



**Town of Weaverville  
Zoning Board of Adjustment  
Council Chambers  
January 14, 2019, 7pm**

**Agenda**

1. Call to Order – Chairman Tycer Lewis.
2. Approval of the Minutes from the October 8, 2018 Meeting of the Board.
3. Approval of an Order Establishing a Favorable Ruling in the Matter of a Variance Request Related to the Side Yard Setbacks Established by the R-1 Zoning District on the Property Commonly Known as 30 North College Street.
4. Public Hearing Regarding an Application for an Amendment to an Existing Special Use Permit Applicable to the Property Commonly Known as Ingles at 140 Weaver Boulevard.
5. Consideration of a Motion Establishing a Ruling on the Aforementioned Application for an Amendment to an Existing Special Use Permit.
6. Any Other Business to Come Before the Board.
7. Adjournment.



**Agenda Item 2  
Minutes**

Town of Weaverville

Zoning Board of Adjustment  
Minutes – Monday, October 8, 2018

The Zoning Board of Adjustment of the Town of Weaverville met for its regularly scheduled monthly meeting at 7pm on Monday, October 8, 2018, in Council Chambers at Town Hall at 30 South Main Street, Weaverville.

Present: Vice Chairman Tycer Lewis, Board Members Paul Clauhs, Roger Parkin, Cynthia Wright and Sylvia Valois, Town Attorney Jennifer Jackson and Planning Director James Eller. Absent: none.

**1. Call to Order**

Vice-Chairman Tycer Lewis called the meeting to order at 7:00pm and welcomed those in attendance to the meeting. The board members and staff introduced themselves.

**2. Election of Officers**

Vice-Chairman Lewis noted that this was the board's first meeting since Jeff McKenna's resignation and indicated that it would be proper for the Board to take some steps in organizing itself by electing a chair and vice chair from its regular members.

Board Member Wright made a motion to appoint Tycer Lewis as the board's chairman. The motion was seconded by Board Member Valois. All voted in favor and the motion carried. Board Member Parkin made a motion to appoint Cynthia Wright as the board's vice chairman. The motion was seconded by Board member Clauhs. All voted in favor and the motion carried. Both Lewis and Wright were congratulated and thanked in advance for their leadership of the board.

**3. Approval/Adjustment of the Agenda**

Chairman Lewis indicated that the agenda and an overview of board of adjustment procedures were located on the table by the door.

Items 6 and 7 on the printed agenda concern an application for an amendment to the Special Use Permit governing Creekside Village but the applicant has asked that the matter be withdrawn from consideration. Board Member Parkin made the motion to approve the agenda with the removal of items 6 and 7. Board Member Valois seconded the motion and all voted in favor of the motion.

**4. Overview of Requested Amendment to Creekside Village Special Use Permit**

Chairman Lewis asked, since there were some members of the public at the meeting concerning the Creekside Village matter if James Eller wished to briefly address the group. Mr. Eller indicated that Serrus Creekside had submitted an application to amend the special use permit which governs the property commonly known as Creekside Village and said application had been notice accordingly for the requisite public hearing before the

Zoning Board of Adjustment. However, Serrus Creekside has contacted staff in the interim requesting that the application be pulled from consideration at this time. Therefore, as indicated by the aforementioned adjustment to the previously established agenda, this item is no longer eligible for the Board's consideration unless a subsequent application is submitted.

## **5. Approval of Minutes**

Board Member Clauhs made a motion to approve the minutes from the June 11, 2018, meeting of the Board as presented. Board Member Parkin seconded the motion and all voted in favor of approving the minutes.

## **6. Evidentiary Hearing on Variance Application for 30 North College Street**

Chairman Lewis asked Attorney Jackson to provide an overview on how quasi-judicial hearings work. The following were Attorney Jackson's statements:

Tonight the Zoning Board of Adjustment will hold a quasi-judicial hearing on a variance application. The purpose of the quasi-judicial hearing is for the Zoning Board of Adjustment to hear and consider pertinent facts related to the request. The Board is required to comply with procedural rules much like those of a trial court and to provide for the constitutional right to due process such as proper notice of the meeting, an impartial decision maker, sworn testimony of witnesses, and an opportunity for parties to be heard by allowing direct examination and cross examination of witnesses.

The Board is asked to make a quasi-judicial decision which is like a court decision in several important ways. It requires the Board to use its judgment in applying general laws to a particular land use situation while ensuring the constitutional due process rights of all parties.

Tonight's hearing is a formalized means of gathering evidence relevant to the issues that are before the Board tonight. This is not an opportunity for citizens to come and just speak their minds like in a public hearing on a legislative matter before Town Council. The Board's decisions can only be made based on competent, material and substantial evidence in the record of the respective hearings. "Competent" evidence is generally understood to mean that evidence which is legally admissible in a court of law. Competent evidence does not include the opinion testimony of lay witnesses as to any of the following:

- Use of property in a particular way affecting the value of other property;
- Increase in vehicular traffic resulting from a proposed development posing a danger to the public safety;
- Matters about which only expert testimony would generally be admissible under rules of evidence applicable to trial courts.

The burden is on the applicant to demonstrate that the application complies with the review and approval standards of the zoning ordinance. Once an application has been submitted and all evidence in support of the application has been presented, then the burden shifts to those who have standing to oppose the application to present evidence to the Board. Where conflicting evidence is presented the Board must determine the weight of the evidence and the credibility of witnesses. The Board can consider reasonable conditions that, if imposed, would bring a project into compliance with the standards set out in the zoning ordinance.

Kerry and Jo Ann Stanley are the owners of an improved lot having an address of 30 North College Street and a Buncombe County Parcel Identification Number of 9742-17-5961. The Stanleys have requested a variance of the side yard setback in order to replace and enlarge a nonconforming structure that is currently located within the side yard setback. Town Code Sec. 36-328(2) authorizes the BOA to grant variances when hardships would result from carrying out the strict letter of the terms of the zoning ordinance. Variances require a 4/5 vote of the board. The standards for variances are as follows:

1. Unnecessary hardship would result from the strict application of the zoning ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting the variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the zoning ordinance such that public safety is secured and substantial justice is achieved.
5. The variance is not a request to permit a use of land, building or structure which is not permitted in the zoning district in which the property is located.
6. The variance is not a request to permit a prohibited sign.

Chairman Lewis declared the hearing open and began by polling the board members to see whether or not any members had conflicts of interest or bias that might disqualify them from serving on the Board during the hearing. None were reported. Concerning *ex parte* communication Chairman Tyler Lewis indicated that he had engaged in some limited conversation with the applicant, Kerry Stanley, but that such conversation would not influence his decision in the matter. No concerns about this *ex parte* communication were expressed and no objection to Chairman Lewis' participation in the hearing was made.

James Eller noted that he was within the notice area for this matter but that he was able to participate in the hearing without any bias toward the application. No objection to Mr. Eller's participation was noted from either the applicant or the Board.

Chairman Lewis noted that the applicant/property owners, Kerry and Jo Ann Stanley had standing to participate in the hearing, as did James Eller on behalf of the Town. No one else expressed a desire to be made a party to the proceeding.

The following individuals were sworn in and gave testimony: James Eller, Kerry Stanley, professional engineer Marvin Mercer, architect Joshua Pettler, and Walter Plodkin.

Mr. Eller described the application and asked that the following exhibits be entered into evidence:

Exhibit 1 - A packet of information submitted to the Board in which the following items were included: Application for a Variance dated August 7, 2018, with supplemental pages; a site plan submitted by the applicant showing existing frame garage and proposed location of enlarged garage; letter from

neighbors (McDowell) supporting application; photographs of the site and the existing garage; affidavit of posting; affidavit of mailing.

Exhibits 2a and 2b - In the absence of an affidavit of publication that has not yet been received, the Weaverville Tribune for 27 September 2018 and 4 October 2018 which contained the legal advertisements for the hearing.

Exhibit 3 – A letter from neighbors (Stroud) was entered into evidence by Stanley as Exhibit 3.

Concerning Exhibit 3, the Town Attorney advised that since Mr. Stroud was not in attendance his letter would be considered hearsay under the Rules of Evidence that apply in court. Attorney Jackson noted that the Rules of Evidence do not strictly apply to the Board but that the Board should be cautioned against putting too much weight on this piece of evidence since doing so deprives the parties of an opportunity to cross-examine Mr. Stroud on his statements. This also applies to the letter from Mr. and Mrs. McDowell that was included in Exhibit 1.

Kerry Stanley asked that a revised site plan and elevation be substituted for the documents included in Exhibit 1 and those were accepted as Exhibit 4a and 4b, respectively.

All exhibits were accepted into evidence without objection from any party.

Testimony from Kerry Stanley supported his application materials and provided evidence that he and his wife are the owners of the real property located at 30 North College Street, which bears Buncombe County parcel identification number 9742-17-5961 and is zoned R-1 residential. The property contains a single family residence and an existing dilapidated garage that was constructed in approximately 1933. The existing garage was constructed in an area that is now designated as the side yard. The garage is dilapidated and in need of replacement. Since the applicant must replace the garage they wish to use the opportunity to enlarge the original footprint.

Marvin Mercer and Joshua Pettler reviewed the revised site plan (Exhibit 4a) which shows a slightly modified location of the proposed new and enlarged garage from the original site plan included in Exhibit 1. The proposed location of the garage shown on Exhibit 4a shows that only approximately 60 square feet are to be added within the side yard setback and that area is currently within the existing driveway. This change lessens the degree of nonconformity within the side yard setback by decreasing the size of the new area within the side yard setback. The proposed garage shown on Exhibit 4a is as far out of the side yard setback as possible taking into consideration the following: (a) topography of the property that limits the placement of the driveway and the usage of the backyard, (b) the desire to save a large white oak tree, (c) the desire to avoid obstruction of access to the backyard by the occupants of the single family residence if the garage were to be located more internally on the property, (d) difficulty in exiting vehicles from the property should the garage be located more internally on the property, and (e) significant increases in construction costs associated with locating the garage more internally on the property.

Walter Plodkin, a neighbor living at 42 Church Street, testified in support of the request by stating that he believes that the request is reasonable and will maintain, if not enhance, the neighborhood. Letters from other

neighbors that indicated support for the variance were put into evidence but those letters were not given any weight as similar evidence was presented through the testimony of Mr. Plodkin.

Based on the evidence presented the board indicated that it was inclined to find that the requested encroachment into the side yard setback will have a minimal impact on the neighboring properties and that unnecessary hardship will result in a strict interpretation of the ordinance, the hardship results from conditions peculiar to the property, and the variance is consistent with the spirit, purpose and intent of the ordinance.

Having heard all the evidence and heard the responses to all questions asked, Chairman Lewis closed the evidentiary hearing.

#### **7. Ruling on Variance Application for 30 North College Street**

Based on the documentary and testimonial evidence presented during the hearing, Board Member Parkin made the motion to approve the variance request as reflected on the revised site plan (Exhibit 4a) based on considerable hardship in locating the detached garage within the backyard and to authorize staff to issue a zoning permit consistent with the variance prior to adoption of the written decision. Staff was asked to bring back the written decision for consideration at the board's next meeting.

#### **8. Other Business**

Staff advised that Town Council is considering Code Amendments that will more comprehensively address nonconformities within the Town. This is relevant since the board previously requested some amendments to tighten up this section of the Code as two appeals that the board has recently heard were related to the interpretation of the nonconforming use language.

#### **9. Adjournment**

At approximately 8 pm, Board Member Cluhs made a motion to adjourn, which was seconded by Board Member Parkin. All voted in favor and the meeting was adjourned.

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**Tycer Lewis, Chairman  
Board of Adjustment**

**ATTEST:**

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**James W. Eller  
Town Planner / Deputy Town Clerk**



**Agenda Item 3**  
**Order – Variance, 30 North College**

**TOWN OF WEAVERVILLE  
ZONING BOARD OF ADJUSTMENT**

**ORDER GRANTING  
A VARIANCE**

**APPLICANT:** Kerry and Jo Ann Stanley

**PROPERTY LOCATION:** 30 North College Street, Weaverville, NC

**PARCEL IDENTIFICATION NUMBERS:** 9742-17-5961

The Zoning Board of Adjustment of the Town of Weaverville (hereinafter "Board") held a quasi-judicial evidentiary hearing (hereinafter "Hearing") on Monday, October 8, 2018, at 7 p.m. in Council Chambers at Town Hall at 30 South Main Street, Weaverville, on a request for a variance of the side yard setback.

A quorum of the Board was present with Chairman Tycer Lewis, Vice Chairman Cynthia Wright, and Board Members Paul Clauhs, Roger Parkin, and Sylvia Valois in attendance. Town Attorney Jennifer Jackson and Town Planner/Zoning Administrator James Eller were also present.

The Hearing was held after notice of the meeting had been mailed to property owners within five hundred feet of the subject property, notice of the meeting was posted on the subject property and notice of the meeting was duly advertised in a paper of record.

Prior to the hearing the Board was polled as to whether or not any members had conflicts of interest or bias that might disqualify them from serving on the Board during the hearing. None were reported. Concerning *ex parte* communication Chairman Tycer Lewis indicated that he had engaged in some limited conversation with the applicant, Kerry Stanley, but that such conversation would not influence his decision in the matter. No concerns about this *ex parte* communication were expressed and no objection to Chairman Lewis' participation in the hearing was made.

James Eller noted that he was within the notice area for this matter but that he was able to participate in the hearing without any bias toward the application. No objection to Mr. Eller's participation was noted from either the applicant or the Board.

At the hearing on October 8, 2018, Chairman Lewis presided. The Board acknowledged that the following had standing to participate in the hearing and were made parties to this matter: Applicant/property owners Kerry and Jo Ann Stanley and Town Planner James Eller.

The Zoning Board of Adjustment for the Town of Weaverville, after having held the Hearing in this matter and having considered all the evidence and arguments presented at the hearing, finds as fact and concludes as follows:

1. Documentary evidence was submitted and admitted into evidence without objection as follows:
  - a. A packet of information submitted to the Board in which the following items were included: Application for a Variance dated August 7, 2018, with supplemental pages; a site plan submitted by the applicant showing existing frame garage and proposed location of enlarged garage; letter from neighbors (McDowell) supporting application; photographs of

the site and the existing garage; affidavit of posting; affidavit of mailing; said packet was submitted into evidence by James Eller as Exhibit 1.

- b. In the absence of an affidavit of publication that has not yet been received, the Weaverville Tribune for 27 September 2018 and 4 October 2018 which contained the legal advertisements for the hearing was submitted into evidence as Exhibit 2a and 2b, respectively.
  - c. A letter from neighbors (Stroud) was entered into evidence by Stanley as Exhibit 3.
  - d. A revised site plan and elevation were presented by Stanley and entered into evidence as Exhibit 4a and 4b, respectively.
2. The following individuals were sworn in and gave testimony: James Eller, Kerry Stanley, professional engineer Marvin Mercer, architect Joshua Pettler, and Walter Plodkin.
  3. The Applicant owns the real property located at 30 North College Street, which bears Buncombe County parcel identification number 9742-17-5961 and is zoned R-1 residential. The property contains a single family residence and an existing dilapidated garage that was constructed in approximately 1933.
  4. The existing garage was constructed in an area that is now designated as the side yard. The garage is dilapidated and in need of replacement. Since the applicant must replace the garage they wish to use the opportunity to enlarge the original footprint.
  5. The applicant presented a revised site plan (Exhibit 4a) that showed a shifting of the location of the proposed new and enlarged garage and asked the Board to consider the revised site plan instead of the original site plan included in Exhibit 1.
  6. The proposed location of the garage shown on Exhibit 4a shows that only approximately 60 square feet are to be added within the side yard setback and that area is currently within the existing driveway. This change lessens the degree of nonconformity within the side yard setback by decreasing the size of the new area within the side yard setback.
  7. The proposed garage shown on Exhibit 4a is as far out of the side yard setback as possible taking into consideration the following: (a) topography of the property that limits the placement of the driveway and the usage of the backyard, (b) the desire to save a large white oak tree, (c) the desire to avoid obstruction of access to the backyard by the occupants of the single family residence if the garage were to be located more internally on the property, (d) difficulty in exiting vehicles from the property should the garage be located more internally on the property, and (e) significant increases in construction costs associated with locating the garage more internally on the property.
  8. Letters of support from neighbors were submitted, however, those letters were considered hearsay and not given any weight by the Board. However, Walter Plodkin, a neighbor living at 42 Church Street, testified in support of the request by stating that he believes that the request is reasonable and will maintain, if not enhance, the neighborhood.

9. The requested encroachment into the side yard setback will have a minimal impact on the neighboring properties.
10. The Board further finds and concludes that:
- a) an unnecessary hardship will result in the strict application of the Zoning Ordinance as the lot without the variance cannot reasonably be used for single family residential purposes, the primary use within an R-1 zoning district, without incurring a substantial and unreasonable cost;
  - b) the hardship results from conditions that are peculiar to the property, including specifically the typography of the property, are not a result of personal circumstances, and did not result from action taken by the applicant or property owner;
  - c) the requested variance is consistent with the spirit, purpose and intent of the Zoning Ordinance;
  - d) the requested variance is not a request to permit a use of land, building or structure which is not permitted within a residential zoning district, nor does the variance concern a prohibited sign.

**NOW THEREFORE**, based upon the foregoing findings of fact and conclusions, the Zoning Board of Adjustment for the Town of Weaverville concludes that (1) it has jurisdiction to hear this variance request and (2) the request for a variance from the side yard setback as shown on the attached site plan should be granted as the request meets the required findings of subsection 36-328(2)(a) – (f) of the Code of Ordinances of the Town of Weaverville.

**IT IS, THEREFORE, ORDERED** that the Applicant’s request for a side yard variance as shown on the attached site plan is hereby granted.

**ORDERED THIS** the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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**Tycer Lewis, Chairman**  
**Zoning Board of Adjustment**

**ATTEST:**

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**James W. Eller**  
**Town Planner / Deputy Town Clerk**



**Agenda Items 4&5**  
**Special Use Permit Amendment – Ingles**

- **Affidavits**
- **Application and Plans**
- **Staff Report**

**TOWN OF WEAVERVILLE  
REGARDING THE MATTER OF:**

Ingles Markets Incorporated  
Special Use Permit Amendment  
140 Weaver Boulevard, 9742-19-3699

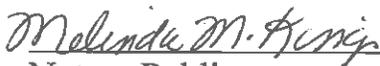
**AFFIDAVIT OF MAILING**

Being first duly sworn, I, James W. Eller, do hereby swear or affirm that on the 27th day of December, 2018, I mailed the attached Notice (Exhibit A) to all of the persons listed on the attached Exhibit B and that said mailing was accomplished by putting the Notice in envelopes, with postage pre-paid, addressed to all persons shown and at the addresses reflected on the attached Exhibit B, and that said envelopes were deposited in a U.S. Mail Box under the exclusive control of the U.S. Postal Service.

This the 27<sup>th</sup> day of December, 2018.

  
\_\_\_\_\_  
James W. Eller

Sworn to and subscribed before me  
this 27<sup>th</sup> day of December, 2018

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

[Notary Seal]



Exhibit A

## **NOTICE OF PUBLIC HEARING**

Public Notice is hereby given that the Town of Weaverville Zoning Board of Adjustment will hold a Public Hearing on Monday, January 14, 2019 at 7:00p.m. This meeting will occur within Council Chambers at Town Hall located at 30 South Main Street, Weaverville, NC to consider the following item:

An application to amend an existing special use permit for Ingles Markets Incorporated specific to parcel identification number 9742-19-3699, 140 Weaver Boulevard. The nature of the requested amendment is to enclose the portion of the facility currently used as a garden center in order to house an additional commercial establishment.

If you would like additional information or to review the content related to the Public Hearing you may contact Planning Director and Deputy Town Clerk James Eller at 828-484-7002 or [jeller@weavervillenc.org](mailto:jeller@weavervillenc.org).

Exhibit B

OWNER	ADDRESS	CITYNAME	STATE	ZIPCODE
167 WEAVER BOULEVARD OWNER LLC	39 NARROWS WAY	MONROE TOWNSHIP	NJ	8831
ALDI LLC	JEFFERSON DIVISION 1597 DRY POND RD	JEFFERSON	GA	30549
ANDREW S APOSTOLOPOULOS REVOCABLE TRUST	60 Fenner AVE	Asheville	NC	28804
ASHEVILLE CLEANERS & DYERS	230 MERRIMON AVE	ASHEVILLE	NC	28801
AUTOZONE DEVELOPMENT CORPORATION	ATTN:DEPARTMENT 8700 123 S FRONT ST	MEMPHIS	TN	38103
BH2 PARTNERS LLC	PO Box 1686	Clemmons	NC	27012
BLUE RIDGE HOSPITALITY VENTURES	PO Box 578	Dunn	NC	28335
BRANT POINT INVESTMENTS LLC	25 BAINBRIDGE CT	ARDEN	NC	28704
BROOKS CHAD C	35 LONGVIEW RD	ASHEVILLE	NC	28806
BUCKNER KATHLEEN SHELTON	PO BOX 1278	WEAVERVILLE	NC	28787
CARTER GEORGE ALLEN JR	8 ALEXANDER RD	WEAVERVILLE	NC	28787
CHARLES W ROUSSEAU JR ET AL	6 WADDELL ST	WEAVERVILLE	NC	28787
CLINTON MARY ANN	32 NETA LN	WEAVERVILLE	NC	28787
COLE JOEL STEPHEN	23 ALEXANDER RD	WEAVERVILLE	NC	28787
COLTUN EILEEN J;COLTUN ROBERT W	10133 BURTON GLEN DR	ROCKVILLE	MD	20850
DEPENDABLE HOUSE BUYER LLC	273 Foxcroft DR	Asheville	NC	28806
DIXON JAMES SCOTT; MOSER LINDA JOY	19 ALEXANDER RD	WEAVERVILLE	NC	28787
EVANGELOU SOTIROS LEO	17 Clinton ST	Weaverville	NC	28787
FIRST COMMERCIAL BANK	130 SOUTH JEFFERSON STREET SUITE 300	CHICAGO	IL	60661
FIRST WESTERN BANK	380 WELLINGTON ST TWR B 12 FL	LONDON		N6A 4
FULLBRIGHT A T; FULLBRIGHT MARIE G	11 CLINTON ST	WEAVERVILLE	NC	28787
GALARZA FAMILY ENTERPRISE LLC	3386 Hewlett AVE	Merrick	NY	11566
GARDEN ALISTAIR; GARDEN MAIDA M	15 ALEXANDER RD	WEAVERVILLE	NC	28787
GARDEN ALISTAIR; GARDEN MAIDA M	15 ALEXANDER RD	WEAVERVILLE	NC	28787
GARRISON ELAINE C	4 WADDELL ST	WEAVERVILLE	NC	28787
GLASGOW SARAH S	109 SHERWOOD DR	WEAVERVILLE	NC	28787
GOODWILL INDUSTRIES OF NW NC INC	2701 UNIVERSITY PKWY # 4299	WINSTON SALEM	NC	27105

HIGGINS PHILLIP;HIGGINS ISSAC	326 STOCKTON BRANCH RD	WEAVERVILLE	NC	28787
HOOPERS CREEK STRORAGE LLC	55 Bowen Terra DR	Hendersonville	NC	28791
INGLES MARKETS INCORPORATED	PO BOX 741328	DALLAS	TX	75374
IRC-MAB ACQUISITIONS LLC	PO Box 9275	Oak Brook	IL	60522
J R N CHICKEN STORES INC	PO BOX 22845	OKLAHOMA CITY	OK	73123
JOHNSON ARLOA K	31 ALEXANDER RD	WEAVERVILLE	NC	28787
MCDONALDS CORPORATION	AMF O'HARE STATE SITE #320308 PO BOX 182571	COLUMBUS	OH	43218
MOORE RHODA	55 MOORE ST	WEAVERVILLE	NC	28787
NATIONAL BANK OF COMMERCE	PO BOX 26665	RICHMOND	VA	23261
NEAL JOHN R	PO BOX 15726	ASHEVILLE	NC	28813
NESBITT WILLIAM HAROLD	4804 Kentwood LN	Woodbridge	VA	22193
NEW DRY RIDGE APARTMENTS LLC	PO Box 25088	Winston Salem	NC	27114
PAYNE ROBERT ALAN;PAYNE LINDA ANNE	22 HARBECK DR	WEAVERVILLE	NC	28787
PIWOWAR THERESA M	PO BOX 688	WEAVERVILLE	NC	28787
PKS HOLDINGS LLC	55 TIVERTON LN	ASHEVILLE	NC	28803
PLAZA ONE LLC	171 WEAVER BLVD	WEAVERVILLE	NC	28787
PONDER ARVAL V;PONDER MARGARET	15 HARBECK DR	WEAVERVILLE	NC	28787
PONDER REBECCA ANN	15 HARBECK DR	WEAVERVILLE	NC	28787
RAMSEY SHIRLEY J	63 ALEXANDER RD	WEAVERVILLE	NC	28787
RICE SANDRA FLYNN;RICE STEVEN OTHA	114 Sherwood DR	Weaverville	NC	28787
RICHARDSON GAIL A;RICHARDSON JEFF W	13 CLINTON ST	WEAVERVILLE	NC	28787
SAWYER ALAN W;SAWYER BARBARA R	8 MATT MANEY LN	BARNARDSVILLE	NC	28709
SCG-WEAVERVILLE LLC	NORTHCREEK 200 SUITE 650 3715 NORTHSIDE PARKWAY	ATLANTA	GA	30327
SHELTON GILL MICHAEL	46 ALEXANDER RD	WEAVERVILLE	NC	28787
TERRY JOSEPH PATRICK;TERRY KELLY RENE	39 ALEXANDER RD	WEAVERVILLE	NC	28787
TOWN OF WEAVERVILLE	PO BOX 338	WEAVERVILLE	NC	28787

TRICIA ELLEN WARD REVOCABLE TRUST TRICIA ELLEN WARD TRUSTEE	106 SHERWOOD DRIVE	WEAVERVILLE	NC	28787
TUCKER JOYCE J;TUCKER SAMUEL JAY JR	PO BOX 808	WEAVERVILLE	NC	28787
VROOMAN DAVID F;VROOMAN SUE E	52 MOORE ST	WEAVERVILLE	NC	28787
WEAVER VILLAGE RESIDENTIAL ASSOCIATION INC	2 Walden Ridge DR Ste 70	Asheville	NC	28803
WEAVER VILLAGE RESIDENTIAL ASSOCIATION INC	2 Walden Ridge DR Ste 70	Asheville	NC	28803
WEAVERVILLE PROPERTIES LLC	1091 FOUNDERS BLVD STE D	ATHENS	GA	30606
WEBSTER JULIA BORDEAUX;WEBSTER CHRISTOPHER	115 SHERWOOD DR	WEAVERVILLE	NC	28787
WILSON ALEXIS;WILSON TRAVIS	11 Harbeck DR	Weaverville	NC	28787



**TOWN OF WEAVERVILLE  
REGARDING THE MATTER OF:**

Ingles Markets Incorporated  
Special Use Permit Amendment  
140 Weaver Boulevard, 9742-19-3699

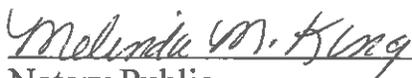
**AFFIDAVIT OF POSTING**

Being first duly sworn, I, James W. Eller, do hereby swear or affirm that on the 27th day of December, 2018, I posted the attached Notice of Public Hearing Sign(s), Exhibit A, at the location commonly known as 140 Weaver Boulevard and that a Notice of Public Hearing, Exhibit B, was affixed to the reverse side of same.

This the 27<sup>th</sup> day of December, 2018.

  
\_\_\_\_\_  
James W. Eller

Sworn to and subscribed before me  
this 27<sup>th</sup> day of December, 2018

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

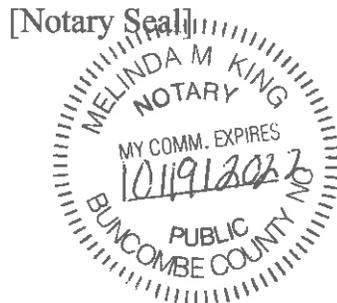


Exhibit A



**GAS EXPRESS**

**DIESEL**

**UNLEADED**

**2.99<sup>9</sup>**

**2.49<sup>9</sup>**

NOTICE OF PUBLIC HEARING

**Z**

FOR MORE INFORMATION, PLEASE CONTACT THE PLANNING DEPARTMENT AT 708-241-1234. A PUBLIC HEARING WILL BE HELD ON THIS MATTER ON [DATE] AT [TIME] AT [LOCATION].

## **NOTICE OF PUBLIC HEARING**

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An application to amend an existing special use permit for Ingles Markets Incorporated specific to parcel identification number 9742-19-3699, 140 Weaver Boulevard. The nature of the requested amendment is to enclose the portion of the facility currently used as a garden center in order to house an additional commercial establishment.

If you would like additional information or to review the content related to the Public Hearing you may contact Planning Director and Deputy Town Clerk James Eller at 828-484-7002 or [jeller@weavervillenc.org](mailto:jeller@weavervillenc.org).

# TOWN OF WEAVERVILLE SPECIAL USE PERMIT APPLICATION

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](mailto:jeller@weavervillenc.org)

**Special Use Permit Fee: \$500**

OWNER/APPLICANT NAME: Ingles Markets, Inc.      APPLICATION DATE: 12/26/18

BRIEFLY DESCRIBE THE PROJECT: Convert Garden Center to ACE hardware

PHONE NUMBER: 828-669-2941

PROPERTY ADDRESS: 140 Weaver Blvd.

PIN: 9742193699

DEED BOOK/PAGE: DB 1865 PG 79

TRACT AREA (acres): 11.96

PROPOSED SQ. FOOTAGE: Retrofit existing garden center- 12,190 heated and 4210 unheated

REGISTERED CONTRACTOR: JR Vannoy and Sons  
ADDRESS: 631 McGee Road, Anderson, SC 29625

PHONE NUMBER: 864-261-8458

REGISTERED ENGINEER: Patrick Rivers, PE  
ADDRESS: 110 West 1st Ave, Easley, SC 29642

PHONE NUMBER: 864-242-6072

**All applications shall be accompanied by a general site plan draw to scale and containing all elements of the attached checklist.**

**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.**

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

\_\_\_\_\_  
SIGNATURE OF APPLICANT

\_\_\_\_\_  
DATE

## OFFICE USE ONLY

FEE:	DATE PAID:	<input type="checkbox"/>	CHECK	<input type="checkbox"/>	CASH
SITE PLAN DECISION	<input type="checkbox"/>	APPROVED	<input type="checkbox"/>	DISAPPROVED	DATE:
DETAILED PLAN DECISION	<input type="checkbox"/>	APPROVED	<input type="checkbox"/>	DISAPPROVED	DATE:
<input type="checkbox"/>	APPROVED WITH CONDITIONS:				

SPECIAL USE PERMIT  
GENERAL PLAN REQUIREMENTS

All site plans submitted shall be prepared by, and bear the seal and signature of a registered engineer. Plans shall be drawn to scale containing all elements listed below. Plans shall be submitted in duplicate and accompanied by a statement that an Erosion Control permit from Buncombe County has been applied for.

At least one three-dimensional, color depiction of the proposed project shall be submitted containing elements listed below. Three-dimensional depictions of the proposed project may be submitted electronically or on a disk, if preferred.

N/A- Not Applicable  
N/C- Not Changed from Existing

X	Title block containing:
	X Name of owner
	X Location/Address
	X Buncombe County tax number (PIN)
	X Date or dates survey was conducted and plan prepared
	X Scale of the drawing, in feet per inch
	X Deed book and page reference of deed conveying property to current owner
X	Property lines, public rights-of-way
N/C	Exact dimensions by metes and bounds of the lot including interior lines if lot consists of multiple lots of record
N/C	Lot area in acres
N/C	Location, right-of-way width, and name of all streets bordering the property
N/C	Ownership of all properties within 500 feet of site boundaries
X	Minimum building setback lines applicable to the lot
N/C	Drainage or utility easements (public and private) located on the lot
X	Location of existing underground utilities
X	Location of existing natural features including ponds, streams, watersheds, rock outcroppings
N/A	Location of existing wells or septic fields
N/C	Exact dimension and location of all existing & proposed buildings or structures including patios, porches, awnings, etc.
N/C	Exact dimension and location of all off-street parking (refer to 36.176 of zoning ordinance)
N/A	Exact dimension and location of all loading spaces/docks including all turn-around spaces
X	Topography of the site in five (5) foot contours and true elevations
N/C	Proposed points of ingress and egress (minimum of two each) with the proposed internal traffic pattern and parking
N/C	Proposed provisions for stormwater collection and disposal, both natural & manmade, and treatment of ground cover
X	Proposed connections with Town water
N/C	Proposed connections with the MSD sewer system
N/C	Proposed locations and screening of garbage dumpsters /bulk containers
N/C	Buffering requirements if property abuts residential district (30ft setback, 20ft buffer)
N/C	Proposed sidewalk (refer to 36.24 of zoning ordinance)

**Topographic Survey**

	Boundary information in metes and bounds including existing and proposed street rights of way
	Location, grade, width, alignment of existing curbing, walks, grass, planting strips, roadway medians
	Location, size, depths, of all underground utilities including gas, electric, water, sewer, stormwater

Project was so small and mostly limited to the existing garden center that we used previous design plans when the original garden center was constructed

SPECIAL USE PERMIT  
GENERAL PLAN REQUIREMENTS

	Location and height above existing grade of overhead utility lines and poles
	Location and description of all recorded public or private utility easements and building setbacks
	Location of all natural features on the lot or within 100ft of the graded area
	Location of existing wells or septic fields
	Location of existing structures

**Grading Plan**

X	Contour lines at no greater than 10ft intervals
X	Grades at corners of buildings, step landings, and first floor elevations
X	Finished grades at the edges of surfaced areas and at such interior points as necessary
N/A	Proposed roadway elevations (profiles, cross sections, spot elevations)
N/C	Top-of-Curb grades at all connecting sidewalks, curb returns, and all catch basin locations
N/A	Spot elevations along swale lines, by using arrows to show direction of flow including slope gradients
N/C	Lawn and earth grades
N/A	Proposed location of stockpiled topsoil for future land use in landscaped areas
N/A	Storage locations of construction materials outside the root zones of significant vegetation
N/A	Location of existing significant vegetation
N/A	Elevations of any floodplains location on or directly affecting the tract
N/C	Location and size of any landscaping, screening, or buffering requirements as required by the Town

**Landscape plan**

N/C	Existing and proposed landscaping
N/C	Buffers required by Article VI – Landscape regulations
N/C	Screens required
N/C	Existing and proposed land uses of all adjoining properties and current zoning of those properties
N/C	Existing vegetation intended to be saved under Section 36-154
N/C	Any barriers proposed to protect vegetation during or after construction
N/C	Topographic contours at intervals no greater than five feet
N/C	Description of stormwater control and indication of direction of stormwater flow

**Also may be required by the Town of Weaverville:**

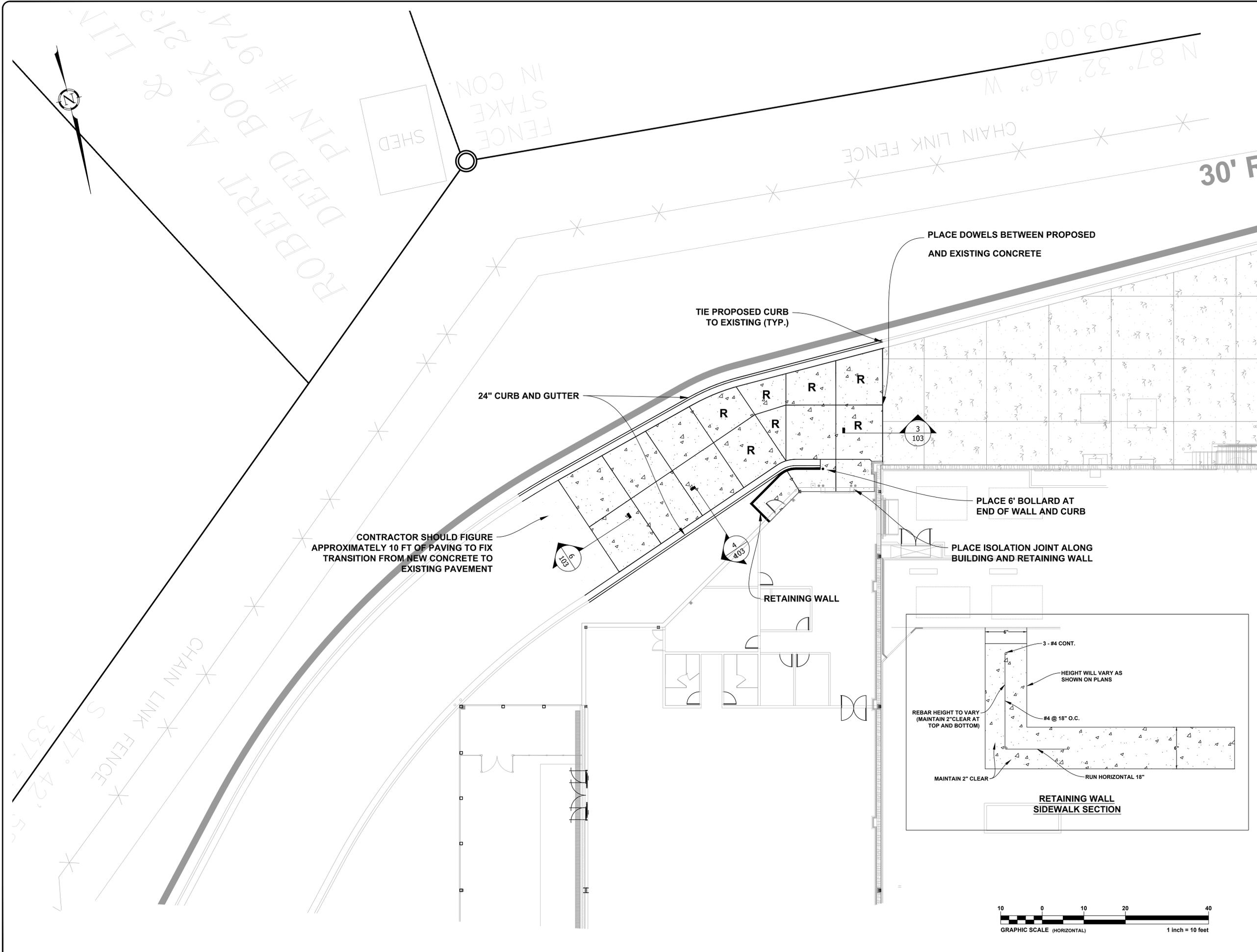
**Traffic Impact Analysis (Section 36-25 ), Lighting Plan (Section 36-26), Street Cut Permit**

**Also may be required by Buncombe County:**

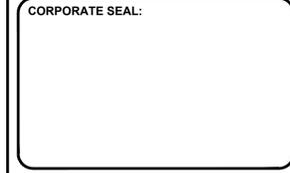
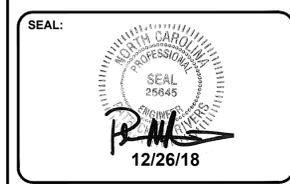
**Stormwater Plan, Erosion Control Plan, Building Permit, Floodplain Development Permit**

**Also may be required by NCDOT:**

**Driveway Permit**



REVISIONS:			
NO.	DATE	DESCRIPTION	BY
1	12/26/18	REVISED TAX MAP NUMBER	PCB



**LAND PLANNING ASSOCIATES**  
CIVIL ENGINEERING

DBA  
LAND PLANNING ASSOCIATES OF NC, INC.  
110 WEST 1ST AVENUE - SUITE A  
EASLEY, SC 29640  
864.242.6072 FAX 208.730.8214  
design@lpa-inc.net

**ingles**  
Markets Incorporated  
**INGLES STORE #180**  
140 WEAVER BOULEVARD  
WEAVERVILLE, NC 28787

PROPERTY INFORMATION:

TAX MAP NUMBER:	9742-19-3699
REFERENCE D.B. & PG:	D.B. 1865, PG. 79
ADDITIONAL INFO:	

ISSUE FOR CONSTRUCTION:

PERMIT DATE:	
BID DATE:	

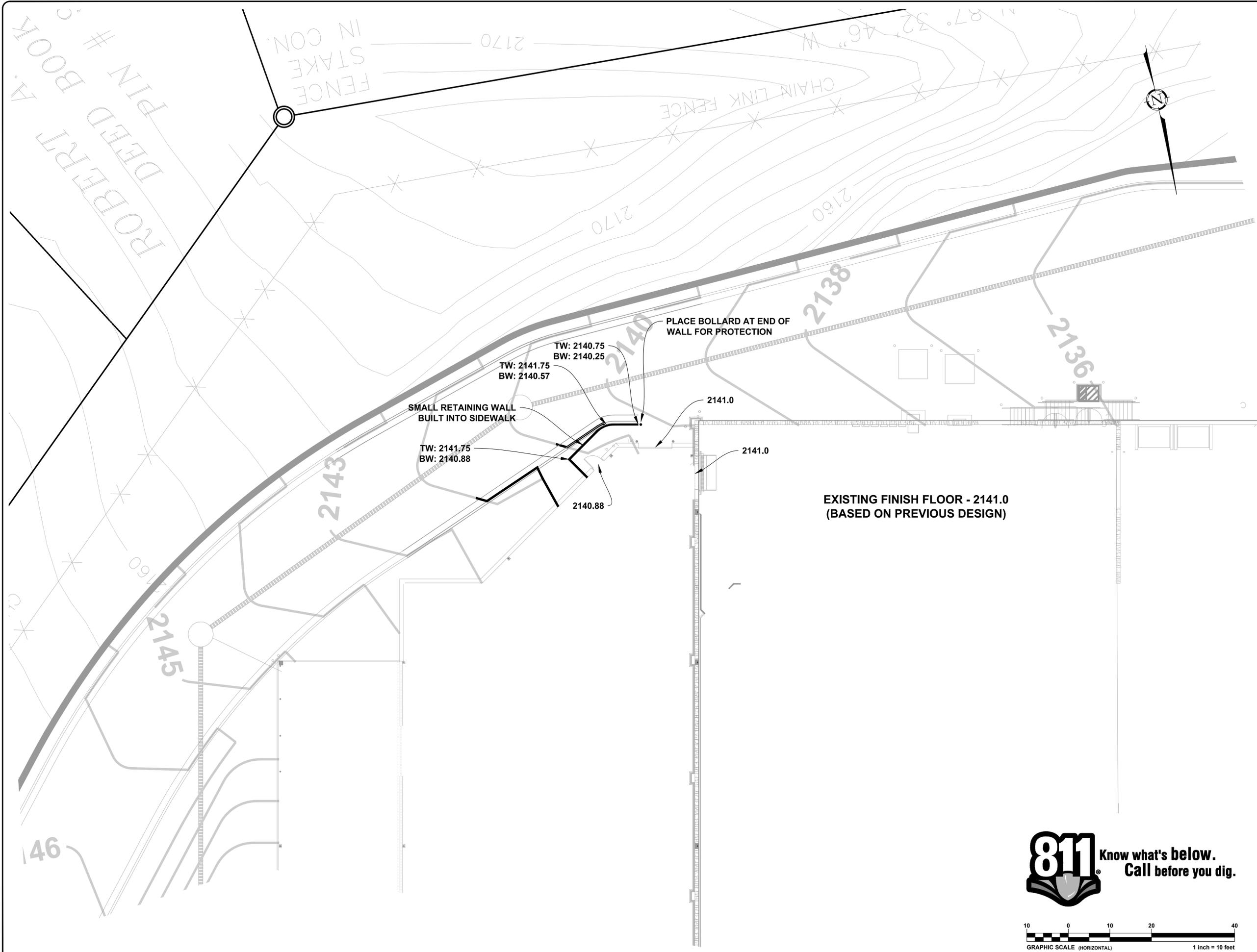
DRAWN BY:	SCW
DESIGN BY:	JDC
CHECKED BY:	JDC
DATE:	12/10/18
SCALE:	HORIZ. 1" = 10' VERT.
JOB NUMBER:	5.052

**SITE PLAN**

**C-101**  
STORE #180  
WEAVERVILLE  
NORTH CAROLINA

M:\Archives\052 - Ingles #180 - Weaverville, NCDwg\Design\18108 #180 C-101 SITE.dwg | Layout: C-101 SITE PLAN  
 Dec 26, 2018 at 11:00 by charlie





ROBERT A. DEED BOOK # PIN #

FENCE STAKE IN CON.

CHAIN LINK FENCE

SMALL RETAINING WALL BUILT INTO SIDEWALK

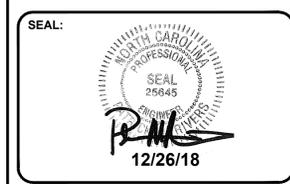
PLACE BOLLARD AT END OF WALL FOR PROTECTION

EXISTING FINISH FLOOR - 2141.0 (BASED ON PREVIOUS DESIGN)

M:\Projects\1805 - Ingles #180 - Weaverville, NC\Design\181108 #180 C-102 GRAD & SW PLAN.dwg | Layout: C-102 GRAD & SW PLAN | Dec 26, 2018 at 11:02 by charlie

**REVISIONS:**

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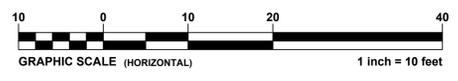
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 REFERENCE D.B. & PG: D.B. 1865, PG. 79  
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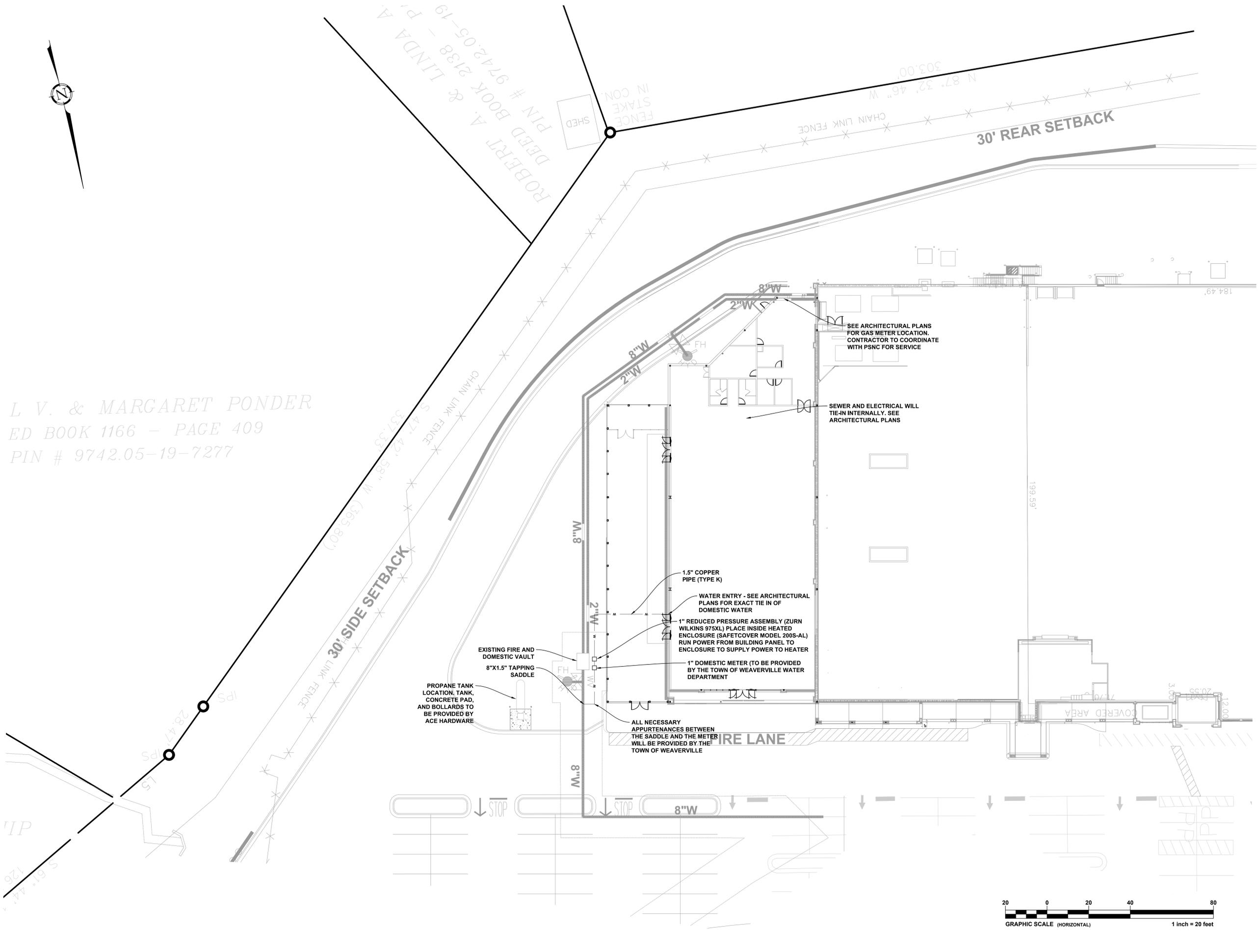
**ISSUE FOR CONSTRUCTION:**  
 PERMIT DATE:  
 BID DATE:

DRAWN BY: SCW  
 DESIGN BY: JDC  
 CHECKED BY: JDC  
 DATE: 12/10/18  
 SCALE: HORIZ. 1" = 20' VERT.  
 JOB NUMBER: 5.052

**GRADING AND STORMWATER PLAN**

**C-102**  
 STORE #180  
 WEAVERVILLE  
 NORTH CAROLINA





L V. & MARGARET PONDER  
 ED BOOK 1166 - PAGE 409  
 PIN # 9742.05-19-7277

ROBERT A. & LINDA A.  
 DEED BOOK 2138 - P. 1  
 PIN # 9742.05-19

SHED  
 FENCE  
 STAKE  
 IN CON

CHAIN LINK FENCE  
 30' REAR SETBACK  
 N 87° 32' 46" W 303.00'  
 S 47° 42' 58" W 351.33'

30' SIDE SETBACK  
 CHAIN LINK FENCE  
 S 47° 42' 58" W 351.33'

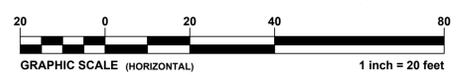
EXISTING FIRE AND DOMESTIC VAULT  
 8"X1.5" TAPPING SADDLE  
 PROpane TANK LOCATION, TANK, CONCRETE PAD, AND BOLLARDS TO BE PROVIDED BY ACE HARDWARE

1.5" COPPER PIPE (TYPE K)  
 WATER ENTRY - SEE ARCHITECTURAL PLANS FOR EXACT TIE IN OF DOMESTIC WATER  
 1" REDUCED PRESSURE ASSEMBLY (ZURN WILKINS 975XL) PLACE INSIDE HEATED ENCLOSURE (SAFETCOVER MODEL 200S-AL) RUN POWER FROM BUILDING PANEL TO ENCLOSURE TO SUPPLY POWER TO HEATER  
 1" DOMESTIC METER (TO BE PROVIDED BY THE TOWN OF WEAVERVILLE WATER DEPARTMENT)

ALL NECESSARY APPURTENANCES BETWEEN THE SADDLE AND THE METER WILL BE PROVIDED BY THE TOWN OF WEAVERVILLE

SEE ARCHITECTURAL PLANS FOR GAS METER LOCATION. CONTRACTOR TO COORDINATE WITH PSNC FOR SERVICE

SEWER AND ELECTRICAL WILL TIE-IN INTERNALLY. SEE ARCHITECTURAL PLANS



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 Dec 20, 2018 at 11:04 by chaille

REVISIONS:

NO.	DATE	DESCRIPTION	BY
1	12/26/18	REVISED TAX MAP NUMBER	PCB

SEAL:



CORPORATE SEAL:



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 LAND PLANNING ASSOCIATES OF NC, INC.  
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ingles

Markets Incorporated  
 INGLES STORE #180  
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 WEAVERVILLE, NC 28787

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 ADDITIONAL INFO:

ISSUE FOR CONSTRUCTION:

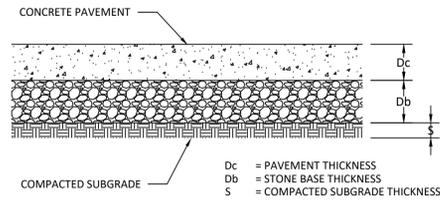
PERMIT DATE:  
 BID DATE:

DRAWN BY: SCW  
 DESIGN BY: JDC  
 CHECKED BY: JDC  
 DATE: 12/20/18  
 SCALE: HORIZ. 1" = 20' VERT.  
 JOB NUMBER: 5.052

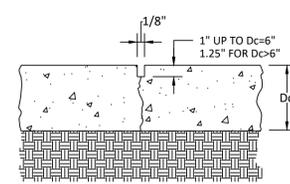
UTILITY PLAN

C-103

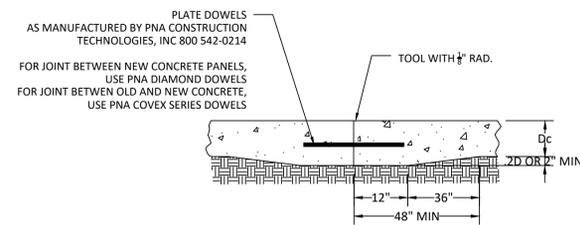
STORE #180  
 WEAVERVILLE  
 NORTH CAROLINA



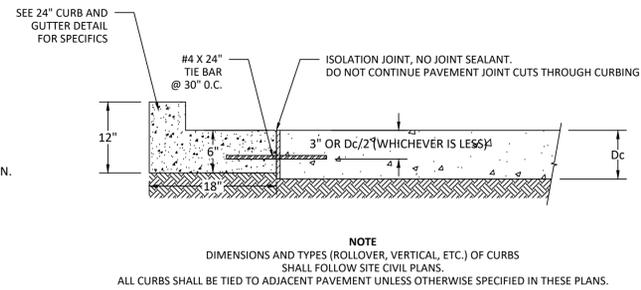
**1** CONCRETE PAVEMENT SECTION  
C-104 NOT TO SCALE



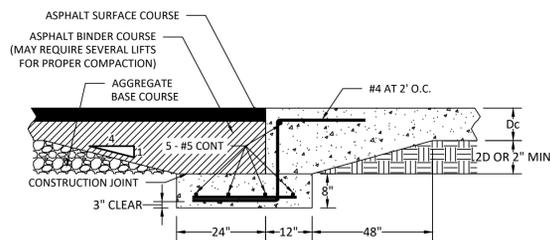
**2** CONTRACTION JOINT  
NO JOINT SEALANT  
C-104 NOT TO SCALE



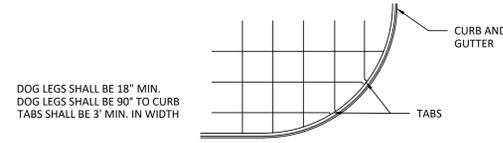
**3** CONSTRUCTION JOINT - DOWELED  
C-104 NOT TO SCALE



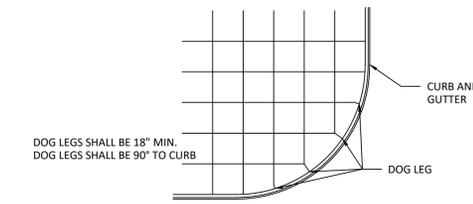
**4** TIED CURB  
C-104 NOT TO SCALE



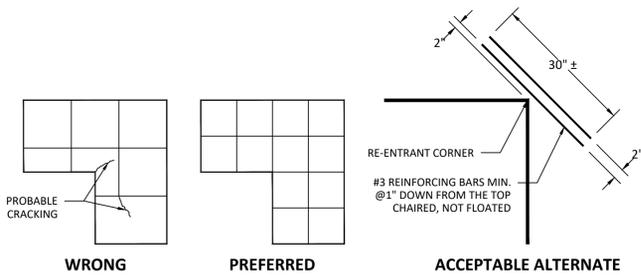
**5** ASPHALT TO CONCRETE PAVEMENT JOINT  
C-104 NOT TO SCALE



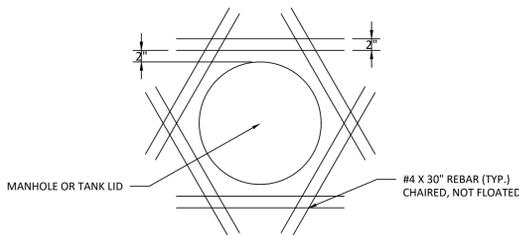
**6** JOINT LAYOUT AT RADIUS AND ANGLES  
FOR TABS  
C-104 NOT TO SCALE



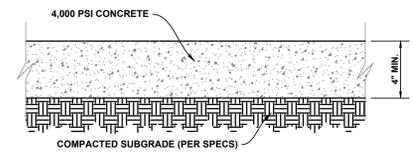
**7** JOINT LAYOUT AT RADIUS AND ANGLES  
FOR DOG LEGS  
C-104 NOT TO SCALE



**8** RE-ENTRANT CORNER  
REINFORCEMENT  
C-104 NOT TO SCALE

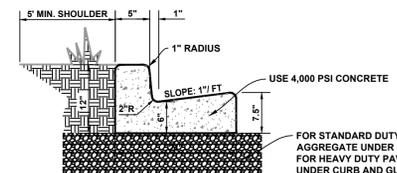


**9** MANHOLE AND TANK LID  
CRACK CONTROL REINFORCEMENT  
C-104 NOT TO SCALE

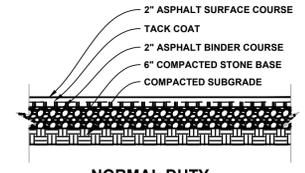


**NOTES:**  
1. CONTRACTION JOINTS SPACE TO BE EQUAL TO SIDEWALK WIDTH  
2. EXPANSION JOINTS 100' O/C  
3. ALL JOINTS SEALED PER SPEC

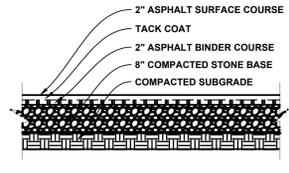
**SIDEWALK DETAIL**  
(N.T.S.)



**24\"/>
CONCRETE CURB & GUTTER DETAIL**  
(N.T.S.)  
MAXIMUM DISTANCE BETWEEN EXPANSION JOINTS= 40' O/C  
EXPANSION JOINTS REQUIRED AT ALL STRUCTURES AND CURB RETURNS

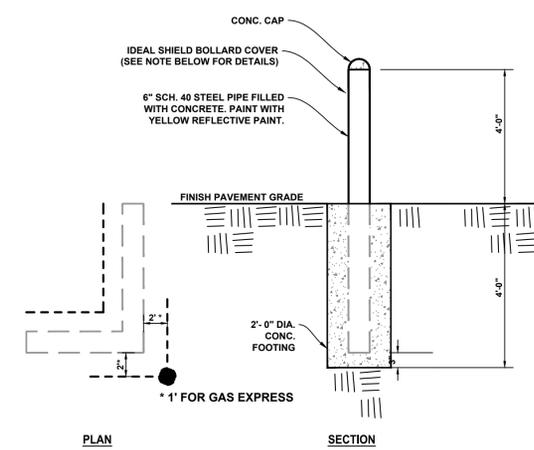
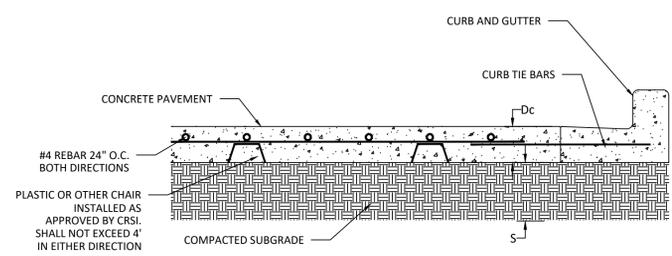


**NORMAL DUTY**



**HEAVY DUTY**

**PAVING DETAILS**  
(N.T.S.)



**TYPICAL BOLLARD DETAIL**  
(N.T.S.)

**IDEAL SHIELD BOLLARD COVER NOTES:**  
• USE 1/4\"/>

- PANELS WITH THE FOLLOWING CRITERIA SHALL BE REINFORCED: PANELS OF MORE THAN 15' IN LENGTH OR WIDTH, PANELS THAT EXCEED THE MAXIMUM LENGTH TO WIDTH RATIO OF 1.25:1, PANELS THAT ARE IRREGULAR IN SHAPE OR PANELS IN WHICH ANY CORNER'S ACUTE ANGLE IS LESS THAN THE MINIMUM OF 60°.
- REFERENCE PAVING PLAN TO ASSIST WITH THE LOCATION OF REINFORCED PANELS.
- IT IS THE CONTRACTOR'S RESPONSIBILITY TO IDENTIFY ALL PANELS FITTING THE CRITERIA OF NOTE 1 ABOVE.
- MAINTAIN 2" CLEAR COVER OF ENDS OF BARS.
- TIE BARS WHERE THEY CROSS.
- REBAR SHALL BE 1" CLEAR FROM ANY DOWEL BARS.
- USE PROPER CHAIRS TO MAINTAIN 2" CLEAR FROM TOP OF PAVEMENT.
- DO NOT CONTINUE REINFORCEMENT THROUGH JOINT.
- PRIOR TO CONCRETE PLACEMENT, LOCATION OF REINFORCED STEEL SHALL BE SPRAY PAINTED ON THE GROUND SUCH THAT REINFORCED STEEL SHALL NOT EXTEND INTO ADJACENT PANELS.

**10** SURFACE CRACK CONTROL  
REINFORCEMENT  
C-104 NOT TO SCALE

**REVISIONS:**

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**INGLES STORE #180**  
140 WEAVER BOULEVARD  
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**PROPERTY INFORMATION:**  
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REFERENCE D.B. & PG: D.B. 1865, PG. 79  
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**DRAWN BY:** SCW  
**DESIGN BY:** JDC  
**CHECKED BY:** JDC  
**DATE:** 12/10/18  
**SCALE:** HORIZ. 1" = 40' VERT.  
**JOB NUMBER:** 5.052

**SITE DETAILS**  
**C-104**  
STORE #180  
WEAVERVILLE  
NORTH CAROLINA

# Town of Weaverville, North Carolina

## Staff Report: Proposed Special Use Permit Amendment for Ingles

Prepared January 2018

Sources: Town of Weaverville Code of Ordinances; Orders of the Town of Weaverville Board of Adjustment in the Matter of Ingles

### Applicability and Jurisdiction

The ability for a property owner to apply for a new special use permit in the form of a unified housing development or a unified business development was repealed by ordinance in September 2016 and August 2017 respectively. However, many and several special use permits created by order of the Zoning Board of Adjustment remained and any amendment thereto must be heard through the quasi-judicial process as per Chapter 36, Article IX – Special Use Permits.

### Compliance with Underlying Zoning District

Standard 3 found within Sec. 36-238 – Standards requires the Zoning Board of Adjustment to find that the establishment of the special use (or amendment thereto in this case) will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. The property which Ingles currently inhabits at 140 Weaver Boulevard is currently zoned C-2 and the use of “*general retail*” is permitted within the district. Therefore, it is the belief and understanding of staff that an amendment to the existing special use permit to allow for additional “*general retail*” would not be injurious to the further development and improvement of surrounding properties within the zoning district described.

### Previously Established Orders

Having reviewed the three previously established orders related to the special use permit which governs the property, it is the belief and understanding of staff that the conditions placed upon the property (especially the installation of a signalized intersection for the main entrance to the property) has been accomplished by the property owner.

The parking requirement for the Ingles property was amended via a variance in 2008 which allowed Ingles to possess fewer spaces than the one space per 200 square feet required by ordinance at that time.

### Parking

Formulas related to the parking required by particular uses were amended by ordinance in July, 2016 to better align the Town’s requirements with that of comparable jurisdictions and to reduce the amount of impervious surface the Town was dictating to be constructed despite the lack of need from the private sector. The town now requires one space for each 300 square feet of gross floor space for the particular

Town of Weaverville, North Carolina  
**Staff Report: Proposed Special Use  
Permit Amendment for Ingles**

Prepared January 2018

Sources: Town of Weaverville Code of Ordinances; Orders of the Town of Weaverville Board of Adjustment in the Matter of Ingles

use of “*general retail.*” Given the this proposal does not consider the expansion of the present footprint and that the parking requirements only (by design with the loss of privilege licenses) consider the gross floor space of a particular facility and not the number or individual tenants therein, the Ingles property into compliance with the minimum parking space requirement even if by coincidence due to the aforementioned amendment of municipal ordinance.

**Traffic Impact Analysis**

The necessity of a traffic impact analysis or lack thereof is addressed within Sec. 36-25 – Traffic Impact Analysis (b) Required which in part reads as follows...

*“All proposals for new construction, additions and/or expansions to existing structures, and/or changes of use which will result in total peak hour trips equal to or greater than 40 peak hour trips using trip generation rates from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers shall include an analysis of the traffic to be generated by such construction, addition or extension.”*

It is the opinion of staff that given the existing structure is not being expanded and that the use of the property is not changing that no traffic impact analysis is required under the aforementioned section of municipal ordinance.

