



## **TOWN OF WAYNESVILLE Planning Board**

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### **Chairman**

Patrick McDowell (Chairman)

### **Planning Board Members**

Anthony Sutton (Vice-Chairman)

Marty Prevost

Robert Herrmann

Jason Rogers

H.P. Dykes, Jr.

Pratik Shah

Ginger Hain

Susan Teas Smith

### **Development Services**

#### **Director**

Elizabeth Teague

## **MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD**

### **Special Called Meeting**

**Town Hall – 9 S Main St., Waynesville, NC 28786**

**November 5, 2018**

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THE WAYNESVILLE PLANNING BOARD held its regular meeting on November 5, 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 5:30 p.m.

The following members were present:

Patrick McDowell (Chairman)

Marty Prevost

Robert Herrmann

H. P. Dykes, Jr.

Pratik Shah

Susan Teas Smith

The following members were absent:

Anthony Sutton

Jason Rogers

Ginger Hain

The following staff members were present:

Elizabeth Teague, Development Services Director

Byron Hickox, Land Use Administrator

Jesse Fowler, Planner

Chelle Baker, Administrative Assistant

Attorney Ron Sneed

Captain Beck, Waynesville Police Department

1. Welcome/Calendar/Announcements

Chairman Patrick McDowell welcomed everyone and called the meeting to order at 5:30 p.m.

Ms. Elizabeth Teague, Director of Development Services, introduced Development Services new staff member Jesse Fowler, Planner. Ms. Teague advised that the next regularly scheduled meeting would be December 17, 2018 at 5:30 p.m.

2. Adoption of Minutes

***A motion was made by Board Member Susan Smith, seconded by Board Member Bob Herrmann, to approve the minutes of the October 15, 2018 board meeting as presented. The motion passed unanimously.***

Ms. Teague called the Board's attention to the minutes and presented to the Board a report and a Text Amendment Statement of Consistency for the Board of Alderman on the action to recommend addition of "multi-family" to the PC-NR District. She stated that the draft is taken from portions of the minutes and she was seeking the Board's input so that the report accurately reflected their findings. Chairman McDowell asked the Board members if there were any corrections or adjustments to the minutes or to the report for the Board of Aldermen. No corrections or adjustments were stated.

***A motion was made by Board Member Bob Herrmann, seconded by Board Member Bucky Dykes, to approve the July 30, 2018 Special Called Hearing minutes with the presented corrections as attached. The motion passed unanimously with all ayes and one abstention (Susan Smith).***

***Susan Smith stated that her abstention was due to not being present at the July 30, 2018 meeting.***

**B. BUSINESS**

1. Background information and context regarding the public hearings and use of the Statement of Consistency work sheet.

Ms. Teague, Director of Development Services, presented the Board with background information for the upcoming public hearings. She advised that the application to re-hear the text amendments was at the directive of the Board of Alderman and the supporting documentation was included in the agenda packet. Ms. Teague also reviewed the use of the Statement of Consistency work sheet. She asked if there were any questions. Board Member Susan Smith asked if it was appropriate for her to abstain or recuse herself due to not being at the original hearings although she had read through the materials and minutes provided. Chairman McDowell advised this was a new hearing and it was ok to continue without her abstaining but if she had any questions throughout the hearings to be sure to ask.

2. Individual public hearings on text amendments (Legislative Proceedings)

- A. Public Hearing on Section 3.2.6 and 5.9 to clarify design for Manufactured homes on individual lots and for those manufactured homes within manufactured home parks.

***A motion was made by Board Member Pratik Shah, seconded by Board Member Bob Herrmann to open the Public Hearing at 5:45 p.m. The motion passed unanimously.***

Mr. Byron Hickox, Land Use Administrator, presented the staff report to the Planning Board for the proposed text amendment for manufactured homes and manufactured home parks. He advised the Board that the staff initiated text amendment was initially presented on November 21, 2017. He explained that the text amendment initially came from the need to clarify design standards for manufactured homes on individual lots and for those manufactured homes within manufactured home parks in the Land Development Standards sections 3.2.6 and 5.9. He also advised that after staff's research and meeting with a group of manufactured home park owners and vendors, the need for the text amendment was apparent. At the November 6, 2017 Special Called Meeting, the Planning Board unanimously voted that the proposed text amendments were consistent with the Comprehensive Plan and made recommendation to the Board of Aldermen.

Staff feels this project is consistent with the 2020 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, maintain a strong downtown area, taking steps to reduce urban sprawl and protecting the natural beauty of the community." (2020 LDP, p. 4-2)*

One objective under this goal includes:

*"Address important community appearance issues in the land development regulations for Waynesville," and specify the development of "standards for manufactured homes and manufactured home parks." (2020 LDP, p. 4-5)*

Mr. Hickox recommended text changes be submitted to the Board of Alderman for their approval. A full record of the proposed Text Amendment changes (attachment 1) submitted by staff to be recommended to the Board of Aldermen for adoption with changes to the Land Development Standards (in red italics) are incorporated in these minutes herein as an attachment.

Chairman Patrick McDowell asked if anyone would like to speak. There was no public comment.

***A motion was made by Board Member Marty Prevost, seconded by Board Member Susan Smith, to close the Public Hearing at 5:57 p.m. The motion passed unanimously.***

***A motion was made by Chairman Patrick McDowell, seconded by Board Member Bucky Dykes, that the zoning amendment is approved and is consistent with the Town's Comprehensive Land Use Plan because it currently allows both manufactured homes and parks***

*in our Comprehensive Land Use Plan. This update will improve appearances, safety of the parks, increase the amounts of affordable housing and allow parks to update homes and improve quality of homes. The motion passed unanimously.*

*A motion was made by Board Member Susan Smith, seconded by Board Member Marty Prevost, that the zoning amendment is reasonable and in the public interest because the text changes will facilitate the replacement of mobile homes with newer models and alleviate internal nonconformities to the ordinance. It will improve park appearance, safety and the availability of affordable rental units. This will clarify standards for manufactured homes within manufactured home parks and clarify for the public how these are enforced. This is all consistent in the public's best interest and with the 2020 plan. The motion passed unanimously.*

*A motion was made by Board Member Bob Herrmann, seconded by Board Member Bucky Dykes, to recommend the text amendment to the Board of Aldermen. The motion passed unanimously.*

- B. Sections 2.4.2 Table of Dimensional Standards and Section 3.10.4 Supplemental standards related to Monopole Towers within the Commercial-industrial District.

*A motion was made by Board Member Susan Smith, seconded by Board Member Bob Herrmann, to open the Public Hearing at 6:02 p.m. The motion passed unanimously.*

Ms. Teague gave background information to the Board. She stated that this was initially presented to the Planning Board at the February 2018 Meeting. She explained that initially the Town had received the request from Mr. James Sorrells, owner of a lot in the Waynesville Industrial Park and Mr. Eric Bean, who is working with Mr. Sorrells to develop a new parcel for industrial and manufacturing uses. She advised that it was discovered that the Commercial Industrial District, which does not allow any residential uses, has setbacks between lots that were more restrictive than any other commercial districts and some of our residential districts.

Ms. Teague explained to the Board that in the Table of Dimensional Standards, the Commercial Industrial Principal Setback is fifteen feet in the front and side yard, and ten feet at the rear. The Accessory Structure setback is five feet. In other Districts, the setback is zero to ten feet, and five feet for accessory structures. She also advised that unlike other commercial districts, there is not an aesthetic or public interaction reason for these setbacks. She stated that during their February meeting, staff and the Planning Board supported a reduction in the setbacks and suggested that a minimum of five feet would be sufficient and consistent with the setbacks of accessory structures as permitted now. A recommendation to change the setback minimums internal to the Commercial Industrial District would not change the Commercial Industrial perimeter buffer requirements.

Ms. Teague reviewed the LDS Sections 3.10.4 (B) 2. : "Monopole wireless communication towers may only be located on a lot of one (1) acre or greater in size. She advised that the applicants request that the current lot size requirement be reduced in the Commercial Industrial zoning districts to the typical 100' x 100' land lease size. This would free up the adjacent property to be subdivided thus allowing for more building options in the remaining industrial park space.



Ms. Teague advised that the text amendment to LDS section 3.10.4 (B)2. removes the one acre requirement as:

“Monopole wireless communication towers may only be located on a lot of (1) acre in size, except within the CI District.”

Staff feels this project is consistent with the 2020 plan.

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, the Stated Goal for Economic Vitality is:

“Maintain and strengthen a broad-based economy in Waynesville comprised of vibrant and expanding manufacturing, retail, agricultural, service governmental and construction sectors.”(2020 LDP p. 4-19)

One 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.” (2020 LDP p. 4-20)

“Expand and upgrade the community’s infrastructure systems and services with a focus on economic development impacts.” (2020 LDP p 4-20)

Chairman Patrick McDowell asked if anyone would like to speak. There was no public comment.

***A motion was made by Board Member Bob Herrmann, seconded by Board Member Susan Smith, to close the Public Hearing at 6:06 p.m. The motion passed unanimously.***

***A motion was made by Chairman Patrick McDowell, seconded by Board Member Bob Herrmann, that the zoning amendment is approved and is consistent with the Town’s Comprehensive Land Use Plan because monopole towers are necessary for the growth of the community, provide quality coverage for the community and safety issues. Towers now have much smaller footprints and no longer need large tracts of lands to accommodate their uses and this new zoning also protects the appearance of surrounding properties. The motion passed unanimously.***

***A motion was made by Board Member Susan Smith, seconded by Board Member Bob Herrmann, that the zoning amendment is reasonable and in the public interest because the reduction of setbacks in the district allows for maximum use of commercial space without negatively effecting the established buffer requirements. Land use regulations should accommodate communication facilities to provide for enhanced wi-fi and broadband for the public. The motion passed unanimously.***

***A motion was made by Board Member Marty Prevost, seconded by Board Member Susan Smith, to recommend the text amendment to the Board of Aldermen. The motion passed unanimously.***

- C. Section 2.5.3 Table of Permitted Uses to add clarification to allow manufactured Housing on individual lots within the Dellwood Residential Medium Density District (D-RM).

***A motion was made by Board Member Bob Herrmann, seconded by Board Member Bucky Dykes, to open the Public Hearing at 6:08 p.m. The motion passed unanimously.***

Mr. Byron Hickox presented the Board with the background information. He explained that the Land Development Standards Table of Permitted Uses showed that Manufactured Housing (on individual lots) is permitted in Dellwood Medium Residential District (D-RM) in designated locations). He also advised that in most instances, the allowance of a particular use at designated locations indicates that the use is permitted within a mixed-use overlay. The mixed-use overlay within the D-RM consists of a corridor, measured five hundred feet from the east and west sides of Russ Avenue, running roughly through the center of the district.

The previous version of the LDS indicated that within the Dellwood Neighborhood District (forerunner of the D-RM) manufactured housing would be permitted as follows in Section 154.108(B)(8)9b):

“Dwellings, Manufactured Housing on Individual Lots” shall not be located on the east side of Russ Avenue or within five hundred (500) feet of the edge of the traveled way of the west side of Russ Avenue.

Mr. Hickox stated that at the February 19, 2018 Planning Board meeting, this matter was considered, a motion was made and passed unanimously to create a text amendment to insert an additional standard designating the Manufactured housing should be permitted in the Dellwood Residential Medium Density District, Section 2.5.3 Table of Permitted Uses to the west of Russ Avenue and outside of the mixed-use overlay.

Board Member Marty Prevost asked Mr. Hickox to clarify that this was not including East of Russ Avenue in the Golf Course area. Mr. Hickox confirmed that was correct.

Staff feels this project is consistent with the 2020 Plan.

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, one of the stated objectives under the Land Use Goal is to “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.” (2020 LDP 4-2)

Other goals of the Land Use Plan are to:

“provide an attractive range of housing opportunities and neighborhoods for all residents of Waynesville”(LDP, p. 4-6); and

“Encourage a variety of housing types for various income, age, and ethnic groups throughout the planning area promoting housing alternatives in addition to the traditional single and multi-family dwelling options. (LDP, p. 4-7)

Chairman McDowell asked if anyone would like to speak. There was no public comment.

***A motion was made by Board Member Bob Herrmann, seconded by Board Member Bucky Dykes, to close the Public Hearing at 6:14 p.m. The motion passed unanimously.***

***A motion was made by Chairman Patrick McDowell, seconded by Board Member Bob Herrmann, that the zoning amendment is approved and is consistent with the Town's Comprehensive Land Use Plan because it provides an attractive range of housing opportunities and encourages a variety of housing. The motion passed unanimously.***

***A motion was made by Board Member Susan Smith, seconded by Board Member Pratik Shah, that the zoning amendment is reasonable and in the public interest because it clarifies that manufactured housing is permitted on individual lots within Dellwood Residential Medium Density District. Thereby, continuing the availability of that type of housing within the district and where it has been traditionally allowed within the past. The motion passed unanimously.***

***A motion was made by Board Member Susan Smith, seconded by Board Member Bob Herrmann, to recommend the text amendment to the Board of Aldermen. The motion passed unanimously.***

- D. Text Amendment to LDS 2.5.3 Table of Permitted Uses and LDS 3.2 Supplemental Standards to allow video-gaming as a permitted use with supplemental standards within the Regional Center District.

***A motion was made by Board Member Bob Herrmann, seconded by Board Member Bucky Dykes, to open the Public Hearing at 6:16 p.m. The motion passed unanimously.***

Ms. Teague explained background information to the Board that staff sought Planning Board guidance regarding video gaming machines last fall because a business providing video gaming machines had opened within the Mixed-Use Overlay District of the Love Lane Residential District on Dellwood City Road. The type of business in question was described by the business owner as selling "gift cards" which are used to purchase online "skill" or "nudge" games.

Ms. Teague advised the Board that local regulations or land use policies do not change or challenge State laws that apply to certain types of gaming activities. However, the Planning Board's concern is that if legal types of video-gaming businesses are to locate within Town, then they should be addressed within the Town's zoning regulations as other businesses are.

The direction from the Planning Board was that this use was most appropriate in the Regional Center District where the land use intent is to accommodate general commercial uses, but not in mixed-use overlay or central business districts. Additionally, the Board considered supplemental standards of parking and buffer requirements between this type of use and any residential uses. As a result of

this discussion, staff is bringing forward a suggested text amendment to add a definitions, standards and location within the Table of Permitted Uses for video or "skill" gaming operations.

Ms. Teague stated that there is an allowance for pre-existing machines up to three as accessory uses within gas stations and small grocery stores that is in keeping with the state precedent for enforcement for these types of machines.

A full record of the Text Amendment submitted by the staff to be recommended to the Board of Aldermen for adoption with changes to the current Land Development Standards (in red italics-attachment 2) are incorporated into these minutes herein as an attachment.

Staff feels this project is consistent with the 2020 Plan.

In the Waynesville: Our Heritage, Our Future, 2020 Land Development Plan, one of the stated objectives under the Land Use Goal is to: "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." (2020 LDP 4-2)

The stated Economic Vitality Goal is to: "maintain and strengthen a broad-based economy in Waynesville comprised of vibrant and expanding manufacturing, retail, agricultural, services, governmental and construction sectors." (2020 LDPP, p 4-19). The objectives under this goal indicate that the Town desires to support local businesses and to "define and develop the tourism sector" of the economy. It is unclear what, if any, impact this business would have on the local economy or in attracting tourism. The Town desires to make decisions which accommodate new and existing businesses in a way in which various sectors do not conflict with each other. It would seem consistent with the Comprehensive Plan to define this use and to place it within the Regional Center District Zoning designation in which are designed to accommodate many types of commercial uses.

Chairman Patrick McDowell asked if anyone would like to speak. There was no public comment.

***A motion was made by Board Member Bob Herrmann, seconded by Board Member Bucky Dykes, to close the Public Hearing at 6:20 p.m. The motion passed unanimously.***

***A motion was made by Chairman Patrick McDowell, seconded by Board Member Bob Herrmann, that the zoning amendment is approved and is consistent with the Town's Comprehensive Land Use Plan because as a legal business, as per state laws, we need to provide areas for business growth in the community and allowance of this type of business. The motion passed unanimously.***

***A motion was made by Board Member Susan Smith, seconded by Board Member Marty Prevost, that the zoning amendment is reasonable and in the public interest because it is consistent with NC general statutes which allow for this use yet imposes buffer, parking, and other requirements that provide a balance between the use in nearby property owner interests. The motion passed unanimously.***



***A motion was made by Board Member Marty Prevost, seconded by Board Member Pratik Shah, to recommend the text amendment to the Board of Aldermen. The motion passed unanimously.***

3. Discussion of LDS Measurement of Building Height (Direction to staff)

Ms. Teague explained to the Board that staff was bringing forward a discussion of the LDS Measurement of Building Height at the Chairman's suggestion due to there being a variation of interpretations of the ordinance at previous meetings and staff was seeking consensus on the interpretation of how the ordinance directs the measurement of building height or for the Board to give guidance or clarification.

Ms. Teague stated that LDS 4.4.1 "story" was defined as a habitable level within a building of no more than fourteen feet in height from finished floor to finished ceiling. Unoccupied attics less than seven feet in height and raised basements less than six feet in height (as measured from the average grade of the fronting sidewalk) are not considered stories for the purposes of determining building height. A mezzanine shall be considered a story if it is the purposes of determining building height. A mezzanine shall be considered a story if it is contiguous with at least 60% of the buildings front façade, is designed to be occupiable, and maintains an average depth of at least sixteen feet. A penthouse shall be considered a story if it exceeds one-third of the area of the roof. The under-roof area with dormers does not count as a story.

Ms. Teague referred to the diagram in LDS 4.4.2 and noted the differences between a flat roof and a sloped roof. She also pointed out how the diagram indicates that the measurement be taken from the highest adjacent grade. She explained that the two drawings could be adding to the confusion of previous discussions on measurements.

Board Member Bob Herrmann asked if this ordinance was relating to residential or all buildings. Mr. Hickox advised that this was for all projects within the Town of Waynesville. Much discussion took place among the Board members and staff pertaining to building height measurement, and the difference between a sloped or pitched roof which was more typical of residential construction or a suburban development and a flat roof which was more typical of a commercial building or downtown area.

There was discussion about attic measurement. Chairman McDowell stated if you stand in the center of an attic within a pitched roof, then the height could easily be more than seven foot, and asked if according to this ordinance would that count as a story. He questioned if a pitched roof did not have habitable space or an attic, but was just structural and more than seven feet high, would that still make it an attic or a story? There was discussion regarding that the ordinance says a story is habitable space and therefore would have to accommodate people using the space.

Ms. Teague asked the Board to consider buildings that are built on a slope and if according to the ordinance the number of stories would be counted only on the uphill side? She asked if the board felt that stories on the downhill side would also be addressed? She presented pictures to the Board of different Waynesville structure examples that have a different number of stories from one side to the other and how height was calculated:

- Main Street Downtown/Wall Street- 2-3 stories/ Backside 3-4 stories
- Givens Estates/Great Laurel- Drive up 4 stories- entrance 2-3 stories
- Laurel Ridge Country Club- Back Side- 3 stories
- Will Hyatt Street- Condominiums- Back Side 2-3 Stories, front 1 & 2 story
- Gables Place-Hazelwood- Back Side- 3 Stories, front 1 story
- Vantage Point- 3 Stories all around with sloped roof
- Waynewood Village- South Main- 3 Stories ( enter building at 1-2 stories)

Ms. Teague advised that all over town and in commercial applications, single-family and multi-family applications there are instances where the downhill slope side of buildings have additional stories which do not count toward building height. She added that the town has a precedent of measuring building height from the highest adjacent grade to the top of the building and are not from the backside of the buildings then. Board Member Marty Prevost added that the new hotel being developed next to Best Western was a height example and asked how tall it was. Chairman McDowell advised that three stories at a minimum was needed to continue to enable and have commercial growth. Ms. Teague referred to the Table of Dimensional Standards by District in which three stories are allowed in even the most low density residential districts and up to Regional Center, where the hotel is planned, is four to five stories.

Board Member Susan Smith brought up questions of how a cathedral ceiling would be measured. She questioned if it is open construction, would it fit in the ordinance as two stories if it is over fourteen feet high or as an uninhabitable attic with no floor. This brought up discussion for the Board and staff of a mezzanine and how the ordinance does not fit well in applying this either.

The Board also discussed basements and how these should be measured and where they fit in on being measured for height, including floodplain elevations of eight to nine feet in some locations.

Chairman McDowell stated that an agreement of understanding to move forward was needed. A Board consensus of limiting to height by stories and not including the downhill basement in this measurement was agreed upon. It was also agreed upon by Board members looking at Diagram 4.4.1 Story that the Basement Story Front six, showing the measurement at the front along the public right of way and full backside measurement would both be viewed as being considered a Basement and not a Story. It was also agreed upon by the Board Members that the seven foot attic measurement applies to flat roofs and is not counted as a story for sloped roofs that are non-inhabitable spaces or cathedral ceilings. Chairman McDowell asked each Board Member present if they agreed with the above interpretation and it was a unanimous agreement.

Mr. Ron Sneed, Planning Board Attorney, advised an amendment to this ordinance to address the wording that currently fits commercial attic space but does not fit residential slope was needed. Chairman McDowell agreed and asked each Board Member that unanimously agreed also. Board Member Pratik Shah added that he wanted clarity on commercial property with a pitched roof with an uninhabitable attic above seven foot. Chairman McDowell advised that would be fine also as long as it was uninhabitable. Staff was asked to formulate a text amendment for the next Planning Board meeting eliminating a pitched roof with an unoccupied attic less than seven feet in height being counted as a story and to clarify the ordinance. Staff was also advised that Diagram 4.4.1 should be redone and the definition of "Story" be clarified.

C. PUBLIC COMMENT /CALL ON THE AUDIENCE

No one spoke

D. ADJOURN

*With no further business, a motion was made by Susan Smith, seconded by Bucky Dykes to adjourn the meeting at 7:20 p.m. The motion passed unanimously.*

  
Chelle Baker, Administrative Assistant

  
Patrick McDowell, Chairman