

## Town of Waynesville, NC Board of Aldermen Regular Meeting

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

Date: **October 9, 2018** 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 September 25, 2018 regular meeting as presented (or as corrected).*

### B. PRESENTATION

3. Resolution awarding Badge and Service Sidearm to retiring Master Officer Joey Fox
4. Resolution awarding Badge and Service Sidearm to retiring Sergeant Elizabeth "Dee" Parton

### C. PUBLIC HEARINGS

5. Public Hearing to consider a map and text amendment to establish a Mixed Use Overlay District over ten lots on the southside of Broadview, PINs 8615-79-2068, 8615-79-1121, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, 8615-69-2680 as the East Waynesville Urban Residential MXO.

- Elizabeth Teague, Development Services Director

***Motion:*** *To approve the proposed text amendment and its consistency with the "Waynesville: Our Heritage, Our Future, the Town of Waynesville 2020 Land Development Plan in that the amendment will: (Board members will include reasons).*

***Motion:*** *To approve the proposed text amendment to establish a Mixed Use Overlay District over ten lots on the southside of Broadview, PINs 8615-79-2068, 8615-79-1121, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, 8615-69-2680 as the East Waynesville Urban Residential MXO as it is reasonable and in the public interest (Board members will include reasons).*

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6. Public Hearing to consider a map amendment to rezone the 122 and 140 Broadview, PINs 8615-69-9255 and 8615-69-8390 from North Main Street Neighborhood Center to East Waynesville Urban Residential MXO.

- Elizabeth Teague, Development Services Director

***Motion: To approve the proposed map amendment and its consistency with the "Waynesville: Our Heritage, Our Future, the Town of Waynesville 2020 Land Development Plan in that the amendment will: (Board members will include reasons).***

***Motion: To approve the proposed map amendment to rezone the 122 and 140 Broadview, PINs 8615-69-9255 and 8615-69-8390 from North Main Street Neighborhood Center to East Waynesville Urban Residential MXO as it is reasonable and in the public interest (Board members will include reasons).***

**D NEW BUSINESS**

7. Budget Amendments

- Amie Owens, Assistant Town Manager

a. Budget Amendment to Internal Service funds to upgrade to Microsoft 365

***Motion: To approve Amendment No. 1 to the 2018-2019 Financial Operating Plan For Internal Service Funds for the town-wide project to upgrade to Microsoft 365.***

b. Budget Amendment to the FY 218-2019 Budget Ordinance

***Motion: To approve Amendment No. 2 to the FY 2018-2019 Budget Ordinance for the town-wide project to upgrade to Microsoft 365.***

c. Budget Amendment from Fund Balance to General Fund – Administration Legal Fees

***Motion: To approve Amendment No. 3 to the FY 2018-2019 Budget Ordinance for additional legal fees due to litigation costs.***

8. Third Party Administration of Retiree Benefits

- Amie Owens, Assistant Town Manager

***Motion: To approve the five (5) year rate locked contract with Flores for the administration of retiree benefits***

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E. COMMUNICATIONS FROM STAFF

9. Manager's Report

- Assistant Town Manager Amie Owens

Sale of three easements for Walnut Street/N. Main Roundabout

***Motion: To approve the sale of the three easements/rights of way to the NC DOT.***

Options for street right of way trimming

10. Attorney's Report

- Town Attorney Bill Cannon

F. COMMUNICATIONS FROM THE MAYOR AND BOARD

G. PUBLIC COMMENT

H. CLOSED SESSION

11. Enter into closed session to discuss the following:

- a. Attorney/Client Privilege as allowed under North Carolina General Statute § 143-318.11(a)(3)

J. ADJOURN



# TOWN OF WAYNESVILLE

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 16 South Main Street  
 Waynesville, NC 28786  
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## CALENDAR October 9, 2018

2018	
Tuesday October 9 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
Saturday October 13 10:00 AM – 5:00 PM Main Street	Church Street Art & Craft Show
Saturday October 13 4:00 – 5:00 PM Greenhill Cemetery	Fourth Annual Greenhill Cemetery Tour Historic Preservation Commission
Saturday October 20 10:00 AM – 5:00 PM Main Street	Apple Harvest Festival
Monday October 22 5:30 PM Waynesville Rec Center	Council of Government Meeting Waynesville – changed hosting date
Tuesday October 23 6:30 PM Town Hall Board Room	Board of Aldermen Meeting – Regular Session
Wednesday October 31 5:00 PM – 7:00 PM Main Street	Treats on the Street
Wednesday October 31 5:30 – 8:30 PM Academy Street	Trunk or Treat First United Methodist Church
Friday November 2 5:00 PM – 9:00 PM Main Street	Art after Dark Main Street – sponsored by the Downtown Waynesville Association
Thurs, Fri, Sat Nov 1 <sup>st</sup> – 3 <sup>rd</sup> Thurs, Fri, Sat Nov 8 <sup>th</sup> – 10 <sup>th</sup> 8:00 AM - Noon	Town of Waynesville Fall Mulch Sale
Monday November 12	Veteran’s Day – Town Offices Closed
Tuesday November 13 6:30 PM Town Hall Board Room	Board of Aldermen Meeting - Regular Session
Thursday & Friday November 22 & 23	Thanksgiving Town Offices Closed

<b>Tuesday November 27</b> <b>6:30</b> <b>Town Hall Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Friday November 30</b> <b>5:00 PM</b> <b>Oak Park Inn</b>	Community Christmas Tree Lighting Sponsored by Downtown Waynesville Association
<b>Monday December 3</b> <b>6:00 PM</b> <b>Main Street</b>	Waynesville Christmas Parade
<b>Saturday December 8</b> <b>6:00 PM – 9:00 PM</b> <b>Main Street</b>	A Night Before Christmas
<b>Tuesday December 11</b> <b>6:30 PM</b> <b>Town Hall Board Room</b>	Board of Aldermen Meeting – Regular Session
<b>Monday, Tuesday &amp; Wednesday</b> <b>December 24, 25, &amp; 26</b>	Christmas Town Offices Closed

## Board and Commission Meetings – October 2018

ABC Board	ABC Office – 52 Dayco Drive	<b>October 16th</b> 3 <sup>rd</sup> Tuesdays 10:00 AM
Board of Adjustment	Town Hall – 9 S. Main Street	<b>October 2nd</b> 1 <sup>st</sup> Tuesdays 5:30 PM
Downtown Waynesville Association	UCB Board Room – 165 North Main	<b>October 25th</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>October 3rd</b> 1 <sup>st</sup> Wednesdays 2:00 PM
Planning Board	Town Hall – 9 S. Main Street	<b>October 15th</b> 3 <sup>rd</sup> Mondays 5:30 PM
Public Art Commission	Town Hall – 9 S. Main Street	<b>October 11th</b> 2 <sup>nd</sup> Thursdays 4:00 PM
Recreation & Parks Advisory Commission	Rec Center Office – 550 Vance Street	<b>October 17th</b> 3 <sup>rd</sup> Wednesdays 5:30 PM
Waynesville Housing Authority	Waynesville Towers – 65 Church Street	<b>October 17th</b> 3 <sup>rd</sup> Wednesdays 3:30 PM

## BOARD/STAFF SCHEDULE

<b>October 4 – October 15</b>	Town Manager	Vacation (will not be at Board meeting on Oct. 9)
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**MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REGULAR MEETING**  
**September 25, 2018**

**THE WAYNESVILLE BOARD OF ALDERMEN** held its regular meeting on Tuesday, September 25, 2018 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  
Mayor Pro Tem Gary Caldwell  
Alderman Jon Feichter  
Alderman LeRoy Roberson  
Alderman Julia Freeman

The following staff members were present:

Rob Hites, Town Manager  
Bill Cannon, Town Attorney  
Amie Owens, Assistant Town Manager  
Eddie Ward, Town Clerk  
Elizabeth Teague, Development Services Director  
Joey Webb, Fire Chief  
Preston Gregg, Town Engineer

The following media representatives were present:

Becky Johnson, the Mountaineer

1. Welcome /Calendar/Announcements

Mayor Brown welcomed everyone to the meeting. From the events calendar, the following were mentioned:

- Friday September 28 - 6:00 – 8:00 PM – Mountain Street Dance – Downtown Waynesville Assoc.
- Saturday September 29 - 6:00 AM - Noon – Power of Pink 5K – Haywood Healthcare Foundation
- Sunday September 30 – 2:00 PM- Community Prayer Walk - Drugs in our Midst
- Wednesday October 3 – 8:00 – 10:00 AM - 7:00 PM – Coffee with a Cop – Smoky Mountain Roasters
- Friday October 5 – 5:00 – 9:00 PM – Art After Dark – Waynesville Downtown Assoc.
- Tuesday October 9 – 8:00 Am – Noon – Town of Waynesville Flu Clinic – Waynesville Rec Center

2. Adoption of Minutes

Mayor Brown made a clarification in the minutes concerning the time frame of the decision as to what path to follow with the Waste Water Treatment Plant. He wanted to clarify that there is not a time limit for that decision.

*Alderman Jon Feichter made a motion, seconded by Alderman Gary Caldwell, to approve the minutes of the regular September 11, 2018 meeting as presented. The motion passed unanimously.*

**B. PRESENTATION**

3. 28785/86 TDA 1% Zip Code Funding Year End Report

- Lynn Collins, Executive Director, TDA

Ms. Collins provided the Board with a summary of how the TDA 1% funding is being utilized for the Waynesville zip code. The presentation included a spreadsheet for the 1% funding, the projects included in this funding, a recap of the Co-op Marketing, a historical report of the 1% funding, and the economic impact of travel. She stated that the Town of Waynesville accounts for 30% of the overall collection of the 1% Zip Code Funding so far, and everything looks good for the 28786/28785 zip codes.

Some of the projects funded this year by the 1% TDA Funding included the largest item of Co-op Advertising for Waynesville. This is a lump sum that is dedicated to advertising Waynesville as a destination instead of advertising every event separately. Ms. Collins said this has worked well, and there has been much growth and response from the advertisements and promotions on Facebook.

One of the most notable increases was through the email program campaign. This program sends news letters by e-mail. There was an open rate of 85.4% for these emails and Ms. Collins said this was an exceptional rate. It proves that people are interested in Waynesville.

The dedicated page that is on the TDA website, which is Experience Waynesville, generated 18,925 hits in the 2016/2017 time frame and in the last year there was a substantial increase with 93,354 hits.

Ms. Collins reported information to the Board that tourism in Haywood County generated expenditures of \$182.27 million in 2017 which is an increase from 2016. More than 1,820 jobs in Haywood County were directly related to travel and tourism, and generated \$40.9 million in payroll. State tax revenues generated from travel to Haywood County are \$10.9 million, and as a result of tourism, tax savings for each Haywood County resident is \$272.79.

The Wayfinding program is moving forward with fabrication of the signs. It will be phased in, and a meeting is scheduled on October 9<sup>th</sup> 2018 with NCDOT and municipal and county managers to choose the first round of signage that will be placed. Each town in Haywood County will have a different animal for their signs. Canton will have a black bear, Maggie Valley will have an elk, Clyde will have a cardinal, and Waynesville will have the Plott Hound on their signs. The signs could possibly be ready by the end of the year.

Ms. Collins said that the I-40 Welcome Center will be closing in the fall for 12-15 months for renovation, and staff and information will be relocated to the Visitor's Center in Maggie Valley. NCDOT will be placing directional signage, and hopefully this will create additional tourism in the area.

**C. CALL FOR PUBLIC HEARING**

4. Call for a Public Hearing to consider a map and text amendment to establish a Mixed Use Overlay District over ten lots on the Southside of Broadview, PINs 8615-79-2068, 8615-79-1121, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, 8615-69-2680 as the East Waynesville Urban Residential MXO.

- Elizabeth Teague, Development Services Director

Ms. Teague explained to the Board that this public hearing would consider establishing a mixed-use overlay to allow Business Support Services, Live-Work Units, Neighborhood Commercial, Neighborhood Restaurant, Personal Services, Professional Services and Studios (such as art, dance, martial arts, music), as permitted uses along the south side of Broadview from Summit Street to Overbrook Drive. She said that at their meeting on September 17, the Planning Board held a public hearing and unanimously recommends that rezoning these properties is consistent with the 2020 Land Use Plan, and is reasonable and in the public interest.

***A motion was made by Alderman Julia Freeman, seconded by Alderman LeRoy Roberson to call for a Public Hearing to be held on October 9, 2018 beginning at 6:30 pm., or as closely thereafter, in the Town Hall Board Room located at 9 South Main Street to consider a text amendment to establish a Mixed Use Overlay District over ten lots on the south side of Broadview, PINs 8615-79-2068, 8615-79-1121, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, 8615-69-2680 as the East Waynesville Urban Residential MXO. The motion passed unanimously.***

5. Call for a Public Hearing to consider a map amendment to rezone the 122 and 140 Broadview, PINs 8615-69-9255 and 8615-69-8390 from North Main Street Neighborhood Center to East Waynesville Urban Residential MXO.

Ms. Teague explained to the Board that these two lots were recently rezoned, but both the Board of Aldermen and the Planning Board expressed that the area along Broadview where these lots are located is more suitable for a Mixed Use Overlay District. At their meeting on September 17, the Planning Board held a public hearing and unanimously recommended that rezoning these properties is consistent with the 2020 Land Use Plan, and is reasonable and in the public interest.

***A motion was made by Alderman Jon Feichter, seconded by Alderman Gary Caldwell to call for a Public Hearing to be held on October 9, 2018 beginning at 6:30 pm., or as closely thereafter, in the Town Hall Board Room located at 9 South Main Street to consider a map amendment to rezone the 122 and 140 Broadview, PINs 8615-69-9255 and 8615-69-8390 from North Main Street Neighborhood Center to East Waynesville Urban Residential MXO. The motion passed unanimously.***

## D. NEW BUSINESS

### 6. Big Cove 2MG Water Tank Rehabilitation Project

- Preston Gregg, Town Engineer

Mr. Gregg stated that as part of the 2015 assessment of the two million gallon water tank located at the head of Allens Creek on Big Cove, there were recommendations for improvement of the tank. The tank was built in 1967, and is in fair shape for its age. It does need some work on the interior and a new roof system. The tank feeds primarily the Hazelwood area.

Approximately two months ago a bid package was sent out, and due to the requests for proposals that were required to be submitted back to the Town no later than Friday September 7, 2018, only two bidders were responsive.

Mr. Gregg explained to the Board that the Public Services Department had re-advertised for the construction repair work to the tank. This project falls under \$500,000; in which the North Carolina Procurement requirements for informal bidding were followed. In accordance with North Carolina G.S. 143-132, there is no minimum number of bids that shall be received to award a contract under the informal bidding requirements. The responsive bidder was local contractor ACMI, Inc. at an amount of \$351,917. This amount is under the approved capital budget item of \$375,000. The work entails a special skill set in the structural steel repair of the water tank that most contractors would not have expertise in; thus, possibly limiting the number of bidders who would be qualified for the job. ACMI has performed work before for the Town of Waynesville at both treatment plants and is qualified to meet the requirements laid out in the project plans and contract documents.

The project will involve the replacement of I-beams in the roof structure, coating the tank inside and out, doing grading around the tank to create positive drainage, and bringing the tank up to OSHA standards.

Mr. Gregg stated that the window of opportunity to perform the work is now, before cooler weather. He said that the Water Plant Superintendent is comfortable with operating without this tank for up to four months. He said the project could be done possibly by the end of December, depending on the weather, or it could be a spring project.

***A motion was made by Alderman LeRoy Roberson, seconded by Alderman Jon Feichter, to approve the award of contract to ACMI, Inc. for the Big Cove 2MG Water Tank Rehabilitation, at a cost of \$351,917.00. The motion passed unanimously,***

### 7. Automatic Mutual Agreement - Center Pigeon

- Joey Webb, Fire Chief

Chief Webb stated that the Center Pigeon Fire Department has requested the Waynesville Fire Department to sign an Automatic Aid Agreement. He said the Automatic Aid Agreement between departments allows full credit when initially dispatched to a structure fire under the North Carolina Ratings and Inspections Divisions (ISO). Chief Webb described mutual aid as being reciprocal between

departments and is requested following the initial dispatch of structure fires with personnel and a 1,000 gallon tank on an apparatus.

The Town of Waynesville Fire Department has Automatic Aid agreement currently with Saunook Fire Department and Maggie Valley Fire and Rescue. The Automatic Mutual Aid Agreement will provide a better response to the South Waynesville area, as well as other fire districts.

***A motion was made by Alderman Julia Freeman, seconded by Alderman Gary Caldwell to approve the Automatic Mutual Agreement as presented. The motion passed unanimously.***

8. Consideration of an Intent to Close a named but un-opened portion of a right-of-way between 277 East Street (PIN # 8615-46-4688) and 24 North Hill Street (PIN# 8615-46-3776) and Call for Public Hearing

- Amie Owens, Assistant Town Manager

Assistant Manager Amie Owens informed the Board that the Town has received a petition from a single property owner (Brandon Green) to close a named but un-opened portion of right of way off of North Hill Street and East Street. She explained that the Right of Way was named in 1966 when the development was created; however, there was never a street that was maintained or used.

Ms. Owens said the Town does not have an interest in the right-of-way for public access, and closing it will allow conveyance to the property owner whose two properties it divides. There are no homes other than Mr. Green's on the right-of-way and all other properties are connected to Johnson Hill Drive and have addresses as such. She said that staff recommends closure of this right-of-way, and all required notices will be sent to adjoining property owners and published in the Mountaineer newspaper.

***Alderman Gary Caldwell made a motion, seconded by Alderman LeRoy Roberson to adopt a Resolution of Intent to Close a named but un-opened portion of Right of Way between 277 East Street (PIN # 8615-46-4688) and 24 North Hill Street (PIN# 8615-46-3776). The motion passed unanimously.***

***Alderman Jon Feichter made a motion, seconded by Alderman Julia Freeman to call for public hearing to be held on Tuesday, October 23, 2018 at 6:30 p.m. or as closely thereafter in the Board Room of Town Hall located at 9 South Main Street, Waynesville to consider the adoption of a Resolution to Close a named portion of Right of Way between 277 East Street (PIN # 8615-46-4688) and 24 North Hill Street (PIN# 8615-46-3776).***

**E. COMMUNICATIONS FROM STAFF**

9. Manager's Report

Purchase offer from NC DOT for 2359 sq. ft. of Town Property for Walnut Street Round About

- Town Manager Rob Hites

Manager Hites stated that the NC Department of Transportation wishes to purchase three small parcels of Town property for the Walnut Street round about project. The first parcel is 2,359 square foot parcel located at the intersection of West Marshall and Walnut Street. Manager Hites said the offer is \$10,800 and is based on a value per acre of \$200,000.00. He explained that the Town is not using the property and has no plans to improve it. This DOT project is very beneficial to the Town because the design of the round about will improve drainage and relocate Vance Street.

***Alderman LeRoy Roberson made a motion, seconded by Alderman Jon Feichter to approve the sale of the parcel located at the intersection of U.S. Business (N Main) and Walnut Street to the NC DOT in the amount of \$10,800.00. The motion passed unanimously.***

Manager Hites asked the Board's approval for a personal absence on the next regularly scheduled Board meeting on October 9, 2018. Assistant Manager Amie Owens will be in attendance in his absence.

Manager Hites stated that the Town has been working with Mr. John Burgin on the issue of the elevated crosswalk located in front his building located in Hazelwood. He said the intention from the last Board meeting was to raise the sidewalk, and at a later date possibly remove the crosswalk, in order to prevent the flooding of his building. Manager Hites said that now he would like to recommend to the Board that be reversed and he now recommends that the crosswalk be removed. If the flooding continues into Mr. Burgin's building after the removal of the crosswalk, then the sidewalks could be raised. He said this needed to be done quickly, before the leaf season begins.

#### **John Burgin**

Mayor Brown asked Mr. Burgin if removing the crosswalk first would be acceptable to him. He said if the removal of the crosswalk does not work, then the sidewalk can be raised and he will build a ramp inside his building.

***Alderman Gary Caldwell made a motion, seconded by Alderman Julia Freeman, to authorize staff to remove the crosswalk in Hazelwood as the first step in order to eliminate flooding into Mr. John Burgin's building. The motion passed unanimously.***

#### 10. Attorney's Report

- Town Attorney Bill Cannon

Town Attorney Bill Cannon prepared an opinion related to the continued service of Mayor Brown in his current capacity based on his status following his personal legal issues. Attorney Cannon noted the various provisions of the NC Constitution and NC General Statutes applicable to this situation and explained that there had been no adjudication of guilt. Attorney Cannon concluded that Mayor Brown is eligible to "remain in office unless he is unable to fulfill the terms of his Conditional Discharge and is then adjudicated guilty of a felony." A full copy of the Memorandum from Town Attorney Bill Cannon is herein incorporated into these minutes.

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

Mayor Brown thanked the Board for their support during a very difficult and emotional time in his life.

**G. PUBLIC COMMENT**

a. Waste Water Treatment Plant

There were no comments from the public.

b. South Main Street improvements by NC DOT

There were no comments from the Public.

- Resolution of Support of proposed improvement of TIP Project U-4712 – South Main Street

Mayor Brown read Resolution No. R16-18 in support of the proposed improvement of the TIP project number U-4712-Proposed improvements to South Main Street (U.S. Business 23) From Hyatt Creek Road 9S.R. 1164) to Pigeon Street (U.S. 276).

Mayor Brown stated that he would like for the Resolution to be sent to the NC DOT in order to show the support of the Town for the improvement project in principle.

***A motion was made by Alderman Jon Feichter, seconded by Alderman LeRoy Roberson, to approve Resolution No. R-16-18 in support of the proposed improvement of the TIP project number U-4712-Proposed improvements to South Main Street (U.S. Business 23) from Hyatt Creek Road 9 S.R. 1164) to Pigeon Street (U.S. 276).***

c. Ron and Nancy Bernard

Mr. and Mrs. Bernard addressed the board regarding the cutting of their shrubbery/trees that were along the roadway in front of their home. The concern was the manner in which this was completed with no notice and with disregard to the existing yard maintenance and the perceived poor customer service. Mrs. Bernard provided pictures for the board to review showing the before and after of her property and another property on Hazelwood Avenue.

Mrs. Bernard asked if a process could be implemented that would allow citizens to be informed prior to such trimming and allow them the ability to opt out and have it done by a private company. Mrs. Bernard presented a petition from individuals in Haywood County regarding this practice. A copy will be incorporated into the minutes as an attachment.

Following additional comments and some discussion regarding the process, it was determined that Manager Hites would meet with town staff and develop a plan for future notifications to citizens regarding such planned trimming and work on customer service skills training.

Mrs. Bernard mentioned perennials and asked that they not be cut down. Manager Hites agreed that that type of flower should be fine and should not require trimming.

Mayor Brown added that this is not something that the Town takes lightly and will work to achieve the best compromise possible.

**H. ADJOURN**

***With no further business, Alderman Julia Freeman made a motion, seconded by Alderman Jon Feichter to adjourn the meeting at 7:50 pm. The motion passed unanimously.***

**ATTEST:**

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Gavin A. Brown, Mayor

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Robert W. Hites, Jr., Town Manager

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Eddie Ward, Town Clerk

## MEMORANDUM

TO: Mayor & Board of Aldermen  
FROM: William E. Cannon, Jr., Town Attorney   
RE: Effect of Conditional Discharge Plea on Eligibility to Hold Office  
DATE: September 15, 2018

### QUESTION PRESENTED

Does the Mayor's plea to two felony charges in accordance with N.C. Gen Stat. § 15A-1341(a4) disqualify him from remaining in office?

### BRIEF ANSWER

Although the courts have not ruled on this precise question, I am of the opinion that the plea does not disqualify the Mayor from holding office.

### DISCUSSION

On September 20, 2018 Mayor Brown entered a guilty plea to two felony charges pursuant to a negotiated plea arrangement with the District Attorney's office that was accepted by Judge Marvin Pope. The plea was entered pursuant to N.C. Gen Stat. § 15A-1341(a4).

#### *Applicable Provisions of the North Carolina Constitution and General Statutes*

The North Carolina Constitution establishes three disqualifications for office: 1) denying the existence of God; 2) not being qualified to vote in an election for the office the person holds; and 3) being "adjudged guilty of treason or any other felony...and who has not been restored to the rights of citizenship in the manner prescribed by law." N.C. Const. Art. VI § 8. The Constitution also provides that "[n]o person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law." N.C. Const. Art. VI § 2(3).

The North Carolina General Statutes are consistent with the applicable sections of the North Carolina Constitution. "Any person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, unless that person shall be first restored to the rights of citizenship in the manner prescribed by law." N.C. Gen. Stat. § 163A-841(a)(2).

Citizenship rights are automatically restored when a person meets certain conditions, including the "unconditional discharge of an inmate, of a probationer, or of a parolee by the agency of the State having jurisdiction of that person..." N.C. Gen. Stat. §13-1. The court that

has jurisdiction over a defendant has a statutory mandate requiring them to immediately issue a certificate or order specifying that a defendant's rights have been restored once said defendant is eligible. N.C. Gen. Stat. §13-2.

The Mayor's plea was received pursuant to N.C. Gen. Stat. § 15A-1341(a4) which states:

Whenever a person pleads guilty to or is found guilty of a Class H or I felony or a misdemeanor, the court may, on joint motion of the defendant and the prosecutor, and without entering a judgment of guilt and with the consent of the person, defer further proceedings and place the person on probation as provided in this Article for the purpose of allowing the defendant to demonstrate the defendant's good conduct if the court finds each of the following facts:

- (1) Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.
- (2) The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.
- (3) The defendant has not previously been placed on probation and so states under oath.
- (4) The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

It is the responsibility of the State Board of elections to report monthly to the county board of elections each individual against whom a "final judgment of conviction" has been entered. N.C. Gen. Stat. §163A-877(c)(1).

#### *No Adjudication of Guilt*

The applicable statutes and the Constitution use very precise language. They refer to "adjudication" or "judgment" as the element necessary to trigger disqualification.<sup>1</sup> As applied to Mayor Brown's situation, both potentially disqualifying circumstances—1) the ability to vote for the position he holds and 2) an adjudication of guilty of a felony—are one and the same and his qualification to continue to serve turns on the same analysis for each. If his citizenship rights are revoked because of an adjudication of guilt on a felony charge he would be disqualified under either subsection. Unless the Mayor fails to meet the conditions of his conditional discharge plea, there will be no adjudication of guilt and no disqualification from office.

I have found no case addressing the application of N.C. Gen. Stat. § 15A-1341(a4) to the right to vote and hold public office. However, a review of appellate decisions discussing other statutes is consistent with my analysis. N.C. Gen. Stat. §90-96—a conditional discharge statute

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<sup>1</sup> A plea of guilty is equivalent to a conviction. *State v. Hasty*, 133 N.C. App. 563, 572 (1999). However, a conviction does not necessarily result in an adjudication of guilt.

regarding drug possession—has language similar to the conditional discharge statute under which the Mayor entered his plea.

[w]henever any person...pleads guilty or is found guilty...the court shall, **without entering a judgment of guilt** and with the consent of the person, defer further proceedings and place the person on probation upon such reasonable terms and conditions as it may require...

N.G. Gen. Stat. §90-96(a).

This tracks closely the language used in N.C. Gen. Stat. §15A-1341(a4) which reads in relevant part

whenever a person pleads guilty to or is found guilty...the court may, on joint motion of the defendant and the prosecutor, and **without entering a judgment of guilt** and with the consent of the person, defer further proceedings and place the person on probation as provided in this Article...

N.C. Gen. Stat. §15A-1341(a4).

In *State v. Hasty*, 133 N.C. App. 563 (1999) the Court of Appeals reviewed the application of N.G. Gen. Stat. §90-96(a) to the right to possess a firearm. "A defendant who is placed on probation pursuant to the provisions of N.C. Gen. Stat. § 90-96 is given the opportunity to comply with the conditions and have the charges against him dismissed. 'Discharge and dismissal under this section shall be **without court adjudication of guilt** and shall not be deemed a conviction for purposes of this section . . .'" *State v. Hasty*, 133 N.C. App. 563, 572 (1999). This interpretation of a similar statute is a strong indication of how the courts would interpret N.C. Gen. Stat. §15A-1341(a4).

I also examined a copy of the Conditional Discharge in the court file signed by the Mayor, his attorney, the prosecuting attorney and the Judge. The section of that document entitled "Deferral of Proceedings and Placement of Probation" specifically states that the Court is not entering a judgment of guilt and that "upon fulfillment of the terms and conditions by the defendant, the Court shall discharge and dismiss the proceedings against the Defendant."

In *N.C. State Bar v. Wood*, 209 N.C., App. 454 (2011) the Court of Appeals reviewed an appeal from a disciplinary order of the North Carolina State Bar disbarring an attorney based upon a criminal conviction. The attorney argued that there was no conviction because no judgment of conviction had been entered against him. In addressing this argument, the Court of Appeals made clear that there is a difference between a conviction and a judgment of conviction.

Defendant's argument conflates a conviction and a judgment of conviction. In defendant's brief he states that "federal law . . . requires both a jury verdict and sentencing before a defendant is convicted." However, Black's Law Dictionary defines "conviction" as "1. The act or process of judicially finding someone guilty of a crime; the state of having been proved guilty. 2. The judgment (as by a jury verdict) that a person is guilty of a crime." (8th ed. 2004). "Judgment of conviction" is defined as "1. The written record of a

criminal judgment, consisting of the plea, the verdict or findings, the adjudication, and the sentence. Fed. R. Crim. P. 32(d)(1). [\*\*\*5] 2. A sentence in a criminal case." Black's Law Dictionary (8th ed. 2004). **A judgment of conviction is one step beyond conviction.**

*N.C. State Bar v. Wood*, 209 N.C., App. 454, 456 (2011)

#### CONCLUSION

There has been no adjudication of guilt resulting from the Conditional Discharge plea agreement. Mayor Brown is eligible to remain in office unless he is unable to fulfill the terms of his Conditional Discharge and is then adjudicated guilty of a felony.

# STOP DESTROYING WAYNESVILLE'S NATURAL BEAUTY

To The Town of Waynesville Board of Alderman

The Bernard residence and environment has been irreparably damaged by senseless cutting of carefully maintained landscaping developed over 20 years of residency.

As neighbors, we wish to state our horror at what has been done to destroy a beautiful part of OUR environment as well.

No one has ever heard negative comments or complaints regarding the property, nor can we imagine why the city would take such action without notifying the property owners.

We feel the Town:

- should make efforts to correct the damages incurred in this case,
- and in the future notify property owners if the Town perceives a problem, so that the owners may trim their landscaping in a way that will sustain it's health and beauty.

NAME

LOCATION

Sue Angell

Waynesville Country Club

Robert Hamrock

HAZELWOOD

Lerie Blackburn

Maggie Valley

Frank Gammone

Waynesville

Ann J. Bellamy

Waynesville, N.C.

Chris Olinski

Maggie Valley

Anne Barrett

138 Oakcrest Lane Waynesville, NC

Gary O. Barrett

138 Oakcrest Lane Waynesville, NC

Ann Sheehan	828 452-5474
<u>MBM</u>	Virginia Ave.
Leslie Leathers	Plott Creek
Martha Anck	44 Summer Way, Wgnd
Lynn P. Price	744 Laurel Ridge Dr., Waynesville
Christie Stephens	Hock's <del>Box</del> 20
Jane Kopperberg	Oakrest Lane
Brenda Grady	Cardinal Lane, Waynesville
Paul Henson	305 Little Mtn. Rd., Waynesville
Adrienne Henson	66 SUMMER WAY, WAYNESVILLE
Wm J. Lee	66 Summer Way
Carri Spaldy	44 Summer Way, Waynesville, NC
Kerry Spaldy	81 CARDINAL LN, WAYNESVILLE, NC
Luis Gomez	81 CARDINAL LN, WAYNESVILLE, NC
Russell Garrett	218 Mata Trail Maggie Valley
Florida Herby	200 Chipping Sparrow Lane
Mike Tolb	198 Summer Way Waynesville
Geald Hermundson	140 OAKREST LN
William Branson	135 Oakrest LN
Jane Branson	130 OAKREST
Paris Whipp	130 Oakrest
Roy Greene	84 Spice Ridge
	Waynesville
	84 Spice Ridge, Waynesville

Sharon Smith  
~~Sharon~~ (CROSSING C. SMITH)

36 Cardinal Lane  
36 Cardinal Lane

**TOWN OF WAYNESVILLE**

**RESOLUTION  
AWARDING BADGE AND SERVICE SIDEARM  
TO RETIRING POLICE  
MASTER OFFICER JOEY FOX**

**WHEREAS**, North Carolina General Statute 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality, and

**WHEREAS**, North Carolina General Statute 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member, and

**WHEREAS**, Master Officer Fox has served as a Police Officer for the Town of Waynesville from June 20, 1997 to September 30, 2018 in varying capacities.

**NOW, THEREFORE, BE IT RESOLVED**, I, Gavin A. Brown on behalf of the members of the Board of Aldermen for the Town of Waynesville, North Carolina, the following:

The Police Chief of the Town of Waynesville is hereby authorized in accordance with the provisions of North Carolina General Statute 20-187.2 to transfer to Joey Fox the badge worn by him during his service with the Waynesville Police Department and his service sidearm, identified as Glock, Model 22; .40 caliber; Serial # WHV 684.

Adopted this 9th day of October 2018.

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Gavin A. Brown, Mayor

ATTEST:

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Eddie Ward, Town Clerk

**TOWN OF WAYNESVILLE**

**RESOLUTION  
AWARDING BADGE AND SERVICE SIDEARM  
TO RETIRING POLICE  
SERGEANT ELIZABETH “DEE” PARTON**

**WHEREAS**, North Carolina General Statute 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality, and

**WHEREAS**, North Carolina General Statute 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member, and

**WHEREAS**, Sergeant Dee Parton has served as a full-time Police Officer for the Town of Waynesville from June 20, 2013 to June 30, 2018. Sergeant Dee Parton has served with the Town of Waynesville in various capacities part time since 1996.

**NOW, THEREFORE, BE IT RESOLVED**, I , Gavin A. Brown on behalf of the members of the Board of Aldermen for the Town of Waynesville, North Carolina, the following:

The Police Chief of the Town of Waynesville is hereby authorized in accordance with the provisions of North Carolina General Statute 20-187.2 to transfer to Dee Parton the badge worn by her during her service with the Waynesville Police Department and his service sidearm, identified as Glock, Model 22; .40 caliber; Serial # WHV 678.

Adopted this 9th day of October 2018.

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Gavin A. Brown, Mayor

ATTEST:

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Eddie Ward, Town Clerk

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: October 9, 2018**

**SUBJECT:** Public Hearing to consider a map and text amendment to establish a Mixed Use Overlay District over ten lots on the southside of Broadview, PINs 8615-79-2068, 8615-79-1121, 8615-69-8393, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, 8615-69-2680 as the East Waynesville Urban Residential MXO.

**AGENDA INFORMATION:**

**Agenda Location:** Public Hearing  
**Item Number:** C5  
**Department:** Development Services  
**Contact:** Elizabeth Teague, Development Services Director  
**Presenter:** Elizabeth Teague, Development Services Director

**BRIEF SUMMARY:** This public hearing would consider establishing a mixed-use overlay to allow Business Support Services, Live-Work Units, Neighborhood Commercial, Neighborhood Restaurant, Personal Services, Professional Services and Studios (such as art, dance, martial arts, music), as permitted uses along the south side of Broadview from Summit Street to Overbrook Drive. At their meeting on September 17, the Planning Board held a public hearing and unanimously recommends that rezoning these properties is consistent with the 2020 Land Use Plan, and is reasonable and in the public interest.

**MOTIONS FOR CONSIDERATION:**

1. Adoption of the Statement of Consistency as presented (or as amended).
2. Adoption of the Ordinance

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

**ATTACHMENTS:**

1. Area Map
2. Staff report.
3. Draft Statement of Consistency
4. Draft Ordinance

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** This action will establish a mixed-use overlay within the East Waynesville Urban Residential District (EW-UR MXO) along Broadview in an area adjacent to the North Main Neighborhood Center District (NM-NC). This action is a result of the Board's earlier discussion regarding the rezoning of 122 and 140 Broadview and the need to assure technical correctness in Statements of Consistency.

# Town of Waynesville Board of Aldermen Staff Report

Subject: Proposal to create a Mixed-Use Overlay District within East Waynesville Urban Residential District  
Ordinance Section: 2.5.3 (Table of Permitted Uses) and 2.1 (Official Land Development Map)  
Applicant: Planning Board-Initiated  
Meeting Date: October 9, 2018

## Background

In response to a rezoning request along Broadview Road, the Board directed staff to study the possible creation of a mixed-use overlay of several lots along Broadview in the East Waynesville Urban Residential District. Staff brought this before the Planning Board at their September 17<sup>th</sup> Meeting, and the Planning Board unanimously voted to recommend that the establishment of a mixed-use overlay with limited commercial uses of a scale that would be sensitive to the adjacent residential properties. As part of this discussion the Planning Board found that this action would be both consistent with the Land Use Plan and in the public interest, and to establish an EW-UR Mixed-Use Overlay.

This area is mixed-use currently. Haywood County land records show that within this area seven of the ten lots are labeled: “land description - Commercial Secondary.” There is an office building at 140 Broadview Road, two medical office buildings at 20 and 62 which were built in 1958 and 1959, and a massage therapist at Summit and Broadview currently operating. Across the street is the North Main Neighborhood Commercial District so that these properties face the Fire Department, a vehicle service building and a new commercial development at the corner of Broadview and Overbrook. Therefore, this block is a transitional area between NM-NC and EW-UR and already contains existing commercial uses.

The Land Development Standards describes a Mixed-Use Overlay District as follows:

### **2.6.2 Mixed-Use Overlay District**

- A. Purpose:** The Mixed-Use Overlay District (MX-O) is a zoning overlay district established to permit certain limited mixed-uses within residential neighborhoods.
- B. Applicability:** The frontage of locations or blocks shall be identified on the Land Development Map to permit certain non-residential uses as permitted in the Use Table in Section 2.5.3. Such locations are noted as either PC (permitted on any Corner Lot located at the intersection of two publicly-maintained streets) or PL (Permitted in Designated Locations on the Land Development Map).

Purpose and Intent Statement for the East Waynesville Zoning Districts states:

### **2.3.4 Urban Residential Districts (UR) Purpose and Intent**

- A.** The **East Waynesville Urban Residential District (EW-UR)** is an urban neighborhood of mostly medium to high density residential development bordering the Waynesville town center. Higher density development is encouraged closer to town with lesser densities found as the district approaches areas with steeper slopes. A number of public spaces are found in this district including the East Street and Vance Street parks. It will be important as new development and redevelopment occurs for connections to be made to such public spaces and throughout the district.

## Mixed-Use Overlay Districts

The Town of Waynesville's jurisdiction contains nine mixed-use overlay districts:

**Dellwood Residential Medium Density MXO** – A 1,000-foot wide corridor centered on Russ Avenue from U.S. Highway 23/74 to Jule Noland Drive and Dayton Drive.

**Francis Cove Residential Low Density MXO** – A corridor consisting of properties along Pigeon Road from Old School Road to Bluegrass Lane.

**Hazelwood Urban Residential MXO** – A corridor consisting of properties located on the west side of South Main Street from Virginia Avenue to Mississippi Avenue.

**Love Lane Neighborhood Residential MXO** – A corridor consisting of most of the properties that front Dellwood City Road from Chestnut Park Drive to Arnold Heights with three additional properties north of Paralee Lane.

**Main Street Neighborhood Residential MXO** – Two properties located at the corner of Richland Street and Goodyear Street.

**Ninevah Neighborhood Residential MXO** – A corridor consisting of properties located at the corner of Country Club Drive/Crymes Cove Road and Oakdale Road.

**Raccoon Creek Neighborhood Residential MXO** – A corridor consisting of the properties north of Asheville Highway from Piccadilly Drive to Hillside Terrace.

**South Waynesville Residential Medium Density MXO** – A corridor consisting of properties along Old Balsam Road from 120 Old Balsam Road to Skyland Road (the westernmost portion of the town's jurisdiction along this road) and an additional property located on the Great Smoky Mountains Expressway.

**Walnut Street Neighborhood Residential MXO** – Multiple corridors consisting of properties along several streets, including Walnut Street, West Marshall Street, North Main Street, Nelson Park Drive, Woolsey Heights, and Wall Street.

The Planning Board proposes a new overlay district to be called the **East Waynesville Neighborhood Residential MXO**, and would be described as follows:

A corridor consisting of properties along the south side of Broadview Road from Overbrook Drive to Summit Street.

This mixed-use overlay would permit, as indicated by a PL on the Table of Permitted Uses in the EW-UR District: Business Support Services, Live-Work Units, Neighborhood Commercial, Neighborhood Restaurant, Personal Services, Professional Services, and Studios (Art, Dance, Martial Arts, Music).

## Consistency with the 2020 Comprehensive Land Development Plan

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, the stated Land Use Goal is:

“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.” (2020 LDP, p. 4-2)

Objectives under this goal include:

“Designate appropriate amounts of land to reflect desired development patterns and to accommodate the projected residential, commercial, industrial, institutional and recreational needs of the Town of Waynesville over the next twenty years.” (Page 4-2)

“Promote infill development in the Town of Waynesville as an alternative to continued outward expansion.” (Page 4-4)

“Work to preserve the important character and scale of each unique area within the larger Waynesville community by building on those elements identified as important to defining each area.” (Page 4-5)

Another key goal of the Land Use Plan is to:

“Maintain and strengthen a broad-based economy in Waynesville comprised of a vibrant and expanding manufacturing, retail, agricultural, services, governmental and construction sectors.” (Page 4-19)

An Objective under this goal includes:

“Designate and support the development of appropriate amounts of land to meet the needs of the different sectors of the economy.” (Page 4-19)

The creation of a new overlay district to apply to the proposed 10 lot area along Broadview, designation would support all of these goals and objectives in the Land Use Plan in that it accommodates an existing development pattern that goes back to the 1950's while also creating a transitional area that is in the scale and character of the underlying East Waynesville residential district. It also creates new opportunities within the zoning ordinance for the re-use and expansion of use for these individual properties, meeting either, or both, residential and commercial demand.

## Staff Recommendation

Mixed-use overlay districts are designed to promote limited commercial uses along corridors adjacent to residential districts. This approach would permit some additional non-residential uses at a scale that is appropriate to the district and would allow limited infill development that could promote walkability within the neighborhood and provide goods, services, and jobs to those neighborhoods. The historic pattern of uses along Broadview Road would also support the creation of a mixed-use overlay.

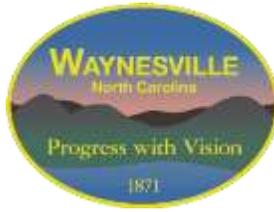
Staff therefore recommends the Planning Board initiate a Zoning Map amendment to rezone the 10 properties (PINs 8615-79-2068, 8615-79-1121, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, and 8615-69-2680) located on the south side of Broadview Road to EW-NR MXO as shown on the attached map, with the following uses permitted in this MXO: Business Support Services, Live-Work Units, Neighborhood Commercial, Neighborhood Restaurant, Personal Services, Professional Services, and Studios (Art, Dance, Martial Arts, Music).

## **Attachments**

Map of the proposed Mixed-Use Overlay District  
Statement of Consistency as adopted by the Planning Board  
Proposed Ordinance to create the EW-UR MXO

## **Suggested Actions**

1. Motion to adopt the Statement of Consistency as presented (or as amended) finding the creation of the EW-UR MXO consistent with the Waynesville 2020 Land Development Plan and that it is reasonable and in the public good.
2. Motion to create the EW-UR MXO, described as the 10 properties located along the south side of Broadview Road from Overbrook Drive to Summit Street (PINs 8615-79-2068, 8615-79-1121, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, and 8615-69-2680), as shown on the attached map of the proposed Mixed-Use Overlay District, with the following uses permitted within the MXO: Business Support Services, Live-Work Units, Neighborhood Commercial, Neighborhood Restaurant, Personal Services, Professional Services, and Studios (Art, Dance, Martial Arts, Music).



## STATEMENT OF CONSISTENCY

Description: Application of the mixed use overlay to ten lots within the East Waynesville Urban Residential District (EW-UR) located along the south side of Broadview Road from Overbrook Drive to Summit Street, PINs 8615-79-2068, 8615-79-1121, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, and 8615-69-2680, and to amend LDS Section 2.5.3 to allow Business Support Services, Live-Work Units, Neighborhood Commercial, Neighborhood Restaurant, Personal Services, Professional Services, and Studios (Art, Dance, Martial Arts, Music), within the EW-UR Mixed-Use Overlay District

Date: October 9, 2018

The Board of Aldermen hereby adopts the following statement:

The zoning map amendment **is approved and is consistent with the Town's comprehensive land use plan** because it meets the following goals and objectives of the Town of Waynesville's comprehensive 2020 Land Development Plan:

- “Designate appropriate amounts of land to reflect desired development patterns and to accommodate the projected residential, commercial, industrial, institutional and recreational needs of the Town of Waynesville over the next twenty years.” (Page 4-2)
- “Promote infill development in the Town of Waynesville as an alternative to continued outward expansion.” (Page 4-4)
- “Work to preserve the important character and scale of each unique area within the larger Waynesville community by building on those elements identified as important to defining each area.” (Page 4-5)

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

1. The historic use of this area is as mixed-use with some commercial property and there exists several professional offices and personal services already;
2. The topography to the rear of these properties creates a natural barrier to abutting residents, while the frontage of these properties along Broadview face the commercial uses;
3. The amendment creates limited commercial opportunities of a scale and character to the underlying East Waynesville Urban Residential District, consistent with the purpose and intent of mixed-use overlay and in a similar fashion to existing “MXO” areas as designated in the Town's Table of Permitted Uses.
4. This action establishes an area of redevelopment and economic opportunity within walking distance of residents and other commercial interests.

**Read, approved and Adopted**, this the 9<sup>th</sup> Day of October, 2018 by a vote of \_\_\_\_\_ to \_\_\_\_\_.

\_\_\_\_\_  
Gavin Brown, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Eddie Ward, Clerk

\_\_\_\_\_  
Date

**ORDINANCE NO. O-19-18**

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

**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 land development regulations, clarify such regulations, and may amend said regulations from time to time in the interest of the public health, safety and welfare; and

**WHEREAS**, this Ordinance is consistent with the Town's 2020 Land Development Plan and the Board of Aldermen has adopted a statement of consistency pursuant to NCGS 160A-383 by separate action; and

**WHEREAS**, the Town of Waynesville Planning Board has reviewed the proposed amendment to the text of the ordinance and recommends its enactment by the Board of Aldermen; and

**WHEREAS**, after notice duly given, a public hearing was held on October 9, 2018;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON OCTOBER 9, 2018, AND WITH A MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:**

1. To amend the Town's Zoning Map by applying the Mixed Use Overlay to ten lots along Broadview, creating the East Waynesville Urban Residential Mixed Use Overlay District (EW-UR MXO), PINs 8615-79-2068, 8615-79-1121, 8615-79-0231, 8615-69-9255, 8615-69-8390, 8615-69-8314, 8615-69-7326, 8615-69-6435, 8615-69-4554, and 8615-69-2680.
2. To amend the Town's Land Development Standards text, Section 2.5.3, to allow Business Support Services, Live-Work Units, Neighborhood Commercial, Neighborhood Restaurant, Personal Services, Professional Services, and Studios (Art, Dance, Martial Arts, Music), within the EW-UR by indicating "PL" in the Table of Permitted Uses as being allowed within the EW-UR Mixed-Use Overlay.

**ADOPTED** this the Ninth Day of October, 2018.

TOWN OF WAYNESVILLE

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Gavin A. Brown, Mayor

ATTEST:

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Town Clerk

APPROVED AS TO FORM:

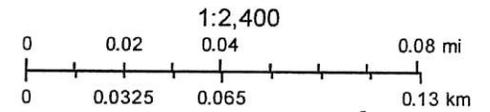
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Bill Cannon, Town Attorney

# Haywood County



September 11, 2018



 Proposed East Waynesville Urban Residential Mixed-Use Overlay

 PROPOSED REZONING

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN**  
**REQUEST FOR BOARD ACTION**  
**Meeting Date: October 9, 2018**

**SUBJECT:** Public Hearing to consider a map amendment to rezone 120 and 140 Broadview, PINs 8615-69-9255 and 8615-69-8390 from North Main Street Neighborhood Center (NM-NC) to East Waynesville Urban Residential (EW-UR)

**AGENDA INFORMATION:**

**Agenda Location:** Public Hearing  
**Item Number:** C6  
**Department:** Development Services  
**Contact:** Elizabeth Teague, Development Services Director  
**Presenter:** Elizabeth Teague, Development Services Director

**BRIEF SUMMARY:** This public hearing would consider rezoning these two properties for inclusion in an overlay district that the Board is also considering. These properties rezoned to NM-NC but there were concerns regarding the impact of this zoning encroaching into the EW-UR District, and concern that an overlay district that limited the types of commercial uses in this area would be more sensitive to the existing neighborhood. At their meeting on September 17, the Planning Board held a public hearing and unanimously recommends that rezoning these properties is consistent with the 2020 Land Use Plan, and is reasonable and in the public interest.

**MOTIONS FOR CONSIDERATION:**

1. Adoption of the Statement of Consistency as presented (or as amended).
2. Adoption of the Ordinance

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

**ATTACHMENTS:**

1. Area Map
2. Staff report.
3. Draft Statement of Consistency
4. Draft Ordinance

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** This action will rezone these two properties as part of a potential mixed-use overlay within the East Waynesville Urban Residential District (EW-UR MXO).

## Board of Aldermen Staff Report

Subject: Map Amendment Request from North Main Neighborhood Center to East Waynesville Urban Residential as part of an Overlay District, at 140 Broadview and at 122 Broadview Rd, an undeveloped adjacent lot, PINs 8615-69-9255 and 8615-69-8390

Ordinance Section: Chapter 2; Section 15.1417.3

Applicant: Planning Board and Board of Aldermen

Meeting Date: October 9, 2018

### Background:

Two properties along Broadview Road were rezoned by the Board, from EW-UR to NM-NC in order for a salon to locate within a pre-existing professional office building on July 24, 2018. At their August Meeting, the Planning Board directed staff to bring back a Board initiated map and text amendments to establish an overlay district with enumerated uses identified in the Permitted Uses Table and to rezone these lots back to EW-UR for inclusion in the overlay.

Additionally, on August 21, the Board of Aldermen determined to re-hear all zoning changes, including this one related to Broadview, in order to address technical issues related to the framing of consistency statements and board actions in light of changes to NCGS 160A-383. The Aldermen motion stated:

*"To waive the 12 month waiting period for application for the text amendment to the Town of Waynesville Land Development Standards to rezone the 120 and 140 Broadview, PINs 8615-69-9255 and 8615-69-8390 from East Waynesville Urban Residential to North Main Street Neighborhood Center as there has been a substantial change in circumstances related to the request due to the omission of an express reference to the Board's reasons that the Board discussed in the motion to find that the amendment was consistent with the Land Use Plan, as well as the original applicant has sold the property and there has been substantial financial investment by the party who purchased these properties for their business."*

Reconsideration of this zoning action in favor of the establishment of an Overlay District that would encompass these two lots would still meet the initial request of the property owners to allow a personal service use on this property, but would be more restrictive in types of uses than what is allowed in NM-NC. In so doing, the Town can also address and ensure technical correctness with 160A-383, related to Statements of Consistency.

Staff brought this before the Planning Board at their September 17<sup>th</sup> Meeting, and the Planning Board unanimously voted to recommend that these properties be re-zoned within the proposed EW-UR mixed-use overlay with limited commercial uses of a scale that would be sensitive to the adjacent residential properties. As part of this discussion, the Planning Board found that this action was both consistent with the Land Use Plan and in the public interest, and to establish an EW-UR Mixed-Use Overlay.

The purpose and Intent Statements for the applicable Zoning Districts follow:

### 2.3.4 Urban Residential Districts (UR) Purpose and Intent

A. The **East Waynesville Urban Residential District (EW-UR)** is an urban neighborhood of mostly medium to high density residential development bordering the Waynesville town center. Higher density development is encouraged closer to town with lesser densities found as the district approaches areas with steeper slopes. A number of public spaces are found in this district including the East Street and Vance Street parks. It will be important as new development and redevelopment occurs for connections to be made to such public spaces and throughout the district.

### 2.3.5 Neighborhood Center Districts (NC) Purpose and Intent

A. The **North Main Street Neighborhood Center District (NM-NC)** is a mixed use district that forms the gateway into town from the northeast. The setting of this district is important as it frames Eagles Nest Mountain at the apex of the hill on North Main and forms a forced perspective to the "center" of the district -- the intersection of Walnut and Main Streets. As a result, maintaining inviting vistas down Main Street and creating an attractive public realm are the objective of many of the standards set forth for this district. Street walls, boulevard trees and sign control will all be important in meeting these objectives as the street is redesigned. Working to keep traffic congestion to a minimum in this area will require the use of rear access drives, side street entrances and shared driveway connections. The uses found in the North Main Street Boulevard District serve not only the surrounding neighborhoods, but all of the Waynesville community and are varied in nature.

### 2.6.2 Mixed-Use Overlay District

A. **Purpose:** The Mixed-Use Overlay District (MX-O) is a zoning overlay district established to permit certain limited mixed-uses within residential neighborhoods.

B. **Applicability:** The frontage of locations or blocks shall be identified on the Land Development Map to permit certain non-residential uses as permitted in the Use Table in Section 2.5.3. Such locations are noted as either PC (permitted on any Corner Lot located at the intersection of two publicly-maintained streets) or PL (Permitted in Designated Locations on the Land Development Map).

## Consistency with the 2020 Comprehensive Land Development Plan

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, the stated Land Use Goal is:

“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.” (2020 LDP, p. 4-2)

Objectives under this goal include:

- “Designate appropriate amounts of land to reflect desired development patterns and to accommodate the projected residential, commercial, industrial, institutional and recreational needs of the Town of Waynesville over the next twenty years.” (Page 4-2)

- “Promote infill development in the Town of Waynesville as an alternative to continued outward expansion.” (Page 4-4)
- “Work to preserve the important character and scale of each unique area within the larger Waynesville community by building on those elements identified as important to defining each area.” (Page 4-5)

Another key goal of the Land Use Plan is to “Maintain and strengthen a broad-based economy in Waynesville comprised of a vibrant and expanding manufacturing, retail, agricultural, services, governmental and construction sectors.” (Page 4-19)

An Objective under this goal includes:

- Designate and support the development of appropriate amounts of land to meet the needs of the different sectors of the economy. (Page 4-19)

Staff submits that the application of an overlay district will encourage continued success of existing businesses within the proposed district by promoting the re-use of land and the economy. By rezoning these lots to EW-UR MXO, from Neighborhood Center, the Town will better maintain the integrity of the residential district in which these properties are located, thus preserving the character and scale of the neighborhood.

## **Staff Recommendation**

Staff feels that in light of the Planning Board’s and Board of Aldermen’s consideration, this zoning map amendment is consistent with the Land Use Plan and is reasonable and in the public interest for many reasons, including:

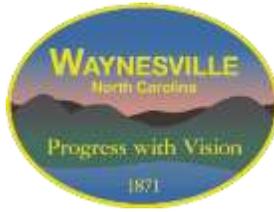
1. This side of Broadview has allowed professional services and there are already office buildings and commercial uses in existence along with residential. Therefore this side of Broadview is already mixed-use to some degree, and this property itself is already commercial since it has been an insurance office since 2008.
2. Including these properties as part of the overlay district will ensure that allowable uses will be of a scale and character of the underlying neighborhood.
3. This property faces an automotive service center and warehouse which is not conducive to the property returning to a residential use.
4. This property is adjacent to residential properties and so while commercial in use, it is more appropriate to limit the variety of uses allowed.

## **Attachments**

Map of proposed Properties to be rezoned within the proposed overlay district  
 Statement of Consistency as adopted by the Planning Board  
 Proposed Ordinance to rezone these properties.

## **Suggested Actions**

1. Motion to adopt the Statement of Consistency as presented (or as amended) finding the creation the zoning map amendment consistent with the Waynesville 2020 Land Development Plan and that it is reasonable and in the public good.
1. Motion to rezone 140 and 122 Broadview, PINs 8615-69-9255 and 8615-69-8390, to EW-UR MXO.



**STATEMENT OF CONSISTENCY**

Description: Board of Aldermen Map Amendment Request to rezone 140 Broadview Road and at 122 Broadview Road, PINs 8615-69-9255 and 8615-69-8390, from North Main Neighborhood Center to East Waynesville Urban Residential as part of an Overlay District

Date: October 9, 2018

The Board of Aldermen hereby adopts the following statement:

The zoning map amendment **is approved and is consistent with the Town’s comprehensive land use plan** because it meets the following goals and objectives of the Town of Waynesville’s comprehensive 2020 Land Development Plan:

- “Designate appropriate amounts of land to reflect desired development patterns and to accommodate the projected residential, commercial, industrial, institutional and recreational needs of the Town of Waynesville over the next twenty years.” (Page 4-2)
- “Promote infill development in the Town of Waynesville as an alternative to continued outward expansion.” (Page 4-4)
- “Work to preserve the important character and scale of each unique area within the larger Waynesville community by building on those elements identified as important to defining each area.” (Page 4-5)

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

1. The historic use of this area is as mixed-use with some commercial property and there exists several professional offices and personal services already;
2. The topography to the rear of these properties creates a natural barrier to abutting residents, while the frontage of these properties along Broadview face the commercial uses;
3. The amendment creates limited commercial opportunities of a scale and character to the underlying East Waynesville Urban Residential District, consistent with the purpose and intent of mixed-use overlay and in a similar fashion to existing “MXO” areas as designated in the Town’s Table of Permitted Uses.

Alderman \_\_\_\_\_, made a motion, seconded by \_\_\_\_\_

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

\_\_\_\_\_  
Gavin Brown, Mayor

\_\_\_\_\_  
Eddie Ward, Clerk, Date

**ORDINANCE NO. O-20-18**

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

**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 land development regulations, clarify such regulations, and may amend said regulations from time to time in the interest of the public health, safety and welfare; and

**WHEREAS**, this Ordinance is consistent with the Town's 2020 Land Development Plan and the Board of Aldermen has adopted a statement of consistency pursuant to NCGS 160A-383 by separate action; and

**WHEREAS**, the Town of Waynesville Planning Board has reviewed the proposed amendment to the text of the ordinance and recommends its enactment by the Board of Aldermen; and

**WHEREAS**, after notice duly given, a public hearing was held on October 9, 2018;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON OCTOBER 9, 2018, AND WITH A MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:**

1. To amend the Town's Zoning Map by rezoning 120 and 140 Broadview, PINs 8615-69-9255 and 8615-69-8390 from North Main Street Neighborhood Center (NM-NC) to East Waynesville Urban Residential within the Mixed-Use Overlay (EW-UR MXO).

**ADOPTED** this the Ninth Day of October, 2018.

TOWN OF WAYNESVILLE

\_\_\_\_\_  
Gavin A. Brown, Mayor

ATTEST:

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

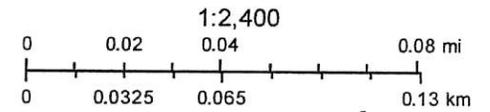
APPROVED AS TO FORM:

\_\_\_\_\_  
Bill Cannon, Town Attorney

# Haywood County



September 11, 2018



 Proposed East Waynesville Urban Residential Mixed-Use Overlay

 PROPOSED REZONING

Resolution No. R-17-18

Amendment No. 1 to the 2018-2019 Financial Operating Plan For Internal Service Funds

WHEREAS, the Board of Aldermen of the Town of Waynesville, wishes to amend the financial operating plans of the internal service funds.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville that the 2018-2019 financial operating plans of the internal service funds is amended as follows:

Increase the following revenues:

Charges to other funds		
Charges to General Fund	813650-453610	\$ 23,410
Charges to Water Fund	813650-453661	4,540
Charges to Sewer Fund	813650-453662	4,290
Charges to Electric Fund	813650-453663	2,560
		<hr/>
Total charges to other funds		\$34,800

Increase the following appropriations:

Public Facilities-Inside		
Other Contractual Svcs.	814261-545900	\$34,800

(Costs associated with the Town's Microsoft Office 365 migration. These costs are for the Office 365 E3 GCC annual subscription. The subscription is needed to upgrade the town's e-mail service.)

Adopted this 9th day of October 2018.

Town of Waynesville

---

Gavin A Brown  
Mayor

Attest:

---

Eddie Ward  
Town Clerk

Approved As To Form:

---

William E Cannon Jr  
Town Attorney



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***Town of Waynesville, NC***  
***VC3Advantage Work Order***  
***MS Office 365 Migration and Subscription***

under the Master Services Agreement, dated 9/25/2012

September 13, 2018

1301 Gervais Street, Suite 1800 | Columbia, SC 29201  
800.787.1160

## TABLE OF CONTENTS

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## 1. OVERVIEW OF WORK ORDER

This Work Order is part of, and incorporated into, the Master Services Agreement between Town of Waynesville, NC and VC3, Inc. and is subject to the terms and conditions of the Agreement and any definitions contained in the Agreement. If any provision of this Work Order conflicts with the Agreement, the terms and conditions of the Agreement shall control

## 2. SUMMARY OF SCOPE OF SERVICES AND FEES

VC3 will migrate Customer's email services and Microsoft Office licenses to Microsoft Office 365, which offers the following benefits over the current environment:

- OneDrive for Business gives your users vastly increased cloud-based storage for an affordable price.
- VOA users can store data in the OneDrive VOA Local Cache at \$0.08/GB monthly for a significant cost reduction compared to normal VOA storage. Data stored in this cache is not backed up or protected apart from the OneDrive file synchronization services provided by Microsoft.<sup>1</sup>
- Users get the full Microsoft Office productivity suite accessible online.
- Users can work from anywhere, even beyond the VOA environment, such as with laptops and mobile devices accessing Office 365-housed documents via the Microsoft OneDrive application (mobile version of Microsoft Office). Each user is allowed up to five Office 365 activations in addition to their hosted desktop.<sup>2</sup>
- Skype for Business license is included for each E3 user.
- SharePoint Online license is included for each E3 user.<sup>3</sup>
- Ability to search across the entire 365 platform – across emails, OneDrive, SharePoint etc. with a single search request, making compliance functions easier for organizations.

<sup>1</sup> Migration of data from current locations to OneDrive is not included in this work order but is available as an option for additional cost.

<sup>2</sup> Installation/setup for users' non-VOA devices is available as an option for additional cost.

<sup>3</sup> Implementation of SharePoint Online is not included in this work order but is available as an option for additional cost.

VC3 will provide the services listed in Addendum A. This Work Order shall have a term of 12 months unless terminated in accordance with the terms of the Master Services Agreement. Its Effective Services Start date shall be the same as the services start date for the Microsoft Office 365 Government Community Cloud (GCC) annual subscription which will be purchased following the execution of this Work Order. The terms of this work order will automatically renew for an additional term of equivalent length to the current active term unless notice of termination is provided to VC3 no fewer than 90 calendar days prior to expiration of the current active term.

This Work Order modifies the active VOA Agreement number VC3INC-1097-15065 signed 1/6/2014. Under the VOA Agreement, the Monthly Fee line items from Table A will be included into the customers' active VOA Agreement and will be subject to the same terms as all items billed under that agreement. The Email Archiving services will continue to have the same terms as in the active VOA Agreement and will apply to the full count of licensed mailboxes provided by E3 or Exchange Online Plan 1 line items.

**Table A: Fees**

Description	Units	Unit Price	VOA Agreement Monthly Fee	Office 365 Annual Fee	One-Time Fee
Migration Services	1		\$ -		\$ 8,041.25
Office 365 E3 GCC Annual Subscription	127	\$ 240.00		\$ 30,480.00	
VOA Seat	-127	\$ 140.00	\$ (17,780.00)		
VOA Seat *	127	\$ 124.00	\$ 15,748.00		
FSLogix for OneDrive for VOA users	127	\$ 1.16	\$ 147.32		
OneDrive VOA Local Cache per GB **		\$ 0.08	\$ -		
Exchange Account	-90	\$ 12.50	\$ (1,125.00)		
Exchange Online Plan 1 GCC Annual Subscription ***	90	\$ 48.00		\$ 4,320.00	
Exchange Online Plan 1 Monthly Support	90	\$ 4.00	\$ 360.00		
Optional Hourly Installation or Support Services		\$ 133.00	\$ -		
<b>Total</b>			<b>\$ (2,649.68)</b>	<b>\$ 34,800.00</b>	<b>\$ 8,041.25</b>

\* Each VOA Seat is paired with one Office 365 E3 GCC Annual Subscription. Under the Microsoft SPLA licensing model previously in use, each VOA Seat had the Microsoft Office licenses included. This licensing model is annual instead of monthly, so the costs are now being separated. While VOA Seats can continue to be adjusted monthly, additions of VOA seats in excess of the Unit count above will require the purchase of additional Office 365 E3 GCC Annual Subscriptions.

\*\* Actual usage will be billed monthly.

\*\*\* Unit price is based on current Microsoft MSRP and will be adjusted if Microsoft pricing changes during the contract term. This line and the following line replace the \$12.50 "Exchange Account" line item on the VOA Contract.

### 3. INVOICING

VC3 will invoice Customer per Table B. VC3 will invoice the One-Time implementation fee upon receipt of the signed customer work order. Annual Fees shall be invoiced upon receipt of the signed customer work order for the first term and subsequent annual terms shall be invoiced at the beginning of the new annual term. Monthly Fees shall be invoiced under the active VOA Agreement. If additional services are activated during the course of a month then fees associated with those services will be included in the next customer invoice. Any taxes related to services purchased or licensed pursuant to this Work Order shall be paid by customer or customer shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes and freight charges shall be billed as a separate item on the invoice. Unit rates will increase 3% annually on the anniversary of the Effective Services Start Date.

**Table B**

<b>Milestone Billing</b>	<b>Milestone Description / Date</b>
<b>One-Time Fee</b>	One-time fee invoiced at the signing of Work Order
<b>Annual Fee</b>	Annual fee invoiced at the signing of the Work Order
<b>Monthly Fee</b>	Invoicing to begin at Effective Services Start Date

Refer to Table A for One-Time, Annual, and Monthly fee amounts

#### **VC3, Inc.**

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

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

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

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

#### **Town of Waynesville, NC**

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

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

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

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

#### 4. ADDENDUM A – DESCRIPTION OF MIGRATION SERVICES

**Hosting Setup:**

- a. Activate Office 365 Government Community Cloud (GCC) E3 license for each VOA seat (managed device).
- b. Activate Exchange Online Plan 1 license for each additional Exchange seat.
- c. Provision Office 365 GCC Cloud-based services
- d. Migrate email into Microsoft Office 365 GCC Exchange Online environment.
- e. Upgrade VOA installation of Microsoft Office to current version.
- f. Provide documentation to assist users with installing Office 365 software on additional devices beyond the VOA environment.
- g. Setup and configuration of VOA FSLogix OneDrive cache.

**Out of Scope:** Setup of Office Suite outside of VOA (for example, on mobile devices and personal laptops) is not part of the standard migration services but can be included as an option for an additional fee.

Ordinance No. O-17-18

Amendment No. 2 to The 2018-2019 Budget Ordinance

WHEREAS, the Board of Aldermen of the Town of Waynesville, wishes to amend the 2018-2019 Budget Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville that the 2018-2019 Budget Ordinance be amended as follows:

General Fund:

Increase the following revenues:

Other Financing Sources		
Fund Balance Appropriation	103900-493992	\$23,410
		<hr/>
Total General Fund revenue increase		\$23,410

(Revenue needed to fund Amendment # 1 to the 2018-2019 Financial Operating Plan for Internal Service Funds. )

Increase the following appropriations:

Governing Board		
Internal Service Costs	104110-548100	\$ 240
Administration		
Internal Service Costs	104120-548100	1,110
Finance Department		
Internal Service Costs	104130-548100	1,430
Police Department		
Internal Service Costs	104310-548100	7,650
Fire Department		
Internal Service Costs	104340-548100	2,840
Streets and Sanitation Department		
Internal Service Costs	104510-548100	4,980
Cemetery Department		
Internal Service Costs	104740-548100	320
Planning and Inspections		
Internal Service Costs	104910-548100	1,270
Recreation Department		
Internal Service Costs	106120-548100	3,570

(Increased allocation costs associated with Amendment # 1 to the 2018-2019 Financial Operating Plan for Internal Service Funds. General Fund's share of allocated costs associated with the Microsoft Office 365 migration (up grade of the Town's e-mail service).)

Total General Fund appropriation increase		<hr/> \$ 23,410
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Water Fund:  
Increase the following revenues:

Other Financing Sources		
Fund Balance Appropriation	613900-493992	\$ 4,540
		<hr/>
Total Water Fund revenue increase		\$ 4,540

(Revenue needed to fund Amendment # 1 to the 2018-2019  
Financial Operating Plan for Internal Service Funds. )

Increase the following appropriations:

Water Maintenance		
Internal Service Costs	617121-548100	\$ 2,420
Water Treatment		
Internal Service Costs	617122-548100	2,120

(Increased allocation costs associated with Amendment # 1 to the  
2018-2019 Financial Operating Plan for Internal Service Funds.  
Water Fund's share of allocated costs associated with the Microsoft  
Office 365 migration (up grade of the Town's e-mail service).)

Total Water Fund appropriation increase \$ 4,540

Sewer Fund:  
Increase the following revenues:

Other Financing Sources		
Fund Balance Appropriation	623900-493992	\$ 4,290
		<hr/>
Total Sewer Fund revenue increase		\$ 4,290

(Revenue needed to fund Amendment # 1 to the 2018-2019  
Financial Operating Plan for Internal Service Funds. )

Increase the following appropriations:

Sewer Maintenance		
Internal Service Costs	627121-548100	\$ 1,730
Sewer Treatment		
Internal Service Costs	627122-548100	2,560

(Increased allocation costs associated with Amendment # 1 to the  
2018-2019 Financial Operating Plan for Internal Service Funds.  
Sewer Fund's share of allocated costs associated with the Microsoft  
Office 365 migration (up grade of the Town's e-mail service).)

Total Sewer Fund appropriation increase \$ 4,290

Electric Fund:  
Increase the following revenues:

Other Financing Sources	
Fund Balance Appropriation 633900-493992	\$ 2,560

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Total Electric Fund revenue increase	\$ 2,560
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(Revenue needed to fund Amendment # 1 to the 2018-2019  
Financial Operating Plan for Internal Service Funds. )

Increase the following appropriations:

Electric Maintenance	
Internal Service Costs 637121-548100	\$ 2,560

(Increased allocation costs associated with Amendment # 1 to the  
2018-2019 Financial Operating Plan for Internal Service Funds.  
Electric Fund's share of allocated costs associated with the Microsoft  
Office 365 migration (up grade of the Town's e-mail service).)

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Total Electric Fund appropriation increase	\$ 2,560
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Adopted this 9th day of October 2018.

Town of Waynesville

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Gavin A Brown  
Mayor

Attest:

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Eddie Ward  
Town Clerk

Approved As To Form:

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William E Cannon Jr  
Town Attorney

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REQUEST FOR BOARD ACTION  
Meeting Date: October 9, 2018**

**SUBJECT:** Request approval of a five (5) year rate locked contract for retiree benefit administration

**AGENDA INFORMATION:**

**Agenda Location:** New Business  
**Item Number:** D8  
**Department:** Administrative Services  
**Contact:** Amie Owens, Assistant Town Manager  
**Presenter:** **Amie Owens, Assistant Town Manager**

**BRIEF SUMMARY:** When retirees leave the service of the Town of Waynesville, if they are still eligible, they have the option to purchase certain benefits from the Town at a group rate. The retirees have been receiving a utility bill for these charges and paying the Town directly for these benefits. Rather than continue billing for these benefits in house, we would like to utilize a third-party for administration.

We currently utilize Flores for our COBRA and HSA Administration, the administration/billing for retiree benefits will allow for a standardized billing cycle. Currently, these benefits are billed at varying times during the billing cycles. This change would allow for the Town to remove themselves from the process. Flores would receive a monthly report for those who remain eligible for benefits and any new retirees.

The proposal includes the cost of \$4.95 per retiree, per month to provide a bill to retirees for benefits.

**MOTION FOR CONSIDERATION:** To approve the five (5) year rate locked contract with Flores for the administration of retiree benefits

**FUNDING SOURCE/IMPACT:** While the total cost of the contract is minimal; due to the fact it is a multi-year contract, the Board must approve. This will save the associated costs of various staff members' time, postage and confusion as to when bills are due.

**ATTACHMENTS:**

- Proposal from Flores

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

## Confirmation of Coverage

Below is a confirmation of the active services with Flores, along with the current rates listed:

### FSA Pricing Summary

<b>Administrative Fee</b> (Per Participant per Month) <i>Participant may have one or both accounts (MRA/Limited FSA and/or DCRA)</i>	\$5.00
<b>Debit Card Fee</b> (Per Participant per Month) <i>Note: 5% of the annual Medical FSA election amounts will be required for pre-funding</i>	Included
<b>Monthly Minimum Billing Requirement</b>	\$100.00

### COBRA Pricing Summary

<b>2% COBRA Administrative Fee</b>	Retained by Flores
<b>Monthly Flat Rate Administration Fee</b> (Per Insured Employee per Month)	\$0.75
<b>Generation of New Hire COBRA Notifications</b>	\$2.00
<b>Monthly minimum billing requirement</b>	\$50.00
<b>Other Possible Service Fees</b>	
Open Enrollment Material Distribution Fee	\$10.00 per package plus printing & postage
QEs in excess of 20% turnover	\$3.75 each
Bulk mailing of Initial Notices - OE	\$2.00 each

### HRA Pricing Summary

<b>Administrative Fee</b> (Per Participant Per Month)	\$3.00
<b>Monthly Minimum Billing Requirement</b>	\$150.00

### Direct Billing Pricing Summary

<b>Direct Bill/Retiree/LOA Billing</b> (Per Participant per Month)	\$4.95
<b>Monthly minimum billing requirement</b>	N/A
<b>Other Possible Service Fees</b>	
Open Enrollment Material Distribution Fee	\$10.00 per package plus printing & postage

### Other Possible Service Fees

Relationship Termination/Cancellation Fee	None with 60-day notice
Custom Data Interface	Rare, customer quote
Paper Enrollment in the second and subsequent years	Rare, \$2.00 per participant
Annual re-enrollment kits (hard copy)	\$0.35 each
<i>Most use the re-enrollment kit pdf option at no charge</i>	
If the debit card is utilized for a plan design, then 5% of the annual election amounts will be required as pre-funding to begin a debit card reimbursement relationship.	

We request you return this agreement within 5 business days of your receipt to confirm that our rates are correct. Please feel free to call me should you have any questions or concerns.

Sincerely,

Hollie White  
Account Manager

# Confirmation of Coverage Agreement

**Flores & Associates, LLC** is a firm characterized by objectivity, integrity and thoroughness. We will conduct our dealings with Town of Waynesville in the most ethical and professional manner possible. All information provided by Town of Waynesville to Flores & Associates, LLC will be treated in a confidential manner and will only be used by Flores & Associates, LLC to satisfy performance guarantees. Our goal is to provide Town of Waynesville with the highest level and quality of service available. It is our intent to ensure Town of Waynesville's satisfaction and to be fair and honorable in our dealings with you.

This agreement dated September 21, 2018, *with a five (5) year rate guarantee to administer the benefits listed above, effective July 1, 2018*, was prepared using the information provided to Flores & Associates, LLC by Town of Waynesville and constitutes the term of contract.

Acceptance of this agreement as presented to Town of Waynesville by Flores & Associates, LLC constitutes a legal contract. All terms and conditions outlined in this agreement are binding and the client agrees that Flores shall be the sole and exclusive provider for the services listed in this contract during the term of the contract. This agreement is a supplement to all previous Administration Agreements. Additional services may be added from time to time by amending this agreement and in accordance with its general terms.

Sincerely,

**Flores & Associates, LLC**

By:  Title: President  
Mario J. Flores, Jr.

Date: September 21, 2018

**Town of Waynesville**

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

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

rev 09/2017

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN  
REQUEST FOR BOARD ACTION  
Meeting Date: October 9, 2018**

**SUBJECT:** Sale of three easements for Walnut Street/N. Main Roundabout

**AGENDA INFORMATION:**

**Agenda Location:** Manager's Report  
**Item Number:** E9  
**Department:** Administrative Services  
**Contact:** Rob Hites, Town Manager  
**Presenter:** **Amie Owens, Assistant Town Manager**

**BRIEF SUMMARY:** NC DOT is offering to purchase three permanent easements from the Town to install utilities and drainage improvements in connection with the Walnut Street. /N. Main Street Roundabout project. The first offer involved two drainage easements adjacent to property the Town owns in connection with the park. They offer \$16,500 for .280 acres (12,196 sq. ft.). The per acre value would be \$58,932. The second parcel is currently a planting strip down from the Fire Station. DOT offers \$19,000 for .850 acres (37,026 sq. ft.) They intend to use the property as a location for utilities. The acquisition is also for a "permanent easement". The per acre value for this parcel is \$22,350.

**MOTION FOR CONSIDERATION:** To approve the sale of the three easements/rights of way to the NC DOT.

**FUNDING SOURCE/IMPACT:** Total sale is \$35,500. Proceeds would be charged to general fund miscellaneous revenue

**ATTACHMENTS:**

- Utility Easement & Map
- Deed for Highway Right of Way & Map

**MANAGER'S COMMENTS AND RECOMMENDATIONS:** The Town will benefit from the relocation of Vance Street and relocation of the creek. The drainage improvements will enhance the drainage system in the area. The planting area will be used to relocate utilities to accommodate the roundabout. Both involve the acquisition of easements as opposed to purchase of fee simple property so price per acre would be lower than the parcel the Town conveyed during your last meeting.

Revenue Stamps \$ \_\_\_\_\_

## DEED FOR HIGHWAY RIGHT OF WAY

THIS INSTRUMENT DRAWN BY Todd H Woodard CHECKED BY \_\_\_\_\_

The hereinafter described property  Does  Does not include the primary residence of the Grantor

RETURN TO: Frankie J Dills Jr. Division R/W Agent, NCDOT  
1594 E Main ST  
Sylva NC 28779

NORTH CAROLINA  
COUNTY OF Haywood  
TAX PARCEL \_\_\_\_\_

TIP/PARCEL NUMBER: U-5888 015  
WBS ELEMENT: 44625.2.1  
ROUTE: Intersection of US 23 BUS  
(N Main ST) & Walnut ST

THIS FEE SIMPLE DEED, made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_  
by and between Town of Waynesville, NC

hereinafter referred to as GRANTORS, and the Department of Transportation, an agency of the State of North Carolina, 1546 Mail Service Center, Raleigh, NC 27611, hereinafter referred to as the Department;

### WITNESSETH

That the GRANTORS, for themselves, their heirs, successors, and assigns, for and in consideration of the sum of \$ \_\_\_\_\_ agreed to be paid by the DEPARTMENT to the GRANTORS, do hereby give, grant and convey unto the DEPARTMENT, its successors and assigns, in FEE SIMPLE that certain property located in Waynesville Township, Haywood County, North Carolina, which is particularly described as follows:

**Point of beginning being S 25°10'52.0" W, 55.011 feet from -Y5- Sta 11+00 thence along a curve 154.315 feet and having a radius of 2732.644 feet. The chord of said curve being on a bearing of N 14°25'41.4" E, a distance of 154.295 feet thence to a point on a bearing of N 73°57'14.6" W 5.000 feet thence along a curve 46.932 feet and having a radius of 2737.644 feet. The chord of said curve being on a bearing of S 15°33'17.4" W, a distance of 46.932 feet thence along a curve 107.755 feet and having a radius of 815.000 feet. The chord of said curve being on a bearing of S 11°16'33.8" W, a distance of 107.676 feet returning to the point and place of beginning.**

IN ADDITION, and for the aforesated consideration, the GRANTORS further hereby convey to the DEPARTMENT, its successors and assigns the following described areas and interests:

Permanent Drainage Easement described as follows:

Point of beginning being N 78°45'19.4" W, 15.000 feet from -Y5- Sta 11+00 thence to a point on a bearing of N 78°45'19.4" W 30.000 feet thence to a point on a bearing of S 10°31'42.3" W 21.124 feet thence to a point on a bearing of S 80°11'16.0" E 30.000 feet thence along a curve 20.375 feet and having a radius of 815.000 feet. The chord of said curve being on a bearing of N 10°31'42.3" E, a distance of 20.374 feet returning to the point and place of beginning.

Said Permanent Drainage Easement in perpetuity is for the installation and maintenance of drainage facilities, and for all purposes for which the DEPARTMENT is authorized by law to subject same. The Department and its agents or assigns shall have the right to construct and maintain in a proper manner in, upon and through said premises a drainage facility with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said drainage facility and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said drainage facility, all trees and other obstructions that may in any way endanger or interfere with the proper maintenance and operation of the same with the right at all times of ingress, egress and regress.

It is understood and agreed that the Department shall have the right to construct and maintain the cut and/or fill slopes in the above-described Permanent Drainage Easement area(s). It is further understood and agreed that Permanent Drainage Easement shall be used by the Department for additional working area during the above described project. The underlying fee owner shall have the right to continue to use the Permanent Drainage Easement area(s) in any manner and for any purpose, including but not limited to the use of said area for access, ingress, egress, and parking, that does not, in the determination of the Department, obstruct or materially impair the actual use of the easement area(s) by the Department of Transportation, its agents, assigns, and contractors.

Drainage Utility Easement described as follows:

Point of beginning being S 23°59'40.0" W, 183.889 feet from -Y5- Sta 11+00 thence along a curve 44.594 feet and having a radius of 4963.547 feet. The chord of said curve being on a bearing of N 34°42'53.1" E, a distance of 44.594 feet thence along a curve 42.495 feet and having a radius of 107.904 feet. The chord of said curve being on a bearing of N 23°10'30.5" E, a distance of 42.221 feet thence along a curve 43.758 feet and having a radius of 2732.644 feet. The chord of said curve being on a bearing of N 12°21'6.0" E, a distance of 43.757 feet thence to a point on a bearing of S 54°33'5.4" W 50.941 feet thence to a point on a bearing of S 12°32'48.9" W 84.796 feet thence to a point on a bearing of S 55°23'5.5" E 10.386 feet returning to the point and place of beginning.

Said Permanent Drainage/Utility easement in perpetuity is for the installation and maintenance of drainage facilities and/or utilities, and for all purposes for which the DEPARTMENT is authorized by law to subject same. The Department and its agents or assigns shall have the right to construct and maintain in a proper manner in, upon and through said premises a drainage facility and/or utility line or lines with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said drainage facility and/or utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said drainage facility and/or utility lines, all trees and other obstructions that may in any way endanger or interfere with the proper maintenance and operation of the same with the right at all times of ingress, egress and regress. It is understood and agreed that the Department shall have the right to construct and maintain the cut and/or fill slopes in the above-described permanent drainage/utility easement area(s). It is further understood and agreed that Permanent Drainage/Utility Easement shall be used by the Department for additional working area during the above described project. The underlying fee owner shall have the right to continue to use the Permanent drainage/Utility Easement area(s) in any manner and for any purpose, including but not limited to the use of said area for access, ingress, egress, and parking, that does not, in the determination of the Department, obstruct or materially impair the actual use of the easement area(s) by the Department of Transportation, its agents, assigns, and contractors.

SPECIAL PROVISIONS. This deed is subject to the following provisions only: N/A

The property hereinabove described was acquired by the GRANTORS by instrument(s) recorded in the Haywood County Registry in Deed Book \_\_\_\_\_ Page \_\_\_\_\_

The final right of way plans showing the above described right of way are to be certified and recorded in the Office of the Register of Deeds for said County pursuant to N.C.G.S. 136-19.4, reference to which plans is hereby made for purposes of further description and for greater certainty.

COUNTY: HAYWOOD WBS ELEMENT: 44625.2.1 TIP/PARCEL NO.: U-5888 015

The Grantors acknowledge that the project plans for Project # 44625.2.1 have been made available to them. The Grantors further acknowledge that the consideration stated herein is full and just compensation pursuant to Article 9, Chapter 136 of the North Carolina General Statutes for the acquisition of the said interests and areas by the Department of Transportation and for any and all damages to the value of their remaining property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of Department of Transportation Project # 44625.2.1, Haywood County, and for the past and future use of said areas by the Department of Transportation, its successors and assigns for all purposes for which the said Department is authorized by law to subject the same.

TO HAVE AND TO HOLD the aforesaid premises and all privileges and appurtenances thereunto belonging to the DEPARTMENT, its successors and assigns in FEE SIMPLE, or by easement as indicated, for the past, present and future use thereof and for all purposes which the said Department is authorized by law to subject the same.

And the GRANTORS covenant with the DEPARTMENT, that the GRANTORS are seized of the premises in fee simple, have the right to convey the same in fee simple, or by easement as indicated, that the title thereto is marketable and free and clear of all encumbrances, and that the GRANTORS will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is hereby conveyed subject to the following exceptions:  
NONE

IN WITNESS WHEREOF, the GRANTORS have hereunto set their hands and seals (or if corporate, has caused the instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors) the day and year first above written.

This instrument does not transfer the herein described interests unless and until this document is accepted by an authorized agent of the Department of Transportation.

Town of Waynesville

(SEAL) BY: Gavin A. Brown, Mayor of Town of Waynesville

ATTEST: \_\_\_\_\_, Clerk of Town of Waynesville

ACCEPTED FOR THE DEPARTMENT OF TRANSPORTATION BY: \_\_\_\_\_

(Official Seal)	North Carolina, _____ County
	I, _____, a Notary Public for _____ County, North Carolina, certify that _____ personally came before me this day and acknowledged that he/she is the CLERK of the TOWN OF _____, a Municipal Corporation, and that by authority duly given, and as the act of the Corporation, the foregoing instrument was signed in its name by its MAYOR, sealed with its corporate seal, and attested by himself/herself as its CLERK. Witness my hand and official seal this the _____ day of _____, 20 _____.
	_____ Notary Public
	My commission expires: _____



**SUMMARY STATEMENT/CONTINGENT OFFER TO PURCHASE REAL PROPERTY  
DUE TO THE ACQUISITION OF RIGHT OF WAY AND DAMAGES**

TO: Town of Waynesville  
P.O. Box C 100  
Waynesville, NC 28786

DATE: 10/02/2018  
TO: Lessee, if Applicable

TIP/PARCEL NO.: U-5888 015  
COUNTY Haywood  
DESCRIPTION: Intersection of US 23 BUS. (North Main Street) and Walnut Street.

WBS ELEMENT: 44625.2.1

Dear Property Owner:

The following contingent offer of just compensation is based on the fair market value of the property and is not less than the approved appraised value for the appropriate legal compensable interest or interests. The approved value disregards any increase or decrease in the fair market value of the property acquired due to influence caused by public knowledge of this project. The contingent offer of just compensation is based on an analysis of market data, comparable land sales, and, if applicable, building costs in the area of your property. **Please retain this form as it contains pertinent income tax information.**

Value of Right of Way to be Acquired	\$ <u>2,800.00</u>
Value of Permanent Easements to be Acquired	\$ <u>16,000.00</u>
Value of Temporary Easement (Rental of Land) to be Acquired	\$ <u>0</u>
Value of Improvements to be Acquired	\$ <u>0</u>
Damages, if any, to Remainder	\$ <u>0</u>
Benefits, if any, to Remainder	minus \$ <u>0</u>
<b>TOTAL CONTINGENT OFFER</b>	<b>\$ <u>19,000.00</u></b>

The total contingent offer includes all interests other than leases involving Federal Agencies and Tenant owned improvements.

(A) Description of the land and effects of the acquisition

Subject property described in Deed Book 376, page 73, Haywood County Registry, contains approximately .850 acres of which .014 acres is being acquired as right of way, leaving .836 acres remaining on the /left severed without access Vance Street. Also being acquired is a /permanent drainage/ easement containing approximately .014 acres, a Drainage/Utility Easement (DUE) containing approximately .066 acres.

(B) The TOTAL CONTINGENT OFFER includes payment for the improvements and appurtenances described below:  
Entrance to park from Vance Street.

Provided there is sufficient time remaining in the project schedule, you may repurchase these improvements for a retention value, with the stipulation that you remove them from the acquisition area at no expense to the Department.

(C) Should you desire to sell the Department the portion of your property considered to be an uneconomic remnant or buildable lot, as explained to you by the Right of Way Agent, the total contingent offer would be: \$ \_\_\_\_\_  
Please note that any contingent offer to purchase a remnant/buildable lot is conditioned upon the remnant/buildable lot being environmentally clean prior to the conveyance to the Department. You may be required to provide the Department with a release from the appropriate environmental agency stating that all contaminants have been remediated and/or removed to their standards.

The original of this form was handed/mailed, if out of state owner, to Rob Hites  
on 10/02 20 18 . Owner was furnished a copy of  
the Right of Way Brochure/Owner's Letter.

I will be available at your convenience to discuss this matter further with you. My telephone number is 828-586-4040

Please be advised that the agent signing this form is only authorized to recommend settlement to the North Carolina Department of Transportation, and any recommended settlement is not a binding contract unless and until accepted by the North Carolina Department of Transportation by its formal execution of documents for conveyance of Right of Way, Easements, and/or other interests.



(Signed)

Todd Woodard - Senior Right of Way Agent

Revenue Stamps \$ \_\_\_\_\_

## PERMANENT UTILITY EASEMENT

THIS INSTRUMENT DRAWN BY Todd H Woodard CHECKED BY \_\_\_\_\_

RETURN TO: Frankie J Dills Jr. Division RW Agent, NCDOT  
1594 E Main ST  
Sylva NC 28779

NORTH CAROLINA  
COUNTY OF Haywood  
TAX PARCEL 8615-69-1679

TIP/PARCEL NUMBER: U-5888 024  
WBS ELEMENT: 44625.2.1  
ROUTE: Intersection of US 23 BUS  
(N Main ST) & Walnut ST

THIS EASEMENT, made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
by and between Town of Waynesville

hereinafter referred to as GRANTORS, and the Department of Transportation, an agency of the State of North Carolina, 1546 Mail Service Center, Raleigh, NC 27611, hereinafter referred to as the Department;

### WITNESSETH

THAT WHEREAS, the DEPARTMENT desires to construct and maintain a utility facility through and across the property of GRANTORS,

AND WHEREAS, GRANTORS, recognizing the benefits accruing to their said property through the construction and maintenance by the DEPARTMENT of roads and highways upon or in the vicinity of said property of GRANTORS,

NOW, THEREFORE, in consideration of said benefits, and further consideration of \$ \_\_\_\_\_ and other valuable considerations, GRANTORS hereby release the DEPARTMENT, its successors and assigns, from any and all claims for damages by reason of the construction and maintenance of said utility facility across and through the lands of GRANTORS, and GRANTORS hereby give, grant, bargain, sell and convey unto the DEPARTMENT, its successors, and assigns, an easement for the construction and maintenance of a utility facility across and through the property of GRANTORS located in Town of Waynesville Township, Haywood County, and being more fully described in a deed recorded in Book 466, Page 735, Haywood County Registry, said easement being described as follows:

Point of beginning being S 71°44'1.7" E, 156.379 feet from -L2- Sta 20+00 thence along a curve 1.356 feet and having a radius of 1280.311 feet. The chord of said curve being on a bearing of N 80°30'53.5" E, a distance of 1.356 feet thence to a point on a bearing of N 62°28'59.3" E 45.847 feet thence to a point on a bearing of N 62°28'59.3" E 12.656 feet thence to a point on a bearing of N 89°12'58.0" W 208.457 feet thence to a point on a bearing of S 2°13'33.0" W 11.003 feet thence to a point on a bearing of S 2°13'33.0" W 12.890 feet thence to a point on a bearing of S 87°42'56.8" E 156.267 feet returning to the point and place of beginning.

The final right of way plans showing the above described area are to be certified and recorded in the Office of the Register of Deeds for said county pursuant to N.C.G.S. 136-19.4, reference to which plans is hereby made for purposes of further description and for greater certainty.

Said Permanent Utility Easement in perpetuity is for the installation and maintenance of utilities, and for all purposes for which the DEPARTMENT is authorized by law to subject same. The Department and its agents or assigns shall have the right to construct and maintain in a proper manner in, upon and through said premises utility line or lines with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said utility lines, all trees and other obstructions that may in any way endanger or interfere with the proper maintenance and operation of the same with the right at all times of ingress, egress and regress. The underlying fee owner shall have the right to continue to use the Permanent Utility Easement area(s) in any manner and for any purpose, including but not limited to the use of said area for access, ingress, egress, and parking, that does not, in the determination of the Department, obstruct or materially impair the actual use of the easement area(s) by the Department of Transportation, its agents, assigns, and contractors.

It is understood and agreed that the Department shall have the right to construct and maintain the cut and/or fill slopes in the above-described permanent utility easement area(s). It is further understood and agreed that Permanent Utility Easement shall be used by the Department for additional working area during the above described project.

IN ADDITION, and for the aforesaid consideration, the GRANTORS further hereby convey to the DEPARTMENT, its successors and assigns the following described areas and interests:

Temporary Construction Easement described as follows:

Point of beginning being S 85°52'13.1" E, 325.555 feet from -L2- Sta 20+00 thence to a point on a bearing of N 89°12'58.0" W 123.000 feet thence to a point on a bearing of S 62°28'59.3" W 12.656 feet thence to a point on a bearing of S 89°12'58.0" E 134.143 feet thence to a point on a bearing of N 0°47'2.0" E 6.000 feet returning to the point and place of beginning.

The above described Temporary Construction Easement(s) will terminate upon completion and acceptance of the project. The underlying fee owner shall have the right to continue to use the Temporary Easement area(s) in any manner and for any purpose, including but not limited to the use of said area for access, ingress, egress, and parking, that does not, in the determination of the Department, obstruct or materially impair the actual use of the easement area(s) by the Department of Transportation, its agents, assigns, and contractors.

This easement is subject to the following provisions only: N/A

There are no conditions to this EASEMENT not expressed herein.

To HAVE AND TO HOLD said perpetual easement for highway purposes unto the DEPARTMENT, its successors and assigns, and the GRANTORS, for themselves, their heirs, successors, executors and assigns, hereby warrant and covenant that they are the sole owners of the property; that they solely have the right to grant the easement; and that they will forever warrant and defend title to the same against the lawful claims of all persons whomsoever;

The Grantors acknowledge that the project plans for Project # 44625.2.1 have been made available to them. The Grantors further acknowledge that the consideration stated herein is full and just compensation pursuant to Article 9, Chapter 136 of the North Carolina General Statutes for the acquisition of the said interests and areas by the Department of Transportation and for any and all damages to the value of their remaining property; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of Department of Transportation Project # 44625.2.1, Haywood County; and for the past and future use of said areas by the Department of Transportation, its successors and assigns for all purposes for which the said Department is authorized by law to subject the same.

COUNTY: Haywood WBS ELEMENT: 44625.2.1 TIP/PARCEL NO.: U-5888 024

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals (or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors) the day and year first above written.

This instrument does not transfer the herein described interests unless and until this document is accepted by an authorized agent of the Department of Transportation.

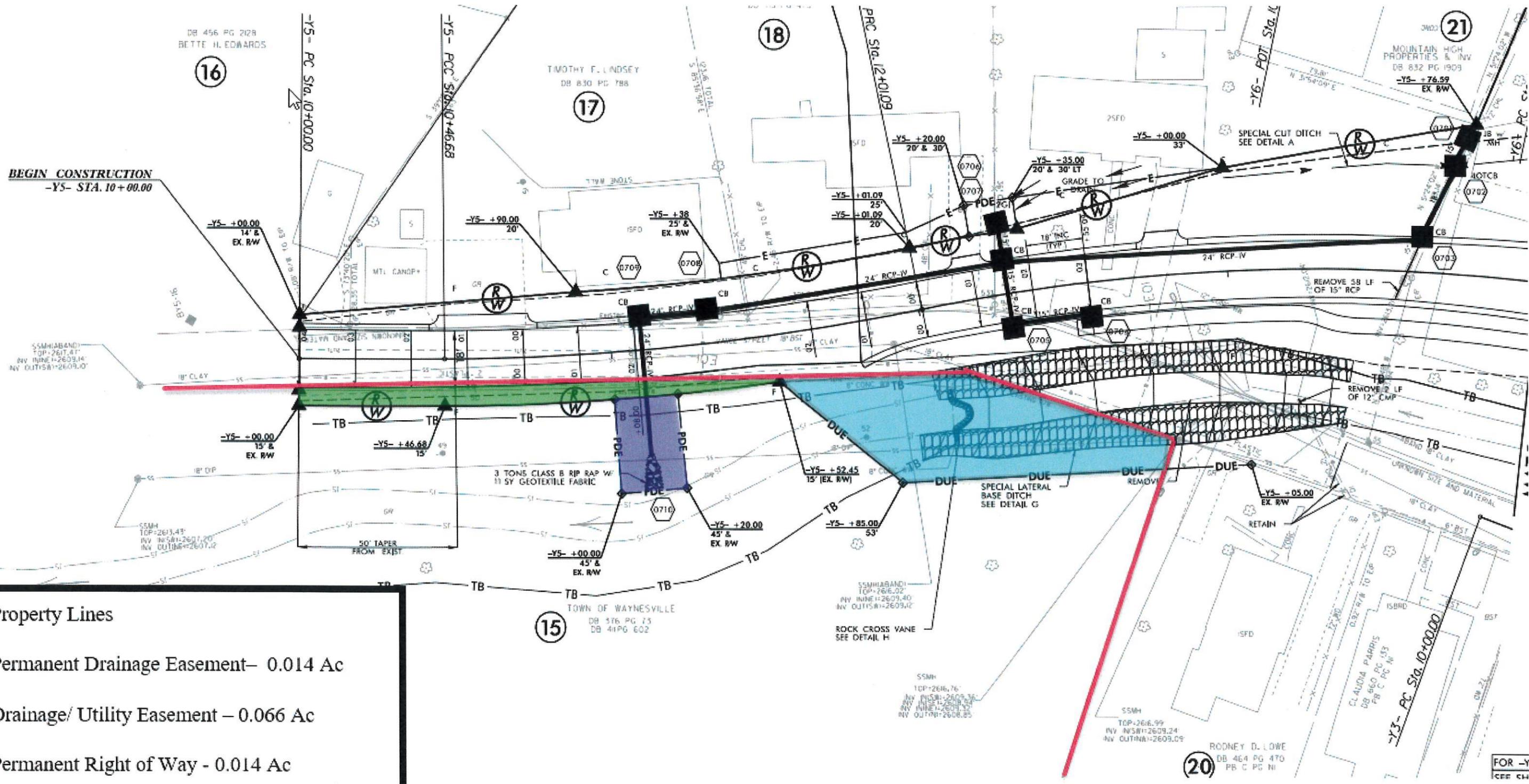
Town of Waynesville

(SEAL) BY: Gavin A. Brown, Mayor of Town of Waynesville

ATTEST: \_\_\_\_\_, Clerk of Town of Waynesville

ACCEPTED FOR THE DEPARTMENT OF TRANSPORTATION BY: \_\_\_\_\_

(Official Seal)	North Carolina, _____ County
	I, _____, a Notary Public for _____ County, North Carolina, certify that
	_____ personally came before me this day and acknowledged that he/she is the CLERK of the TOWN OF _____, a Municipal Corporation, and that by authority duly given, and as the act of the Corporation, the foregoing instrument was signed in its name by its MAYOR, sealed with its corporate seal, and attested by himself/herself as its CLERK. Witness my hand and official seal this the _____ day of _____, 20 _____.
	_____ Notary Public
	My commission expires: _____



- Property Lines
- Permanent Drainage Easement- 0.014 Ac
- Drainage/ Utility Easement - 0.066 Ac
- Permanent Right of Way - 0.014 Ac

FOR -Y  
OFF CH

**SUMMARY STATEMENT/CONTINGENT OFFER TO PURCHASE REAL PROPERTY  
DUE TO THE ACQUISITION OF RIGHT OF WAY AND DAMAGES**

TO: Town of Waynesville  
P.O. Box C 100  
Waynesville, NC 28786

DATE: 10/02/2018  
TO: Lessee, if Applicable

TIP/PARCEL NO.: U-5888 024  
COUNTY Haywood  
DESCRIPTION: Inters. Of US 23 Bus. (N. Main) and Walnut St.

WBS ELEMENT: 44625.2.1

Dear Property Owner:

The following contingent offer of just compensation is based on the fair market value of the property and is not less than the approved appraised value for the appropriate legal compensable interest or interests. The approved value disregards any increase or decrease in the fair market value of the property acquired due to influence caused by public knowledge of this project. The contingent offer of just compensation is based on an analysis of market data, comparable land sales, and, if applicable, building costs in the area of your property. **Please retain this form as it contains pertinent income tax information.**

Value of Right of Way to be Acquired	\$ <u>0</u>
Value of Permanent Easements to be Acquired	\$ <u>15,400.00</u>
Value of Temporary Easement (Rental of Land) to be Acquired	\$ <u>1,000.00</u>
Value of Improvements to be Acquired	\$ <u>0</u>
Damages, if any, to Remainder	\$ <u>0</u>
Benefits, if any, to Remainder	minus \$ <u>                    </u>
<b>TOTAL CONTINGENT OFFER</b>	<b>\$ <u>16,500.00</u></b>

The total contingent offer includes all interests other than leases involving Federal Agencies and Tenant owned improvements.

(A) Description of the land and effects of the acquisition

Subject property described in Deed Book 394, page 245, Haywood County Registry, contains approximately .280 acres of which .110 acres is being acquired as Permanent Utility Easement Also, being acquired is .018 acres of Temporary Construction Easement leaving .280 acres remaining.

(B) The TOTAL CONTINGENT OFFER includes payment for the improvements and appurtenances described below:  
N/A

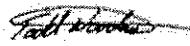
Provided there is sufficient time remaining in the project schedule, you may repurchase these improvements for a retention value, with the stipulation that you remove them from the acquisition area at no expense to the Department.

(C) Should you desire to sell the Department the portion of your property considered to be an uneconomic remnant or buildable lot, as explained to you by the Right of Way Agent, the total contingent offer would be: \$                     . Please note that any contingent offer to purchase a remnant/buildable lot is conditioned upon the remnant/buildable lot being environmentally clean prior to the conveyance to the Department. You may be required to provide the Department with a release from the appropriate environmental agency stating that all contaminants have been remediated and/or removed to their standards.

The original of this form was handed to Rob Hites on 08/23 20 18. Owner was furnished a copy of the Right of Way Brochure/Owner's Letter.

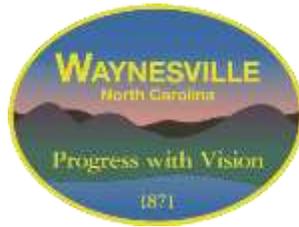
I will be available at your convenience to discuss this matter further with you. My telephone number is 828-586-4040

Please be advised that the agent signing this form is only authorized to recommend settlement to the North Carolina Department of Transportation, and any recommended settlement is not a binding contract unless and until accepted by the North Carolina Department of Transportation by its formal execution of documents for conveyance of Right of Way, Easements, and/or other interests.



(Signed)

Todd Woodard - Right of Way Agent



## MEMORANDUM

**TO:** Mayor and Town Board of Aldermen  
**FROM:** Robert W. Hites Jr.  
**DATE:** 10/9/2018  
**SUBJECT:** Options for street right of way trimming

The Town staff currently conduct street right of way clearing of any vegetation one foot behind the curb and up to fourteen feet above the ground. The intent is to keep the roadway clear of vegetation that may rub against vehicles, be a sight distance problem or hit the tops of trucks. Keeping the street rights of way clear of vegetation is a routine task for municipalities. How they go about this task is subject to governing board policy. No matter how right of way trimming is done in other NC municipalities the Board should ultimately choose one that fits their community.

Given the discussion during last month's Board meeting let me suggest some policy options for the Board's consideration.

- 1. Continue the current policy of trimming back growth that protrudes into the right of way.**
- 2. Send a printed notice to every property owner in the Town sixty (60) days before the Town staff begins street right of way clearing. The notice would alert the property owners to the upcoming right of way clearance and give them time to clear the right of way with their own contractors.**
- 3. Stop routine clearance of street rights of way except for intersections where noticeable sight distance issues arise. The owner of the property would be notified in writing of the issue and be given thirty (30) days to trim back the growth. After that the staff would trim it back to within a foot of the back of curb. Should a specific complaint be made regarding growth in the right of way the staff will notify the owner and give them thirty (30) days to trim it. After that time the growth would be cleared by the Town staff.**
- 4. Divide the Town into sections and field verify all areas where growth obstructs the curblines. Send a notice to all property owners that their growth extends into the right of way and give them thirty (30) days to remove it. Should the growth not be cut back the Town staff would remove it.**

Regardless of the Board's direction the crews involved with the clearing will be instructed to stop trimming if requested by the owner until the owner can meet with Mr. Hannah. The crew member will also be instructed in the common courtesy that our citizens expect.

Also Town Clerk Eddie Ward was able to provide contact information for a trainer for customer service skills; training will be completed in late November/early December by the NC Rural

Water Association (NCRWA) for all operational departments. NCRWA Customer Service Training was developed with those that communicate with customers on a daily basis and those that manage customer service operations in mind. From front desk staff to meter readers to workers on the routes to management, every professional that speaks to a customer can benefit from this interactive and practical training program.

Topics covered in the NCRWA Customer Service Training program will include the importance of Customer Service at every level, the basics of human interactions, communication skills required for good Customer Service. This training will be conducted onsite at the Public Services training facility.

It is our hope that having specific policy in place and provision of additional training will mitigate situations such as these in the future.