



TOWN OF WAYNESVILLE

Planning Board

9 South Main Street
Suite 110
Waynesville, NC 28786
Phone (828) 456-8647 • Fax (828) 452-1492
www.waynesvillenc.gov

Planning Board Members
Susan Teas Smith (Chairman)
Ginger Hain (Vice Chair)
Stuart Bass
John Baus
R. Michael Blackburn
Travis Collins
Jan Grossman
Tommy Thomas
Blake Yoder

**Development Services
Director**
Elizabeth Teague

Special Meeting of the Planning Board
Town Hall, 9 South Main Street, Waynesville, NC 28786
Thursday, December 5, 2024, 5:30 PM

A. CALL TO ORDER

B. BUSINESS

1. Discussion of draft ordinance to define and regulate Short Term Rentals within the Land Development Standards.
2. Discussion of draft ordinance related to Electric Vehicle Charging Stations and Ground Mounted Solar Panels.
3. Discussion of potential areas for rezoning as implementation of density recommendations from the Comprehensive Plan.
4. Discussion of potential text amendment for reductions in setbacks in hillside development.

C. PUBLIC COMMENT/CALL ON THE AUDIENCE

D. ADJOURN

Town of Waynesville Planning Board Staff Report

Subject: Report and Discussion on possible short-term rental ordinance
 Ordinance Section: 2.5. Permitted Uses; 3.3 Supplemental Standards; 17.3 Definitions
 Staff and Board Re-initiated Discussion
 Meeting Date: December 5, 2024 (same report and ordinance as provided previously.)

Background

This discussion carries over past discussions regarding a possible STR ordinance. The Planning Board has discussed regulations pertaining to STRs, at the January 22, 2024 and March 15, 2024, October 21, 2019, and March 20, 2023 meetings. On April 15, 2024, the Planning Board held a public hearing on the Short Term Rental (or “STR”) ordinance and decided to constitute a working group to consider the need, impact, and pros/cons of a STR ordinance before taking any action.

The STR working group consisted of Planning Board Members Travis Collins, Micheal Blackburn, and John Baus, and community volunteers of Linnea McAden, Patrick McDowell, Jackie Cure, and staff members Olga Grooman, David Kelley, and Elizabeth Teague. The group met on May 16 and June 5, 2024, and can meet again depending on the feedback and direction of the Planning Board in regards to the potential ordinance. The ordinance draft presented (version 4) includes revisions based both on the comments from the public hearing on April 15, and the discussion of the STR working group, as well as the court precedence of Schroeder vs. the City of Wilmington.

Staff Comment and Recommendation

The input of the Working group made clear the differences of opinion and complexity of the STR topic. STR’s are important in our tourism industry and as a source of income for local property owners. The revised ordinance is significantly changed from the original draft which was brought forward. This “STR” draft ordinance seeks to meet several administrative needs while preserving the rights of property owners.

- Because the Land Development Standards does not define or categorize them at all, Town development services has no way of permitting STRs (or not permitting them).
- Without any definition, there are no guidelines to determine where and how they are allowed under the Town’s Zoning Code and what sort of associated regulations should apply.
- If not managed well, STRs can impact neighbors in terms of noise, overflow parking onto streets, trash management, signage, or potential safety concerns.
- There is tension in the interest to allow local residents to be able to make full use and gain income from their private property, and the concern for the infiltration of commercial use into traditional neighborhoods.
- There is diverse opinion in regards to the impact that STR investment has on both the local real estate inventory and housing affordability. However, when a site plan is approved for consistency with the 2035 Plan because it meets the goal of “creating housing,” then that goal statement is diminished if the new units approved in that development are then used for STRs instead of for longer term rental or sale.

The proposed ordinance is written to:

1. Distinguish occupied properties in which a portion of the property or dwelling structure is rented short-term as a “Homestay,” from properties in which there is no management presence on-site during rental;
2. Provide protection under the zoning ordinance to allow “Homestays,” in which a person may rent a portion of their home or property on which they live or have a full-time resident in place, for short terms under 30 days in any neighborhood within the Permitted Uses Table (LDS Section 2.5.3).
3. Place future STRs as defined (and distinct from Homestays) in the Permitted Uses Table (LDS Section 2.5.3) and designate neighborhoods where they are allowed or prohibited, which is still to be determined.
4. Provide regulatory parameters for management of Homestays and STRs to minimize impacts on surrounding neighbors, particularly trash management and parking. These types of guidelines are already required in reputable platforms such as VRBO, and AirBandB.
5. Create an exemption clause under the pre-existing nonconformity rules (LDS Section 13.2 and 13.5), so that if STRs are restricted from any zoning district, those property and business owners that already have an active STR may continue that use un-restricted.

Notably, the STR workgroup discussion made evident several key points that the Planning Board should take into consideration.

- Successful STRs are generally self-regulating. Business owners who succeed are good stewards of their STRs and those who don’t manage their STRs well, will generally not last long. The rating system and requirements of the online platforms will mitigate poorly managed STR properties out of competition.
- Tourism and rental markets fluctuate in a way that directly impacts STRs. In one year it may be profitable to run an STR, and then in another, it may be more profitable to convert that STR into a rental, or into the real estate sales inventory. Property owners may choose to put their property into an online STR program for part of the year, but then use their property differently the other part of the year. Therefore, while STRs may contribute to the lack of housing inventory by creating additional competition in the market, they also may contribute towards new housing being built, bought, renovated, or rented.
- Members of the STR working group discussed pros and cons of STRs in neighborhoods as a group and expressed a sense of conflict between the potential impacts of STRs on traditional neighborhoods, and limiting anyone’s ability to utilize their property as an economic resource. On one hand it might make sense to prohibit STRs in neighborhoods that have small lots, and which historically house the community workforce because they are more affordable. On the other hand, it might be detrimental to property owners, especially low to moderate income owners, to limit their ability to maintain an STR as a source of revenue.
- STRs are already present in Waynesville Neighborhoods. There have been no complaints logged by Waynesville Police Department that are specifically related to an STR use.

- The Wilmington case indicated that municipalities cannot require any sort of registration or additional fees for STRS. Any ordinance would be, therefore, complaint driven.
- STRs and Homestays are both subject to North Carolina taxes that pertain to overnight stays, “the room tax.” Most online platforms are structured so that taxes are collected from the reservation platform.

Consistency with the 2035 Comprehensive Land Use Plan

Staff submits that the proposed text amendments to the LDS are consistent with the following 2035 Comprehensive Plan goals and objectives:

Goal 1: Continue to promote smart grown principles in land use planning and zoning.

- Encourage infill, mixed-use and context-sensitive development.
- Reinforce the unique character of Waynesville.

Goal 2: Create a range of housing opportunities and choices.

- Encourage new housing inside Waynesville’s city limits and Extraterritorial Jurisdiction (ETJ).
- Promote a diverse housing stock including market rate, workforce housing and affordable options that appeal to a variety of households.

Goal 5: Create Opportunities for a sustainable economy.

- Encourage creatively designed, mixed use, walkable centers and commercial districts that appeal to residents and visitors.

The text amendment is reasonable and in the public interest because:

- It creates a practical administrative approach to permitting Homestays and Short Term Rentals as a legal land use within the Town’s Zoning Ordinance.
- It creates legal zoning protections by defining and allowing Homestays and Short Term Rentals within the LDS Table of Permitted Uses.

Attachments:

Proposed text amendment for discussion.

Staff Analysis on Zoning Districts that may be considered for restricting STRs.

Recommended Motions:

This is a discussion to get Planning Board’s feedback only.

5

REVISED DRAFT (# 4) For Planning Board Discussion
July 22 – December 5, 2024

ORDINANCE NO.

AN ORDINANCE AMENDING THE TEXT OF THE
TOWN OF WAYNESVILLE LAND DEVELOPMENT STANDARDS
TO DEFINE AND REGULATE HOMESTAYS AND SHORT TERM VACATION RENTALS

WHEREAS, the Town of Waynesville has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and amend such regulations from time to time in the interest of the public health, safety and welfare; and

WHEREAS, the Town of Waynesville Planning Board reviewed the proposed text amendments to the Land Development Standards (LDS) designed to define and regulate the use of residential properties as short term vacation rentals and recommends that the proposed ordinance and text amendments be found consistent with the 2035 Comprehensive Plan and that they are reasonable and in the public interest because they support the following goals as set out in the Comprehensive Plan:

Goal 1: Continue to promote smart growth principles in land use in planning, particularly to reinforce the unique character of Waynesville by preserving the character of neighborhoods.

WHEREAS, the Planning Board has reviewed and recommends the proposed text amendments for enactment by the Board of Aldermen at their April 15, 2024 regular meeting and at their _____ meeting; and

WHEREAS, the Waynesville Town Council find this Ordinance is consistent with the Town's 2035 Comprehensive Plan as stated above and that it is reasonable and in the public interest to "make decisions about resources and land use in accordance with the North Carolina General Statutes" that will help achieve such goals; and

WHEREAS, after notice duly given, a public hearing was held on _____, at the regularly scheduled meeting of the Waynesville Town Council;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON _____, 2024, AND WITH A MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:

That the Land Development Standards be amended as follows:

Section 17.4 Definitions, General, is hereby amended to add the following definitions:

Homestay: Homestay means a short-term rental use that occurs within a resident-occupied, single-family dwelling, duplex, or an accessory dwelling unit on the same property as a resident-occupied dwelling, wherein parts of the home or property are rented to transients for a period of less than thirty days; where the use is incidental and subordinate to the primary, full-time residential use of the property; where hosts remain onsite during the guests' stays, and no meals or other services are provided by the owner or host. This use is subject to North Carolina Occupancy Tax regulations which apply to stays up to 90 days, and subject to Town ordinances that apply to residential uses.

Short Term Vacation Rental: Short-term vacation rental means a short-term rental use within a dwelling unit for transient occupancy for a period of less than thirty days, and does not have an owner-occupant, resident, or manager on-site. A short-term vacation rental is considered a "Lodging" that is distinct from a bed and breakfast, boardinghouse, inn, or hotel/motel, and encompasses commercial home-sharing platforms such as VRBO, AirBandB, Flipkey, or other platforms on properties that do not qualify as a *homestay*. This use is subject to North Carolina Occupancy Tax regulations which apply to stays up to 90 days, and subject to Town ordinances that apply to lodging.

Section 2-5-3 Table of Permitted Uses is amended as follows:

Homestay is hereby added as a permitted use ("P") as a residential use type, and the table is amended to show that homestays are allowed in all districts where Residential Dwelling Uses are allowed on the Table of Permitted Uses.

Short term vacation rental is hereby added as a use permitted with supplemental standards as a lodging use type ("PS"), and the table is amended to show that short term vacation rentals are allowed (*in all districts where Residential Dwelling Uses are allowed on the Table of Permitted Uses*) OR (*in all districts except for the following:)*

Section 3.3 Supplemental Standards – Lodging is amended to add:

3.3.4 Short Term Vacation Rentals

A. Parking

1. Short-term rentals must comply with the Town parking standard for lodging of 1 space per bedroom with a minimum of two spaces per unit, except in the Central Business and Hazelwood Business Districts.

B. Signs

1. Only one on-premise sign may be placed to identify/advertise a short term vacation rental, and it must comply with the maximum square footage for home occupations of 8 square feet.

C. Property owner responsibilities: Any property owner operating a STR lodging, as well as any host, shall:

1. Ensure compliance with all federal, state, and local laws, including but not limited to, tax code, North Carolina State Building Code, fire code and environmental health regulations for the level of occupancy of the lodging.
2. Ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day(s) and the carts or cans are removed from the street or alley on the scheduled collection day. For units not served by the Town, arrangements must be made for a private service to manage solid waste collection from the site, and in a way that does not attract animals.
3. Post in a conspicuous location inside each lodging unit a notice setting forth the following information:
 - a. The name and telephone number of the operator and property manager.
 - b. The address of the lodging, the maximum number of overnight occupants, and the day(s) established for garbage collection.
 - c. Phone number of the Town of Waynesville Police Department

Section 13.5 Nonconforming Uses and Structures is amended to add

13.5.1 Definition and Applicability

C. Short Term Vacation Rentals: Residential structures used for short-term vacation rentals prior to the adoption of the Town Ordinance _____ are exempt from the standards for nonconforming uses and accessory uses. Owners of Short Term Rentals may continue or discontinue use of a residential living space without penalty or subjection to non-conformity rules.

ADOPTED this _____ Day of _____, 2024.

TOWN OF WAYNESVILLE

J. Gary Caldwell, Mayor

ATTEST:

Candace Poolton, Town Clerk

APPROVED AS TO FORM:

Martha Bradley, Town Attorney

Town of Waynesville Planning Board Staff Report

Subject: Ground Mounted Solar Panels and Electric Vehicle Installations in the LDS
Ordinance Sections: Multiple
Applicant: Request for text amendment from the Environmental Sustainability Board
Meeting Date: December 5, 2024
Presenter: Alex Mumby, Land Use Administrator
 Elizabeth Teague

Background:

This ordinance combines two items that staff has been researching: stand-alone, ground mounted solar panels and EV charging stations. Staff can amend the ordinance to manage these separately, but wanted to combine them here for the sake of discussion and to move the decision-making process forward.

Solar panels and Electric Vehicle (EV) use are some of the best ways to reduce your power bill and protect the environment. We are seeing increased use of Electric Vehicles and more homes placing solar panels on their roofs. The Development Services Department was asked by Council member Chuck Dickson, on behalf of the Environmental Sustainability Board, to examine how the Land Development Standards could be applied to the use of ground mounted solar panels and arrays on residential and commercial lots. Additionally, staff would like to incentivize the installation of electric vehicle charging stations and integrate EV Charging into common parking and civic space areas in major site plans.

Roof-mounted solar panels and EV Charging ports attached to buildings are already allowed, permitted and inspected by Town's Building Inspections under the North Carolina Building Codes as part of a structure. Only a few stand-alone, ground-mounted solar arrays and panels (GMSPs) have been permitted in Town and were treated simply as mechanical equipment, without the application of zoning standards. Generally, solar ground mounted arrays and solar panels on poles must meet North Carolina electrical and wind load requirements and are not connected structurally to buildings.

There are two major categories of GMSPs. Standard ground-mounts sit on a metal frame that is driven into the ground with panels that sit at an angle and can be manually adjusted throughout the year in accordance with the seasonal shift of the sun. These can be fixed at various heights and can have alternative forms of mounting. Another form of GMSPs are pole mounts. These can support multiple panels on a single pole which elevates them off the ground which can adjust to capture the optimal amount of solar energy.

A complex aspect of GMSPs is how they impact with adjacent properties. A standard ground mount is a self-contained structure with clearly defined boundaries. However, because some pole mounts can automatically rotate throughout the day and year on the pole, they technically could violate setbacks at some angles. Another consideration is the reflection from the panels themselves and to what extent they may cast glare onto adjacent properties.

Research found that both Asheville and Weaverville regulate GMSPs with zoning. Both treat GMSPs as accessory structures and only allow them in the side and rear yards. Asheville provides a variance option for placement in the front yard to achieve optimal energy capture, but the applicant must show that no other configuration could achieve optimum performance to the zoning board of adjustment. Weaverville does not allow the height of solar panels to exceed the height of the primary structure, or to up to 15' feet.

Asheville allows for the height of the structure to scale with how far it is setback from the property line. Weaverville does not allow the square footage of a GMSP to exceed 25% of the footprint of the primary structure. As GMSPs become more common, a proposed ordinance for Waynesville could define and regulate GMSPs within the LDS.

Electric Vehicle charging stations require parking and area for the charging station box. Parking spaces are EV charging stations can already count towards required parking. The proposed text amendment introduces electric vehicle (EV) charging station as an additional civic space option which could count toward the square footage of civic space and parking requirements. This amendment promotes the integration of EV charging stations into site plans by allowing it to count towards civic space requirements.

WLOS did a good story on Waynesville's EV chargers which can be found here:

<https://wlos.com/news/local/more-places-coming-to-plug-in-for-ev-drivers-in-and-around-waynesville>

Examples of GMSPs:



Staff Recommendation

Staff recommend that the Town develop an ordinance that defines and allows GMSPs in all districts, so that there is no zoning question in the future.

- Pole mounts should not count as accessory structures but should stay within the same height as a ground mounted light fixture, which is 25' or less, and should be limited to the side or rear yard. A variance from the ZBA could allow for extended height or front yard placement where the height of neighboring structures and trees prevent the collection of solar energy, and when alternative placement is needed for tree preservation. Additionally, variance criteria should include evidence that the panel would not interfere with the neighboring properties or take away from the character of the neighborhood.
- Ground mounts should be counted as accessory structures with placement in the side and rear yard, meeting the accessory structure setbacks of 5' feet. Front yard placement should be allowed through a variance, showing that the proposed placement is the optimal location for panel performance and that it does not interfere with the neighboring properties or take away from the character of the neighborhood. Additionally, installation should also comply with the pervious surface requirements of the Town's Dimensional Standards (LDS Section 2.6)
- EV Charging stations should be encouraged in all large-scale development. As incentive for residential placement, EV chargers with adjacent designated parking could count toward civic space in addition to parking requirements. This would give design flexibility and hopefully give some incentive to include them.

Consistency with Comprehensive Plan

Goal 3 of the 2035 Comprehensive Plan is to "protect and enhance Waynesville's natural resources." This includes the goal "to engage in and promote the best management practices related to energy use..."

Goal 5 of the Plan is to "create opportunities for a sustainable economy." This includes, "Support 21st century technology and infrastructure by broadening the availability of high-speed internet, modernizing wireless communication facilities, and promoting green building and the use of solar and wind technologies."

Recommended Motion

Staff only seeks Planning Board input and direction at this time in order to refine a draft ordinance.

DRAFT FOR PLANNING BOARD DISCUSSION 12/05/24

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE TEXT OF THE
TOWN OF WAYNESVILLE LAND DEVELOPMENT STANDARDS**

WHEREAS, the Town of Waynesville has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, the Town of Waynesville Planning Board has reviewed the proposed text amendments to the Land Development Standards (LDS) and recommends that they are consistent with the 2035 Comprehensive Plan and that they are reasonable and in the public interest because:

- Goal 1: Continue to promote smart growth principles in land use planning and zoning
 - Promote conservation design to preserve important natural resources
- Goal 3: Protect and enhance Waynesville’s natural resources.
 - Continue to engage in and promote best management practices related to energy use, efficiency, and waste management

WHEREAS, the Planning Board has reviewed and recommends the proposed text amendments for enactment by the Town Council; and

WHEREAS, the Town Council find this Ordinance is consistent with the Town’s 2035 Comprehensive Plan and that it is reasonable and in the public interest to “make decisions about resources and land use in accordance with North Carolina General Statutes.” and

WHEREAS, after notice duly given, a public hearing was held on _____, 2024 at the regularly scheduled meeting of the Waynesville Planning Board, and on _____ 2024 at the regularly scheduled meeting of Town Council;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WAYNESVILLE, MEETING IN REGULAR SESSION ON _____, 2024 AND WITH A MAJORITY OF THE BOARD MEMBERS VOTING IN THE AFFIRMATIVE, THE FOLLOWING:

That the Land Development Standards be amended as follows (in red):

1. Amend Section 4.5.3 Other Requirements as follows:

4.5.3 Other Requirements.

A. Buffering: Accessory structures with a footprint greater than six hundred (600) square feet shall be buffered from any adjacent residential developments with a Type C Buffer (Section 8.4.2.C).

B. Lighting: Exterior lighting for accessory uses and/or structures shall meet the requirements by which principal structures are governed as set forth in Section 10.2.

C. Ground Mounted Solar Panels:

- Pole-mounted solar panels shall not count towards the Maximum Number Permitted and Maximum Area of accessory structures (Section 4.5.2).
- The height of ground-mounted and pole-mounted solar panels shall be limited to 25 feet.
- Ground-mounted and pole-mounted solar panels may be placed in the front yard with approval of the Zoning Board of Adjustment, if surrounding trees, structures, or topography prohibit the effective capture of solar energy in the rear and side yards.
- Ground-mounted solar arrays that are mounted on a frame and require multiple supports are subject to the requirements of accessory structures in Sections 2.4 and 2.5.

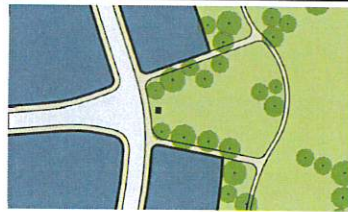

2. Amend Section 7.2. Civic Space Standards as follows:


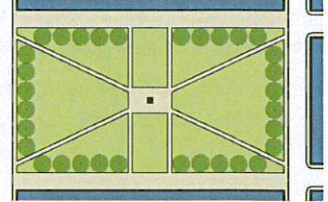
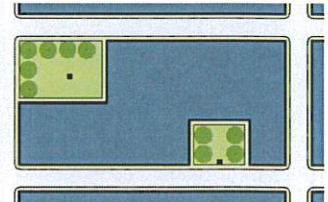
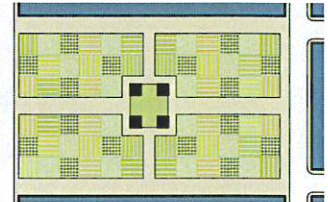

7.2 Civic Space Standards.



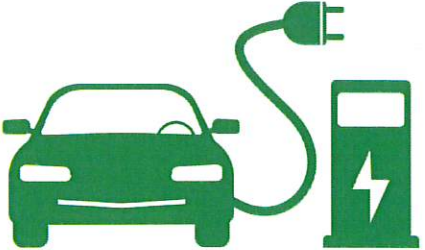
All land dedicated for required civic spaces shall meet the criteria below in this section. Stormwater facilities cannot be counted towards civic space. Delineated wetlands and required stream buffers can be counted towards civic space only when adjacent to, or a part of, a greenway or designated preserve.

7.2.1 Required Civic Space Types.

Civic space, as required by the district provisions, shall conform to one or more of the following typologies.

<p>A. Park/Greenway: A natural preserve available for unstructured recreation. Its landscape shall consist of paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be linear, following the trajectories of natural corridors as part of a greenway. The minimum size shall be .16 acre (except with Greenways where there is no minimum).</p>	
<p>B. Green: An open space available for unstructured recreation. A Green may be spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be .16 acre.</p>	

C.	<p>Preserve: Natural preserves include any area of existing or restored open lands such as riparian corridors and wetlands, unique geological formations, important habitats, or substantial groupings of important plant types. The goal is to protect and maximize intact and undisturbed spaces that provide valuable ecosystem services for the community, support preservation goals, and enhance the aesthetics and amenities of the area. Active recreation, such as trails and paths, can be a part of these areas. The minimum size is 1 acre of contiguous preserved area.</p>	
D.	<p>Square: An open space available for unstructured recreation and civic purposes. A Square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important streets. The minimum size shall be .16 acre.</p>	
E.	<p>Playground: An open space designed and equipped for the recreation of children. A playground shall be fenced and may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a block. Playgrounds may be included within other civic spaces. There shall be no minimum or maximum size.</p>	
F.	<p>Community Garden: A grouping of garden plots available for small-scale cultivation, generally to residents of apartments and other dwelling types without private gardens. Community gardens should accommodate individual storage sheds. There shall be no minimum or maximum size.</p>	
G.	<p>Greenway: A linear parcel of land set aside to contain a trail for non-motorized transportation and/or recreation, usually connecting to a planned corridor. There shall be no minimum or maximum size.</p>	

H.	<p>Dog Park: An off-leash dog area. A dog park shall be enclosed with a galvanized or coated chain link fence or metal fence measuring four (4) to six (6) feet in height and include a double gate entry system (like a sally port). The dog park shall also have a designated waste disposal facility, signage with applicable rules, a shade area (with either a structure or mature shade trees). The area may also include a plumbed drinking water station. There shall be no minimum or maximum size.</p>	
I.	<p>Community Area: Designated indoor or outdoor facilities to support social and recreational activities of the residents. Examples include a pavilion, fire pit, picnic area, grill area, gym, pool, community building, club house, basketball court, tennis court, golf course, or similar amenities determined to be appropriate by an Administrator. There shall be no minimum or maximum size.</p>	
J.	<p>Electric Vehicle (EV) Charging Space: Dedicated parking spaces with installed EV charging equipment. A minimum of 1 space must be ADA accessible. All spaces must be clearly marked with signage, green striping, and bollards at the front of the space to protect the equipment. The maintenance and repair of EV stations and equipment shall be clearly outlined in the HOA covenants. In the absence of HOA, individual owners or management company shall be responsible for the upkeep and repairs of the charging stations. Square footage for EV charging spaces will count toward the overall civic space requirement and may count toward required parking. There shall be no maximum number of spaces, but the total square footage of EV charging space should not be more than 30% of the required civic space.</p>	

2. Add a definition to the section 17.3-Definitions, General:

Electric Vehicle (EV). A motor vehicle that is either partially or fully powered on electric power received from an external power source. For the purposes of this regulation, this definition does not include golf carts, electric bicycles, or other micromobility devices.

Solar Panel, Ground-Mounted. A solar panel array attached directly to the ground either through posts or racks.

Solar Panel, Pole-Mounted. A solar panel attached directly to the ground through the use of a single pole.

ADOPTED this _____ Day of _____, 2024.

TOWN OF WAYNESVILLE:

J. Gary Caldwell, Mayor

ATTEST:

Candace Poolton, Town Clerk

APPROVED AS TO FORM:

Martha Bradley, Town Attorney

Planning Board Staff Report

Subject: Discussion of Residential Conservation District (RCON)
Process Type: Legislative
Ordinance Section: Multiple
Presenter: Elizabeth Teague, Development Services Director
Meeting Date: December 5, 2024

Background

Pursuant to the Waynesville 2035 Comprehensive Plan recommendations, the Town Planning Board and Town Council established a committee to examine areas where the Future Land Use Map of the Comprehensive Plan recommended a different density than what the current Land Development Map (Zoning) regulates. There were several areas where this applied:

- Parts of Allen's Creek and Country Club (southeastern area of Waynesville jurisdiction)
- Areas along the eastern Town Boundary and ETJ encompassing parts of Raccoon Creek NC, Francis Cove RL, Ninevah and Pigeon Street NR
- Areas between Howell Mill Road and the Great Smokey Mountains Expressway within the HM-RM) District
- Areas around the Waynesville Country Club
- Parts of the Hazelwood UR District

The Density Study Work Group met over the past year to formulate recommendations, with a focus on promoting conservation and open space. As a result, they developed a framework for a new zoning district to be considered: Rural Conservation District. They also recommend consideration for a change in the threshold at which density can be increased from the base zoning of any district with a Special Use Permit (see the Table of Dimensional Standards in the LDS).

A report from the Density Work Group was presented to the Planning Board in September, and this discussion is an opportunity to go into more detail of that presentation and to consider what a new zoning district might look like.

In the interim, legislation has been introduced which restricts local governments abilities to take away any uses or reduce density (a.k.a. "down-zoning") which might limit how and where such an ordinance would be applied.

At this time, this agenda item is for discussion and feedback purposes only.

Attachments

- Copy of Density Workgroup presentation from September 16, 2024
- Page of Amendment Options from the Workgroup discussion in June
- Outline of potential RCON Zoning Amendments
- Excerpt from NCGA Senate Bill 382



Planning Board
September 16, 2024

Town of Waynesville Comp Plan Implementation Update



Working Group Overview

- **Implementation of Waynesville 2035**, Planning with Purpose, Comprehensive Plan, Future Land Use Map and Goals
- **Analysis of density and dimensional standards** and discuss desired development patterns
- **Development of recommendations** for Planning Board and Council Consideration



Waynesville Planning Board
September 16, 2024

Comprehensive Plan Highlights

WAYNESVILLE 2035 PLANNING WITH PURPOSE



COMPREHENSIVE LAND USE PLAN

- Two year process, 2018-2020
- Built on the previous Comprehensive Plan (Adopted in 2010)
- Involved
 - Board appointed Steering Committee
 - Public Involvement (survey, workshops, focus groups, public hearings)
 - Mapping of current conditions and desired future land use
 - Stewart Consulting
 - Planning Board
 - Board of Aldermen

Waynesville Planning Board
September 16, 2024

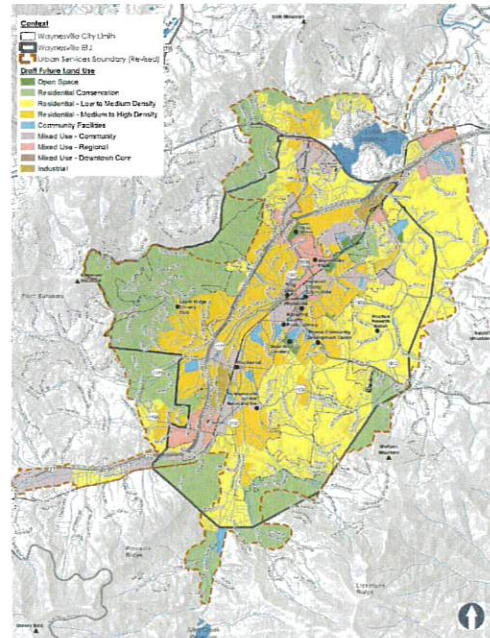
Smart Growth Principles carried over from Previous Plan

Smart growth is an approach to development that encourages a mix of building types and uses in walkable centers and prioritizes infill over urban sprawl to avoid negative impacts on natural systems.



Future Land Use Map

- **Encourage infill and redevelopment**
 - Med/High Density areas (5-10 units/acre)
- **Residential Low to Medium**
 - Single family uses at average densities of 3-4 units/acre, occasionally small-scale attached housing.
- **Residential Conservation Area**
 - Low density residential development that is clustered or of a conservation design. Intent was 2 units/acre or less gross density.

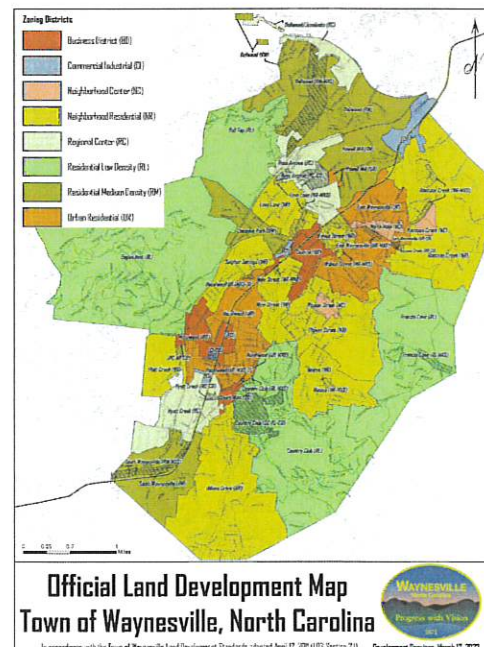


Zoning Framework

Zoning Districts

- Business District (BD)
- Commercial Industrial (CI)
- Neighborhood Center (NC)
- Neighborhood Residential (NR)
- Regional Center (RC)
- Residential Low Density (RL)
- Residential Medium Density (RM)
- Urban Residential (UR)

Cross-hatched areas are mixed-use overlays



Official Land Development Map
Town of Waynesville, North Carolina

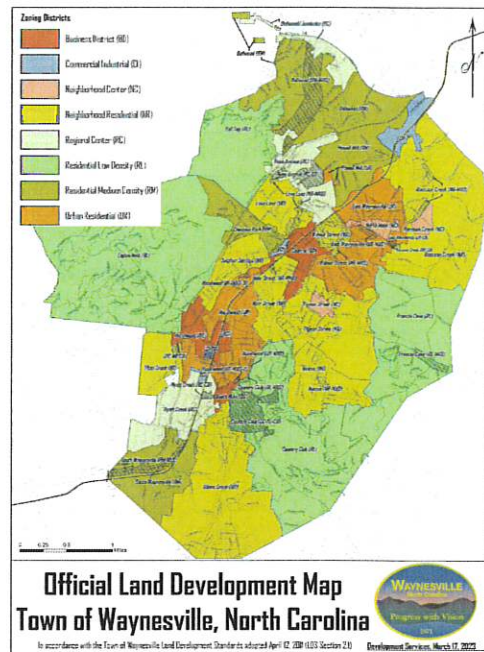
In accordance with the Town of Waynesville Land Development Standards adopted April 12, 2009 (LDS Section 2.1)



Development Services, March 17, 2022

Zoning Framework

- 8 Base Districts
- Density
 - **RL 6 units/acre (12 w/SUP); min .5 acre**
 - **RM 8 units/acre (12 w/SUP); min .25 acre**
 - **NR 10 units/acre (16 w/SUP); min .16 acre**
 - UR 16 units/acre (24 w/SUP); min .16 acre
 - No density maximums or min acreage in Com. or Ind. districts
- **Multi-family allowed, except for RL (only townhomes allowed), HM-RM, SS-NR,**
- **Civic / Recreation Space**
- **Cluster / Conservation Option**



Recent Developments / Trends / Issues

- **Queen Farm**
 - Concern over density/design of new residential
 - Approval processes

Development Statistics

- 32 Acres, 115 Lots (3.59 DUA)
- Lots 7,500-12,000 sqft (.17-.27 acres)
- Civic Space
 - Required: 5% (1.63 ac)
 - Provided: 14% (4.55 ac)
- Recreation Space
 - Required: 25% of 5% (0.41 ac)
 - Provided: 0.52 ac



Waynesville Planning Board
September 16, 2024

Conservation Subdivisions Best Practices

- Open Space Requirements
 - 40%+ Open Space
 - Natural Resource Protection
 - Scenic View Protection
- Incentive
 - Incentive for good design
 - Low base density (not in place due to existing zoning that allows fairly high density)
- Flexibility in lot size
 - Can't have your cake and eat it too – require large lots AND a lot of open space



Conventional Development



Conservation Design

Waynesville Planning Board
September 16, 2024

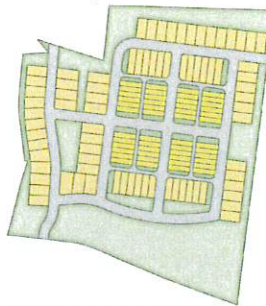
Concept Designs

Recent Development



115 Units
3.59 DUA
14% Civic / Open
Space

Option 1A/1B



126 Units
4 DUA
40% Civic / Open
Space

Option 2A/2B



73 Units
2.28 DUA
50%+ Civic / Open
Space

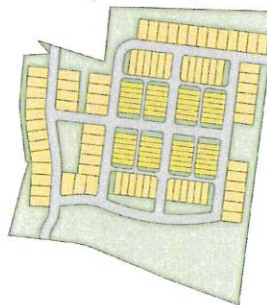
Concept Designs

Recent Development



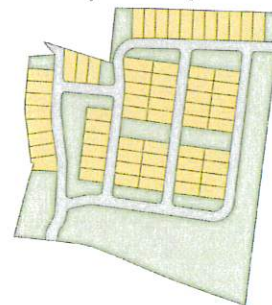
115 Units
3.59 DUA
14% Civic / Open
Space

Option 1A/1B



126 Units
4 DUA
40% Civic / Open
Space

Option 2A/2B



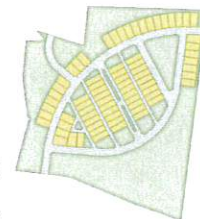
73 Units
2.28 DUA
50%+ Civic / Open
Space

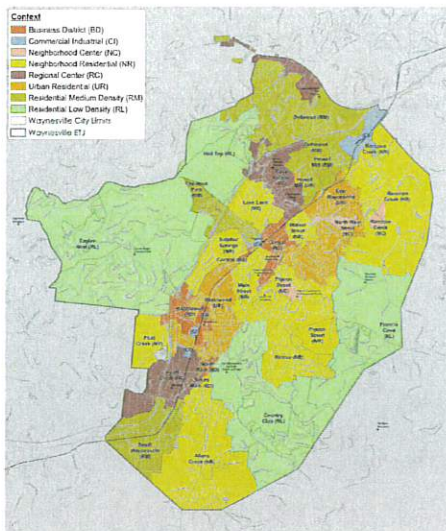
Working Group Recap

- Discussed recent development and Comp Plan recommendations
- Analysis of NR, HM and RL zoning districts
- Reviewed conceptual plans for development under different zoning amendment options
- Developed recommendation for new Residential Conservation District

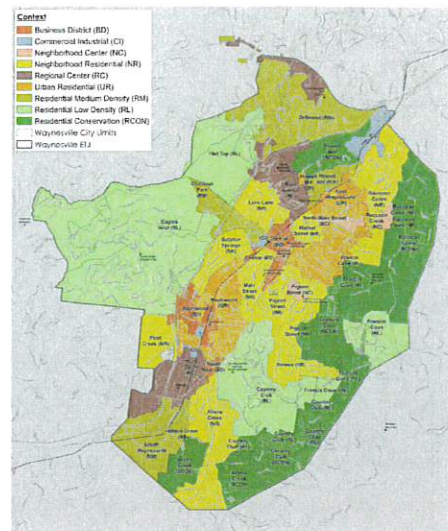
Proposed Residential Conservation District

- 2.5 DUA Max
- Up to 6 DUA with Special Use Permit
- ½ Acre lots if conventional subdivision
- Smaller lots allowed if conservation subdivision (50%+ Civic / Open Space)





Existing Zoning



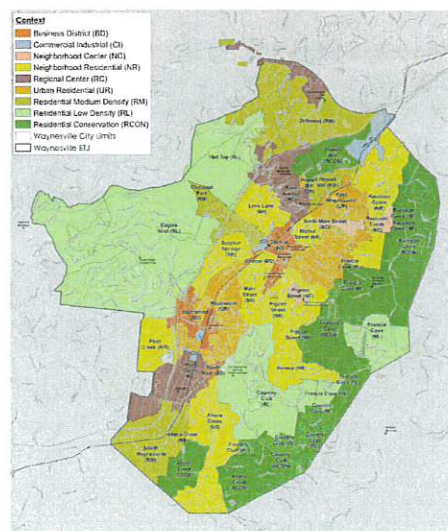
Zoning Amendment

Revised Table of Residential Zoning Districts

Zoning District	Max Density	Minimum Lot Size	Civic Space Requirement	Height
NR (Neighborhood Residential)	10 units/acre (16 w/SUP)	1/6 acre	0-14 units/lots- 5% 15-30 - 10% 31-60 - 13% 61 - 15%	Principal Bldg: 3 stories max Accessory Structure: 2 stories max
RL (Residential Low Density)	6 units/acre (12 w/SUP)	1/4 acre	0-14 units/lots- 5% 15-30 - 10% 31-60 - 13% 61 - 15%	Principal Bldg: 3 stories max Accessory Structure: 2 stories max
RM (Residential Medium Density)	8 units/acre (12 w/SUP)	1/4 acre	0-14 units/lots- 5% 15-30 - 10% 31-60 - 13% 61 - 15%	Principal Bldg: 3 stories max Accessory Structure: 2 stories max
RCON (Residential Conservation)	2.5 DUA (Up to 6 w/SUP)	Conventional Subdivision: 1/2 acre Conservation Design Option: 4,000 sqft Low width < 50ft requires alley loading	Conventional Subdivision: 0-15% depending on # of lots Conservation Design Option: 40%	Principal Bldg: 3 stories max Accessory Structure: 2 stories max 40ft max from highest adjacent grade

September 16, 2024

- Existing Average Parcel Size
 - Howell Mill RCON: 3.36 acres
 - Allen Creek RCON: 4.59 acres
 - Country Club RCON: 1.59 acres
 - Francis Cove RCON: 3.75 acres
 - Raccoon Creek RCON: 3.41 acres



Zoning Amendment

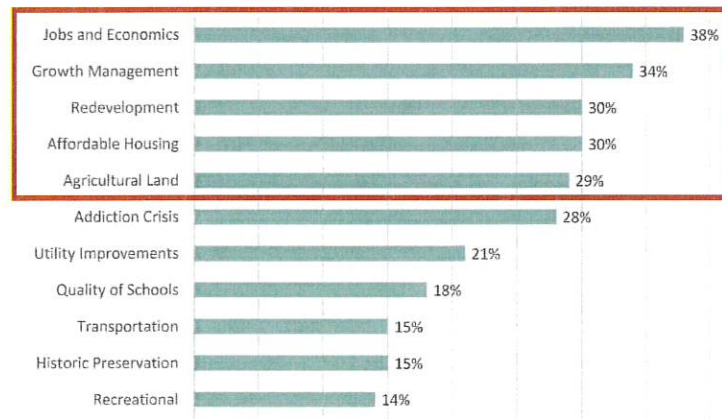
Residential Conservation District

- **Permitted uses**
 - Single Family Residential
 - Townhomes with standards
 - Agriculture and institutional uses
 - Cemeteries (permitted with standards)
 - Schools with Special Use Permit
- **Design requirements**
 - Lot widths under 50' required to be alley loaded
 - Priority open space types
 - Minimum width of open space



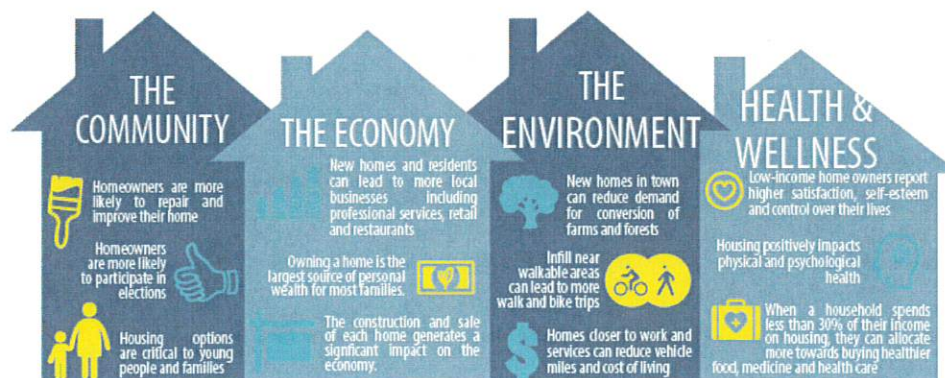
Waynesville Planning Board
September 16, 2024

The Most Pressing Issues Facing Waynesville Are...



Waynesville Planning Board
September 16, 2024

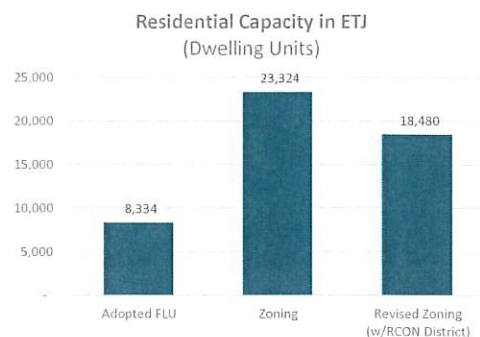
Housing is Key



The graphic above illustrates the importance of housing to the success of the Town of Waynesville and the myriad impacts that housing options and home ownership can have on the community, the economy, the environment and health.

Housing Capacity Modeling

- Zoning amendment modeled to determine impact on build-out capacity
- Modeling shows a reduction in allowable density by about 5,000 units but there remains capacity for significant amount of new housing



Waynesville Planning Board
September 16, 2024

Other Options / Recommendations

Civic / Open space requirements

- Adjust balance between passive open space and active recreation space, less active space could be required in more undeveloped areas
- Change exemption to be lower (>1 DUA) – currently DUA < 2 exempt from civic space reqs...

Cluster / Conservation Option

- Move or add reference to cluster / conservation option in code.... Buried in Chapter 15 – Administration

Add max density to NC District

- Currently no max density (*although height does limit max*)

Height

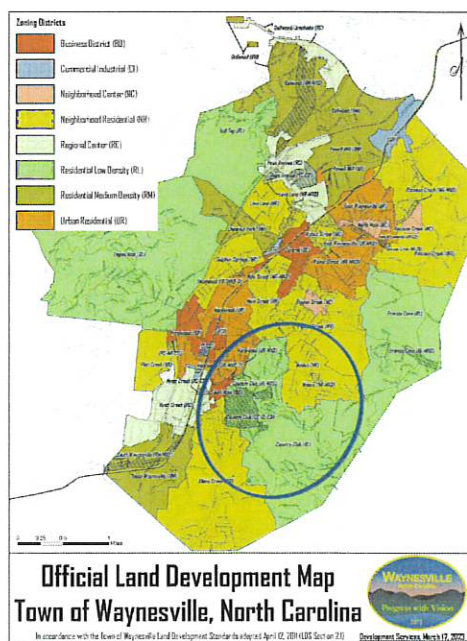
- Revisit height regulations – currently 3 story of 60ft
- In new Residential Conservation district could be 40ft measured from highest adjacent grade (*same as protected ridge law*)

Waynesville Planning Board
September 16, 2024

Waynesville Golf Club

Zoning

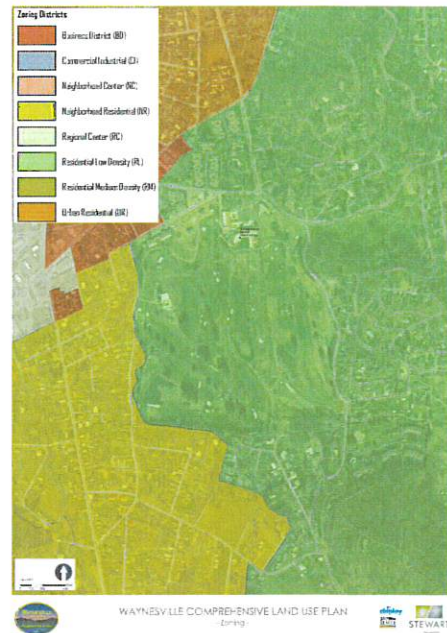
- Conditional District
- NR Zoning allows 10-16 units/acre
- RL Zoning allows 6 units/acre



Waynesville Golf Club

Zoning

- Conditional District
- NR Zoning allows 10-16 units/acre
- RL Zoning allows 6 units/acre



Waynesville Golf Club

Future Land Use

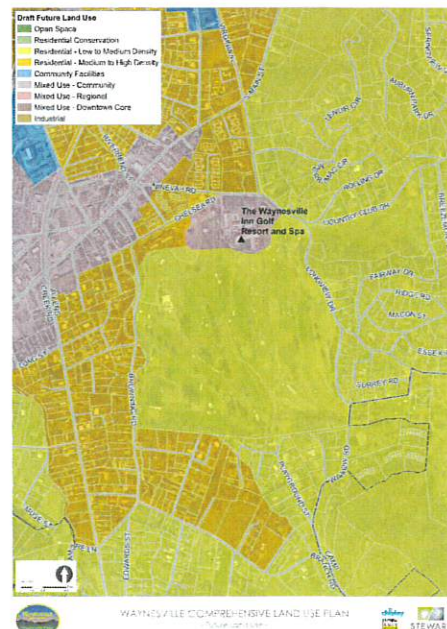
- Community Mixed Use
- Residential – Medium to High Density



Waynesville Golf Club

Proposed Amended Future Land Use

- **Community Mixed Use**
- **Residential – Medium to High Density** in some areas
- **Residential – Low to Medium Density** on golf course property and larger lots.



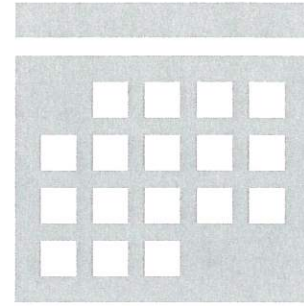
Next Steps

Zoning Amendments

- Discussion
- Public Notice & Community Workshop
- Draft Amendments considered by Planning Board and Town Council

Future Land Use Amendment

- Public Notice
- Draft Amendment considered by Planning Board and Town Council



Zoning Amendment Options

Version 6.25.24

Option 1A:

Reduce by right density and update open space standards in NR and RL Districts, and keep SUP density allowances.

	Existing Standards	Revised Standards
Density	NR: 10 units/acre (16 w/SUP) RL: 6 units/acre (12 w/SUP), 1/2 acre minimum lot size for single family	NR: 5-6 DUA max (16 w/SUP) RL: 2-4 DUA max (12 w/SUP), 2 DUA maximum for single family, up to 4 DUA for attached, smaller lots with conservation subdivision option only (50%+ Civic/Open Space), higher density SF or attached requires SUP
Civic Space	0-14 units/lots- 5% 15-30 - 10% 31-60 - 13% 61 - 15%	Same thresholds -Potentially exempt low density from active amenities

Option 1B:

Reduce by right density and update open space standards in NR and RL Districts, and reduce SUP density allowances.

	Existing Standards	Revised Standards
Density	NR: 10 units/acre (16 w/SUP) RL: 6 units/acre (12 w/SUP), 1/2 acre minimum lot size for single family	NR: 5 DUA max (10 w/SUP) RL: 2-4 DUA max (8 w/SUP), 2 DUA maximum for single family, up to 4 DUA for attached, smaller lots with conservation subdivision option only (50%+ Civic/Open Space), higher density SF or attached requires SUP.
Civic Space	0-14 units/lots- 5% 15-30 - 10% 31-60 - 13% 61 - 15%	Same thresholds -Potentially exempt low density from active amenities

Option 2A:

Create overlay and apply to Residential Conservation and Low-Med Density areas on FLUL map east of GSME.

Max density of 2 or 3 DUA.

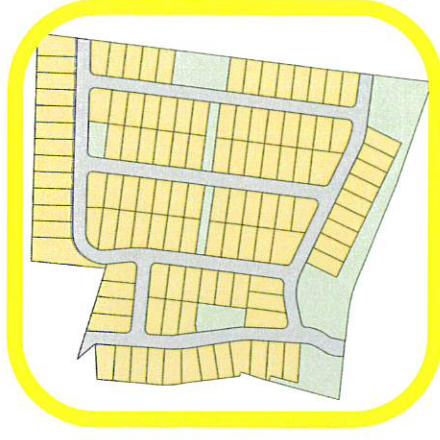
	Existing Standards	Revised Standards
Density	NR: 10 units/acre (16 w/SUP) RL: 6 units/acre (12 w/SUP), 1/2 acre minimum lot size for single family	RL/NR in Natural Resources / Agricultural Conservation Overlay: 2-3 DUA max (up to 6 DUA with SUP), 1/2 acre lots for conventional subdivisions, no minimum lot size with Conservation Subdivision Option. Attached / MF only allowed with CSO
Civic Space	0-14 units/lots- 5% 15-30 - 10% 31-60 - 13% 61 - 15%	Keep thresholds except for Conservation Subdivision Option is 50%+ OS

Option 2B:

Create overlay and apply to Residential Conservation and Low-Med Density areas on FLUL map east of GSME.

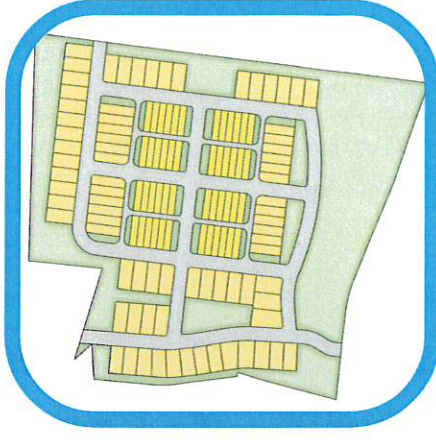
Base max density of 2 DUA, incentives for up to 4 DUA with more civic/open space + site design standards.

	Existing Standards	Revised Standards
Density	NR: 10 units/acre (16 w/SUP) RL: 6 units/acre (12 w/SUP), 1/2 acre minimum lot size for single family	RL/NR in Natural Resources / Agricultural Conservation Overlay: 2-4 DUA max (up to 6 DUA with SUP), 1/2 acre lots for conventional subdivisions, no minimum lot size with Conservation Subdivision Option. Attached / MF only allowed with CSO
Civic Space	0-14 units/lots- 5% 15-30 - 10% 31-60 - 13% 61 - 15%	Modify to incentivize more open space. 1. 30% Open Space - 2 DUA Max 2. 40% Open Space - 3 DUA Max 3. 50%+ Open Space - 4 DUA Max



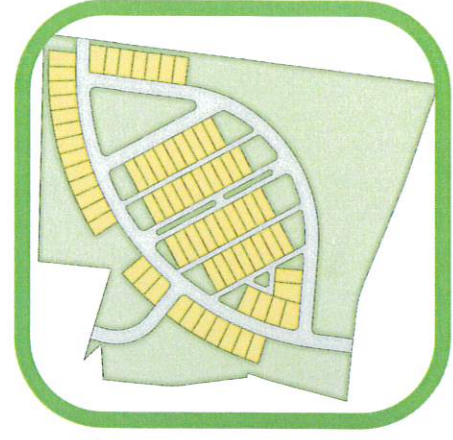
Recent Development

- 32 Acres
- 115 Lots
- 3.59 Dwelling Units Per Acre (DUA)
- Lots ~7,500 square feet
- 14 % Civic / Open Space



Option 1A/1B:

- 32 Acres
- 128 Lots
- 4 Dwelling Units Per Acre (DUA)
- Mix of Housing, some 5,000 square foot lots and some townhomes
- 40 % Civic / Open Space



Option 2A/2B:

- 32 Acres
- 64 Lots
- 2 Dwelling Units Per Acre (DUA)
- Lots ~4,000-5,000 square feet, some alley-loaded
- 50% Civic / Open Space

**Ordinance Sections for Consideration: Creation of a Residential Conservation District
For Planning Board Discussion; December 5, 2024**

LDS: <https://www.waynesvillenc.gov/services/ordinances-and-permits>

Comprehensive Plan: <https://www.waynesvillenc.gov/departments/development-services/2035-comprehensive-plan-planning-purpose>

Density Work Group Materials: <https://www.waynesvillenc.gov/departments/development-services/density-work-group>

2.1 - Districts by District Type.

The following 31 base districts are organized into categories that standardize various regulations while allowing some limited customization of each district.

District Category	District Name
Residential Conservation	Allen's Creek Residential Conservation (AC-RON) Howell Mill Residential Conservation (HM-RCON) East Waynesville Residential Conservation (RC-RCON)
Residential—Low Density (RL)	Country Club Residential - Low Density (CC-RL) Eagles Nest Residential - Low Density (EN-RL) Francis Cove Residential - Low Density (FC-RL) Hall Top Residential - Low Density (HT-RL)
Residential—Medium Density (RM)	Chestnut Park Residential - Medium Density (CP-RM) Dellwood Residential - Medium Density (D-RM) Howell Mill Residential - Medium Density (HM-RM) South Waynesville Residential - Medium Density (SW-RM)
Neighborhood Residential (NR)	Allens Creek Neighborhood (AC-NR) Love Lane Neighborhood (LL-NR) Main Street Neighborhood (MS-NR) Ninevah Neighborhood (N-NR) Pigeon Street Neighborhood (PS-NR) Plott Creek Neighborhood (PC-NR) Raccoon Creek Neighborhood (RC-NR) Sulphur Springs Neighborhood (SS-NR) Walnut Street Neighborhood (WS-NR)
Urban Residential (UR)	East Waynesville Urban Residential Neighborhood (EW-UR) Hazelwood Urban Residential Neighborhood (H-UR) Howell Mill Urban Residential Neighborhood (HM-UR)
Neighborhood Center (NC) Neighborhood Center (NC)	North Main Street Neighborhood Center (NM-NC) Pigeon Street Neighborhood Center (PS-NC) Raccoon Creek Neighborhood Center (RC-NC)

2.3 Purpose and Intent by District

2.3.1 Residential Conservation (re-number and format existing district statements)

The **Residential Conservation District** is designated to promote rural landscape, farmland preservation, and development that protects and enhances Waynesville's natural resources. Development within this area should be designed to conserve open space and farmland through Low Impact Development (LID) and clustering of residential density, should protect existing forests and watersheds, and promote the preservation of mountain vistas and iconic views.

2.4 Dimensional Standards by District

Standard	Residential Conservation District	
2. Development Standard a. Density (max. base) b. Density (max with SUP) c. Civic Space	2.5 Units/Acre 6 Units/acre 15% Conventional Subdivision 40% Conservation Subdivision	
3. Lot Standards a. Lot Area – House b. Lot area – all types with rear vehicular access c. Lot width d. Frontage at Front Setback e. Pervious Surface (min)	½ acre 4,000 s.f. minimum with Conservation Sub. 4,000 s.f. minimum 60' No minimum with Conservation Sub. n/a 50% No minimum with Conservation Sub.	
4. Building Setback a. Front b. Street side c. Side (from adjacent lot) d. Setback between buildings e. Rear	Standard 20' 20' 10' 15' 20'	Conservation Sub 10' 5' subject to fire codes subject to fire codes subject to fire codes
5. Accessory Structure Setbacks	5'	subject to fire codes
6. Building Height	Maximum 40' from highest adjacent grade	
7. Outdoor Storage a. Residential Usage b. Nonresidential usage c. Farm Equipment and ag. related	Permitted Not-permitted Permitted	

2.5.3 Table of Permitted Uses

RCON

Residential:	All-residential types
Lodging:	Bed and Breakfast, Boarding House, Inn (up to 30 rooms)
Office/Service:	Animal Services, Child/Adult Day Care Center, Civic/social/Fraternal Orgs Government Services, Kennels, Studios
Commercial:	-
Entertainment/Recreation	Cultural or Community Facility, Recreation Facilities (indoor & outdoor) Riding Stables, Shooting Range, Outdoor (SUP)
Civic Institutional:	Cemetery, Religious Institution, Schools (SUP)
Manufacturing:	-
Agricultural:	Animal Production, Animal Production Support Services, Crop Production and Nurseries, Crop Production Support Services, Feed Lots, Fish Hatcheries, Forestry Support Services, Produce Stands in Conjunction with Crop Production
Infrastructure:	Wireless Communication Facilities Micro (PS), Mini (PS), Macro (PS), Tower (SUP), Utilities Class 1 and 2

4.4 Measurement of Building Height.

4.4.1 Applicability.

Building heights shall be specified in [Section 2.4. Dimensional Standards by District](#) and use "stories" as the standard unless otherwise regulated in Chapter 5 Building and Development Design. Where a specific dimension is used in the calculation of maximum height for certain types of buildings in Chapter 5, the height shall be measured from the highest adjacent grade to the highest point of the structure or at the structure's "primary facade." Wherever one Section of the Town's Land Development Standards may differ from another, the more restrictive ordinance shall apply. All structures are subject to regulations under the NC State Building Codes in addition to this Section.

4.4.2 Measurement of Building Height.

The Town regulates building height by limiting the number of allowable stories within zoning district types in accordance with Section 2.4 of the Land Development Standards. In addition, the following regulations apply:

- A. **Maximum within residential districts:** All structures within residential districts (RL, RM, NR, and UR), including mixed-use overlays, are limited to a maximum height of 60 feet as measured from the highest adjacent grade to the top of a flat roof or the peak of a sloped roof. **All structures within the Rural Conservation (RCON) Districts shall not exceed 40' in height from the highest adjacent grade.** The 60 feet and 40 feet maximums are inclusive of floodplain elevations and the number of stories allowed in Section 2.4.1 Table of Dimensional Standards by Residential District.

4.4.3 Items Not Included in Height Calculations.

The height limitations of this Ordinance shall not apply to **silos**, church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, mechanical penthouses (provided they are set back 20 feet from the front elevation), observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts ...

- 1 d. Yield data that can be used with the Education Value-Added
 2 Assessment System (EVAAS).
 3 e. Comply with federal law.

4 **SECTION 3J.23.(c)** The State Education Assistance Authority shall designate as the
 5 nationally standardized assessments to be administered by nonpublic schools, in accordance with
 6 G.S. 115C-562.5(a)(4), the tests recommended by the Office of Learning Research at The
 7 University of North Carolina for use in third grade and eighth grade in accordance with
 8 subsection (b) of this section.

9 **SECTION 3J.23.(d)** Notwithstanding G.S. 115C-562.7(c), the State Education
 10 Assistance Authority shall submit the report required by G.S. 115C-562.7(c) by December 1,
 11 2027, and annually thereafter, based on the data submitted by nonpublic schools in accordance
 12 with G.S. 115C-562.5(c)(1) beginning with the 2026-2027 school year.
 13

14 **SUBPART III-K. LOCAL GOVERNMENT**

15 **NO LOCAL GOVERNMENT INITIATED DOWN-ZONING WITHOUT CONSENT OF** 16 **AFFECTED PROPERTY OWNER**

17 **SECTION 3K.1.(a)** G.S. 160D-601(d) reads as rewritten:

18 "(d) Down-Zoning. – No amendment to zoning regulations or a zoning map that
 19 down-zones property shall be ~~initiated nor is it enforceable initiated, enacted, or enforced~~ without
 20 the written consent of all property owners whose property is the subject of the down-zoning
 21 amendment, ~~unless the down-zoning amendment is initiated by the local government.~~
 22 amendment. For purposes of this section, "down-zoning" means a zoning ordinance that affects
 23 an area of land in one of the following ways:
 24

- 25 (1) By decreasing the development density of the land to be less dense than was
 26 allowed under its previous usage.
 27 (2) By reducing the permitted uses of the land that are specified in a zoning
 28 ordinance or land development regulation to fewer uses than were allowed
 29 under its previous usage.
 30 (3) By creating any type of nonconformity on land not in a residential zoning
 31 district, including a nonconforming use, nonconforming lot, nonconforming
 32 structure, nonconforming improvement, or nonconforming site element."

33 **SECTION 3K.1.(b)** If any provision of this section is declared unconstitutional or
 34 invalid by the courts, it does not affect the validity of this section as a whole or any part other
 35 than the part so declared to be unconstitutional or invalid.

36 **SECTION 3K.1.(c)** This section is effective when it becomes law and applies to
 37 local government ordinances adopted on or after that date and any local government ordinance
 38 enacting down-zoning of property during the 180 days prior to the date this section becomes
 39 effective. Ordinances adopted in violation of this section shall be void and unenforceable.
 40

41 **PART IV. MISCELLANEOUS PROVISIONS**

42 **SECTION 4.1.** Severability. – If any section or provision of this act is declared
 43 unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or
 44 any part other than the part declared to be unconstitutional or invalid.

45 **SECTION 4.2.** Effective Date. – Except as otherwise provided, this act is effective
 46 when it becomes law.

Planning Board Staff Report

Subject: Discussion on amendments related to setback requirements for the lots subject to Hillside Protection regulations,
Ordinance Section: Land Development Standards (LDS) section 12.6.
Applicant: Staff initiated text amendment; Development Services Department
Presenter: Olga Grooman, Assistant Development Services Director
Meeting Date: December 5, 2024

Background:

LDS 12.6.2 defines a steep slope area as “any lot, parcel, tract or portion thereof, that has a natural elevation of 2,900 feet above mean sea level or higher, with a natural average slope of 25% or greater.” Such areas are most common on the edges of Waynesville’s jurisdiction within low-density residential districts, such as Eagles Nest Residential Low Density (EN-RL), Hall Top Residential Low Density (HT-RL), Fransis Cove Residential Low Density (FC-RL), and Country Club Residential Low Density (CC-RL) districts. Additionally, there are some steep slope areas within Allens Creek Neighborhood Residential (AC-NR), South Waynesville Residential Medium Density (SW-RM), and Hyatt Creek Regional Center (HC-RC) districts along the southern edges of Waynesville.

Based on the average slope, steep slope lots are subject to the gradual reduction in density, maximum disturbed area of the site, and maximum built-upon impervious surface. These restrictions are outlined in LDS table 12.6.4 below:

Average slope	25-29%	30-34%	35-39%	40-44%	45-49%	50% +
Maximum Density/Minimum Lot Size (acres/du)	25% reduction underlying zoning	50% reduction underlying zoning	4 acres/du	5 acres/du	7.5 acres/du	10 acres/du
Maximum disturbed area (% of site)	35%	30%	25%	20%	15%	10%
Maximum impervious area (% of site)	30%	25%	20%	15%	10%	10%
Minimum riparian buffer (width in feet from edge of stream - See 12.6.3.D)	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.

Recently, Development Services had several front setback variance applications in the areas that fell under the definition of a steep slope. In both instances, the front 20-ft setback from the property line could be achieved, but the properties also had deeded rights-of-way at their front portions. Therefore, the front setback had to be measured much further, such as 20 ft from the platted rights-of-way that included public roads or deeded access to other lots. The LDS specifies that a building setback is measured from either the property line or a right-of-way if one exists, whichever is greater. Per LDS 17.4:

“**Setback.** The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the structure or its supporting member, whichever is nearest to the property line or right-of-way.”

‘Right-of-Way. A strip of land whose legal title has been offered for public access and is occupied or intended to be occupied by a street and is also available, with the consent of the appropriate governmental agency, for installation and maintenance of traffic control devices, regulatory and information signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.”

In both applications for variances, the strict 20-ft low-density district’s setbacks undermined the purpose of the hillside protection ordinance by pushing the development from the most buildable areas of the site further back towards steep slopes and away from rights-of-ways. Positioning the houses closer to the front of the property allowed the development of these single-family lots to minimize fill slopes, cut slopes, and retaining walls. With that in mind, staff proposes to allow administrative flexibility in setback requirements for lots falling under the hillside protection ordinance and in cases where there’s opportunity to minimize disturbance of the site below the thresholds of the table 12.6.4 above. This would allow more efficient and less intrusive construction and minimize the grading of steep slopes.

Staff Recommended Text Changes:

The main purpose of the Hillside Protection ordinance is to minimize the disturbance of steep slopes and preserve as much area of the site as possible. However, lots exist in these steep areas of the town, and it is reasonable to assume that they will be developed in the future.

To allow developers to minimize the disturbance of steep slopes, staff proposes an administrative variance in setback reduction up to 25%, or 5’ of a 20’ setback. This would reduce the front and rear setbacks to 15 ft, and side setbacks to 7.5 ft in the Town’s Low Density Districts. In the medium density and neighborhood residential districts, the front and side setbacks would be reduced from 10 ft to 7.5 ft, and the rear 6 ft setback would be reduced up to 4.5 ft, and the 5 ft street side setback for corner lots would be reduced to 3.75 ft.

Criteria to determine an administrative setback variance could include:

- Lot falls within the LDS 12.6.4 guidelines table, or has an equal or greater 25% average slope.
- The reduction in setback would reduce land disturbance on slopes (ie, the reduction in setback would allow for construction on a more flat area of a lot).
- The reduction in setback would not place a structure close to another structure on an adjacent lot in a manner that conflicts with fire codes, or which would cause a potential drainage or erosion issue on that adjacent lot.
- The reduction results in less disturbance and impervious surface (ie shorter driveway).

Low density districts, that are mostly subject to steep slope protections, have the following statements in their purposes in LDS 2.3.1:

- “A residential scale is required for all new development.”
- “The Eagles Nest Residential—Low Density District (E-RL) is a rural district characterized by beautiful views afforded by steep terrain.”
- “Future development shall be sensitive to the terrain with grading minimized through the use of good design, clustered development and large lot development.”
- “Clear cutting for views is unacceptable; appropriate trimming of trees for vistas is preferred.”
- “Sidewalks are not required except in major residential developments due to the rural mountain character of the district.”
- “Few urban services are available in this area to support dense development and the topography poses a limitation on development as well.”

- “Clustering future development in small areas while leaving large areas undeveloped will be critical in achieving this goal.”

These statements further emphasize the need for the protection of hillside areas. Today, staff brings you this idea for discussion. Based on the Board’s feedback, staff will draft a text amendment and schedule a public hearing for the January 2025 Planning Board’s meeting.

Consistency with the 2035 Comprehensive Land Use Plan:

Staff submits that the proposed text amendments to the LDS are consistent with the following 2035 Comprehensive Plan goals:

Goal 1: Continue to promote smart growth principles in land use planning and zoning.

- Encourage infill, mixed-use and context-sensitive development.
- Promote conservation design to preserve important natural resources.

Goal 2: Protect and Enhance Waynesville’s Natural Resources.

- Protect and enhance water quality and forests.
- Protect rural lands, iconic views and mountain vistas

Public Notice:

None. This is a discussion only.

Attachments:

- LDS Sections 12.6- Hillside Protection and 12.7- Mountain Ridge Protection.

Recommended Motions:

None. Staff will proceed with the text amendment based on the Board’s feedback.

- D. **References to Statutes, Regulations, and Documents:** Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.
- E. **Computation of Time:** The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Waynesville, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Waynesville. References to days are calendar days unless otherwise stated.

12.6 Hillside Protection.

12.6.1 Purpose.

The purpose of this section is to regulate development in steep slope areas in order to preserve the Town of Waynesville's unique character, conserve the public health, safety and general welfare and to promote environmentally sound design and planning in accordance with the following objectives:

- To protect life and property from all potentially hazardous conditions particular to steep slopes, e.g., rock falls, flash flooding, debris flows, mud slides and increased wildfire hazard.
- To preserve and enhance the scenic and environmental resources of the landscape by encouraging the maximum retention of prominent natural topographic features, i.e., drainage swales, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations, and trees.
- To encourage innovative site and architectural design and planning in order for the development to adapt to the natural terrain and be harmonious with the character of the area.
- To minimize grading and cut and fill operations inconsistent with the retention of the natural character of the hillside.
- To preserve where possible, natural streams, ponds and associated riparian vegetation.
- To require the retention of trees and other vegetation to stabilize steep hillsides, retain moisture, prevent erosion and enhance the natural scenic beauty.
- To encourage the retention of trees and other vegetation throughout the site instead of just the periphery of the development.
- To encourage minimal grading which relates to the natural contour of the land, thus rounding off sharp angles at the top and bottom of cut and fill slopes in a natural manner.
- To provide land use densities to promote the best possible development of hillside areas in order to retain significant natural features and to preserve slope stability.
- To encourage road design that follows the natural topography wherever possible in order to minimize grading.
- To preserve predominant views from and of the hillside areas in order to retain the sense of identity and imagery that the hills and mountains now impart to the Town of Waynesville.

12.6.2 Applicability.

- A. For the purposes of this section, a Steep Slope Area is defined as any lot, parcel, tract or portion thereof, that has a natural elevation of 2,900 feet above mean sea level or higher, with a natural average slope of 25% or greater as determined using the following formula:

$$S = 0.0023 \times l \times L / A$$

Where:

S= Average natural slope of parcel in percent

l= Contour interval of map in feet

L= Total length of contour lines within the parcel in feet

A= Area in acres of the parcel

0.0023= Constant which converts square feet into acres.

- B. In the case of conflict between the average natural slope determination of a lot using different methods of calculation the following methods in shall prevail in the following order: 1) use of the above formula based on field survey data, 2) use of the above formula based on the best available topographic data in the Haywood County Geographic Information system, 3) use of a Town approved geographic information system based slope calculation tool.
- C. Application to properties with an average natural slope of 25% or greater split by the 2,900-foot contour line.
 - 1. If any portion of the lot above 2,900 feet is placed in a permanent conservation easement or otherwise reserved in perpetuity, the residential density from this portion of the property may be transferred to the remainder of the property below 2,900 feet or to adjacent properties in the same ownership below 2,900 feet at the same ratio as that of the underlying zoning district.
 - 2. The area above 2,900 feet may be developed as provided for in Table 12.6.4, and the remainder of the property below 2,900 feet or with an average slope below 25% may be developed as permitted in the underlying zoning district.
- D. Reservation of steep slope areas to reduce average slope. Areas placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants or otherwise permanently protected in a natural state with a prohibition on vegetation removal and land disturbing activity may be excluded from the calculation of the average slope for the property or properties which include the area, provided that the minimum size of each such reserved area shall equal the minimum lot size for the underlying zoning district.

12.6.3 General Steep Slope Area Development Standards.

- A. No land disturbing activity shall take place until full development approval has been received.
- B. Land disturbing activity shall be limited to designated building envelopes and approved road and driveway corridors as shown on approved site plans.
- C. Diversion or channelization of perennial streams shall not be permitted unless without such diversion or channelization a tract existing at the time of adoption of this amendment is rendered unusable for any of the principal uses allowed within the zoning district.
- D. The riparian stream buffers shall be left intact, which means that removal of trees, or other vegetation, or disturbance of soils within this buffer is prohibited, except for necessary road crossings. The buffers shall be a minimum of 30' from the edge of the stream or 25 feet from the top of bank, whichever is greater.
- E. Perennial streams shall not be placed in culverts except to the minimum extent possible for necessary road crossings.

- F. Developers shall make reasonable efforts to preserve and protect existing natural features of the slope, such as trees and other plan material, and rock outcroppings which may help to stabilize the slope.
- G. The maximum area of disturbance per phase shall not exceed 5 acres.
- H. Cut and fill slopes shall comply with the standards of Section 12.4.
- I. Stormwater management shall comply with the standards of Section 12.5.

12.6.4 Specific Steep Slope Area Development Standards.

In addition to any development restriction imposed by the underlying zoning district, the following standards shall apply to any properties that are subject to the standards of this section:

Table 12.6.4

Average slope	25-29%	30-34%	35-39%	40-44%	45-49%	50% +
Maximum Density/Minimum Lot Size (acres/du)	25% reduction underlying zoning	50% reduction underlying zoning	4 acres/du	5 acres/du	7.5 acres/du	10 acres/du
Maximum disturbed area (% of site)	35%	30%	25%	20%	15%	10%
Maximum impervious area (% of site)	30%	25%	20%	15%	10%	10%
Minimum riparian buffer (width in feet from edge of stream - See 12.6.3.D)	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.

12.6.5 Plan Requirements.

In addition to the submittal requirements of the underlying zoning district and Chapter 15, the following plans/reports shall be required prior to approval of Steep Slope Area development or land subdivision:

- A. **Residential Development with 4 or Fewer Units:** Scale site plan showing:
 1. Project boundaries.
 2. Topography with contour lines from a field survey or Haywood County GIS with a five (5) foot contour interval.
 3. Existing structures, utility lines, roads, driveways, wells, septic systems and other site improvements.
 4. Proposed structures, utility lines, driveways, wells, septic systems and other site improvements.
 5. Proposed extent of disturbed areas.
 6. Existing and proposed forested areas.
 7. Perennial and intermittent streams from the Soil Survey of Haywood County.
 8. If individual wells and/or septic tanks are to be utilized, a written statement from the Haywood County Health Department indicating approval of wells and/or septic tanks for use in the development.

B. Non-Residential Development and Residential Development with 5 or More Units:

1. Site plan with information listed in A above.
2. Site aerial from Haywood County GIS.
3. Slope map showing slopes in 5% increments corresponding to Table 12.6.4.
4. Map to illustrate project context and connectivity beyond property boundaries.
5. Hydrology floodplains, floodways, streams, springs, wetlands, seeps and drainages.
6. Site specific geologic analysis of the Steep Slope Area to be developed, prepared by a North Carolina licensed geologist, soil scientist, geotechnical engineer or other qualified professional, to determine whether that plan can be developed on the site without jeopardizing slope stability on the site itself or on properties surrounding the site.

(Ord. No. O-01-15, § 9, 1-27-2015)

12.7 Mountain Ridge Protection.**12.7.1 Required Standards.**

Pursuant to the Mountain Ridge Protection Act of 1983:

- A. No person may construct a Tall Building or Structure on any Protected Mountain Ridge as defined by G.S. 130A-334.
- B. None of the following utility services shall be extended to any building or structure constructed in violation of subsection A above: electricity, telephone, gas, water, sewer or septic system.
- C. Applications for development on Protected Mountain Ridges, shall, in addition to the submittal requirements of the underlying zoning district, Section 12.6 (if applicable) and Chapter 15, submit the following:
 1. Cross sectional profiles of all principal buildings as proposed to be sited on the property and the property showing existing and the proposed post-grading profile drawn perpendicular to the direction of the slope.
 2. If individual wells and/or septic tanks are to be utilized, a written statement from Haywood County Health Department indicating approval of wells and/or septic tanks for use in the development.
 3. Documentation of an approved Sedimentation and Erosion Control Plan.
 4. A letter or approval from the fire department with jurisdiction indicating the adequacy of the development facilities for emergency medical and fire services. Such determination shall take into consideration the street access, water pressure and availability, building height, and any other relevant factors.
- D. All applications for development on Protected Mountain Ridges shall be approved by the Planning Board only after finding that the proposed development has given adequate consideration to protecting the natural beauty of the mountains by making the following findings:
 1. The development plan preserves natural vegetation and scenic features such as outcroppings to the maximum extent possible.

-
2. The development plan sites the proposed development in a way to minimize its visual impact and land disturbance.
 3. The development plans use architectural design, colors and materials that blend well with or are compatible with the natural beauty of the Protected Mountain Ridge.
 4. The development plan minimizes land disturbing activities including the area disturbed and the height of cut and fill slopes to the maximum extent practical.