

TOWN OF WAYNESVILLE, NC

Board of Aldermen – Regular Meeting

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

Date: **May 14, 2013** Time: **7:00 p.m.**

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 **Conserve resources; consider the environment; print only when necessary.**

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(828) 452-2491*

townclerk@townofwaynesville.org

A. CALL TO ORDER

1. Welcome/Calendar/Announcements – Mayor Gavin Brown
2. Mayoral Proclamation – declaring Saturday, June 15, 2013 “North Carolina Domestic Violence Proclamation 100 Day” in the Town of Waynesville
3. Adoption of Minutes

Motion: *To approve the minutes April 9, 2013 (regular session) as presented [or as corrected].*

B. PUBLIC HEARINGS

4. Public Hearing to consider zoning a currently un-zoned 7.2 acre parcel, recently annexed into the Waynesville corporate boundary and located at 2180 Dellwood Road, (PIN# 8607-82-2478), as Dellwood Residential Medium Density (D-RM).

Motion(s):

- 1) *To open the public hearing.*
- 2) *To close the public hearing [or continue to a date/time certain].*
- 3) *To adopt a zoning designation of D-RM (Dellwood Residential Medium Density) for the parcel located at 2180 Dellwood Road (PIN# 8607-82-2478), as presented [or as amended].*

TOWN OF WAYNESVILLE – REGULAR SESSION AGENDA

May 14, 2013

- 2 -

5. Public Hearing to consider Amendments to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development

Motion(s):

- 1) *To open the public hearing.*
- 2) *To close the public hearing [or continue to a date/time certain].*
- 3) *To adopt amendments to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development, with standards and requirements as presented [or as amended].*

C. NEW BUSINESS

6. Special Event Request for Temporary Street Closing & use of Mini-Park – Main Street Mile, August 23, 2013 (*request of Eric Yarrington/Jason Bodnar, Main Street Mile*)

Motion: *To approve the closing of Main Street on Friday, August 23, 2013 from 5:00 pm – 10 pm for the Main Street Mile footrace and related fundraising events associated with the annual “Run for the Children”, benefitting Shriners Hospital, Greenville, SC.*

7. NCDOT Municipal Agreement for Walnut Trail Bridge Repairs

Motion: *To authorize the manager and/or mayor to execute municipal agreement #4012 between the Town of Waynesville and NCDOT for repair of the Walnut Trail Bridge*

8. Call for Public Hearing to consider amending Section 54-93 of the Code of Ordinances, regarding use of engine compression brakes (jake brakes) within town limits

Motion: *To call for a public hearing on June 11, 2013 at 7:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, for the purpose of considering an ordinance amendment, which would prohibit use of engine compression brakes within town limits, except in the case of emergency.*

9. Call for Public Hearing to consider amending Chapter 46 of the Code of Ordinances, regarding safety requirements at skate park facilities

Motion: *To call for a public hearing on June 11, 2013 at 7:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, for the purpose of considering an ordinance amendment, which would require the use of helmets, elbow and knee pads at skate park facilities.*

TOWN OF WAYNESVILLE – REGULAR SESSION AGENDA

May 14, 2013

- 3 -

D. UNFINISHED BUSINESS

10. Call for Public Hearing to consider amending multiple Sections of the Code of Ordinances, regarding terms of office and discharge of duties for appointees to various boards and commissions

Motion: *To call for a public hearing on June 11, 2013 at 7:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, for the purpose of considering multiple ordinance amendments that would remove specific references to terms of office and discharge of duties in the Code of Ordinances, and replace those references with an annually reviewed and adopted Boards & Commissions Manual.*

E. COMMUNICATIONS FROM STAFF

11. Town Manager-Marcy Onieal
- Capital Project Updates
 - Hyatt Trace Incentive Agreement
 - Bolin Easement Agreement
 - Greens Condo Association-Abandoned Pump House
 - Junaluska-Waynesville Merger Update
 - Disposition of Town Computers
 - Rec Park Improvements
 - SOG/EDI Old Hospital Study
 - Citizen Requests/Concerns
 - Board Standards of Procedure
 - Use of Consent Agenda
 - Proclamations
 - Resolutions vs. Motions
 - COG Notice/Participation
 - Upcoming Ordinance Amendments
 - Sign Ordinance
 - Appointment Process for Boards & Commissions
 - Delegation of Authority from BoA to ZBA
 - Delegation of Authority for special event requests to staff
 - Budget Preview & Workshop Topics
 - Revenue Overview
 - Business Privilege Licenses-Gross Receipts
 - Personnel Considerations
 - Assigned Vehicle Program-Police Department
 - Junaluska Merger Considerations
 - IT Master Plan
 - Non-profit Allocations
 - Manager's One-Year Evaluation

TOWN OF WAYNESVILLE – REGULAR SESSION AGENDA

May 14, 2013

- 4 -

12. Town Attorney-Woody Griffin

F. COMMUNICATIONS FROM MAYOR & BOARD OF ALDERMEN

G. CALL ON THE AUDIENCE

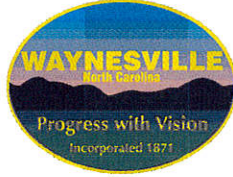
- Mary Grace Lodico – request to install audible signals at Haywood & Church
- Other

H. CLOSED SESSION

Motion 1: To go into closed session, as permitted in NCGS §143-318.11(a)(5), for the purpose of negotiating the terms of a contract for property acquisition.

Motion 2: To return to open session.

I. ADJOURN



North Carolina Domestic Violence Proclamation 100 Day

WHEREAS, the Town of Waynesville is concerned about the issues of domestic and teen dating violence in the State of North Carolina; and,

WHEREAS, statistics show that on average, 3 women are murdered by their intimate partners every day and 95% - 97% of severe domestic violence occurs against women of all ages, races, religions and socioeconomic status. Battering is the leading cause of injury or hospitalization for women; and

WHEREAS, the National Coalition Against Domestic Violence reports that more than 9 times as many women are murdered by a man they know than are killed by strangers; and

WHEREAS, statistics show that our youth are enduring dating violence as early as age 13 and show that half of reported date rapes occur among teenagers, and 33% of teenagers in abusive relationships never tell anyone; and

WHEREAS, there were 63 domestic violence homicides in the State of North Carolina in the year 2012 and there have been 10 domestic violence homicides in North Carolina in 2013 as of March 15, 2013. Sexual abuse is also a form of domestic violence; and

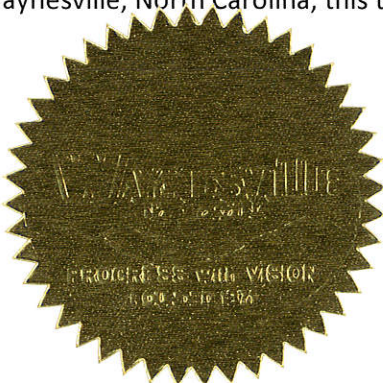
WHEREAS, we believe that educating our communities on the issues of domestic and teen dating violence is imperative; and

WHEREAS, Mothers On A Mission Domestic Violence Organization is dedicated to educating the State of North Carolina on the issues of domestic and teen dating violence. They have dedicated **Saturday, June 15, 2013** to a statewide educational event on the issues of domestic and teen dating violence, and will set up radio and television interviews and workshops across North Carolina.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Waynesville, hereby officially proclaims **Saturday, June 15, 2013** as

"North Carolina Domestic Violence Proclamation 100 Day"

IN WITNESS WHEREAS, I have hereunto set my hand and caused to be affixed the Seal of the Town of Waynesville, North Carolina, this the 14th day of May, 2013.



Gavin A. Brown, Mayor

Town of Waynesville, North Carolina

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REGULAR SESSION MEETING
APRIL 9, 2013

THE WAYNESVILLE BOARD OF ALDERMEN held its regular meeting on Tuesday April 9, 2013 at 7:00 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mayor Brown called the meeting to order at 7:00 p.m. with the following members present:

Mayor Gavin Brown
Alderman Gary Caldwell
Alderman Julia Freeman
Alderman Wells Greeley
Alderman LeRoy Roberson

The following staff members were present:

Marcy Onieal, Town Manager
Woodrow Griffin, Town Attorney
Alison Melnikova, Assistant Town Manager/Deputy Clerk
Eddie Ward, Administrative Assistant

Representing the media:

Mary Ann Enloe, The Mountaineer

1. Welcome /Calendar/Announcements

Mayor Brown welcomed everyone and said Manager Onieal had just received notice that the Lake Junaluska merger bill would be heard in the Senate Finance Committee the next morning on April 10, and she would be traveling to Raleigh immediately following the Board meeting. Because of this, the mayor suggested that Item D of the agenda (Communications From Staff), be deferred until the next regular board meeting.

Manager Onieal went over the Board Calendar, noting that Haywood Vocational Opportunities had received the EPA Region 4 Excellence in Site Reuse Award and that the Town would also be recognized as one of the principle development entities of the Riverbend property of HVO, at a recognition event on Wednesday April 17 at 1:30 P.m. Other announcements included Haywood Council of Governments meeting at Maggie Valley Town Hall on April 17, at 6:00 p.m. A tentative date for the budget workshop has been included in the calendar for May 30, and also for Mondays in June as needed. She anticipated the budget public hearing to be held on June 10th, with adoption scheduled for June 24th. She asked everyone to refer to the calendar provided for other events and workshops.

2. Proclamations

Mayor Brown read two proclamations, which he will be signing on behalf of the Town:

- In Celebration of Earth Day on April 22, 2013
- In Celebration of Arbor day April 26, 2013

3. Minutes of March 26, 2013

Manager Onieal stated that on page 2 Item B-3, the minutes of the March 26, 2013 regular board meeting stated Alderman Roberson seconded the motion. The minutes should read Alderman Caldwell seconded the motion.

Alderman Greeley made a motion, seconded by Alderman Freeman, to approve the minutes of March 26, 2013 as corrected by Manager Onieal. The motion passed unanimously.

B. NEW BUSINESS

4. Special Event Requests – 18 Temporary Street Closings, April – December 2013
(Request of Downtown Waynesville Association, Frog Level Merchants' Association and Kids Advocacy Resource Effort)

Each year the Downtown Waynesville Association (DWA) and Frog Level Merchants' Association make formal requests for temporary closure of streets to facilitate special events held in the downtown area from spring through the holidays in December. These events are designed to entice visitors, diners, shoppers, and families to downtown Waynesville. DWA's 2013 event schedule includes the same events as in previous years, with the exception of one new event. DWA Director Buffy Phillips explained that the proposed "Light Up Main Street" countdown event is designed for all holiday and display lights to be lit simultaneously during a special ceremony with a variety of entertainment to usher in the holiday season on Friday November 22, 2013 from 5:00 pm - 10:00 pm.

The Frog Level Merchant's Association sponsors a major street festival (Bloomin Festival) each year and requests that Commerce and part of Depot Streets be closed for this event. The Merchant's Association has requested an earlier street closing (9:00 p.m.) in order for the merchants to set up. The Town will work with Giles Chemical to make sure truck deliveries are not impacted.

Ms. Julie Schroer, of Kids Advocacy Resource Effort (KARE), spoke about a new fundraising 5 K Road race and fun run planned for April 27, 2013. This event would start at the Courthouse on Main Street and go to Country Club Drive and return. This will be a rolling closure with police at the beginning in front of the runners and at the end behind the runners.

Alderman Roberson made a motion, seconded by Alderman Greeley to approve street closures as follows for:

1) Downtown Waynesville Association (DWA) – Main Street closures on 16 dates beginning May 25 and ending December 14, 2013, as presented;

2) Frog Level Merchant's Association – Commerce and Depot Streets on Saturday May 11, 2013 for the "Whole Bloomin' Thing" Festival, as presented;

3) Kid's Advocacy Resource Effort (KARE) – Main St from Courthouse to Country Club and return, rolling closures on Saturday April, 27, 2013 for a 5K Road Race & Fun Run beginning at 8:00 a.m.

The motion passed unanimously.

5. Special Event Request – Permission to Sell/Serve Beer/Wine on a Public Street or Sidewalk during Downtown Waynesville Block Parties on May 25, 2013 and August 31, 2013 (Request of Jon Bowman, Tipping Point Tavern)

Jon Bowman from Tipping Point Tavern, said his restaurant has served/sold beer and wine for several years during block parties on Main Street. One change this year will be the addition of a food tent on the street, and to have seated dining along with beer or wine.

Alderman Caldwell made a motion, seconded by Alderman Freeman to authorize the sale and service of Beer and Unfortified Wine, on a public street or sidewalk, in a controlled enclosure fronting the Tipping Point Tavern, 188-190 N. Main Street, on May 25 and August 31, 2013 from 6 pm until 10 pm, as requested, and as permitted by Section 42-4 of the Town of Waynesville Code of Ordinances. The motion passed unanimously.

6. Call for Public Hearing to Consider Initial Zoning for the Satellite Annexation Area located at 2080 Dellwood Road

A 7.2 acre portion of Queen Property located at 2080 Dellwood Road (PIN 8607-82-2478) was annexed upon petition of the property owner Lois P and Richard Queen, Jr. in December 2011. The Planning Board held a public hearing on the zoning at the regular meeting of March 18, 2013 and voted to recommend the annexation area be zoned Dellwood Residential Medium Density (D-RM) in accordance with the planned use as indicated in the Town's 2020 Land Development Plan. Manager Onieal said a public hearing is required for the zoning of this property.

Alderman Greeley made a motion, seconded by Alderman Roberson to call for a public hearing on May 14, 2013 at 7:00 pm, or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, for the purpose of considering initial zoning for the parcel located at 2080 Dellwood Road. The motion passed unanimously.

7. Appointment of Eddie Ward as Deputy Town Clerk

Manager Onieal announced that Development Services Administrative Assistant Eddie Ward had achieved her IIMC and NC Municipal Clerk certifications back in the fall, noting how fortunate the Town is to have had someone of her skills to fill in as clerk for the Board while the vacancy in the Town Clerk's position is being filled.

Alderman Greeley made a motion, seconded by Alderman Freeman to appoint Eddie Ward as Deputy Town Clerk, effective April 10, 2013, serving in that capacity until her successor is appointed.

C. UNFINISHED BUSINESS

8. Call for Public Hearing to consider Amendments to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development.

Following requests by Ms. Philan Medford and the Board of Alderman last fall, the Planning Board began gathering information and public comments regarding a requirement to construct a transit shelter(s) in connection with commercial development. The Planning Board has recommended a change in the current ordinance that would require construction of a transit shelter at multi-family residential developments of 50 units or more and at commercial/institutional developments of 50,000 square feet or more. A public hearing is required.

A motion was made by Alderman Greeley, and seconded by Alderman Caldwell to call for a Public hearing on May 14, 2013, at 7:00 pm, or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, for the purpose of considering amendments to Section 6.4.3 of the Land Development Standards, requiring development of transit shelters in connection with commercial development. The motion passed unanimously.

9. Municipal Agreement with NCDOT Project # K-5002, Highway 23-74 Safety Rest Area – Water and sewer Improvements

The project scope consists of extending a 6" water line to the new rest area site on US Highway 23-74 toward Balsam and providing sewer service to the existing rest area and proposed new rest areas. The Town will contract for design and construction of the project and NCDOT will reimburse the Town for actual project costs.

A motion was made by Alderman Greeley, seconded by Alderman Roberson, to authorize the manager and/or mayor to execute the municipal agreement between the Town of Waynesville and NCDOT for Project # K-5002. The motion passed unanimously.

10. Property Conversion for NCDOT Project # U-4412 Howell Mill Road

As part of the road widening project on Howell Mill Road, NCDOT requires taking a small parcel of land at Vance Street Park (Recreation Park). Because the Vance Street Park site was purchased and developed in part through federal grant funding awarded under the Land and Water Conservation Fund, conversion of the property to non-recreational use requires approval from the NC Department of Parks and Recreation and National Park Service. NCDOT proposes to acquire 0.349 acre of park property and replace it with a 1.24 acre undeveloped natural site located at Killian Street on the north side of Dutch Fisher Park, along Richland Creek. The NC Division of Parks and the State Property Office agree that the replacement property is of at least equivalent value as the property being converted. The newly appraised value of both parcels is \$32,825. The site targeted for exchange is located in the floodway, but it has potential for development as a greenway with protected trout buffer along Richland Creek.

A motion was made by Alderman Greeley, Seconded by Alderman Freeman, to approve site selection and appraised property value for conversion of property required for completion of NCDOT Project # U-4412 at Howell Mill Road (Recreation Park), as proposed by NCDOT; and to authorize the town manager and/or mayor to execute the conversion agreement with NCDOT as presented,

contingent upon receipt of final approval of conversion by the National Park Service. The motion passed unanimously.

D. COMMUNICATIONS FROM STAFF

Postponed until next Board Meeting.

E. COMMUNICATIONS FROM MAYOR AND BOARD OF ALDERMEN

No communications from the Mayor and Board of Aldermen.

F. CALL ON THE AUDIENCE

- Jack Kersten – representing Cliff and Beatrice Bolin in easement extension request

Attorney Jack Kersten, representing Cliff and Beatrice Bolin, Waynesville, NC, asked to speak concerning his clients' request to extend an easement, granted by the Town in 1990 and set to expire in 2015, which would allow for the construction of a side access across public property to the Bolin building on the corner of Miller and Main Street. The Bolins are in the process of marketing the property for sale, do not desire to construct the access at this time, but would like to maintain the right to develop an access to the lower floor of their building beyond the scheduled easement expiration date. Upon questioning by the mayor, Attorney Kersten stated that he and his clients did not have a specific proposal prepared, but that he would prepare an amendment to the existing easement or propose a new easement altogether that extends the terms of the original easement, by defining and specifically limiting the type and location of access and structure(s) to be built, in return for an extension of time allowed for construction. The mayor directed Attorney Kersten to work with the Manager and Town Attorney to develop a mutually agreeable proposal to be presented to the Board for action at a future meeting.

G. CLOSED SESSION

Manager Onieal announced that the litigation to be discussed in closed session concerned parties Mueller v. Town of Waynesville.

A motion was made by Alderman Greeley, seconded by Alderman Caldwell to go into closed session at 7:50 p.m. to consult with the town attorney on litigation matters, as permitted in NCGS §143-318.11(a)(3). The motion was approved unanimously.

Upon a motion made by Alderman Greeley, seconded by Alderman Roberson, the board voted unanimously to return to open session at 8:05 p.m. without taking any action.

H. ADJOURN

Prior to adjournment, Manager Onieal asked to update the Board on the Recreation Park Restroom Renovation Project, which has been repeatedly delayed by failure of the architect to deliver buildable/biddable plans. In addition to simply being incomplete, the plans, in their current state, contain serious structural and code deficiencies and omissions, and have not been value-engineered to

accommodate the construction budget approved. Ms. Onieal noted that the \$12,000-13,000 contract with Bill Dechant Architecture had been initiated prior to her arrival in February of 2012 and that although a considerable amount of work had been done by Luis Quevedo, the firm's representative on this project, after over a year, the Town had little to show for its time or initial investment of approximately \$3,500 in the project, despite town staff's vigilance and persistence in trying to work with Mr. Quevedo to bring the matter to a resolution. Ms. Onieal requested permission to terminate the contract. She indicated that at least one of the architect's subcontractors, Reese, Noland and McElrath, who completed the PM&E drawings for the renovation last September have not been paid the approximate \$5000 they are due. While the Town is under no obligation to cover this expense, she noted that their work is virtually complete and it may be advantageous to work with them directly to finish the PM&E on the project.

Manager Onieal outlined three options for board consideration:

- 1) delay the restroom project temporarily, and combine it later with the proposed tennis court renovation and new construction for a larger project to be undertaken in Fall 2013 or Spring 2014, contingent on award of PARTF grant funding for the tennis court project.
- 2) start the restroom renovation design project over from scratch with a new architectural and engineering team. This option would likely cost approximately \$20,000, over and above what already has been spent and would take 4-6 months to complete, depending on the architect's schedule.
- 3) use a combination of volunteer and additional paid professional assistance to salvage the project within the existing budget and revised timeframe. This option would be the least expensive to the town and could be completed in approximately one month following cancellation of the existing design contract. Jimmy Lamm, of Smith Engineering & Design, has offered to complete the renovation plans, construction drawings and bid documents at no charge to the town, but would require the hiring of an independent structural engineer to complete structural design and seal the drawings at a cost of approximately \$2,500. Total cost of design and construction administration under this option, including amounts already paid to Dechant Architecture are not expected to exceed the original design budget for the project

After further discussion and careful consideration of all three options, upon a motion by Alderman Greeley, seconded by Alderman Freeman, the board voted unanimously to:

- 1) authorize the manager to cancel the existing contract with Bill Dechant Architecture, providing notice of non-performance as required by the contract;***
- 2) engage the volunteer non-paid services of Jimmy Lamm, Smith Engineering & Design, to complete renovation plans, construction drawings and bid documents and to engage the services of an independent structural engineer to complete structural design and seal the drawings;***
- 3) pay PM&E engineers Reece, Noland and McElrath, directly for the work already completed and delivered under their contract with Bill Dechant Architecture.***

There being no further business, Alderman Roberson made a motion, seconded by Alderman Caldwell, to adjourn the meeting at 8:40 p.m. The motion was approved unanimously.

ATTEST

Gavin A Brown, Mayor

Marcia D Onieal, Town Manager

Eddie Ward, Deputy Clerk

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 14, 2013

SUBJECT: Public Hearing to Consider Establishment of Initial Zoning for the Satellite Annexation Area located at 2180 Dellwood Road

AGENDA INFORMATION:

Agenda Location: Public Hearing
Item Number: 4-B
Department: Development Services
Contact: Paul Benson, Planning Director
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY:

A 7.2 acre portion of the Queen property located at 2180 Dellwood Road (Parcel Identification Number 8607-82-2478) was annexed upon petition by the property owners, Lois P. and James Richard Queen, Jr., by Ordinance No. 8-11, effective December 13, 2011. This property was not formerly within the Town's Extraterritorial Jurisdiction, so was not within a zoning district at the time of annexation.

The Planning Board held a public hearing on this zoning at their regular meeting of March 18, 2013 and voted to recommend that the annexation area be zoned Dellwood Residential Medium Density (D-RM) in accord with the planned land use as indicated in the Town's 2020 Land Development Plan.

MOTIONS FOR CONSIDERATION: .

- 1) *To open the public hearing.*
- 2) *To close the public hearing [or continue to a date certain].*
- 3) *To adopt a zoning designation of D-RM (Dellwood Residential Medium Density) for the parcel located at 2180 Dellwood Road (PIN# 8607-82-2478) as presented [or as amended].*

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

- Notice of Public Hearing
- Notice to Property Owners
- Queen's Farm Location Map
- Queen's Farm Aerial View
- Staff Report dated March 18, 2013 with attachments
- Draft Minutes from the regular meeting of Waynesville Planning Board of March 18, 2013

MANAGER'S COMMENTS AND RECOMMENDATIONS: *Adopt as presented.*

Legal Ad to run on Monday, April 29 and Friday, May 10, 2013

**Notice of Public Hearings
Town of Waynesville Board of Aldermen**

Public hearings will be held on Tuesday, May 14, 2013 at 7:00 p.m., or as soon thereafter as the matters can be heard, at the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC to consider the following:

- 1) Amendment to the Town of Waynesville Land Development (Zoning) Map: New zoning for a 7.2 acre property located at 2180 Dellwood Road, a portion of Haywood County Parcel Identification Number 8607-82-2478 to Dellwood Residential Medium Density District (D-RM). The property is a recent annexation area to the corporate limits of the Town of Waynesville and is currently unzoned.
- 2) Amendments to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development.

For more information please contact Paul Benson, phone: (828) 456-2004, email: planning@townofwaynesville.org, mail: PO Box 100, Waynesville, NC 28786.

Alison Melnikova
Assistant Town Manager/Deputy Town Clerk



Town of Waynesville

April 29, 2013

Notice of Public Hearing
Town of Waynesville Board of Aldermen

Dear Property Owner:

A public hearing will be held on Tuesday, May 14, 2013 at 7:00 p.m., or as soon thereafter as the matter can be heard, at the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC to consider the following amendments to the Town of Waynesville Land Development (Zoning) Map:

New zoning for a 7.2 acre property located at 2180 Dellwood Road, a portion of Haywood County Parcel Identification Number: 8607-82-2478 to Dellwood Residential Medium Density District (D-RM). The property is a recent annexation area to the corporate limits of the Town of Waynesville and is currently unzoned.

Please see map on reverse side.

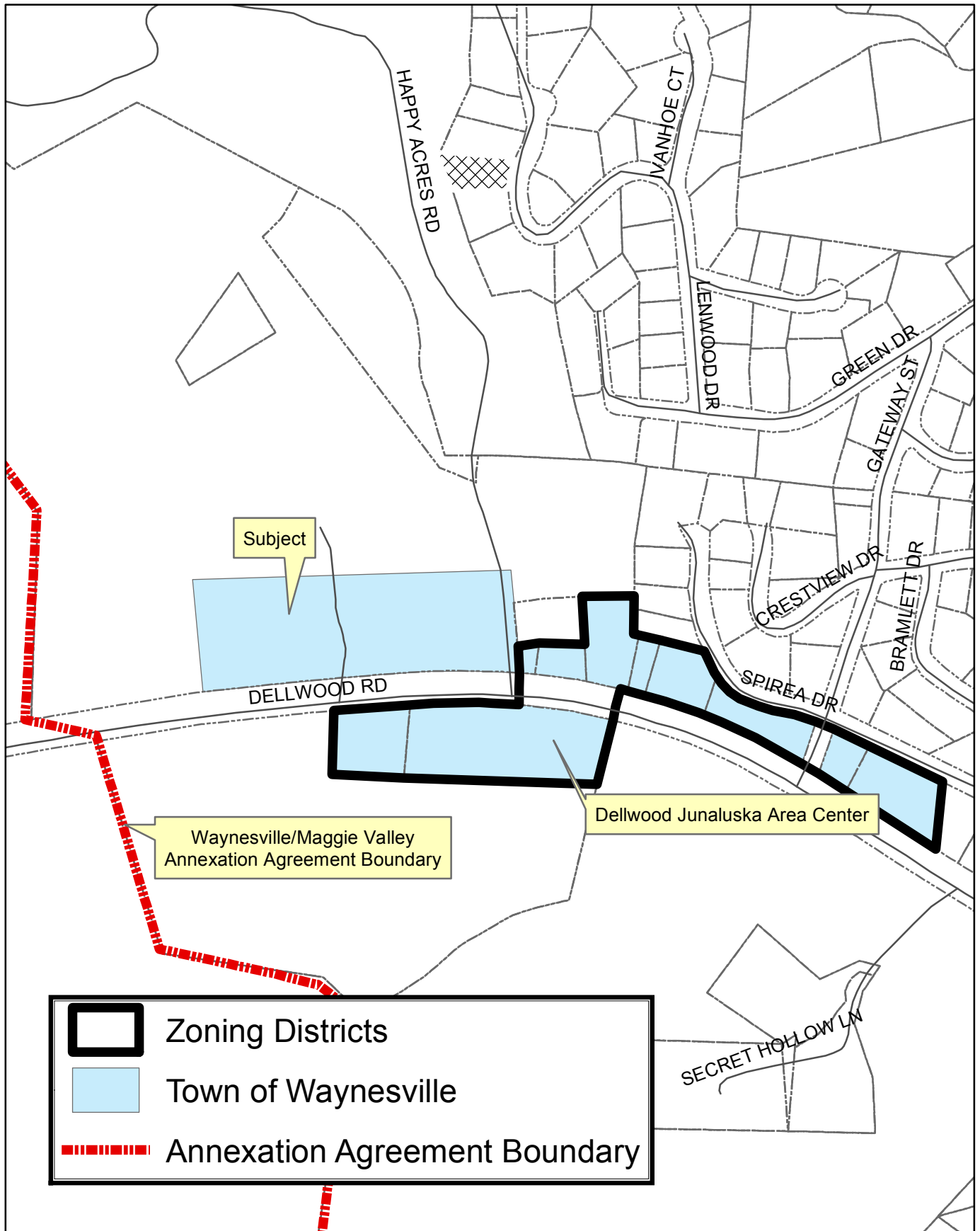
For more information please contact Paul Benson, phone: (828) 456-2004, email: planning@townofwaynesville.org, mail: PO Box 100, Waynesville, NC 28786.

Sincerely,

Alison Melnikova
Assistant Town Manager/Deputy Town Clerk

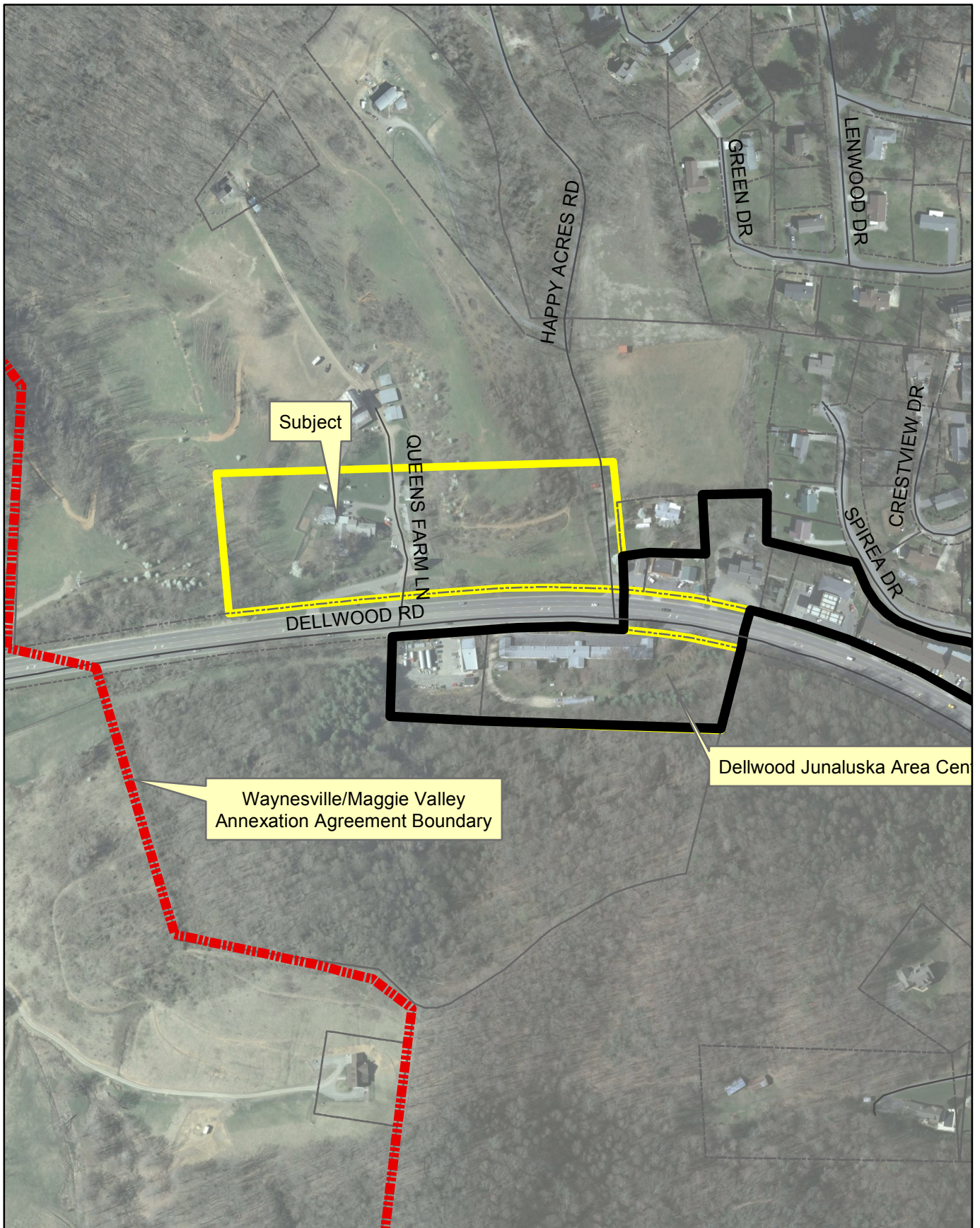


Location Map
Queen Farm Annexation Zoning
2180 Dellwood Road





Location Map
Queen Farm Annexation Zoning
2180 Dellwood Road



STAFF REPORT

Agenda Item: Annexation Zoning
Location: 2180 Dellwood Road
PIN: 8607-82-2478
Size: 7.2 acres (portion of 131.9 acre property)
Owner(s): Lois P. Queen
Meeting Date: March 18, 2013

Background: This property is a satellite annexation to the Town of Waynesville by petition of its property owner. Since this property was not previously within the Town's ETJ zoning jurisdiction prior to annexation, there was no existing zoning on the property. Therefore, Town staff is hereby initiating zoning of this property.

Planned Land Use: The 2020 Land Development Plan indicates that this property and the surrounding area is planned to remain in "Rural" land use. Reference Map 16 – Area 1 Map (attached).

Utility service: Town of Waynesville water and sewer lines are currently in place along US19/Dellwood Road, although the Town's Urban Service Boundary does not include the entire annexation parcel.

Accessibility: This property has direct frontage on Dellwood Road / US 19, Queen's Farm Lane and Happy Acres Road.

Existing Zoning/Development Pattern: This property is bordered on the east and south by other satellite areas of the Town of Waynesville. These are developed and zoned for commercial use: Dellwood – Junaluska Area Center district (DJ-AC). However, large areas of forested property also border this property to the south and north – these properties are unzoned. Finally, property to the west along US19/Dellwood Road is a mix of vacant, commercial and residential use. This property is unzoned for approximately 0.25 mile extending west until the Maggie Valley ETJ boundary is reached. Maggie Valley zoning at this boundary is High Density Residential (R-3).

Staff Recommendation:

This property is in a unique position as it is on the western border of land that the Town of Waynesville is likely to annex or zone in the foreseeable future. It is the last property on Waynesville's side of the Annexation Agreement boundary with the Town of Maggie Valley.

Given that the current primary use of the property is agricultural and residential, and that the Land Development Plan indicates the future land use as "Rural"; staff recommends that this property be zoned Dellwood Residential Medium Density District (D-RM). This district is intended primarily to be a low to medium residential density district (see attached Purpose and Intent from the LDS). The use of this district would at least partially protect a small area of less developed area along the increasingly intensive strip commercial development along US19/Dellwood Road.

- D. The Hall Top Residential – Low Density District (HT-RL)** is a rural district characterized by steep terrain and narrow winding roads. Despite the difficulty of developing in this district and the limited provision of services, the proximity to the Russ Avenue and Dellwood/Junaluska Town Centers makes the location an attractive one for the variety of residential developments permitted in this area. Large lot development is the standard with cluster development respecting the terrain encouraged so as to leave as much open space as possible. Road design will also consider the terrain with narrow road widths permitted and sidewalks not required. Linking developments with trails is encouraged.

2.3.2 Residential-Medium Density Districts (RM) – Purpose and Intent

- A. The Chestnut Park Residential – Medium Density District (CP-RM)** is a well-established older neighborhood bordering the Central Business District. This linear neighborhood is served mainly from a single road. This road, which leads into the Eagles Nest Mountain area, is one of the few roads in Waynesville that crosses under Highway 23/74. Due to the interference of the highway and limited access into the neighborhood itself, as future development occurs, connections into adjoining neighborhoods (i.e., connecting Shingle Cove Road to Laurel Ridge) are important to keep Chestnut Park Road from becoming too heavily traveled. Pedestrian and bicycle amenities connecting the neighborhood to Chestnut Park and adjoining areas will be developed. Medium density residential development will be the predominant land use in the area.
- B. The Dellwood Residential – Medium Density District (D-RM)** shall develop predominately as a low to medium density residential district separating the Russ Avenue and Dellwood/Junaluska Town Centers. Promoting a mixture of residential densities, this district shall be developed with such enhancements to residential living as pedestrian access and the provision of open space. Higher density development and limited business and professional services shall be promoted along Russ Avenue with larger lots and cluster development promoted throughout the district. Nonresidential uses typically found in residential areas are permitted, however, development in this district shall be designed to clearly define the residential appearance and scale of the area and to define the differences between this area and the Russ Avenue Town Center and Dellwood/Junaluska Area Center.
- C. The Howell Mill Residential – Medium Density District (HM-RM)** shall develop as a residential neighborhood providing a mix of housing types and densities. Long, narrow lots are encouraged to provide for the establishment of good block widths throughout the area. Higher density housing is encouraged south of Howell Mill Road with lower density housing provided to the north. The center of the neighborhood is the Waynesville Recreation Center, providing recreational and social opportunities for all of Waynesville but with particular convenience and importance for those residing in this district. The

Map 16
Town of Waynesville
 Haywood County, North Carolina
Area 1 Map
 January 14, 2002



1 Miles

..... Urban Services Boundary
 --- Major Creeks

Proposed Land Uses

- Rural
- Conservation, Open Space
- Industrial
- Residential, Low to Medium
- Residential, Medium to High
- Mixed Use, Low to Medium
- Mixed Use, Medium to High
- Community Facilities

Maggie Valley

Waynesville

Town

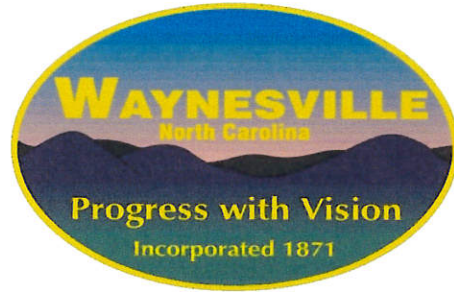
**Area 1
 Highlighted Goals & Objectives**

- 1-1 Expand Downtown CBD
- 1-2 Reestablish Train Depot / Create a Farmers Market in Frog Level
- 1-3 Create "Town Square" in Frog Level
- 1-4 Create Secondary Roads along Russ Avenue & the Great Smokey Mountain Expressway to reduce access demands on these thoroughfares
- 1-5 Concentrate Medium to High Density Mixed Use Developments to limit sprawling strip commercial developments

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Regular Meeting
Town of Waynesville
Planning Board
Town Hall 9 South Main Street
March 18, 2013



The Planning Board held a regular meeting on Monday, March 18, 2013. The meeting was called to order at 5:30.

Members present:

Chairman Patrick McDowell
Jon Feichter
Shell Isenberg
Danny Wingate
Brooks Hale
Marty Prevost
Lee Bouknight

Also present:

Planning Director Paul Benson
Administrative Assistant Ginny Boyer

Absent:

Bucky Dykes
Don Stephenson

Approval of Minutes, December 17, 2012

Jon Feichter moved to accept the minutes of December 17, 2012 as presented; this was seconded by Brooks Hale. All were in favor.

Old Business:

Transit Shelter Report and Recommendation to the Board of Aldermen

The public brought the need for transit shelters to the Town's attention. Shelters are required limitedly now and Ingles Market on Barber Boulevard will be putting in the very first. The Board discussed various topics and asked several questions of Town Planner Paul Benson before making its motion: current and recommended thresholds for residential, commercial and institutional properties; the range of possibilities for funding of transit shelters for new construction, reconstruction and even existing structures that would consider voluntarily providing shelters; practicality issues of requiring transit shelters on fixed route systems versus

those conducive to current on-demand service; and the shelters themselves, if they would be enclosed and/or heated.

Jon Feichter made a motion to accept the staff recommendation in its entirety; Marty Prevost seconded and all were in favor. The staff recommendation is as follows:

The Planning Board has been requested to report back to the Board of Aldermen on the issue of requiring transit shelters in connection with new development or redevelopment. Staff suggests that the report contain:

- 1) A recommendation that Section 6.4.3 of the LDS be amended to require shelter construction in the following circumstances:**
 - 1. Reduce the threshold on residential units from 100 to 50, and the square footage of commercial space from 100,000 to 50,000.**
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- 3) That Town staff work in partnership with Haywood Transit to develop transit projects eligible for grant funding, and consider providing matching funds for projects such as the construction of transit shelters on public rights-of-way adjacent to priority transit destinations.**

New Business:

Agenda Item: Annexation Zoning

Location: 2180 Dellwood Road (Queen Farm Satellite Annexation Area)

PIN: 8607-82-2478

Size: 7.2 acres, portion of 131.9 acre property *attached 1) Map 16, Town of Waynesville and 2) Location Map, Queen Farm Annexation Zoning*

Town Planner Paul Benson reported that about a year ago a small area of 131.9 acres was annexed, but never zoned and as a general rule, the Town is obligated to zone property. This was a voluntary annexation motivated by, as Mr. Benson understands, the desire for Town sewer service and there are no conflicts involved.

Marty Prevost made a motion to accept staff recommendations as presented which was seconded by Lee Bouknight. All were in favor. The staff recommendations are as follows:

This property is in a unique position as it is on the western border of land that the Town of Waynesville is likely to annex or zone in the foreseeable future. It is the last property on Waynesville’s side of the Annexation Agreement boundary with the Town of Maggie Valley.

Given that the current primary use of the property is agricultural and residential, and that the Land Development Plan indicates the future land use as “Rural”; staff recommends that this property be zoned Dellwood Residential Medium Density District (D-RM). This district is intended primarily to be low to medium residential density district (see attached Purpose and Intent from the LDS). The use of this district would at least partially protect a small area of less developed area along the increasingly intensive strip commercial development along US19/Dellwood Road.

Other Business:

Planning Director Benson plans to address Lake Junaluska zoning at the April meeting in a workshop setting.

Lee Bouknight called to the Board’s attention what looks to be a staging area for heavy equipment on Boyd Avenue. Mr. Benson said he will check on this, feeling certain the area has no permitted use for storage or staging.

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As for South Main Street Corridor Plan, Mr. Benson reported a feasibility study was completed but nothing is going to happen there because, as of yet, there is not an issue with congestion.

Adjournment:

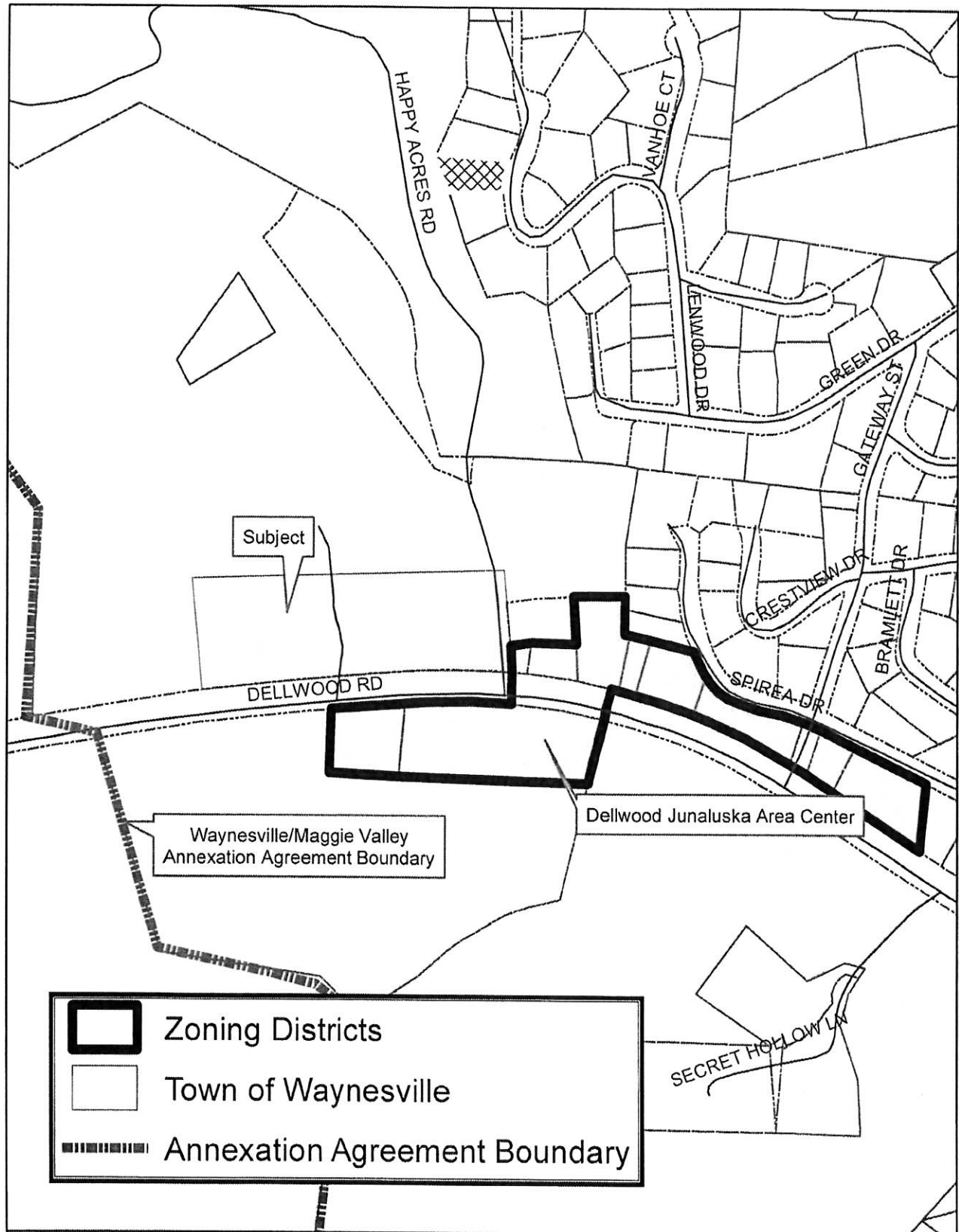
With no further business, Chairman McDowell adjourned the meeting at 6:10 p.m.

Ginny Boyer, Administrative Assistant

Patrick McDowell, Chairman



Location Map
Queen Farm Annexation Zoning
2180 Dellwood Road



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TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 14, 2013

SUBJECT: Public Hearing to consider Amendment to Section 6.4.3 of the Land Development Standards regarding requirements to provide Transit Shelters in connection with Commercial Development

AGENDA INFORMATION:

Agenda Location: Public Hearing
Item Number: 5-B
Department: Development Services
Contact: Paul Benson, Planning Director
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY: Following requests by citizen PhilAnn Medford and the Board of Aldermen last fall, the Planning Board began gathering information and public comment at its regular meeting of November 19, 2012 regarding a requirement to construct or place transit shelter(s) in connection with commercial development. Following several months of research, public comment and discussion, at its regular meeting on March 18, 2013 the Planning Board voted to recommend that:

1. Section 6.4.3 of the Land Development Standards be amended to require provision of shelters in connection with development / redevelopment as follows:
 - a. Reduce the threshold on residential units from 100 to 50, and the square footage of commercial space from 100,000 to 50,000.
 - b. Add the requirement for “institutional” uses of 50,000 square feet or greater
 - c. Delete the clause: “are adjacent to present or planned transit routes” to accommodate the current on-demand public transit service.
2. Town staff work with Haywood Public Transit and the French Broad River Metropolitan Planning Organization to develop a local transit plan as the basis for future funding requests.
3. Town staff work in partnership with Haywood Transit to develop transit projects eligible for grant funding, and consider providing matching funds for projects such as the construction of transit shelters on public rights-of-way adjacent to priority transit destinations.

MOTIONS FOR CONSIDERATION:

- 1) *To open the public hearing.*
- 2) *To close the public hearing [or continue to a date/time certain].*
- 3) *To adopt amendments to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development, with standards and requirements as presented [or as amended].*

FUNDING SOURCE/IMPACT: No direct cost at this time, but may involve future costs to provide matching funds for transit planning and shelter construction.

ATTACHMENTS:

- Legal Notice-Public Hearing
- Memo from Philan Medford, dated May 14, 2013
- Staff Report dated March 18, 2013
- Minutes from regular meeting of Planning Board on December 17, 2012
- Minutes from regular meeting of Planning Board on March 18, 2013

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Legal Ad to run on Monday, April 29 and Friday, May 10, 2013

**Notice of Public Hearings
Town of Waynesville Board of Aldermen**

Public hearings will be held on Tuesday, May 14, 2013 at 7:00 p.m., or as soon thereafter as the matters can be heard, at the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC to consider the following:

- 1) Amendment to the Town of Waynesville Land Development (Zoning) Map: New zoning for a 7.2 acre property located at 2180 Dellwood Road, a portion of Haywood County Parcel Identification Number 8607-82-2478 to Dellwood Residential Medium Density District (D-RM). The property is a recent annexation area to the corporate limits of the Town of Waynesville and is currently unzoned.
- 2) Amendments to Section 6.4.3 of the Land Development Standards requiring development of public transit shelters with commercial development.

For more information please contact Paul Benson, phone: (828) 456-2004, email: planning@townofwaynesville.org, mail: PO Box 100, Waynesville, NC 28786.

Alison Melnikova
Assistant Town Manager/Deputy Town Clerk

Philan Medford
May 014, 1213
Town Board
Subject: Transit Shelters Destinations!

1. **First**, imagine your weekly errands destinations while imagining that you have mobility challenges and then look around in your destination and see if there is a convenient place to rest and wait for transit to return and pick you up.
2. **Second**, compare the current ordinances on bicycle rack placement to staff's Public transit Shelter recommendations. For example **9.5 Bicycle Parking Standards** Racks should be placed along a major building approach line and clearly visible from the approach and no more than 100 feet from building entrances. Rack placement shall allow for visual monitoring by people within the building and/or people entering the building. **6.4.3 Public Transit Connections** Staff and planning board recommendations only address the square footage. The location has not been defined.
3. **Third, Location matters for public safety and patron/passenger satisfaction**
 - Suitable location for sheltered public transit stop should be usable for all patrons and meet ADA criteria. (Reference LDS Section 6.4) Public transit serves a wide variety of patrons. Some details to consider for a well located Public Transit shelter at user's destinations:
 - Some patrons will be using a cart as a walker
 - Some patrons will be using motorized cart
 - Both require closer proximity to entrance/exit
 - Few businesses or services provide internal or external seating near the entrance
 - Documents from Mountain Projects, HVO, HPT Advisory Committee, excerpts include:
Facilities based on square footage does not always address the frequency of elderly/disabled patrons or clients. Perhaps the number of parking spaces would help determine the accessibility to a waiting area or shelter.
While many communities utilize shelters, metal benches or simply pull out points from the normal driving lane, Waynesville has not participated in offering any of these options. Keeping in mind the distance an elderly or disabled person would have to walk from some entrance of a facility to this point would be critical. Public transit understands the potential danger of interfering with fire lanes and flow of traffic.
4. **Fourth, Standards** Provide standards for location with parity to bicycle racks. Improvements to Public Transit Ordinance should state "clearly visible from the approach and no more than 100 feet from building entrances. Shelter placement shall allow for visual monitoring by people within the building and/or people entering the building. Ordinances should always clearly define what well-located space for a shelter and bus drop-off area must consider. The standards should also provide minimum seating, to accommodate at least two people and space for 1 wheel chair.
5. **Fifth, Profitability** Take the long view because building tenants always change. Regardless of amount of internal space, i.e. square footage, do you think it is more profitable to have more customers that would use public transit system if it met their safety/mobility needs?

Public Transit



Planning Board Staff Report

Subject: **Transit Shelters**
Meeting Date: **March 18, 2013**

Background:

On September 25, 2012, at their regular meeting, Board of Aldermen requested that the Planning Board consider the possibility of an amendment to the Land Development Standards to require transit stops/shelters in conjunction with new development or redevelopment.

On November 19, the Planning Board considered an amendment recommend by staff and the comments of several interested citizens who addressed the Board. As a result, the Board requested that the staff invite Susan Anderson, Transportation Director of Haywood Public Transit, to a future meeting to obtain more information on the issue.

On December 17, Ms. Anderson attended the regular meeting of the Planning Board to explain the operations of Haywood Public Transit and the need for shelters. She also mentioned the possibility of grant funding for shelter construction. As a result of this meeting the Board requested that staff look into grant funding for transit shelters and report back any findings.

Grant Funding Possibilities:

Section 5310 of the Federal Transit Act: 80% matching capital assistance grants to private non-profits, or public bodies for transportation of elderly or disabled individuals. Haywood Transit won't be able to apply for two more years.

Section 5311 of the FTA: 80% matching grants for public transportation projects that meet the needs of rural areas. Haywood Transit has already submitted application for the 2014 funding cycle - may be a possibility for 2015.

CDBG, Community Development Block Grant funds: would not fund a bus shelter as a stand-alone project but a shelter could be part of a larger grant application. Sarah Graham with Southwestern Regional Commission is the contact for CDBG grants. These grants are awarded on a competitive basis and are intended to benefit low and moderate income persons.

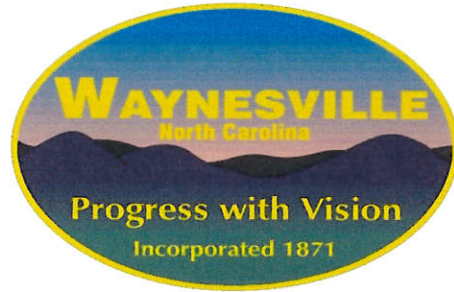
STP-DA: the French Broad River Metropolitan Planning Organization (FBRMPO) region receives an allocation of approximately \$3 million per year. It has allocated 1.5 million for the Hendersonville Transit Center in FY 2015. During 2013-2014 fiscal year MPO staff will be working on a call for projects for STP-DA funding starting in FY 2016. This funding would not be available for a single shelter, but a \$100k-200k transit improvements project combined with pedestrian crossing improvements would be eligible if spelled out in a local or regionally-adopted plan; currently LOSRPO is updating the Locally-Coordinated Plan so that's a good place to spell out needed transit shelter improvements; STP-DA grant funding requires a 20% local match.

Staff Recommendation:

The Planning Board has been requested to report back to the Board of Aldermen on the issue of requiring transit shelters in connection with new development or redevelopment. Staff suggests that the report contain:

- 1) A recommendation that Section 6.4.3 of the LDS be amended to require shelter construction in the following circumstances:
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Danny Wingate
Brooks Hale
Marty Prevost
Lee Bouknight

Also present:

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Administrative Assistant Ginny Boyer

Absent:

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Don Stephenson

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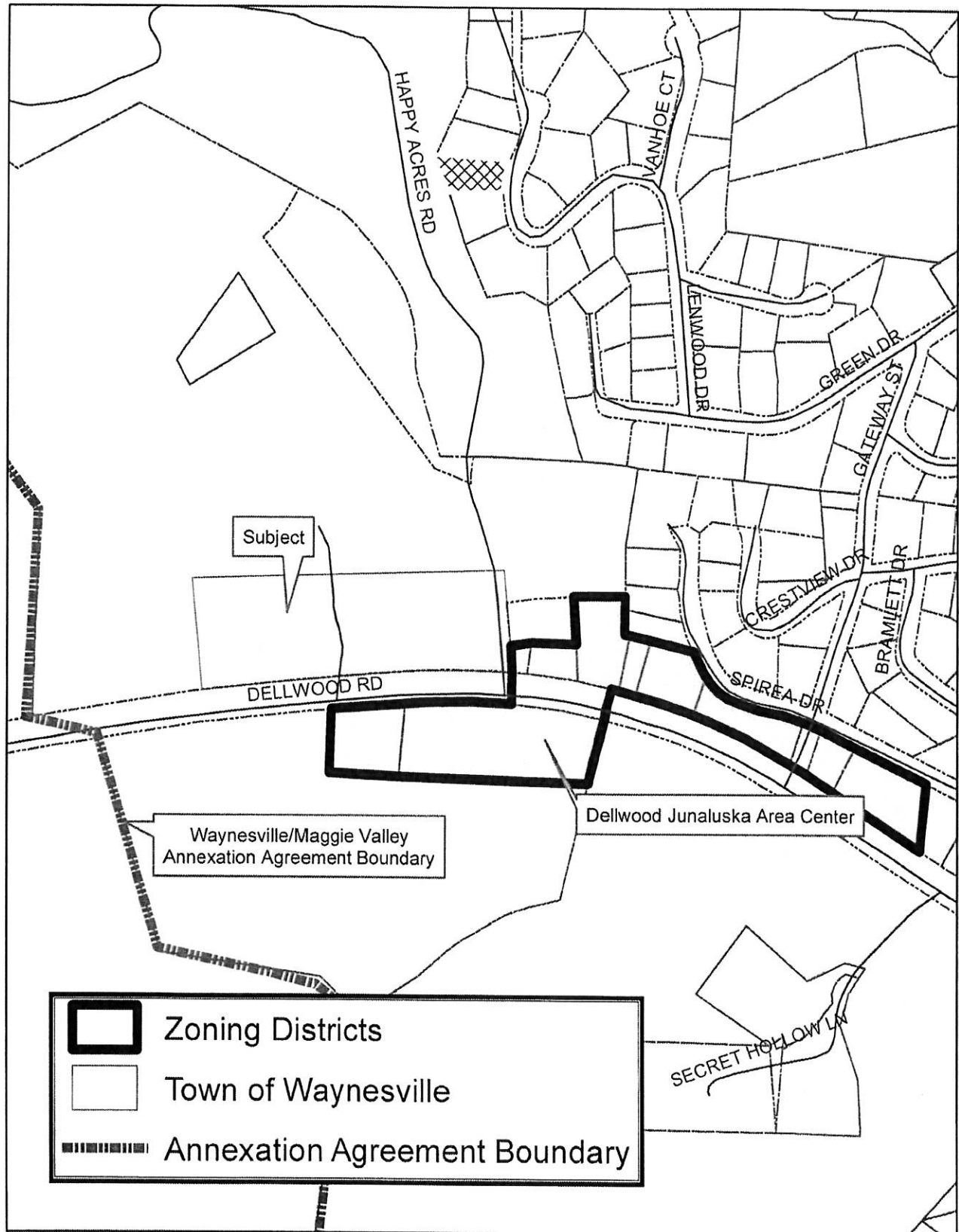
With no further business, Chairman McDowell adjourned the meeting at 6:10 p.m.

Ginny Boyer, Administrative Assistant

Patrick McDowell, Chairman



Location Map
Queen Farm Annexation Zoning
2180 Dellwood Road



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Town of Waynesville

AGENDA
REGULAR MEETING
PLANNING BOARD
TOWN OF WAYNESVILLE
TOWN HALL – 9 SOUTH MAIN ST
MARCH 18, 2013
MONDAY – 5:30 PM

1. Call to order
2. Approval of Minutes of December 17, 2012
3. Old Business: Transportation Shelter Report and Recommendation to the Board of Aldermen
4. New Business: Queen Farm Satellite Annexation Area – New Zoning
5. Adjournment

REGULAR MEETING
TOWN OF WAYNESVILLE
PLANNING BOARD
TOWN HALL - 9 SOUTH MAIN STREET
DECEMBER 17, 2012

The Planning Board held a regular meeting on Monday, December 17, 2012. Members present were Danny Wingate, Shell Isenburg, Jon Feichter, Don Stephenson, Lee Bouknight, Bucky Dykes, Marty Prevost and Chairman Patrick McDowell. Also present were Planning Director Paul Benson, Town Manager Marcy Onieal, and Administrative Assistant Eddie Ward. The meeting was called to order at 5:30 P.M. by Chairman McDowell.

Approval of Minutes of November 19, 2012

Danny Wingate moved, seconded by Don Stephenson, to approve the minutes of November 19, 2012. The motion passed unanimously.

Discussion of Haywood Public Transit System

Paul Benson introduced Susan Anderson, Transportation Director of Haywood Public Transit. Mr. Benson asked her to talk about Haywood Public Transit and the need for drop-off improvements. Ms. Anderson stated that Haywood Public Transit is a rural system and they are considered a demand response system. They are not set up like an urban system, which goes by the same pick up points several times a day. She said last year Haywood Public Transit served fifty five-thousand trips with 38.6 percent of the trips being medically oriented and the rest being general purpose.

Haywood Public Transit operates five days a week, 6:00 A.M. - 5:30 P.M., with twenty-two vehicles covering all of Haywood County. Haywood Public Transit deals with all walks of life and the biggest challenges do not come from the downtown area, but from the bigger box stores, where people are waiting fifteen to thirty minutes in the busy walkways to be picked up. She said shelters at the big box stores would simplify the process for their drivers because many times they have to go inside looking for passengers.

Ms. Anderson stated that two year grants are available for funding of shelters, with the state of North Carolina paying 50 percent of the capital cost, and the community municipality paying the other 50 percent. She has just finished grants for the period of 2014 - 2016. There is a grant through North Carolina Department of Transportation that requires a plan approval by the Town Planning Board. If any state or federal monies are used in establishing shelters, they would automatically be considered public systems, which means any route will be open to the general public.

Ms. Philan Medford, 99 Pisgah Drive, Waynesville, NC asked the Board to keep in mind that anyone can use the Public Transit, and this contributes to their independence.

Mr. Benson stated he would contact the Metropolitan Planning Organization about regulations and grants for public shelters.

Chairman McDowell thanked Ms. Anderson for attending the meeting and said the Public Transit System and shelters would be an ongoing issue in the future. He felt it would be appropriate to obtain more information before moving forward.

Lake Junaluska Area Zoning

Mr. Benson introduced Town Manager Marcy Onieal to the Planning Board. Manager Onieal wanted to speak with the Board concerning the potential merger between the Town of Waynesville and Lake Junaluska. She said this merger might be happening faster than anticipated, with a special bill allowing this merger being introduced to the General Assembly in January 2013.

Manager Onieal stated that Junaluska and the Town of Waynesville had been having public meetings and discussions for eight months. After spending this time in an educational fashion, receiving public comments, and examining different options, both Lake Junaluska and the Town of Waynesville agreed the merger was best for the long term health of their community.

One of the major points of interest from the residents of Lake Junaluska is the zoning regulations. Currently, they do not have any zoning regulations but they do have some deed restrictions which will remain in place. They have no planning staff, and are unfamiliar with how the processes work. One of the things Manager Onieal has discussed with their Board is the possibility of meeting with the Town Planning Board to discuss what zoning would involve in Lake Junaluska. If a merger occurs, the zoning regulations would have to be in place.

Chairman McDowell stated the Planning Board would be happy to meet with the Lake Junaluska Council and answer any questions they might have. Manager Onieal said the arrangements would be made for a meeting in the near future.

With no further business, a motion was made by Marty Prevost and seconded by Danny Wingate to adjourn at 6:11 P.M.. The motion was approved unanimously.

Patrick McDowell
Chairman

Eddie Ward
Administrative Assistant

Planning Board Staff Report

Subject: **Transit Shelters**
Meeting Date: **March 18, 2013**

Background:

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Section 5311 of the FTA: 80% matching grants for public transportation projects that meet the needs of rural areas. Haywood Transit has already submitted application for the 2014 funding cycle - may be a possibility for 2015.

CDBG, Community Development Block Grant funds: would not fund a bus shelter as a stand-alone project but a shelter could be part of a larger grant application. Sarah Graham with Southwestern Regional Commission is the contact for CDBG grants. These grants are awarded on a competitive basis and are intended to benefit low and moderate income persons.

STP-DA: the French Broad River Metropolitan Planning Organization (FBRMPO) region receives an allocation of approximately \$3 million per year. It has allocated 1.5 million for the Hendersonville Transit Center in FY 2015. During 2013-2014 fiscal year MPO staff will be working on a call for projects for STP-DA funding starting in FY 2016. This funding would not be available for a single shelter, but a \$100k-200k transit improvements project combined with pedestrian crossing improvements would be eligible if spelled out in a local or regionally-adopted plan; currently LOSRPO is updating the Locally-Coordinated Plan so that's a good place to spell out needed transit shelter improvements; STP-DA grant funding requires a 20% local match.

Staff Recommendation:

The Planning Board has been requested to report back to the Board of Aldermen on the issue of requiring transit shelters in connection with new development or redevelopment. Staff suggests that the report contain:

- 1) A recommendation that Section 6.4.3 of the LDS be amended to require shelter construction in the following circumstances:
 1. Reduce the threshold on residential units from 100 to 50, and the square footage of commercial space from 100,000 to 50,000.
 2. Add the requirement for “institutional” uses of 50,000 square feet or greater.
 3. Delete the clause: “are adjacent to present or planned transit routes” to accommodate the current on-demand public transit service.
- 2) Town staff work with Haywood Public Transit and the FBRMPO to develop a local transit plan as the basis of STP-DA funding requests.
- 2) That Town staff work in partnership with Haywood Transit to develop transit projects eligible for grant funding, and consider providing matching funds for projects such as the construction of transit shelters on public rights-of-way adjacent to priority transit destinations.

STAFF REPORT

Agenda Item: Annexation Zoning
Location: 2180 Dellwood Road
PIN: 8607-82-2478
Size: 7.2 acres (portion of 131.9 acre property)
Owner(s): Lois P. Queen
Meeting Date: March 18, 2013

Background: This property is a satellite annexation to the Town of Waynesville by petition of its property owner. Since this property was not previously within the Town's ETJ zoning jurisdiction prior to annexation, there was no existing zoning on the property. Therefore, Town staff is hereby initiating zoning of this property.

Planned Land Use: The 2020 Land Development Plan indicates that this property and the surrounding area is planned to remain in "Rural" land use. Reference Map 16 – Area 1 Map (attached).

Utility service: Town of Waynesville water and sewer lines are currently in place along US19/Dellwood Road, although the Town's Urban Service Boundary does not include the entire annexation parcel.

Accessibility: This property has direct frontage on Dellwood Road / US 19, Queen's Farm Lane and Happy Acres Road.

Existing Zoning/Development Pattern: This property is bordered on the east and south by other satellite areas of the Town of Waynesville. These are developed and zoned for commercial use: Dellwood – Junaluska Area Center district (DJ-AC). However, large areas of forested property also border this property to the south and north – these properties are unzoned. Finally, property to the west along US19/Dellwood Road is a mix of vacant, commercial and residential use. This property is unzoned for approximately 0.25 mile extending west until the Maggie Valley ETJ boundary is reached. Maggie Valley zoning at this boundary is High Density Residential (R-3).

Staff Recommendation:

This property is in a unique position as it is on the western border of land that the Town of Waynesville is likely to annex or zone in the foreseeable future. It is the last property on Waynesville's side of the Annexation Agreement boundary with the Town of Maggie Valley.

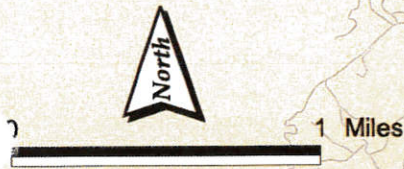
Given that the current primary use of the property is agricultural and residential, and that the Land Development Plan indicates the future land use as "Rural"; staff recommends that this property be zoned Dellwood Residential Medium Density District (D-RM). This district is intended primarily to be a low to medium residential density district (see attached Purpose and Intent from the LDS). The use of this district would at least partially protect a small area of less developed area along the increasingly intensive strip commercial development along US19/Dellwood Road.

- D. The **Hall Top Residential – Low Density District (HT-RL)** is a rural district characterized by steep terrain and narrow winding roads. Despite the difficulty of developing in this district and the limited provision of services, the proximity to the Russ Avenue and Dellwood/Junaluska Town Centers makes the location an attractive one for the variety of residential developments permitted in this area. Large lot development is the standard with cluster development respecting the terrain encouraged so as to leave as much open space as possible. Road design will also consider the terrain with narrow road widths permitted and sidewalks not required. Linking developments with trails is encouraged.

2.3.2 Residential-Medium Density Districts (RM) – Purpose and Intent

- A. The **Chestnut Park Residential – Medium Density District (CP-RM)** is a well-established older neighborhood bordering the Central Business District. This linear neighborhood is served mainly from a single road. This road, which leads into the Eagles Nest Mountain area, is one of the few roads in Waynesville that crosses under Highway 23/74. Due to the interference of the highway and limited access into the neighborhood itself, as future development occurs, connections into adjoining neighborhoods (i.e., connecting Shingle Cove Road to Laurel Ridge) are important to keep Chestnut Park Road from becoming too heavily traveled. Pedestrian and bicycle amenities connecting the neighborhood to Chestnut Park and adjoining areas will be developed. Medium density residential development will be the predominant land use in the area.
- B. The **Dellwood Residential – Medium Density District (D-RM)** shall develop predominately as a low to medium density residential district separating the Russ Avenue and Dellwood/Junaluska Town Centers. Promoting a mixture of residential densities, this district shall be developed with such enhancements to residential living as pedestrian access and the provision of open space. Higher density development and limited business and professional services shall be promoted along Russ Avenue with larger lots and cluster development promoted throughout the district. Nonresidential uses typically found in residential areas are permitted, however, development in this district shall be designed to clearly define the residential appearance and scale of the area and to define the differences between this area and the Russ Avenue Town Center and Dellwood/Junaluska Area Center.
- C. The **Howell Mill Residential – Medium Density District (HM-RM)** shall develop as a residential neighborhood providing a mix of housing types and densities. Long, narrow lots are encouraged to provide for the establishment of good block widths throughout the area. Higher density housing is encouraged south of Howell Mill Road with lower density housing provided to the north. The center of the neighborhood is the Waynesville Recreation Center, providing recreational and social opportunities for all of Waynesville but with particular convenience and importance for those residing in this district. The

Map 16
Town of Waynesville
 Haywood County, North Carolina
Area 1 Map
 January 14, 2002



..... Urban Services Boundary
 --- Major Creeks

Proposed Land Uses

- Rural
- Conservation, Open Space
- Industrial
- Residential, Low to Medium
- Residential, Medium to High
- Mixed Use, Low to Medium
- Mixed Use, Medium to High
- Community Facilities

Maggie Valley

Waynesville

Town

**Area 1
 Highlighted Goals & Objectives**

- 1-1** Expand Downtown CBD
- 1-2** Reestablish Train Depot / Create a Farmers Market in Frog Level
- 1-3** Create "Town Square" in Frog Level
- 1-4** Create Secondary Roads along Russ Avenue & the Great Smokey Mountain Expressway to reduce access demands on these thoroughfares
- 1-5** Concentrate Medium to High Density Mixed Use Developments to limit sprawling strip commercial developments

Mapping prepared by:



ROAD
 PLOTT VALLEY ROAD

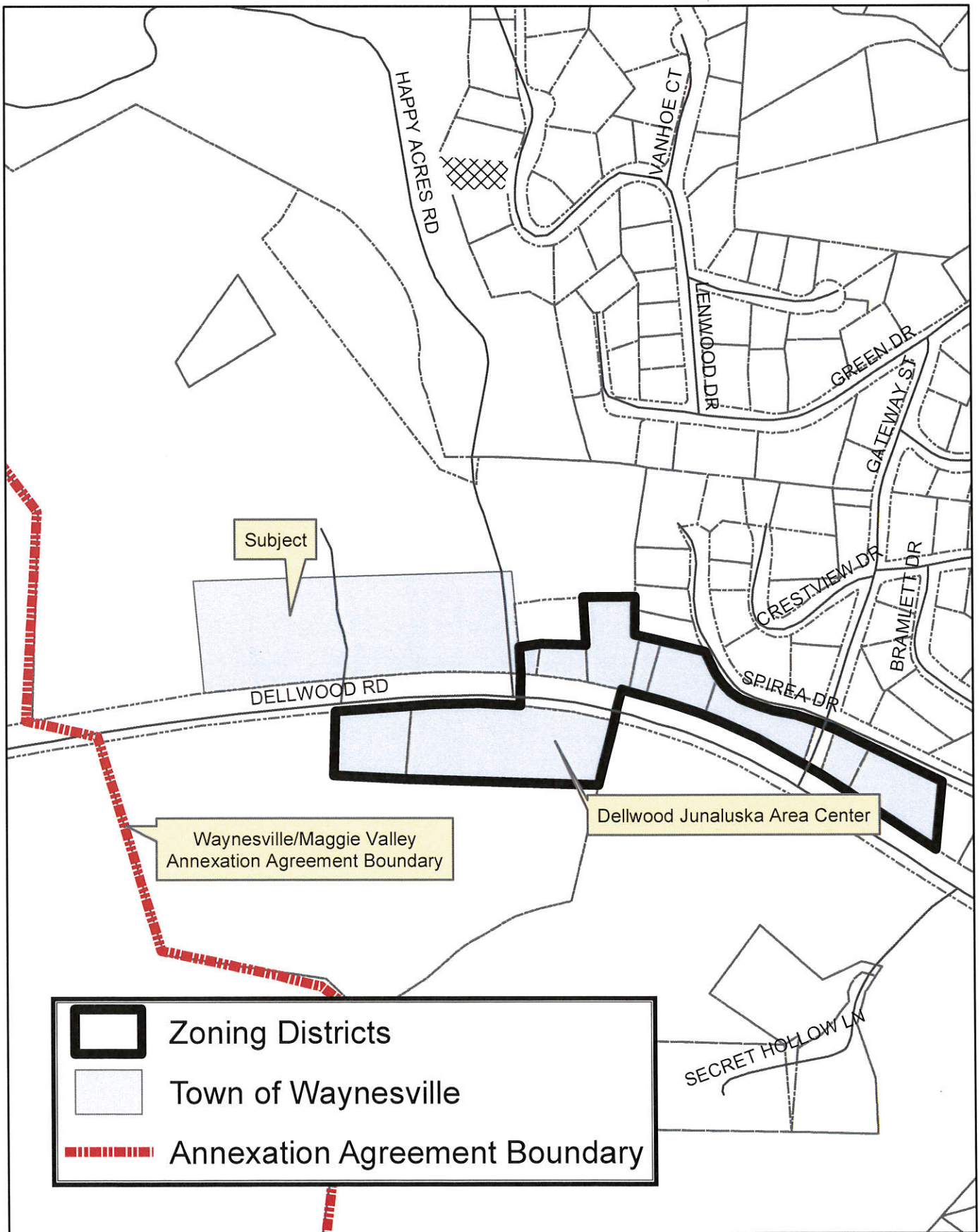
Hyatt Creek

HYATT CREEK ROAD

4-1



Location Map
Queen Farm Annexation Zoning
2180 Dellwood Road



TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 14, 2013

SUBJECT: Special Events – Request for Temporary Street Clsing & Use of Minipark for Main Street Mile (*request of Eric Yarrington/Jason Bodnar*)

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: 6-C
Department: Administrative Services
Contact: Marcy Onieal, Town Manager
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY: The 4th annual Main Street Mile “Run for the Children” footrace, benefitting the Shriners Children’s Hospital in Greenville, SC, is scheduled for Friday, August 23, 2013 at 6:30 pm. Street closing is requested from 5 pm – 10 pm to set up course, and hold a post-race party with live music, food/drinks and children’s activities. The use of the Mini-park is requested from 4 pm on to accommodate race registration. This event raises approximately \$5,000 annually for the Shriners Hospital, and serves as another downtown “Block Party” to attract visitors and residents alike. Waynesville Main Street Mile is a 501(c)3 organization, which has cooperated with the Police Department and Downtown Waynesville Association to sponsor this event for the last three years.

FUNDING SOURCE/IMPACT: There are few direct costs to the Town associated with street closings, most notably for disposable cleaning supplies, limited staff overtime and electricity for light/sound/vendors/etc. However, the Town commits a significant level of resources in in-kind contributions of materials, use and storage of equipment and staff support for traffic control, event security, emergency response and sanitation.

ATTACHMENTS:

- Letter from Eric Yarrington, Race Director, dated 5/10/13

MANAGER’S COMMENTS AND RECOMMENDATIONS: Adopt as presented.



43 Bowman Drive
Waynesville, NC 28785
828-452-1306, 828-452-9058 FAX
<http://www.waynesvillemainstreetmile.com>

5/10/2013

To: Town of Waynesville, Mayor and Board of Alderman
Downtown Waynesville Association, Chief Bill Hollingsed, Lt. Brian Beck

From: Eric Yarrington, President, Co-Race Director
Jason Bodnar, Co-Race Director
Shannon Yarrington, Registration Director

Re: Proposal for 2013 Waynesville Main Street Mile

I would like to thank the Town of Waynesville for the tremendous support for our annual Waynesville Main Street Mile *Run for the Children*. We are pleased to report that our 3rd annual race was another success and we were able to present Shriners Hospital of Greenville, SC with a \$5000 donation. We are proud that we have been able to give a total of \$15,000 in three years.

We have scheduled our 4th Annual race for Friday night, August 23, 2013. The race begins at 6:30 pm. The traffic assistance that has been graciously provided by the Waynesville Police Department, in addition to our volunteers, has been very successful at helping the race to be a safe and enjoyable event. In addition, it has provided for the opportunity for traffic to flow across Main Street. Traffic stops were set up at the intersections of Main Street and Russ Avenue (to stop southbound traffic) and at the traffic light at Main Street and Hazelwood Avenue (to stop northbound traffic). We are requesting the same assistance for this year's race, with traffic stops being in place at 5:00 to allow for course set up and for volunteers to be placed at the appropriate cross streets.

We feel that the Waynesville Main Street Mile serves as another "Block Party" to highlight our beautiful and historic downtown. We will once again have a big post race party complete with live music, food / drinks, and many children's activities. Local businesses that are already set to participate include Tipping Point Brewery, Frog Level Brewing Company, Groundswell Fitness / Gracie Jiu Jitsu North Carolina, CrossFit 2311, and ServPro. The post-race party will be in the United Community Bank parking lot this year; we are excited that all of the festivities will now be on the race course, in the heart of Main Street. Local band Soldier's Heart will be featured.

We are also requesting the use of the Mini-Park at the corner of S. Main and Depot St. for our registration area. We would need access to this by 4pm.

Sincerely,

Eric, Shannon, and Jason

Main Street Mile is a 501(c)(3) charitable organization
Federal Tax ID #27-2955805
All donations are tax deductible

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 14, 2013

SUBJECT: NC Department of Transportation Municipal Agreement for Walnut Trail Bridge

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: 7-C
Department: Wastewater Treatment
Contact: Fred Baker, Public Works Director
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY: NC Department of Transportation Bridge Maintenance Division has already completed replacement of timber handrails and wheel-guards on the bridge to the Wastewater Treatment Plant at a cost of \$8,736, but then realized an agreement was needed. NCDOT completes the work and the Town reimburses 100% of costs.

MOTION FOR CONSIDERATION: *To authorize the manager and/or mayor to execute municipal agreement #4012, between the NC Department of Transportation and Town of Waynesville, for the repair of Walnut Trail Bridge, as presented.*

FUNDING SOURCE/IMPACT: \$8,736 already budgeted in Sewer Fund in FY12-13.

ATTACHMENTS:

- NC Department of Transportation Municipal Agreement #4012
- Executive Summary

MANAGER'S COMMENTS AND RECOMMENDATIONS: Approve as presented.

NORTH CAROLINA
HAYWOOD COUNTY

TRAFFIC – DOT CONSTRUCTION AGREEMENT

DATE: 3/18/2013

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

AND

WBS Elements: 36249.3243

TOWN OF WAYNESVILLE

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the Town of Waynesville, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, the Department and the Municipality propose to make certain improvements under said project in Haywood County; and,

WHEREAS, the Municipality has agreed to participate in the cost of the project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF THE PROJECT

1. The Project consists of replacement of timber handrails and wheel-guards on Walnut Trail Road Bridge in Waynesville.

PHASES OF THE WORK

2. The Department shall be responsible for phases of the project which include planning, design, construction and contract administration. All work shall be done in accordance with departmental standards, specifications, policies and procedures.

UTILITIES AND RIGHT OF WAY

3. The Municipality shall accomplish the relocation and/or adjustment of any and all utilities in conflict with the construction of the project. Said work shall be accomplished in a manner satisfactory to the Department, and without cost to the Department.

4. It is understood by all parties hereto that all work shall be contained within existing right of way. However, should it become necessary, the Municipality shall provide any required right of way and/or construction easements at no cost or liability whatsoever to the Department. Acquisition of right of way shall be accomplished in accordance with State procedures. The Municipality shall indemnify and save the Department harmless from any and all claims for damages that might arise on account of damage to public or private property and right of way acquisition, drainage and construction easements for the construction of the project

FUNDING

5. The Municipality shall reimburse the Department one hundred percent (100%) of the actual cost of all work performed by the Department, including administrative costs. Based on the estimated cost of \$8,736, the Municipality shall submit a check to the Department's Division Engineer upon execution of this Agreement by the Municipality. Upon completion of the project, if actual costs exceed the amount of payment, the Municipality shall reimburse the Department any underpayment within sixty (60) days of invoicing by the Department. If the actual cost of the work is less than \$8,736, the Department shall reimburse the Municipality any overpayment. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147-86.23.

CONSTRUCTION

6. The Department shall install timber handrails and wheel-guards on Walnut Trail Road Bridge. All work shall be performed in accordance with the Departments policies and procedures and all applicable local codes, ordinances, and procedures.

MAINTENANCE

7. Upon completion of the project, the Walnut Trail Road Bridge shall be owned, controlled and maintained by the Municipality.

ADDITIONAL PROVISIONS

8. The Department shall not be liable and shall be held harmless from any and all claims that might arise on account of the Municipality negligence and/or responsibilities under the terms of this Agreement and/or project.

9. It is the policy of the Department not to enter into any agreement with parties that have been debarred by any government agency. By execution of this Agreement, the Municipality certifies, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by a governmental department or agency.
10. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

ATTEST: TOWN OF WAYNESVILLE

BY: _____ BY: _____

TITLE: _____ TITLE: _____

DATE: _____ DATE: _____

Approved by _____ of the local governing body of the Town of Waynesville as

attested to by the signature of Clerk of said governing body on _____ (Date)

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Federal Tax Identification Number

(SEAL)

Remittance Address:

Town of Waynesville

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE: _____

PRESENTED TO BOARD OF TRANSPORTATION ITEM O: _____

Executive Summary

The Executive Summary is a summation of this agreement and is not intended to be used as the agreement between the Department (North Carolina Department of Transportation) and the Party (Entity).

Entity: Town of Waynesville

County: Haywood

WBS Element: 36249.3243

Scope: The Project consists of replacement of timber handrails and wheel-guards on Walnut Trail Road Bridge in Waynesville.

Funding:

Type: Receivable

Total Cost: \$8,736

Responsibilities: The Municipality shall be responsible for maintenance of the completed bridge improvements.

Traffic Agreement Type: DOT Construction

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 14, 2013

SUBJECT: Call for Public Hearing to consider amending Section 54-93 of the Code of Ordinances regarding use of engine compression brakes (jake brake) within town limits

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: 8-C
Department: Administrative Services
Contact: Marcy Onieal, Town Manager
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY: Recently citizens in several areas of town, but particularly Russ Avenue, have called to report the increased use of engine compression (jake) brakes by large commercial trucks through town, which creates a situation of excessive noise and disturbance, particularly in areas adjacent to residential neighborhoods.. The use of such brakes was prohibited on Allens Creek Road in 2006, after resident requests along that street complained of excessive noise. Rather than create a list of streets where the use of the brakes is and isn't prohibited, staff is proposing a town-wide prohibition on the use of engine compression brakes within town limits, with signs posted appropriately at all gateway entrances. This ordinance would not prohibit the use of the brakes in the case of an emergency, nor does it ensure that every truck driver will comply, but it does provide a mechanism for addressing citizen concerns. Since adoption of the prohibition on Allens Creek Road, complaints have dropped dramatically. The Police Department has issued very few citations for this infraction and voluntary compliance is high.

MOTION FOR CONSIDERATION: *To call for a public hearing on June 11, 2013, at 7:00 pm, or as soon thereafter as possible, in the Board Room of Town Hall, 9, S. Main Street, for the purpose of considering amendments to Section 54-93 of the Code of Ordinances to prohibit the use of engine compression brakes (jake brake), except in the case of an emergency.*

FUNDING SOURCE/IMPACT: Minimal. Signage will be purchased using the current operations budget for the Streets and Sanitation Department.

ATTACHMENTS:

- Proposed ordinance X-13

MANAGER'S COMMENTS AND RECOMMENDATIONS: This is a call for a public hearing only; no additional action required at this time.

ORDINANCE X-13

AMENDMENTS TO AND RESTATEMENT TO CHAPTER 54 OF THE CODE OF ORDINANCES OF THE TOWN OF WAYNESVILLE

WHEREAS, the Board of Aldermen of the Town of Waynesville desires to amend the Code of Ordinances as it relates to the Operation of Vehicles.

NOW, THEREFORE, BE IT ORDAINED BY THE Board of Aldermen of the Town of Waynesville, North Carolina that Chapter 54, Article III: Operation of Vehicles be amended as follows by deleting strikethrough areas and adding highlighted areas:

CHAPTER 2: TRAFFIC AND VEHICLES

ARTICLE III. Operation of Vehicles

DIVISION 1: GENERALLY

Sec. 54-93 - Engine compression brakes prohibited ~~on certain town streets.~~

(a) No person shall use a motor vehicle ~~on Allens Creek Road~~ where the engine compression brake (jake brake) is in any way engaged or activated on such motor vehicle or any unit a part thereof, except for emergency situations for the purpose of avoiding a collision with another object, person or vehicle. Engine compression brakes are defined in section 54-1

(b) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with section 1-8

Adopted this 11th day of June, 2013.

TOWN OF WAYNESVILLE

ATTEST:

Gavin A. Brown
Mayor

Alison L. Melnikova
Deputy Town Clerk

APPROVED AS TO FORM:

Woodrow H. Griffin

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 14, 2013

SUBJECT: Call for Public Hearing to consider amending Chapter 46 of the Code of Ordinances, regarding safety requirements at skate park facilities.

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: 9-C
Department: Administrative Services
Contact: Marcy Onieal, Town Manager
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY:

When skate parks became a frequently requested facility in North Carolina, many local governments were hesitant to construct and operate skate parks due to the increased insurance risk (perceived or actual). State law was modified in 2003 to specify what steps local governments can take to limit liability, as well as the risks that individual participants assume when skateboarding, inline skating, and bicycling. Local governments now construct skate parks with some regularity, and in order to receive the protections outlined in Article 3 of North Carolina General Statute 99E, must adopt an ordinance requiring that participants wear personal safety equipment on skate parks, including helmets, elbow pads, and knee pads. The attached ordinance is consistent with those adopted by other North Carolina municipalities.

With the skate park currently under construction, we would like to have the ordinance adopted and the appropriate signage made and posted before the grand opening in July.

The skate park will be unsupervised, which is what allows us to build such a facility and operate it without charging a user fee. But this also means that there may be individuals who choose to use the skate park without wearing all of the protective equipment required. They will do so at their own risk of bodily harm, citation, and suspension of skateboarding privileges at the park.

MOTION FOR CONSIDERATION: *To call for a public hearing on **June 11, 2013, at 7:00 pm**, or as soon thereafter as possible, in the Board Room of Town Hall, 9, S. Main Street, for the purpose of considering an amendment to Chapter 46 of the Code of Ordinances to require the use of helmets, elbow pads, and knee pads at skate park facilities.*

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

- Ordinance No. X-13: Amendment to Chapter 46
- North Carolina General Statute 99E, Article 3: Hazardous Recreation Parks Safety and Liability.

MANAGER'S COMMENTS AND RECOMMENDATIONS:

This is a call for a public hearing only; no additional action is required at this time.

ORDINANCE X-13

AMENDMENT TO CHAPTER 46 OF THE CODE OF ORDINANCES OF THE TOWN OF WAYNESVILLE

WHEREAS, the Board of Aldermen of the Town of Waynesville desires to amend the Code of Ordinances as it relates to the Use of Public Places.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville, North Carolina that Chapter 46 is hereby amended to read as follows by adding Article III:

CHAPTER 46: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE III. Use of Public Places

Sec. 46 – 92 Hazardous recreational activities.

- (a) The town has provided recreational areas for the enjoyment of hazardous recreational activities, including but not limited to skateboarding, inline skating, and freestyle bicycling. Any person who participates in or assists in hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or other persons or property that result from these activities.
- (b) The town does not provide regular supervision of hazardous recreational activity facilities.
- (c) Any person riding a skateboard at a municipal skate park facility shall wear the following safety equipment:
 - (1) Helmet
 - (2) Elbow pads
 - (3) Kneepads
- (d) Signs shall be posted at the facility, affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and kneepads.
- (e) In addition to the penalties provided for in Section 1-8, any person who violates the provisions of the subchapter may be subject to sanctions imposed by the town including, but not limited to temporary suspension or permanent revocation of the privilege to skate anywhere within any town parks or recreation areas.

State law reference – Authority to regulate the use of skateboard parks, G.S. 99E-23.

Adopted this 11th day of June, 2013.

TOWN OF WAYNESVILLE

ATTEST:

Alison L. Melnikova
Deputy Town Clerk

Gavin A. Brown
Mayor

APPROVED AS TO FORM:

Woodrow H. Griffin
Town Attorney

Marcia D. Onieal
Town Manager

Article 3.

Hazardous Recreation Parks Safety and Liability.

§ 99E-21. Purpose.

The purpose of this Article is to encourage governmental owners or lessees of property to make land available to a governmental entity for skateboarding, inline skating, or freestyle bicycling. It is recognized that governmental owners or lessees of property have failed to make property available for such activities because of the exposure to liability from lawsuits and the prohibitive cost of insurance, if insurance can be obtained for such activities. It is also recognized that risks and dangers are inherent in these activities, which risks and dangers should be assumed by those participating in the activities. (2003-334, s. 1.)

§ 99E-22. Definitions.

The following definitions apply in this Article:

- (1) Governmental entity. –
 - a. The State, any county or municipality, or any department, agency, or other instrumentality thereof.
 - b. Any school board, special district, authority, or other entity exercising governmental authority.
- (2) Hazardous recreational activity. – Skateboarding, inline skating, or freestyle bicycling.
- (3) Inherent risk. – Those dangers or conditions that are characteristic of, intrinsic to, or an integral part of skateboarding, inline skating, and freestyle bicycling. (2003-334, s. 1.)

§ 99E-23. Duties of operators of skateboard parks.

(a) No operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and kneepads.

(b) For any facility owned or operated by a governmental entity that is designed and maintained for the purpose of recreational skateboard use, and that is not supervised on a regular basis, the requirements under subsection (a) of this section are satisfied when all of the following occur:

- (1) The governmental entity adopted an ordinance requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and kneepads.
- (2) Signs are posted at the facility affording reasonable notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and kneepads and that any person failing to do so will be subject to citation under the ordinance under subdivision (1) of this subsection. (2003-334, s. 1.)

§ 99E-24. Duties of persons engaged in hazardous recreational activities.

(a) Any person who participates in or assists in hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself or other persons or property that result from these activities. Any person who observes hazardous recreational activities assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself that result from these activities. No public entity that sponsors, allows, or permits skateboarding, inline skating, or freestyle bicycling on its property is required to eliminate, alter, or control the inherent risks in these activities.

(b) While engaged in hazardous recreational activities, irrespective of where such activities occur, a participant is responsible for doing all of the following:

- (1) Acting within the limits of his or her ability and the purpose and design of the equipment used.
 - (2) Maintaining control of his or her person and the equipment used.
 - (3) Refraining from acting in any manner that may cause or contribute to death or injury of himself or herself or other persons.
- (c) Failure to comply with the requirement of subsection (b) of this section constitutes negligence. (2003-334, s. 1.)

§ 99E-25. Liability of governmental entities.

(a) This section does not grant authority or permission for a person to engage in hazardous recreational activities on property owned or controlled by a governmental entity unless such governmental entity has specifically designated such area for these activities.

(b) No governmental entity or public employee who has complied with G.S. 99E-23 shall be liable to any person who voluntarily participates in hazardous recreation activities for any damage or injury to property or persons that arises out of a person's participation in the activity and that takes place in an area designated for the activity.

(c) This section does not limit liability that would otherwise exist for any of the following:

- (1) The failure of the governmental entity or public employee to guard against or warn of a dangerous condition of which a participant does not have and cannot reasonably be expected to have had notice.
- (2) An act of gross negligence by the governmental entity or public employee that is the proximate cause of the injury.

(d) Nothing in this section creates a duty of care or basis of liability for death, personal injury, or damage to personal property. Nothing in this section shall be deemed to be a waiver of sovereign immunity under any circumstances.

(e) Nothing in this section limits the liability of an independent concessionaire or any person or organization other than a governmental entity or public employee, whether or not the person or organization has a contractual relationship with a governmental entity to use the public property, for injuries or damages suffered in any case as a result of the operation of equipment for hazardous recreational activities on public property by the concessionaire, person, or organization.

(f) The fact that a governmental entity carries insurance that covers any activity subject to this Article does not constitute a waiver of the liability limits under this section, regardless of the existence or limits of the coverage. (2003-334, s. 1.)

§ 99E-26. Reserved for future codification purposes.

§ 99E-27. Reserved for future codification purposes.

§ 99E-28. Reserved for future codification purposes.

§ 99E-29. Reserved for future codification purposes.

TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 14, 2013

SUBJECT: Call for Public Hearing to consider amending multiple Sections of the Code of Ordinances, regarding terms of office and discharge of duties for appointees to various boards and commission

AGENDA INFORMATION:

Agenda Location: Unfinished Business
Item Number: 10-D
Department: Administrative Services
Contact: Marcy Onieal, Town Manager
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY: Last summer, in 2012, the Board of Aldermen agreed to a change in appointment procedure for all town boards and commissions, which provides for all appointees' terms to run concurrent with the Town's fiscal year (July 1-June 30). Additionally, to ensure against unplanned vacancies, all appointees shall serve in office until their successors are duly appointed. Further, it was the intent of the Board that the 2- or 3-year terms for all board and commission members should be staggered so that the same number of members are rotating on and off the board in each year. It is hoped that these changes will guard against vacancies on board, help ensure quorums at meetings, and provide an opportunity to systematically recruit new members to boards once a year in an effort to expand the pool of available appointees and ensure diversity among the many volunteers who choose to serve the community in this way. Since that decision was made, as terms have expired on boards and commissions, terms of new appointees have been adjusted to coincide with the fiscal year.

In tandem with these recommendations, the Manager proposed the development of a Boards and Commissions Manual that would outline terms of office, standard procedural guidelines, scope of duties and authority, and provide rosters for each board and commission. This manual would replace codified references and be reviewed and adopted annually by the Board of Aldermen.

Because many boards and commissions were established by Ordinance, having the effect of "law" with varying terms of office and inconsistent policies and procedures, it will be necessary to amend the Code of Ordinances in those sections which dictate specific terms that differ from those outlined above. It is staff's intent to replace specific references in the Code with general reference in the Code to the Boards & Commissions Manual, so that if the Board wishes to make additional changes in the operation of Boards and Commissions down the road, those changes will require only a motion to make an administrative change to the Manual, rather than an amendment to the Code of Ordinances, which is costly and burdensome.

MOTION FOR CONSIDERATION: *To call for a public hearing on June 11, 2013 at 7:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 9 S. Main Street, for the purpose of considering multiple ordinance amendments that would remove specific references to terms of office and discharge of duties in the Code of Ordinances, and replace those references with an annually reviewed and adopted Boards & Commissions Manual.*

FUNDING SOURCE/IMPACT: N/A

ATTACHMENTS:

- Draft Boards & Commissions Manual (to be provided prior to public hearing on June 11, 2013)

MANAGER'S COMMENTS AND RECOMMENDATIONS: This is a call for a public hearing only; no additional action required at this time. While this item is not expected to generate significant public response, because the proposal involves amending the Code of Ordinances, a public hearing is appropriate.