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AGENDA REGULAR MEETING

**HISTORIC PRESERVATION COMMISSION
TOWN HALL, 9 SOUTH MAIN STREET
FEBRUARY 5, 2025
WEDNESDAY – 2:00 PM**

A. CALL TO ORDER

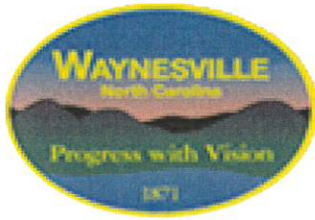
1. Welcome/Announcements
2. Approval of the December 4th, 2025 Minutes

B. BUSINESS ITEMS

1. Quasi-Judicial Training
2. CLG Grant Application Discussion
3. Schedule Tour of WCU Historical Archives
4. Historic Sign Updates

C. OTHER BUSINESS

D. ADJOURN



TOWN OF WAYNESVILLE

Historic Preservation Commission

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

Alex McKay-Chairman
Glenn Duerr-Vice Chairman
Clare Bass
Judi Donovan
Linda Ann Lee
Anne Marie Miller
Bill Revis
Caroline Williamson
Leisa Denti

Development Services
Director
Elizabeth Teague

Regular Meeting

Town Hall- 9 South Main Street, Waynesville, NC 28786
Wednesday, December 4th, 2024, 2:00 PM

The **WAYNESVILLE HISTORIC PRESERVATION COMMISSION** held a regular meeting on Wednesday, December 4th, 2024, at 2:00 p.m. in the Mezzanine Room.

A. CALL TO ORDER:

Chairman Alex McKay welcomed everyone and called the meeting to order at 2:00 p.m.

Mr. McKay introduced new member Leisa Denti and asked her to share a little about herself.

The following members were present:

Alex McKay
Clare Bass
Leisa Denti
Glenn Duerr
Judi Donovan
Bill Revis
Anne Marie Miller
Ann Melton (Emeritus)

The following members were absent:

Linda Ann Lee
Caroline Williamson

The following staff were present:

Elizabeth Teague, Development Services Director
Alex Mumby, Land Use Administrator
Esther Coulter, Administrative Assistant

A motion was made by Commission Member Bill Revis, seconded by Commission Member Judy Donovan, to approve the November 6th, 2024, minutes as presented or amended. The motion passed unanimously.

B. BUSINESS ITEMS:

1. America 250 NC- America's Semi-quincentennial Birthday

Elizabeth Teague, Development Services Director, explained that the State of North Carolina is offering a grant opportunity for the 250th anniversary of the signing of the Declaration of Independence. They are asking communities to organize events to commemorate this event. Haywood County has formed a commission to apply for one of these grants.

Ms. Teague introduced Mike McClain of the Haywood County Historical Society. He said Gov. Cooper has asked each county in North Carolina to form a committee to coordinate efforts. The committees would be applicable for a grant of \$10,000. Mr. McClain said in September of 2024 they held the Pioneer Heritage festival. The event was grant funded and allowed free admission for the public. Mr. McClain said it was very successful, and they would have another festival in 2025, and the 2026 Festival will be held at the Shelton Campus.

Mr. McClain offered the opportunity for a representative from the Historic Preservation Commission to join as a representative on Haywood County's grant commission. Commission Member Leisa Denti volunteered to be a member on the committee for Haywood County Historical Society.

Ms. Teague explained about the potential for Designated Historic Areas. These would be areas which do not meet the thresholds to be on the National Register, but which still hold cultural and historical importance to the Town of Waynesville. Potential areas for this designation include the Pigeon Community and Love Lane Neighborhood. The town could recognize these areas through the use of street sign toppers.

2. Committee updates.

- Commission Member Glenn Duerf said the coloring book delivery went well, and the kids really enjoyed having them.
- Commission Member Anne Marie Miller shared the tour book is about 95% finished.
- Chairman Alex McKay gave a draft copy of the Sulphur Springs sign to get suggestions of any changes.

C. ADJOURN

A motion was made by Vice Chairman Clare Bass, seconded by Commission Member Bill Revis to adjourn the meeting at 2:52pm. The motion carried unanimously.

Alex McKay, Chairman

Esther Coulter, Administrative Assistant



Coates' Canons NC Local Government Law

Making Quasi-Judicial Decisions

Published: 04/04/23

Author Name: Jim Joyce

Imagine, if you will: A long, contentious hearing over a controversial variance request has finally come to a close. The Board took careful steps to follow appropriate procedures related to notice, impartiality, and communication between board members and the public. Now it is time for the Board to deliberate, weigh its evidence, and reach a decision. This post addresses how they do so.

Quasi-judicial decisions (including the controversial variance request mentioned above) center around two things: the standards the Board* must apply and the evidence in the record that relates to those standards.

*I will refer to a board of adjustment in the rest of this post as “the Board” for ease of reference.

The body making a quasi-judicial decision in any given jurisdiction could be a board of adjustment or it could be a planning board or governing board that serves as the board of adjustment. Regardless of the form of the Board, these rules are the same.

Readers familiar with legislative decisions will recognize that these standards make quasi-judicial decisions quite different from legislative ones. Readers not familiar with the types of development regulatory decisions are encouraged to check out THIS post by Adam Lovelady. Governing boards do not make legislative decisions based on statutory or ordinance standards (in fact, they often set those standards). Instead, governing boards make legislative decisions based on policy reasoning and their

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political perspectives. On the other hand, quasi-judicial decisions *do* have guiding standards that the local or state government has set through the legislative process. The Board must apply those standards regardless of policy preferences or political pressures.

Oxford Languages defines “quasi-” as “being partly or almost” and defines “judicial” as “of, by, or appropriate to a court or judge.” So a decision that is “quasi-judicial” is one that is partly like a court’s decision. As a result, any Board making a quasi-judicial decision must follow certain procedural rules that protect the rights of the parties, a bit like a court might do. Some of those rules refer to the hearing process. Others refer to the way the Board decides the case once the evidence is in. Below are the key

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rules about how deliberation should take place, what evidence should be the basis of the Board's decision, what decisions the Board can make, how they take action to reach their decision, and how the final decision gets formalized.

Deliberations must happen in public.

Once the presentation of evidence is complete, it is time for the Board to review the evidence and discuss how they will decide the matter. A Board is a public body making a public decision about an individual's property rights. Consequently, North Carolina open meetings laws apply to their deliberations. A bit more on open meetings laws can be found in [THIS](#) blog by Kristina Wilson, and much more can be found in [THIS](#) book by Frayda Bluestein.

Because open meetings laws apply to the Board acting in a quasi-judicial capacity, all of the Board's debate must happen during open session. There are very limited exceptions for boards to go into closed session and most do not apply to quasi-judicial proceedings. For this reason, the Board may not go into closed session to discuss the case privately.

A Board may continue the quasi-judicial item until a subsequent meeting, but this path is fraught with peril and should only be undertaken very carefully. Specifically, Board members must not engage in any discussion, deliberation, or fact-gathering between meetings. Such activity could violate the due process rights that must be afforded to an applicant or property owner in a quasi-judicial matter.

Another danger with continuance is whether additional evidence can be taken at the next meeting. Here, whether the hearing is closed or not becomes a significant factor. If the Board holds the hearing open from one meeting to the next, it can accept new evidence at the continued hearing. If the Board closes the hearing, on the other hand, it has moved on to the deliberation phase and can accept no new evidence.

The decision must be based on competent, material, and substantial evidence in the record.

"Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record." G.S. 160D-406(j). This concept is included in the statutory rules regarding quasi-judicial procedures and is repeated in just about every case concerning quasi-judicial decision-making. So what counts as "competent, material, and substantial evidence in the record"? What *can* serve as the basis for answering a quasi-judicial question? Let us look at each term in that phrase:

First, **competent evidence** is trustworthy, reliable evidence. For documents, the rules are much looser than they would be in a court of law, but a Facebook post from an unknown source or the neighborhood conspiracy theorist might not be competent. When it comes to testimony, the witness should have first-hand knowledge of the matter about which they are speaking. For instance, I know what my

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neighborhood looks like and in a general sense how often people and cars come by. On the other hand, can I talk about traffic in Waxhaw if I only have heard about it from my cousin's roommate's best friend? Probably not.

Another key point relates to opinion testimony. Much like in an actual court hearing, opinions about what might happen in the future should be given by experts. This is particularly true—and most commonly encountered—when the issue is impact on traffic or property values. Evidence about what a given quasi-judicial proposal *would* have on traffic in the future is a matter of opinion, and that opinion must come from a traffic engineer or similar expert who has analyzed the project. Likewise, evidence about what could happen to property values must come in the form of testimony and a report from an appraiser or similar expert who has appraised the property. For a deeper discussion of who can provide evidence at a quasi-judicial hearing, see [THIS POST](#) by David Owens.

Second, **material evidence** is that which relates to the questions the board has to answer. Regardless of whether the matter is a special use permit, variance, or other quasi-judicial approval, there are certain standards that apply to the decision. Material evidence should relate to those standards or to the land use impacts of the proposal.

This is one place where the process can be challenging for boards that also have to make other types of land use decisions. With quasi-judicial decisions, a Board must leave the politics aside. In special use permit cases, a political decision has already been made that a certain use should be allowed under certain conditions. For variance cases, this decision has been made at the state level. A quasi-judicial hearing is not the time to revisit these policy questions. Even if dozens of people are at the meeting with matching t-shirts and signs, their presence is probably not material evidence. Public opinion can be divided or even firmly against a quasi-judicial proposal, but it is not material to the core decision of whether the evidence matches the applicable standards.

Next, **sufficient evidence** is any evidence that tends to support a finding that the relevant standard is met. What evidence is sufficient, as discussed in more detail in [THIS](#) blog post, depends on the context. Generally, evidence is sufficient if it tends to help a side meet their burden of proof.

The burden of proof in a quasi-judicial matter is a bit like a seesaw. The burden is first on the applicant. Imagine the seesaw board tipped toward away from the applicant. If nothing happens, the seesaw will remain pointing in the other direction and the applicant does not get the approval they seek. However, if the applicant provides enough evidence to make its “*prima facie*” case – if they provide enough evidence that a board *could* find in their favor on *each* of the applicable criteria – the burden shifts to opponents of the proposal. In the seesaw analogy, imagine the applicant piling enough evidence on their end of the seesaw that it tips in their direction. Once the applicant has made this *prima facie* case

and the burden shifts, any opponents of the proposal must pile up some evidence on their side of the seesaw. If they do not provide competent, material, and substantial evidence in response, the Board lacks authority to deny the application. It is only when there is evidence on both ends of this metaphorical seesaw that the Board is called upon to weigh the evidence.

Finally, the evidence needs to be **on the record**. The Board should not be gathering or receiving evidence outside of the public evidentiary hearing. The applicant has a legal right (due process again) to respond to evidence presented in their case, so any evidence that might be the basis for the board's decision should be in the documentary record or presented at the evidentiary hearing.

One topic that comes up from time to time regarding evidence on the record is the question of site visits. Some Board members like to see a site for themselves to understand its particular conditions. These are generally permissible, but since they happen outside of the hearing, they must be disclosed to the rest of the Board and to the public. Further, any key findings should be identified so that they can be discussed in the hearing.

Keeping evidence on the record can also be tricky when it comes to *ex parte* communications. These occur when a Board member speaks with someone about the substance of the hearing outside of the hearing. These communications are to be avoided where possible, and disclosed where they cannot be avoided. The decision still must be made on the evidence in the hearing and on the record, but this disclosure allows an applicant to be aware of and to respond to all evidence in the case.

When reviewing evidence and reaching its decision, the board needs to focus on the competent, material, and substantial evidence that was presented to it during the evidentiary hearing and in any earlier documentation provided in the record (e.g., application materials and responses to requests for additional information).

The Board has a few options for how to act.

Once the Board has heard and weighed all of the evidence, what can they do with it? The answer depends on whether the quasi-judicial matter is an appeal of an administrative action or a development approval (such as a special use permit, variance, or certificate of appropriateness). In either situation, however, the Board has a few options available to it.

For **appeals of administrative decisions**, the board deciding an administrative appeal has a great deal of flexibility. In addition to simply affirming or reversing the challenged administrative decision, they can choose to affirm part of the decision but reverse another part, modify the decision appealed from, and make whatever other orders, determinations, etc. that the original decision-maker could make. In

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other words, the Board can mold the administrative outcome into what the board thought it should have been, at least within the bounds of the original decision-maker's discretion. See N.C. Gen. Stat. § 160D-406(j).

For **development approvals**, the board has three choices: it can approve the application, deny it, or approve it subject to certain conditions. The range of conditions is limited, however – N.C. Gen. Stat. § 160D-705(d) allows “[a]ppropriate conditions” to be placed on a variance approval if those conditions are reasonably related to the variance, and N.C. Gen. Stat. § 160D-705(c) allows a board of adjustment to put “[r]easonable and appropriate conditions and safeguards” on special use permit approvals.

Conditions that are reasonable and appropriate tend to be those that relate to the standards the ordinance provides for making the decision or to the land use impacts of the proposed project. For special use permits, N.C. Gen. Stat. § 160D-705(c) specifically prohibits any conditions that are outside the scope of the local government's authority, including taxes, impact fees, regulation of certain residential building design elements, and driveway improvements in excess of NC DOT limitations. When a condition is not related to the ordinance standards that apply to the application or to the land use impacts of the proposed project, that condition is at risk of being challenged and even reversed by a court. Conditions also must not be out of proportion with the project's impact or outside the scope of the government's authority to impose.

Most quasi-judicial decisions require a simple majority vote; variances require a 4/5 supermajority.

N.C. General Statute 160D-406(i) requires the vote of four-fifths (that is, 80%) of the board to grant a variance, but states that a simple majority is required to decide other quasi-judicial matters. In making these calculations, one does not count members of the board who have conflicts of interest or vacant board positions.

To provide an example, if Boroville has a nine-member board, eight members must vote to approve a variance petition in order to grant it (seven of nine is about 78%, which is just under 4/5, so we need that eighth vote to get over the four-fifths threshold). For other quasi-judicial matters, five votes (five is just over half of nine) are required to decide the question. But what if there is an open seat, and one of the board members has a conflict of interest? Since G.S. 160D-406(i) requires us not to count the board

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member who is conflicted out or the vacant position, we calculate the number of votes we need out of the (9-2=7) seven remaining. Six out of seven (roughly 85%) would be enough to approve a variance and four would be enough to make any other quasi-judicial decision.

There must be a written decision that explains how the board reached their decision.

Once the requisite proportion of the board has agreed on a result, their decision must be put into writing and finalized. The decision is not final and effective until it has been reduced to writing, approved by the board, and filed with the clerk to the board. Only then does it become effective, and only then does the clock for the timeline to challenge the decision begin to run.

When it comes to drafting the decision document, one of the first questions that might arise is how much detail must be in the written decision. Of course, there is no hard-and-fast rule, but here are a few points to keep in mind:

- One, General Statute 160D-406(j) requires that the decision “reflect the board’s determination of contested facts and their application to the applicable standards.”
- Second, North Carolina courts have maintained, at least since 1974’s *Humble Oil & Refining Co. v. Board of Aldermen*, 284 N.C. 458, 202 S.E.2d 129 (1974), that the parties have a right to know the basis of the board’s decision.
- Third, any appeal of the decision will be based on the Board’s record. A reviewing court will look to the decision document and recording of the hearing rather than call Board members to testify. For this reason, it is essential to explain the Board’s reasoning in the decision document. On the other hand, if the document makes clear what the Board decided and why, it should be sufficient in most cases.

Because this document often takes some significant time and energy to assemble, many boards ask the applicant, staff, or their attorney to prepare a draft decision in the form of proposed findings of fact and conclusions of law. In some cases, boards might allow the prevailing party in the matter to draft the decision document. If there is no proposed set of findings and conclusions in advance, the board’s staff or attorney can prepare the document after the meeting. Regardless of how or by whom the decision is drafted, it must accurately reflect the action the board took and its general reasoning. A simple checklist of whether each standard has been met is not sufficient. The decision must include some explanation of *how* each standard is met or not met, whether the decision is to approve, to approve with conditions, or to deny the application.

Once the decision document is complete, the statutes require that it “be approved by the board and signed by the chair or other duly authorized member of the board.” G.S. 160D-406(j). Exactly *how* the board must approve the decision is not specified. Some boards may circulate the decision by email for each member’s approval, while others might vote to approve a final draft of the decision at its next meeting following the vote. While the latter procedure assures that the written decision is approved in a public meeting, it also has the effect of delaying the effective date of the approval – recall that the

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decision is not effective before it has been finalized and filed. Once the document is approved, it is signed by the board chair (or another authorized member), can be filed with the clerk, and becomes effective.

These points and more related to the requirements for the final decision document are discussed in [THIS](#) David Owens blog post.

Distribution and final steps

Once the written decision has been finalized and filed, the Board must provide copies of the decision to the applicant, landowner, and anyone who has submitted a written (including e-mail) request for a copy.

Whoever is providing the notice “shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.” This certification can be important, as it serves as the beginning of the time to file any appeals.

Concluding comments

Although there are several steps to making a quasi-judicial decision and reducing it to a final written document, the operation can be straightforward if taken one step at a time. The vote must happen in a public meeting; the result must be based on competent, material, and substantial evidence in the record; a written document must memorialize the board’s decision; and that decision must be appropriately filed and distributed. Following these general principles will help assure a legal, defensible, and appropriate quasi-judicial decision.

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§ 160D-942. Powers of the historic preservation commission.

A preservation commission established pursuant to this Chapter may, within the planning and development regulation jurisdiction of the local government, do any of the following:

- (1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.
- (2) Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks."
- (3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.
- (4) Restore, preserve, and operate historic properties.
- (5) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.
- (6) Conduct an educational program regarding historic properties and districts within its jurisdiction.
- (7) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission, when authorized by the governing board, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law.
- (8) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.
- (9) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.
- (10) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part.
- (11) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Excerpt from the Town of Waynesville's Boards and Commission's Manual
HISTORIC PRESERVATION COMMISSION

Purpose

The Waynesville Historic Preservation Commission was created for the purpose of designating historic districts and landmarks within the Town of Waynesville. In addition, the Historic Preservation Commission (HPC) shall develop and recommend to the Board of Aldermen rules and regulations governing the designation and maintenance of historic properties in the Town.

Membership

The Historic Preservation Commission shall consist of nine (9) members all of whom shall reside within the planning and zoning jurisdiction of Waynesville. A majority of members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archeology or related fields.

Term

Members appointed to the Historic Preservation Commission will serve three (3) year terms beginning on July 1 of the year of appointment through June 30 of the third year of the term.

Powers, Duties and Functions

The Historic Preservation Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in The Town of Waynesville Ordinance Number 4-95 (Code of Ordinances Section 154) and Part 3C, Article 19 of Chapter 160A of the General Statutes of the State of North Carolina. A full copy of the Ordinance and General Statutes are included at the end of this section.

1. Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance;
2. Recommend to the Board of Aldermen areas to be designated by ordinance as "Historic Districts"; and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks";
3. Recommend to the Board of Aldermen that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area or object as a landmark be revoked or removed for cause;
4. Review and act upon proposals for alterations, demolition or new construction within historic districts, or the alteration or demolition of designated landmarks;
5. Conduct an educational program with respect to historic properties and districts within its jurisdiction;
6. Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission when authorized by the governing board may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law;
7. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof;
8. Prepare and recommend the official adoption of a preservation element as part of the Town of Waynesville's comprehensive plan;

9. The Commission may recommend to the Board of Aldermen the acquisition by any lawful means the fee or any lesser included interest, including options to purchase, of properties within established districts or of any such properties designated as landmarks. The Commission may recommend to the Board of Aldermen to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of the public access and promote the preservation of the property;
10. Recommend the restoration, preservation and operation of historic properties; and
11. Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary and authorized by the Board of Aldermen.
12. Adopt and publish rules of procedure governing its meeting and the conduct of official business and bylaws governing the appointment of members, terms of office, the election of officers and related matters.
13. Prepare and adopt principles and guidelines for altering, restoring, moving or demolishing properties designated as landmarks or within historic districts.

Meetings:

The Historic Preservation Commission shall meet on the First Wednesday of each month at 2:00 p.m. at the Town Hall in Waynesville.

Compensation:

Members of the Historic Preservation Commission shall serve without compensation except that they may be reimbursed for actual expenses incident to the performance of their duties within the limits of funding available to the Commission.

Reporting

The Historic Preservation Commission shall provide a comprehensive report to the Board of Aldermen in March each year.

Key Dates of Historic Preservation Commission:

January 24, 1995

The Ordinance Creating the Historic Preservation Commission of Waynesville is adopted.

March 12, 1996

An amendment to the Ordinance is made increasing the membership to seven (7) members with one member residing in the area formerly known as the Town of Hazelwood.

May 13, 2014

An amendment to the Ordinance is made to indicate that the number of members for the various Boards, Commissions and Committees appointed by the Board of Aldermen may from time to time be updated. The number of members for each Board, Commission or Committee will be indicated in the most current version of the Town of Waynesville Boards and Commissions Manual which is maintained by the Town Clerk. Revisions to the number of members on the various Boards, Commissions and Committees will be based on actions by individual Board, Commissions and Committees and approved by the Board of Aldermen and shall not require the update of the Code of Ordinances unless required by Federal, State or Local legislation. This does not apply to the membership requirements related to residency, professional status or other requisite qualification, only to the number of members on the Board, Commission or Committee.

July 12, 2018

The Board of Aldermen approved the extension of the terms of the Boards and Commissions to three (3) three year terms, retroactive to 2013.

**Excerpt from the Town of Waynesville's
Land Development Standards**

14.5 Historic Preservation Commission.

14.5.1 Powers and Duties.

The Historic Preservation Commission of Waynesville shall have the following powers and duties to be carried out in accordance with the terms of this ordinance and G.S. Chapter 160D, Article 9, Part 4:

- A. To undertake an inventory of properties of historical, prehistorical, archaeological, architectural and/or cultural significance.
- B. To conduct an educational program with respect to historic districts and landmarks within its jurisdiction.
- C. To cooperate with the state, federal and local government in pursuance of the purposes of the tasks assigned to them; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Board of Aldermen, or the commission, when authorized by the Board of Aldermen, may contract with the state or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.
- D. To enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.
- E. To prepare and recommend the official adoption of a preservation element as part of the town's Land Development Plan.
- F. To recommend to the Board of Aldermen the acquisition by any lawful means of the fee or any lesser interest, including options to purchase, of properties within established districts or of any such properties designated as landmarks. The commission may recommend to the board to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.
- G. To recommend the restoration, preservation and operation of historic properties.
- H. To negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary and is authorized by the Board of Aldermen.
- I. LDS Review: The Planning Board shall review and make recommendations regarding the following permits types (see also Chapter 15):
 - 1. Designation of Historic Landmarks/Districts (15.11.1)
- J. LDS Decisions: The Historic Preservation Commission shall render final decisions regarding the following permits types (see also Chapter 15):
 - 1. To Hear Appeals of Administrative Decisions regarding Certificates of Appropriateness (Minor) (15.11.2)
 - 2. Certificates of Appropriateness (Major) (15.11.3)
- K. The Historic Preservation Commission shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the Board of Aldermen.

14.5.2 Membership and Quorum.

- A. The Waynesville Historic Preservation Commission shall consist of the number of members referenced in the most current version of the Town of Waynesville Boards and Commissions Manual which may from time to time be updated or amended. A quorum, consisting of a simple majority of the membership shall be necessary to transact business. /
- B. The Waynesville Board of Aldermen shall appoint all members. Vacancies shall be filled by the Waynesville Board of Aldermen as they occur.
- C. All members shall serve three (3) year terms and may succeed themselves.
- D. Officers shall be elected in accordance with the adopted rules of procedure.
- E. Meetings shall be held on the date and time as referenced in the Town of Waynesville Boards and Commission Manual and may from time to time be updated or amended.

(Ord. of 5-27-2014(1))

14.6 Meetings and General Procedures.

14.6.1 All Meetings to be Open.

All meetings of bodies under this ordinance shall be open to the public in accordance with G.S. 143-318 (Meetings of Public Bodies) and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the Board of Aldermen.

14.6.2 Rules of Procedure.

All Boards shall adopt formal rules of procedure consistent with the level of decision-making vested with that board/commission (e.g., advisory review, quasi-judicial). Any adopted rules of procedure shall be kept on file at the Planning Department and shall be made available to the public.

14.6.3 Minutes.

Accurate minutes of each meeting shall be maintained, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and official actions, all of which shall be filed in the office of the Administrator for the public record.

14.6.4 Meetings.

- A. All bodies authorized under this ordinance shall meet at regularly scheduled times and at such other times as determined by the chairman as provided for in the rules of procedure.
- B. Special meetings may be called at any time by the chairperson or by request of a majority of members of the board.

14.6.5 Staff.

The Administrator or their designee shall serve as staff to the various boards and commissions as outlined in this chapter. In addition, the Town Attorney may provide legal and procedural assistance when requested.

14.5.1 Attendance Policy.

All members shall attend board/commission meetings on a regular basis. If any member misses more than three (3) consecutive meetings, or does not attend at least 75% of the meetings in one calendar year, he/she may be replaced at the discretion of the Board of Aldermen.

14.5.2 Conflict of Interest Policy.

- A. **Governing Board.** - A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- B. **Appointed Boards.** - Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- C. **Administrative Staff.** - No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.
- D. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- E. **Quasi-Judicial Decisions.** - A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- F. **Resolution of Objection.** - If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- G. **Familial Relationship.** - For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. (2019-111, s. 2.4.)

15.10.3 Effect of Decisions.

- A. **Appeals:** An appeal from the decision of the Planning Board regarding a Special Use Permit application may be made by an aggrieved party and shall be made to the Superior Court of Haywood County in the nature of certiorari. Any such petition to the Superior County shall be filed with the court no later than thirty (30) days after the applicant receives the written copy of the decision of the Planning Board.
- B. **Permit Validity:** two (2) years to obtain building permit. Such permit shall remain valid as long as a valid building permit exists for the project.
- C. **Permit Extension:** The applicant may apply for an extension of the approval period. The Planning Board may approve an extension of the time required to file the final plat up to a total of five (5) years from the date the initial application was approved where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. No further development activity shall be performed until the new approval is issued.

15.11 Historic Preservation.

15.11.1 Designation of Historic Landmarks/Historic Districts.

Upon complying with the required landmark designation procedures set forth herein, the Board of Aldermen may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, pre-historical, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

- A. **Process Type:** Legislative.
- B. **Inventory of Possible Landmarks:** As a guide for the identification and evaluation of landmarks, the Historic Preservation Commission shall maintain an inventory of properties of historical, architectural, pre-historical and cultural significance within the land development jurisdiction of the town.
- C. **Creation of Ordinance for Designation:**
 - 1. Once a potential landmark has been identified, the Administrator shall draft an ordinance for the designation of said property as an official historic landmark.
 - 2. The ordinance shall describe the property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or pre-historical value, including the land area of the property so designated and any other information the governing board deems necessary.
 - 3. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this ordinance be observed prior to its demolition.
- D. **Opportunity for Comment from the State of North Carolina:**
 - 1. Once the ordinance is drafted, the Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, pre-historical, educational or cultural significance of each building, structure, site, area or object

proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

2. The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his or her designee, shall either upon request of the Department or at the initiative of the commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the department does not submit its comments to the Historic Preservation Commission within thirty (30) days following receipt by the department of the report, the commission and the Board of Aldermen shall be relieved of any responsibility to consider such comments.

E. **Public Notification:** Level 1, 2 and 3.

F. **Neighborhood Meeting (15.3.7):** Optional.

G. **Public Hearing and Decision by the Board of Aldermen:** The Historic Preservation Commission and the Board of Aldermen shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Following the public hearing(s), the Board of Aldermen may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

H. **Post-Adoption Procedures:**

1. Upon adoption of the ordinance the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits.
2. One copy of the ordinance and all amendments thereto shall be filed by the Administrator in the office of the Register of Deeds of Haywood County.
3. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Register of Deeds office and the commission shall pay a reasonable fee for filing and indexing.
4. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Town Clerk and be made available for public inspection at any reasonable time.
5. A third copy of the ordinance and any amendments thereto shall be given to the building inspector for the Town.
6. The fact that a building, structure, site or area has been designated a landmark shall be clearly indicated on all tax maps maintained by Haywood County for such period as the designation remains in effect.
7. Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Historic Preservation Commission to give notice thereof to the tax supervisor of Haywood County.
8. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.
9. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent; otherwise, a sign may be placed on a nearby right-of-way.

15.11.2 Certification of Appropriateness—Minor Works for Local Landmarks and Local Historic Districts.

- A. **Applicability:** Minor works are those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the local landmark property and/or locally designated historic district as a whole.
- B. **Process Type:** Administrative.
- C. **Pre-Application Meeting:** No pre-application conference is required prior to applying for a certificate of appropriateness. Applicants are strongly encouraged to call or visit the Administrator prior to submitting an application to determine what information is required for the application.
- D. **Required Application Information:** None.
- E. **Determination of Conformity:** Once an application containing all needed elements is submitted, the Administrator shall review the application and approve or deny it based on compliance with the standards contained in this chapter and in any applicable Design Review Guidelines or other standards that may apply.
- F. **Public Notification:** None required.
- G. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Historic Preservation Commission 15.11.3 below.
- H. **Reserved.**
- I. **Permit Validity:** one (1) year.
- J. **Permit Extension:** Re-submit.

15.11.3 Certification of Appropriateness- Major Works for Local Landmarks and Local Historic Districts.

- A. **Process Type:** Quasi-Judicial (See also 15.4).
- B. **Pre-Application Meeting:** It shall be the policy of the Historic Preservation Commission, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that a sub-committee of the commission shall be available to meet with persons involved in planned or pending applications in order to advise them informally, at an early stage in the development process. This advice shall be on the commission's Design Review Guidelines or other standards that may apply, the nature of the area where the proposed project will take place and other relevant factors. In giving such advice, the members of the sub-committee, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by any member of the sub-committee at such an informal meeting shall not be considered official or binding upon the commission.
- C. **Required Application Information:** Each application for a certificate of appropriateness shall contain all information required on the application. Other information necessary to show that the use or structure complies with the standards set forth in this ordinance shall also be provided.
- D. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Historic Preservation Commission.
- E. **Public Notification:** Level 1, 2 and 4.

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- F. **Public Hearing:** The Historic Preservation Commission shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
 - G. **Commission Review:** Following the public hearing the commission may approve, deny or approve with conditions the application for a Certificate of Appropriateness. No Certificate of Appropriateness shall be granted unless the commission finds that the application complies with the principles of the Design Review Guidelines adopted by the commission for review of changes and new construction.
 - H. **Findings of Fact:** The action on an application must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with the special character of the historic district or landmark.
 - I. **Delay in Demolition of Local Landmarks and Buildings within Local Historic Districts:** An application for a certificate of appropriateness authorizing the demolition, removal or destruction of a designated local landmark or a building, structure or site within a local historic district may not be denied except as provided below:
 - 1. The effective date of such a certificate may be delayed for up to three hundred and sixty-five (365) days from the date of approval. The period of delay should be reduced by the Historic Preservation Commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay.
 - 2. During the delay period the commission shall negotiate with the owner in an effort to find a means of preserving the building, structure or site.
 - 3. If the Historic Preservation Commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.
 - 4. If the Historic Preservation Commission has voted to recommend the designation of a landmark or the designation of an area as a historic district, and final designation has not been made by the board of aldermen, the demolition or destruction of any building, structure or site in the proposed district or of the designated landmark may be delayed by the commission for up to one hundred and eighty (180) days or until the Board of Aldermen takes final action on the designation, whichever occurs first.
 - 5. The Board of Aldermen may enact an ordinance to prevent the demolition by neglect of any designated landmark or any structure or building within the established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue hardship.
 - 6. An application for a certificate of appropriateness authorizing the demolition of a building, structure or site determined by the State of North Carolina's Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Historic Preservation Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.
 - J. **Review Period by Commission:** Applications for Certificates of Appropriateness shall be acted upon within ninety (90) days after filing, otherwise the application shall be deemed approved and a certificate shall be issued. An extension of time may be granted by mutual consent of the commission and the applicant.

- K. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment (15.12).
- L. **Permit Validity:** one (1) year
- M. **Permit Extension:** Re-submit.

15.12 Appeals of Administrative Decisions.

15.12.1 Applicability.

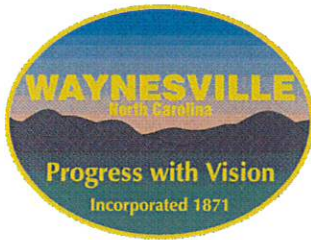
This process is hereby established to provide an appeal process for parties aggrieved by any order, requirement, decision or determination, other than the decision to approve or deny a minor subdivision plat, made by an administrative officer charged with enforcing the provisions of this ordinance. For appeals of decisions regarding minor subdivision plats, see 15.9.1(F).

15.12.2 Filing Procedures.

- A. **Process Types:** Quasi-Judicial.
- B. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the town. Such an appeal shall be made to the Town Clerk within thirty (30) days of the receipt of the written notice of decision from the town.
- C. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Superior Court of Haywood County on notice to the administrative official from whom the appeal is taken with due cause shown. If enforcement proceedings are not stayed, the appellant may file with the Administrator a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed.
Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of the permit applications or building permits affected by the issue being appealed.
- D. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Adjustment. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision. The Administrator shall provide a copy of this information to the appellant and to the owner of the property that is the subject of the appeal.
- E. **Public Notification:** Level 1, 3, and 4 (160D-406).

15.12.3 Formal Review.

- A. Upon receiving the application, the Board shall conduct a public hearing on the appeal. Any party may appear in person or be represented by an agent at the hearing.
- B. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question.
- C. The Board, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.



TOWN OF WAYNESVILLE

Development Services Department

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MEMORANDUM

To: Waynesville Historic Preservation Commission
 From: Alex Mumby, Land Use Administrator
 Re: Summary of Planning Meeting
 Date: February 5th, 2025

This is a bulleted list of the discussions from the planning meeting held on January 8th, 2025.

- Notification and Education of Property Owners and Real Estate Agents
 - Brochure (Permits)
 - Letter to property owners on study list
 - List of properties (National Register and Local Landmark) to real estate agents
- Study List of Local Interest
 - Map/picture townwide
- NCDOT Updates for South Main and Wall Street
- Special Districts
 - Not Hard Boundaries
 - Street sign toppers (decorative)
 - Potential Neighborhoods
 - Love Lane
 - Pigeon Community
 - Downtown Hazelwood
 - Existing Historic Districts
- Historic Signs
 - Almost done
 - Hazelwood
 - Sulphur Springs
 - Courthouse
 - Future signs
 - Main St
 - Frog Level

- To do:
 - Check colors
 - Identify smaller sign locations
- Cemetery Tour and Gate PR
 - Contact and remind actors of date
 - Signage
 - Volunteers
- Tour Book
 - Close to being done
 - District Information
 - Mapping
 - Add clause regarding private homes
 - Add logo
 - Send letter with book page to property owners (ask town attorney) or phone call
- Sulphur Springs
 - Painting fence
 - Bench and picnic table installation