

Town Hall Council Chambers
30 South Main Street
Weaverville, N.C. 28787

October 17, 2016 at 6:00pm
Town Council Monthly Meeting & Public Hearings

- 1. **Call to Order**..... Mayor Sherrill
- 2. **Approval / Adjustments to the Agenda**..... Mayor Sherrill
- 3. **Approval of Minutes**..... Mayor Sherrill
 - A. September 19, 2016 Town Council Meeting
- 4. **Employee Recognition**..... Town Manager
- 5. **General Public Comments**
- 6. **Consent Agenda**..... Mayor Sherrill
 - Motion to approve the consent agenda*
 - A. Set Date for Public Hearing on Proposed Code Amendments based on Staff Recommended Technical Revisions
This public hearing is recommended for November 21, 2016 at 6:00pm.
 - B. Approval of Gateway Sign Easement Agreement from SunTrust Bank
Agreement has been reviewed by Town Attorney and is necessary for sign design and construction.
 - C. Adoption of Records Retention & Disposition Schedule
Required by State Statute.
- 7. **Discussion & Action Items:**
 - A. Weaverville Business Association Event Proposal..... Cynthia Ward
 - B. Weaverville ABC Audit Presentation Rob Chason
 - C. Update on Water Capacity..... Public Works Director
 - D. Water Allocation & Meter Request for Monticello Commons..... Public Works Director
 - E. Water Allocation Request for Outparcel Restaurant at 61 Weaver Boulevard..... Public Works Director
 - F. Annexation Petition & Initial Zoning for Monticello Apts..... Town Attorney
- 8. **Public Hearing and Council Action: Proposed Subdivision Ordinance Amendments to Revise Requirements & Procedure for Minor Subdivisions** Town Planner & Code Enforcement Officer
Town Council may take action after this public hearing if so desired.
- 9. **Town Manager’s Report**..... Town Manager
- 10. **Adjournment**..... Mayor Sherrill

MINUTES

**TOWN OF WEAVERVILLE
STATE OF NORTH CAROLINA**

**TOWN COUNCIL MEETING
MONDAY, September 19, 2016**

The Town of Weaverville Town Council met on Monday, September 19, 2016 beginning at 6:00pm in Council Chambers within Weaverville Town Hall at 30 South Main Street.

Council Present: Mayor Dottie Sherrill, Vice-Mayor John Penley, Council Members Doug Dearth, Patrick Fitzsimmons and Doug Jackson. Absent: Councilman Andrew Nagle.

Staff Present: Town Manager Selena Coffey, Town Attorney Jennifer Jackson, Police Chief Greg Stephens, Public Works Director Tony Laughter, Fire Chief Ted Williams and Town Planner James Eller.

1. Call to Order

Mayor Sherrill called the meeting to order at 6:00pm.

2. Approval/Adjustments to the Agenda

Vice-Mayor Penley motioned to remove closed session from the agenda. Councilman Jackson seconded and all voted unanimously.

Councilman Dearth motioned to approve the agenda as amended. Councilman Dearth seconded and all voted unanimously.

3. Approval of the Minutes

Minutes to be approved are from the August 15, 2016 Town Council meeting, the August 22, 2016 special call meeting and the September 6, 2016 special call meeting.

Councilman Dearth motioned to approve the minutes as presented. Councilman Fitzsimmons seconded and all voted unanimously.

4. Employee Recognition

Town Manager Coffey introduced Tonya Dozier, the new finance officer, to Town Council and recognized Fire Chief Ted Williams for his success in receiving a grant for self-contained breathing apparatuses.

5. General Public Comment

Public comment closed with no comment being made.

6. Consent Agenda

- A. Set date for a Public Hearing on proposed subdivision amendments regarding minor subdivision. Recommended date is October 17, 2016.
- B. Budget Amendment. Amendment adds funds contributed to Police and Fire Departments.
- C. Ratification of road closure ordinance for Art in Autumn, NCDOT ordinance to close Main Street.
- D. Tax Release of \$356.62 due to a duplicate billing by Buncombe County.

Councilman Jackson motioned to approve the consent agenda. Council Dearth seconded and all voted unanimously.

7. Discussion and Action Items

- A. Adoption of an ordinance establishing a Conditional Zoning District for New Homes at North Main.

Ms. Jackson explained to Council that the Ordinance before them was to establish a Conditional Zoning District for the project commonly known as New Homes at North Main.

Councilman Jackson motioned to adopt the ordinance. Councilman Dearth seconded and all voted unanimously.

- B. Approval of a Concept Plan for the Major Subdivision: Cottages at North Main.

Mr. Eller presented the Concept Plan for a Major Subdivision at the corner of North Main and Coleman and stated that the plan was unanimously recommended by the Planning and Zoning Board.

Councilman Dearth motioned to approve the Concept Plan. Councilman Fitzsimmons seconded and all voted unanimously.

- C. Water meter and allocation request to serve Fairfield Inn.

Mr. Laughter spoke to Council regarding the three inch water meter to be installed for the proposed hotel and suggested that any meter over two inches required Council approval.

Councilman Jackson motioned to approve the water meter and water allocation for Fairfield Inn. Vice-Mayor Penley seconded and all voted unanimously.

- D. Set a date for a Council workshop regarding land use regulations for commercial and industrial uses.

Ms. Coffey suggested holding this meeting in conjunction with a previously scheduled workshop on November 8, 2016.

Councilman Fitzsimmons motioned to hold the workshop on November 8, 2016 at 5:30 pm in the Fire Department Training Room. Councilman Dearth seconded and all voted unanimously.

- E. Proposed solid waste ordinance amendments.

Ms. Jackson explained to Council that the ordinance before them establishes that multifamily residential developments with 15 or more units must contract their garbage collection.

Councilman Jackson motioned to approve the proposed solid waste ordinance amendment. Vice-Mayor Penley seconded and all vote unanimously.

F. Proposed Fire Code amendments.

Ms. Jackson explained to Council that the amendments deleted the appendixes D-104, D-106 and D-107 related to the Fire Code.

Vice-Mayor Penley motioned to approve the amendment to the Fire Code. Councilman Dearth seconded and all voted unanimously.

G. Board appointments for the Conservation Board and Planning and Zoning Board.

Mayor Sherrill recommended the appointment of Patsy Beyer and Erin Calloway to the Conservation Board and Benjamin Graham to the Planning and Zoning Board.

Councilman Dearth motioned to approve the Board Appointments. Vice-Mayor Penley seconded and all voted unanimously.

8. Public Hearing: proposed Zoning Ordinance amendments to eliminate Unified Housing Developments, Traditional Neighborhood Developments and revise Conditional Zoning District provisions

Councilman Dearth motioned to open the Public Hearing. Councilman Fitzsimmons seconded and all voted unanimously.

Mr. Eller spoke to Council regarding the proposed code amendments and noted that the amendments were unanimously recommended by the Planning and Zoning. Gary Burge and Leslie Osborne offered to answer any questions Council may have as representatives of the Planning and Zoning Board.

Councilman Dearth motioned to close the Public Hearing. Vice-Mayor Penley seconded and all voted unanimously.

Councilman Fitzsimmons motioned to approve the ordinance eliminating unified housing developments, traditional neighborhood developments and revising conditional zoning districts. Councilman Dearth seconded and all voted unanimously.

9. Public Hearing: proposed voluntary annexation – Serota Mars Hill, LLC

Vice-Mayor Penley motioned to open the Public Hearing. Councilman Fitzsimmons seconded and all voted unanimously.

Ms. Jackson noted the location of the property, in the vicinity of the intersection of 25/70 and Monticello Road, and informed Council that a certificate of sufficiency had been prepared by the Town Clerk. Wilder Wadford, the applicant, spoke to Council regarding his desire to be voluntarily annexed into the municipal limits of the Town of Weaverville.

Councilman Dearth motioned to close the Public Hearing. Councilman Jackson seconded and all voted unanimously.

10. Public Hearing: proposed voluntary annexation – Garrison Branch Reserve Investors, LLC

Councilman Fitzsimmons motioned to open the Public Hearing. Councilman Jackson seconded and all voted unanimously.

Mr. Eller noted the location of the property, contiguous to the aforementioned parcel, and informed Council that a certificate of sufficiency had been prepared by the Town Clerk.

John Grey, owner of adjacent property and resident of adjacent subdivision, spoke to Council regarding his concerns over the proposed apartment complex on the subject parcel.

Scott Austin and Barret Hagen offered to address any questions of Council as the applicant for annexation. Councilman Fitzsimmons asked if the applicant had met with the citizens of Autumn Hills to address their concerns and Mr. Austin confirmed. Councilman Jackson asked if the retention pond would have circulating water and Mr. Hagen responded that the purpose of the pond was for storm water retention. Councilman Jackson also requested that the applicant consider using a wooden fence rather than chain-link.

Councilman Dearth motioned to close the Public Hearing. Councilman Fitzsimmons seconded and all voted unanimously.

11. Public Hearing: proposed initial C-2 zoning – Serota Mars Hill, LLC

Councilman Dearth motioned to open the Public Hearing. Vice-Mayor Penley seconded and all voted unanimously.

Mr. Eller noted some of the permissible uses in the C-2 Zoning District. Mr. Burge noted that the proposed initial zoning was unanimously recommended by the Planning and Zoning Board.

Councilman Dearth motioned to close the Public Hearing. Vice-Mayor Penley seconded and all voted unanimously.

12. Public Hearing: proposed initial R-12 zoning – Garrison Branch Reserve Investors, LLC

Vice-Mayor Penley motioned to open the Public Hearing, Councilman Dearth seconded and all voted unanimously.

Ms. Jackson read to Council the unfavorable recommendation passed forth from the Planning and Zoning Board to Town Council. Ms. Jackson also noted the discrepancies found related to building height and a front yard setback.

Gary Burge informed Council that the Planning and Zoning Board voted unanimously to send forth a negative recommendation due to discrepancies found in the approved site plan and the Town's R-12 Zoning District. Leslie Osborne spoke to Council regarding the Planning and Zoning Board's negative recommendation.

Mr. Hagan clarified that the height of the buildings would be 37.5 feet and therefore 2.5 feet higher than what the ordinance permits. Mr. Austin clarified that the pond is a requirement as per Buncombe County stormwater.

Vice-Mayor Penley motioned to close the Public Hearing. Councilman Fitzsimmons seconded and all voted unanimously

Ms. Jackson noted to Council that the now previously held public hearings are all related and suggested that Council discuss each of the aforementioned items accordingly. Ms. Jackson also noted that the decision being made was legislative and therefore a precedent would not be set for future legislative decisions.

Councilman Dearth thanked the Planning and Zoning Board for their deliberations on these issues, spoke to the nature of development on the periphery of municipal borders and suggested that the annexation and zoning of all parcels would have his support. Councilman Jackson also thanked the Planning and Zoning Board and noted that the discrepancies found would not be enough to decline the project in his view. Councilman Fitzsimmons and Vice-Mayor Penley also spoke in favor of the proposals.

Councilman Dearth motioned to approve both voluntary annexations and to zone the Serota Mars Hill, LLC parcel C-2 and the Garrison Branch Reserve Investors, LLC parcel R-12. Vice-Mayor Penley seconded and all voted unanimously.

13. Adjournment

Councilman Fitzsimmons motioned to adjourn. Vice-Mayor Penley seconded and all voted unanimously.

James W. Eller, Deputy Town Clerk

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

Date of Meeting: Monday, October 17, 2016
Subject: Set a Date for a Public Hearing on Proposed Staff Recommended Technical Revisions of Code
Presenter: James W. Eller
Attachments: Planning and Zoning Board Recommendation, Proposed Code Amendments

Description:

Attached you will find several technical revisions of Code which are as follows:

- The removal of application of costs from the Code. Each year, in conjunction with the municipal budget, Town Council establishes a schedule of fees which sets the costs of applications. Application costs should be removed from the Code to eliminate any discrepancies and to allow for a change in any application cost without a revision of ordinance.
- Presently the plan to be submitted in conjunction with an application for a Conditional Zoning District calls for the topography to be shown at four foot contours. Changing to five foot contours would allow the applicant to use information readily available to the Public on the Buncombe County GIS while also presenting both the Planning and Zoning Board and Town Council with essentially the same information.
- Removing the former extra-territorial jurisdiction from the Code. In 2014 the General Assembly removed the Town's ability to exercise its ETJ authority. With the authority removed, all language related to the ETJ no longer has any effect.

Action Requested:

Staff proposes for Council to set a date for a Public Hearing on Monday, November 21, 2016 at 6pm or at such time as Council reaches the matter and a motion to set the public hearing would be appropriate.



**Town of Weaverville
Planning and Zoning Board**

On Tuesday, September 6th, 2016 the Planning and Zoning Board reviewed and unanimously recommended to Town Council the attached technical revisions of Code recommended by staff.

It has been found that the revisions would not conflict with the Town's Comprehensive Plan or Zoning Code. The Planning and Zoning Board considers approval both reasonable and in the public interest to eliminate any discrepancies and provide clarity within the code.

A handwritten signature in cursive script, reading "Doug Theroux", written over a horizontal line.

**Doug Theroux
Chairman, Planning and Zoning Board**

Sec. 36-206. - Sign permit required.

- (a) All signs placed or erected within the town shall require a sign permit issued by the zoning administrator. Failure to secure a permit, when required, shall constitute a violation of this article. A sign permit fee shall be charged for each sign placed or erected after the effective date of the ordinance from which this chapter derives. Fees shall be charged ~~as follows: in accordance with the schedule of fees established by Town Council.~~

~~Type of Sign—Fee Charged~~

~~Single, freestanding commercial or industrial signs\$ 50.00~~

~~All other single, commercial or industrial signs25.00~~

~~Freestanding identification signs with nameplate signs attached100.00*~~

~~* For the identification sign and an additional \$25.00 per nameplate sign.~~

- (b) A sign permit shall not be required for the following types of signs; provided they meet all of the other requirements of this chapter:
- (1) Private directional or safety signs;
 - (2) Temporary construction signs;
 - (3) Real estate signs;
 - (4) Political signs;
 - (5) Window signs;
 - (6) Any flag, badge, insignia or design customarily displayed by any governmental, charitable, civic, fraternal, patriotic, religious or similar organization;
 - (7) Municipal, school, recreational and civic club sponsored signs which indicate a schedule of events or rules and regulations, and school and public park signs which do not exceed 48 square feet of aggregate surface area per sign.
- (c) All signs which are erected or which are in place prior to the adoption of this chapter or the adoption of any amendment thereto shall require a sign permit in order to be allowed to remain or shall require a statement of noncompliance issued by the zoning administrator setting forth those things which must be done by the sign owner in order to bring the sign within the provisions of the ordinance. Such statements of noncompliance or sign permits shall be issued by the town within 180 days after the initial adoption of this chapter or after the adoption of subsequent amendments hereto which affect a sign. No permit fee shall be collected for the issuance of such noncompliance statement or sign permit.
- (d) In the event that the town fails to issue a sign permit or statement of noncompliance within the 180-day period, the sign owner may assume that the sign is in compliance with all provisions of this chapter and that the sign is permitted to stand but the town shall not be bound by such assumption and may challenge the permissibility of the sign at a later date. A sign owner may request, at any time, that the town issue a sign permit stating that the subject sign is in compliance with the provisions of this chapter.
- (e) Sign permit applications for which a statement of noncompliance is issued, shall include a list of all reasons for such statement of noncompliance. The owner of such sign shall have 90 days from receipt of the statement of noncompliance within which to bring the sign into compliance with the ordinance or to remove the sign. If the sign is not brought into compliance or removed prior to the expiration of the 90-day period, the town may remove the same at the owner's expense.

- (f) All signs erected or placed after the adoption of this chapter without prior sign permit approval shall immediately be removed upon inspection by the town if found not to be in compliance with the provisions of this chapter. If the sign is found to be in full compliance, an after-the-fact permit may be issued provided that all specified fees charged and collected.

(Ord. of 6-19-1978, Art. XII, § 17-1260)

Sec. 36-239. - Application procedure.

- (a) Applicant. The applicant must be the owner or lessee (or legal representative) of all land and structures included within the tract or structure where the special use will be located or must be a governmental agency. The holder of a conditional sales contract or option on the land and/or structures shall, for the purposes of the application, be deemed to be the owner or lessee of the land and/or structures covered by the special use permit application.
- (b) Application form for special use permits. A special use permit application form shall be obtained from the zoning administrator. Completed forms, including any attached exhibits, must contain information showing: (a) the location and intended use of the site, and (b) the names of all property owners and existing land uses within 200 feet of the property boundaries. The completed form may contain other pertinent information which will aid the zoning board of adjustment in making a decision and shall be filed with the zoning administrator who shall forward all information to the zoning board of adjustment. An application fee ~~of \$100.00 shall accompany each application~~ shall be charged in accordance with the schedule of fees established by Town Council. This fee shall be non-refundable.
- (c) Public hearing. Before acting on an application for a special use permit, the zoning board of adjustment shall hold a public hearing as provided in section 36-329.
- (d) Special use permit. Following the public hearing, the zoning board of adjustment may issue a special use permit. In granting such a permit, the board may attach such conditions to the permit as will, in its opinion, assure that the use will conform to the requirements of this chapter. If at any time after a special use permit has been issued the zoning board of adjustment finds that any conditions imposed have not been or are not being fulfilled by the holder of a special use permit, the permit shall be immediately terminated and the use discontinued. If a request for a special use permit is denied or if the special use permit is terminated for any reason, the matter shall not be brought back before the zoning board of adjustment for a period of six months from the date of denial or termination.
- (e) [Majority vote required.] When deciding special use permits or conditional use permits, the zoning board of adjustment shall follow quasi-judicial procedures. No vote greater than a majority vote shall be required for the zoning board of adjustment to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority. Every such decision of the board of adjustments shall be subject to review of the superior court in the nature of certiorari in accordance with G.S. 160A-388.
- (f) [Conflicts of Interest.] A member of the board or any other body exercising the functions of the zoning board of adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(Ord. of 6-19-1978, Art. XIII, § 17-1315; Ord. of 3-20-2006; [Ord. of 11-18-2013, § 2](#))

Sec. 36-84. - Conditional zoning district.

- (a) Intent. The CZD-conditional zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site-specific impact on surrounding area.
- (b) Use permitted. The uses which may be considered for a conditional zoning district shall be established on an individual basis, at the request of the property owner, according to the procedures of section 36-83(d). Zoning of a conditional zoning district is not intended for the securing of early or speculative reclassification of property. It is expected that, in most cases, a general district will appropriately regulate site-specific impact of permitted use and structures on surrounding areas.
- (c) Definition of conditional zoning district. For purpose of this section, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. If the property use is ever proposed to be changed from the original approved plan, then the new proposed use and plan must be resubmitted for approved by the town council.
- (d) Petition of request. Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners, or agents of the owners of all of the property to be included in the district and shall be accompanied by an official petition, a statement analyzing the reasonableness of the proposed rezoning request by the petitioner, the established fee, and documentation as required by the following:
 - (1) A petition for a conditional zoning district must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property;
 - (2) A boundary survey and vicinity map showing the property's total acreage, current zoning classification(s) general location in relation to major streets, date and north arrow;
 - (3) Existing topography on the site and within 300 feet of the boundary of the site, and the general nature of the proposed topography ~~at four-feet~~ contours **shown at a maximum of five-feet.**;
 - (4) All existing easements, reservations, rights-of-way, and any other valid restrictions on the use of the land;
 - (5) The number and general location of all proposed structures;
 - (6) The proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development;
 - (7) All yards, buffers, screening, and landscaping required by the town code;
 - (8) All existing and proposed points of access to public streets and the locations of proposed new streets;
 - (9) Delineation of areas within the floodplain;
 - (10) Proposed number and location of the signs;
 - (11) Proposed phasing, if any, and the approximate completion time for the project;
 - (12) The location of existing and proposed storm drainage patterns and facilities intended to serve the development;
 - (13) Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
 - (14) A list of adjoining properties including county tax parcel numbers and the name and address of each owner, provided in digital form;

- (15) The location of significant trees on the petitioned property;
 - (16) The scale of buildings relative to adjoining properties, including sight lines;
 - (17) Information on the height of all proposed structures;
 - (18) Exterior features of all of the proposed development;
 - (19) Any supporting text shall constitute part of the petition.
- (e) Time limits. A time limit of 240 calendar days for securing applicable permits in order to construct the project and 365 calendar days thereafter for completion of the project; provided, however, the town council may approve up to an additional 365 calendar days for completion of the project, for good cause shown. In the event that the project involves more than three acres and/or more than 15,000 thousand square feet, the time period for securing applicable permits for the project shall be 365 calendar days and the time period for completion of the project shall be 730 calendar days thereafter; provided, however, the town council may approve up to an additional 180 calendar days for completion of the project, for good cause shown. Conditional zoning district projects that have approved detailed plans and have secured applicable permits for start of construction as of May 1, 2009, but on which there has not been a start of construction, will have an additional 12 months to be added to the construction time limits in this subsection from the date of approval of the detailed plans for the completion of the project.
 - (f) Minor modifications. Minor modifications to a project shall be submitted to the zoning administrator for review. No building permit for the proposed development or any part thereof shall be issued until the zoning administrator has determined that the pertinent detailed plans are in accordance with the application and general plans as approved by the town council.
 - (g) Future variance request. Property zoned CZD will not be able to apply for a variance on the approved project.
 - (h) Maintaining the zoning district. CZD is a change in the zoning district and therefore is maintained after the sale of the property. If the property owner wishes to change the approved CZD plan, the property owner must reapply with the town council for a zoning change.
 - (i) Guarantee of conditions. At the discretion of the town council, the council may require the property owner to guarantee the performance or completion of conditions included in the approved conditional zoning plan. Such guarantee may be in the form of:
 - (1) A surety performance bond made by a surety bonding company licensed and authorized to do business in the state;
 - (2) A bond of the developer with an assignment to the town of a certificate of deposit as security for the bond;
 - (3) A bond of the developer secured by an official bank check drawn in favor of the town and deposited with the town clerk;
 - (4) Cash or an irrevocable letter of credit; or
 - (5) A bank escrow account whereby the developer deposits cash, a note, a bond or some other instrument readily convertible into cash for a specific face value, with a federally insured financial institution in an account payable to the town. The amount of the guarantee shall be determined by the town council.
 - (j) District approval. If a petition for a conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district. Each conditional zoning district will be given a special number, distinguishing such district from another zoning district.
 - (k) Planning and zoning review. All conditional zoning shall require that the request be submitted to the town planning and zoning board to determine if approvals of such plans are made in consideration of

identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents. A statement analyzing the reasonableness of the proposed rezoning shall be prepared by the town planning and zoning board for each petition for a rezoning to a conditional zoning district and submitted to the town council for final action on the request.

- (l) Public involvement. Before a public hearing may be held by the town council on a petition for a conditional zoning the petitioner must file in the office of the town clerk a written report of a at least one community meeting held by the petitioner. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the town council but shall not be subject to judicial review.

Notice of such a public hearing shall be given to all the property owners within 200 feet of the property boundaries and in accordance with the provisions of G.S. 160A-364.

- (m) Judicial review. Conditional zoning district decisions under this section are a legislative process and not subject to judicial review.

In the event of noncompliance by a property owner or any subsequent resale or lease of a property for use other than that stipulated in the original CZD approval, the property owner would be in violation of the town zoning ordinance.

- (n) Approval procedures. Except as specifically modified by this section, the procedures to be followed by the town council in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under G.S. ch. 160A, art. 19.

The town council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the town council holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new town council taking office.

- (o) Property in R-1 use district. Due to the distinct nature of the R-1 use district, the only lots in the R-1 district that are eligible for rezoning to a conditional use district are lots contiguous to and have the development's only access to Weaver Blvd., Main St. and Merrimon Ave.

(Ord. of 8-20-2007; Ord. of 11-17-2008, § 1; Ord. of 4-20-2009, § 3)

Sec. 2-155. - Powers and duties.

The town council confers upon the appearance commission the following powers and duties:

- (1) To initiate, promote and assist in the implementation of programs of general community beautification in the town.
- (2) To seek to coordinate the activities of individuals, agencies and organizations, public and private, whose plans, activities and programs bear upon the appearance of the town.
- (3) To provide leadership and guidance in matters of area or community design and appearance to individuals, and to public and private organizations, and agencies.
- (4) To make studies of the visual characteristics and problems of the town, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the town, any portion or neighborhood of the town, or any project to be undertaken.
- (5) To prepare both general and specific plans for the improved appearance of the town. These plans may include the entire town or any part of the town, and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the town, including public ways and areas, open spaces, and public and private buildings and projects.
- (6) To participate, in any way deemed appropriate by the town council and specified in this division establishing the commission in the implementation of its plans. To this end, the town council includes the following powers and duties in this division:
 - a. To formulate and recommend to the town council the adoption or amendment of ordinances (including the zoning ordinance, subdivision regulations, and other local ordinances regulating the use of property) that will, in the opinion of the commission, serve to enhance the appearance of the town and its surrounding areas.
 - b. To direct the attention of town ~~of county~~ officials to needed enforcement of any ordinance that may in any way affect the appearance of the town ~~of its extraterritorial jurisdiction~~
 - c. To seek voluntary adherence to the standards and policies of its plans.
 - d. To enter, in the performance of its official duties and at reasonable times, upon private lands and make recommendations or surveys.
 - e. To promote public interest in and an understanding of its recommendations, studies and plans and to that end to prepare, publish and distribute to the public such studies and reports as will, in the opinion of the commission, advance the cause of improved town ~~of extraterritorial~~ appearance.
 - f. To conduct public meetings, giving reasonable notice to the public of such meetings. All meetings of the commission shall be open to the public. The commission shall keep minutes of its proceedings and official actions.

(Ord. of 3-18-1996, § III)

Sec. 13-51. - Lands to which this chapter applies.

This chapter shall apply to all special flood hazard areas within the corporate limits ~~and extraterritorial jurisdiction~~ of the town.

(Ord. of 12-21-2009, Art. 3, § A)

Sec. 13-52. - Basis for establishing the special flood hazard areas.

The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the State of North Carolina and FEMA in its flood insurance study (FIS) and its accompanying flood insurance rate maps (FIRM), for Buncombe County dated January 6, 2010, which are adopted by reference and declared to be a part of this chapter.

The initial flood insurance rate maps were adopted by the town on May 6, 1996.

In addition, upon annexation to the town ~~or inclusion in the extra-territorial jurisdiction of the town~~, the special flood hazard areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the cooperating technical state agreement between the State of North Carolina and FEMA as stated above for Buncombe County, with accompanying maps and other supporting data, are adopted by reference and declared to be part of this chapter.

(Ord. of 12-21-2009, Art. 3, § B)

Sec. 13-75. - Designation of floodplain administrator.

Pursuant to G.S. 143-215.57(b), the town council of the town has, by resolution, agreed that the county, through its floodplain administrator, shall regulate the floodplain within the town's corporate limits ~~and extraterritorial jurisdiction~~ by the administration, implementation and enforcement of this chapter.

(Ord. of 12-21-2009, Art. 4, § A)

Sec. 20-2. Extraterritorial jurisdiction boundaries.

~~(a) The following is a general description of the extraterritorial jurisdiction boundary for the town and was drawn according to legislative guidelines and accepted mapping standards. This description was not intended and should not be construed to be a metes and bounds description as no actual survey was made; however, property lines from the county tax maps were utilized when feasible. The remaining lines were drawn between definable points to complete the boundary line. This description was drawn on multiple sheets and runs in a counter clockwise direction from beginning to closing, both points being one in the same. All sheets are available for inspection at the town manager's office.~~

~~Beginning at the center of the intersection of Herron Cove Road and Rice Cove Road, and running from that intersection in a northeasterly direction 5,763 feet in a straight line to the center of the intersection of Reems Creek Road and an unnamed tributary of Reems Creek located 195 feet east of the intersection of Reems Creek Road and Hamburg Drive; thence, running from that point in a northerly direction 4,648 feet along the center of that unnamed creek bearing right at the first creek fork and bearing left at the second creek fork, to the center of a small bridge located on a one-lane dirt road 630 feet in a straight line east of Hamburg Drive; thence running from the center of that bridge in a northerly direction 4,625 feet in a straight line to the center of the intersection of Dula Springs Road and a culvert carrying the waters of an unnamed tributary of Little Flat Creek; thence running from that intersection in a northwesterly direction 3,161 feet to the center of a wooden bridge, also being the intersection of Ottens Cove Road and Little Flat Creek; thence running from the center of that bridge in a northwesterly direction along the center of Little Flat Creek 2,645 feet to the intersection of Little Flat Creek and the centerline of the grassed median of U.S. 19-23; thence running from the center point of that grassed median in a westerly direction 4,131 feet in a straight line to the intersection of Clark's Chapel Road and Ollie Weaver Road; thence running from that intersection in a southwesterly direction 4,367 feet to the center of the intersection of an unnamed gravel road (formerly Garrison Branch Road) and a culvert under that road carrying tributary waters of Garrison Branch; thence running from that point in a southwesterly direction 6,070 feet to the center of the intersection of New Stock Road and Pegg Road; thence running from that intersection in a southerly direction 8,270 feet along the centerline of New Stock Road to the intersection of New Stock Road and Aiken Road; thence running from that intersection in a southerly direction 262 feet diagonally to a property corner, being the northwesterly corner of lot 59, sheet 13 of the Reems Creek Township of the county tax map; thence running from that corner in an easterly direction 198 feet with a property line to a corner, that corner being the northeast corner of lot 58 shown on sheet 13 of the Reems Creek Township tax maps; thence continuing from that corner in an easterly direction 25 feet to the centerline of Fox Chase Road West; thence running from that point in a southerly direction 653 feet along the centerline of Fox Chase Road West to the intersection of that road and Fox Chase Road and Fox Chase Road East; thence continuing from that intersection in a southeasterly direction 1,225 feet along the centerline of Fox Chase Road East to the intersection of that road and Briarwood Road; thence running from that intersection diagonally 87 feet southeast to a property corner, with that corner being the northwesterly corner of lot 44 shown on sheet 13 of the Reems Creek Township tax maps; thence running in an easterly direction 149.5 feet with a property line to a corner, that corner being the northeasterly corner of that lot; thence continuing from that corner in an easterly direction 70 feet to the center of a power right of way; thence running from that point in a southerly direction 952 feet along the center of the power right of way to the intersection and center of New Stock Road; thence running from that point along the centerline of New Stock Road in an easterly direction 1,025 feet to the intersection and center of U.S. 19-23 Business; thence running from that point in a northerly direction 137 feet along the center of U.S. 19-23 Business to the intersection of that road and Leisure Mountain Road; thence running from that intersection diagonally 2,825 feet in an easterly direction along Leisure Mountain Road to a property corner, with that corner, being the southwest corner of lot 134 shown on sheet 30 of the Reems Creek Township tax maps; thence running from that corner 817.0 feet with a property line to a corner, with that corner being the southeast corner of lot 131 shown on sheet 30 of the Reems Creek Township tax maps; thence running from that corner in a northeasterly direction 6,108 feet in a straight line to a point, with that point being the beginning point of this general description.~~

~~(b) The official copy of this section and map shall be on record in the office of the town clerk for public inspection during normal business hours. The town clerk shall cause a certified copy of this section and map and any subsequent amendments to be recorded in the office of the register of deeds of the county.~~

~~(Ord. of 7-21-1986, §§ 1, 2)~~

~~State Law reference—Territorial jurisdiction, G.S. 160A-360; extraterritorial jurisdiction, G.S. 160A-362.~~

Sec. 20-36. - Established; members.

Pursuant to the authority granted in G.S. 160A-361, the town council establishes a planning and zoning board of the town, which board shall consist of five members. ~~Four members~~ Each member shall be appointed by the mayor with the approval of the town council and shall be residents of the corporate limits of the town. ~~The fifth member shall be a resident of the area outside of the corporate limits within which area the town has elected to exercise its extraterritorial zoning and subdivision control jurisdiction at the time of the appointment of such member. The fifth member shall be appointed by the board of county commissioners pursuant to the provisions of G.S. 160A-362, or such fifth member shall be appointed by the mayor with the approval of the town council if the board of county commissioners fails to appoint such member within the time frame set forth in G.S. 160A-362. The town council shall, when a vacancy occurs on the planning and zoning board which should be filled by a person from outside of the corporate limits of the town, pass a resolution requesting that the board of county commissioners appoint such member, which resolution may also recommend one or more names for possible appointment by the board of county commissioners.~~

(Ord. of 1-20-1992)

Sec. 20-37. - Alternate members.

The mayor, with the approval of the town council, may appoint one alternate member to serve on the planning and zoning board in the absence of a regular member, which alternate shall be a resident of the corporate limits of the town. ~~The board of county commissioners may appoint one alternate member of the planning and zoning board from the extraterritorial zoning and subdivision jurisdiction area of the town. Any alternate member so appointed may serve in the absence of any regular member of the planning and zoning board, and it shall not be necessary that an absent member of the board be temporarily replaced by a person residing in the same jurisdiction as the absent person.~~

(Ord. of 1-20-1992)

Sec. 20-38. - Terms of members.

The term of office of each member and alternate member of the planning and zoning board shall be for two years; except that the mayor, in making the initial appointments to the board, shall appoint two members and an alternate member for two-year terms and two members for three-year terms. ~~The initial appointment by the board of county commissioners of a member from the extraterritorial jurisdiction area of the town and the initial appointment of an alternate member from such area shall be for a period of one year.~~

(Ord. of 1-20-1992)

Sec. 25-1. - Title.

This chapter shall be known and may be cited as the subdivision regulations of the Town of Weaverville, North Carolina, ~~and for its extraterritorial jurisdiction,~~ and shall be referred to as the "subdivision ordinance."

(Ord. of 12-15-08)

Sec. 25-2. - Purpose.

The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the corporate limits of the town ~~and within its extraterritorial zoning jurisdiction area.~~ It is further designed to provide for the orderly growth, development and subdivision of land (residential, commercial and industrial) within the town and its extraterritorial zoning jurisdiction area; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This chapter is designed to further facilitate adequate provision of water, sewerage, parks, schools, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

(Ord. of 12-15-2008)

Sec. 25-4. - Jurisdiction.

The regulations contained herein, as provided in G.S. ch. 160A, art. 19, shall govern each and every subdivision within the corporate limits of the town. ~~and within its extraterritorial zoning jurisdiction area as shown on the official extraterritorial zoning boundary map.~~

(Ord. of 12-15-2008)

Sec. 25-108. - Name duplication.

The name of the subdivision shall not duplicate, nor closely approximate, the name of an existing subdivision within Buncombe County or within the corporate limits ~~and extraterritorial zoning jurisdiction~~ of the town, and subdivision names may be adopted only with the approval of the planning and zoning board of the town.

(Ord. of 12-15-2008)

Sec. 25-112. - Utilities.

- (a) Water and sanitary sewer systems. Each lot in all subdivisions within the corporate limits of the town shall be provided, at the subdivider's expense, with an extension of the municipal water and sanitary sewer systems.

~~Each subdivision in the extraterritorial area of the town may be connected, at the subdivider's expense, to the municipal water and sewer systems if approved by the town council.~~

The general concept plan must be accompanied by satisfactory evidence as to the adequacy of the proposed method and system of water supply and the proposed system for the collection and disposal of

sewage. The final plan and plat must contain a certificate of approval of such systems by the department of environmental health and natural resources of the state. On parcels of one acre or more septic systems may be authorized subject to review and recommendation by the planning and zoning board and approval by the town council.

In addition to the requirements of any state agency regarding the installation of water and sewerage systems, all water and sewer lines, from which individual service lines leading to lots or other parcels to be served will run under the pavement of a street or other paved area, shall initially be installed with that portion of the individual water or sewer line which will run under the paved area already in place prior to the final street construction or other paving. The intent of this requirement is to remove the necessity for later cuts in the streets or paved area in order to install individual service connections, thereby damaging a newly installed street or other paved area. Any viable engineering alternative to prior installation of service lines under streets may be considered by the planning and zoning board or the town council if adequate assurances are given as to the adequacy of such method.

- (b) Stormwater drainage system. All subdividers shall provide a surface water drainage system constructed to the standards of the state department of transportation, as reflected in the Handbook for the Design of Highway Surface Drainage Structures, as amended, as well as the standards of the North Carolina Sedimentation and Pollution Control Act, subject to review by the town's consulting engineer. The following general rules shall be followed:
- (1) No surface water shall be channeled or directed into a sanitary sewer.
 - (2) Where feasible, the subdivider shall connect to an existing storm drainage system.
 - (3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development and adjoining property owners from water damage.
 - (4) Surface drainage courses shall be designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act which is G.S. ch. 113A, art. 4, as amended, with North Carolina Administrative Code Title 15, Chapter 4, as amended, and with any locally adopted erosion and sedimentation control ordinances.
 - (5) Streambanks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. ch. 113A, art. 4, and with North Carolina Administrative Code Title 15, Chapter 4, as both may be amended.
 - (6) Anyone constructing a dam or impoundment within any subdivision must comply with the North Carolina Dam Safety Law of 1967 now codified as G.S. 142-215.23 et seq., as amended, and North Carolina Administrative Code Title 15, Subchapter 2K.
 - (7) In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (c) Underground wiring. All subdivisions in which the smallest lot contain less than 40,000 square feet shall have underground wiring. This requirement may be waived by the town council if underlying rock is less than four feet from the surface, in areas where the soil has a high water table, or if there is extensive preexisting overhead wiring on the street in the immediate neighborhood of the subdivision. All underground wiring shall be installed in accordance with the standards of the utility company servicing the subdivision. The subdivider shall be required to pay any and all charges for installation of the underground service, which charges will be made in accordance with the then effective underground electric service plan as filed with the state utilities commission by the utility company.

(Ord. of 12-15-2008)

Sec. 36-3. - Jurisdiction.

The provisions of this chapter shall apply within the corporate limits ~~and extraterritorial jurisdiction~~ of the Town of Weaverville as heretofore established and as shown on the map entitled "Official Zoning Map of the Town of Weaverville, North Carolina," revised December, 1988 by the town council. Said map and all explanatory matters thereon accompanies and is hereby made a part of this chapter; it shall be on file in the office of the town clerk and in the Office of the Register of Deeds for Buncombe County. The town is exempt from the provisions and requirements of this chapter.

(Ord. of 6-19-1978, Art. III)

Sec. 36-12. - Street access.

No building shall be erected, structurally altered, moved to, or relocated on any lot which does not abut at least 35 feet on a publicly dedicated or maintained street or on a private street which meets the standards of the North Carolina Department of Transportation as to maintenance, disclosure and construction. The right-of-way of any dedicated public or private street shall not be considered in computing any required square footage of a lot necessary to meet the other requirements of this chapter.

~~Provided, however, that in areas outside of the town limits but within the extraterritorial zoning jurisdictional area of the town and in areas zoned other than R-1, a building may be erected, structurally altered, moved to or relocated on a lot abutting at least 35 feet on a private street not necessarily built to the same specifications as public streets but only if the following conditions are met:~~

- ~~(1) The private street must have a right-of-way of at least 15 feet dedicated by the developer to the owners of lots served by said street;~~
- ~~(2) There must be a maintenance agreement with reference to such private street duly recorded in the Office of the Register of Deeds for Buncombe County, North Carolina providing for the continuing maintenance of such "private" street in all weather conditions.~~
- ~~(3) There must be subdivision disclosure statements with reference to such "private street" in accordance with G.S. 136-102.6, as amended.~~
- ~~(4) Such private street may serve only six or less individual lots in different ownership.~~

(Ord. of 6-19-1978, Art. V, § 17-530; Ord. of 9-15-2008, § 1(b))

Sec. 36-28. - Adult oriented business.

- (a) Authority and jurisdiction. The provisions of this article are adopted by the town council under the authority granted by the state general assembly. From and after the effective date hereof, this article shall apply to every building, lot tract, or parcel of land within the town ~~and its extraterritorial jurisdiction~~
- (b) Purpose. For the purpose of promoting the health, safety, morals and general welfare of the citizenry of the town, this section is adopted by the town council to regulate adult and sexually oriented businesses, as hereby defined, located in the town ~~and its extraterritorial jurisdiction~~. Further the regulations of this section have been made with reasonable consideration among other things, as to the character of the town and its areas.
- (c) Abrogation. These regulations shall not repeal, impair, abrogate, or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, regulations previously adopted pursuant to law in any established zoning district in the town. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.
- (d) Definitions relating to adult oriented businesses.

- (1) **Adult oriented business.** An adult arcade, adult bookstore, or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center (including adult massage parlor and adult health club), sexually oriented device business or any combination of the foregoing or any similar business. As used in this section the following definitions shall apply:
- (2) **Adult arcade (also know as "peep show").** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas".
- (3) **Adult bookstore or adult video store.** A commercial establishment which as one of its principal business purposes officers for sale or rental for any form of consideration any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - b. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities".
- (4) **Adult cabaret.** A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:
 - a. Persons who appear nude or seminude; or
 - b. Live performance which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe "specified sexual activities" or "specified anatomical areas".
- (5) **Adult motel.** A hotel, motored, or similar commercial establishment that:
 - a. Offers accommodations to the public for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas" as one of its principal business purposes; or
 - b. Offers a sleeping room for rent for a period of time that is less than ten hours; or
 - c. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.
- (6) **Adult motion picture theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe "specified sexual activities" or "specified anatomical areas".
- (7) **Adult theater.** A theater, concert shall, auditorium, or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudlty or seminude, or live performances that expose or depict "specified anatomical areas" or "specified sexual activities".
- (8) **Escort.** A person who, for any tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (9) **Escort agency.** A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.

- (10) **Massage.** Any manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device. (See Weaverville Town Code, sections 6-126—6-136).
- (11) **Massage business.** Any establishment or business wherein massage is practiced, including establishments commonly known health clubs, physical culture studios, massage studios or massage parlors. (See Weaverville Town Code, sections 6-126—6-136).
- (12) **Nude model studio.** Any place where a person who appears, nude, or seminude, or who displays "specified anatomical areas" is provided to be observed, sketches, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the state or a college or university supported entirely or in part by public taxation; a private college or university which maintains an operated educational programs in which credits are transferable to a college, junior college; or university supported entirely or partly by taxation; or in a structure:
- a. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; and
 - b. Where in order to participate in a class a student must enroll at least three days in "advance of class; and
 - c. Where no more than one nude or seminude model is on the premises at any one time.
- (13) **Nude or a state of nudity.**
- a. The appearance of a human anus, male genitals or female genitals; or
 - b. A state of dress that fails to opaquely cover a human anus, male genitals or female genitals.
- (14) **Seminude.** A state of dress in which clothing covers no more than the genitals, [pubic] region, and areola of the female breast, as well as portions of the body covered by or supporting straps or devices.
- (15) **Sexual encounter center.** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling (including sexually oriented massaging) between persons of the opposite sex, or similar activities between male and female persons and/or between persons of the same sex when one or more of the persons is in a state of nudity or seminude.
- (16) **Sexually oriented devices.** Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.
- (17) **Specified anatomical areas.** Human genitals in a state of sexual arousal.
- (18) **Specified sexual activities.** Is and includes any of the following:
- a. The fondling or other erotic touching of human genitals, [pubic] region, buttocks, anus, or female breasts; or
 - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
 - c. Masturbation, actual or simulated; or
 - d. Excretory functions as part of or in connection with any of the activities set forth in subsections (a—c) above.
- (e) **Adult oriented business.** No adult oriented business shall be permitted in any building located in the following areas:
- (1) Located within 1,500 feet in any direction from a residential building or residentially zoned property.

- (2) Located within 1,000 feet in any direction from a building in which an adult oriented business is located.
 - (3) Located within 1,500 feet in any direction from a building used as a church, synagogue or other house of worship.
 - (4) Located within 1,500 feet in any direction from a building used as a public or private elementary or secondary school, child day care or nursery school.
 - (5) Located within 1,500 feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.
 - (6) Located within 1,500 feet in any direction from any establishment with an onpremise ABC license.
 - (7) The gross floor area of any adult oriented business shall not exceed 3,000 square feet and all business-related activity shall be conducted in a building.
 - (8) Except for an adult motel, no adult oriented business may have sleeping quarters.
 - (9) There shall not be more than one adult oriented business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult oriented business.
 - (10) Except for signs as may be permitted by chapter 36, article VIII of this Code, no printed material, slide, video, photograph, written text, live show, or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.
 - (11) No enclosed or underground parking shall be permitted.
- (f) Interpretation of terms and definitions.
- (1) Words used in the present tense include the future tense.
 - (2) Words used in the singular number include the plural and words used in the plural number include the singular.
 - (3) The word "person" includes and owner, firm, joint venture, association, organization, partnership, corporation, trust, and company, as well as an individual.
 - (4) The word "owner" when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant, or tenant by entirety of the whole or part of such building or land.
 - (5) The word "lot" includes the words "plot" or "parcel".
 - (6) The word "building" includes the word "structure".
 - (7) The word "shall" is always mandatory and not merely directory.
 - (8) The words "located", or "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be located, used or occupied.
 - (9) The word "dwelling" shall mean a structure or portion thereof which is used exclusively for human habitation.
- (g) Severability. It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses, and phrases of this section are severable, and if any phrase, clause, sentence, paragraph or section of this article is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this article, since the same would have been enacted by the town council without the incorporation in this section of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.
- (h) All permitted uses must meet all compliance regulations set forth in the this section.

- (1) Adult oriented businesses are only a permitted use within the commercial-2 (C-2) zoning district.
- (2) Adult oriented businesses will not be a permitted use in the following residential zones:
 - Residential-1 (R-1);
 - Residential-2 (R-2);
 - Residential-3 (R-3);
 - Traditional neighborhood development (TND).
- (3) Adult oriented businesses will not be a permitted use in the central business district (CBD) zoning district.
- (4) Adult oriented businesses will not be a permitted use in the light industrial (I) zoning district.
- (5) Adult oriented businesses will not be a permitted use in any newly created zoning district except commercial-2 (C-2) zoning district.

(Ord. of 5-21-2007)

Sec. 36-326. - Establishment.

A zoning board of adjustment is hereby established to consist of five regular members and two alternate members. These members shall be appointed by the Town Council ~~and the Board of Commissioners of Buncombe County, North Carolina, pursuant to the provisions of G.S. § 160A-362. The town council shall, from time to time when a vacancy occurs on the zoning board of adjustment which should be filled by a person from the extraterritorial area, pass a resolution requesting that the Board of Commissioners of Buncombe County appoint such member, which resolution may also recommend one or more names for possible appointment by said board of commissioners.~~

Any alternate member may serve in the absence of any regular member of the zoning board of adjustment and it shall not be necessary that an absent member of the board be temporarily replaced by a person residing in the same jurisdiction as said absent member.

The term of office of each member and alternate member of the zoning board of adjustment shall be for three years. Vacancies occurring on said board shall be filled for the unexpired term only. Any member who is absent without good cause from three consecutive meetings shall be removed from the board. The members of the board shall receive no compensation for their services.

(Ord. of 6-19-1978, Art. XVI, § 17-1610; Ord. of 11-18-2013, § 1)

Sec. 36-356. - Initiation of amendments.

Proposed changes or amendments to the text of this chapter may be initiated by the town council, the planning board, the board of adjustment, any owner of a legal or equitable interest in land located in the town ~~or its extraterritorial jurisdiction~~, or any resident of the town ~~or its extraterritorial jurisdiction~~. Except for petitions for a conditional zoning district, which must follow the procedure set forth in section 36-84, proposed zoning map amendments may be initiated by the town council, the planning board, the board of adjustment, or any owner of a legal or equitable interest in the property for which the map amendment is requested.

(Ord. of 6-19-1978, Art. XVII, § 17-1710; Ord. of 3-20-2006; Ord. of 1-24-2011, § 1)

Sec. 36-402. - General application requirements.

- (a) **Permits required.** It shall be unlawful for any person, corporation, partnership or other entity to erect any communication tower without first obtaining a permit from the Weaverville Zoning Administrator. A permit shall be required for the erection of a replacement tower or the modification of an existing tower. Existing towers owned by governmental agencies and designed for noncommercial emergency communications are exempt from this article.
- (b) **Permit application.** Telecommunications tower permit applications are available from the Weaverville Zoning Administrator.
- (c) **Application fee.** A fee for reviewing tower permit applications shall be established by the Weaverville Town Council.
- (d) **Application submission and review process.** A completed tower permit application and three copies of all supporting documentation identified in subsections (e) and (f) [of this section] shall be submitted to the zoning administrator for review. The zoning administrator shall review the completed tower permit application for compliance with subsections (e) and (f). Any application not containing all information required in subsection (e) and (f), shall be returned to the applicant for correction and resubmission. If the zoning administrator deems it necessary, he (she) may retain, at a reasonable expense to the permit applicant, one or more professional engineers to assist him in reviewing any technical requirements.
- (f) **Requirements for site development.** The site development plan and preliminary design plan shall contain the following information and be part of the tower permit application. The site development plan shall be prepared by a N.C. Registered Land Surveyor and contain the following:
 - (1) The tower applicant's name and property owner's name and their addresses, scale, north arrow, vicinity map, tax parcel identification number, and the tower's latitude and longitude coordinates.
 - (2) The name, address, signature and seal of the surveyor preparing the site development plan.
 - (3) The surveyed boundary lines of the parcel(s) that will contain the proposed tower and its fall area.
 - (4) The name, addresses and tax parcel identification numbers of all owners of property abutting the subject property.
 - (5) All identifiable structures located on the parcel, all private and public roads, highways, and underground and overhead utilities.
 - (6) All existing towers on the property or any towers whose fall area encroaches onto the property.
 - (7) The proposed tower's location, the proposed fall area and the location of all support structures and guy line anchors.
 - (8) The ground elevation of the proposed tower's base, all proposed support structures, property corners, and a permanent site bench mark. All elevations shall be determined using the National Geodetic Vertical Datum of 1929.
 - (9) The height of the existing vegetative canopy surrounding the proposed tower.
 - (10) Tower set backs from all property lines must be one half the total height of the proposed tower.
- (f) **The preliminary tower design plan.** The preliminary tower design plan shall be prepared by a N.C. Registered Professional Engineer and contain the following:
 - (1) The tower permit applicant's name and address, scale, north arrow, vicinity map and tax parcel identification number.
 - (2) The name, address, signature and seal of the engineer preparing the preliminary tower design plan.
 - (3) A plan showing the base of the tower and the foundations for all guy line anchors and support structures, all proposed buildings and any other proposed improvements including access roads and utility connections within and to the proposed site.

- (4) A tower elevation showing the proposed lighting, tower color and all proposed antennas.
- (5) An elevation of each proposed set of guy line anchors.
- (6) The proposed tower design loads.
- (7) A map or description showing the service area(s) for the proposed tower's antenna(s).
- (8) The applicant shall provide written statements from the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) showing that the proposed tower complies with all permit regulations administered by that agency or evidence that the proposed tower is exempt from those regulations.
- (9) The applicant shall identify all other possible alternatives considered within the service area for the proposed tower's antenna(s) and explain why the proposed tower is necessary and why existing towers and structures (e.g., Carolina Power transmission towers) cannot accommodate the proposed antenna(s).
- (10) The applicant shall identify any variance(s) to the ordinance, the reason(s) for seeking the variance(s) and any measures that are proposed to mitigate possible adverse affects of the proposed variance(s). All variances must be approved by the Weaverville Zoning Board of Adjustments.
- (11) All towers must be of a mono (single) pole design. No lattice towers will be allowed.
- (g) Issuance of permit. Following the zoning administrator's approval of any tower permit application not requesting a variance, the zoning shall issue a tower permit. All tower permit conditions shall appear on the face of the site development plan. The permit owner shall acknowledge and agree to permit conditions approved by the board of adjustments if necessary. If a building permit is not obtained within 12 months after the tower permit is issued, the tower permit shall expire. No permit under the state building code shall be issued until or unless any tower permit required by this article is granted.
- (h) Tower approval standards. Any proposed tower shall provide a needed service and/or benefit to the residents of the Town of Weaverville ~~and residents of the extraterritorial zoning jurisdiction~~

(Ord. of 7-16-2001, § 2)

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

DATE OF MEETING: October 17, 2016
SUBJECT: Gateway Sign Easement from SunTrust Bank
PRESENTER: Town Attorney
ATTACHMENTS: Draft Monument Sign Easement Agreement

DESCRIPTION:

The Town has received a draft Monument Sign Easement Agreement from SunTrust Bank to will allow Town access to design, install and maintain a gateway sign. The attached Monument Sign Easement Agreement has been reviewed by the Town Attorney. The Town Attorney reports that, except for minor revisions that do not affect the intent of the easement, this easement is sufficient to grant the Town legal access to the property in order to complete the gateway sign project.

If the Town wishes to proceed to the design phase of this project it is recommend that Town Council approve the acceptance of this easement with minor revisions approved by the Town Attorney.

COUNCIL ACTION REQUESTED:

A motion to accept the Monument Sign Easement Agreement from SunTrust with minor revisions suggested by the Town Attorney would be appropriate at tonight's Town Council meeting.

Prepared by and return to:
SunTrust Bank
303 Peachtree St., NE, 9th Floor
Mail Code: GA-ATL-0643
Atlanta, GA 30308
Attn: Alan McNabb

MONUMENT SIGN EASEMENT AGREEMENT

THIS MONUMENT SIGN EASEMENT AGREEMENT ("Agreement") is made as of this ____ day of _____, 2016 (the "**Effective Date**"), by and between **SUNTRUST BANK**, a Georgia banking corporation, , as successor by merger with National Bank of Commerce ("**Grantor**"), and **TOWN OF WEAVERVILLE**, a North Carolina municipal government agency ("**Grantee**").

RECITALS

A. Grantor is the owner of the property located at 160 Weaver Boulevard, Weaverville, Buncombe County, North Carolina (the "**Property**"), which Property is the same as the property that is (i) reflected in the Buncombe County tax records as PIN# 9743-00-8092, and (ii) described in the deed recorded in Deed Book 2721, Page 731 of the Buncombe County, NC Registry.

B. Grantee has requested Grantor to provide an easement over a portion of the Property, as more particularly shown and described on **EXHIBIT A**, attached hereto and made a part hereof (the "**Easement Area**"), for the construction of a monument sign in accordance with plans and specifications prepared by Grantee and reasonably approved by Grantor (the "**Monument Sign**"). Grantor has agreed to provide such easement upon the terms and conditions set forth herein.

AGREEMENT

In consideration of the grant of the foregoing easement, the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. Grant of Easement. Subject to the terms and conditions set forth herein, Grantor hereby grants and conveys unto Grantee a perpetual, non-exclusive easement on, over and across the Easement Area for the sole purpose of constructing, maintaining, repairing, and replacing the Monument Sign (the "**Easement**"). Grantee's rights include but are not limited to the right to landscape the Easement Area and to install electric utilities in the Easement Area to use in connection with the Monument Sign and the lighting and landscaping thereof. Grantee's construction of the Monument Sign in the Easement Area shall be performed by Grantee, at its sole cost and expense, in a first class, good and workmanlike manner in accordance with plans and specifications that are prepared by Grantee and approved in writing by Grantor, and are in compliance with all applicable laws, ordinances and regulations. Grantee shall not modify the Monument Sign without the prior written consent of Grantor, which consent shall not be unreasonably withheld so long as the proposed modification, replacement or alteration does not, in Grantor's opinion, (i) adversely affect or impair the visibility of any improvements on or to be constructed on the Property from the adjacent roadways, (ii) adversely alter the general ambiance and

appearance of the Easement Area, (iii) increase any security concerns in connection with the operation of the Property, (iv) contain the name of any financial institution or any other business, or (v) decrease the signage rights available to Grantor's improvements on the Property under the applicable laws, ordinances and regulations. Any such modification, replacement or alteration approved by Grantor shall be performed by Grantee in a first class, good and workmanlike manner and in accordance with all applicable laws, ordinances and regulations. Grantee shall be responsible for the payment of any real estate taxes or assessments levied against the Monument Sign and shall reimburse Grantor for any such taxes or assessment paid by Grantor on behalf of Grantee within thirty (30) days after written demand. Grantee acknowledges that Grantor reserves the right to use the Easement Area in any manner which is not inconsistent with the rights conveyed herein.

2. Maintenance of Easement Area. Grantee, at Grantee's sole cost and expense, shall maintain the Easement Area and the Monument Sign in first class condition and repair at all times. Such maintenance obligation shall include but not be limited to maintenance of the landscaping within the Easement Area in a manner consistent with the maintenance of landscaped areas within the Property and otherwise satisfactory to Grantor. In no event, however, shall the height of any shrubs, bushes or other vegetation within the Easement Area exceed a height of thirty-six inches (36") above the surrounding land or be located within five feet (5') of any vehicular entrance or exit on the Property without the prior written consent of Grantor. If Grantee fails to maintain the Easement Area and all improvements therein made by Grantee in accordance with the provisions of this Paragraph, and does not cure such failure within ten (10) days after receipt of written notice thereof from Grantor, or if the failure is not capable of being cured within such ten (10) day period, does not commence to cure within such ten (10) day period and thereafter diligently prosecute such cure to completion within no later than thirty (30) days after such notice, Grantor may perform the maintenance, in which event Grantee shall reimburse Grantor within ten (10) days after Grantor's written demand for reimbursement for all out-of-pocket costs incurred by Grantor in connection with such maintenance. If Grantee fails (after any applicable notice and cure period) to perform such maintenance obligations more than twice in any twelve (12) consecutive month period, Grantor shall also have the right to terminate the Easement by providing written notice thereof to Grantee. In such event, Grantor shall have the right to unilaterally record an instrument in the land records of Buncombe County, North Carolina to evidence such termination and, at Grantor's option, remove and dispose of the Monument Sign and any other improvements made by Grantee in the Easement Area and Grantee shall reimburse Grantor for all costs and expenses incurred in connection therewith upon demand.

3. Monument Sign. This Easement shall enable to list the name of Grantee only on the Monument Sign. In consideration of the conveyance of the Easement to Grantee under this Agreement, Grantee hereby grants and conveys to Grantor the perpetual right and easement to have Grantee's name listed on each side of the Monument Sign. The Monument Sign, including without limitation the size, dimensions, and styling of the lettering identifying the name of Grantor on the Monument Sign, shall be subject to Grantor's consent. In no event shall Grantor identify the name of any other financial institution on the Monument Sign during any period that the Property is owned or occupied by a financial institution.

4. Grantor Termination Right. Notwithstanding any provisions of this Agreement to the contrary, Grantor shall have the right to terminate the Easement upon not less than thirty (30) days written notice to Grantee in the event any local governmental entity having jurisdiction over the Property determines that the operation of the Monument Sign on the Property shall reduce or otherwise adversely affect, in Grantor's opinion, Grantor's signage rights on the Property, including the right to maintain a separate free-standing monument sign on the Property. In such event, Grantor shall have the right to unilaterally record an instrument in the land records of Buncombe County, North Carolina to evidence such termination and if Grantee does not remove the Monument Sign within thirty (30) days thereafter, Grantor may, at its option, remove and dispose of the Monument Sign and any other improvements made

by Grantee in the Easement Area and Grantee shall reimburse Grantor for all costs and expenses incurred in connection therewith upon demand.

5. Construction Liens. Grantee shall not, directly or indirectly, create or permit to be created by or through Grantee, and shall discharge within thirty (30) days of actual knowledge thereof, any construction, mechanic's or materialmen's liens on the Property arising out of the performance of any work by Grantee. All persons dealing with Grantee are hereby given notice that Grantor shall not be liable for any work performed or to be performed on the Property at the request of Grantee, or for any materials furnished or to be furnished at the Property for Grantee, and that Grantee has no authority whatsoever to subject the Property to any liens for labor, service or materials provided to Grantee. All materialmen, contractors, mechanics and laborers and any other persons contracting with Grantee for the construction, installation, alteration or repair of any improvements on, within or about the Property, are hereby further charged with notice that they must look solely to Grantee to secure payment for any work done or material furnished at the request or instruction of Grantee.

6. Indemnification; Insurance. To the extent permitted by law, Grantee shall indemnify, defend and hold Grantor and its affiliated companies, officers, directors, employees and agents harmless from and against any and all claims, liabilities, damages and costs (including reasonable attorneys' fees) arising out of or in connection with Grantee's construction, maintenance, repair and replacement of the improvements and landscaping in the Easement Area or failure to comply with all of the terms and conditions of this Agreement. Before exercising its rights under this Agreement, Grantee shall provide Grantor with satisfactory evidence that it has named Grantor as an additional insured on a policy of general liability insurance in an amount and issued by a carrier satisfactory to Grantor in its reasonable discretion. Thereafter, not less frequently than annually Grantee shall provide Grantor with evidence that such policy remains in force and Grantor remains an additional insured thereunder. Grantor's indemnification obligations hereunder shall survive any termination or extinguishment of the Easement.

7. Utilities. Grantee shall be responsible for the payment in full of all utilities provided to or consumed in the Easement Area during the term of this Agreement. If any such utilities are paid directly by Grantor, Grantee shall reimburse Grantor for the costs thereof immediately upon receipt of an invoice therefor from Grantor.

8. Run with the Land. The provisions of this Agreement shall run with the land. No owner of all or any portion of the Property shall have any personal liability hereunder other than with respect to obligations first arising hereunder during the period of time of ownership of the Property by such owner.

9. Notices. Any notice required or permitted to be given pursuant to this Agreement shall be in writing and may be given (i) in person, (ii) by U.S. first-class, postage-prepaid, certified mail, return receipt requested, or (iii) by Federal Express or a comparable guaranteed overnight delivery service to the parties at the following addresses:

If to Grantor: SunTrust Bank
303 Peachtree Ctr. Ave., Suite 175
Mail Code: GA-Atlanta-0052
Atlanta, Georgia 30303
Attn: Corporate Real Estate and Workplace

If to Grantee: 30 S. Main Street
Weaverville, NC 28787
Attn: Town Manager

Notice shall be deemed to have been given upon receipt, provided failure or refusal to accept delivery shall constitute receipt. Any party may change its address for notice purposes by not less than ten (10) days' notice to the other parties.

9. Subject to Existing Matters. The Easement is granted subject to all easements, agreements, covenants, restrictions and conditions affecting the Property or any part thereof.

10. No Dedication. The provisions hereof are not intended to and do not constitute a dedication for public use, and the rights and easements herein created are private and for the benefit of the parties designated herein.

11. Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

13. Completeness; Modification. This Agreement constitutes the entire agreement between the parties hereto with respect to the Easement and supersedes all prior discussions, understandings, agreements and negotiations between the parties hereto. This Agreement may be modified only by a written instrument duly executed by the parties hereto.

14. Authorization. Each party represents and warrants to the other that this Agreement has been duly authorized, executed and delivered by all necessary action on its behalf, constitutes the valid and binding agreement of such party and is enforceable in accordance with its terms.

15. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior and contemporaneous negotiations, understandings and agreements between the parties. This Agreement shall not be amended or modified except by a written instrument duly executed by both parties. This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the Building is located. **IN THE EVENT OF ANY LEGAL PROCEEDINGS BETWEEN THE PARTIES ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY WAIVES THE RIGHT TO TRIAL BY JURY.**

16. Authority. Each party represents and warrants to the other that this Agreement has been duly authorized and executed on its behalf by its duly authorized representative.

17. Counterparts; Delivery. This Agreement may be executed in any number of separate counterparts by the parties hereto, each of which, when so executed and delivered, shall be deemed to be an original, and all of which counterparts, taken together, shall constitute one and the same instrument. Any signature page from any such counterpart may be attached to any other counterpart to complete a fully executed counterpart of this Agreement. Signatures to this Agreement transmitted in a commonly accepted electronic format that reproduces an image of the actual executed signature page shall be deemed a binding original and shall have the same legal effect, validity, and enforceability as a manually executed counterpart of the document to the extent and as provided for in the Federal Electronic Signatures in Global and National Commerce Act and the applicable state law based on the Uniform Electronic Transactions Act.

18. OFAC Disclosure. Grantee represents and warrants to Grantor (i) that neither Grantee nor any person or entity that directly or indirectly owns any interest in Grantee nor any of its officers, directors or managing members is a person or entity with whom U.S. persons or entities are restricted

from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the U.S. Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including Executive Order 13224 (the "Executive Order") signed on September 24, 2001 and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), or other governmental action, (ii) that Grantee's activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders promulgated thereunder (as amended from time to time, the "Money Laundering Act"), and (iii) that throughout the term of this Agreement, Grantee shall comply with the Executive Order and with the Money Laundering Act.

[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives on the day and year first above written.

GRANTOR:

SUNTRUST BANK, a Georgia banking corporation

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing agreement was acknowledged before me this _____ day of _____, 2016, by _____, _____ of **SUNTRUST BANK**, a Georgia banking corporation, on behalf of the Bank.

Notary Public

My commission expires:

[SIGNATURES CONTINUED ON NEXT PAGE]

GRANTEE:

TOWN OF WEAVERVILLE, a North Carolina
municipal government agency

By: _____

Name: _____

Title: _____

STATE OF _____

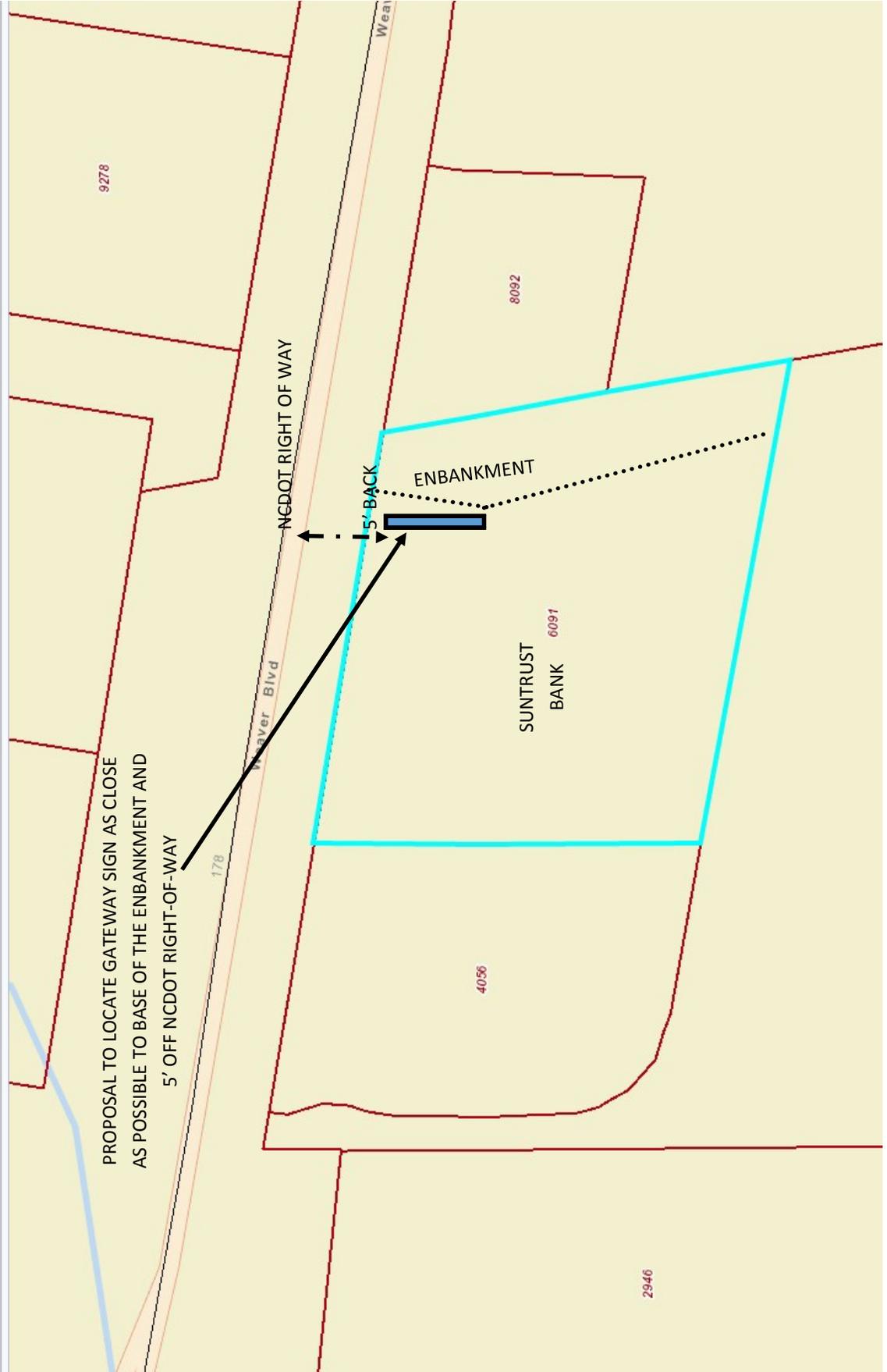
COUNTY OF _____

The foregoing agreement was acknowledged before me this _____ day of _____, 2016, by
_____, the _____ of **TOWN OF WEAVERVILLE**, a North Carolina
municipal government agency, on behalf of the Town.

Notary Public

My commission expires:

PROPOSED SITE LAYOUT FOR TOWN OF WEAVERVILLE GATEWAY SIGN AT SUNTRUST BANK



TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

DATE OF MEETING: October 17, 2016
SUBJECT: Adoption of Records Retention and Disposition Schedule
PRESENTER: Town Attorney
ATTACHMENTS: September 10, 2012 Municipal Schedule (Table of Contents)
October 1, 2016 Amendment
January 5, 2015 Amendment
August 29, 2013 Amendment

DESCRIPTION:

The NC Department of Cultural Resources' Archives and Records Division is responsible for providing guidance and oversight on the retention and disposition of public records of governmental entities across the State of North Carolina. The Division of Archives produces a records retention and disposition schedule for each arm of government including municipalities. The Municipal Records Retention and Disposition Schedule sets out in great detail how long the Town is required to retain records and the procedure for disposing of. The most recent municipal schedule was promulgated on September 10, 2012, and has, from time to time, been updated including a recent amendment dated October 1, 2016. The Schedule itself is a notebook's worth of material and is available in the Town Attorney's office for review. For convenience in reviewing this agenda item the table of contents of the September 10, 2012 Municipal Schedule as well as a copy of each amendment is attached.

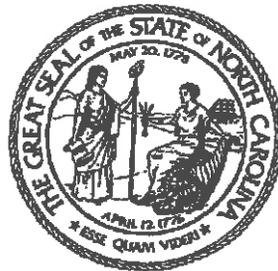
The Town Manager and Town Attorney recommend the readoption of the Municipal Records Retention and Disposition Schedule as amended.

COUNCIL ACTION REQUESTED:

A motion to readopt the September 10, 2012, Municipal Records Retention and Disposition Schedule and readopt/adopt the amendments to that Schedule that were promulgated by the Division of Archives on October 1, 2016, January 5, 2016 and August 20, 2013, is requested of Town Council.

RECORDS RETENTION AND DISPOSITION SCHEDULE

MUNICIPAL



Issued By:



NORTH CAROLINA
DEPARTMENT OF
**CULTURAL
RESOURCES**
WWW.NCDELCULTURE.COM

North Carolina Department of Cultural Resources
Division of Archives and Records
State Archives of North Carolina
Government Records Branch

September 10, 2012

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**Municipal
Records Retention Schedule Amendment**

Amending the Municipal Records Retention and Disposition Schedule published September 10, 2012.

STANDARD 6. EMERGENCY SERVICES AND FIRE DEPARTMENT RECORDS

Amending Item 3, 911 Recordings as shown on substitute page 41 and Item 18 Emergency Notifications as shown on substitute page 43.

STANDARD 9. LAW ENFORCEMENT RECORDS

Amending Item 136, Law Enforcement Audio and Video Recordings, as shown on substitute page 90.

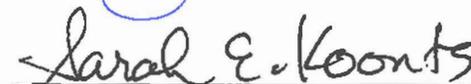
APPROVAL RECOMMENDED



City/Town Clerk



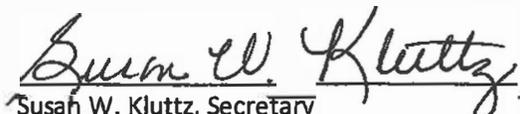
Chief Administrative Officer/
City Manager



Sarah E. Koonts, Director
Division of Archives and Records

APPROVED

Mayor



Susan W. Kluttz, Secretary
Department of Natural and Cultural Resources

Municipality: TOWN OF WEAVERVILLE

October 1, 2016

STANDARD-6. EMERGENCY SERVICES AND FIRE DEPARTMENT RECORDS

Official records explaining the authority, operating philosophy, proposed methods, and primary functions of municipal emergency services programs and municipal fire departments.

STANDARD-6: EMERGENCY SERVICES AND FIRE DEPARTMENT RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
1.	911 COMMUNICATION RECORDS Printouts of 911 calls received and computer-aided dispatch (CAD) reports. Reports may list time and date of call, contents of call, location of call, name of unit dispatched and other related information.	Destroy in office after 3 years, if not made part of a case file.*	Comply with applicable provisions of GS §132-1.4 (i), and GS §132-1.5.
2.	911 FILE Information regarding the implementation, training, and operations of the 911 system.	Destroy in office after 5 years.	
3.	911 RECORDINGS Tapes, digital recordings, and text messages generated by 911 calls	Destroy in office after 30 days, if not made part of a case file.*	Comply with applicable provisions of GS §132-1.4(f).
4.	ACCIDENT FILE Records concerning personnel and municipally owned property damage.	Destroy in office 3 years after resolution.*	
5.	ACTIVITY REPORTS Reports on an individual, shift, project and other basis submitted on a daily, weekly, or other basis.	Destroy in office after 3 years.	

*See AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

STANDARD-6: EMERGENCY SERVICES AND FIRE DEPARTMENT RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
13.	CONSOLIDATED MONTHLY REPORTS	Destroy in office after 5 years.	
14.	DAILY LOG Log, journal, blotter or similar record showing activities of a fire department or emergency services.	Destroy in office after 1 year.	
15.	DISASTER AND EMERGENCY MANAGEMENT PLANS Records concerning preparedness, evacuations, and operations in the event of a disaster (natural, accidental, or malicious). Includes but not limited to official copy of comprehensive plan and all background surveys, studies, reports, and draft versions of plans. See also <u>COMPREHENSIVE PLAN</u> item 19, page 4.	a) If an element of the Comprehensive Plan, destroy in office when administrative value ends. † Agency Policy: Destroy in office after _____ b) If not an element of the Comprehensive Plan, destroy in office when superseded or obsolete. c) Destroy in office background surveys, studies, reports, and drafts 3 years after adoption of plan or when superseded or obsolete, whichever comes first.	Comply with applicable provisions of G.S. §132-1.7 regarding the confidentiality of security records.
16.	DISPATCH FILE Records relating to fire dispatch zones. May include maps of fire dispatch zones, census tract information, annexation research, street closings, and other related material.	Destroy in office when superseded or obsolete.	
17.	DISPATCH RECORDINGS Recordings made of activities during an emergency services dispatch.	Destroy in office after 30 days, if not made part of a case file.*	Comply with applicable provisions of GS §132-1.4(i), and GS§132-1.5.
18.	EMERGENCY NOTIFICATIONS Records of emergency notifications. Includes automatic identification information, such as the name, address, and telephone numbers of telephone subscribers, or the e-mail addresses of subscribers to an electronic emergency notification or reverse 911 system.	Destroy in office when superseded or obsolete.	Comply with applicable provisions of GS §132-1.4 (i), and GS §132-1.5.

*See AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

STANDARD-9: LAW ENFORCEMENT RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
134.	WORK RELEASE EARNINGS REPORTS Inmates' work release earnings reports submitted either to the N.C. Department of Corrections or the Clerk of Superior Court.	Destroy in office after 3 years.*	G.S. §148-32.1
135.	WRECKER SERVICE RECORDS Records concerning wrecker requests or calls. May include lists of wrecker company's towing and storage rates, rotation lists, notification records when vehicles are towed from private property, and other related records.	a) Destroy in office after 1 year if not made part of a case file. b) If record is made part of a case file follow disposition instructions for CASE HISTORY FILE: FELONIES item 17, page 64; or CASE HISTORY FILE: MISDEMEANORS item 18, page 64.	
136.	LAW ENFORCEMENT AUDIO AND VIDEO RECORDINGS Tapes and digital recordings generated by mobile and fixed audio and video recording devices. Does not include ELECTRONIC/VIDEO RECORDINGS OF INTERROGATIONS (HOMICIDE) item 44, page 71. See also MOBILE UNIT VIDEO TAPES item 81, page 80.	a) Destroy in office after 30 days if not made part of a case file.* b) If records are made part of a case file follow disposition instructions for CASE HISTORY FILE: FELONIES item 17, page 64; or CASE HISTORY FILE: MISDEMEANORS item 18, page 64.	Comply with applicable provisions of G.S. § 132-1.4A

*See **AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS**, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

Municipal Records Retention Schedule Amendment

Amending the Municipal Records Retention and Disposition Schedule published September 10, 2012.

STANDARD 9. LAW ENFORCEMENT RECORDS

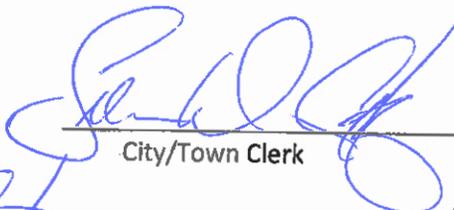
~~Adding Item 136, Law Enforcement Audio and Video Recordings, as shown on substitute page 90.~~

Superseded
October 1, 2016

STANDARD 12. PERSONNEL RECORDS

Amending Item 19, Employee Eligibility Records, as shown on substitute page 105.

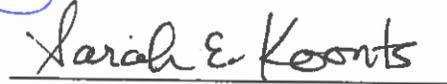
APPROVAL RECOMMENDED



City/Town Clerk



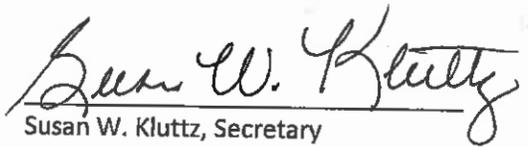
Chief Administrative Officer/
City Manager



Sarah E. Koonts, Director
Division of Archives and Records

APPROVED

Mayor



Susan W. Kluttz, Secretary
Department of Cultural Resources

January 5, 2015

STANDARD-12. PERSONNEL RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
18.	<p>EMPLOYEE EDUCATIONAL ASSISTANCE PROGRAM RECORDS Includes records requesting tuition assistance, repayments, and other related records.</p> <p>See also PERSONNEL RECORDS (OFFICIAL COPY) item 47, page 112.</p>	Destroy in office 3 years after completion, denial, repayment, or removal from program.*	
19.	<p>EMPLOYEE ELIGIBILITY RECORDS Includes the United States Immigration and Naturalization Services, Employment Eligibility Verification (I-9) forms.</p>	Mandatory retention throughout the duration of an individual's employment. After separation, destroy records in office 3 years from date of hire or 1 year from separation, whichever occurs later.	8 USC 1324a(b)(3)
20.	<p>EMPLOYEE EXIT INTERVIEW RECORDS</p> <p>See also PERSONNEL RECORDS (OFFICIAL COPY) item 47, page 112.</p>	Destroy in office after 1 year.	
21.	<p>EMPLOYEE HEALTH CERTIFICATES Includes health or physical examination reports, or certificates created in accordance with Title VII and the Americans with Disabilities Act (ADA).</p>	<p>a) Transfer records as applicable to PERSONNEL RECORDS (OFFICIAL COPY) item 47, page 112.</p> <p>b) Destroy in office all other records 2 years after resolution of all actions.</p>	

*See **AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS**, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

**Municipal
Records Retention Schedule Amendment**

Amending the Municipal Records Retention and Disposition Schedule published September 10, 2012.

STANDARD 4. BUDGET, FISCAL AND PAYROLL RECORDS

Amending item 32 Escheat and Unclaimed Property File as shown on substitute page 29.

STANDARD 12. PERSONNEL RECORDS

Adding item 1-A Accreditation Records as shown on substitute page 101.

~~Amending item 19 Employee Eligibility Records as shown on substitute page 105.~~ **Superseded January 5, 2015**

Amending items 36 Family Medical Leave Act (FMLA) Records, 42 Leave File, and 43 Leave Without Pay File as shown on substitute pages 110-111.

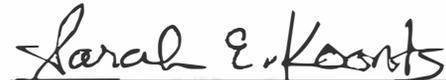
APPROVAL RECOMMENDED



City/Town Clerk



Chief Administrative Officer/
City Manager



Sarah E. Koonts, Director
Division of Archives and Records

APPROVED

Mayor



Susan W. Kluttz, Secretary
Department of Cultural Resources

August 29, 2013

TOWN OF WEAVERVILLE

Municipality

STANDARD-4: BUDGET, FISCAL AND PAYROLL RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
27.	DAILY DETAIL REPORTS	Destroy in office after 1 year.*	
28.	DEPOSITS	a) Destroy in office official/audit copies after 3 years.* b) Destroy in office remaining records after 1 year.	G.S. § 159-32
29.	DETAIL REPORT FILE (FINANCIAL RECORDS FOR GENERAL FUND OR GENERAL LEDGER)	a) Destroy in office annual reports after 3 years.* b) Destroy in office all other reports after 1 year.	
30.	DIRECT DEPOSIT APPLICATIONS/AUTHORIZATIONS Includes related records such as bank account numbers and routing numbers.	Destroy in office when superseded or obsolete.	Comply with applicable confidentiality provisions of G.S. §132-1.10(b)(5) regarding personal identifying information.
31.	DISTRICT INVESTMENT RECORDS	Destroy in office after 3 years.*	
32.	ESCHEAT AND UNCLAIMED PROPERTY FILE	a) Destroy in office after 10 years if report was filed prior to July 16, 2012.* b) Destroy in office after 5 years if report was filed after July 16, 2012.*	Comply with applicable provisions of G.S. §116B-60 and §116B-73.
33.	EXPENDITURE REPORTS	Destroy in office after 3 years.*	
34.	FACILITY SERVICE AND MAINTENANCE AGREEMENTS See also GRANTS: FINANCIAL item 36, page 30.	a) Destroy in office depreciation schedules 3 years after asset is fully depreciated or disposed. b) Destroy in office remaining records after 3 years.*	

*See AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

STANDARD-12. PERSONNEL RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
1.	ABOLISHED POSITION FILE	Destroy in office when administrative value ends. † Agency Policy: Destroy in office after _____	
1-A.	ACCREDITATION RECORDS Records concerning compliance with those standards outlined by professional accreditation programs.	Destroy in office 1 year after accreditation is obtained, renewed, or no longer valid.*	
2.	ADDRESS FILE	Destroy in office when superseded or obsolete.	
3.	ADS AND NOTICES OF OVERTIME, PROMOTION, AND TRAINING OPPORTUNITIES	Destroy in office 1 year from date record was made.	29 CFR 1627.3
4.	AFFIRMATIVE ACTION FILE	a) Destroy in office all reports, analyses, and statistical data after 5 years. b) Destroy in office affirmative action plans 5 years from date superseded.	29 CFR 30.8(b)(e) 29 CFR 1608.4
5.	APPRENTICESHIP PROGRAM RECORDS	Destroy in office 5 years from the date of enrollment.	29 CFR 30.8(e)
6.	APTITUDE AND SKILLS TESTING RECORDS Records concerning aptitude and skills tests required of job applicants or of current employees to qualify for promotion or transfer. May include civil service examinations. See also <u>EMPLOYMENT SELECTION RECORDS</u> item 32, page 109.	a) Destroy in office applicant and employee test papers 2 years from date record was created. b) Destroy in office validation studies and copies of tests 2 years after no longer in use. c) Destroy in office records relating to the planning and administration of tests in office after 2 years.	29 CFR 1602.31 29 CFR 1602.40 29 CFR 1602.49

*See **AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS**, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

STANDARD-12. PERSONNEL RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
35.	EQUAL PAY RECORDS Includes reports, studies, aggregated or summarized data, and similar documentation compiled to comply with the Equal Pay Act.	Destroy in office after 2 years.	29 CFR 1620.32
36.	FAMILY MEDICAL LEAVE ACT (FMLA) RECORDS Records concerning leave taken, premium payments, employer notice, medical examinations considered in connection with personnel action, disputes with employees over FMLA and other related records.	Item discontinued. See LEAVE FILE , item 42, page 111.	
37.	FRINGE BENEFITS FILE	Destroy in office when administrative value ends. † Agency Policy: Destroy in office after _____	
38.	GRIEVANCE FILE Includes initial complaint, investigations, actions, summary, and disposition. May include disciplinary correspondence, including email. See also DISCIPLINARY FILE item 11, page 102 and PERSONNEL RECORDS (OFFICIAL COPY) item 47, page 112.	Destroy in office after 2 years.	
39.	HEALTH INSURANCE FILE Completed claim forms and other records concerning employees covered by health plans.	Destroy in office after 2 years.*	
40.	INCREMENTS FILE	Destroy in office when released from all audits.	
41.	INTERNSHIP PROGRAM FILE Records concerning interns and students.	Destroy in office after 3 years.	

*See **AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS**, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

STANDARD-12. PERSONNEL RECORDS			
ITEM #	RECORD SERIES TITLE	DISPOSITION INSTRUCTIONS	CITATION
42.	LEAVE FILE Records concerning employee leave, including requests for and approval of sick, vacation, overtime, buy-back, shared, donated, military, etc. Includes premium payments, employer notice, medical examinations considered in connection with personnel action, disputes with employees over the Family Medical Leave Act (FMLA), and other related records.	Destroy in office 3 years after return of employee or termination of employment.*	29 CFR 825.110(b)(2)(i) 29 CFR 825.500(b)
43.	LEAVE WITHOUT PAY FILE	Item discontinued. See LEAVE FILE , item 42, page 111.	
44.	LONGEVITY PAY REQUESTS	Destroy in office when released from all audits.	
45.	MERIT AND SENIORITY SYSTEM RECORDS	a) Destroy in office employee-specific records after 3 years. b) Destroy in office system and plan records 1 year after no longer in effect.	29 CFR 1627.3
46.	PERSONNEL ACTION NOTICES Records used to create or change information in the personnel records of individual employees concerning such issues as hiring, termination, transfer, pay grade, position or job title, name change and leave.	a) Transfer records as applicable to PERSONNEL RECORDS (OFFICIAL COPY) item 47, page 112. b) Destroy in office all remaining records 2 years from date record was created, received, or the personnel action involved.	

*See **AUDITS, LITIGATION, AND OTHER OFFICIAL ACTIONS**, page vi.

† See signature page. The agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." Please use the space provided.

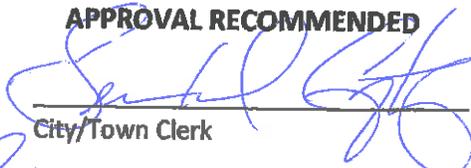
MUNICIPAL
Records Retention and Disposition Schedule

The records retention and disposition schedule and retention periods governing the records series listed herein are hereby approved. In accordance with the provision of Chapters 121 and 132 of the *General Statutes of North Carolina*, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. However, records subject to audit or those legally required for ongoing official proceedings must be retained until released from such audits or official proceedings, notwithstanding the instructions of this schedule. **Public records including electronic records not listed in this schedule are not authorized to be destroyed.**

This local government agency and the Department of Cultural Resources agree that certain records series possess only brief administrative, fiscal, legal, research, and reference value. These records series have been designated by retention periods which allow these records to be destroyed when "administrative value ends." The local government agency hereby agrees that it will establish and enforce internal policies setting minimum retention periods for the records that Cultural Resources has scheduled with the disposition instruction "destroy when administrative value ends." If a municipality does not establish internal policies and retention periods, the municipality is not complying with the provisions of this retention schedule and is not authorized by the Department of Cultural Resources to destroy the records with the disposition instruction "destroy when administrative value ends."

It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is reviewed and updated.

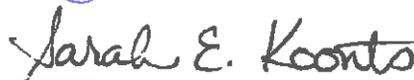
APPROVAL RECOMMENDED



City/Town Clerk



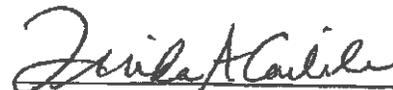
Chief Administrative Officer/
City Manager



Sarah E. Koonts, Director
Division of Archives and Records

APPROVED

Mayor



Linda A. Carlisle, Secretary
Department of Cultural Resources

September 10, 2012

Municipality: TOWN OF WEAVERVILLE

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

DATE OF MEETING: October 17, 2016
SUBJECT: Weaverville Business Association Event Proposal
PRESENTER: Cynthia Ward for WBA
ATTACHMENTS: Street Concert Event Proposal

DESCRIPTION:

The Weaverville Business Association would like to have a concert event in downtown Weaverville on June 23, 2017, and has been working on putting together some information in order to present the idea to Town Council. Cynthia Ward of the Weaverville Business Association has provided the attached information and will be at tonight's meeting to beginning discussing the proposed event with Town Council.

The Town Manager will provide her thoughts and recommendation to Town Council tonight.

Street Concert Event Proposal to Town of Weaverville

Nature of Event: family-friendly concert free to the public

Event Duration: 5:00pm event opens, music begins at 6:00pm and 9:00pm music ends

Estimated Attendance: 1,000

Set-up Start Time: Noon June 23, 2017 **Break-Down:** 11:00 p.m., June 23, 2017

Proposed Event Location: South Main Street between Merrimon Ave and Brown Street

Event Description:

The Weaverville Business Association proposes a concert event Friday June 23, 2017 on South Main Street from 5:00 p.m. to 9:00 p.m. roughly between Town Hall and Art Accents. Closing this section between Brown and Merrimon Ave. would be a requirement for this event.

The stage would face north on South Main Street taking advantage of a slight incline towards the intersection. The stage would be located in front of Town Hall. The outdoor event would include a section of outdoor tents of WBA businesses, a beer tent and a two band bill.

Benefits to the Town of Weaverville:

- A family friendly outdoor concert that builds and reinforces community spirit showcasing our lively downtown with entertainment to Weaverville residents who prefer not to travel into Asheville for similar events.
 - Easy access and parking
 - Socializing with neighbors and business owners
 - Family friendly, multi-generational
- Dramatically impact and increase Weaverville's exposure to the rapidly growing greater Asheville population and bring new visitors to town.
- Downtown events like this showcase the high quality of life found in Weaverville and draw new residents as well as boost our local tourism economy.
- Downtown restaurants around Main Street would see a significant boost in sales before, during and after the event along with an increased awareness of our downtown businesses for retail and eating establishments.
- The event would feature a business and non-profit "expo" of businesses not located in downtown, bringing them access to the community and potential new customers.
- Building partnerships between the community and business sponsors who have a stake in creating a strong local economy.
- The concert event would support our local business organization that works year-round to help promote a thriving business community in Weaverville.

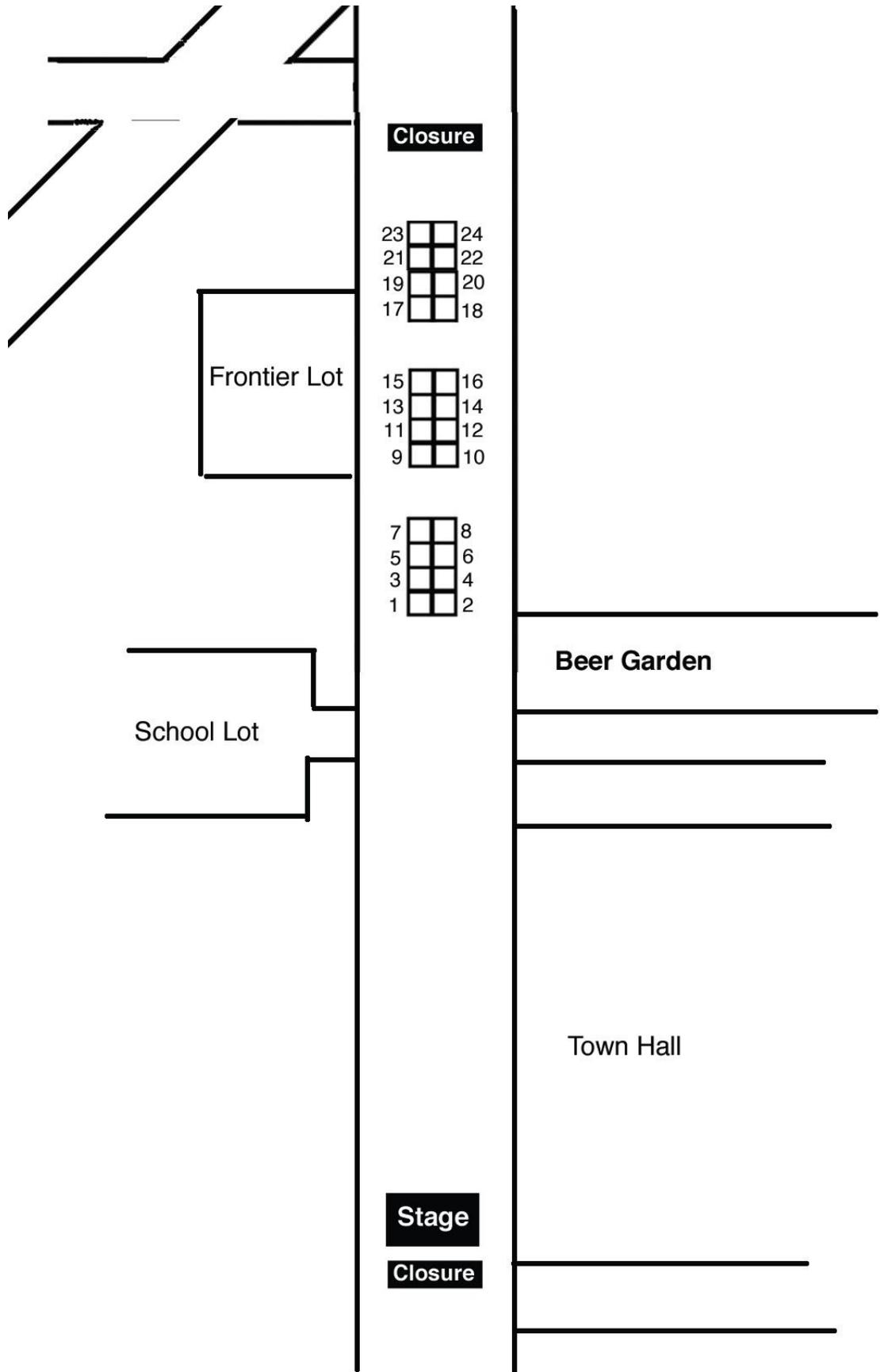
Street closure: See the attached site plan. Roads closed from 12:00 p.m. to 11:00 p.m. Note: possible partial closure with Phase 1 and Phase 2 due to Police station and Town Hall access.

Outsourced Security: Yes, number TBD on advice from the Town, 5:00 p.m. to 10:00 p.m. (Local Firm, Awaiting Quote)

Alcohol: Yes, beer tent with temporary ALCOHOL PERMIT run by WBA

- Location: Frontier lot
- Beer sales would begin at 5:00 p.m.
- Training by ABC for all sales staff
- Wristbands for beer purchase required
- Perimeter with signage "No Alcohol Beyond This Point"

Parking Plan: Would ask WPS, West Funeral Home and local churches for parking access.



TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

DATE OF MEETING: October 17, 2016
SUBJECT: Weaverville ABC Audit Presentation
PRESENTER: Rob Chason, ABC Board Chairman
ATTACHMENTS: No

DESCRIPTION:

The annual audit of the Weaverville Alcoholic Beverage Commission has been completed and the ABC Board Chairman, Rob Chason, will be at tonight's meeting to present the audit report.

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

DATE OF MEETING: October 17, 2016
SUBJECT: Update on Water Capacity
PRESENTER: Tony Laughter, Public Works Director
ATTACHMENTS: Active Water Commitments Comparison – Updated 10/6/2016

DESCRIPTION:

The Town's Public Works Director will be at tonight's meeting to give Town Council an update to the Town's committed water allocations and remaining water capacity.

COUNCIL ACTION REQUESTED:

Council discussion on this matter and direction to Staff is encouraged.

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

Date of Meeting: October 17th 2016
Subject: Water Allocation and Meter Request for Monticello Commons
Presenter: Tony Laughter, Public Works Director
Warren Sugg P.E. (Engineer for Developer)

Attachments: # 1: Application for Commitment Letter (original)
2: Application for Commitment Letter (revised 10/04/16)
3: Application for Commitment Letter response.
4: CDC- Water Availability Calculations
#5: Utility Bulletin Preliminary Site Map

Description:

Monticello Commons is an apartment complex consisting of 9 individual residential buildings, 2 support buildings and 1 pool/recreation building on the following properties: PIN NUMBERS: 9743-222440, 9743-12-9158, 9743-11-7924, 9743-21-1887 & 9743-22-3100. To serve this project the developer has requested a total of eleven 1.5-Inch meters and fire protection and a revised water allocation of 74,200 gallons per day.

This property has a Town 8" water main which extends up Monticello Commons Drive to the cul-de-sac at roads end. That line was intended to supply 5 sites. The project can be served without a water main extension. This request is brought to Town Council due to scope of the project and total water allocation requested.

Action Requested:

Council discussion and decision on providing Town Water Allocation and Services to this project.

#1

TOWN OF WEAVERVILLE
WATER DEPARTMENT

APPLICATION FOR A COMMITMENT LETTER

NAME OF APPLICANT: Civil Design Concepts, PA
ADDRESS: 168 Patton Avenue
Asheville, North Carolina 28801
PHONE NO: 828-252-5388

PROJECT NAME: Monticello Commons
LOCATION: North Main Street and
Monticello Road intersection
PIN NO: 9743-22-2440, 9743-12-9158, 9743-11-7924
9743-21-1887, 9743-22-3100
ELEVATION: 2120' +/-

TYPE OF SERVICE:

- RESIDENTIAL
 - SINGLE FAMILY HOME
 - TWO FAMILY _____ NO. OF BUILDINGS _____
 - MULTI - FAMILY 5 NO. OF BUILDINGS 58.3 UNITS PER BUILDING
 - RESIDENTIAL SUBDIVISION _____ NO. OF LOTS _____

- COMMERCIAL
 - SINGLE COMMERCIAL BUILDING
 - UNIFIED BUSINESS DEVELOPMENT _____ NO. OF BUILDINGS _____ NO. OF UNITS _____

- INDUSTRIAL
 - SANITARY FACILITIES ONLY
 - SANITARY & INDUSTRIAL PROCESS WATER

- OTHER
 - FIRE SPRINKLER SYSTEM
 - IRRIGATION SYSTEM
 - _____

CAPACITY REQUESTED:

257PA
MAXIMUM GALLONS PER MINUTE 264
MAXIMUM GALLONS PER DAY 105,600
ANTICIPATED DATE OF SERVICE January 2017

PROJECT DESCRIPTION:

By way of Attachment(s) provide as much information as possible about this project. At minimum, attach a copy of the County Tax map showing the location of the property. If the project involves a subdivision or more than one building location, a topographic map of the property is required to show building or lot elevation.

ACKNOWLEDGMENT Warren Sugg, P.E. -

I Warren Sugg for Civil Design Concepts, PA understand that the processing fee of \$ 35.00, paid herewith, is non-refundable and is to cover the costs of processing and investigating this request and that an additional Commitment Fee based on the size and number of connections is due upon approval. It is further understood that the Town has the exclusive right to deny the request for any reason whatsoever.

SIGNATURE Warren Sugg

DATE 9/12/2016

Town of Weaverville
P. O. Box 338
Weaverville, NC 28787
(828) 645-7116

TOWN OF WEAVERVILLE
WATER DEPARTMENT

APPLICATION FOR A COMMITMENT LETTER

NAME OF APPLICANT: Civil Design Concepts, PA

PROJECT NAME: Monticello Commons

ADDRESS: 168 Patton Avenue
Asheville, North Carolina 28801

LOCATION: North Main Street and
Monticello Road intersection

PHONE NO: 828-252-5388

PIN NO: 9743-22-2440, 9743-12-9158, 9743-11-7924
9743-21-1887, 9743-22-3100

ELEVATION: 2120' +/-

TYPE OF SERVICE:

- RESIDENTIAL
- SINGLE FAMILY HOME
 - TWO FAMILY _____ NO. OF BUILDINGS _____
 - MULTI - FAMILY 9 NO. OF BUILDINGS 29.3 UNITS PER BUILDING
 - RESIDENTIAL SUBDIVISION _____ NO. OF LOTS _____

- COMMERCIAL
- SINGLE COMMERCIAL BUILDING
 - UNIFIED BUSINESS DEVELOPMENT _____ NO. OF BUILDINGS _____ NO. OF UNITS _____

- INDUSTRIAL
- SANITARY FACILITIES ONLY
 - SANITARY & INDUSTRIAL PROCESS WATER

- OTHER
- FIRE SPRINKLER SYSTEM
 - IRRIGATION SYSTEM
 - _____

CAPACITY REQUESTED:

MAXIMUM GALLONS PER MINUTE 684
 MAXIMUM GALLONS PER DAY 74,200
 ANTICIPATED DATE OF SERVICE January 2017

PROJECT DESCRIPTION:

By way of Attachment(s) provide as much information as possible about this project. At minimum, attach a copy of the County Tax map showing the location of the property. If the project involves a subdivision or more than one building location, a topographic map of the property is required to show building or lot elevation.

ACKNOWLEDGMENT Warren Sugg, P.E. -

I Warren Sugg for Civil Design Concepts, PA understand that the processing fee of \$ 35.00, paid herewith, is non-refundable and is to cover the costs of processing and investigating this request and that an additional Commitment Fee based on the size and number of connections is due upon approval. It is further understood that the Town has the exclusive right to deny the request for any reason whatsoever.

SIGNATURE Warren Sugg

DATE 10/4/16

Town of Weaverville
P. O. Box 338
Weaverville, NC 28787
(828) 645-7116

#3

Dottie Sherrill
Mayor

The Town of
Weaverville
NORTH CAROLINA

Doug Dearth
Council Member

Patrick Fitzsimmons
Council Member

Doug Jackson
Council Member

Andrew Nagle
Council Member

September 15, 2016

Warren Sugg, P.E.
Civil Design Concepts, PA
168 Patton Avenue
Asheville NC 28801
828-252-5388

Re: Commitment Letter for Monticello Commons Pins 9743-22-2440, 9743-12-9158, 9743-11-7924, 9743-21-1187, 9743-22-3100
3100

John Penley
Council Member

Dear Mr. Sugg,

Your request for municipal water service to the proposed 264 unit Monticello Commons Apartment Complex -Weaverville NC 28787, Pins 9743-22-2440, 9743-12-9158, 9743-11-7924, 9743-21-1187 and 9743-22-3100 has been reviewed by Town Staff. Conditions that must be met to provide water to the project water include:

1. This properties listed can potentially be served by an existing 8" DIP water main. However, the Utility Bulletin configuration attached to your application will not be acceptable. Domestic and Fire lines must be separated at vault or be independently tapped for each unit. Your Application as submitted indicates a 3" meter and 3" backflow preventer in a vault. It appears this configuration would be the master meter for the units and that you desire to take over existing water main and easements from that point. As stated before, we require separate lines for domestic and fire. Also, the Town of Weaverville Town Council must approve meters over 2" (two inches) size per Weaverville Water Policies and Procedures. Several water and fire supply configurations may be acceptable for this proposed project and may include individual building metering for both domestic and fire. With the current infrastructure it seems a viable option. Due to the large 105,000 gallon per day commitment requested, and the undetermined meter size(s) needed, this application will be submitted to Town Council for consideration and possible approval. We can discuss the various options to determine the best method of supplying water if approved by council. Your request will be presented to Council Monday October 17th, 2016 at the 6 pm regular scheduled meeting at Weaverville Town Hall Council Chambers. Come prepared to present your project for council consideration. Large maps are visually helpful.
2. If council approves, the domestic and fire detection meter(s) location and method of supply shall be agreed upon by design engineer and Weaverville Public Works Director. A waterline extension on the public water supply side may or may not be required to serve this property fire protection. Owner/developer is to pay all cost associated with the design, installation and inspection of any required system modifications. Work shall be performed by a NC Licensed Utility Contractor. Installation shall be in accordance with Town Code, Specifications and Ordinances.
3. Tap Fee is not required where taps, meters and associated appurtenances are provided and installed by developer. Capacity Depletion Fees, Service Charges, and Deposits will be assessed at the time water service is to be turned on.
4. If Conditions in Item 1 are approved by Weaverville Town Council, the water commitment would be valid only for the specific project submitted to the Town, and is valid only upon payment of the Commitment Fee(s) based on size and number of meters and at the Inside Town Limit rate. Commitments are valid for one year and may be renewed in accordance with Weaverville Water Policies and Procedures Ordinance.
5. Water service commitment does not indicate the Town's approval and acceptance of the proposed project. This project must meet all Town of Weaverville requirements and approval by authorized agent(s).

Sincerely,



Selena D. Coffey, MPA, ICMA-CM
Town Manager

cc: Tony Laughter, Public Works Director

30 South Main Street • Weaverville, NC 28787 (PO Box 338)
(828) 645-7116 • Fax (828) 645-4776

www.weavervillenc.org



Water Availability Calculations

Monticello Commons

October 4, 2016

(CDC Project 11520)

Project will consist of: **264 Residential Units & 1 Clubhouse with Pool**
 6 – 24 Unit Buildings
 3 – 40 Unit Buildings

1 Bedroom Units – 96 units
2 Bedroom Units – 132 units
3 Bedroom Units – 36 units

Average Daily Demand: **96 units @ 200 GPD - 1 Bedroom Units**
 = 19,200 GPD

132 units @ 300 GPD – 2 Bedroom Units
= 39,600 GPD

36 units @ 400 GPD – 3 Bedroom Units
=14,400 GPD

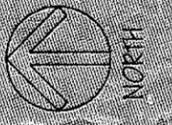
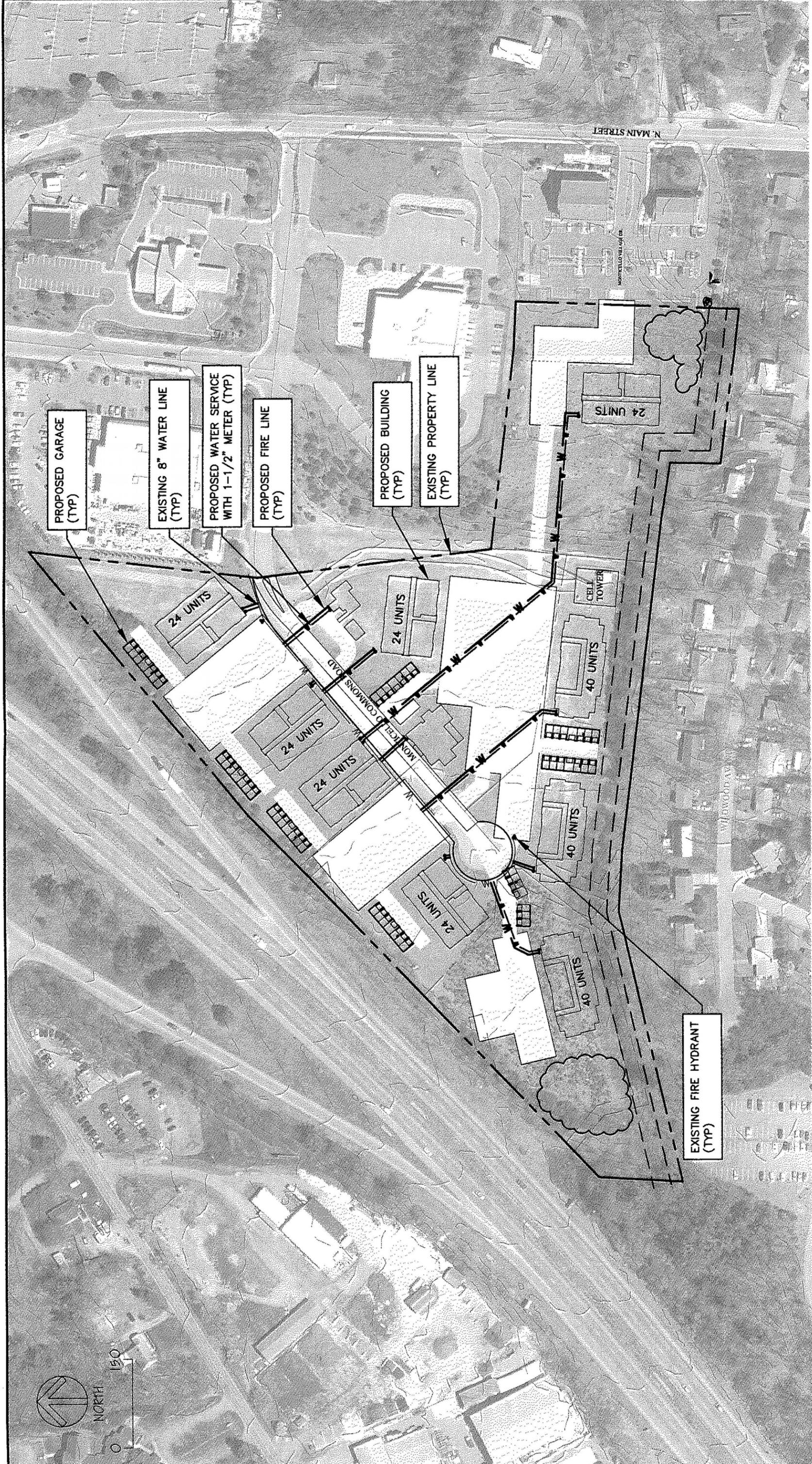
100 people @ 10 gpd/person – Clubhouse with Pool
= 1,000 GPD

Total = 74,200 GPD

Instantaneous Demand: **24 Unit Building** **40 Unit Building**
 6 – 1 Bedroom Units **20 – 1 Bedroom Units**
 12 – 2 Bedroom Units **20 – 2 Bedroom Units**
 6 – 3 Bedroom Units **0 – 3 Bedroom Units**

24 Units @ 3 GPM **40 Units @ 2.1 GPM**
= 72 GPM **=84 GPM**

Total = 684 GPM



MONTICELLO COMMONS
UTILITY BULLETIN
 SEPTEMBER 2016



TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

Date of Meeting: October 17th 2016

Subject: Water Allocation, Meter and Line Extension Request for Outparcel Restaurant at 61 Weaver Boulevard

Presenter: Tony Laughter, Public Works Director
Marty Kocot, PE of Landworks Engineering for SCG-WEAVERVILLE LLC

Attachments: #1 Application for Commitment Letter
#2 Applicants Calculations supporting request
#3 Applicants Sizing Water Service Lines and Meters
#4 Applicants modification of our Water Detail (not approved)
#5 Applicant Site Map (not approved)
#6 Commitment Response Letter dated September 13, 2016

Description:
The Town has received a water line extension, meter and capacity request for a 68-seat restaurant and 15 employees for an outparcel restaurant located at 61 Weaver Boulevard, PIN 9749-10-6261. Applicant requests 4,000 gallons per day with a peak of 47 gpm and a 4-inch water main extension onto the property. Applicant is also requesting a 1-inch irrigation meter, a 1.5-inch domestic meter and fire protection.

Action Requested: Council discussion and decision on commitment.

#1

\$35.00

TOWN OF WEAVERVILLE
WATER DEPARTMENT

SEP 2016
TOWN OF
WEAVERVILLE

APPLICATION FOR A COMMITMENT LETTER

NAME OF APPLICANT: SCG-WEAVERVILLE LLC
PROJECT NAME: Outparcel Restaurant
APPLICANT: c/o Landworks Engineering PLLC
LOCATION: 61 Weaver Boulevard
ADDRESS: PO Box 1922 Asheville, NC 28802
Weaverville, NC 28787
PHONE NO: 828-230-7958
PIN NO: 9743-10-6261
ELEVATION: 2135.5

TYPE OF SERVICE:

- RESIDENTIAL
 - SINGLE FAMILY HOME
 - TWO FAMILY _____ NO. OF BUILDINGS
 - MULTI - FAMILY _____ NO. OF BUILDINGS _____ UNITS PER BUILDING
 - RESIDENTIAL SUBDIVISION _____ NO. OF LOTS
- COMMERCIAL
 - SINGLE COMMERCIAL BUILDING
 - UNIFIED BUSINESS DEVELOPMENT 1 NO. OF BUILDINGS _____ NO. OF UNITS
- INDUSTRIAL
 - SANITARY FACILITIES ONLY
 - SANITARY & INDUSTRIAL PROCESS WATER
- OTHER
 - FIRE SPRINKLER SYSTEM
 - IRRIGATION SYSTEM
 - _____

CAPACITY REQUESTED:

MAXIMUM GALLONS PER MINUTE 47 gpm
MAXIMUM GALLONS PER DAY 4,000 gpd (15 employees @ 25 gpd + 68 seats @ 50 gpd = 3,775 say 4,000 gpd)
ANTICIPATED DATE OF SERVICE January 2017

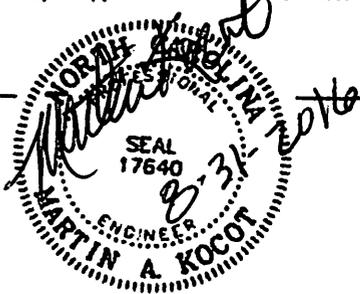
PROJECT DESCRIPTION:

By way of Attachment(s) provide as much information as possible about this project. At minimum, attach a copy of the County Tax map showing the location of the property. If the project involves a subdivision or more than one building location, a topographic map of the property is required to show building or lot elevation.

ACKNOWLEDGMENT

I Marty Kocot, PE of Landworks Engineering, PLLC understand that the processing fee of \$ 35.00, paid herewith, is non-refundable and is to cover the costs of processing and investigating this request and that an additional Commitment Fee based on the size and number of connections is due upon approval. It is further understood that the Town has the exclusive right to deny the request for any reason whatsoever.

SIGNATURE _____



DATE August 31, 2016

Town of Weaverville
P. O. Box 338
Weaverville, NC 28787
(828) 645-7118

#2

Weaver Crossing Shopping Center

61 Weaver Boulevard

Unified Business Development.

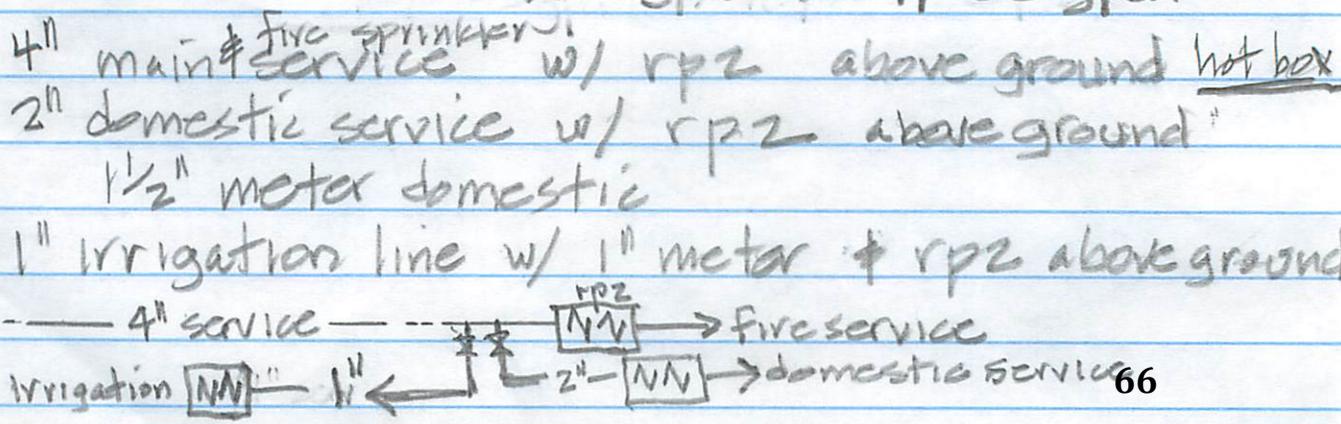
- Existing Shopping Center Main Building (No Change)
- Existing Car wash building to be demolished removed & replaced with Restaurant.

<u>Restaurant</u>	FU/EA	Total
• 3 water closets	4	12
• 1 urinal	4	4
• 2 lavatory restroom	2	4
• 3 Kitchen sink	2	6
• 1 Utility Wash Sink	5	5
• Hub drain	2	2
• 5 Floor Sinks	5	25
	Total	68 FU's

Summary

Peak demand Fixture Value = 47 gpm
 Ave daily demand = 68 seats @ 50 gpc
 15 employees @ 25 gpc
 = 3,775 gpd → 4,000 gpd.

Ex. Meter Weaver Blvd.



SIZING WATER SERVICE LINES AND METERS

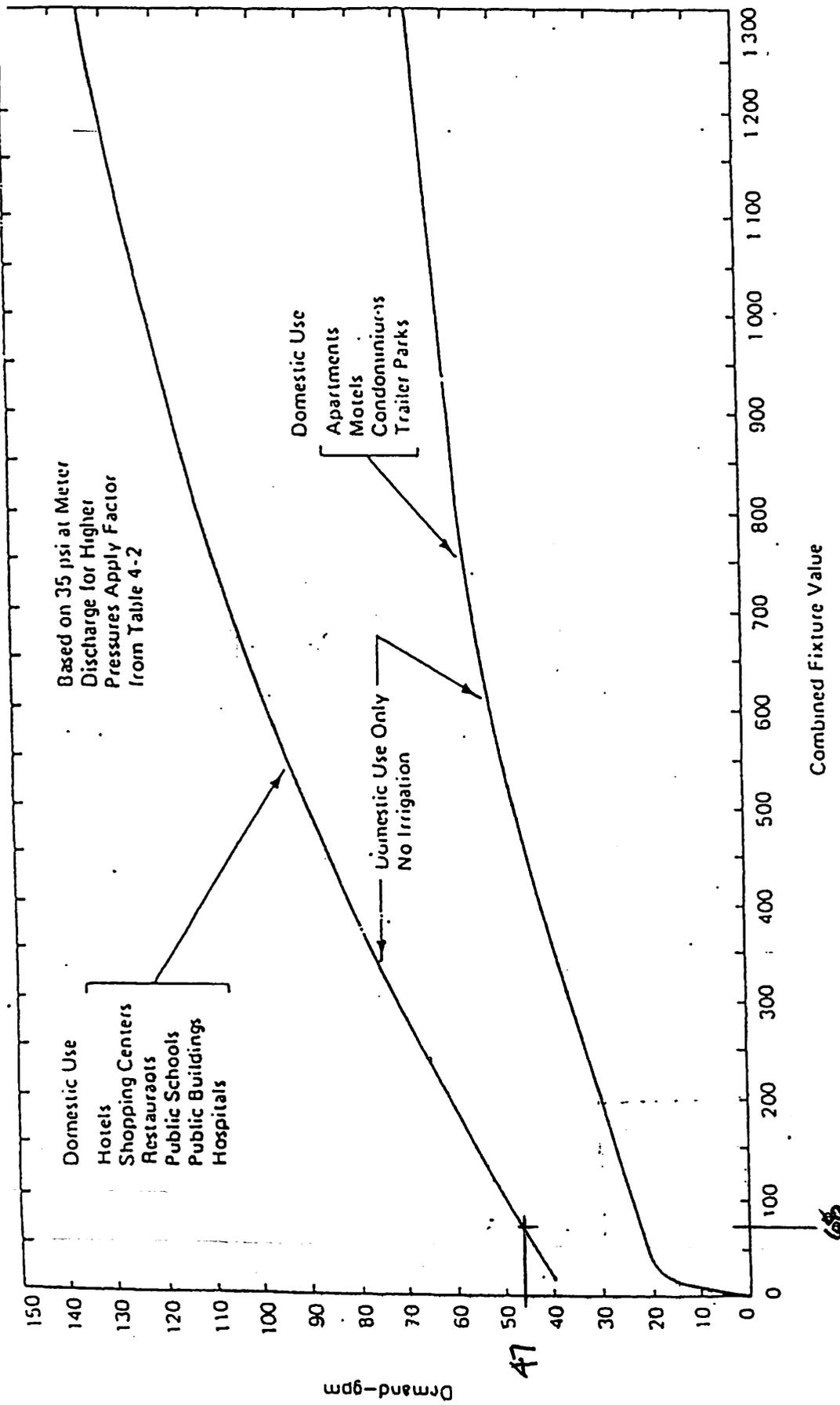


Fig. 4.4. Water-Flow Demand per Fixture Value—Low Range

#3

#5

BARDEES
3,037 SF
88 SEATS

F.M.

17

(G)

CURB INLET

Restaurant

FFE: 21365

2" domestic
W/ Meter &
RP2
4" Fire
FD & RP2
Hot Box.

9

FC-FC

7

PROP. INLET
15" CIP

8" CIP
CURB INLET

1" W/ 1/2" section
Meter &
RP2

4" SERVICE

SERVICE/
UNLOADING

17

13

2136

2138

9

2138

9

2140

16

2140

2138

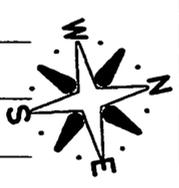
2142

WEAVER BOULEVARD

100' R/W

EXIST'G
WATER MAIN

SCALE: 1"=30'



Dottie Sherrill
Mayor

The Town of
Weaverville
NORTH CAROLINA

Doug Dearth
Council Member

Patrick Fitzsimmons
Council Member

Doug Jackson
Council Member

Andrew Nagle
Council Member

John Penley
Council Member

September 13, 2016

SCG-Weaverville LLC
c/o Landworks Engineering PLLC
Martin A. Kocot, PE
O Box 1922
Asheville NC (828)230-7958

Re: Commitment Letter for Outparcel Restaurant 61, Weaver Blvd. PIM 9743-10-6261

Dear Mr. Kocot,

Your request for municipal water service to the proposed Outparcel Restaurant -Weaverville NC 28787, PIN NO: 9743-10-6261 has been reviewed by Town Staff. Conditions must be met to provide water to the proposed project which includes:

1. This property is not currently served by the Town of Weaverville Water System. It is my understanding the car wash located on that site is supplied by a well. A water line extension of our distribution system would be required to service the project. Per Weaverville Water Policies and Procedures, Weaverville Town Council must approve all waterline extensions. You have requested a 4" main line, 4" fire line, 2" domestic service, a one inch irrigation meter and 4,700 gallons per day capacity. Your request will be presented to Council Monday October 17th at the 6 pm regular scheduled meeting held at Weaverville Town Hall Council Chambers. Be present and prepared to present you request and project information to council.
2. If approved by council, the owner/developer shall be responsible for designing, obtaining approvals, and constructing an extension of the Town's water distribution system for this project in accordance with Town Specifications and Ordinances. If approved, the domestic meter, Irrigation meter, and fire detection meter locations shall be agreed upon by design engineer and Weaverville Public Works Director. The owner/developer is to pay all cost associated with the design and installation of the extension, taps and meters. Work shall be performed by a NC Licensed Utility Contractor. Work shall be supervised by Town Staff or contact engineer. Owner/developer is to reimburse the Town of Weaverville for costs associated with said inspections in accordance with Weaverville Water Policies and Procedures.
3. If approved by council, the owner/developer shall submit proposed plans and details to the Public Works Director for approval. Upon approval by the Town, it shall be the duty of the owner/developer to submit plans and specifications to the North Carolina Department of Environmental Quality-Public Water Supply Section for approval.
4. If approved by council, the owner/developer shall be responsible for obtaining any and all right-of-ways, encroachment agreements, etc. necessary for the installation of said water distribution system and conveying said water distribution system and applicable right-of-ways to the Town for permanent maintenance as part of the Town system. Installation shall be in accordance with Town Code, Specifications and Ordinances.
5. Capacity Depletion Fees, applicable Service Charges, and Deposits will be assessed at the time water service is to be turned on. Tap Fees do not apply where the owner/developer has installed the service line, meter and other appurtenances in accordance with Town Code.

30 South Main Street • Weaverville, NC 28787 (PO Box 338)
(828) 645-7116 • Fax (828) 645-4776
www.weavervillenc.org

SCG-Weaverville (continued)

6. If Conditions of Item 1 are approved by Weaverville Town Council, the water commitment would be valid only for the specific project submitted to the Town, and is valid only upon payment of the Commitment Fee of \$ 210.00 (160.00 for the two Inch domestic meter plus \$ 50.00 for the one inch irrigation meter). Commitments are valid for one year and may be renewed in accordance with Weaverville Water Policies and Procedures Ordinance.
7. Water service commitment does not guarantee, or imply in any manor, Town of Weaverville approval and/or acceptance of the proposed project as submitted. This project must meet all Town of Weaverville requirements and approvals by authorized agent(s).

Sincerely,



Selena D. Coffey, MPA, ICMA-CM
Town Manager

cc: Tony Laughter, Public Works Director

**TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM**

MEETING DATE: October 17, 2016

SUBJECT: Annexation Petition and Initial Zoning Request for Monticello Apartments

PRESENTER: Town Manager/Town Attorney

ATTACHMENTS: Voluntary Annexation Petition and Data Sheet
Property Exhibit and Legal Description
Certificate of Authority
Town Letter dated August 25, 2015, concerning Water/Annexation Plan Cover Sheet, Site Plan and Utilities Plan
Application for Zoning Map Amendment Requesting R-12 Zoning Proposed Resolution

DESCRIPTION/SUMMARY OF REQUEST:

As contemplated by Town Council action to approval a water allocation for the 168-unit apartment complex to be known as Hawthorne at Weaverville or Monticello Apartments, the Town is in receipt of a voluntary annexation petition which requests that the property located at 145 Monticello Road be annexed into the Town's limits under an R-12 zoning district classification.

The first steps in the annexation process will be to request that the Town Clerk investigate the sufficiency of the annexation petition and to send the initial zoning request to the Planning and Zoning Board for review and recommendation.

COUNCIL ACTION REQUESTED:

Town Council is requested to adopt the attached resolution which (1) directs the Town Clerk to investigate the sufficiency of the annexation petition and submit a Certificate of Sufficiency to Town Council at its November 21, 2016, meeting, and (2) directs the Town Planner to place the Application for a Zoning Map Amendment on the Planning and Zoning Board's next agenda so that the requested zoning district can be reviewed for consistency with the Town's Comprehensive Land Use Plan and a recommendation on same can be forwarded back to Town Council at such time as a public hearing is held on the matter.

**PETITION FOR VOLUNTARY ANNEXATION
PETITION/APPLICATION**

Town of Weaverville, North Carolina

Submittal Date: 10/6/16
Date Fee Paid: 10/6/16
Petition No: 2016-3

**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

TO THE TOWN COUNCIL OF WEAVERVILLE, NORTH CAROLINA

1. We, the undersigned owners of real property, respectfully request that the area described in Part 4 below be annexed to the Town of Weaverville, Buncombe County, North Carolina.
2. The area to be annexed is contiguous, non-contiguous (satellite) to the Town of Weaverville, North Carolina, and the boundaries are as contained in the metes and bounds description attached hereto.
3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads and other areas as stated in G.S. § 160A-31(f), unless otherwise stated in the annexation agreement/ordinance.
4. The property and property owner information is as follows:

Property Owner and Mailing Address	Phone Number & Email Address	Deed Reference & Property PIN	Property Owner Signature
Weaverville Apartments, LLC Attn: Phil Paysonk 806 Green Valley Rd. Ste 311 Greensboro NC 27408	336-553-1700 ppaysonk @ hrpliving.com	DB: 5384 P4210 PIN: 9733-81-5444	Phil P. Paysonk

5. Zoning vested rights are not claimed, have been established under G.S. § 153A-344.1 or § 160A-385.1 as follows [describe and attach the order and approved site plan]:
See enclosed Site Plan + Survey

Total Acreage to be annexed: 14.00
Population in annexed area: 168 units
Proposed Zoning District: _____
Reason for annexation: Receive Town Services Other (please specify)

The applicant must also submit a rezoning application with the petition for voluntary annexation to establish a Weaverville zoning designation. Please contact the Planning Department at (828)484-7002 for questions. If the purpose of the petition is a connection to public water, contact Public Works Department at (828)645-0606 to confirm that public water is available to the property and the cost of that connection.

**PETITION FOR VOLUNTARY ANNEXATION
DATA SHEET**

Town of Weaverville, North Carolina

Submittal Date: 10/6/16

Petition No. 2016-3

Annexation Area Name: Monticello Road

Petitioner: Weaverville Apartments, LLC

Subject Area Acreage: 14.00

Current Land Use: EMP - Buncombe County

Proposed Land Use or Development (describe): R-12

Residential (single family): Number of Units: _____ Anticipated build out in _____ years
Average Sales Price: \$ _____ /dwelling unit

Residential (multi-family): Number of Units: 168 Anticipated build out in 1 years
Owned: Average Sales Price: \$ _____ /building unit
Rental: Average Rental Amt: \$ 1,000 /month

Retail: Square footage: _____ Anticipated build out in 1 years
Type of tenancy: _____

Commercial - Non-Retail: Square footage: _____ Anticipated build out in _____ years
Type of tenancy: _____

Other: Square footage: _____ Anticipated build out in _____ years
Type of tenancy: _____

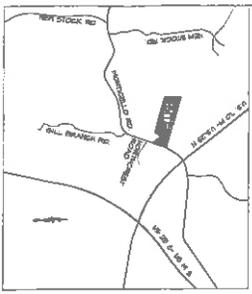
Development Scale: Max building height of 50'; max number of stories of 3

Infrastructure: Linear feet of publicly dedicated roadways proposed: _____ feet
Public water proposed (describe): SWS ENCLOSED

Other Public Services Requested (describe): POLICE SERVICES

Zoning Vested Rights Claimed (describe and attach documentation): SWS ENCLOSED SITS PLAN

Mal P. [Signature]
Signature of Owner(s)



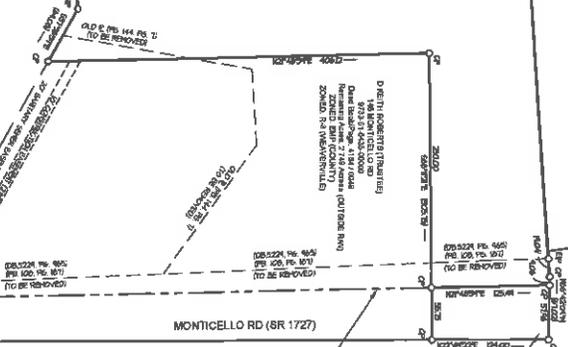
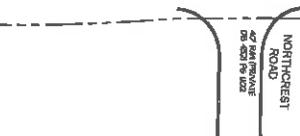
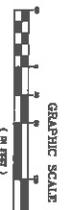
MARTIN BLANK
 NEW STOCK RD
 Parcel Boundary 1927/1934
 Parcel Boundary 1927/1934
 2015/15

RHEEMING STRAP TOWNE INC
 150 W. WILSON ST
 Parcel Boundary 1927/1934
 Parcel Boundary 1927/1934
 ZONED C-1 (INDUSTRIAL)

OWEN LEE ROBERTS ET AL
 1711 LINDEN LANE
 Parcel Boundary 1927/1934
 Parcel Boundary 1927/1934
 ZONED R-3

DON L ROBERTS
 9724 S. WILSON RD
 Parcel Boundary 1927/1934
 Parcel Boundary 1927/1934
 ZONED R-3 (UNDEVELOPED)

14000 AC±



PROPERTY EXHIBIT
145 MONTICELLO ROAD
 TOWN OF WEAVERVILLE, ET AL
 BUNCOMBE COUNTY - NORTH CAROLINA

PRELIMINARY

ENGINEERING AND SURVEYING, INC.
 LAND DEVELOPMENT CONSULTING
 CORPORATE LICENSE NO. 1858-0-0197
 4400 TYMMS STREET
 HIGH POINT, NORTH CAROLINA 27265
 PHONE: (800) 333-8600 - FAX: (800) 963-8760

REVISIONS

SCALE: 1" = 60'
 DATE: 02/03/15
 PROJECT: 1960-15
 DRAWN BY: TEL, TM
 SHEET: SK-1

Exhibit A**Legal Description**

BEING A PORTION OF PARCEL 2 OF PLAT BOOK 144 PAGE 7 OF THE BUNCOMBE COUNTY REGISTER OF DEEDS (PIN NUMBER 9733614469 OF THE BUNCOMBE COUNTY TAX MAPPING DEPARTMENT), PARCEL 1 OF PLAT BOOK 144 PAGE 7 (PIN NUMBER 9733710005), AND THAT PROPERTY SHOWN ON PLAT BOOK 108 PAGE 187 (PIN NUMBER 9733712215), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at an iron rod set on the proposed future dedicated right of way line of Monticello Road (S.R. 1727), THENCE, on a new line, N68°11'21"W, 250.00 feet (crossing the eastern line of Parcel 2 OF Plat Book 144 Page 7, said line shown on said plat as the "Right of Way Line and W'LY Line of D.B. 5229 p.965) to an iron rod set, a new corner; THENCE, on a new line, S21°48'39"W, 253.36 feet to a point on the western line of Parcel 1, Plat Book 144 Page 7; THENCE, continuing on a new line, S21°48'39"W, 152.76 feet to an iron rod set, a new corner in the northern line of Don L. & Orva L. Roberts, as described in Deed Book 894 Page 268; THENCE, with Roberts, the N37°55'59"W, 31.34 feet to an existing iron rod, an old corner of Parcel 1 & Parcel 2 of Plat Book 144 Page 7 in the line of Roberts; THENCE, with Roberts, N37°55'59"W, 32.69 feet to an existing iron pipe; THENCE, with Roberts, N70°53'16"W, 1085.57 feet to an existing iron rod, a corner with Roberts in the eastern line of Martin Blank, Deed Book 1607 Page 174; THENCE, with Blank, N05°25'41"E, 487.33 feet to an iron rod set, a corner in the line of Blank with Riverside Stump Dump, Inc, Deed Book 4900, Page 1080; THENCE, with Riverside Stump Dump, S71°19'26"E, 9.87 feet to an existing iron pipe; THENCE, continuing with Stump Dump, S71°19'26"E, 1491.44 feet to an existing iron pipe, a common corner with Riverside Stump Dump, HVMHN-3VHM LLC as shown on Plat Book 110 Page 23, and the aforementioned Property shown on Plat Book 108 Page 187; THENCE, with HVMHN-3VHM LLC, S71°19'26"E, 19.04 feet to an iron rod set; THENCE, with HVMHN-3VHM LLC, S66°42'09"E, 9.06 feet to an iron rod set in the proposed future dedicated right of way line of Monticello Road (S.R. 1727); THENCE, with HVMHN-3VHM LLC, S66°42'09"E, 57.96 feet to a point in the current right of way of Monticello Road; THENCE, S22°49'22"W, 124.00 feet to point in the current right of way of Monticello Road; THENCE, on a new line, N68°11'21"W, 55.75 feet to an iron rod set, the Place and POINT OF BEGINNING, having a gross area of 14.163 acres, more or less (0.163 acres in proposed future right of way dedication).

Together with Seller's right, title and interest in and to any and all easements related to or affecting the property described above.

**PETITION FOR VOLUNTARY ANNEXATION
 CERTIFICATE OF AUTHORITY FOR LIMITED LIABILITY COMPANY
 Town of Weaverville, North Carolina**

The undersigned, being (a/the) duly elected, qualified and active member / manager of WEAVERVILLE APARTMENTS, LLC, a limited liability company organized and existing in the State of North Carolina (hereinafter "Company"), does hereby certify that:

1. That the Company currently exists and is in good standing with the NC Secretary of State;
2. That a controlling majority of the members and the manager of the Company have adopted resolutions with respect to the attached/foregoing Petition for Voluntary Annexation and such resolutions have been duly and validly adopted and are in full force and effect.
3. That said resolutions adopted/approved the Petition for Voluntary Annexation and authorized any and all actions on behalf of the Company to complete the process for the Petition to be approved by the Town of Weaverville and that no further authorizing action need be taken.
4. That the said resolutions authorized the following person or persons to execute all documents in connection with the Petition for Annexation and that the signature appearing to the right of their name(s) is his/her genuine signature:

NAME	OFFICE HELD	SIGNATURE
<u>MARK P. REYNOLDS</u>	<u>MEMBER</u>	<u>[Signature]</u>

THIS the 4 day of October, 2016.

STATE OF NORTH CAROLINA

COUNTY OF Guilford

I, Sherril G. McGee, a Notary Public, certify that Mark P. Reynolds personally came before me this day and acknowledged that he/she is the Member of Weaverville Apartments, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the Company, the foregoing Certificate of Authority was signed by him/her on behalf of the Company. Witness my hand and seal this the 4th day of October, 2016.



[Signature]
 Notary Public

My Commission Expires: 2/12/2017

Dottie Sherrill
Mayor

The Town of
Weaverville
NORTH CAROLINA

Walter Currie
Council Member

Doug Dearth
Council Member

Gene Knoefel
Council Member

John Penley
Council Member

Doug Jackson
Council Member

August 25, 2015

Ward and Smith, P.A.
82 Patton Avenue, Suite 300
Asheville, NC 28801

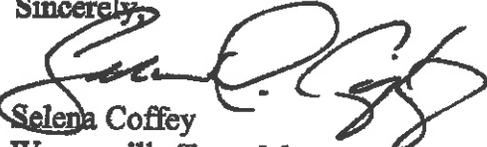
Re: 145 Monticello Road; Request for water services and fire protection

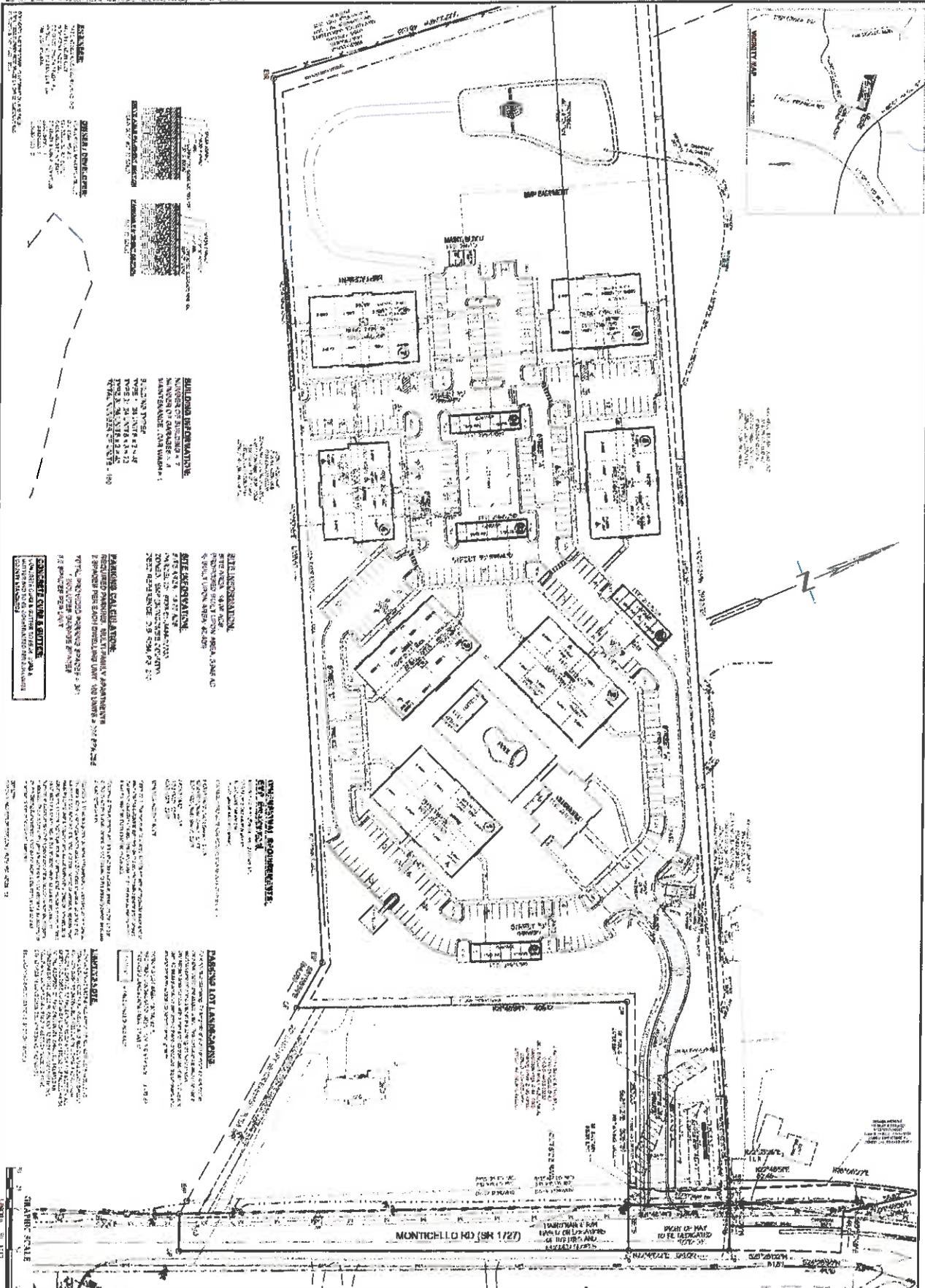
Dear Mr. Allen:

At our Town Council meeting held on August 17, 2015, Weaverville Town Council ("Town Council") voted to approve your request for water services and fire protection serving the proposed 168 unit apartment project named "Hawthorne at Weaverville" located off Monticello Road, Weaverville, NC.

Your client, Petitioner Berkley Hall has agreed to provide the Town of Weaverville with a Petition for Voluntary Annexation. However, Town Council confirms that the Project will be implemented pursuant to the Buncombe County Development Ordinances. In addition, to make development standards clear, the Annexation Petition shall attach the Application for a Conditional Use Permit pursuant to Buncombe County Development Ordinances as evidence of Petitioner's established vested rights. If the Town decides to annex the site at all, it will wait to do so until after such time as development has begun pursuant to the Buncombe County Development Ordinances.

Sincerely,


Selena Coffey
Weaverville Town Manager



LEGEND

EXISTING DEVELOPMENT

PROPOSED DEVELOPMENT

PROPOSED IMPROVEMENTS

PROPOSED LANDSCAPING

PROPOSED UTILITIES

PROPOSED PAVEMENT

PROPOSED FENCE

PROPOSED SIGNAGE

PROPOSED LIGHTING

PROPOSED SECURITY

PROPOSED ACCESS

PROPOSED EROSION CONTROL

PROPOSED DRAINAGE

PROPOSED UTILITIES

PROPOSED PAVEMENT

PROPOSED FENCE

PROPOSED SIGNAGE

PROPOSED LIGHTING

PROPOSED SECURITY

PROPOSED ACCESS

PROPOSED EROSION CONTROL

PROPOSED DRAINAGE

GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

2. ALL UTILITIES SHALL BE DEPTH MARKED AND PROTECTED.

3. ALL EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED THROUGHOUT CONSTRUCTION.

4. ALL DRAINAGE SYSTEMS SHALL BE DESIGNED TO PREVENT STAGNATION OF WATER ON THE SITE.

5. ALL SIGNAGE SHALL BE DESIGNED TO BE EASY TO READ AND MAINTAIN.

6. ALL LIGHTING SHALL BE DESIGNED TO PROVIDE ADEQUATE ILLUMINATION FOR SAFETY AND SECURITY.

7. ALL SECURITY MEASURES SHALL BE DESIGNED TO PREVENT UNAUTHORIZED ACCESS TO THE SITE.

8. ALL ACCESS POINTS SHALL BE DESIGNED TO BE EASY TO USE AND MAINTAIN.

9. ALL EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED THROUGHOUT CONSTRUCTION.

10. ALL DRAINAGE SYSTEMS SHALL BE DESIGNED TO PREVENT STAGNATION OF WATER ON THE SITE.

PROPOSED LOT LAYOUT

LOT 1: 10,000 SQ. FT. (230' x 435')

LOT 2: 10,000 SQ. FT. (230' x 435')

LOT 3: 10,000 SQ. FT. (230' x 435')

LOT 4: 10,000 SQ. FT. (230' x 435')

LOT 5: 10,000 SQ. FT. (230' x 435')

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LOT 99: 10,000 SQ. FT. (230' x 435')

LOT 100: 10,000 SQ. FT. (230' x 435')

<p>DATE: 11/17/07</p> <p>PROJECT: MONTICELLO APARTMENTS</p> <p>DRAWN BY: [Name]</p> <p>CHECKED BY: [Name]</p> <p>SCALE: AS SHOWN</p>	<p>SITE PLAN</p> <p>MONTICELLO APARTMENTS</p> <p>145 MONTICELLO ROAD</p> <p>BUNGOMBE COUNTY - NORTH CAROLINA</p>		<p>ENGINEERING AND SURVEYING, INC.</p> <p>1001 W. WILKINSON STREET</p> <p>1001 WILKINSON STREET</p> <p>1001 FIRST, NORTH CAROLINA 27705</p> <p>PHONE: (336) 817-0000 FAX: (336) 817-0700</p>
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**TOWN OF WEAVERVILLE APPLICATION FOR
A ZONING MAP OR TEXT AMENDMENT**

Planning and Zoning Department, 30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7002 --- fax (828) 645-4776 --- jeller@weavervillenc.org

OWNER/APPLICANT NAME:

WEAVERVILLE APARTMENTS, LLC

APPLICATION DATE:

10/5/16

PHONE NUMBER: 336-553-1700

MAILING ADDRESS: 575 311

806 GREEN VALLEY RD

GREENSBORO, NC
27408

Application is made to the Town Council of Weaverville to amend:

The Zoning Map

The text of the Zoning Ordinance (Ch 36 of Code of Ordinances)

APPLICATION TO AMEND ZONING MAP

PROPERTY ADDRESS: 145 MONTECELLO RD
WEAVERVILLE, NC

PIN: 9733-61-5444

LOT AREA (acres):

CURRENT ZONING DISTRICT: EMP (Buncombe Co) PROPOSED ZONING DISTRICT: RM-12

APPLICATION IS NOT COMPLETE WITHOUT A BOUNDARY SURVEY DEPICITING:

- Total acreage
- Current owner(s) and date of survey
- Property location relative to streets
- North arrow
- Existing easements, rights of way, or other restrictions on the property
- Areas located within the floodplain
- Natural terrain of 15% or greater grade
- Adjoining property owners, addresses, and Buncombe County PINs

APPLICATION TO AMEND TEXT

SECTION(S) OF CHAPTER 36 TO AMEND:

PROPOSED CHANGE TO TEXT (attach additional documentation if necessary):

JUSTIFICATION OF PROPOSED AMENDMENT(S):

**TOWN OF WEAVERVILLE APPLICATION FOR
A ZONING MAP OR TEXT AMENDMENT**

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(828) 484-7002--- fax (828) 645-4776 --- jellen@weavervillenc.org

I certify that the above information is accurate and true and that I am the owner or a duly appointed agent of the owner.

Mark P. [Signature] 10/6/16
SIGNATURE OF APPLICANT DATE

It is the applicant's responsibility to obtain a copy of the Town of Weaverville Zoning Ordinance and to be fully aware of the regulations detailed therein.

REZONING FEE SCHEDULE:

1 Lot < 1 acre	\$350.00
2-4 Lots or 1-3 acres	\$450.00
4-9 acres	\$550.00
10-25 acres	\$750.00
25+ acres	\$900.00

OFFICE USE ONLY

FEE: \$ <u>750⁰⁰</u>	DATE PAID: <u>10/6/16</u>	<input checked="" type="checkbox"/> CHECK	<input type="checkbox"/> CASH
DATE OF INTIAL COUNCIL MEETING:		ACTION TAKEN:	
DATE OF PLANNING BOARD MEETING:		ACTION TAKEN:	
DATE OF PUBLIC HEARING & COUNCIL DECISION:		FINAL ACTION:	

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A VOLUNTARY ANNEXATION PETITION AND SENDING THE ASSOCIATED INITIAL ZONING REQUEST TO THE PLANNING AND ZONING BOARD FOR REVIEW AND RECOMMENDATION

WHEREAS, a petition requesting annexation of an area described in said petition was received from Weaverville Apartments, LLC, on October 10, 2016, by the Town of Weaverville; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

WHEREAS, the Town of Weaverville is also in receipt of an application for a zoning map amendment requesting an R-12 zoning classification for the property to be annexed; and

WHEREAS, the Town Council of the Town of Weaverville deems it advisable to proceed in response to this request for annexation and initial zoning;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Weaverville that:

1. The Town Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the Town Council the result of her investigation.
2. That the Town Planner place the application for initial zoning of R-12 on the Town's Planning and Zoning Board next agenda so that the Board can review the requested zoning for consistency with the Town's Comprehensive Land Use Plan and forward a recommendation to Town Council prior to or at a public hearing that may subsequently be held on this matter.

THIS the _____ day of October, 2016.

Dottie Sherrill, Mayor

ATTEST:

Selena D. Coffey, Town Clerk

TOWN OF WEAVERVILLE
TOWN COUNCIL AGENDA ITEM

Date of Meeting: Monday, October 17, 2016

Subject: Public Hearing and Action Item; Proposed Subdivision Ordinance Amendments to Revise Requirements & Procedure for Minor Subdivisions

Presenter: James W. Eller

Attachments: Planning and Zoning Board Recommendation, Proposed Code Amendments

Description:

Attached you will find revisions to Sections 25-78, 25-79 and 25-80 each which relates to the requirements and procedure for minor subdivisions. Suggested revisions include changing subdivision administrator to town planner within Sec. 25-78, transferring the approval of each plat from Town Council to the Town Planner following the Planning and Zoning Boards review of each within Sec. 25-79 and the elimination of a concept plan for minor subdivisions within Sec. 25-80.

Action Requested:

Staff proposes for Council to adopt the proposed ordinance amending Chapter 25 concerning the approval process for minor subdivisions.



**Town of Weaverville
Planning and Zoning Board**

On Tuesday, September 6th, 2016 the Planning and Zoning Board reviewed and unanimously recommended to Town Council the attached proposed subdivision ordinance amendments to revise the requirements and procedures for the approval of minor subdivisions.

It has been found that the revision would not conflict with the Town's Comprehensive Plan or Zoning Code. The Planning and Zoning Board considers approval both reasonable and in the public interest to facilitate the adoption of minor subdivisions.

A handwritten signature in cursive script, reading "Doug Theroux", is written over a horizontal line.

**Doug Theroux
Chairman, Planning and Zoning Board**

REGARDING SEC. 25-78

Sec. 25-78. - General procedures for review of major and minor subdivisions shall be amended as follows:

All applications for development of major or minor subdivisions, including for review of concept plans, preliminary plats and final plats, shall be submitted to the **subdivision administrator Town Planner** at the Weaverville Town Hall. In order to be considered at the next regularly scheduled meeting of the planning and zoning board, applications must comply with all Code requirements and be received at least ten business days before the meeting. All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in section 25-27. Minor subdivisions shall be reviewed in accordance with the procedure set forth in section 25-79. The minor subdivision procedure may not be used a second time within three years from the date of its first use on any property which is less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal or equitable interest in the original subdivision at the time the original subdivision received concept plan, preliminary plat or final plat approval. Major subdivisions shall be reviewed in accordance with the procedures set forth in sections 25-81 through 25-83.

REGARDING SEC. 25-79

Sec. 25-79 shall be repealed in its entirety and replaced with the following:

Sec. 25-79. – Procedure for review of minor subdivisions

- (a) Preliminary plat.** The subdivider shall submit eight copies of the preliminary plat of the proposed minor subdivision, containing the information required by subsection 25-80.
- (b) Final plat.** The subdivider shall submit eight copies of the final plat of the proposed minor subdivision, containing the information required by subsection 25-80(b).
- (c) Review and recommendation of planning and zoning board.** The planning and zoning board shall review the preliminary plat for compliance with subsection 25-80 and recommend to the Town Planner approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the preliminary plat and/or the final plat with reasons for such conditional approval or disapproval. Such recommendation must be made writing within 45 days of its original consideration of the preliminary or final plat. The planning and zoning board shall retain one copy of its recommendation, along with a copy of the plat, for its minutes, and transmit copies of its recommendation, along with copies of the plat, to the Town Planner and to the subdivider. If the planning and zoning board does not make a written recommendation within 45 days after its first consideration of the preliminary or final plat, the subdivider may request that the Town Planner act upon the minor subdivision application and the Town Planner has the authority to approve or deny the application without a recommendation from the planning and zoning board.
- (d) Action by Town Planner.** The Town Planner, after reviewing the recommendation of the Planning and Zoning Board if timely provided, shall take action regarding the application by either approving or denying the minor subdivision request based on compliance with the information required by subsection 25-80. The action of the Town Planner shall be reduced to writing and transmitted to the subdivider.

For comparison the following is the current provisions of Sec. 25-79. – Procedure for review of minor subdivisions:

- (a) Concept plan.** The subdivider shall submit eight copies of the concept plan of the propose minor subdivision, containing the information required by subsection 25-80.
- (b) Preliminary plat.** The subdivider shall submit eight copies of the preliminary plat of the proposed minor subdivision, containing the information required by subsection 25-80.
- (c) Final plat.** The subdivider shall submit eight coples of the final plat of the proposed minor subdivision, containing the information required by subsection 25-80(b).
- (d) Action by planning and zoning board.** The planning and zoning board shall recommend, in writing, approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the concept plan, preliminary plat and/or the final plat with reasons for such conditional approval or disapproval within 90 days of its original consideration of the preliminary or final plat.

PROPOSED CODE AMENDMENTS –

Modifying the procedures and requirements for minor subdivisions

The planning and zoning board shall retain one copy of its recommendation, along with a copy of the concept plan or plat, for its minutes, transmit one copy of its recommendation, along with a copy of the concept plan or plat, to the town council and shall transmit one copy of its recommendation, along with a copy of the concept plan or plat, to the subdivider.

If the planning and zoning board does not make a written recommendation within 90 days after its first consideration of the concept plan, preliminary or final plat, the subdivider may apply to the town council for approval or disapproval.

- (e) Action by town council. The town council shall review the recommendations of the planning and zoning board, or direct application of the subdivider if the planning and zoning board has not acted within the 90 days described above, and may approve, approve with conditions or disapprove the application for preliminary and/or final plat approval. The action of the town council shall be reduced to writing in its minutes and transmitted to the subdivider and to the planning and zoning board.

REGARDING SEC. 25-80

Subsection (a) of Sec. 25-80 regarding concept plan is deleted in its entirety and the remaining subsections are to be renumbered; subsection (c) of Sec. 25-80 regarding additional requirements is deleted in its entirety.

Sec. 25-80. – Requirements for minor subdivision

~~(a) Concept plan:~~

- ~~(1) The name, if any, of the proposed subdivision;~~
- ~~(2) The exact exterior boundaries of the tract and the portion of the tract to be subdivided, dimensioned by metes and bounds;~~
- ~~(3) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;~~
- ~~(4) The scale of the plat, denoted both graphically and numerically;~~
- ~~(5) North arrow and delineation;~~
- ~~(6) Existing street names and designation as either "public" or "private";~~
- ~~(7) Minimum building setback lines;~~
- ~~(8) The total acreage to be subdivided;~~
- ~~(9) The total number of lots created;~~
- ~~(10) The current zoning classification of the tract and of adjacent properties;~~
- ~~(11) The existing street layout and right-of-way width, lot layout, and size of lots (including approximate dimensions and acreage or square footage);~~

(a) Preliminary plat:

- (1) The name, if any, of the proposed subdivision;**
- (2) The exact exterior boundaries of the tract and the portion of the tract to be subdivided, dimensioned by metes and bounds;**
- (3) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;**
- (4) The scale of the plat, denoted both graphically and numerically;**
- (5) North arrow and delineation;**
- (6) Street names and designation as either "public" or "private";**
- (7) Minimum building setback lines;**
- (8) The total acreage to be subdivided;**
- (9) The total number of parcels created;**

PROPOSED CODE AMENDMENTS –

Modifying the procedures and requirements for minor subdivisions

- (10) The current zoning classification of the tract and of adjacent properties;
- (11) The name, address and telephone number of the owner, the registered land surveyor and any land planner, architect, landscape architect or professional engineer responsible for the subdivision, if such persons are used;
- (12) The registration number and seal of the professional engineer and registered land surveyor;
- (13) The names of streets and the names and numbers of subdivision lots of adjacent developed or platted properties;
- (14) The existing street layout and right-of-way width, lot layout, and size of lots (including dimensions and acreage or square footage);
- (15) The right-of-way lines and pavement widths of all streets and easements;
- (16) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it.

(b) Final plat:

- (1) A statement from the Buncombe County Health Department that a copy of the final plat has been submitted to them, if septic tanks or other on-site water or wastewater systems are to be used in the subdivision;
- (2) The final plat shall be prepared by a registered land surveyor currently licensed and registered to do business in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30, or its successor, and to the "Standards of Practice for Land Surveying in North Carolina".
- (3) The submission of any final plat shall be accompanied by a filing fee set by the town.
- (4) Signed certificates substantially in the forms provided for in subsections (i) and (ii) below, shall appear on all copies of the final plat.

(i) Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located within the subdivision jurisdiction of the Town of Weaverville and that I hereby adopt this plan of subdivision with my free consent. I further certify that the subdivision complies with all provisions of the ordinance of the Town of Weaverville

Date: _____ Owner: _____

- (ii) A certificate of survey and accuracy which shall be prepared in accordance with G.S. 47-30, or its successor.

~~(e) [Additional requirements.] In addition to the requirements of subsections 25-80(a) and (b), above, the town council, if it deems necessary, may require the subdivider to provide to the town an agreement to complete and a guarantee to insure the proper completion of landscaping, buffering, utilities or other necessary improvements in a minor subdivision. If the town council requires such an agreement to complete and a guarantee, the provisions of subsections 25-83(e)(1)–(3), set forth hereinafter, shall be applicable.~~

**ORDINANCE AMENDING CHAPTER 25 OF WEAVERVILLE TOWN CODE
TO REVISE REQUIREMENTS AND PROCEDURE FOR MINOR SUBDIVISION APPROVAL**

WHEREAS, Town Council is desirous of streamlining the process by which minor subdivisions are approved within the Town and has developed a set of revisions which transfers the approval of a minor subdivision plat from Town Council to the Town Planner following the Planning and Zoning Boards review and eliminates the requirement of a concept plan for minor subdivisions;

WHEREAS, on September 6, 2016, the Town's Planning and Zoning Board reviewed these proposed amendments and submitted a favorable recommendation on their adoption;

WHEREAS, after proper notice the Town Council held a public hearing on October 17, 2016, in order to receive input from the public on these proposed amendments;

NOW, THEREFORE, BE IT ORDAINED by Town Council of the Town of Weaverville, North Carolina, as follows:

1. That the Town's Code of Ordinances is hereby amended as follows with the stricken language denoted with strike-throughs and added language underlined:

Sec. 25-78. - General procedures for review of major and minor subdivisions shall be amended as follows:

All applications for development of major or minor subdivisions, including for review of concept plans, preliminary plats and final plats, shall be submitted to the ~~subdivision administrator~~ Town Planner at the Weaverville Town Hall. In order to be considered at the next regularly scheduled meeting of the planning and zoning board, applications must comply with all Code requirements and be received at least ten business days before the meeting. All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in section 25-27. Minor subdivisions shall be reviewed in accordance with the procedure set forth in section 25-79. The minor subdivision procedure may not be used a second time within three years from the date of its first use on any property which is less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal or equitable interest in the original subdivision at the time the original subdivision received concept plan, preliminary plat or final plat approval. Major subdivisions shall be reviewed in accordance with the procedures set forth in sections 25-81 through 25-83.

Sec. 25-79 shall be repealed in its entirety and replaced with the following:

Sec. 25-79. – Procedure for review of minor subdivisions

(a) Preliminary plat. The subdivider shall submit eight copies of the preliminary plat of the proposed minor subdivision, containing the information required by subsection 25-80.

(b) Final plat. The subdivider shall submit eight copies of the final plat of the proposed minor subdivision, containing the information required by subsection 25-80(b).

(c) Review and recommendation of planning and zoning board. The planning and zoning board shall review the preliminary plat for compliance with subsection 25-80 and recommend to the Town Planner approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the preliminary plat and/or the final plat with reasons for such conditional approval or disapproval. Such recommendation must be made in writing within 45 days of its original consideration of the preliminary or final plat. The planning and zoning board shall retain one copy of its recommendation, along with a copy of the plat, for its minutes, and transmit copies of its recommendation, along with copies of the plat, to the Town Planner and to the subdivider. If the planning and zoning board does not make a written recommendation within 45 days after its first consideration of the preliminary or final plat, the subdivider may request that the Town Planner act upon the minor subdivision application and the Town Planner has the authority to approve or deny the application without a recommendation from the planning and zoning board.

(d) Action by Town Planner. The Town Planner, after reviewing the recommendation of the Planning and Zoning Board if timely provided, shall take action regarding the application by either approving or denying the minor subdivision request based on compliance with the information required by subsection 25-80. The action of the Town Planner shall be reduced to writing and transmitted to the subdivider.

Subsection (a) of Sec. 25-80 regarding concept plan is deleted in its entirety and the remaining subsections are to be renumbered; subsection (c) of Sec. 25-80 regarding additional requirements is deleted in its entirety.

Sec. 25-80. – Requirements for minor subdivision

~~(a) Concept plan:~~

- ~~(1) The name, if any, of the proposed subdivision;~~
- ~~(2) The exact exterior boundaries of the tract and the portion of the tract to be subdivided, dimensioned by metes and bounds;~~
- ~~(3) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;~~
- ~~(4) The scale of the plat, denoted both graphically and numerically;~~
- ~~(5) North arrow and delineation;~~
- ~~(6) Existing street names and designation as either “public” or “private”;~~
- ~~(7) Minimum building setback lines;~~
- ~~(8) The total acreage to be subdivided;~~

- ~~(9) The total number of lots created;~~
- ~~(10) The current zoning classification of the tract and of adjacent properties;~~
- ~~(11) The existing street layout and right-of-way width, lot layout, and size of lots (including approximate dimensions and acreage or square footage);~~

(a) Preliminary plat:

- (1) The name, if any, of the proposed subdivision;
- (2) The exact exterior boundaries of the tract and the portion of the tract to be subdivided, dimensioned by metes and bounds;
- (3) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- (4) The scale of the plat, denoted both graphically and numerically;
- (5) North arrow and delineation;
- (6) Street names and designation as either "public" or "private";
- (7) Minimum building setback lines;
- (8) The total acreage to be subdivided;
- (9) The total number of parcels created;
- (10) The current zoning classification of the tract and of adjacent properties;
- (11) The name, address and telephone number of the owner, the registered land surveyor and any land planner, architect, landscape architect or professional engineer responsible for the subdivision, if such persons are used;
- (12) The registration number and seal of the professional engineer and registered land surveyor;
- (13) The names of streets and the names and numbers of subdivision lots of adjacent developed or platted properties;
- (14) The existing street layout and right-of-way width, lot layout, and size of lots (including dimensions and acreage or square footage);
- (15) The right-of-way lines and pavement widths of all streets and easements;
- (16) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it.

(b) Final plat:

- (1) A statement from the Buncombe County Health Department that a copy of the final plat has been submitted to them, if septic tanks or other on-site water or wastewater systems are to be used in the subdivision;
- (2) The final plat shall be prepared by a registered land surveyor currently licensed and registered to do business in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping

requirements set forth in G.S. 47-30, or its successor, and to the "Standards of Practice for Land Surveying in North Carolina".

(3) The submission of any final plat shall be accompanied by a filing fee set by the town.

(4) Signed certificates substantially in the forms provided for in subsections (i) and (ii) below, shall appear on all copies of the final plat.

(i) Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located within the subdivision jurisdiction of the Town of Weaverville and that I hereby adopt this plan of subdivision with my free consent. I further certify that the subdivision complies with all provisions of the ordinance of the Town of Weaverville.

Date:_____ Owner:_____

(ii) A certificate of survey and accuracy which shall be prepared in accordance with G.S. 47-30, or its successor.

~~(c) [Additional requirements.] In addition to the requirements of subsections 25-80(a) and (b), above, the town council, if it deems necessary, may require the subdivider to provide to the town an agreement to complete and a guarantee to insure the proper completion of landscaping, buffering, utilities or other necessary improvements in a minor subdivision. If the town council requires such an agreement to complete and a guarantee, the provisions of subsections 25-83(e)(1) — (3), set forth hereinafter, shall be applicable.~~

2. That these amendments shall be effective immediately upon adoption.

ADOPTED THIS the 17th day of October, 2016, by a vote of ___ in favor and ___ against.

DOTTIE SHERRILL, Mayor

ATTESTD BY:

APPROVED AS TO FORM:

SELENA D. COFFEY, Town Clerk

JENNIFER O. JACKSON, Town Attorney