project idea you would like to discuss, please contact Michele McCabe, grants coordinator, at 919-807-6582. For assistance with developing a project proposal and budget, please contact an HPO staff member listed in the instructions.

We look forward to hearing from you and receiving your application.

Enclosures

The North Carolina State Historic Preservation Office receives federal funds from the National Park Service, U. S. Department of the Interior. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination in federally assisted departmental programs on the basis race, color, national origin, religion, sex (including pregnancy and gender identity), age, disability, sexual orientation, or genetic information in its federally assisted programs. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of federal assistance should contact the Equal Opportunity Program Office, U.S. Department of the Interior, National Park Service, 1201 I Street, N.W., 5th Floor, ORG Code 2652, Washington, D.C. 20005; visit <https://www.doi.gov/pmb/cco> or phone (202) 354-1852.

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: February 14, 2017**

**SUBJECT:** Proposed Service Agreement for Legal Services involving potential litigation

**AGENDA INFORMATION:**

**Agenda Location:** Manager's Report  
**Item Number:** 11-D  
**Department:** Administrative Services/Governing Board  
**Contact:** Rob Hites, Town Manager  
**Presenter:** Rob Hites, Town Manager

**BRIEF SUMMARY:** The Town is frequently involved in actions that may result in litigation. While we are enforcing the minimum housing ordinance land owners refer the action to their attorneys. Any appeal of their actions will ultimately be held in Superior Court. It would be very helpful for the Town to have an attorney familiar with litigation to meet with opposing counsel rather than the Town staff.

The Police encounter structures where numerous illegal activities take place. Should property owners refuse to remedy the situation the Police may petition the superior court to have the properties closed and vacated. Having an attorney that is familiar with the process would help the Police to approach the property owners and District Attorney in cases where they have not been successful in having the property owners cooperate with the staff.

Mr. Griffin and Mayor Brown recommended that I approach Mr. William Cannon. Mr. Cannon and his staff have worked with the Town in prior years and are familiar with both code enforcement and the laws involving places that harbor habitual felons. Mr. Griffin and I met with Mr. Cannon and his partner and they are willing to provide this service on an "as needed basis". We do not propose to engage them on a retained basis.

**MOTION FOR CONSIDERATION:** Approve the agreement between the Cannon Law Firm and the Town of Waynesville.

**FUNDING SOURCE/IMPACT:** Funds will be drawn from "Professional Services" from the Department utilizing Mr. Cannon's Services.

**ATTACHMENTS:**

- Proposed Agreement for Legal Services

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** Several times since I have been in Waynesville property owners have referred to "their attorney's" advice when dealing with staff. Having an attorney that is familiar with the minimum housing process and habitual felons statutes would greatly aide the staff in their efforts to provide safe, sanitary housing and eliminate areas where numerous felony arrests are being made. The attorney would only be called upon when the staff anticipates that property owners will engage their own attorneys to oppose the Town's actions.

## **AGREEMENT FOR LEGAL SERVICES**

**THIS AGREEMENT FOR LEGAL SERVICES** is made and entered into by and between CANNON LAW, P.C. (hereinafter referred to as "Law Firm") and Town of Waynesville, (hereinafter referred to as "Client").

**I. REPRESENTATION.** Law Firm agrees to represent Client in connection with Miscellaneous matters, including litigation. In the course of that representation, Law Firm agrees to take action deemed by Law Firm to be necessary or appropriate including, but not limited to: consultations with Client, discussions with opposing counsel or opposing party, investigation of facts, discussions with witnesses and other professionals (accountants, private investigators, counselors), correspondence, review of documents, settlement negotiations, mediations, legal research, drafting pleadings, drafting and responding to discovery, taking and defending depositions, preparing for hearings, and court appearances.

Law Firm shall have the discretion to determine which attorney or legal assistant shall render services for Client. The Law Firm may, in its discretion, utilize more than one attorney and/or legal assistant to render particular services when. William E. Cannon, Jr. will be primarily responsible for this matter but will undertake to use other attorneys and paralegals when it is practical and beneficial to Client.

Either at the commencement or during the course of our representation, we may express opinions or beliefs concerning the litigation or various courses of action and the results that might be anticipated. Any such statement made by any partner or employee of our firm is intended to be an expression of opinion only, based on information available to us at the time, and should not be construed by you as a promise or guarantee.

**II. LAW FIRM COMPENSATION.** Client understands that there are various types of arrangements for fees for legal services, including flat fees, fees based on hourly rates for time spent, and contingent fees. Client also understands that the amount of legal fees may be based on factors approved by the North Carolina State Bar, including, but not limited to the time and labor required, the skill requisite to perform the service, the fees customarily charged for the service, the nature and length of the professional relationship, the experience, reputation, and ability of the particular attorney(s), and the results obtained. After considering these matters, the parties have agreed that Client shall pay Law Firm the following fees for its services:

**HOURLY FEE.** Law Firm shall charge and Client shall pay Law Firm fees based on billable time expended providing services in connection with Client's case. Billable time is the amount of time spent performing a task multiplied by the hourly rate of the lawyer or staff person performing the task. The hourly rates of Law Firm's lawyers are: **\$275.00 per hour for William E. Cannon, Jr., and \$250.00 per hour for Martha S. Bradley.** The hourly rates of legal assistants are: **\$100.00 per hour.** Billable time will be charged in increments of tenths of an hour with a tenth of an hour minimum for each activity.

**III. EXPENSES.** Client shall pay all court costs associated with Client's case, including, but not limited to, filing fees, service fees, recording fees, expert witness fees, and transcription costs. Client shall also pay all other expenses incurred by Law Firm in providing services to Client, including, but not limited to, fees charged by appraisers, and federal express charges. Client shall also pay all routine expenses for postage, conference call charges, and photocopies.

**IV. COMMUNICATION.** Client acknowledges that the Law Firm uses email as a means of communicating with the Client when requested by Client. Please indicate below if you wish to receive communications by email.

Client requests that Law Firm use email when practical to communicate with Client.

     YES      NO

**V. BILLING STATEMENTS.** From time to time, Law Firm will render statements to Client. Such statements will show the billable time expended by lawyers and legal assistants, expenses incurred, application of deposits, and the balance owed, if any. Statements are due upon receipt and shall, in any event, be paid within 30 days of the date on the bill.

Client shall review all billing statements from Law Firm and shall notify Law Firm of any errors or improper charges within 30 days of the date on the bill. If Client does not notify Law Firm accordingly, it is presumed that the bill is correct.

**VI. TERMINATION.** Either Client or Law Firm may terminate this Agreement and any further representation of Client by Law Firm at any time, for any reason. If Client fails to pay any billing statement of Law Firm within 30 days of the date thereof, then Law Firm may terminate its representation of Client immediately. In addition, Law Firm shall be entitled to withdraw from the representation of Client in pending litigation, regardless of the procedural status of the case, although Client shall be notified of such withdrawal. This Agreement shall be deemed Client's written consent to any such withdrawal. Withdrawal may require permission of the court. Termination shall not affect Client's obligation to pay Law Firm for fees and expenses incurred prior to termination. Client shall be indebted to Law Firm for legal fees based upon the value in Waynesville, North Carolina of legal services rendered and for any costs and expenses advanced by Law Firm.

**VII. MISCELLANEOUS.**

A. Client acknowledges that Law Firm has not made any promise or guarantee concerning the outcome or results of this case or the total amount of fees and expenses which may be incurred by Client.

B. Client is solely responsible for all fees and costs notwithstanding any award of fees and expenses which might be made by a court; however, any such award which is actually paid to and received by Law Firm shall be applied towards the balance due on Client's account, with any surplus being refunded to Client.

C. Client agrees that upon settlement of any case, client will promptly execute any and all settlement documents and checks necessary associated with the closure of the case.

D. The contents of any file maintained by Law Firm for Client shall be the exclusive property of Law Firm, although Client shall be entitled to copies of all pleadings and legal documents, and also all correspondence not previously provided by Law Firm to Client. After the conclusion of Client's case, Law Firm shall not be obligated to preserve Client's file.

E. Client acknowledges having read this Agreement before signing it, understands the meaning and legal effect of the terms of this Agreement, and believes that this Agreement is fair and reasonable. Client acknowledges receipt of a copy of this Agreement.

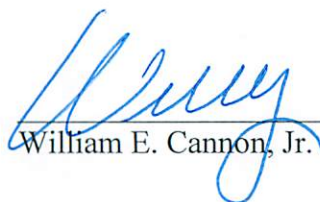
F. **Law Firm will extend to counsel for other parties and to witnesses all usual and customary courtesies observed in handling cases of this type.**

G. Client shall keep Law Firm informed of its email, mailing address and telephone number(s). Law Firm is authorized to send all mailings to the last known address provided by the Client.

H. All invoices shall be due and payable upon receipt.

CANNON LAW, P.C.

TOWN OF WAYNESVILLE

  
\_\_\_\_\_  
William E. Cannon, Jr.

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

Date: 1/31/17

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

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Financial Director

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