



TOWN OF WAYNESVILLE Planning Board

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**Development Services
Director**
Elizabeth Teague

Chairman

Patrick McDowell (Chairman)

Planning Board Members

Danny Wingate (Vice)

Anthony Sutton

Marty Prevost

Robert Herrmann

Jason Rogers

H.P. Dykes, Jr.

Pratik Shah

Ginger Hain

MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD Regular Meeting Town Hall – 9 South Main St., Waynesville, NC 28786 June 18, 2018

THE WAYNESVILLE PLANNING BOARD held its regular meeting on June 18, 2018 at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Chairman Patrick McDowell called the meeting to order at 5:34 p.m.

The following members were present:

Patrick McDowell (Chairman)
Danny Wingate (Vice Chairman)
Robert Herrmann
Jason Rogers
Ginger Hain
Pratik Shah
Marty Prevost
Anthony Sutton
Bucky Dykes

There were no members absent.

The following staff members were present:

Elizabeth Teague, Development Services Director
Eddie Ward, Town Clerk
Byron Hickox, Land Use Administrator
Chelle Baker, Administrative Assistant
Attorney Ron Sneed
Brian Beck, Police Department

The following media representatives were present:
Becky Johnson, The Mountaineer newspaper
Cory Vaillancourt, Smoky Mountain News

1. Welcome/Calendar/Announcements

Chairman Patrick McDowell welcomed everyone. Elizabeth Teague, Director of Development Services announced the following events and meetings on the calendar:

Thursday, June 21: 3pm-7pm - Visioning Workshop – Waynesville Recreation Center

Monday, July 16: 5:30 pm - Regular Board Meeting – Town Hall, 9 S Main St

Monday, July 30: 5:30 pm - Special Meeting- Town Hall, 9 S Main St

2. Adoption of Minutes

A motion was made by Board Member Anthony Sutton, seconded by Board Member Danny Wingate, to approve the minutes of the May 21, 2018 board meeting as presented. The motion passed unanimously.

B. BUSINESS

1. Public Hearing and consideration of a Preliminary Subdivision Plat at Buchanan Drive, PIN 8604-94-0656 (AC-NR District) (Quasi-Judicial Proceeding)

Chairman Patrick McDowell explained the protocols of a Quasi-Judicial Hearing to the Board members and to the audience. He asked anyone who wished to have standing to come forward. Laura McClure asked to have Standing on behalf of somebody else not willing to speak on their own. Attorney Ron Sneed defined Standing in a quasi-judicial meeting and Ms. McClure declined standing. Chairman McDowell asked anyone who wished to speak to come forward and be sworn in. After swearing in potential witnesses, Chairman McDowell reviewed further protocols with the Board and asked that the public also follow all protocols.

A motion was made by Board Member Anthony Sutton, seconded by Board Member Bob Herrmann to open the public hearing at 5:51 p.m. The motion passed unanimously.

Chairman Patrick McDowell asked Ms. Elizabeth Teague, Development Services Director, to present the staff report.

Ms. Teague said this is a request for a major subdivision for 26 lots, and was submitted on 06/06/18. The applicant has met with the Technical Review Committee twice. The "TRC" consists of the Town's Fire, Public Works, Planning and Building Inspections, and Town Engineer. The property is owned by Browning Branch, LLC, and is being represented by Mr. Greg Wishart. The acreage of the site is 7.04 acres. The district is zoned Allen's Creek Neighborhood Residential. The application includes an Environmental Survey indicating designated wetlands with attached jurisdictional determination from the US Army Corps of Engineers. Floodplain information, topography, existing tree lines and 25 foot required stream buffer along streams on or adjacent to the property are also included. The subdivision plan and preliminary plat, and a Utility Plan showing location of infrastructure, lots and building footprints has also been included and was prepared by a licensed land surveyor.

Upon approval of the Master Plan with Board comments, the preliminary plat can be refined with detailed engineering for sedimentation and erosion control, roads, floodplain development, storm water management and other required engineering for permits.

The Allen's Creek Neighborhood Residential District (AC-NR), allows 10 units per acre with a minimum lot size of 7,269 square feet. The total area of the tract is 7038 acres, however, 0.415 of that area is designated wet land with an additional 0.69 (approximate) area of additional stream buffer. There is approximately 1.10 acres that are environmentally restricted within the parcel, leaving only 5.93 acres of developable land. The impervious build-out of the site is listed as 4.2 acres, and bio-retention areas have been designated to capture storm water. The project proposes 26 lots of duplexes or 52 units and that is within the zoning density for the district. The minimum lot size is 7,260 square feet, and setbacks for dimensional requirements of AC-NR. The smallest lot is 7,334.8 square feet and the largest is 19,909.6 square feet. Since receiving the application, the site plan has been reduced to provide more civic space. Each structure must comply with North Carolina State Building and Fire Codes, floodplain management requirements, elevations, and all other local, state, and federal requirements.

Background and Procedures:

This application is for a major subdivision which requires a quasi-judicial proceeding and compliance with Chapter 15.9 of the Town of Waynesville's Land Development Standards. The applicant has made several revisions in response to staff comments and submitted the master plan with environmental information as part of a complete application for Planning Board consideration. In accordance with LDS Guidelines, Chapter 15:

- A. **Public Hearing:** The Planning Board shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
- B. **Decisions/Findings of Fact:** Following the public hearing the commission may approve, deny or approve with conditions the application for a Major Subdivision. No Major Subdivision shall be granted unless it complies with the following findings of fact:
 - 1. The plan is consistent with the adopted plans and policies of the Town;
 - 2. The plan complies with all applicable requirements of this ordinance;
 - 3. There exists adequate infrastructure (transportation and utilities) to support the plan as proposed
 - 4. The application will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
- C. **Review Period by Planning Board:** The Planning Board shall take action (approve or deny approval) within thirty-two (32) days of the public hearing on the matter. Should the Planning Board fail to act on the preliminary plat within the prescribed period, the applicant may seek preliminary plat approval by the Board of Aldermen at the next regularly scheduled meeting of the Aldermen.
- D. **Decisions:** If the Planning Board approves the Major Subdivision, the applicant will be directed to proceed to the preparation of a Preliminary Plat (15.4.4). If the Planning Board disapproves or approves conditionally the plat, the reasons for such action shall be stated in writing and entered in the records of the Planning Board. The applicant may make changes and submit a revised plat which revision shall be submitted, reviewed and acted on in accordance with the procedures set forth in this section.

E. Appeals: An appeal from the decision of the Planning Board regarding a Major Subdivision request may be made by an aggrieved party and shall be made to the Superior Court of Haywood County in the nature of certiorari. Any such petition to the Superior County shall be filed with the court no later than thirty (30) days after the applicant receives the written copy of the decision of the Planning Board.

F. Permit Validity: Approval of a Major Subdivision Plan shall be valid for one (1) year from the date of approval. A Preliminary Plat shall be presented for approval prior to the end of this one (1) year period.

G. Permit Extension: The Administrator may grant a single extension of this time period of up to six (6) months upon submittal by the applicant of sufficient justification for the extension.

The Land Development Standards describe the purpose and intent of the AC-NR District is as follows:

2.3.3 Neighborhood Residential Districts (NR) Purpose and Intent

A. The Allens Creek Neighborhood District (AC-NR) is a predominately residential neighborhood of mostly medium density development mixed with agricultural uses. Due to the linear nature of the neighborhood, Allen's Creek Road becomes the "center" of the community and as such, maintaining a "pedestrian-friendly" environment is important. As development occurs, such things as building houses closer to the street, requiring sidewalks and planter strips and allowing narrow lane widths for new streets will help to maintain the pedestrian scale in the area which has already been started. Traffic calming devices may be needed to aid with maintaining a low speed (especially with large trucks) along Allens Creek Road. Connections from within the district to the South Main Street Business District are important and should be made wherever possible. Efforts will be made to preserve existing farmland and restrict development on the steep slopes found in this district. The county soccer complex should be emphasized as a focal point of activity and community for this neighborhood.

The project will take up a large undeveloped field that has been used for agricultural purposes in the past. The site plan creates a residential neighborhood with sidewalks and meets the density threshold and minimum lot sizes for the district.

The Planning Board must make findings of fact in the following area:

Consistency with 2020 Land Development Plan:

Staff submits that may find that this plan is consistent with the adopted comprehensive land use plan for Waynesville: "Waynesville Our Heritage, Our Future, 2020 Land Development Plan," in that several goals of the Plan could be applied to this request.

-Goal: "Provide an attractive range of housing opportunities and neighborhoods for all residents of Waynesville." (LUP4-6)

Objective: "Establish appropriate locations and densities for residential development in the Waynesville community." (LUP4-8)

-Action: "Utilize the zoning ordinance and map to promote residential development in accordance with the future land use map concentrating higher density housing where the services and land are suitable for such development and promote infill housing development. (LUP4-8)"

-The proposed project will create new residential housing within the Allen's Creek Neighborhood Residential (AC-NR), resulting in up to 52 new units using 26 lots of duplexes which will keep costs down, which has now

been amended to 50 units. The development is compliant with the current Zoning Map and consistent with the 2020 Land Use Plan.

1. Compliance with the Land Development Standards and Town Regulations:

This project has been reviewed by Town staff from Fire, Public Works and Development Services and is compliant with Town regulations in the following ways.

- The new lots all meet the minimum standard for lot size (7,260 s.f) and building envelopes are established with compliance to the District dimensional requirements for setbacks.
- Driveways will accommodate 2 cars, exceeding minimum standard for parking of 1 off-street parking space for each single-family unit.

Streets and sidewalks are designed to the Town standard as a residential street/lane per Section 6.6.2 (D) and (E) as discussed in the Technical Review Committee Meeting of May 23, 2018, with a sidewalk along one side. Interior streets are looped to avoid cul-de-sacs and are located to create short blocks of less than 400'. Landscaping must be provided between the roadway and the sidewalk in accordance with Section 8.5.1.

- Connection to Allen's Creek Road is subject to NCDOT Driveway requirements and right-of-way. Development would create 26 lots of duplexes, or 52 units. ITE Manual indicates average traffic generation as 10 trips per day per residential unit or a traffic generation factor of 520 per day. Waynesville Ordinance Section 6.10 requires that developments with estimated trip generation of 3,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the ITE Trip Generation Manual, but this project is below that threshold.
- The site plan maintains 2.84 acres of environmental areas, retention ponds, and yard space, or about 40% of the total 7.038 lot that will not be built upon area. A fully engineered storm water plan will be required.

The staff has concerns regarding the following:

- The Plat designates "common area" as the 0.415 wetland delineation. Chapter 7 of the LDS however states that such spaces are distinct from areas that are environmentally significant and must be protected. Therefore, the delineated wetlands cannot count towards the required 5% civic space. The applicant has been made aware of this concern.
- The Town and NCDOT will need a better detail of drawing to see how the entry road into the development intersects with Buchanan Drive and Allen's Creek Road. NCDOT will have to approve the driveway connection to Allen's Creek Road.

3. Adequate Infrastructure

- Water and Sewer is available with capacity to serve the 52 new units. The Public Works.

- This area is served by Duke Power.

4. Proposed Development and value of adjoining or abutting property.

To the north of this property are single family homes on the other side of Buchanan Drive and to the south, the property abuts two manufactured home parks. The property is bordered to the west and east by Browning Branch. This property lays partially within the designated floodplain and any fill or construction activity will require compliance with the Town's Flood Hazard Prevention Ordinance. The Plan follows the USACE(US Army Corps of Engineer) wetland delineations and establishes 25' stream buffers.

Staff believes that this major subdivision will not be detrimental to the use or development of adjacent properties or other neighborhood uses and may in fact add value to the surrounding properties with new construction and investment.

Staff Recommendation:

Staff recommends that this proposed project is consistent with the Town's 2020 Plan but that the developer is deficient in civic space because delineated wetlands cannot count toward the 5% area required for civic space. Additionally, staff asked that the applicant to demonstrate how the entry road will interact and connect with Allen's Creek Road (NCSR 1147) and information on the required driveway permit from NCDOT.

Attachments:

1. Location, Zoning, Floodplain and Topography Maps. NC Floodplain mapping FIS Map
2. Application Materials Submitted

Ms. Teague advised she was open to any questions from the Board at this point. Board Member Jason Rogers asked if it would be a street or a lane. Ms. Teague responded that it would be a hybrid, combining both. She referenced Ordinance 6.6, and described the combination as 20 feet of pavement, 40 feet of right of way and a sidewalk on one side.

There was also discussion between the Board and Ms. Teague, about the Town's Flood Hazard Prevention Ordinance and Ms. Teague advised it is a Federal ordinance locally adopted and enforced by the Town. There were no other questions at the time and the Applicant was advised to come forward to speak.

**Greg Wishart
125 Wild Cherry Dr
Clyde, NC 28786**

Mr. Wishart advised he is acting as an agent of Browning Branch, LLC, has been a property owner in Haywood County since 1999 and a fulltime resident here since 2005. He obtained his building and real estate licenses and currently owns five acres in Clyde, NC. He builds rental duplexes and he understands how hard it is to find quality rentals. He advised that on the five acres where he resides, he also has eleven rentals on the property. The Browning Branch plan is 25 duplexes; 2 bedrooms, 2 bathrooms, approximately 1,000 square foot each, and will meet all the Town of Waynesville requirements and standards. He informed the Board he brought an environmental representative from Equinox with him. Mr. Wishart acknowledged a portion of the property was in the 100-year floodplain. He stated that 11 of the 25 buildings would be either partially or wholly included in the floodplain, and he would work with Waynesville's floodplain administrator, along with the appropriate state and federal officials to make sure

they are developed properly. The impervious surface is 60% versus 40% of pervious which will be mitigated. Mr. Wishart affirmed that all storm water will be dealt with in accordance with their engineered storm water plan which had yet to be engineered. He also communicated his belief that this housing would attract young professionals working in public safety and education looking for good schools, shopping and an easy commute to Asheville. He informed the Board that included in their handout there was an Engineer letter regarding storm drainage and construction on floodplain that will be engineered later upon approval. He thanked the Board for their time and asked if there were any questions.

The Board asked Mr. Wishart to show them on the plans where a previous unit had been removed from the plans. Mr. Wishart also advised this added an additional 3% to the civic space.

Chairman McDowell opened the meeting for public comment at 6:33 p.m.

**Krissy Deaver
41 Buchanan Dr
Waynesville, NC 28786**

Ms. Deaver conveyed concerns regarding an increase in traffic at her house and on Allens Creek. She advised there are no sidewalks past Allens Creek Church and people are currently walk in the middle of the road. She also advised that the Town's Land Development Standards require driveway separation, distances from street to street, street to drive, and drive to drive. She didn't feel the proposal allowed for any separation between her existing drive and the Applicants proposed street. She also asked the Applicants find a right of way that meets all the requirements. Ms. Deaver informed the Board, once you pass Allens Creek Baptist Church, there is no other way in or out of Allens Creek. If there is a need for emergency vehicles you must pull into someone's yard or driveway and there are site triangle safety concerns. She asked the Board for their help and thanked them for their time.

Chairman McDowell asked Elizabeth Teague, Director of Development Services, if the access to Allens Creek is controlled by the NC Department of Transportation and asked for confirmation on whether the Board had the authority to grant the driveway. Ms. Teague advised they would have to seek a driveway permit to change that connection, and their proposal of a shared driveway between Buchanan Drive and the new parallel road would be a NC DOT decision.

**Sharon Rathbone
436 Camp Branch Road
Waynesville, NC 28786**

Ms. Rathbone advised she lives in a division in the Allen's Creek community and she is representing her family, neighbors and everybody that lives in that area. She informed the Board she has lived there her entire life. She spoke of her concerns including traffic, possible changes in taxes, farm use being taken away, packed schools, and her worry for all the extra housing when it is already crowded.

**Mark McClure
225 Buchanan Drive
Waynesville, NC 28786**

Mr. McClure spoke of his older relatives not building anything on that land previously due to the sink

holes. He recounted that six months ago he helped fill a sink hole in the middle of the lower part. He said his great-grandpa would fill in sink holes in the lower end and they would sink again. He warned it will turn to swamp. Mr. McClure addressed concerns over the road, because it is tight, and he advised if there is more than one car there will be a collision. He asked who was going to be responsible for the damage he felt the field was going to cause to the lower properties. He spoke of a water line that broke a month or two ago at the cemetery and of the springs underground on the property.

Elizabeth Teague, Director of Development Services, asked if she could get clarification on the location of the sinkholes to which Mr. McClure was speaking of. Mr. McClure and Ms. Krissy Deaver pointed sinkholes out on a map.

Chairman McDowell asked Ms. Teague to clarify that during the construction phase of a property, if there is any disturbance to adjoining properties, would the person doing the construction be responsible for remediation and correction. Ms. Teague advised this was correct and covered under NC trespass rules. She also informed that any land disturbance would have to follow a grading plan, and this doesn't allow mud to follow across boundary lines. Chairman McDowell asked Ms. Teague if ten years later there were issues with property damage who would be responsible. Ms. Teague explained if the collapse is caused by private property then the owner of the property would be responsible.

**Logan McClure
271 Buchanan Drive
Waynesville, NC 28786**

Mr. Logan McClure spoke of witnessing the sinkholes on the land. He described a culvert that he helped put back in due to the previous one washing out, and a sink hole being created that was more than eight to ten feet wide. He informed the Board of the streams filled with trout and wildlife he was concerned with. He had concerns of the full school system, the land not being able to hold a foundation, the watershed, collection system, the dam, the slopes and dips of the field. He said he did, not want his kids dropped off at the end of the road with that many people and homes down there. He passed out documentation to the Board concerning a police department report and expressed frustration about the road not being wide enough for emergency vehicles. Mr. McClure talked about the sediment control into the other properties and creeks. He said he felt it was too crowded, too much, too quick. He spoke of the problems he felt were going to happen because it wasn't done properly, and the safety of the community, the roads, the congestion, and the drainage.

**Frank Deaver
167 Buchanan Drive
Waynesville, NC 28786**

Mr. Deaver expressed worry over the road's right of way. He advised it is already hard to see around the store when you come out of the drive. He also stated he is worried about the value of the property that joins it. He asked the board if these homes were going to be low income housing homes, Chairman McDowell answered Mr. Deaver that the applicant stated the average price will be \$1000/month per unit. Mr. Deaver also said there should be a sidewalk on both sides of the road.

**Laura McClure
134 Buchanan Drive
Waynesville, NC 28786**

Ms. McClure stated that her front yard looks straight over the field. She expressed that currently the field was overgrown 4-5 feet deep in hay, but previously it was farmed, and it had been cleared off for hay every year. Her main concern is the damage that will come in the future. She spoke of her experience since she was growing up of filling in the pot holes, grading and working in the driveway and how it moves and sinks. She spoke of how the cemetery was a natural disaster when the sediment came out into the branch and blocked the drains which flooded her basement. Ms. McClure expressed concern to the Board that she feels this project will have the same effect and cause damage.

**Wendy Trull
457 Allens Creek Road
Waynesville, NC 28786**

Ms. Trull advised she lived at this address for twenty years. She stated she did not feel this was good for the community and the road could not handle it. She also spoke of her concerns that were school issues, taxes, sink holes, and water runoff.

**Stephen Swanger
50 Little Cove Road
Waynesville, NC 28786**

Mr. Swanger advised he was in the building industry and familiar with the LDS. He stated that the LDS for this type of development would be a lane that is a 40 foot right of way, and although the applicant could get a permit for 30.2, that is only $\frac{3}{4}$ of what they need but leaves them $\frac{1}{4}$ short. He suggested it be continued until the boxes that need to be checked off for the LDS could be done.

Chairman McDowell asked the applicant for a closing statement.

Mr. Wishart advised that they offered the adjacent property owners to upgrade the road, build a bridge, and pave the road to the end but it was refused. He stated there is no intention to incur any damage and they plan to mitigate all storm water drainage on the property itself and be responsible corporate citizens and neighbors. Ms. McClure came forward and advised that it was with no regress or retaliation that the citizens who lived on Buchanan Dr. declined having the road paved or a culvert put in. She informed the Board that the Town of Waynesville has previously offered numerous times the same, but it has been declined for the purpose to remain a private drive.

Board Member Ginger Hain asked Development Services Director, Elizabeth Teague if there would be further studies regarding the sinkholes and wetlands. Ms. Teague advised this applicant would be held accountable to all regulations. There was also much discussion between Mr. Swanger, Ms. Teague, and the Board members regarding the LDS and roadway, the right of way, the DOT driveway permit needed, and the civic space requirements for the property.

A motion was made by Board Member Anthony Sutton, seconded by Board Member Robert Herrmann, to close the public hearing at 7:42 pm. The motion passed unanimously.

The Planning Board began deliberations on findings and discussed several concerns. Jason Rogers summarized that there is information still needed including, right-of-way, the driveway separations and the proper amount of civic space, as well as the Driveway permit for NCDOT. The Board discussed the fact that they are required to make a decision within 32 days. Marty Prevost asked about stormwater, and there was Board discussion about what the Board can request in the way of engineering and revisions to the plan. There was additional discussion about tabling or delaying the Planning Board's decision. The Board's attorney advised that the Board could continue the hearing until a time and date within the 32 days.

A motion was made by Board Member Jason Rogers, seconded by Board Member Anthony Sutton, to continue the Hearing to the next regular meeting on July 16, 2018 at 5:30 pm. The Board at that time would look forward to the applicant addressing the following:

- the Right of Way***
 - meeting the lane***
 - driveway separation distances meeting Land Development Standards***
 - civic space meeting the Land Development Standards***
- The motion passed unanimously.***

Chairman McDowell said that the Public Hearing would now be continued at the next regularly scheduled Board Meeting on July 16 and called for a short recess at 7: 49 pm.

The meeting reconvened at 7:54 pm.

2. Discussion and consideration of a request to rezone 140 Broadview and adjacent undeveloped property, PINs 8615-69-9255 and 8615-69-8390 from East Waynesville Urban Residential to North Main Street Neighborhood Center. (Legislative)

Ms. Elizabeth Teague, Director of Development Services, presented background information on an application to rezone two properties along Broadview Road. The owners would like to sell their pre-existing insurance office to a hair salon. The insurance business has been there since 2008. However, an insurance office falls under the use definition of "professional services," but a "hair salon" falls under the use definition of personal services. Therefore, these are two distinct uses within the Table of Permitted Uses that assigns uses to zoning districts. The properties are within the East Waynesville Urban Residential District, but across the street from the North Main Neighborhood Center District. The applicant is seeking a rezoning to allow the sale of the property for the future use as a salon. This section of Broadview already has commercial on the same side as the property in question, including a dentist office.

2.3.4 Urban Residential Districts (UR) III Purpose and Intent

A. The East Waynesville Urban Residential District (EW-UR) is an urban neighborhood of mostly medium to high density residential development bordering the Waynesville town center. Higher density development is encouraged closer to town with lesser densities found as the district approaches areas with steeper slopes.

A number of public spaces are found in this district including the East Street and Vance Street parks. It will be important as new development and redevelopment occurs for connections to be made to such public spaces and throughout the district.

2.3.5 Neighborhood Center Districts (NC) III Purpose and Intent

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

Consistency with the 2020 Comprehensive Land Development Plan

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

"Promote the orderly growth, development and enhanced land values of the Town of Waynesville by preserving and improving Waynesville's existing neighborhoods, creating more attractive commercial centers, maintaining a strong downtown area, taking steps to reduce urban sprawl and protecting the natural beauty of the community." (2020 LOP, p.4-2)

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

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

An Objective under this goal includes:

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

Ms. Teague told the Board that she believes this is a case in which you could argue consistency in either direction. We want to encourage mixed-use in some areas and promote the re-use of land and the economy, but we also want to maintain the integrity of the zoning districts that were established in order to reserve certain amounts of land for certain purposes, including residential.

Staff Recommendation

This portion of Broadview may be an area for a future designation as a mixed-use overlay and may be something the Board would like to take up as part of the Comprehensive Plan update when it comes to recommended updates to the Zoning Map. As a stand-alone request, this amendment would allow the sale of a property for a business at hand to re-use the building as it exists now.

Rezoning these properties would allow mixed use zoning to encroach into the UR district. However, in this case there are two on-the-ground facts for consideration:

1. This side of Broadview has allowed professional services and there are already office buildings and commercial uses in existence along with residential. Therefore, this side of Broadview is already mixed-use to some degree, and this property itself is already commercial since it has been an insurance office since 2008.
2. This property faces an automotive service center and warehouse which is not conducive to the property returning to a residential use.

I believe there are some cases in which the rights of the property owner to use their property should be considered and that this is one. As a stand-alone action to allow this map amendment would not be detrimental to the surrounding area and the area could be re-examined as part of Land Use Planning updates. I would recommend rezoning in this case but would like to hear Board discussion regarding this case and am open to other ideas or considerations before further action is taken.

In fairness to the applicant, this request was not noticed in time for a public hearing tonight, but the Board should provide some definitive direction so that a public hearing could be set.

There was much discussion that followed between the Board members, Ms. Teague and Attorney Ron Sneed regarding the possibility of a new neighborhood mixed use overlay or a rezoning.

Chairman McDowell asked the applicant to come forward and speak.

**Jessica Cook Nicholson
Canton, NC 28716**

Ms. Nicholson advised that she is the administrator of her mother's estate which included these properties. She informed the Board there was a no-contest agreement with the insurance agency across the street and was unable to sell it to another insurance agency for three years. She said that she was excited when a buyer, who owned a hair salon, approached her when she put the building up for sale. She told the Board she was unaware at that time there was a difference in personal and professional services and she has made an

application so she can sell the property. She advised this was the last piece of property that their family needed to sell in this estate matter.

The Board directed staff to set up a public hearing on this application for the next regular scheduled meeting.

3. Continued discussion of proposed text amendment related to previous request to rezone properties in Mixed Use Overlay of Love Lane Neighborhood Residential (LL-NR) (619 Dellwood City Road PIN 8616-20-7488, 635 Dellwood City Road PIN 8616-20- 8680, and 15 Arnold Heights PIN 8616-20-9635). (Board direction to staff)

Mr. Byron Hickox, Land Use Administrator, presented background information on the staff report to the Board. He advised the board that the owners of four properties located along Dellwood City Road approached The Development Services Staff about locating a restaurant or general commercial (retail) use on one or more of the properties. The current zoning is Love Lane Neighborhood Residential Mixed-Use Overlay. This particular zoning designation would not permit the establishment of either restaurants or general commercial. Therefore, the property owners submitted formal application for map amendment to rezone the four subject properties to Russ Avenue Regional Center. The Planning Board did not approve this request for map amendment, but the related discussion led to an interest in the creation of additional use categories that might designate retail establishments or restaurants at a scale that would be appropriate to Mixed-Use Overlays.

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

"a zoning overlay district established to permit certain limited mixed uses within residential neighborhoods." LDS2.6.2(A)

A survey of several other jurisdictions around the State of North Carolina revealed that smaller scale retail and restaurant establishments and the location of these establishments within residential areas are handled in a variety of ways:

1. Separate zoning districts- A separate district, often referred to as neighborhood or community commercial, permits the establishment of retail or restaurant uses. This, however, is similar to the town's existing Neighborhood Center Districts, which already permit commercial uses of less than 100,000 square feet as well as restaurants.

2. Additional permitting requirements - A tiered permitting system exists to apply different standards for approval depending on the size of the development. The smallest category of retail and restaurant uses is approved at the staff level, the next largest category requires Planning Board approval, and the largest category requires the approval of the jurisdiction's governing body (Board of Aldermen).

3. Size limitations on non-residential uses- Size limitations are placed on certain use categories or on all non-residential uses within particular zoning districts or mixed-use overlays. These size limitation thresholds mostly fall in the 3,000- 5,000 square foot range, with many jurisdictions including height restrictions as well (typically limited to 2 stories).

The third method most closely matches the approach discussed by the Planning Board at its May 21, 2018 meeting.

A survey of a few small general commercial and restaurant uses within Waynesville helps to envision what these small-scale uses actually look like:

Haywood Smokehouse- 2,169 Square Feet

Kanini's- 2,888 Square Feet

Log Cabin Frozen Treats- 1,545 Square Feet

Charlie's Corner- 2,465 Square Feet

Bob's Sports Store- 3,584 Square Feet

Antique Antics- 1,264 Square Feet

Staff feels this project is consistent with the 2020 plan.

Staff Recommendation

Mixed-use overlay districts are designed to promote limited commercial uses along corridors adjacent to residential districts. The compromise approach of permitting some additional non-residential uses at a scale that is more appropriate to the scale of such residential districts would allow limited infill development that could serve to promote walkability within neighborhoods and can provide goods, services, and jobs to those neighborhoods. The mixed-use overlays within the town have historically been home to a diverse mix of single-family dwellings, duplexes, offices, mixed-uses, and general commercial uses. These areas are often corridors that serve as transition areas between more intensive commercial centers. This historic pattern of uses along these corridors served as the rationale for the creation of the town's mixed-use overlays.

Staff recommends the creation of two smaller scale commercial use types, to be named Neighborhood Commercial and Neighborhood Restaurant, each limited to 3,000 gross square feet. This would distinguish a neighborhood scale use, from the larger *General Commercial*, and *Restaurants* currently provided in the ordinance. Staff recommends that these two use types be permitted within the Town's Mixed-Use Overlay Districts, as directed by the Planning Board, starting with Love Lane. These use types would be listed on the Table of Permitted Uses (2.5.3) as PL- Permitted in Designated Locations. The staff would recommend the following definitions for Neighborhood Commercial and Neighborhood Restaurant:

Neighborhood Commercial- A place of business limited to 3,000 gross square feet that provides the sale of goods directly to the consumer, with goods available for immediate purchase and removal from the premises by the purchaser.

Neighborhood Restaurant- A place of business limited to 3,000 gross square feet that sells ready-to-eat food and/or beverages for on or off-premise consumption. Customers may be served from an ordering counter (cafeteria or limited service restaurant), at their tables (full-service restaurant), and/or at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter, but not from drive-thru windows.

Staff submits that the introduction of small-scale retail and restaurants would be appropriate within several mixed-use overlay districts and would be consistent with the Land Use Plan. This would add

another option onto the Table of Permitted Uses to allow for infill and redevelopment of properties along major corridors. This would also allow the applicants along Dellwood City Road to use a different and more sensitive approach than rezoning, by allowing them to re-use property for the purpose of a small shop and restaurant.

Staff asks for Planning Board feedback on this proposal and any specific guidance the Board might have related to the creation of these types of uses within the Table of Permitted Uses and is encouraged to consider potential impacts on adjacent residential districts. For example, the Land Development Standards regulates parking in Chapter 9. The parking requirement is one space for every 8 seats of a restaurant and 1space for every 600 square feet for retail. A 3,000 square foot retail store would therefore only require 5 parking spaces. A 3,000 square foot restaurant however, would require more depending on actual floor space for seating (minus kitchen). Patrons using on-street parking could take away from the parking needs of adjacent residents, and large parking lots could detract from the character or aesthetic of a road corridor or neighborhood. Therefore, supplemental standards that required additional buffering and sidewalk connections could be considered. Lighting and signage within mixed-use overlays are already subject to the standards of the residential district in which they are located, so no additional design standards regarding these elements would be necessary.

Based on Planning Board feedback, and with a motion from the Board, staff can bring forward a text amendment for consideration and a public hearing at the next meeting. Discussion between the staff and the Board took place.

A motion was made by Board Member Anthony Sutton, seconded by Board Member Danny Wingate directing staff to bring forward a text amendment that creates two new uses -Neighborhood Commercial and/or Neighborhood Restaurant and a proposal for each of the nine mixed use overlay districts. The motion passed unanimously.

D. ADJOURN

With no further business, a motion was made by Board Member Bob Herrmann, seconded by Board Member Anthony Sutton, to adjourn the meeting at 8:54 pm. The motion passed unanimously.


Chelle Baker, Administrative Assistant


Patrick McDowell, Chairman