



**Town of Weaverville
Planning and Zoning Board
Town Hall Council Chambers
Tuesday, February 4, 2020, 6:00pm**

Agenda

1. Call to Order – Chairman Gary Burge.
2. Approval of the Agenda.
3. Approval of the Minutes from the January 7, 2020 Meeting of the Board and the December 12, 2019 Joint Meeting with Town Council.
4. Discussion Related to a proposed Minor Subdivision located at 29 Reynolds Lane.
5. Consideration of a Motion Establishing a Recommendation to the Planning Director on the Aforementioned Minor Subdivision.
6. Discussion Related to a Proposed Major Subdivision Application, preliminary plat and Plans for a Development Commonly Known as Greenwood Park.
7. Discussion and Direction to Staff Related to Mixed Use Development.
8. Discussion Related to Chapter 160D.
9. Any other Business to Come Before the Board.
 - Report on Undeveloped or Underutilized Parcels of Size within Municipal Borders.
 - Chapter 24: Streets and Sidewalks.
10. Adjournment.



**Agenda Item 3
Minutes**

Town of Weaverville
Planning and Zoning Board
Minutes – Tuesday, January 7, 2020

The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, January 7, 2020 within the Council Chambers at Town Hall.

Present: Chairman Gary Burge, Vice Chairman Catherine Cordell, Board Members John Chase, Peter Stanz and Steve Warren, Alternate Members Tom Balestrieri and Rachael Bronson, Town Manager Selena Coffey, Town Attorney Jennifer Jackson and Planning Director James Eller.

1. Call to Order.

Chairman Gary Burge called the meeting to order at 6:00 pm.

2. Approval of the Agenda.

Mr. Stanz motioned to approve the agenda as presented. Ms. Cordell seconded and all voted unanimously.

3. Approval of the Minutes from the December 3, 2019 Meeting of the Board.

Ms. Cordell motioned to approve the minutes as presented. Mr. Warren seconded and all voted unanimously.

4. Discussion Related to the Implementation of a Staff-led Technical Review Committee for Development Reviews as Called for by the Comprehensive Land Use Plan.

Mr. Eller provided the Board with a staff report related to the implementation of a staff-led technical review committee as called for by the comprehensive land use plan. Even though the practice is already in place, the proposed text amendment would require certain development approvals to be reviewed by a formalized technical review committee including the Fire Marshal, Planning Director and Public Works Director or their designees. Comments from the Committee on the proposed development are to be based on the Committee's findings of compliance with various sections of municipal ordinances and relevant federal and state laws, rules and regulations.

5. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Implementation of a Staff-led Technical Review Committee.

Mr. Warren motioned to offer a positive recommendation to Town Council on the proposed text amendment which would create a formal technical review committee for the review of certain development. Said recommendation included finding the text amendment consistent with the comprehensive land use plan in that such an amendment is specifically called by the plan and both reasonable and in the public interest as the formalized technical review committee would ensure proper development reviews. Mr. Stanz seconded and all voted unanimously.

6. Discussion Related to Tow Stated Goals from the Comprehensive Land Use Plan. Those Goals Being “Consider Land Use Regulation that Better Provides for Mixed Use Development” and “Consider Land Use Regulation that Better Provides for Transition Districts.”

Mr. Eller presented the Board with a staff report establishing the desire of Town Council to address mixed use development and/or transitional districts as stated in both the adopted strategic plan and comprehensive land use plan. Included in said report was also an analysis of existing conditions which acknowledged that no new residential uses are permitted in the C-1, C-2 and I-1 zoning districts.

Consensus was gained that additional standards could be adopted to permit dwelling units of a to be determined configuration within the C-1 and C-2 zoning districts but no new residential uses should be permitted in the I-1 zoning district. Consensus was also gained that consideration should be given to infill development as well as new development to adequately address both mixed use development and to ease the transition between existing zoning districts.

7. Consideration of Direction to Staff to Draft Proposed Language for the February Meeting of the Board Related to the Two Aforementioned Goals.

Staff was directed to craft additional standards to permit residential uses within commercially zoned areas for the Board’s consideration.

8. Any Other Business to Come Before the Board.

The Board was provided with the adopted 2020 schedule of meetings, an active roster of the Board and a zoning permit report establishing the number of permits issued and for what use within the 2019 calendar year.

As per the Board request, a report on undeveloped or underutilized parcels of size within municipal borders was examined.

Mr. Eller provided an update on various phases of Greenwood Park and the Hamlet which had previously achieved preliminary plat approval and a forecast of potential conditional zoning districts anticipated to come before the Board in the following months.

9. Adjournment.

Ms. Cordell motioned to adjourn. Mr. Chase seconded and all voted unanimously.

**Gary Burge, Chairman
Planning and Zoning Board**

ATTEST:

**James W. Eller
Planning Director / Deputy Town Clerk**



Town of Weaverville Minutes

Special Called Joint Meeting of Town Council and Planning and Zoning Board Tuesday, December 12, 2019 – Town Hall

The Town Council and Planning and Zoning Board for the Town of Weaverville met for a Special Called Joint Meeting on Tuesday, December 12, 2019, at 6:00 p.m. in Council Chambers within Weaverville Town Hall at 30 South Main Street, Weaverville, North Carolina.

Council members present: Mayor Al Root, Vice Mayor/Councilmember Doug Jackson, Councilmembers Patrick Fitzsimmons and Andrew Nagle. Councilmembers Dottie Sherrill and Jeff McKenna were absent.

Planning and Zoning Board members present: Chairman Gary Burge, Vice Chairman Catherine Cordell, Board Members: Peter Stanz, John Chase and Steve Warren, Alternate Board Member Rachel Brunson. Alternate Member Tom Balestrieri was absent.

Staff present: Town Manager Selena Coffey, Town Attorney Jennifer Jackson, Town Planner James Eller, and Town Clerk Derek Huninghake

1. Call to Order

Mayor Root called the meeting to order on behalf of Town Council at 6:00pm.

Chairman Gary Burge called the meeting to order on behalf of the Planning and Zoning Board at 6:00pm.

Mayor Root opened the meeting by noting that this Special Called Joint meeting is for Town Council to receive feedback from the Planning and Zoning Board on what they see as the top priorities and concerns in the Town, what their role is and how it can better serve Town Council and discuss the possibility of creating a new R-4 zoning district. Mayor Root mentioned that the approved 2020 Town Council meeting schedule includes a joint meeting every four months which will be beneficial for both boards to be on the same page.

2. Discussion

Mr. Stanz commented that he doesn't feel they have done a lot of planning, but instead more reacting and would like them to have the power to do more planning. He also wonders how the P&Z Board could assist staff in getting more top priority items to the top of the list. He understands there is a balance between the volunteer board trying to help staff and not getting in the way. He has thought for a long time that mixed use was the number one priority, but believes it has been pushed back down the list to allow for affordable housing. He spoke with Town Manager Coffey about the community center project and if affordable housing is that important then why don't we talk with developers about giving them extra funds to help with affordable housing.

Vice Mayor Jackson noted that he would like the P&Z Board to look into issues that were developed on the strategic plan like mixed-use housing and provide input to Town Council on where they see trends going in five or ten years. He believes the board being involved in more long term strategic planning would be beneficial.

Mr. Burge agreed with Vice Mayor Jackson's suggestion and mentioned that the P&Z Board follows the priority list that they wanted to address like affordable housing and then next mixed use housing, when they aren't working on text amendments and zoning changes. He believes their main responsibility is to the Town citizens with regards to

what Weaverville will be like in five or ten years, so as an advisory board he would like the ability to provide Town Council with input on issues that could be addressed by changes in zoning laws and subdivision regulations.

Councilmember Nagle wondered if there was a job description for the roles of the P&Z Board and if there were any limitations to what the board couldn't do. Town Attorney Jackson mentioned that at the last joint meeting they discussed what the law and ordinances allow the board to do and the duties assigned by Town Council through ordinances. She noted that there aren't any limitations to what the P&Z Board does as an advisory board. Town Planner Eller mentioned that state legislature allow Town Council to delegate the authority to approve subdivision plans to the P&Z Board, but that has not been done in Weaverville. Councilmember Nagle then noted that it would be a great idea to broaden the scope of responsibilities of the P&Z Board and not just for specific projects.

Mayor Root mentioned that at the end of the day the elected officials are the ones that will be held responsible for the decision, but the ability for the P&Z Board to offer their advice in a detailed way lets them see things that Town Council might not. He knows there are items that have to go before the P&Z Board before Town Council can do anything and believes that if there is a desire on the P&Z Board to go a different direction then Town Council wants to hear that feedback.

Mrs. Cordell mentioned that this was where the P&Z Board gets stuck, since Town Council does the future plan and gives them their list of top priorities. They look at their role as this is what Town Council wants, so they don't think they are able to come back to Council and tell them this doesn't work. Instead they look at the list and wonder how they can make it work. Mayor Root noted that in terms of prioritization, the difference between item one, two and three isn't that important.

Councilmember Fitzsimmons noted that they will always welcome recommendations since often they recognize the problem, but don't know the answer and look for the P&Z Board for some input.

Mr. Stanz mentioned that the top two priorities on the list are affordable housing and mixed use developments. It seems to him that affordable housing came to the P&Z Board from Town Council and they wonder how that is important to Weaverville and where it is coming from. As for mixed uses the P&Z Board brought that to Town Council, since there were places where developers told them they couldn't do that. But they aren't able to go back to the developer and tell them that they are able to do something else.

Councilmember Fitzsimmons noted that it comes from the fact that the average price of homes are higher in Weaverville than in Asheville and the average age is rising every year as well, since younger families can't afford to live here. For the future of the Town this won't work and we are trying to find a way for younger families to move to Weaverville.

Mrs. Cordell noted that they discovered that high density doesn't mean affordable housing, since they have allowed developments to be different than the standards were so they could have high density, but the homes were still around \$500,000. The original affordable housing was probably R-3, but that district allows manufactured homes which not everyone wants, but do we have a place for this to be. Also, they have approved more apartments recently, however they received an email about the apartment costs increasing 5% each year. She believes that it is nice that we are looking at affordable housing, but where we sit now we have done our best job of letting it come to us like Lillie Farm. The Town of Weaverville isn't able to manage affordable housing to make sure the owners live in the homes for 15 years and not sell to make a profit.

Councilmember Fitzsimmons mentioned that most of the affordable housing developments intend to be apartments opposed to housing developments, since we aren't able to require developers to build houses at a certain price. He noted that the Town doesn't have the ability to manage these sites, but wonders what we can do to partner with Mountain Housing Opportunities or Habitat for Humanity to find ways for us to be more attractive for these developments.

Mrs. Cordell commented that she really doesn't want to see a new R district for high density or affordable housing, since we are managing it well and need to wait for it to come to us one step at a time. She said that people are parking on sidewalks when setbacks are reduced and their garages are full, due to density.

Councilmember Fitzsimmons noted that denser zoning is not only for affordable houses, but infill properties in the heart of Town would allow for people to drive less and walk to more businesses. Mrs. Cordell agreed with pursuing the infill properties.

Mayor Root mentioned that this could have been a misimpression that Town Council had given them. It may well be that the R-4 district could be good for affordable housing and could add other benefits. Mr. Burge noted that the general feeling is that if they create R-4 with high density and smaller lots than this would become default for single family construction in Weaverville.

Vice Mayor Jackson commented that Town Manager Coffey had gotten some statistics on rental costs in Weaverville compare to Asheville and it appeared that our costs were cheaper than Asheville. Town Planner Eller noted that he provided information related to a study done related to Asheville, and it showed that our citizens make more money and our rent costs less. Town Manager Coffey mentioned that the key clarification is that the numbers didn't match the narrative and we had to back into the formula. Town Planner Eller added that the information was obtained from the American Community Survey that was conducted in 2017 and the City of Asheville had commissioned a Bowen Report that gives them information that is two years newer, so that is as close as we could get to making the numbers match.

Mr. Warren mentioned that one thing that was brought up at their last board meeting was the fact that they don't have all the answers and it might be helpful to get some outside experts that understand the housing industry to give us a tutorial, rather than try to answer the dilemma on their own. Mayor Root wonders if it would be better for those folks to meet with the P&Z Board or have a workshop with Town Council included as well. He would like us to be more proactive in reaching out them for more help on possible grants and other possibilities.

Councilmember Nagle mentioned that Town Council asked about creating R-4 thinking that this could help affordable housing, but what we are really trying to figure out is how we can get younger families with lower incomes to be able to move to Weaverville.

Mr. Stanz reiterated his earlier statement that if Town Council really wants affordable housing then how much are they willing to invest to create affordable housing, if it is nothing then we shouldn't pursue it. He also noted that there isn't very much land left to develop, so we need to figure out what we want in those locations. Mayor Root disagreed on the topic of spending money and thinks there is a different way to look at it. He believes that we can channel it through zoning to make sure that things are setup correctly.

Mr. Warren commented that he doesn't know if there is a big demand for affordable housing. After all we are only a Town of 4,000 residents and if you go a 1 mile outside you are in the county, shouldn't the county offer affordable housing? Or why does the Town have to take on the task of creating affordable housing? He isn't in the private sector so he doesn't know if the housing market is pursuing these types of developments.

Mr. Burge noted that he has spoken with neighbors and citizens about affordable housing and they don't want \$250,000 homes coming into their neighborhood because it would lower the value of their property. Plus he spoke with a few developers and they don't want to build these types of developments either. He doesn't see a distressed economic area in Weaverville.

Town Planner Eller noted that most of the time affordable housing is found in multi-family configuration. As for Lillie Farm Cove like Mrs. Cordell brought up, it was approved in September 2016 with each unit being a single family home and 32 out of 46 were offered at affordable housing pricing levels. The Town has issued 196 permits from September and, to date, that equates to 16% of zoning permits issued to new single family construction have

gone to affordable housing. Mr. Eller noted that this was a Mountain Housing Opportunities project and they are obligated to operate under the terms of 80% of the income.

Councilmember Fitzsimmons noted that the desire is to have younger families in Weaverville besides just to diversify the age in Weaverville. We don't see a lot of kids around Weaverville that actually live in Town and we don't want to only have the older generation.

Councilmember Nagle noted that potentially there are other things that the Town could do like spend money on such as fiber optic technology, dog park, and community center to attract younger families to move here. Mr. Burge mentioned that true high speed internet would be an attraction as well as allowing the capability of free WiFi on Main Street. Mr. Stanz commented that zoning might not be the answer for attracting younger families to the area.

Mr. Burge mentioned that the P&Z Board is interested in mixed use, since it gives the Town more flexibility and could be a way to address affordable housing while having a business below that creates jobs. Councilmember Fitzsimmons noted that this is attractive and our downtown is booming, but there is no place to put them. However a mixed use development somewhere outside downtown might be desirable.

Councilmember Fitzsimmons mentioned that the issue of Airbnb growth in our Town will need to be addressed soon, as well as the possibility of allowing for tiny homes. It would be good if we can try and get out in front of this, instead of having to react when someone brings it up to us. Mr. Burge noted that they didn't consider accessory dwelling units like garage apartments, since the downside is that it encourages Airbnb's and could ruin the character of the Town of Weaverville.

3. Overview

Mayor Root mentioned that if he is hearing this correctly, Town Council doesn't want to task the P&Z Board with drafting an R-4 ordinance, but to broaden their scope of responsibility and for them to come back to Council and advise them on what to do. Mixed use is a very interesting topic and if P&Z Board wants to tackle this issue and bring back their suggestions to Council at an upcoming next meeting. He also noted that we start shifting away from affordable housing and to find ways to attract younger families.

Mr. Burge agreed with Mayor Root, since the possibilities are actually there to do something. The more we think about affordable housing then the less we will actually change anything because it would have unattainable consequences to the Town. He also introduced the Planning and Zoning Boards new alternate member, Rachael Bronson.

4. Adjournment.

Vice Mayor/Councilman Jackson made the motion to adjourn the Town Council meeting; Councilman Fitzsimmons seconded and all of Town Council voted to adjourn the Council's meeting at 7:26 p.m.

Board member Cordell made the motion to adjourn the meeting of the Planning and Zoning Board; Board member Stanz seconded and all Board members voted to adjourn the Board's meeting at 7:26 p.m.



DEREK K. HUNINGHAKE, Town Clerk



MAYOR ALLAN ROOT

JAMES ELLER, Town Planner

CHAIRMAN GARY BURGE



Agenda Item 4&5
29 Reynolds Lane - Minor Subdivision

MINOR SUBDIVISION 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

Fee: \$50.00 + \$25.00 per lot
Four lot subdivision -- \$150.00 + \$25.00 per lot

APPLICATION DATE: 10-18-19
SUBDIVISION NAME: Reynolds Ln.
PIN: 9742-36-9414
ORIGINAL TRACT SIZE (acres): 4.5 acres
SUBDIVISION TYPE: RESIDENTIAL COMMERCIAL INDUSTRIAL

OWNER NAME: James (Jay) Collier
PROPERTY ADDRESS: 29 Reynolds Ln
DEED BOOK/PAGE:
PROPOSED NUMBER OF LOTS: 2

OWNER/AGENT NAME:
ADDRESS: Jay Collier
REGISTERED SURVEYOR:
ADDRESS:
REGISTERED ENGINEER:
ADDRESS:

PHONE NUMBER: 828-545-3827
PHONE NUMBER:
PHONE NUMBER:

Which utilities will serve the proposed development?:

- PUBLIC SANITARY SEWER COMMUNITY SEWER SEPTIC TANKS ON EACH LOT
 PUBLIC WATER COMMUNITY WATER WELLS ON EACH LOT

It is the applicant's responsibility to obtain a copy of the Town of Weaverville Subdivision Ordinance and 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. I understand that a copy of the recorded plat must be submitted to the Zoning Department prior to the issuance of any permits associated with this subdivision.

SIGNATURE OF APPLICANT *Jay Collier* 10-18-19
DATE

OFFICE USE ONLY

FEE: \$50 DATE PAID: 1.24.20 CHECK CASH CARD
PRELIMINARY PLAT APPROVAL DATE: FINAL PLAT APPROVAL DATE:

APPROVED WITH CONDITIONS:

MINOR SUBDIVISION PLAN AND PLAT REQUIREMENTS

All applications for minor subdivisions should be submitted to the Town of Weaverville Planning and Zoning Administrator.

In order to be considered for the next regularly scheduled meeting of the Planning and Zoning Board, complete applications must be submitted no fewer than ten (10) days business days before the meeting. However, it is strongly encouraged that applications be submitted no fewer than fifteen (15) business days in advance of the aforementioned deadline to allow additional time for review. Eight (8) copies of the plat shall be submitted.

The minor subdivision procedures 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 of the original subdivision received preliminary plat or final plat approval.

Preliminary and Final plats submitted for consideration must contain the following:

	Title Block containing:
	<input checked="" type="checkbox"/> Name of subdivision, if any
	<input checked="" type="checkbox"/> Name of Owner and Subdivider or Developer
	<input checked="" type="checkbox"/> Zoning designation of property
	<input checked="" type="checkbox"/> Location: (address, township, county, state)
	<input checked="" type="checkbox"/> Buncombe County tax PIN
	<input checked="" type="checkbox"/> Date or dates survey was conducted and plat was prepared
	<input checked="" type="checkbox"/> Scale of the drawing in feet per inch listed in words or figures
<input checked="" type="checkbox"/>	Sketch vicinity map depicting the relationship between the proposed subdivision and the surrounding area
<input checked="" type="checkbox"/>	North Arrow and orientation
<input checked="" type="checkbox"/>	Acreage of total tract to be subdivided
<input checked="" type="checkbox"/>	Number of parcels/lots to be created and size of lots
<input checked="" type="checkbox"/>	Corporate line limits, township boundary lines, county lines if any such lines intersect the subdivision tract
<input checked="" type="checkbox"/>	Minimum building setback lines
<input checked="" type="checkbox"/>	Names, addresses, telephone numbers of all owners, registered surveyors, professional engineers, architects, and landscape architects responsible for the subdivision. Include registration number and seals for engineers and surveyors
<input checked="" type="checkbox"/>	Exact exterior boundary lines of the tract in metes and bounds, and the location of existing boundary lines of adjoining tracts
<input checked="" type="checkbox"/>	Names of owners of adjoining properties and zoning designation
<input checked="" type="checkbox"/>	Names of any adjoining subdivisions of record or proposed
<input checked="" type="checkbox"/>	Plans for individual water supply and sewerage disposal system including septic. *Submit statement from Buncombe County Health Department that the final plat has been submitted.
<input checked="" type="checkbox"/>	Existing and proposed streets, driveways, easements, and rights-of-way, designated as private or public. Include width and names of streets.
<input checked="" type="checkbox"/>	Existing and proposed encroachments into setbacks, rights-of-way, and/or easements, if any.

MINOR SUBDIVISION CERTIFICATES REQUIRED

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".

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

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 Offer of 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, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements shown on the plat to public or private use as noted on the plat, subject to official acceptance by the Town of Weaverville.

Date: 10-18-19 Owner: GM NW

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

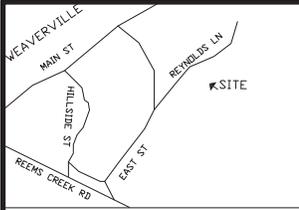
(iii) I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Weaverville, North Carolina and that this plat has been approved by the Town Council of Weaverville for recording in the Office of the Register of Deeds of Buncombe County.

Planning Director Weaverville, North Carolina

Date _____

	Phone	Location
Buncombe County Register of Deeds	828-250-4303	205 College Street Asheville, NC 28801
Buncombe County Erosion Control	828-250-4848	46 Valley Street Asheville, NC 28801
Metropolitan Sewerage District	828-254-9646	2028 Riverside Drive Asheville, NC 28804
Buncombe County Environmental Health	828-250-5016	40 Coxe Avenue Asheville, NC 28801
Buncombe County Stormwater Management	828-250-4830	46 Valley Street Asheville, NC 28801
Buncombe County Permits & Inspections	828-250-5360	30 Valley Street Asheville, NC 28801
Buncombe County Floodplain Development	828-250-4836	46 Valley Street Asheville, NC 28801
NCDOT Division 13	828-251-6171	55 Orange Street Asheville, NC 28801
Weaverville Fire Marshal	828-484-7033 kdavis@weavervillefd.org	3 Monticello Road Weaverville, NC 28787
Weaverville Public Works (Water & Streets)	828-645-0606 dale.pennell@weavervillenc.org	15 Quarry Road Weaverville, NC 28787

Additional Contact Information



I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE TOWN OF WEAVERVILLE, NORTH CAROLINA AND THAT THIS PLAT HAS BEEN APPROVED BY THE TOWN COUNCIL OF WEAVERVILLE FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF BUNCOMBE COUNTY.

TOWN MANAGER WEAVERVILLE, NORTH CAROLINA
DATE _____

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE
PRESENTED FOR REGISTRATION AND RECORDED IN THIS OFFICE IN BOOK _____
PAGE _____ THIS _____ DAY OF _____
20 _____ AT _____ O'CLOCK _____ M.
BY: _____
REGISTER OF DEEDS
BY: _____
DEPUTY



P.B. 163 PG. 117

VICINITY MAP

ROGER D. JENSEN
D.B. 5028 PG. 1129
P.B. 163 PG. 117

ROBIN C. SMITH
D.B. 1485 PG. 463

JOHN J. LANDGROVER
D.B. 4457 PG. 1485
TRACT 2

JAMES GORDON COLLIER
KAITA FRANK COLLIER
REMAINING PORTION OF
D.B. 5458 PG. 1272

JOHN J. LANDGROVER
D.B. 4457 PG. 1485
TRACT 1

- LEGEND**
- △ EXISTING RAILROAD SPIKE
 - 5/8" REBAR FOUND
 - UNMARKED POINT
 - 1" EXISTING IRON PIPE (UNLESS NOTED OTHER WISE)
 - EXISTING N.C.D.T. MONUMENT
 - PP. = UTILITY POLE W/ OVERHEAD LINES
 - WM = WATER METER
 - F.H. = FIRE HYDRANT
 - S.S.M.H. = SANITARY SEWER MAN HOLE
 - S.S.C.D. = SANITARY SEWER CLEAN OUT
 - LINES NOT SURVEYED DRAWN FROM DEEDS
 - SURVEYED BOUNDARY
 - TIE LINES
 - SEWER LINE
 - PERMANENT SEWER EASEMENT LIMIT
 - BUILDING SET BACK LINES

- NOTES**
1. AREA BY COORDINATES
 2. SUBJECT TO ANY ADDITIONAL EASEMENTS OR E/A'S SHOWN OR NOT SHOWN
 3. THIS PROPERTY IS ZONE R-1 BY THE TOWN OF WEAVERVILLE. BUILDING SET BACKS ARE 1 FRONT- 30'; SIDE AND REAR - 10'.
 4. THIS PROPERTY IS SUBJECT TO A MAINTENANCE AGREEMENT FOR REYNOLDS LANE, IN D.B. 1472 PG. 243 AND A WATER LINE EASEMENT FOUND IN D.B. 811 PG. 336 AND SEWER EASEMENT FOUND IN D.B. 1710 PG. 271.
 5. FLOOD STATEMENT PROPERTY IS IN FLOOD ZONE "X" - SEE FEMA FLOOD MAP, MAP NUMBER: 3709974200J, EFFECTIVE DATE: JANUARY 6, 2010
 6. LOTS 1 AND 2 ARE A PORTION OF D.B. 5458 PG. 1272
 7. TOTAL AREA OF ALL THREE TRACTS IS 451 ACRES; LOTS 1 AND 2 AND THE REMAINING PORTION.

THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

I, MICHAEL A. MARTIN, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 5458 - PAGE 1272 - 3); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK, SEE, PAGE ADJOINING DEEDS; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 2ND, DAY OF JANUARY, A.D., 2020

SURVEYOR _____ REGISTRATION NUMBER _____
L-4401

NUMBER	DIRECTION	DISTANCE
L1	N 86°03'10" E	35.48'
L2	S 48°59'56" E	37.38'
L3	N 49°31'56" E	65.15'
L4	N 41°25'06" W	30.05'
L5	N 52°42'45" W	61.48'
L6	N 44°43'49" W	74.56'
L7	N 17°46'55" W	34.62'
L8	N 76°09'17" W	38.20'
L9	N 36°26'24" W	29.67'
L10	N 18°32'46" W	15.05'
L11	N 07°04'47" W	33.37'
L12	N 49°02'31" W	3.36'
L13	N 83°47'19" W	60.21'

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE
I, _____ REVIEW OFFICER OF BUNCOMBE COUNTY, CERTIFY THAT THE MAP OF PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

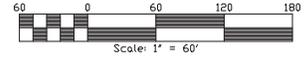
DATE _____ REVIEW OFFICER _____

CURRENT OWNERS: JAMES AND KAITA COLLIER

PRELIMINARY NOT FOR RECORDING

SPECIAL SUBDIVISION
FOR
JAMES GORDON COLLIER
AND WIFE
KAITA FRANK COLLIER

PIN # 9742-36-9414
TOWN OF WEAVERVILLE, BUNCOMBE CO., NC
JANUARY 2, 2020 SCALE: 1"=60'



JOB 20-2030

DRY RIDGE LAND SURVEYING, P.A.
18 NORTH MAIN STREET
MARSHALL, NC 28753
PHONE: (828) 777-8444
C-3422



Agenda Item 6
Greenwood Park - Major Subdivision



TOWN OF WEAVERVILLE TECHNICAL REVIEW COMMITTEE REPORT

Project: Major Subdivision Preliminary Plat, Plans and Application – Greenwood Park
 Date: January 21, 2020; 9:00 -12:00
 Location: Conference Room, Town Hall
 Staff: Planning Director, James Eller; Public Works Director, Dale Pennell; Fire Marshal Kile Davis.

Dept:	Comment:	Sheet #:
PLN	Minimum Lot Area 7,500 sq. ft. 12,500 sq. ft. shown is applicable to duplexes. Any use other than single family residential must be specifically noted.	C1.0
PLN	Parking Required 2 per unit off-street. Not applicable shown	C1.0
PLN	Corporate line limit partially shown. Add portions on northern and eastern borders.	C1.0
PLN	Note adjoining subdivision of record Reems Creek Village. May be found at the southeastern corner of the plat provided.	C1.0
PLN	Show home permitted via zoning permit, 29 Al Dorf Drive on December 5, 2019. Appears to be in the vicinity of lot 111 and/or 112.	C1.0 ZP-12.5.19
FD	Hydrants at 500 ft. intervals along traveled roadways and preferably at intersections	C3.0
FD	Road grades in excess of 10% must be approved through Fire Chief	C2.4-C2.6
PW	Finished and existing elevations on utility plan	C3.0
PW	4 inch waterline shown on Tanaka not allowed	C3.0
FD	70 foot shown / 96 foot required for cul-de-sac driving surface	C3.0
PW	No active water allocation	
All	Suitability of land (Section 25-107). Show access for lots 147, 167, 171, 204	

The Town of
Weaverville
NORTH CAROLINA

Thursday, December 5, 2019

Buncombe County Permits and Inspections
30 Valley Street
Asheville, NC 28801

Greenwood Park, LLC has received a Zoning Permit to construct a single family home at PIN: 9742-96-9949, 29 Al Dorf Drive. The application was found to comply with the Zoning Ordinance of the Town of Weaverville and the aforementioned lot is not in the flood zone.

Said property was subject to preliminary plat approvals for Greenwood Park, phases II-V, and the Hamlet, phases II and III. Each of the aforementioned phases were voluntarily vacated by the property owner via executed correspondence on file.

This Zoning Permit represents a local development permit which shall expire one year after issuance unless work authorized by such permit has substantially commenced as per NCGS 160A-385(d).



James Eller
Planning Director Town
of Weaverville
828-645-7116
jeller@weavervillenc.org

PROJECT DATA BLOCK

OWNER: GREENWOOD PARK, INC.
 2000 W. 10TH ST., SUITE 100
 GREENWOOD PARK, IN 46122

SUBDIVISION NAME: GREENWOOD PARK
 TRACT NUMBER: N/A
 VUA NUMBER: N/A

UNIFORM ACTIVITY: N/A

PROJ. NO.: 07-02 88 8846, 07-02 07-0711, 07-02 08 8588

PROPOSED ZONING: R-2
 MIN. LOT SIZE: 13,300 SF (0.31 AC)
 PROJECT DENSITY: 1.00 UNITS PER ACRE
 CONTROVERSED AREA: 7.50 ACRES
 BUILDING HEIGHTS: 30' FRONT, 35' REAR
 REQUIRED PARKING: N/A - SINGLE FAMILY DEVELOPMENT
 LIGHTING REQUIREMENTS: N/A AND SITE LIGHTING PROPOSED
 PROPOSED LOTS: 73
 MAINTENANCE: FRENCH BROAD
 UTILITY: YES
 BUILT UPON AREA (ESTIMATED): 5,000 SQ FT / LOT (FOOTPRINT & DRIVEWAY)
 TOTAL = 530,000 SF
 ROADWAY & SHARED DRIVES = 10,000 SF
 TOTAL = 441,250 SF (10.38 AC) OR 63.1% BUILT UPON

NOTE

ALL ROADS WILL BE PRIVATELY MAINTAINED.
 MAINTENANCE OF OPEN SPACE LANDS AND RECREATION
 AREAS SHALL BE THE RESPONSIBILITY OF GREENWOOD
 PARK PROPERTY OWNERS ASSOCIATION, INC.

MATCHLINE - C1.1

MATCHLINE - C1.2

MATCHLINE - C1.1

MATCHLINE - C1.3





Agenda Item 7
Mixed Use Building or Structure

Town of Weaverville, North Carolina

Staff Report: Mixed Use Development / Transitional District

Prepared January 2020

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan; Strategic Plan

Strategic Plan

Through the adoption of the Town’s strategic plan, 2018-2021 Strategic Plan in Brief attached hereto, Town Council set a goal of promoting a successful downtown. Specific objectives toward this end were identified as “consider a zoning district to serve as a transition between residential and commercial districts” and “consider mixed use development regulation as a means of expanding development in areas with geographic limitations.”

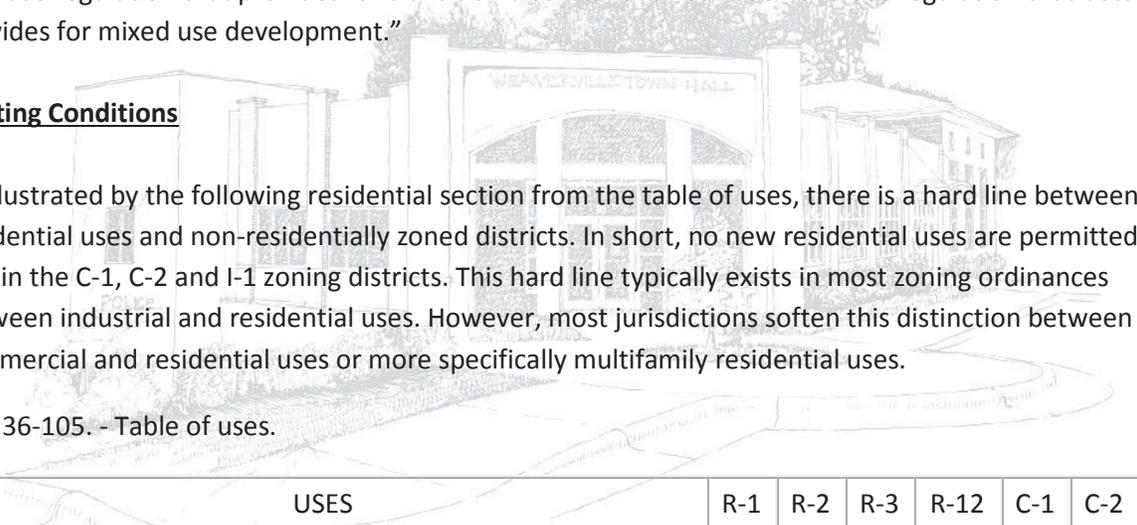
Comprehensive Land Use Plan

Language related to a possible transition district and mixed use development is largely brought forth from the previously adopted strategic plan which Town Council adopted in November, 2018. The aforementioned goals contained within the strategic plan transitioned to the stated goals of “consider land use regulation that provides for transition districts” and “consider land use regulation that better provides for mixed use development.”

Existing Conditions

As illustrated by the following residential section from the table of uses, there is a hard line between residential uses and non-residentially zoned districts. In short, no new residential uses are permitted within the C-1, C-2 and I-1 zoning districts. This hard line typically exists in most zoning ordinances between industrial and residential uses. However, most jurisdictions soften this distinction between commercial and residential uses or more specifically multifamily residential uses.

Sec. 36-105. - Table of uses.



USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1
RESIDENTIAL							
Dwelling - Single Family	P	P	P	-	■	■	■
Dwelling - Duplex	-	P	P	P	■	■	■
Dwelling - Multifamily (4 or fewer units/building)	-	P	P	P	■	■	■

Town of Weaverville, North Carolina
**Staff Report: Mixed Use Development /
 Transitional District**

Prepared January 2020

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan; Strategic Plan

Dwelling - Multifamily (more than 4 units/building)	-	-	PS	PS	■	■	■
Dwelling - Secondary	PS	PS	PS	-	■	■	■
Family Care Home (6 or fewer residents)	P	P	P	-	■	■	■
Child Care Home (6 or fewer children)	PS	PS	PS	-	■	■	■
Home Occupation	PS	PS	PS	PS	■	■	■
Manufactured Home	-	-	PS	-	■	■	■
Manufactured Home Park	-	-	-	-	■	■	■
Recreational Vehicle	-	-	-	-	■	■	■
Recreational Vehicle Park, Campground	-	-	-	-	■	■	■
Bed & Breakfast	P	P	P	-	■	■	■
Hotel, Motel, Inn	-	-	-	-	■	■	■

It's also fair to recognize that a mixed use building or structure is acknowledged by the zoning ordinance and is defined and regulated as follows. Conditions are present for the Planning and Zoning Board and Town Council to analyze mixed use development on an individual project basis through conditional zoning districts.

Mixed-use building or development. A multi-story building or structure which may accommodate both commercial and residential uses. A group of mixed-use buildings or structures can be combined to form a mixed-use development.

Sec. 36-105. - Table of uses.

USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1
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Town of Weaverville, North Carolina
**Staff Report: Mixed Use Development /
 Transitional District**

Prepared January 2020

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan; Strategic Plan

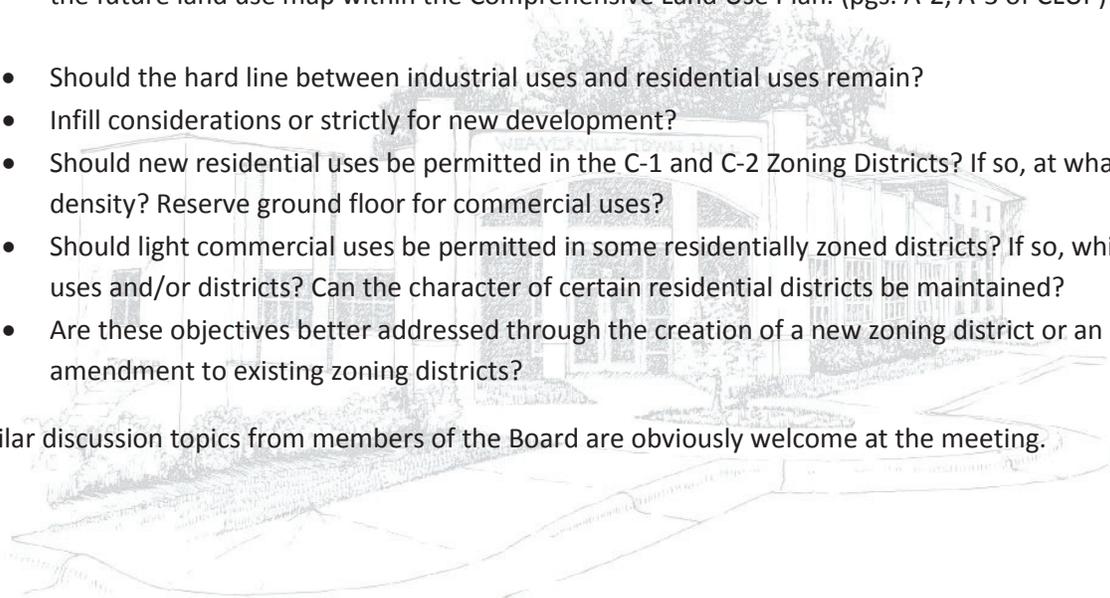
MISCELLANEOUS USES							
Mixed-Use Building or Structure	-	-	-	C	C	C	-

Direction to Staff

Staff intends to address a number of topics in an effort to gain some consensus moving forward in drafting language related to the content of the conversation. These topics include but are not limited to the following...

- Review of mixed use development and areas identified for future mixed use development on the future land use map within the Comprehensive Land Use Plan. (pgs. A-2, A-3 of CLUP)
- Should the hard line between industrial uses and residential uses remain?
- Infill considerations or strictly for new development?
- Should new residential uses be permitted in the C-1 and C-2 Zoning Districts? If so, at what density? Reserve ground floor for commercial uses?
- Should light commercial uses be permitted in some residentially zoned districts? If so, which uses and/or districts? Can the character of certain residential districts be maintained?
- Are these objectives better addressed through the creation of a new zoning district or an amendment to existing zoning districts?

Similar discussion topics from members of the Board are obviously welcome at the meeting.



2018-2021 STRATEGIC PLAN IN BRIEF

TOWN OF WEAVERVILLE

Approved 11/19/2018

Goal 1: Provide town services to meet the needs of the community.



- Objective A: Develop consensus on water and annexation growth and develop policies consistent with that consensus.
- Objective B: Revisit the relationship with *Asheville Redefines Transit* to consider re-establishment of bus route given new residential development within the Town.
- Objective C: Enhance the Town's outreach to educate the public about the Town's services.
- Objective D: Recognize the needs of each Town department in serving an ever-changing and growing population.

Goal 2: Improve regional collaboration.



- Objective A: Strengthen relationship with the Asheville-Buncombe Economic Development Coalition and other economic development organizations.
- Objective B: Recognize water as a regional resource and identify regional jurisdictions that wish to partner in water production, sale and distribution.
- Objective C: Consistent involvement and collaboration with neighboring and regional jurisdictions in functional areas, such as police, fire, water resources, etc.
- Objective D: Distribute information regarding regional programs, services and resources available to town citizens.

Goal 3: Maintain balance in land use planning efforts.



- Objective A: Development of tools to encourage balanced residential economic development.
- Objective B: Update economic development goals for the Town.
- Objective C: Update the Town's Comprehensive Land Use Plan.
- Objective D: Investigate options for geographic information systems.

Goal 4: Promote a successful downtown.



- Objective A: Consider a zoning district to serve as a transition between residential and commercial districts.
- Objective B: Develop a mechanism to expand business opportunities along the central business district.
- Objective C: Consider mixed-use development regulation as a means of expanding development in areas with geographic limitations.
- Objective D: Provide information resources marketing downtown and its walkability.
- Objective E: Research grant opportunities for all Town operations and projects, as well as for downtown efforts.
- Objective F: Act as a liaison between downtown churches and businesses to identify available parking downtown.

Goal 5: Increase legislative outreach.



- Objective A: Engage legislative representatives regarding the Town's needs.
- Objective B: Consider opportunities for potential special legislation as Town needs dictate.

Sec. 36-5. - Definitions of specific words and terms.

Mixed-use building or development. A multi-story building or structure which may accommodate both commercial and residential uses. A group of mixed-use buildings or structures can be combined to form a mixed-use development.

Sec. 36-104. - Notes on table of uses.

Notes:

1. See article V (section 36-116 et seq.) for additional standards for those uses identified on the Table of Uses as "permitted with standards."
2. If a proposed use can't be found on the table of uses herein established or is not specifically defined herein, then the regulations and restrictions governing the use which most closely resembles the proposed use shall apply.
3. The abbreviations and symbols shown in the Table of Uses have the following meanings:
 - "C" = Conditional Zoning District required
 - "P" = Permitted
 - "PS" = Permitted with Standards
 - "-" = Not Permitted

Sec. 36-105. - Table of uses.

USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1
MISCELLANEOUS USES							
Mixed-Use Building or Structure	-	-	-	€ PS	€ PS	€ PS	-

Sec. 36-140. – Mixed-Use Building or Structure.

- (a) Additional Standards applicable only within the **R-12 zoning district** for uses defined mixed use building or structure.
1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 or C-2 Zoning District.
 2. The dimensional requirements for the R-12 zoning district and additional standards for the use defined as dwelling-multifamily (more than 4 units/per building are also fully applicable to the use defined mixed-use building or structure.
 3. In no case shall the number of dwelling units exceed **12 units per acre.**

4. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.
 - b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.
 5. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
 6. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - a. All containment areas shall be enclosed to contain windblown litter.
 - b. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - c. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - d. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access.
 - e. Enclosures shall contain gates to allow for access and security.
 - f. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
 - g. Enclosures shall be landscaped in accordance with article VI of Chapter 36.
- (b) Additional Standards applicable only within the **C-1 zoning district** for uses defined mixed use building or structure.
1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 Zoning District.
 2. In no case shall the number of dwelling units exceed **4 units per building notwithstanding the latter permissible density bonus for additional off street public parking places provided.**
 3. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.
 - b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.

4. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
 - a. A waiver of the foregoing requirement may be achieved in writing from the Town Manager or their designee upon showing of good cause. Factors for consideration include but are not limited to available space on the subject property, or any variable related to the public health or safety.
 5. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - b. All containment areas shall be enclosed to contain windblown litter.
 - c. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - d. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - e. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access. Enclosures shall contain gates to allow for access and security.
 - f. Enclosures shall contain gates to allow for access and security.
 - g. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
 - h. Enclosures shall be landscaped in accordance with article VI of Chapter 36.
 6. Density bonus for additional off street public parking spaces provided?
(Within the C-1 Zoning District additional dwelling units may be permitted up to a maximum of eight dwelling units per building provided the property owner provide off street public parking in addition to those spaces required by Article VII of this Chapter at a ratio of two spaces per additional dwelling unit.)
- (c) Additional Standards applicable only within the C-2 zoning district for uses defined mixed use building or structure.
1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 or C-2 Zoning District.
 2. The dimensional requirements for the C-2 zoning district and additional standards for the use defined as dwelling-multifamily (more than 4 units/per building are also fully applicable to the use defined mixed-use building or structure.
 3. In no case shall the number of dwelling units exceed 8 units per acre.
 4. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.

- b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.
5. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
6. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - a. All containment areas shall be enclosed to contain windblown litter.
 - b. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - c. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - d. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access. Enclosures shall contain gates to allow for access and security.
 - e. Enclosures shall contain gates to allow for access and security.
 - f. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
 - g. Enclosures shall be landscaped in accordance with article VI of Chapter 36.



**Agenda Item 8
Chapter 160D**

A Note from the Town of Weaverville Planning Department

In 2019 the North Carolina General Assembly adopted the long debated and worked upon Chapter 160D which is the first major recodification and modernization of municipal and county development regulations since the early 1900's. The changes to the statutes as a result of 160D affect the language of local ordinances, the options for local decision making processes, and administrative practices related to development regulations. It is anticipated that text amendments to the Town's zoning ordinance will be necessary as portions of 160D denote mandatory legislative changes for local jurisdictions. In the coming months staff, working in conjunction with Town Council and the Planning and Zoning Board, will be working to ensure that the Town's land development regulations are compliant with state statute as a result of these recent changes.



Additional information related to the new Chapter 160D of the North Carolina General Statutes may be found at the following link provided by the University of North Carolina School of Government.

<https://www.sog.unc.edu/resources/microsites/planning-and-development-regulation/ch-160d-2019>

~ Submitted by Weaverville Planning Department for the Town's e-focus newsletter

G.S. Chapter 160D Checklist of Changes to Local Ordinances, Policies, and Practices

This checklist outlines provisions in the new Chapter 160D of the North Carolina General Statutes (hereinafter G.S.) as well as related statutory changes that will be incorporated into Chapter 160D. The changes to the statutes affect the language of local ordinances, the options for local decision processes, and the administrative practices related to development regulations.

This checklist is one piece of a larger set of resources and training materials, including an explanatory book, *Chapter 160D: A New Land Use Law for North Carolina*. Each item on this checklist is described more thoroughly in those additional resources. Section headers in this checklist note the corresponding chapter and section of the Chapter 160D book [in brackets]. Check nc160D.sog.unc.edu for additional resources and training.

The checklist has specific notations, which are accompanied by specific icons, as follows:

- Denotes **legislative changes** for which local governments *must* take action (statutory citations are in parentheses)
- Denotes **permissive legislative changes** for which local governments *may* take action
- Denotes **notable legislative changes** that do not require local action but of which local governments must *be aware*

*For items noted with an asterisk, local governments do not have authority for the change until January 1, 2021, unless legislation authorizes earlier effectiveness. Noted changes may be incorporated into ordinances and policies, but they must not be effective until 2021. All other changes may be adopted and effective immediately.

I. Terminology and Citations [Chapter 1, Section III]

- Must** update any references to provisions in G.S. Chapter 160A or 153A to indicate relevant provisions in Chapter 160D. (See appendixes B and C in the Chapter 160D book.)
- Must** align ordinance terminology with Chapter 160D terminology for *conditional zoning* and *special use permits*; must delete use of the terms *conditional use permit*, *special exception*, *conditional use district zoning*, and *special use district zoning*. (See G.S. 160D-102.)
- Must** ensure that ordinance definitions for the following terms are not inconsistent with definitions provided in state law and regulation: *building*, *dwelling*, *dwelling unit*, *bedroom*, and *sleeping unit*. (S.L. 2019-111, § 1.17.)
- May** align ordinance terminology with Chapter 160D terminology, including for the following terms: *administrative decision*, *administrative hearing*, *determination*, *developer*, *development*, *development approval*, *development regulation*, *dwelling*, *evidentiary hearing*, *legislative*

decision, legislative hearing, planning and development regulation jurisdiction, and quasi-judicial decision. (G.S. 160D-102.)

II. Geographic Jurisdiction [Chapter 2, Section I]

- *For extension of extraterritorial jurisdiction (ETJ), a municipality **must** provide mailed notice thirty days prior to ETJ hearing; municipality **may** hold one hearing (with single mailed notice) regarding ETJ and initial zoning amendment. (G.S. 160D-202(d))
- Municipality **may** hold hearings in anticipation of change in jurisdiction. (G.S. 160D-204.)
- *For a parcel in two jurisdictions, the owner and the jurisdictions **may** agree for development regulations from one jurisdiction to apply to the entire parcel. (G.S. 160D-203.)
- *In ETJ, the county **may** elect to exercise development regulations that the municipality is not exercising. (G.S. 160D-202(b).)

III. Boards [Chapter 2, Section II]

A. In General

- Must** adopt broadened conflict-of-interest standards for governing and advisory boards. (G.S. 160D-109.)
- Must** keep minutes of proceedings of each board. (G.S. 160D-308.)
- Must** have each board member take an oath of office before starting his or her duties. (G.S. 160D-309.)
- Must** update ETJ population estimate, at least with each decennial census (also calculation for proportional representation is simplified and process for appointment is clarified). (G.S. 160D-307.)
- Must** provide proportional representation for ETJ on preservation commission if any districts or landmarks are designated in the ETJ. (G.S. 160D-307.)
- May** have detailed rules of procedure for each board; **may** be adopted by governing board; if not, then **may** be adopted by individual board; if adopted, **must** maintain board rules of procedure (by clerk or other officer as set by ordinance) and **must** post board rules of procedure to website, if the jurisdiction has a website. (G.S. 160D-308.)
- May** establish reasonable procedures to solicit, review, and make appointments; governing board typically makes appointments but may delegate that appointment-making authority. (G.S. 160D-310.)
- May** establish additional advisory boards related to development regulations. (G.S. 160D-306.)

B. Planning Board

- May** assign to planning board the coordination of citizen engagement for planning. (G.S. 160D-301.)
- May** assign planning board to serve as preliminary forum for review and comment on quasi-judicial decisions, provided that no part of the preliminary forum or recommendation may be used as a basis for the deciding board. (G.S. 160D-301.)

C. Board of Adjustment

- May** assign board of adjustment to hear and decide matters under any development regulation, not just zoning. (G.S. 160D-302.)
- May** assign duties of housing appeals board to board of adjustment. (G.S. 160D-305.)

IV. Land Use Administration [Chapter 2, Section III]

A. In General

- Must** incorporate new staff conflict-of-interest standards into ordinance or policy. (G.S. 160D-109.)
- Must** maintain in paper or digital format current and prior zoning maps for public inspection. (G.S. 160D-105.)
- Must** maintain in paper or digital format any state or federal agency maps incorporated by reference into the zoning map. (G.S. 160D-105.)
- May** enact ordinances, procedures, and fee schedules relating to administration and enforcement of development regulations. (G.S. 160D-402(b).)
- May** charge reasonable fees for support, administration, and implementation of development regulation; **must** use any such fees for that purpose, not for other purposes. (G.S. 160D-402(d).)

B. Enforcement

- Must** issue notices of violation (NOVs) in conformance with statutory procedures (must deliver to permittee and landowner if different; may deliver to occupant or person undertaking the activity; delivery by hand, email, or first-class mail; may be posted onsite; administrator to certify NOV for the file.) (G.S. 160D-404(a).)
- If inspecting, **must** enter the premises during reasonable hours and upon presenting credentials; **must** have consent of premises owner or an administrative search warrant to inspect areas not open to the public. (G.S. 160D-403(e).)
- For revocation of development approval, **must** follow the same process as was used for the approval. (G.S. 160D-403(f).)
- May** perform inspections for other development approvals to ensure compliance with state law, local law, and the terms of the approval; **must** perform (or contract for) inspections for building permits. (G.S. 160D-1113; -403(e).)

- **May** perform inspections for general code compliance and enforcement (inspections unrelated to a development approval). (G.S. 160D-402(b).)
- **May** require a certificate of compliance or occupancy to confirm that permitted work complies with applicable laws and terms of the permit; still **must** require certificate of occupancy for work requiring a building permit. (G.S. 160D-403(g).)
- **May** issue stop-work orders for illegal or dangerous work or activity, whether related to a permit or not. (G.S. 160D-404(b).)
- **May** continue to use general enforcement methods, including civil penalties, fines, court-ordered actions, and criminal prosecution. (G.S. 160D-404(c).)
- △ Be aware that a local government must bring a court action in advance of the applicable five- and seven-year statutes of limitation. (G.S. 1-51 and -49; established prior to Chapter 160D.)

V. Substance of Zoning Ordinance [Chapter 3, Section I]

- **Must** maintain current and prior zoning maps for public inspection (local government clerk or other office may be the responsible office); **may** adopt and maintain in paper or digital format. (G.S. 160D-105.)
- **Must** eliminate conditional-use-district zoning; existing conditional-use-district zoning converts to conditional district on January 1, 2021. (G.S. 160D-703; S.L. 2019-111, § 2.9(b).)
- ***May** incorporate maps officially adopted by state or federal agencies (such as flood-insurance rate maps (FIRMs)) into the zoning map; **may** incorporate *the most recent officially adopted version* of such maps so that there is no need for ordinance amendment for subsequent map updates; **must** maintain current effective map for public inspection; **may** maintain in paper or digital format. (G.S. 160D-105.)
- ***May** require certain dedications and performance guarantees for zoning approvals to the same extent as for subdivision approvals. (G.S. 160D-702.)
- **May** use form-based codes. (G.S. 160D-703(a)(3).)
- **May** allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, **must** define “minor modification” by ordinance, **must** not include modification of use or density, and major modifications **must** follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)
- **May** apply zoning standards jurisdiction-wide, not just on a zoning-district-by-zoning-district basis. (G.S. 160D-703(d).)
- ***May** regulate development over navigable waters, including floating homes. (G.S. 160D-702(a).)

VI. Substance of Other Development Ordinances [Chapter 3, Section II]

- Must** conform subdivision performance guarantee requirements with statutory standards. (S.L. 2019-79 (S.B. 313), to be incorporated into G.S. Chapter 160D.)
- Must** conform subdivision procedures for expedited review of certain minor subdivisions. (G.S. 160D-802, established prior to G.S. Chapter 160D.)
- Must** exempt farm use on bona fide farm in ETJ from city zoning to the same extent it would be exempt from county zoning; Chapter 160D clarifies that other municipal development regulations may still apply. (G.S. 160D-903(c).)
- Must** not exclude manufactured homes based on the age of the home. (G.S. 160D-910.)
- *Must** follow standardized process for housing-code enforcement to determine owner's abandonment of intent to repair and need for demolition. (G.S. 160D-1203(6).)
- May** adopt moratoria for development regulations (subject to limitation on residential uses); moratoria do not affect rights established by permit choice rule. (G.S. 160D-107.)

A. Historic Preservation

- Must** follow standard quasi-judicial procedures for preservation certificates of appropriateness. (G.S. 160D-947(c).)
- Must** frame preservation district provisions as "standards" rather than "guidelines." (G.S. 160D-947(c).)
- *May** choose for appeals of preservation commission decisions to go directly to superior court rather than to board of adjustment. (G.S. 160D-947(e).)

B. Development Agreements

- Must** process a development agreement as a legislative decision. (G.S. 160D-105.)
- Must** have a local government as a party to a development agreement (a water and sewer authority may enter an agreement as a party, but not independently). (G.S. 160D-1001(b).)
- May** consider a development agreement concurrently with a rezoning, subdivision, or site plan; **may** consider a development agreement in conjunction with a conditional zoning that incorporates the development agreement. (G.S. 160D-1001(d).)
- *May** address fewer topics in development agreement content (list of mandated topics is shortened). (G.S. 160D-1006.)
- May** mutually agree with a developer for the developer to provide public improvements beyond what could have been required, provided such conditions are included in the development agreement. (G.S. 160D-1006(d).)
- May** include penalties for breach of a development agreement in the agreement or in the ordinance setting the procedures for development agreements; either party may bring legal action seeking an injunction to enforce a development agreement. (G.S. 160D-1008.)

VII. Comprehensive Plan [Chapter 4, Section I]

- Must** adopt a comprehensive plan by July 1, 2022, to maintain zoning (no need to re-adopt a reasonably recent plan). (G.S. 160D-501(a).)
- Must** adopt a plan or a plan update following the procedures used for a legislative decision. (G.S. 160D-501(c).)
- Must** reasonably maintain a plan. (G.S. 160D-501(a).)
- May** coordinate a comprehensive plan with other required plans, such as Coastal Area Management Act (CAMA) plans. (G.S. 160D-501(a).)
- May** coordinate with other local governments, state agencies, or regional agencies on planning processes. (G.S. 160D-503(a).)

VIII. Legislative Decisions [Chapter 4, Section II]

A. Notice

- Must** follow applicable procedures for legislative decisions under any development regulation authorized under Chapter 160D, not just zoning; **must** adopt any development regulation by ordinance, not by resolution. (G.S. 160D-601.)
- For zoning-map amendments, **must** provide notice not only to immediate neighbors but also to properties separated from the subject property by street, railroad, or other transportation corridor. (G.S. 160D-602.)
- For zoning-map amendments, **must** provide posted notice during the time period running from twenty-five days prior to the hearing until ten days prior to the hearing. (G.S. 160D-602(c).)
- For extension of ETJ, **may** use single mailed notice for ETJ and zoning-map amendment pursuant to statutory procedures. (G.S. 160D-202.)
- For zoning-map amendments, **may** require applicant to notify neighbors and hold a community meeting and **may** require report on the neighborhood communication as part of the application materials. (G.S. 160D-602(e).)

B. Planning Board Comment

- Must** refer zoning amendments to the planning board for review and comment; **must** not have governing board handle planning board duty to review and comment on zoning amendments. (G.S. 160D-604(c), (e).)
- Must** have planning board consider any plan adopted according to G.S. 160D-501 when making a comment on plan consistency. (G.S. 160D-604(d).)
- May** refer development regulation amendments (other than zoning) to the planning board for review and comment. (G.S. 160D-604(c).)

C. Plan Consistency

- When adopting an amendment to the zoning ordinance, **must** adopt a brief statement describing whether the action is consistent or inconsistent with approved plans. (G.S. 160D-605(a).) (**This eliminates the 2017 requirement that statements take one of three particular forms.*)
- May** adopt plan-consistency statement when acting upon the zoning amendment or as a separate motion. (G.S. 160D-605(a).)
- *May** meet the requirement for plan consistency even without formal adoption of a written statement if the minutes of the governing board meeting reflect that the board was fully aware of and considered the plan. (G.S. 160D-605(a).)
- May** concurrently consider a comprehensive plan amendment and a zoning amendment; must not require a separate application or fee for plan amendment. (G.S. 160D-605(a).)
- Must** note on the applicable future land use map when a zoning-map amendment is approved that is not consistent with the map; the future land use map is deemed amended when an inconsistent rezoning is approved. (G.S. 160D-605(a).) (*This clarifies that a rezoning inconsistent with a plan does not amend the text of the plan, but it does amend the future land use map.*)
- *For** a future land use map that is deemed amended, if it is a CAMA plan, then such amendment is not effective until it goes through the CAMA plan-amendment process. (G.S. 160D-501.)
- Must** adopt a statement of reasonableness for zoning-map amendments; for such statements, **may** consider factors noted in the statutes; ***may** adopt a statement of reasonableness for zoning-text amendments. (G.S. 160D-605(b).)
- May** consider and approve a statement of reasonableness and a plan-consistency statement as a single, combined statement. (G.S. 160D-605(c).)

D. Voting

- *Must** permit adoption of a legislative decision for development regulation on first reading by simple majority; no need for two-thirds majority on first reading, as was required for cities under prior law. (G.S. 160A-75; S.L. 2019-111, § 2.5(n).)

E. Certain Legislative Decisions

- Must** prohibit third-party down-zonings; **may** process local government-initiated down-zonings (S.L. 2019-111, Pt. I.)
- Must** obtain applicant's/landowner's written consent to conditions related to a conditional-zoning approval to ensure enforceability. (S.L. 2019-111, Pt. I.)
- May** use purely legislative conditional zoning and/or quasi-judicial special use permitting; **must** not use combined legislative and quasi-judicial process, such as conditional-use-district zoning. (G.S. 160D-102.)

- With applicant’s written consent, **may** agree to conditional-zoning conditions that go beyond the basic zoning authority to address additional fees, design requirements, and other development considerations. (S.L. 2019-111, Pt. I.)
- **May** allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, **must** define “minor modification” by ordinance, **must** not include modification of use or density, and major modifications **must** follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)

IX. Quasi-Judicial Decisions [Chapter 4, Section III]

A. Procedures

- **Must** follow statutory procedures for all quasi-judicial development decisions, including variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. (G.S. 160D-102(28).)
- **Must** hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case; the evidentiary hearing **must** have testimony under oath; **must** establish written findings of fact and conclusions of law. (G.S. 160D-406.)
- Board chair **must** rule at the evidentiary hearing on objections to inclusion or exclusion of administrative material; such ruling **may** be appealed to the full board. (G.S. 160D-406(d).)
- **Must** allow parties with standing to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; **may** allow non-parties to present competent, material, and substantial evidence that is not repetitive. (G.S. 160D-406(d).)
- **May** continue an evidentiary hearing without additional notice if the time, date, and place of the continued hearing is announced at a duly noticed hearing that has been convened; if quorum is not present at a meeting, the evidentiary hearing is automatically continued to the next regular meeting of the board with no notice. (G.S. 160D-406(b).)
- **May** distribute meeting packet to board members in advance of the evidentiary hearing; if this is done, then **must** distribute the same materials to the applicant and landowner at the same time; **must** present such administrative materials at the hearing and make them part of the hearing record. (G.S. 160D-406(c).)
- **May** have the planning board serve as a preliminary forum for review in quasi-judicial decisions; if this is done, the planning board must not conduct a formal evidentiary hearing but must conduct an informal preliminary discussion of the application; the forum and recommendation must not be used as the basis for the decision by the board—the decision must still be based on evidence presented at the evidentiary hearing. (G.S. 160D-301.)
- **May** require recordation of special use permits with the register of deeds. (G.S. 160D-705(c).)
- △ **Be aware** that the definition of *close family relationship* as used for conflicts of interest includes spouse, parent, child, brother, sister, grandparent, or grandchild (including step, half, and in-law relationships). (G.S. 160D-109(f).)

- △ **Be aware** that even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. (S.L. 2019-111, § 1.9.)

B. Certain Quasi-Judicial Decisions

- Must** not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. (S.L. 2019-111, Pt. I.)
- Must** obtain applicant's/landowner's written consent to conditions related to a special use permit to ensure enforceability. (S.L. 2019-111, Pt. I.)
- Must** set a thirty-day period to file an appeal of any administrative determination under a development regulation; **must** presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)
- *May** adjust variance standards to provide for reasonable accommodation under the federal Fair Housing Act. (G.S. 160D-705(c).)
- May** use purely legislative conditional zoning and/or quasi-judicial special use permitting; **must** not use combined legislative and quasi-judicial process, such as conditional-use-district zoning. (G.S. 160D-102.)
- May** allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, **must** define "minor modification" by ordinance, **must** not include modification of use or density, and major modifications **must** follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)

X. Administrative Decisions [Chapter 4, Section IV]

A. Development Approvals

- Must** provide development approvals in writing; **may** provide in print or electronic form; if electronic form is used, then it **must** be protected from further editing. (G.S. 160D-403(a).)
- Must** provide that applications for development approvals must be made by a person with a property interest in the property or a contract to purchase the property. (G.S. 160D-403(a).)
- Must** provide that development approvals run with the land. (G.S. 160D-104.)
- For revocation of development approval, **must** follow the same process as was used for the approval. (G.S. 160D-403(f).)
- May** require community notice or informational meetings as part of the decision-making process for administrative development approvals (quasi-judicial and legislative decisions already had notice and hearing requirements). (G.S. 160D-403(h).)
- May** set expiration of development approvals if work is not substantially commenced; default rule is twelve months, unless altered by state or local rule. (G.S. 160D-403(c).) **Be aware** that legislation will clarify the provisions on duration of development approvals. (G.S. 160D-403(c); S.L. 2019-111, § 1.3.)

- **May** set expiration of development approvals if work is discontinued; default rule is twelve months, unless altered by state or local rule. (G.S. 160D-403(c).)
- **May** authorize administrative staff to approve minor modifications of development approvals and conditional-zoning approvals; if this is done, then **must** define “minor modifications” by ordinance and **must** not include modification of permitted use or density of development; major modifications **must** go through full applicable approval process. (G.S. 160D-403(d); -703(b); -705(c).)

B. Determinations

- **Must** provide written notice of determination by personal delivery, electronic mail, or first-class mail to the property owner and party seeking determination, if different from the owner. (G.S. 160D-403(b).)
- **May** designate an official to make determinations for a particular development regulation. (G.S. 160D-403(b).)
- **May** require owner to post notice of determination on the site for ten days; if such is not required, then owner has option to post on the site to establish constructive notice. (G.S. 160D-403(b).)

C. Appeals of Administrative Decisions

- **Must** allow administrative decisions of any development regulations (not just zoning) to be appealed to the board of adjustment, unless provided otherwise by statute or ordinance. (Appeals relating to erosion and sedimentation control, stormwater control, or building-code and housing-code violations are not made to the board of adjustment unless specified by local ordinance.) (G.S. 160D-405.)
- **Must** set a thirty-day period to file an appeal of any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)
- **Must** require the official who made the decision (or his or her successor if the official is no longer employed) to appear as a witness in the appeal. (G.S. 160D-406.)
- **Must** pause enforcement actions, including fines, during the appeal. (G.S. 160D-405.)
- **May** assign the duty of hearing appeals to another board; if this is done, such board must follow quasi-judicial procedures. (G.S. 160D-405.)
- **May** designate that appeals be filed with the local government clerk *or* another official. (G.S. 160D-405.)

XI. Vested Rights and Permit Choice [Chapter 5, Section I]

A. Vested Rights

- Must** recognize that building permits are valid for six months, as under prior law. (G.S. 160D-108(d)(1).)
- Must** recognize the default rule that development approvals are valid for twelve months, unless adjusted by statute or local rule. (G.S. 160D-108(d)(2).)
- Must** identify site-specific vesting plans (formerly site-specific development plans) with vesting for two to five years, as under prior law, except for specified exceptions. (G.S. 160D-108(d)(3); -108(f).)
- Must** recognize multi-phase developments—long-term projects of at least 25 acres—with vesting up to seven years, except for specified exceptions (160D-108(d)(4); -108(f).) (The previously authorized phased-development plan is obsolete and should be deleted from ordinance.)
- May** provide for administrative determination of vested rights and for appeal to the board of adjustment. (G.S. 160D-108(c), -405.)
- Be aware** that a person claiming vested rights may bring an original civil action in court, skipping administrative determination and board of adjustment consideration. (G.S. 160D-405(c).)
- Be aware** that vested rights run with the land, except for state-permitted outdoor advertising permits that run with the owner of the permit. (G.S. 160D-108(g); S.L. 2019-111, Pt. I.)

B. Permit Choice

- Must** not make an applicant wait for final action on the proposed change before proceeding if the applicant elected determination under prior rules. (G.S. 160D-108(b).)
- Be aware** that if a local development regulation changes after an application is submitted, the applicant may choose the version of the rule that applies; but **may** require the applicant to comply with new rules if the applicant delays the application for six months. (G.S. 160D-108(b); S.L. 2019-111, Pt. I.)
- Be aware** that an application for one development permit triggers permit choice for permits under any development regulation; such permit choice is valid for eighteen months after approval of the initial application. (S.L. 2019-111, Pt. I.)

XII. Judicial Review [Chapter 5, Section II]

A. Declaratory Judgments

- △ **Be aware** that an individual may bring a declaratory judgment action to challenge legislative zoning decisions, vested rights claims, and challenges to land use authority related to administrative decisions, subject to specified procedures. (G.S. 160D-1401.)
- △ **Be aware** that other civil actions may be authorized—Chapter 160D does not limit availability of other actions. (G.S. 160D-1404.)

B. Appeals of Quasi-Judicial Decisions

- ***Must** update ordinance to address appeals of certificates of appropriateness for historic landmarks and historic districts; default rule is that such appeals go straight to court; local government may opt for such appeals to go to the board of adjustment, as under prior statutes. (G.S. 160D-947.)
- **Must** provide that appeals of certificates of appropriateness must be filed within thirty days after the decision is effective or written notice is provided, the same as for appeals of other quasi-judicial decisions. (G.S. 160D-947; -1405.)
- △ **Be aware** that on appeal a party may request a stay of the approval or enforcement action. (G.S. 160D-1402(e).)
- △ **Be aware** that a local government may seek a stay in favor of itself (to prevent development under an approval). (G.S. 160D-1402(e).)
- △ **Be aware** that if, in the absence of a stay, an applicant proceeds with development, the person does so at his or her own risk. (G.S. 160D-1402(l).)
- △ **Be aware** that on appeal, the superior court now must allow for supplementing the record on questions of standing, conflicts of interest, constitutional violations, or actions in excess of statutory authority. (S.L. 2019-111, § 1.9.)
- △ **Be aware** that even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. (S.L. 2019-111, § 1.9.)
- △ **Be aware** of specific judicial instructions for decisions of appeals of quasi-judicial decisions. (S.L. 2019-111, § 1.9.)

C. Subdivision Decisions

- **May** establish a rule that administrative subdivision decisions are appealed to the board of adjustment. (G.S. 160D-1405.)
- △ **Be aware** that appeals of administrative subdivision decisions may be appealed directly to superior court. (G.S. 160D-1403.)
- △ **Be aware** that quasi-judicial subdivision decisions are appealed to superior court in the nature of certiorari. (G.S. 160D-1402.)

D. Attorneys' Fees

- △ **Be aware** that a court *shall* award attorneys' fees if the court finds that a city or county violated a statute or case law setting forth unambiguous limits on its authority. (G.S. 6-21.7; S.L. 2019-111, Pt. I.)
- △ **Be aware** that a court *shall* award attorneys' fees if the court finds that a local government took action inconsistent with, or in violation of, the permit choice and vested rights statutes. (G.S. 6-21.7; S.L. 2019-111, Pt. I.)
- △ **Be aware** that a court may award attorneys' fees in other matters of local government litigation. (G.S. 6-21.7; S.L. 2019-111, Pt. I.)

E. Additional Judicial Rules

- △ **Be aware** that a court may join a civil action challenging an ordinance with an appeal in the nature of certiorari. (G.S. 160D-1402(m).)
- △ **Be aware** that a local government **must** not assert the defense of estoppel to enforce conditions to which an applicant did not consent in writing. (S.L. 2019-111, Pt. I.)
- △ **Be aware** that an action is not rendered moot if the party loses the relevant property interest as a result of the local government action being appealed, subject to applicable case law limits. (S.L. 2019-111, Pt. I.)



Agenda Item 9
Any Other Business



Undeveloped or Underutilized Parcels of Size within Municipal Borders				
Address	PIN	Zoning District	Acres	Units
105 Church	9742-08-0900	R-1	3.55	15
11 Lakeshore	9742-16-0551	R-2	5.51	32
123 Highland	9732-95-2862	R-1	12.22	53
210 Aiken	9732-83-8176; 9732-83-6223	R-3	5.96	48
300 Aiken	9732-82-3831	R-3	12.66	101
41 N. Buncombe School	9743-33-5799	R-3	3.47	28
68 Highland	9742-06-4501	R-1	7.11	31
93 Church	9742-08-6733	R-1	2.93	13
96 Church	9742-98-9331	R-1	4.87	21
99 Church	9742-08-3833	R-1	3	13
Unaddressed Central	9742-06-9911	R-1	6.5	28
Unaddressed Church	9742-28-1340; 9742-27-2925	R-1	2.56	11
Unaddressed College	9742-17-9929	R-1	2.1	9
Unaddressed Highland	9732-96-8026	R-1	5.07	22
Unaddressed Moore	9742-28-5986	R-1	2.29	10
Unaddressed Perrion	9743-61-3054	R-1	33.32	145
Unaddressed Hickory	9732-72-5148	R-3	33.75	270
			Total Acres:	146.87
			Total Units:	850

Listed units are a theoretical maximum based solely upon the minimum lot area of the zoning district and the acreage present on the subject parcel. Other variables such as minimum lot width, minimum street frontage, setbacks, existing easements, road construction or topography have not been accounted for. Hence the need for preliminary plat engineering. For instance, 108 Church Street recently before the Board carried a theoretical maximum of 12 lots but was only able to achieve 5. 50% of the units listed probably represents a more accurate assessment of units that may translate to the ground.

Properties previously subject to some form of development approval have not been included.