



## TOWN OF WAYNESVILLE Planning Board

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

Susan Teas Smith (Chairman)  
Gregory Wheeler (Vice)  
Stuart Bass  
Michael Blackburn  
H.P. Dykes Jr.  
Ginger Hain  
Don McGowan  
Marty Prevost  
Tommy Thomas

Development Services  
Director  
Elizabeth Teague

### MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD Special Called Meeting Town Hall – 9 South Main St., Waynesville, NC 28786 May 26, 2021

THE WAYNESVILLE PLANNING BOARD held a Special Called Meeting May 26, 2021, at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC. 28786

#### A. CALL TO ORDER

##### 1. Welcome/Calendar/Announcements

The following members were present:

Susan Teas Smith (Chairman)  
Stuart Bass  
Ginger Hain  
Marty Prevost  
Tommy Thomas  
Michael Blackburn  
Don McGowan

The following Board members were absent:

Gregory Wheeler (Vice Chairman)  
Bucky Dykes

The following staff members were present:

Elizabeth Teague, Development Services Director  
Byron Hickox, Land Use Administrator  
Olga Grooman, Planner  
Sam Cullen, Code Enforcement  
Eddie Ward, Town Clerk  
Kathy Johnson, Deputy Clerk  
Ron Sneed, Attorney  
Anna Starnes, Attorney

The following media were present:  
Becky Johnson, Mountaineer

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

Development Services Director Elizabeth Teague asked the Board to adjust the order of the Agenda due to July 1<sup>st</sup> deadline for the 160D text amendment to go before the Board of Aldermen.

***A Motion was made by Board Member Michael Blackburn and seconded by Board Member Ginger Hain to amend the agenda. The Motion carried unanimously.***

2. Adoption of Minutes

***A Motion was made by Board Member Marty Prevost and seconded by Board Member Ginger Hain to approve the minutes of the April 12, 2021 board meeting as presented (or amended). The Motion carried unanimously.***

**B. BUSINESS**

1. Public Hearing to consider text amendments to the Land Development Standards (Appendix A of the Town of Waynesville Code of Ordinances) in compliance with NCGS 160D.

Olga Grooman, Planner for Development Services, presented the board with a presentation and overview of the amendments to 160D. Upon Planning Board recommendation, the proposed ordinance with text amendments would be sent to the Board of Aldermen for approval. Ms. Grooman explained that these changes are required by State Statute. Many of the changes are simply referencing “160D” instead of “160A,” and including required language from the statutes. Ms. Grooman went through the draft ordinance to provide an overview of changes, including:

- Updating the reference to the “Official Land Development Map” which must continue to be maintained by the Development Services Department, and adopting other maps adopted by the Town by reference in their most recent versions.
- Adding to the performance guarantee options to include a letter of credit, cash or equivalent security, and for a developer to be granted an extension as approved by the administrator.
- Inserting a new section in Meetings and General Procedures that relates statutory guidelines on conflict of interest.
- Under permit choice and vested rights, 160D clarifies what permit choice is - if rules change while a project is under permit, the developer can opt for either set of regulations - and vested rights which are now handles differently, later in the ordinance.
- Section 15.2.3 Table of permit/process type and other sections of ordinance. clarifies the length of time and allowable extensions for various permit types.
- In addition to 160D requirements, the 160D text amendments follow recommendations of the School of Government to move major subdivisions and major site plans from a quasi-judicial or evidentiary hearing, to an administrative hearing. For major subdivisions, this means that the planning board will review preliminary plats for their compliance to the ordinance and there will

not be a quasi-judicial hearing on a master plan. This eliminates the more subjective nature of quasi-judicial decision-making.

- For minor subdivisions, an applicant can appeal to the planning board if there is disagreement with a staff decision. Appeals of planning board decisions must go to Superior Court.
- Historic Preservation Commission procedures are also updated in compliance with 160D for local landmarks, buildings, and historic districts.
- The section on Protest Petitions is eliminated pursuant to a previous changes in statutes.
- Section 15.16.3 explains how vested rights shall be handled.
- 160D provides definitions for statewide clarification for: “development,” “development permit,” “multi-phase development,” and site-specific vesting plans,” “building,” “administrative decision,” “quasi-judicial decision,” and “legislative decision,” and definitions within the Flood Damage Prevention Ordinance.
- Notices of Violation can be delivered personally, first class mail, posted on property or by electronic delivery.

Chairman Susan Teas Smith indicated that no one had signed up for comments under public hearing, but Attorney Anna Stearns suggested that the floor should be opened for comments any way. Chairman Smith read the protocols for the public hearing and asked if anyone had any questions and opened the public hearing at 5:48pm and asked if anyone would like to comment. No one came forward. Chairman Smith closed the public hearing at 5:49pm.

Chairman Smith asked if the Board members found that the text amendment was consistent with the Town’s Land Use Plan. She summarized staff’s recommendations that the text amendment was consistent with the Land Use Plan, and reasonable and in the public interest because it will keep the Town in compliance with state law, and support the Comprehensive Plan’s goals for Smart Growth, and to recommend to the Board of Aldermen their approval as presented. She asked if any board member would make a motion to that effect.

***A motion was made by Board Member Ginger Hain, seconded by Board Member Don McGowan to recommend staff-initiated LDS text amendment as attached, to Board of Aldermen, and that it is consistent with the Land Use Plan. The motion carried unanimously.***

2. Public Hearing to consider amendments to LDS Section 17 Definitions and Section 2.5.3 Permitted Uses Table related to congregate living facilities and emergency shelters.

Chairman Smith read the protocols for text amendment public hearing. Elizabeth Teague clarified that this text amendment is to Appendix A which regulates land use, and that these can be found on the Town's website. Chairman Smith went over protocols for the public hearing and asked that those wanting to speak should sign in so that everyone has a chance. She explained that everyone will have 3 minutes if you are speaking for yourself, and 10 minutes if you are speaking for more than 3 people. She asked that speakers representing a group, identify those they are speaking for.

Byron Hickox presented the staff report reminding the Board that this text goes back to when the Aldermen directed the Planning Board to study the Town's permitted uses of congregate living facilities and where such facilities would be appropriate. The Planning Board began discussing this in September of 2020, then discussed again in September, October and November of 2021, prior to now. Those discussions led the planning board to identify where there are things not addressed in the Land Development Standards under that umbrella of what we call congregate housing facilities. This includes facilities for handicapped persons and those that require licensing from the State. There was also discussion regarding emergency and other shelters, and those that might apply to religious or nonprofit institutions trying to meet needs. The Board heard from the Executive Director of Pathways, Mandy Haithcox who answered a lot of questions for you, and the board discussed how the ordinance did not address or define shelters of any type. The ordinance also did not define soup kitchen, which only appears once in the ordinance within the definition of religious institution.

There was also discussion related to shelters and Board consensus on definitions based on research from other municipalities, and where such facilities should be permitted. Attached to the staff report is a draft ordinance of what might go before the Aldermen, the red italics indicates possible amendments based on discussion. This includes several new definitions, a definition of emergency shelter, homeless shelter, temporary shelters, and soup kitchen. Mr. Hickox also pointed out the suggested changes to the existing definition of family care homes in which an exemption is added for shelters for domestic violence to maintain their confidentiality of location. There is also an addition to the definition of religious institution to restrict soup kitchens to the campus of the religious institution, so that they remain on-location.

Mr. Hickox went through the Table of Permitted uses indicating where these new definitions for uses would be placed. Emergency Shelters would be allowed in all districts. Homeless Shelters would be permitted in Neighborhood Center, Central Business or Regional Center Districts only. Temporary shelters would be allowed in all districts. Mr. Hickox indicated that the Board has several options – to adopt as is, to amend it, to table it, or to only move forward just select parts of the ordinance.

Marty Prevost asked where the Bethel Center would fall within these definitions. Mr. Hickox answered that it is permitted as a professional office building and would not be considered part of any of these categories. Ms. Prevost stated that she thought there was concern from the adjoining neighbors. Mr. Hickox indicated that some of those concerns were from code violations and which were addressed by staff. He continued to explain that Bethel ministries was permitted as a professional services building for offices. Any activities other than that are violations.

Chairman Smith called for the first speaker, and asked them to state their name and address.

**Lisa Overhultz**  
**26 Davis Lane**  
**Waynesville, NC**

Ms. Overhultz said she would like to speak to the homeless issue and sees two ways of addressing it. One way is to construct a low-barrier shelter which would attract people from other areas; word will get out that there is this place in Waynesville that gives you everything without asking anything of you. She continued, “make no mistake, this is happening now,” even though no low-barrier shelter is officially permitted. With no rules to abide by, the homeless will continue to wander around committing crimes of every magnitude against citizens and in many cases to support drug habits. “We the citizens of Waynesville do not want a low-barrier shelter in our midst.” She asked the Board to consider their decision carefully.

**Erich Overhultz**  
**26 Davis Lane**  
**Waynesville, NC**

Mr. Overhultz said he stood in strong opposition to propose changes to the Towns Land Use and Zoning Ordinances that would allow the operation of a low barrier shelter in Waynesville. He said the Board should consider what the Town citizens want and how it will have affect many years from now. He said the tax paying citizens of Waynesville do not want the low barrier shelter.

**Jonnie Cure’**  
**1458 S. Main Street**  
**Waynesville, NC**

Ms. Cure’ stated she lives near the Bethel House and there are homeless people dealing drugs and walking the streets in front of her residence. She thanked the police chief and the police department for their efforts in the cleanup, and their participation in cleaning up homeless camps that were under a bridge near her house. She also thanked “Saving Haywood” that organized the cleanup of the homeless camps under the bridge. She asked the Planning Board to recommend to the Board of Aldermen to ask the Homeless task Force to hold a public meeting to discuss only the homeless issue.

**Peggy Hannah**  
**268 Hemlock Street**  
**Waynesville, NC**

Ms. Hannah told the Board there was a criminal problem that was worse than the homeless problem. She said there were many turned away from the “Pathways” center due to their drug use and criminal activity. She asked that the Board demonstrate courage and leadership in their decision.

**Larry Payne**  
**161 Riverbend St.**  
**Waynesville, NC**

Mr. Payne said he agreed with Ms. Hannah on her statement. He feels most of the homeless are that way because they choose to be, and there are only a few that actually need help. He does not feel it is fair to spend tax payer money to provide a home and food for the homeless.

**Andrea Brown  
110 Celtic Court  
Waynesville, NC**

Ms. Brown discussed her history with Waynesville and added that her family owned a business and lived in town. She asked the board how the low barrier shelter and rezoning is fair to the community, and recommended considering the safety of business owners and town residences when making a decision.

**Chad Brown  
110 Celtic Court  
Waynesville, NC**

Mr. Brown stated he was part owner in Hazelwood tactical at 495 Hazelwood Ave in Waynesville. He questioned why \$53,000 a year was being paid to the Homeless Taskforce when they could not answer the question as to how many truly homeless people were in the town of Waynesville. He also said law enforcement officers are not making that much money, and he feels the concern should be on trying to keep our streets safe and not welcome drug abusers and criminals in.

**Sherry Morgan  
PO Box 1496  
Waynesville, NC**

Ms. Morgan asked the Board what was the reason for moving so fast on changing the entire Land Use Ordinance when the shelters and soup kitchens can be approved individually. She felt this will affect the Town forever. Having low barrier shelters are especially concerning near children's schools, playgrounds and our Towns shopping and tourist areas. Ms. Morgan said she polled 150 local business owners and citizens and not one was in favor of low barrier shelters. Main street business owners are very concerned. She asked the Board to reconsider changing the land use ordinance and to carefully consider the consequences of a low barrier shelter on the residents of the Town.

**Ellen Pitt  
76 Blackberry Lane  
Waynesville, NC**

Ms. Pitt said she was a Haywood County resident and feels like the Board should not make a decision with out all the facts. Ms. Pitt feels that building shelters and giving out free needles to the homeless is enabling people and causing deaths. She said the Board should be supporting recovery courts that will assist people in their recovery. Research should be done before a decision is made on the low barrier shelters.

**John Baus  
55 Love Lane  
Waynesville, NC**

Mr. Baus said he moved to Waynesville two and a half years ago and is a resident, business owner, and a member of the Zoning Board. I never thought that I would have to pick up used needles out of my yard and removed homeless people camping on his property. I never thought I would be afraid to leave my wife at home alone. He stated that he supports the work of Pathways but does not believe that low-barrier shelters are supported. He feels the Towns Homeless committee is biased and does not represent the citizens of Waynesville. The committee consisted of 17 people who represented homeless advocates, but few others such as Mr. Reece who wanted to protect the Town and business owners. He feels that low-barrier shelters just perpetuate the problem and make it worse. Although the Homeless Committee has forgotten the needs of the Town of Waynesville, this committee is designed to protect the needs of the Town. The Task Force has not even made their report yet. This coming before the planning board now at this time is just an attempt to grease the skids for a low-barrier shelter. I am 100% in favor of giving people a hand-up but not for a low-barrier shelter. I ask that y'all take your responsibility seriously and provide certain guidelines in certain situations like you did for Pathways but keep this Town great.

**Joey Reece**  
**108 Maple Street**  
**Waynesville, NC**

Mr. Reece said he was a Waynesville native and spent 12 years in the highway patrol and then retired as a special agent for the DEA New Orleans Field Division. I moved back a few years ago and ran for alderman in 2019, during which time I made the growing homeless population and related rising crime rate my main campaign issue. After being appointed to the homelessness taskforce, he feels the overwhelming majority of the task force have little to no concern for the public safety, and quality of life issues for citizens and business owners. He explained the facilitator refused to amend the goals and objectives to include these issues and so he resigned. He referred the Board to an article in the Smoky Mountain News regarding Down Home North Carolina. Down Home supported the campaigns of Aldermen Sutton, Feichter and Dickson, and supported Amy Nyugen as the facilitator for the Task Force, and she is a member of Down Home. He asked if this was a conspiracy or quid-pro-quo or just coincidence. He stated that the Town Attorney Bill Cannon tried to silence public comment and asked if he was trying to protect this super PAC of money from outside of the state and if Mr. Cannon was a member of Down Home. Mr. Sneed told Mr. Reece he was running out of time and asked him to provide input to the Board on where to go with this issue. Mr. Reece stated that the Board needs to review the rules on public hearings, that he could "stand up here and whistle Dixie for three minutes and there is nothing you can do." He stated that his days as a special agent taught him to follow the money.

**Wanda Brooks**  
**63 N. Hill Street**  
**Waynesville, NC**

Ms. Brooks assured the Board she was not speaking because I hate homeless people or hate drug addicts. She described that she has a personal family experience with it and so she does not hate, but feels it is not good to enable drug addicts. She said she does not feel it is fair for Waynesville to carry the load of the homeless problem, when it is a county-wide problem. She said she knows first hand the problem because she is directly across from a facility. Even if something is run properly it effects your property value and it personally hurt me and the folks in Frog Level. It hurts when you cannot pay rent or pay a mortgage because of people walking around. She said that she felt that Pathways has

improved, but when people can't get in then they walk around. Hazelwood now is where these effects are happening and even though it's a business area, there are residents nearby. People are afraid of the drug addicts. She explained she was currently on the Task force on Homelessness and she feels it is biased. I am continually told by the police that we do not have a large homeless problem, but we have a drug addiction problem and a crime problem. So why are we wanting to add more housing for homeless? She asked that we really look at what the problem is.

**Raife Davis**  
**PO Box 840**  
**Waynesville, NC**

Mr. Davis stated that he is a business owner in Waynesville and Asheville and now lives in Clyde. He said that he was here for the mask issue and that he could stand up and say what he likes and that he represents three people and can stand up here for 10 minutes. Mr. Sneed asked that he provide input to the Board, and asked that he provide helpful information. He feels this is a left-wing political agenda and that the citizens are currently being ignored. He stated that the group that Mr. Cannon would have us not mention has a grip on this town and said that people should stop pretending that it doesn't. Since the head of the Homeless Task Force is a member of this group it is fair for citizens to ask honest questions about this group and its agenda. He asked if this Board is going to support other parts of their agenda. He questioned the Board on the urgency and feels there should be more consideration on the matter to make sure it is done right. Allowing Waynesville to become one of the few communities with low barrier shelters comes with huge risks for all families, children, retirees and property owners and tourists. His concern is why does the Task Force feel this is a good idea when other communities have abandoned low barrier shelters. He said there is still a lot of questions that need to be answered.

**Kelly Kashella**  
**Church Street**  
**Waynesville, NC**

Ms. Kashella said the Board is getting a lot of information, but is concerned about shelters being moved into residential areas, where children are walking home. If children live next to this activity they might think this behavior is normal. She stated that if people break the law they should go to jail and that there are services already here. Her concern is our kids, and that we should not risk our children by moving these into residential areas.

**Jim Calderbank**  
**281 Brunswick Road**  
**Waynesville, NC**

Mr. Calderbank stated that he has 10 minutes because is representing Am Cecil Brown and John Shuler as well as himself. He stated that he has interacted with Byron before and had been involved in land use planning on the Pinellas Planning Council and had lobbied for the Economic League of Cities. This issue effects me and my businesses in Jackson as well as Haywood County. I own Moonshine Creek Campground, all of our business is from out of state or out of the country. We have seen over the last three years prior to covid to have homeless people heading toward Waynesville and Pathways to be removed from my property. I have donated to the Open Door and to Pathways. He said that he chose Waynesville because he love this City and cares about it. Pathways is doing a good job but my issue is

where through zoning and land use multiple types of services are being provided that attract these people. I see needles and paraphernalia, and it is starting to become known as a regional magnet for homelessness. If you ever look at the west Waynesville corridor see the disparity with other parts of Waynesville. He said he agrees with most of the comments tonight. He asked for the Board's consideration to recommend to the Board of Alderman that any homeless shelters, transitory services, low barrier shelters should be treated as a special condition or exception that must be voted on individually.

Chairman Smith asked if there were other comments. There being none, she closed the Public Hearing at 7:02 pm. She explained that the Board would not be taking any more comments and will deliberate as a Board on the merits of the proposed ordinance.

Board member Don McGowan asked to make a couple of comments and expressed that the Board had heard the comments and suggested that with respect to the homeless shelter that the Board remove it from the ordinance for further study. He stated that he'd like to hear more information and remove it from the ordinance. He asked about temporary shelters and stated that he would like to see it limited to churches, schools, and public buildings. Attorney indicated that if you remove the definition and do not have it on the permitted uses table, then state law is saying that you can't have a broad statement that would prohibit it, and it might be interpreted that it is allowed.

There was extensive discussion between Board members along with Attorney Ron Sneed and staff on proposed amendments. Don McGowan asked if we could define it and not place it on the permitted uses table and Mr. Sneed indicated that this would mean that it is prohibited. Mr. Sneed added that because of some court cases the Board may want to be more specific in regulating it. There was discussion regarding including the addition of supplemental standards or requiring shelters to have a special use permit.

Chairman Smith also asked about Mr. McGowan's comment related to temporary shelters and Byron Hickox suggested that you could limit it to religious institutions and school facilities. Michael Blackburn asked why the Board would want to regulate temporary shelters at all because we are talking about hurricanes and other types of situations where in other areas you hear of businesses or other facilities opening their doors to people in need. A private place may want to open up their doors for people during emergencies. There was clarification between temporary and emergency shelters and how shelters are managed.

Don McGowan made a motion that for homeless shelters, we define it as in the draft ordinance but that we not place it in the permitted uses table for now; and with respect to temporary shelters, they should be limited to religious institutions, schools and public buildings. Mr. Blackburn asked if shelters could have special conditions. Ms. Teague confirmed that the Board could make a special use permit which would require a site plan, a public hearing, and the Board could place conditions upon the applicant. She added that there are also supplemental standards that the Board could impose. Mr. Sneed indicated that you would have to tackle what those conditions or supplemental standards would be. After Board discussion, Ms. Teague added that there is no deadline for a recommendation and the Board could forward the ordinance up to the Aldermen without placing shelters in the Permitted Uses table, which would effectively prohibit them, and then take additional time determining what supplemental standards or criteria and requirements for a Special Use Permit. Mr. Blackburn stated that our task was to define and place what types of shelters could be allowed, and that the term "low-barrier" is not even used.

Ginger Hain noted that the Board didn't look at the Special Use Permit options. Chairman Smith agreed and said that homelessness is not just a Haywood County problem and that the Board should look at what other communities are doing and learn from them as to what works. Chairman Smith asked if Mr. McGowen would like to restate his motion.

*Mr. McGowen made a motion to define homeless shelters in the draft ordinance but exclude it from the Table of Permitted Uses until the Board can study it further, and that the definition of temporary shelters be amended to limit these types of shelters to schools and other types of government facilities, religious institutions. Chairman Smith seconded.*

*Chairman Smith amended the motion to include that the ordinance is consistent with the comprehensive plan, and that it is reasonable and in the public interest because it allows for the re-use of nonconforming structures specifically to meet the goals of the Comprehensive Plan of goal 1) promote smart growth principles, goal 2) provide a range of housing opportunities, and goal 5) to create opportunities for a sustainable economy.*

Motion passed unanimously. Ginger Hain added that the Board has more homework to do. She addressed those present stating that the Planning Board is an open body that meets regularly and listens to the public. It is not a political Board but a volunteer one made up of residents. She stated that she appreciated everyone's participation and comments and that the Board heard a lot of information and that she was really moved by everyone's emotions and that the Board respects everyone for that. She added that she hopes that everyone respects the members of the Board because "we are doing our best and we are all neighbors."

## C. ADJOURN

*With no further business Chairman Susan Teas Smith adjourned the meeting at 7:25 pm.*

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Susan Teas Smith, Chairman

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Kathy Johnson, Deputy Clerk