



**WINTERVILLE TOWN COUNCIL AGENDA  
MONDAY, NOVEMBER 9, 2020 - 7:00 PM  
WINTERVILLE TOWN HALL ASSEMBLY ROOM  
REMOTE VIA ZOOM**

- I. CALL TO ORDER.**
- II. INVOCATION.**
- III. PLEDGE OF ALLEGIANCE.**
- IV. WELCOME.**
- V. APPROVAL OF AGENDA.**
- VI. PROCLAMATIONS:**
  1. Honoring Veteran's Day.
- VII. PUBLIC COMMENT:** *The Public Comment period of thirty minutes provides an opportunity for residents to comment on any item included in the agenda or to address the Town Council on any other matter related to the Town of Winterville. For an item included in the Public Hearing section of the agenda, residents should address the Council at the time the Mayor invites public comment on the item. No public comment may be made to the Council during the meeting, except during the Public Comment period or as part of a Public Hearing. Individual speakers are limited to a maximum of three minutes, and no more than three speakers may address the Council on a single matter. The Town Council may elect to take no action on the matter addressed by a speaker, may schedule the matter for further consideration at a future Council meeting, or may refer the matter to Town staff for disposition. Copies of the Town Public Comment Policy are available in the rear of the Assembly Room.*
- VIII. CONSENT AGENDA:** *The following items are considered routine in nature and will not be discussed by the Town Council unless a Councilman or citizen requests that an item be removed from the Consent Agenda for further discussion. The Mayor may allow citizens to address an item or ask questions.*
  1. Approval of the following sets of Council Meeting Minutes:
    - October 12, 2020 Regular Meeting Minutes.
  2. Schedule Public Hearing for David Evans Property – Rezoning Request (Parcel 55092).
  3. Schedule Public Hearing for Zoning Ordinance Amendments – Chapter 160D of the NC GS.
  4. Release and Refund of Taxes.

**IX. OLD BUSINESS:**

1. Winterville Human Relations Board: Ordinance 20-O-111.

**X. NEW BUSINESS:**

1. No parking on east side of southbound West Railroad Street: Ordinance 20-O-112.

**XI. OTHER AGENDA ITEMS:**

1. Downtown Noise – Councilman Moore.

**XII. ITEMS FOR FUTURE AGENDAS/FUTURE WORK SESSIONS:**

**XIII. REPORTS FROM DEPARTMENT HEADS:**

- ❖ Minimum Housing/Code Enforcement (TLP)
- ❖ Tar Road Widening Project – Electric Engineering/Relocation (RS)
- ❖ New Electric Territory Engineering/Installation (RS)
- ❖ Fork Swamp Greenway Project (EJ)
- ❖ Multi-Purpose Building Site Plan (EJ)
- ❖ Winterville Market/Town Common Plan (BW)
- ❖ Chapman Street Culvert - Nobel Canal Drainage Basin Study (TW)
- ❖ 2018 Sewer Rehab (TW)
- ❖ Church Street Pump Station Rehabilitation (TW)
- ❖ Cemetery (BW)

**XIV. ANNOUNCEMENTS:**

1. Town Offices Closed: Wednesday, November 11, 2020 for the Veteran's Day Holiday.
2. Planning and Zoning Board Meeting: Monday, November 16, 2020 - 7 p.m. - Town Hall Assembly Room.
3. Recreation Advisory Board: Tuesday, November 17, 2020 – 6:30 pm – Operation Center.
4. Board of Adjustment Meeting: Tuesday, November 17, 2020 - 7 p.m. - Town Hall Assembly Room.
5. Town Offices Closed: Thursday, November 26 and Friday November 27, 2020 for the Thanksgiving Holiday.

**XV. REPORTS FROM THE TOWN ATTORNEY, MAYOR AND TOWN COUNCIL, AND TOWN MANAGER.**

**XVI. ADJOURN.**

**SPECIAL NOTICE:** *Anyone who needs an interpreter or special accommodations to participate in the meeting should notify the Town Clerk, Don Harvey at (252) 215-2344 at least forty-eight (48) hours prior to the meeting. (Americans with Disabilities Act (ADA) 1991.)*



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Proclamations

**Meeting Date:** November 9, 2020

**Presenter:** Donald Harvey, Town Clerk

**Item to be Considered**

**Subject:** Veterans Day

**Action Requested:** Approval of Proclamation.

**Attachment:** Veterans Day Proclamation.

**Prepared By:** Donald Harvey, Town Clerk

**Date:** 10/28/2020

**ABSTRACT ROUTING:**

TC: 11/2/2020

TM: 11/5/2020

Final: tjp - 11/5/2020

**Supporting Documentation**

Approval of the attached Veterans Day Proclamation.

**Budgetary Impact:** NA.

**Recommendation:** Approval of Proclamation.



**PROCLAMATION**  
*Honoring Veterans Day*

**WHEREAS**, America was founded on the principles of liberty, opportunity and justice for all; and

**WHEREAS**, America has called on her men and women in uniform to protect our national security, to advance our national interests and to preserve our rights and freedoms; and

**WHEREAS**, on Veterans Day we recognize the men and women of our Armed Forces who have valiantly defended these values throughout our Nation's history; and

**WHEREAS**, on Veterans Day we also remember those whose sacrifice ended in permanent injury or death, yet their spirit remains in continued preservation of our freedoms and the promise of liberty established as an example for all oppressed persons of the world; and

**WHEREAS**, in honor of these dedicated men and women, we pledge continued defense of our nation so that their sacrifice will stand before the entire world as a tribute to the spirit and determination of people dedicated to the principals of freedom and democracy.

**NOW, THEREFORE**, the Town of Winterville currently has veterans living within its boundary;

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, the Winterville Town Council does hereby proclaim November 11, 2020 Veterans Day in the Town of Winterville, North Carolina and calls upon our citizens to observe this day with appropriate manners in honor of veterans, both living and deceased, who have served this country so willingly to preserve the principles of justice, freedom and democracy; to fly the flag; and let our veterans know we appreciate their great sacrifice.

**IN WITNESS WHEREOF**, I do set my hand, and cause the seal of Winterville to be affixed this 9<sup>th</sup> day of November 2020.

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Veronica W. Roberson, Mayor Pro Tem

**Attest:**

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Donald Harvey, Town Clerk



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** November 9, 2020

**Presenter:** Donald Harvey, Town Clerk

**Item to be Considered**

**Subject:** Council Meeting Minutes.

**Action Requested:** Approval of Minutes.

**Attachment:** Draft Minutes of the Council meetings listed below.

**Prepared By:** Donald Harvey, Town Clerk

**Date:** 10/28/2020

**ABSTRACT ROUTING:**

TC: 11/2/2020

TM: 11/5/2020

Final: tlp – 11/5/2020

**Supporting Documentation**

Approval of the following set of Council Meeting Minutes:

- October 12, 2020 Regular Meeting Minutes.

**Budgetary Impact:** NA.

**Recommendation:** Approval of Minutes.



**WINTERVILLE TOWN COUNCIL  
MONDAY, OCTOBER 12, 2020 - 7:00 PM  
REGULAR MEETING MINUTES**

The Winterville Town Council met in a Regular Meeting on the above date at 7:00 PM in the Town Hall Assembly Room, with Mayor Pro Tem Veronica W. Roberson presiding. The following were present:

Douglas A. Jackson, Mayor (Absent)  
Veronica W. Roberson Mayor Pro Tem  
Richard (Ricky) E. Hines, Councilman  
Tony P. Moore, Councilman  
Johnny Moye, Councilman  
Mark C. Smith, Councilman  
Keen Lassiter, Town Attorney (Absent)  
Terri L. Parker, Town Manager  
Ben Williams, Assistant Town Manager  
Ryan Willhite, Police Chief  
David Moore, Fire Chief  
Robert Sutton, Electric Director  
Anthony Bowers, Finance Director  
Evan Johnston, Parks and Recreation Director  
Bryan Jones, Planning Director  
Donald Harvey, Town Clerk

**CALL TO ORDER:** Mayor Pro Tem Roberson called the meeting to order.

**INVOCATION:** Councilman Moore gave the Invocation.

**PLEDGE OF ALLEGIANCE:** Mayor Pro Tem Roberson led everyone in the Pledge of Allegiance.

**WELCOME:** Mayor Pro Tem Roberson welcomed the public.

**APPROVAL OF AGENDA:**

**Motion made by Councilman Moore and seconded by Councilman Hines to approve the agenda. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 4-0.**

**PUBLIC HEARINGS:**

**Eli's Ridge Phases 1 and 3 Annexation - Planning Director Jones gave the following presentation:**

- Applicant/Petitioner: Bill Clark Homes of Greenville, LLC
- Location: Worthington Road east of its intersection with Old Tar Road
- Parcel Number: Portion of Parcel 84754
- Site Data: 18.38 acres
- Zoning District: R-10



NOTIFICATIONS:

- Adjacent properties owners were mailed notification of the Public Hearing for annexation on September 28, 2020.
- Notice of the Public Hearing for annexation was published in the Daily Reflector on September 30, 2020 and October 7, 2020.



Mayor Pro Tem Roberson declared the public hearing open, asked if anyone would like to speak in favor of the plan, no comments. Mayor Pro Tem Roberson asked if anyone would like to speak in opposition of the plan, no comments. Mayor Pro Tem Roberson closed the public hearing.

Mayor Pro Tem Roberson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

**Motion made by Councilman Moore and seconded by Councilman Hines to approve the Eli's Ridge Phases 1 and 3 Annexation, subject to the 24-hour comment period. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 4-0.**

**\*(Note to the minutes) No comments were received within 24 hours of the conclusion of the meeting, thus the motion on the Eli's Ridge Phases 1 and 3 Annexation is approved.**

**R. E. Davenport Property Rezoning Request** - Planning Director Jones gave the following presentation:

**Town of WINTERVILLE**  
*A slice of the good life!*

**Davenport Property – Rezoning Request**

- Applicant: R. E. Davenport Property
- Location: Intersection of NC 903 S and NC 11 S
- Parcel Number: 05590
- Site Data: 43.69acres
- Current Zoning District: Agricultural Residential (AR)
- Proposed Zoning District: General Business (GB)
- Current Land Use Character Area: Mixed Use Center



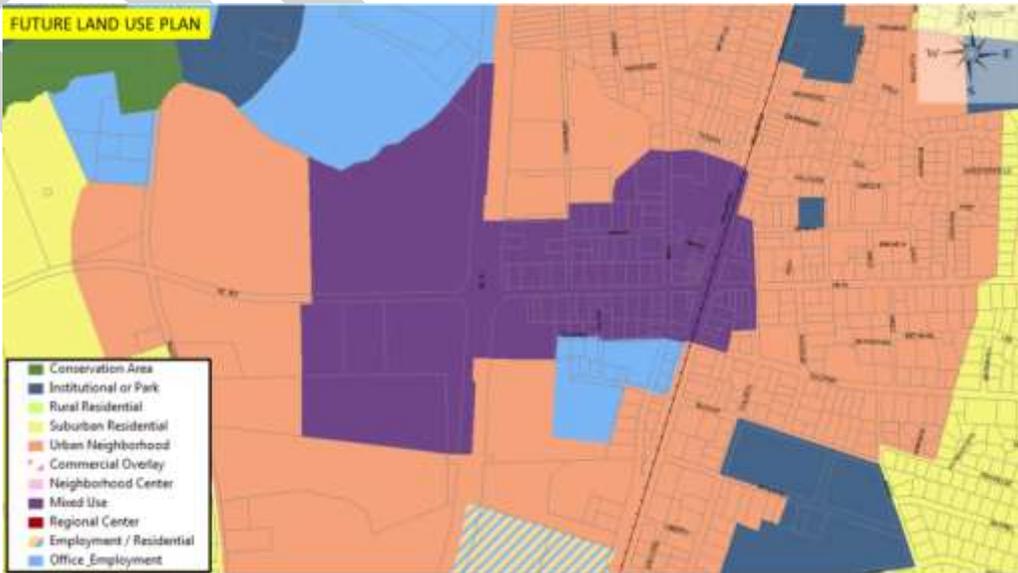
**Town of WINTERVILLE**  
*A slice of the good life!*

**Davenport Property – Rezoning Request**

- Adjacent property owners were mailed notification of the rezoning request on September 28, 2020.
- Notification was published in the Daily Reflector on September 30, 2020 and October 7, 2020.
- Notification was posted on the site on July 31, 2020.









## Mixed Use Center

Mix of commercial, retail, restaurants, and service-oriented businesses, with a variety of residential options, including multi-family, townhomes, and upper-story residential. Offices also potentially on upper floors. Walkable places with a pedestrian-focused "downtown" feel.

Primarily medium-sized lots with single family detached residential and occasionally smaller scale, corner-sensitive (pale) homes and attached residential (permitted if design criteria are met). Generally 3-8 dwellings per acre. Some small-scale services, restaurants, or offices encouraged at select locations with good access.

**Commercial Overlay**  
Potential for small-scale commercial that is sensitive to existing residential development if good transportation access is possible.

**Office & Employment**  
Large office buildings, manufacturing, distribution, and light to medium industrial uses, storage and flex uses, along with associated office and supporting commercial uses.

**Institution or Park**  
Community schools, the Pitt Community College campus, town parks, and open space areas form a fabric that knits the community together. New institutional, civic, and open space uses are potentially allowed in any future land use category.

Mixed Use Center

**General Character**

Mixed Use Centers allow flexibility to respond to market demands by emphasizing the form of development over use or intensity. These areas feel made for people and have just a little "hustle-and-bustle" with some small-town hospitality mixed in.

Typical Components	
Density	No limit on upper story residential, up to 20 units per acre elsewhere
Lot coverage	High to very high
Building height	2-4 stories
Parking	Off-street or on-street
Street pattern	Urban grid
Right-of-way width	50'-60', less for alleys
Block length	400'-600'
Drainage	Curb-and-gutter
Bicycle/Pedestrian	Wide sidewalks
Civic Space	10-20% Plazas or greens as organizing elements, greenways, pocket parks, naturalized stormwater detention
Potential zoning	G-B, possibly M-R, G-B, C-N or O-1, potentially a need for a new district

**Uses**

Retail, restaurants, and shopping create active street frontage, with upper story residential and office adding diversity. Stand-alone commercial, office and multi-family possible as part of larger-scale developments. Smaller detached and attached housing options blend with existing homes.

**Buildings & Parking**

Buildings are packed closely together and pulled up to the street, which creates a walkable environment. On-street parking and high lot coverage maximize the amount of attractions available.

**Streets & Connections**

The streets have wide sidewalks that foster an active pedestrian environment. The tight grid and pleasant streetscapes encourage walking and window-shopping.



Examples of Mixed Use Center

IMPACT / POLICY ANALYSIS

RECOMMENDATIONS & IMPLEMENTATION

**Land Use**

**Organizing Goals:**

- |  |  |
|--|--|
| <b>Primary Goals:</b>  | <b>Supporting Goals:</b>   |
| <ul style="list-style-type: none"> <li>Strengthen and Diversify the Economy</li> <li>Safe, Healthy Neighborhoods and Environment</li> <li>Activate Downtown</li> </ul> | <ul style="list-style-type: none"> <li>Create a Town-wide Identity</li> <li>Connectivity and Mobility</li> </ul> |

**Policies and Strategies**

Policy 1: Encourage a balanced tax base while managing growth.

**Strategies**

- Utilize the Future Land Use Map and character areas when considering land use decisions (i.e. development approvals and rezoning decisions) and infrastructure improvement priorities.
- Encourage non-residential growth in the form of retail, restaurants, professional offices and industrial development

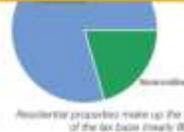
In areas designated as such on the Future Land Use Map, 1.3: Encourage a logical progression of development and



**POLICY 1: Encourage a balanced tax base while managing growth.**

**(1.2) Encourage non-residential growth in the form of retail, restaurants, professional offices and industrial development...**

...is necessary to deny rezoning if they are premature or do not fit with surrounding uses, even if the Future Land Use Map supports the rezoning.



**Economic Development**

**Organizing Goals:**

- |   |   |
|---|---|
| <b>Primary Goals:</b>   | <b>Supporting Goals:</b>  |
| <ul style="list-style-type: none"> <li>• Strengthen and Diversify the Economy</li> <li>• Create a Town-wide Identity</li> </ul> | <ul style="list-style-type: none"> <li>• Activate Downtown</li> </ul> |

**Policies and Strategies**

**POLICY 2: Improve self-sufficiency and reduce retail leakage.**

**(2.1) Support Winterville's transformation from a "bedroom community" to a "neighboring community" to Greenville.**

especially along Winterville Parkway and other appropriate areas.

Policy 2: Improve self-sufficiency and reduce retail leakage.

**Strategies**

**2.1: Support Winterville's transformation from a "bedroom community" to a "neighboring community" of Greenville.**

- The Economic Development Task Force recommended that Winterville grow into its own vibrant community with its own commercial and employment sectors. This will help the Town become a self-sufficient community that recaptures retail leakage from nearby Greenville.

Encourage rezonings to residential use in high visibility corners, access and parcels within Of future land use areas.

Force the Town's identity as a vibrant, friendly community.

Encourage rezonings to residential use in urban Residential and Urban Center areas identified on the future land use map. Encourage rezonings to support and promote



The majority of Winterville's residential growth has been and will likely be in the form of single family detached residential subdivisions.



Encouraging commercial development on sites with good transportation access will help balance the tax base and create a more self-sufficient community.

**POLICY 6: Focus on business recruitment, expansion and retention.**

**(6.2) Encourage and support local businesses...**

**Strategies**

**4.1: Encourage new commercial development at key intersections along Forlines Road and Fire Tower Road Extension.**

- Capitalize on opportunities that will arise due to the Southwest Bypass and planned extension of Fire Tower Road.

**4.2: Encourage new commercial and industrial businesses to locate along the Laurie Ellis Extension.**

**Policy 5: Promote retirement-focused living.**

**Strategies**

**5.1: Continue participation in the N.C. Department of Commerce's Certified Retirement Community Program.**

**5.2: Remove barriers to and consider incentives for senior-friendly housing types in downtown and other appropriate locations.**

**5.3: Recruit developers for individual-owned patio homes and life care facilities.**

market offerings to appeal to retirement age demographic. Encourage alternative forms of transportation for senior-friendly.

- Provide bicycle and golf cart parking at town facilities.
- Provide incentives for bicycle and golf cart use.

**Policy 6: Focus on business recruitment, expansion and retention.**

**Strategies**

**6.1: Recruit new national and local businesses to Regional Center future land use areas.**

**6.2: Encourage and support local businesses, especially in expansion efforts.**

**6.3: Coordinate with Pitt Community College for expansions or other infrastructure needs.**

- This might include facilities to support the college, such as hotels, better road connections or intersection redesigns, pedestrian connections, etc.

**6.4: Coordinate with Pitt County and neighboring community economic development efforts.**



The number of Winterville residents age 45 to 75 grew by 33% between 2010 and 2018. Lower transportation path burdens and pocket neighborhoods may appeal to this demographic. Current zoning regulations could be modified to encourage this type of housing new downtown and in other appropriate locations.

**Pocket Neighborhoods**  
Langley, Washington adopted a new Cottage Housing Development option that allows for double the density of detached homes in some zones if homes front a green-space and meet other design criteria. The image above is from a "pocket neighborhood" in Langley.

**Planning Board and Staff Recommendation:**

- The Planning and Zoning Board unanimously recommended approval on August 17, 2020.
- Planning Staff finds the request is reasonable and in the public interest because the proposed zoning district is compatible with surrounding land uses and the future land use plan.
- Staff recommends approval of the request to rezone 43.69 acres from AR to GB.



Councilman Smith arrived during presentation at 7:14 pm.

Mayor Pro Tem Roberson declared the public hearing open, asked if anyone would like to speak in favor of the plan. Planning Director Jones read the following comment of support submitted:



Mayor Pro Tem Roberson asked if anyone would like to speak in opposition of the plan, no comments. Mayor Pro Tem Roberson closed the public hearing.

Mayor Pro Tem Roberson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

**Motion made by Councilman Moore and seconded by Councilman Hines to approve the R. E. Davenport Property Rezoning Request subject to the 24-hour comment period. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.**

**\*(Note to the minutes) No comments were received within 24 hours of the conclusion of the meeting, thus the motion on the R. E. Davenport Property Rezoning Request is approved.**

**F & A Construction Rezoning Request** - Planning Director Jones gave the following presentation:

**Town of WINTERVILLE**  
*A slice of the good life!*

**F & A Construction – Rezoning Request**

- Applicant: F & A Construction, LLC
- Location: Northeast corner of Laurie Ellis Road and Old Tar Road
- Parcel Number: 55092
- Site Data: 5.932 acres (16.51 Acres in Total Tract)
- Current Zoning District: Agricultural Residential (AR)
- Proposed Zoning District: Neighborhood Commercial
- Future Land Use Character Area: Neighborhood Center



**Town of WINTERVILLE**  
*A slice of the good life!*

**F & A Construction – Rezoning Request**

- Notification was posted on the site on June 30, 2020.
- Adjacent property owners were mailed notification of the rezoning request on September 28, 2020.
- Notification was published in the Daily Reflector on September 30, 2020 and October 7, 2020.







**FUTURE LAND USE CHARACTER AREAS**

**Neighborhood Center**

Context-appropriate commercial, retail, services, professional offices, and occasionally residential located at key locations and crossroads that serve the general neighborhood around them. Small-lot residential or patio homes and/or attached residential could be part of land use mix.

Commercial Overlay: Potential for small-scale commercial that is sensitive to existing residential development if good transportation access is possible.

**Commercial Overlay**  
Potential for small-scale commercial that is sensitive to existing residential development if good transportation access is possible.

Institution or Park: Community schools, the Pitt Community College campus, train parks, and open space areas form a fabric that binds the community together. New institutional, civic, and open space uses are potentially allowed in any future land use category.

**Institution or Park**  
Community schools, the Pitt Community College campus, train parks, and open space areas form a fabric that binds the community together. New institutional, civic, and open space uses are potentially allowed in any future land use category.

**General Character**

These centers have small-scale retail, restaurants and offices that are local landmarks and serve the surrounding neighborhoods. Other, more high intensity land uses may be attracted to these activity areas. Residential uses could include patio homes, attached units and some multi-family structures.

Typical Components	
Density	Up to 14 units per acre
Lot coverage	Medium to high
Building height	1-5 stories
Parking	Off-street, internal lots On-street parking on some blocks
Street pattern	Urban grid
Right-of-way width	50'-60' with 70'-100' boulevards
Block length	500'-800'
Drainage	Curb and gutter
Bicycle/Pedestrian	sidewalk (Both sides)
Civic Space	Limited, small plazas, patio dining
Potential zoning	G-B, C-N, C-L, I-C, possibly C-B, R-B, R-6, or M-R

**Uses**

Neighborhood-serving commercial uses (grocery store, retail/service, restaurant, etc.) serve as the anchor of this land use type, with multi-family and other residential mixed in and supporting the commercial center.

**Buildings & Parking**

Buildings set back from the street with landscaping and limited parking in front. More internal parking to the side or behind businesses.

**Streets & Connections**

These sites balance automobiles and pedestrians, and need to be accessible by multiple transportation modes to succeed as social centers.



Examples of Neighborhood Centers

Neighborhood Center

IMPACT / POLICY ANALYSIS

**RECOMMENDATIONS & IMPLEMENTATION**

**Land Use**

**Organizing Goals:**

- |   |  |
|---|--|
| <p><b>Primary Goals:</b></p> <ul style="list-style-type: none"> <li>Strengthen and Diversify the Economy</li> <li>Safe, Healthy Neighborhoods and Environment</li> <li>Activate Downtown</li> </ul> | <p><b>Supporting Goals:</b></p> <ul style="list-style-type: none"> <li>Create a town with identity</li> <li>Connectivity and Mobility</li> </ul> |
|---|--|

**Policies and Strategies**

**Policy 1:** Encourage a balanced tax base while managing growth.

**Strategies**

- 1.1: Utilize the Future Land Use Map and character areas when considering land use decisions (i.e. development approvals and rezoning decisions) and infrastructure improvement priorities.
- 1.2: Encourage non-residential growth in the form of retail, restaurants, professional offices and industrial development

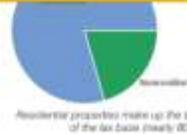
in areas designated as such on the Future Land Use Map. 1.3: Encourage a logical progression of development and



**POLICY 1: Encourage a balanced tax base while managing growth.**

**(1.2) Encourage non-residential growth in the form of retail, restaurants, professional offices and industrial development...**

...to help diversify the economy to help ensure that they are premature or not in sync with surrounding uses, even if the Future Land Use Map supports the rezoning.



IMPACT / POLICY ANALYSIS

**Policy 2:** Encourage walkable and/or mixed use development.

**Strategies**

- 2.1: Allow a vertical mix of uses in key locations to provide a synergy between residences/offices and the businesses below.
  - These vertically mixed buildings may be allowed reduced parking standards due to on-street or shared parking and require enhanced pedestrian facilities.
  - Areas appropriate for vertical mixed use include the Mixed Use areas that includes Downtown as well as Regional and Neighborhood Centers.
- 2.2: Allow a horizontal mix of uses in new developments within Neighborhood Centers, Regional Centers Mixed Use, Commercial Overlay, and Employment / Residential areas designated on the Future Land Use Map.
  - Small scale office, services or restaurants allowed in Urban Neighborhood areas in locations with good access.
  - All horizontal mixed use areas should be part of a planned development and meet minimum design criteria including:
    - Connected streets and pedestrian facilities
    - Shared parking where appropriate
    - Integrated public space (i.e. plazas or common greens)

A mix of building elevators and housing types.

**Potential Gateway Improvements**

**Policy 3**

**Strategy 3.1: Enhance lands**

**POLICY 2: Encourage walkable and/or mixed-use development**

**(2.2) Small-scale office, services or restaurants allowed in Urban Neighborhood areas in locations with good access...**

- Old Town / College Area / North Gateway
- Main Street / NC 11: Rustan Club Welcome Sign, flag pole and NCDOT Enhancement (low wall and parking) - Potential for upgrades to signage and landscaping
- Mill Street: Potential signage, art or beautification along railroad
- Forbes Road: Key entry from Southwest Bypass







floor covering, drapery or upholstery	3	5710																X	X	X	X	X	
florist shop	3	5992	C															X	X	X	X	X	41
garden centers or retail nurseries	3	5261																		X	X	X	
grocery store	3	5400																	X	X	X	X	
hardware store	3	5251																	X	X	X	X	
hobby & toy stores	3	5945																	X	X	X	X	
jewelry sales & repair	3	5944																	X	X	X	X	
leather goods sales	3	5948																	X	X	X	X	
music stores including instrument repair	3	5736																	X	X	X	X	
newsstand, magazines	3	5904																	X	X	X	X	
office supply store	3	5999																	X	X	X	X	
optical goods sales	3	5995																	X	X	X	X	
record, tape, cd stores	3	5735																	X	X	X	X	
restaurants (w/o drive-through)	3	5812																	X	X	X	X	
retail sales & service where not classified elsewhere, and where all retail sales & services are conducted within an enclosed building	3	0000																	X	X	X	X	41
retail sales & services not classified elsewhere including outdoor storage	3	0000																		X			
service stations, gasoline	4	5541																	X	X	X	X	
shoe sales and or repair	3	0000																	X	X	X	X	
shopping centers & malls	3	0000																		C		C	25
sporting goods stores	3	5941																	X	X	X	X	

tobacco stores	3	5993																	X	X	X	X	
video tape rental & sales	3	7841																	X	X	X	X	
wine & craft beer shop	3	5921																	X	X	X	X	
woodworking shops, retail	4	5999																	X	X	X	X	

**Public Works:**

electric transmission distribution poles, towers supporting cable, lines & related appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
governmental public works facilities, utilities, infrastructure & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
natural gas distribution lines & related appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
sewage collection lines, pump stations & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
telephone & television cable poles, towers, supporting cable, lines & related appurtenances.	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
water distribution lines, booster pumps, storage facilities & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	

**Planning Board and Staff Recommendation:**

- The Planning and Zoning Board unanimously recommended approval on August 17, 2020.
- Planning Staff finds the request is reasonable and in the public interest because the proposed zoning district is compatible with surrounding land uses and the future land use plan.
- Staff recommends approval of the request to rezone 5.392 acres from AR to CN.



Scott Anderson with ARK Consulting Group, representing the owner, gave comments and answered questions.

Mayor Pro Tem Roberson declared the public hearing open, asked if anyone would like to speak in favor of the plan, no comments. Mayor Pro Tem Roberson asked if anyone would like to speak in opposition of the plan, no comments. Mayor Pro Tem Roberson closed the public hearing.

Mayor Pro Tem Roberson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

**Motion made by Councilman Moye and seconded by Councilman Hines to approve the F & A Construction Rezoning Request, subject to the 24-hour comment period. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.**

**\*(Note to the minutes) No comments were received within 24 hours of the conclusion of the meeting, thus the motion on the F & A Construction Rezoning Request is approved.**

**All Dunn Taxicab Franchise.**

Town Clerk Harvey presented the request with the following information:

Mr. Domika D. Dunn, owner of All Dunn Transport requests to operate a Taxicab Franchise in the Town of Winterville. The applicant has submitted his application for approval of the certificate of convenience and necessity. The Public Hearing was advertised in the Daily Reflector on Wednesday, September 30, 2020.

Mayor Pro Tem Roberson declared the public hearing open, asked if anyone would like to speak in favor of the taxicab franchise request, no comments. Mayor Pro Tem Roberson asked if anyone would like to speak in opposition of the rezoning request, no comments. Mayor Pro Tem Roberson closed the public hearing.

Mayor Pro Tem Roberson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

**Motion made by Councilman Hines and seconded by Mayor Pro Tem Roberson to approve the All Dunn Taxicab Franchise and Certificate of Convenience and Issuance of the Permit to Operate a Taxicab contingent upon the Police's Department's investigation of the truth of facts of the Application and subject to the 24-hour comment period. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.**

**\*(Note to the minutes) No comments were received within 24 hours of the conclusion of the meeting, thus the motion on the All Dunn Taxicab Franchise is approved.**

**PUBLIC COMMENT:** None.

**CONSENT AGENDA:**

Items included in the Consent Agenda:

1. Approval of the following sets of Council Meeting Minutes:
  - September 14, 2020 Regular Meeting Minutes.
2. Tax Charges for 2020-2021 Tax Levy.
3. Tax Settlement for 2019-2020.
4. Reimbursement Resolution 20-R-101.

**Motion made by Councilman Smith and seconded by Councilman Hines to approve the Consent Agenda. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.**

**OLD BUSINESS:**

**2020 Street Improvements Project Engineering Contract Amendment:**

Assistant Town Manager Williams gave the following information:

Council previously agreed to modifying the project from a mill and overlay of Milton Drive to an undercut and full rebuild. The engineering contract with ARK Consulting Group was originally structured as hourly for the Construction Phase services with an estimated amount of \$10,000. In the contract, the \$10,000 hourly amount estimated was based on the following:

- a) Attend Preconstruction Conference and prepare written minutes for distribution to Owner and Contractor.
- b) Provide periodic inspection of the street and storm drainage improvements (estimated at 10 site visits).
- c) Review Shop Drawing submittals.
- d) Review Contractor Pay Requests (estimated at 2 pay requests).
- e) Attend the final inspections for the project (1 pre-final inspection with the Contractor and 1 final inspection with the Owner and Contractor).

The frequency and duration of onsite observation has increased accordingly to accommodate the full reconstruction of Milton Drive. The Engineer has reached the original estimated amount. Based on the Contractor's current work progress, the Engineer estimates an additional fee of approximately \$10,000 to complete the project under current conditions.

Discussion held by Council, Town Manager Parker, and Assistant Town Manager Williams. Mayor Pro Tem Roberson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

**Motion made by Councilman Moore and seconded by Mayor Pro Tem Roberson to approve the 2020 Street Improvements Project Engineering Contract Amendment. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.**

**NEW BUSINESS:**

**Pump Station Rehabilitation Project - Capital Project Budget Ordinance 20-CPBO-101:**

Finance Director Bowers gave the following information:

The Town has been awarded a grant in the amount of \$1,974,200. This loan amount is being financed by the NCDEQ (North Carolina Department of Environmental Quality). This also includes \$500,000 in debt forgiveness. It also includes a 0% interest rate. The project includes rehabilitation and relocation of three major sewer pump stations. They are Chapman Street replacement, Church Street Upgrades, Robinson Heights Electrical system, and Winterville Crossing Electrical system replacement.

Mayor Pro Tem Roberson asked for any questions. Hearing none what is the Board's pleasure.

**Motion made by Councilman Moore and seconded by Councilman Hines to approve the Pump Station Rehabilitation Project Capital Project Budget Ordinance. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moyer, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.**

**OTHER AGENDA ITEMS:** Mayor Pro Tem Roberson asked if there was any other business.

Councilman Hines asked the status of the multipurpose building. Staff responded that search for property is on-going.

Councilman Moore update the Veterans Day celebration. Town Manager Parker noted that the Town would work to make it happen.

Councilman Moyer asked about the status of Utility agreements. Finance Director Bowers noted that the Town made 88 agreements and they pay 1/6 of outstanding amount each month plus their regular bill. A few did not meet their terms last month. There are some resources available to assist those in need. Town Manager Parker noted that staff will follow up with a report. Staff noted they had worked with citizens and them in touch with resources to keep their utilities connected.

Councilman Hines thanked staff for prompt repairs to the electric system after the wreck.

Mayor Pro Tem Roberson asked if NTE could provide assistance. Town Manager Parker stated she did not have any programs. Mayor Pro Tem Roberson asked about the possibility of new programs. Town Manager Parker said she would continue to talk and work with them relative to resources. Mayor Pro Tem Roberson said she would appreciate we asked NTE for help.

Councilman Moyer asked the status of Beacon Drive street repairs. Town Manager Parker and Assistant Town Manager Williams noted that the contractor was reminded to improve the situation with a temporary patch. Councilman Moyer asked to place a warning in in the street. Town Manager Parker stated possibly place the digital sign. Assistant Town Manager Williams would check on the "Dip sign".

**ITEMS FOR FUTURE AGENDA/FUTURE WORK SESSIONS:**

Mayor Pro Tem Roberson asked about the Human Relations Council. She said the State gentleman could provide training. Town Manager Parker noted she had hoped to have for this meeting, however, will have by next meeting then training for those interested to follow.

**REPORTS FROM DEPARTMENT HEADS:**

- ❖ Minimum Housing/Code Enforcement (TLP)
- ❖ Tar Road Widening Project – Electric Engineering/Relocation (RS)
- ❖ New Electric Territory Engineering/Installation (RS)
- ❖ Fork Swamp Greenway Project (EJ)
- ❖ Multi-Purpose Building Site Plan (EJ)
- ❖ Winterville Market/Town Common Plan (BW)
- ❖ Chapman Street Culvert - Nobel Canal Drainage Basin Study (TW)
- ❖ 2018 Sewer Rehab (TW)
- ❖ Church Street Pump Station Rehabilitation (TW)
- ❖ Cemetery (BW)

Mayor Pro Tem Roberson asked about the Cemetery expansion. Town Manager Parker noted that staff has looked internally on the expansion. Will need to get the budget straight prior to moving forward.

Police Chief Willhite discussed the vicious dog situation. Town Manager Parker said a process was needed to declare dogs dangerous and vicious. Police Chief Willhite noted that the Town needs to respond to situations of dogs. State statues require that the Town notify the owner of the dog that it is dangerous and vicious. Councilman Moore asked if Council could serve as committee. Town Manager Parker said Council would have to call a meeting after the Police determines vicious. Councilman Moore suggested Councilman Hines, Town Manager, and Fire Chief make-up the committee. Mayor

Mayor Pro Tem Roberson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

**Motion made by Councilman Moore and seconded by Councilman Hines to approve the Police Chief the authority to determine vicious dogs and establish a review board of Councilman Hines, Town Manager, and Fire Chief. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.**

**ANNOUNCEMENTS:** Town Clerk Harvey gave the following announcements.

1. One-Stop Voting: Thursday, October 15, 2020 – Saturday, October 31, 2020.
2. Planning and Zoning Board Meeting: Monday, October 19, 2020 - 7 pm - Town Hall Assembly Room.
3. Board of Adjustment Meeting: Tuesday, October 20, 2020 - 7 pm - Town Hall Assembly Room.
4. Recreation Advisory Board: Tuesday, October 27, 2020 – 6:30 pm – Operation Center.
5. Daylight Savings Time Ends: Sunday, November 1, 2020 – 2:00 am.
6. General Election Day: Tuesday, November 3, 2020 – 6:30 am – 7:30 pm.
7. Town Offices Closed: Wednesday, November 11, 2020 for the Veteran's Day Holiday.

Councilman Moye asked about the need for voters to use bathroom. Councilman Moore and Councilman Smith noted we need to open Town Hall. Councilman Hines asked about present plan. Town Manager Parker said planning for late October early November. Councilman Hines noted that USDA offices were not open. Town Manager Parker said State is presently in a Modified Phase 3. Councilman Moye said he supported what staff was doing, that situations different, and continue as presently doing. Town Manager Parker noted that all services have been rendered as usual. Town Manager Parker said mask would be required. Mayor Pro Tem Roberson asked can we go back if situation gets worse.

**Motion made by Councilman Smith and seconded by Councilman Hines to establish a plan to reopen Town Buildings by November 1, for 20 hours per week, with mandatory masks, provide sanitizer, and with no conflict with State mandates. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0.**

**REPORTS FROM THE TOWN ATTORNEY, MAYOR, AND TOWN COUNCIL, AND TOWN MANAGER:**

**Town Attorney Lassiter:** Town Manager Parker noted that Town Attorney Lassiter was absent due to the death of his mother-in law.

**Councilman Moore:** None

**Councilman Smith:** None

**Councilman Moye:** Hillcrest Park work is complete and has received comments on both sides. Hope it makes a difference. Prayers to Mayor Jackson, Mr. Chamblee and his daughter.

**Councilman Hines:** Noted that this is Breast Cancer Awareness month and to be mindful of COVID recovery. Today is Indigenous Peoples' Day and he has worked with the Haliwa-Saponi Tribe in Halifax.

**Manager Parker:** Noted that there are many birthdays among Council this month and wished all a happy birthday.

**Mayor Pro Tem Roberson:** Noted Indigenous Peoples' Day today celebrating native Americans. The Thrift Store will hold a soup and sandwich on Saturday.

**ADJOURN:**

**Motion made by Councilman Hines and seconded by Councilman Moore to adjourn the meeting. The poll vote results are as follows: Mayor Pro Tem Roberson, yes; Councilman Moye, yes; Councilman Smith, yes; Councilman Hines, yes; and Councilman Moore, yes. Motion carried unanimously, 5-0. Meeting adjourned at 9:07 pm.**

Adopted this the 9<sup>th</sup> day of November 2020.

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Veronica W. Roberson, Mayor Pro Tem

ATTEST:

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Donald Harvey, Town Clerk



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** November 9, 2020

**Presenter:** Bryan Jones, Planning Director

**Item to be Considered**

**Subject:** David Evans Property – Rezoning Request (Parcel 55092).

**Action Requested:** Schedule Public Hearing for the Rezoning Request on December 14, 2020.

**Attachment:** Rezoning Application, Rezoning Map, Legal Description, Notification to Adjacent Property Owners, Address Labels, and Staff Report.

**Prepared By:** Bryan Jones, Planning Director

**Date:** 10/29/2020

**ABSTRACT ROUTING:**

TC: 11/2/2020

TM: 11/5/2020

Final: tjp - 11/5/2020

**Supporting Documentation**

**Applicant:** David A. Evans, Jr.

**Location:** Church Street Ext at its intersection with Park Road.

**Parcel Number:** 70857

**Site Data:** 33.4 acres

**Current Zoning District:** AR

**Proposed Zoning District:** R-8 CD

\*\*\*Condition – To allow development of a subdivision for construction of single family residences with a condition that the minimum lot size will be 10,000 square feet minimum.

❖ Planning and Zoning Board unanimously recommended approval to Town Council on October 19, 2020.

**Budgetary Impact:** TBD.

**Recommendation:** Schedule the Public Hearing for December 14, 2020.



**REZONING APPLICATION  
TOWN OF WINTERVILLE**

2571 Railroad Steet  
P O Box 1459  
Winterville, NC 28590  
Phone: (252) 756-2221

**Staff Use Only**  
Appl. # \_\_\_\_\_

**OWNERSHIP INFORMATION:**

Applicant: David A. Evans, Jr

Address: 211 Dalebrook Circle, Greenville, NC 27858

Phone #: 252-754-1175

Owner: David Evans Jr., Anne Evans Brewer, and Suzanne Brewer Harmon

Address: 211 Dalebrook Circle, Greenville, NC 27858

Phone #: 252-754-1175

**PROPERTY INFORMATION**

Parcel #: 70857 Area (square feet or acres): 33.4 acres

Current Land Use: Farm land

Location of Property: 3252 Church Street Extension

**ZONING REQUEST**

Existing Zoning: AR Requested Zoning: R8 CUD

Reason for zoning change: To allow development of a subdivision for construction of single family residences with a condition that the minimum lot size will be 10,000 square feet .

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**This application shall be accompanied by the following items:**

- A map drawn to a scale of not less than 400 feet to the inch and not more than 20 feet to the inch showing the land covered by the proposed amendment;
- A legal description of the property;
- A list of the names and addresses of all owners of property involved in the map change and all adjoining property owners as shown on County tax records;
- A filing fee according to a regularly adopted Fee Schedule of the Town.

**OWNER/AGENT STATEMENT**

I, David Evans Jr., being the Owner or Agent (if Agent, complete section below) request that the attached rezoning request be placed on the agenda of the Planning and Zoning Board meeting scheduled for October/19/2020.

I understand that failure to address any item in the zoning amendment application requirements of the zoning ordinance my result in the rezoning request not meeting the minimum submission requirements and will be returned to me for revision and resubmission at the next regular review cycle.

David A Evans Jr  
Signature

October 1 2020  
Date

**NOTE: AGENTS ACTING ON BEHALF OF THE PROPERTY OWNER MUST HAVE A NOTARIZED STATEMENT FROM THE PROPERTY OWNER GIVING THEM THE AUTHORITY TO ACT ON THE OWNER'S BEHALF.**

I, Judy R. Stroud, being the Owner of the property described herein, do hereby authorize \_\_\_\_\_ as agent for the purpose of this application.

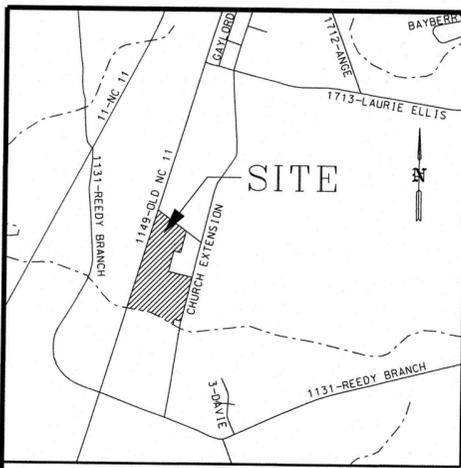
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

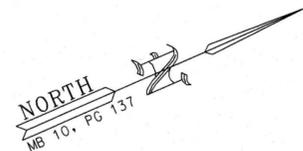
Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

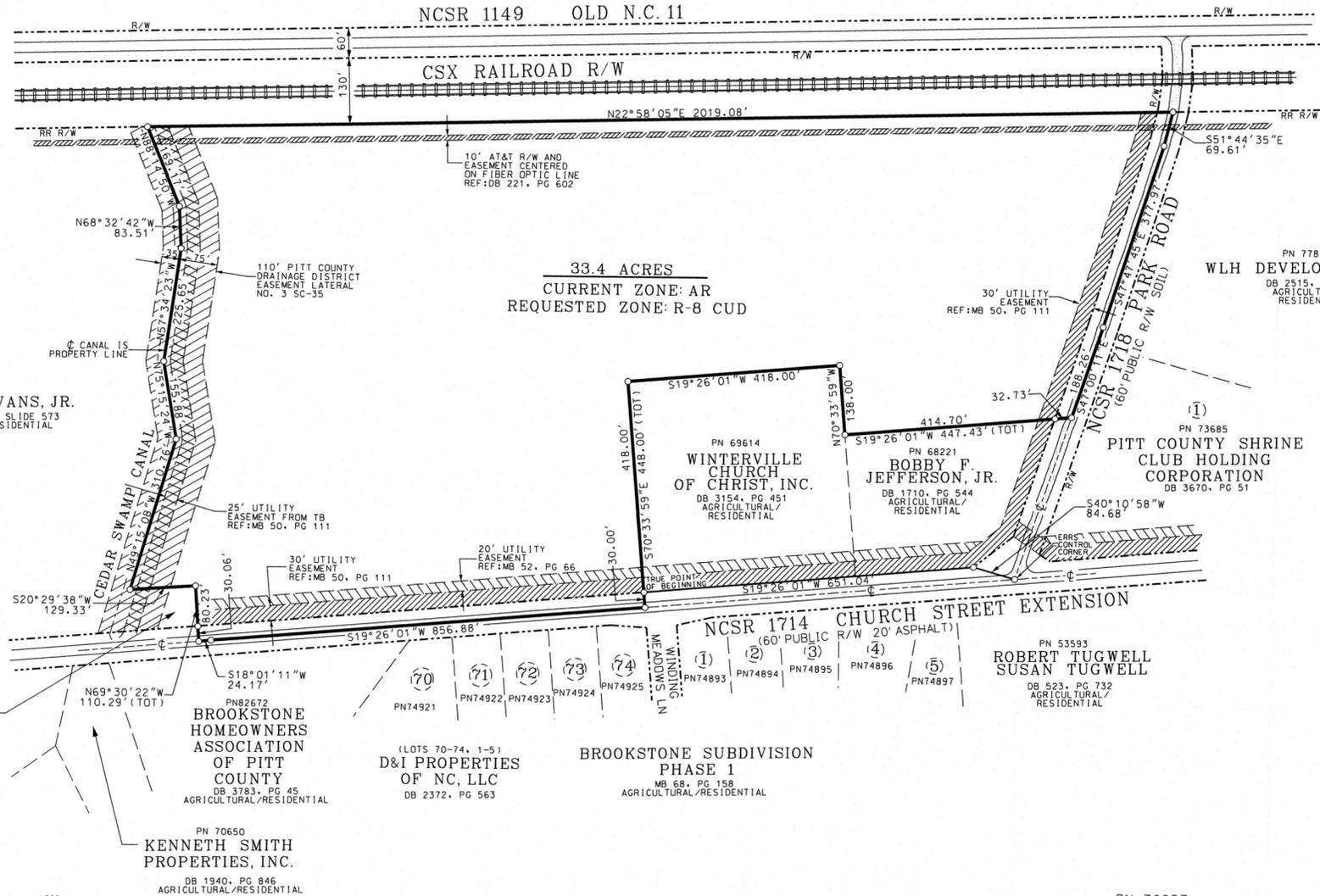
My Commission Expires:  
\_\_\_\_\_



VICINITY MAP



**LEGEND**  
 ERRS= EXISTING RAILROAD SPIKE  
 R/W= RIGHT-OF-WAY  
 C= CENTERLINE



PN 07203  
**DAVID A. EVANS, JR.**  
 ESTATE FILE 00E, SLIDE 573  
 AGRICULTURAL/RESIDENTIAL

PN 59384  
**TOWN OF WINTERVILLE**  
 DB 852, PG 346  
 MB 50, PG 114  
 AGRICULTURAL/RESIDENTIAL

PN82672  
**BROOKSTONE HOMEOWNERS ASSOCIATION OF PITT COUNTY**  
 DB 3783, PG 45  
 AGRICULTURAL/RESIDENTIAL

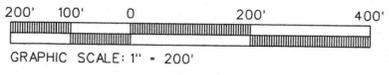
(LOTS 70-74, 1-5)  
**D&I PROPERTIES OF NC, LLC**  
 DB 2372, PG 563

**BROOKSTONE SUBDIVISION PHASE 1**  
 MB 68, PG 158  
 AGRICULTURAL/RESIDENTIAL

PN 53593  
**ROBERT TUGWELL SUSAN TUGWELL**  
 DB 523, PG 732  
 AGRICULTURAL/RESIDENTIAL

PN 77831  
**WLH DEVELOPMENT, LLC**  
 DB 2515, PG 168  
 AGRICULTURAL/RESIDENTIAL

**CHARLES WHITE SUBDIVISION**  
 MB 66, PG 127  
 AGRICULTURAL/RESIDENTIAL



I, DEBORAH T. BOYETTE, CERTIFY THAT THIS SURVEY IS OF ANOTHER CATEGORY AND IS AN EXCEPTION TO THE DEFINITION OF A SUBDIVISION.  
Deborah T. Boyette  
 PROFESSIONAL LAND SURVEYOR L-4146



BOUNDARY TAKEN FROM MAP DONE BY BALDWIN AND ASSOCIATES ENTITLED "BOUNDARY SURVEY FOR CHARLES WHITE, CHURCH STREET & PARK ROAD" DATED 7-22-03 BY BRIAN L. SOUVA, PLS L-3873.

PN 70857

REZONING MAP FOR  
**DAVID A. EVANS, JR.**

REFERENCE: BEING THE PROPERTY RECORDED IN DEED BOOK 1979, PAGE 672 OF THE PITT COUNTY REGISTRY

WINTERVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER: DAVID A. EVANS, JR. ETALS ADDRESS: 211 DALEBROOK CIRCLE GREENVILLE, NC 27858 PHONE: (252) 754-1175	SURVEYED: N/A DRAWN: DTB/LHJ APPROVED: DTB DATE: 10/1/2020 SCALE: 1" = 200' SHEET 1 OF 1
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**STROUD ENGINEERING, P.A.**  
 107B COMMERCE ST.  
 GREENVILLE, NC  
 (252) 756-9352  
 LICENSE NO. C-0647

**LEGAL DESCRIPTION**

**For**

Parcel No. 70857

Lying and being in Winterville Township, Pitt County, North Carolina, lying north and east of NCSR 1131 Reedy Branch Road and south of NCSR 1713 Laurie Ellis Road, and beginning at an existing railroad spike in the centerline intersection of NCSR 1718 Park Road and NCSR 1714 Church Street Extension, thence from the railroad spike S40-10-58W – 84.68' to a point on the western right-of-way of NCSR 1714 Church Street Extension, thence along the right-of-way of Church Street Extension S19-26-01W – 651.04' to the southeast corner of the Winterville Church of Christ, Inc. property as recorded in Deed Book 3154, Page 451 with map recorded in Deed Book 1825, Page 613 of the Pitt County Registry, the true point of beginning.

Thence from the true point of beginning, leaving the right-of-way of NCSR 1714 Church Street Extension S70-33-59E – 30.00' to a point in the centerline of Church Street Extension, thence along the centerline of Church Street Extension S19-26-01W – 856.88', thence S18-01-11W – 24.17', thence leaving the centerline of Church Street Extension N69-30-22W – 30.06' to a point on the western right-of-way of Church Street Extension, the northeast corner of the property owned by the Town of Winterville as recorded in Map Book 50, Page 114, thence leaving the right-of-way of Church Street Extension and following the line common to the Town of Winterville N69-30-22W – 80.23', thence S20-29-38W – 129.33' to a point in the centerline of Cedar Swamp Canal, thence leaving the Town of Winterville property down the centerline of Cedar Swamp Canal the following calls: N49-15-08W – 310.76', thence N75-15-24W – 155.88', thence N57-34-23W – 225.65', thence N68-32-42W – 83.51', thence N88-14-50W – 169.17' to a point on the eastern right-of-way of the CSX Railroad, thence along the railroad right-of-way N22-58-05E – 2019.08' to a point in the centerline of NCSR 1718 Park Road, thence along the centerline of Park Road S51-44-35E – 69.61', thence S47-47-45E – 377.97', thence S47-00-11E – 188.26', thence leaving the centerline of Park Road S19-26-01W – 32.73' to a point on the southern right-of-way of Park Road, the northwest corner of the Bobby F. Jefferson, Jr. property as shown on map recorded in Deed Book 1710, Page 547 of the Pitt County Registry, thence leaving the right-of-way of Park Road and following the western line of the Jefferson property, S19-26-01W – 414.70' to a point in the northern line of the Winterville Church of Christ, Inc. property, thence along the Winterville Church boundary N70-33-59W – 138.00', thence S19-26-01W – 418.00', thence S70-33-59E – 418.00' to a point on the western right-of-way of NCSR 1714 Church Street Extension, the true point of beginning, containing 33.4 Acres, being Parcel Number 70857 as filed with the Pitt County Tax Assessor's Office and also a portion of Tract 1 as shown on map entitled "Boundary Survey For Charles White" prepared by Baldwin and Associates, Greenville, North Carolina dated July 22, 2003.

*Deborah T. Boyette*

Deborah T. Boyette, PLS L-4146

Date 10-1-20





2571 Railroad Street  
PO Box 1459  
Winterville, NC 28590

Phone (252)215-2358  
Fax (252)756-3109  
www.wintervillenc.com

### **Planning and Zoning Rezoning Request**

NOTICE IS HEREBY GIVEN that the Winterville Planning and Zoning Board will meet on Monday, October 19, 2020 at 7:00 pm in the Town Hall Assembly Room at 2571 Railroad Street, in order to consider the following request:

David A. Evans, Jr. has submitted a rezoning application to rezone 3252 Church Street Ext (Parcel 70857 – 33.4 Acres) as shown on the attached map from Agricultural Residential to R-8 Conditional District. Per the application the condition for the zoning district will be that minimum lot size will be 10,000 square feet. The R-8 Residential District is a quiet, medium density neighborhood consisting of single-family residences along with limited home occupations and private and public community uses.

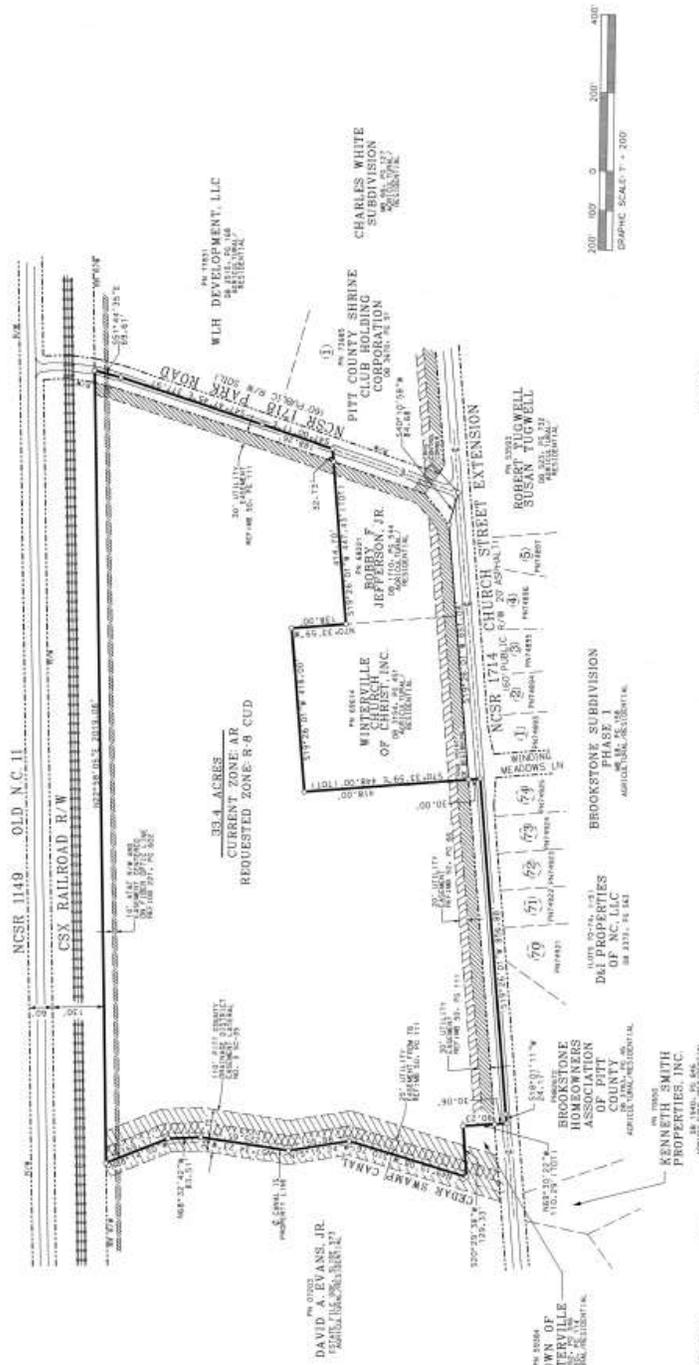
Copies of the Zoning Ordinance and Map are on file at the Planning Department Office in the Town Hall and are available for public inspection by contacting [bryan.jones@wintervillenc.com](mailto:bryan.jones@wintervillenc.com) or the Winterville Planning Department at (252) 215-2358 or at [wintervillenc.com](http://wintervillenc.com).

\*\*The Town of Winterville will be keeping measures in place in an ongoing effort to mitigate the spread of COVID-19. These measures include barring physical attendance at the meeting, employing social distancing, and implementing remote participation. The public is encouraged to watch the meeting live on YouTube ([www.wintervillenc.com/videos](http://www.wintervillenc.com/videos)). Those that wish to address the Planning and Zoning Board during the Public Hearing should contact the Town Clerk at (252) 215-2344 to register by **one business day before the meeting at 5:00 p.m.** The public may submit written comments to the Town Clerk's office, 2571 Railroad Street, Winterville, NC 28590, or via email to [don.harvey@wintervillenc.com](mailto:don.harvey@wintervillenc.com). Please include your name and address.



VICINITY MAP

LEGEND  
 --- EXISTING RAILROAD  
 --- PROPOSED R/W  
 --- CENTER LINE



GRAPHIC SCALE: 1" = 200'

PN 70857

REZONING MAP FOR  
**DAVID A. EVANS, JR.**  
 REFERENCE BEING THE PROPERTY RECORDED IN DEED BOOK 4375, PAGE 617  
 OF THE PITT COUNTY REGISTRY

WINERYVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA

OWNER: **DAVID A. EVANS, JR. ETALS**  
 ADDRESS: 811 SALEMBOCK CIRGE,  
 GREENVILLE, NC 27654  
 PHONE: (252) 754-1175

APPROVED DTB: \_\_\_\_\_  
 DATE: 09/20/2020  
 SCALE: 1" = 200'  
 SHEET 1 OF 1

**STROUD ENGINEERING, P.A.**  
 107B COMMERCE ST.  
 GREENVILLE, NC 27654  
 LICENSE NO. C-0647



**DEBORAH T. SCHERAGA**, CERTIFY THAT  
 THIS SURVEY IS AN ACCURATE REPRESENTATION  
 OF A SUBDIVISION.

*Deborah T. Scheraga*  
 PROFESSIONAL LAND SURVEYOR - L-41494

BOUNDARY TAKEN FROM MAP SOME 81 BALDWIN  
 CHARLES WHITE, CHURCH STREET & PARK ROAD FOR  
 DATED 7-22-01 BY BRIAN L. SIDRA, PLS L-3813.

WLH DEVELOPMENT, LLC  
227 CHURCHILL DRIVE  
GREENVILLE, NC 27858

BOBBY JEFFERSON  
DENISE JEFFERSON  
527 JIMMIES CREEK DRIVE  
NEW BERN, NC 28568

JOYCE BYRUM MCLAWHORN  
623 SECOND STREET  
AYDEN, NC 28513

NATHAN EDWARDS  
3138 STREAMSIDE LANE  
WINTERVILLE, NC 28590

D'ANDREA VANESSA WALKER  
3150 STREAMSIDE LANE  
WINTERVILLE, NC 28590

KRISTINA SMITH  
3178 STREAMSIDE LANE  
WINTERVILLE, NC 28590

MUSHABBAR KARIMI  
NAZEMA KARIMI  
3196 STREAMSIDE LANE  
WINTERVILLE, NC 28590

CHARLES WHITE  
139 VERNON WHITE ROAD  
WINTERVILLE, NC 28590

WINTERVILLE CHURCH OF  
CHRIST INC  
3170 CHURCH STREET EXT  
WINTERVILLE NC 28590

ROBERT TUGWELL  
SUSAN TUGWELL  
2436 TRELIS CT  
RALEIGH, NC 27604

MAILED ON  
10/5/2020

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ZSHAKEDRIA BROWN  
3158 STREAMSIDE LANE  
WINTERVILLE, NC 28590

MERCI NAGI  
3184 STREAMSIDE LANE  
WINTERVILLE, NC 28590

BROOKSTONE HOMEOWNERS  
ASSOCIATION OF PITT COUNTY  
INC  
3345 BRIDGE ROAD, STE 924  
SUFFOLK, VA 23455

PITT COUNTY SHRINE CLUB  
HOLDING CORP  
PO BOX 1845  
GREENVILLE, NC 27858

DAVID EVANS, JR  
ANNE BREWER EVANS  
PO BOX 2548  
GREENVILLE NC 27836

MATTHEW GABOR  
3132 STREAMWIDE LANE  
WINTERVILLE NC 28590

ANDRES RAFALE MENDEZ  
3144 STREAMSIDE LANE  
WINTERVILLE NC 28590

MARGO BROWN  
CLAYTON BROWN  
3168 STREAMSIDE LANE  
WINTERVILLE, NC 28590

RUSSELL ENNIS  
SHARON ENNIS  
3192 STREAMSIDE LANE  
WINTERVILLE, NC 28590

ALLEN BEST  
CARMEN BEST  
3198 STREAMSIDE LANE  
WINTERVILLE, NC 28590



**Town of Winterville Planning Department  
Zoning Staff Report**

**GENERAL INFORMATION**

<b>APPLICANT</b>	David A. Evans, Jr
<b>HEARING TYPE</b>	Rezoning Request
<b>REQUEST</b>	Agricultural Residential (AR) to R-8 CD
<b>CONDITIONS</b>	10,000 sq ft minimum lot size
<b>LOCATION</b>	3252 Church Street Extension
<b>PARCEL ID NUMBER(S)</b>	70857
<b>PUBLIC NOTIFICATION</b>	Adjacent property owners were mailed notification of the rezoning request on October 5, 2020. Notification was posted on site on June 30, 2020. 20 properties were mailed notification.
<b>TRACT SIZE</b>	33.4 acres
<b>TOPOGRAPHY</b>	Flat
<b>VEGETATION</b>	Cleared / Agricultural

**SITE DATA**

<b>EXISTING USE</b>	Agricultural / Vacant
---------------------	-----------------------

<b>ADJACENT PROPERTY</b>	<b>ZONING</b>	<b>ADJACENT LAND USE</b>
N	OI	Shrine Club (Civic Organization)
E	R-15	Residential
W	AR	Railroad Tracks /Agricultural/ Residential
S	AR	Agricultural

**ZONING DISTRICT STANDARDS**

<b>DISTRICT SUMMARIES</b>	<b>EXISTING</b>	<b>REQUESTED</b>
ZONING DISTRICT DESIGNATION	<b>Agricultural Residential (AR)</b>	<b>General Business (CN)</b>
MAX DENSITY	n/a	n/a
TYPICAL USES	Large residential lots to accommodate septic systems	R-8 = Medium Density, single – family residences. Limited home occupations.



**SPECIAL INFORMATION**

OVERLAY DISTRICT	N/A
ENVIRONMENTAL / SOILS	N/A
FLOODPLAIN	N/A
STREAMS	Stream feature located along southern property line (50' Riparian Buffer along tributary off of Swift Creek).
OTHER	If >1 acre is disturbed, site must meet Phase 2 stormwater requirements and provide Soil Erosion and Sedimentation Control Permit
SITE PLAN REQUIREMENTS	Subdivision plan required

\*\*These regulations may not reflect all requirements for all situations. See the Town of Winterville Zoning Ordinance for all applicable regulations for site requirements for this zoning district.

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**LANDSCAPING & BUFFER REQUIREMENTS**

Development must meet requirements of the Zoning Ordinance (Article X-A. Vegetation and Buffering Requirements).

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**TRANSPORTATION**

STREET CLASSIFICATION	NC 11 S – NCDOT Road NC 903 S – NCDOT Road
SITE ACCESS	All access must be designed and constructed to meet the Town of Winterville / NCDOT standards.
TRAFFIC COUNTS (per NCDOT Annual Average Daily Traffic Map)	Church Street Ext – 180 Park Road – N/A
TRIP GENERATION	N/A
SIDEWALKS	Required.
TRAFFIC IMPACT STUDY (TIS)	TBD
STREET CONNECTIVITY	N/A
OTHER	N/A



## **IMPACT ANALYSIS**

### **Land Use Compatibility**

The proposed R-8 conditional zoning district would allow land uses that are compatible with the general character of the area.

### **Town of Winterville Comprehensive Land Use Plan Policies**

The Future Land Use Map designates this property as a Suburban Residential character area. The requested **R-8 Conditional District** zoning district is generally consistent with this character area as defined by the future land use designation.

## **Comprehensive Land Use Plans - Recommendations & Implementation**

### **Suburban Residential - General Character:**

- Low to medium density single family residential. This land use type was identified as one that is appropriate and valued. This flexible land use type is appropriate for many parts of the planning area.

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## **STAFF ANALYSIS AND RECOMMENDATION**

### **Community Outreach**

Applicant is encouraged to discuss this proposed rezoning with owners of surrounding properties.

### **Staff Analysis**

The 33.4 acre property is currently being used for agriculture. The property North of the request is zoned Office and Institutional (Shrine Club – civic organization). West of the request is zoned AR and is bound by the railroad tracks. South of the request is zoned AR and is currently being used for agriculture. East of the request is across is zoned R-15 and is a single-family subdivision (Brookstone).

The R-8 Conditional District rezoning request is consistent with the intent and purpose of the Zoning Ordinance, the Future Land Use Plan and is generally compatible with the existing development and trends in the surrounding area. Some details unique to this site to consider are the fact that Park Road to the north is not paved and the railroad tracks border the property along the west property line.

### **Planning and Zoning Board / Staff Recommendation**

The Planning and Zoning Board unanimously recommended approval to Town Council on October 19, 2020.

Staff recommends **approval** of the rezoning request for the 33.4 acres from AR to R-8 Conditional District.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** November 9, 2020

**Presenter:** Bryan Jones, Planning Director

**Item to be Considered**

**Subject:** Zoning Ordinance Amendments – Chapter 160D of the NC GS.

**Action Requested:** Schedule a Public Hearing for the Zoning Ordinance Amendments for December 14, 2020.

**Attachment:** Zoning Ordinance Amendments Summary, Chapter 160D Checklist of Changes.

**Prepared By:** Bryan Jones, Planning Director

**Date:** 10/29/2020

**ABSTRACT ROUTING:**

TC: 11/2/2020

TM: 11/5/2020

Final: tjp - 11/5/2020

**Supporting Documentation**

Chapter 160D of the North Carolina General Statutes is the first major recodification and modernization of city and county development regulations since 1905. The new Chapter 160D consolidates the previous county enabling statutes (153A) and the city enabling statutes (160A) into a single, unified chapter. The intent of this consolidation is to have a uniform set of statutes applicable to cities and counties and common to all development regulations.

This is a complete re-write of the NC Planning and Zoning Statutes, requiring an update to every local ordinance in the State. To conform to the new law, all city and all county development ordinances must be updated by July 1, 2021. Overall, it refines procedures, aligns terminology, and confirms authority that was assumed under the old statutes.

**Budgetary Impact:** TBD.

**Recommendation:** Schedule the Public Hearing for December 14, 2020.



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## Zoning Ordinance Amendments – Summary

~~Text Removed~~ (red letter/strike through)

**Text Added/Amended** (bold/highlighted)

UNC School of Government Checklist

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**\*\*\*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.)**

### Section 1.2 Authority

This Ordinance is enacted pursuant to the authority conferred by Article 19 of Chapter ~~160A~~ **160 D** of the General Statutes of North Carolina. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

### Section 12.2 Proceedings of the Zoning Board of Adjustment

The Board of Adjustment shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer, an employee of the Town, or a member of the Board of Adjustment. The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and of Chapter ~~160A~~ **160D** of the General Statutes of North Carolina.

Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

### Section 13.5 Town Council Action

The Zoning Administrator shall present any proposed amendments to the Town Council at its next regular scheduled meeting, following Planning Board action, at which it hears rezoning proposals. The Zoning Administrator shall transmit to the Town Council the Planning Board's record of action on the proposed amendments.

The Town Council shall take such lawful action on such proposals as it may deem advisable provided that no

zoning amendment shall be adopted until after a public hearing shall have been held. Notwithstanding the provisions of Section 13.6, a simple majority vote of the Town Council shall be required to amend this ordinance. Notice of public hearing shall be given as required by N.C.G.S. ~~160A, Article 19, Part 3 (Zoning) 160D.~~ (05-0-172, adopted 07/11/2005)

#### **Section 14.4                      Zoning Compliance Certificate With Vested Rights**

1. In any case where the applicant for a Zoning Compliance Certificate desires to obtain a vested right, as authorized by NCGS ~~160A-385.1~~ **160D-102;-100(d)**, the applicant shall observe the following procedures:
  
5. Status at Expiration of Term

A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid Building Permit applications have been filed. Upon issuance of a Building Permit, the provisions of G.S. ~~160A-418~~ **160D-403(c);-1109** and G.S. ~~160A-422~~ **160D-403(f);-1113** shall apply except that a Building Permit shall not expire or be revoked because of the running of time while a vested right under this Section is outstanding. Any development constructed pursuant to a Zoning Compliance Certificate With Vested Rights for which the vested term has expired and which is not in conformance with all the terms of this Ordinance because of changes made in the provisions of this Ordinance, including the Zoning Map, after the issuance of such Certificate shall be subject to the provisions of the Ordinance relating to non-conformities the same as any other non-conformity.

6. Annexation Declaration

Any landowner who signs an annexation petition to the Town pursuant to ~~G.S. 160A-31~~ or ~~G.S. 160A-58.1~~ **POSSIBLY REPLACE WITH 160D -200;-202;-903 (CHECK OTHER MUNICIPALITIES LANGUAGE – Kannapolis, Apex, Clayton)** shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. ~~160A-385.1~~ or ~~G.S. 153A-344.1~~ **160D-102;-100(d)**. If the statement declares that such rights have been established, the Town may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any such vested rights shall be terminated. (2000 Zoning Ordinance, O-51-02149900, adopted 02/14/2000)

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**\*\*\*\*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.)**

#### **Section 4.2                      Overlay Zoning Districts Established: Purposes Set Forth**

The primary and conditional ~~use~~ Zoning Districts established in this Article may also be zoned in one or more Overlay Districts as designated herein and as shown on the Official Zoning Map. In such case, the land is subject to not only the requirements of the underlying primary or conditional ~~use~~ Zoning District but also the additional requirements of the Overlay District. (2000 Zoning Ordinance, O-51-02149900, adopted

**Section 4.3 Conditional Use Districts Zoning Established: Purposes Set Forth**

There is also established a ~~Conditional Use District (CUD)~~ **Conditional District (CD)** which corresponds to each of the districts authorized by this ordinance as follows:

- |        |   |                |           |    |   |                |           |
|--------|---|----------------|-----------|----|---|----------------|-----------|
| AR     | - | <del>CUD</del> | <b>CD</b> | MR | - | <del>CUD</del> | <b>CD</b> |
| R-20   | - | <del>CUD</del> | <b>CD</b> | OI | - | <del>CUD</del> | <b>CD</b> |
| R-15   | - | <del>CUD</del> | <b>CD</b> | CB | - | <del>CUD</del> | <b>CD</b> |
| R-12.5 | - | <del>CUD</del> | <b>CD</b> | GB | - | <del>CUD</del> | <b>CD</b> |
| R-10   | - | <del>CUD</del> | <b>CD</b> | IC | - | <del>CUD</del> | <b>CD</b> |
| R-8    | - | <del>CUD</del> | <b>CD</b> | CN | - | <del>CUD</del> | <b>CD</b> |
| R-6    | - | <del>CUD</del> | <b>CD</b> | I  | - | <del>CUD</del> | <b>CD</b> |

It is recognized that certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Use District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Ordinance. The Conditional Use District classification will be considered for rezoning only upon request of a property owner. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such Conditional Use Permit shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.

~~Within a CUD Pursuant to the Conditional District,~~ only those uses authorized as permitted or conditional uses in the zoning district with which the ~~CUD~~ **CD** corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards. In addition, ~~within a CUD no use shall be permitted except subject to a Conditional Use Permit authorized by the Town Council, which shall specify the use or uses authorized~~ **no Conditional District shall be permitted without the approval of Town Council.** ~~Such permit~~ **The Conditional Zoning** may further specify the location on the property of the proposed use and uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include conditions not generally a part of land development controls. ~~In granting a Conditional Use Permit the Town Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance be served, public welfare secured and substantial justice done.~~ *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

**Section 4.3.1. Conditional Use District with a Site Specific Development Plan**

Subject to the provisions of Section 4.3 of this ordinance, the applicant ~~for rezoning to a conditional use district may request Conditional Use District with~~ **may submit a Site Specific Development Plan as part of a Conditional District request.** In such case, the applicant shall submit a ~~site specific development plan~~ **Site Specific Development Plan** and ~~development in accordance with the site plan,~~ upon approval **from Town Council,** the site shall be developed in accordance with the plan. ~~shall be a condition of the conditional use district.~~ The site plan shall include the following information:

**Section 4.6 Determining Permitted and Conditional Special Uses, Principal Uses and Mixed Uses**

The listing of Permitted and **Conditional Special** Uses in the various Districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various Districts. In determining proposed uses, the Zoning Administrator shall refer to the latest edition of the Standard Industrial Classification (SIC) Manual published by the United States Department of Labor as a guide. When a proposed use is not specifically listed in the Table of Permitted and **Conditional Special** Uses, the Zoning Administrator shall use the SIC Manual to determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Zoning Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. If the Zoning Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted. In each case, the Zoning Administrator shall maintain a written record of such determinations.

**Section 5.2 Agricultural-Residential District (AR)**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.3 R-20 Residential District**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.4 R-15 Residential District**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.4.A R-12.5 Residential District**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.5 R-10 Residential District**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.6 R-8 Residential District**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.7 R-6 Residential District**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.8 Multi-Family Residential District (MR)**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.9 Office and Institutional District (OI)**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.10 Central Business District (CB)**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.11 General Business District**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.11.A Intermediate Commercial District**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.12 Neighborhood Commercial (CN)**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

**Section 5.13 Industrial District (I)**

A. Uses. See Article VI entitled Table of Permitted and **Conditional Special** Uses

~~**Section 5.15 Conditional Use District**~~

~~A. Requirements within a Conditional Use District. Only those uses authorized as permitted uses or conditional uses in the zoning district with which the CUD corresponds shall be eligible to be permitted, and all other requirements of the corresponding district shall be met as minimum standards. In addition, within a CUD no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Town Council, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use and uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request, but not to include conditions not generally a part of land development controls. In granting a Conditional Use Permit the Town Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance be served, public welfare secured and substantial justice done. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

**ARTICLE VI. TABLE OF PERMITTED AND **CONDITIONAL SPECIAL** USES**

**Section 6.1 General**

The table of Permitted and **Conditional Special** Uses which follows contains a listing of uses which may be permitted in one or more of the various Zoning Districts established by this Ordinance. Uses are listed in alphabetical order in nine functional categories. The categories in the order of listing are:

**Section 6.2 Entries**

The District or Districts in which a particular listed use may be permitted is indicated by an “x” or **“S”** in the District column(s) opposite the listed use. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)

**Section 6.3 Meaning of Entries**

The meaning of the entrees in the Table are as follows:

1. “x” indicates the use is permitted by right and a Zoning Compliance Certificate may be obtained.
2. “e” “S” indicates the use requires approval of a Conditional Use Permit in accordance with the procedures of Section 12.5.

The column on the far right labeled “SR” (Special Requirement) means that there are special additional performance requirements that the use must comply with in its development. These requirements are contained in Section 6.5, “Special Requirements to the Table of Permitted and Conditional Special Uses”. For any use subject to a Conditional Special Use Permit, the Special Requirement shall represent the minimum conditions for issuance of a Conditional Special Use Permit.

The 1987 Standard Industrial Classification Manual was utilized in the preparation of this table and shall be consulted as a guide for purposes of determination by the Zoning Administrator. The Reference SIC column refers to SIC classifications. Entries with “0000” in the Reference SIC column do not correspond to any classification in the SIC Manual.

3. The listing of a use in the of Table Permitted and Conditional Special Uses in no way relieves that use of having to meet all local, State and Federal laws pertaining to the establishment and operation of that use. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

\*\*\*\*\* **Changed Heading: TABLE OF PERMITTED & ~~CONDITIONAL~~ SPECIAL USES** \*\*\*\*\*

\*\*\*\*\*

**Section 6.4** Table of Permitted and ~~Conditional~~ Special Uses.(See Table) (((REPLACED “C” WITH “S” IN TABLE)))

USE TYPES	LU C	SI C	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<b>Residential Uses</b> bed and breakfast inns	2	0000	S	S	S	S	S	S			X	X	X				1
dwelling, conventional or modular: multi-family (including single family attached of more single family detached	21	000000	SX	X	X	X	X	X	X	X	SX	SX	S				2 / 42
two-family (Including single family attached of no more than 2 attached units	1	0000	S					S	X	X	S						2
dwelling, mobile home on class A single-family class B single-family	1	000000	S						X								3 / 4
family care home (6 or less)	2	8354	X	X	X	X	X	X	X	X	X	X	X		X	X	5
family day-care home (3-5)	*	8322	S	S	S	S	S	S	S	S	S						5
home occupation, customary	*	000	S	S	S	S	S	S	S	S	S						6
mobile home park	2	000	S							S							7
planned unit development	2	000															8

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<b>Recreational Uses</b>																	
Amusement arcades and indoor places of entertainment; including bowling alleys, pool rooms, skating rinks & batting cage, tennis courts	3	7999										X	X			X	
amusement or water parks	4	7996											X			X	10
associations or organizations; social & fraternal	2	8640	S								X		X	X		X	11
auditorium, assembly hall; indoor theaters, public	3	0000									X	X	X			X	
batting cages, outdoor	3	7999											X			X	10
bingo games	3	7999										X	X			X	
dance studios & schools, including aerobics	3	7911										X	X	X		X	
dance halls, including night clubs	4	5810										X	X			X	23
fortune tellers, astrologers	3	7999										X	X			X	
go-cart, motorcycle & similar vehicles tracks	4	7999														X	10
golf courses, including pro shop	1	7997	X	X	X	X	X	X	X	X	X	X	X		X	X	12
golf driving ranges	3	7999	S										X			X	10
internet sweepstakes	3												X			X	44
marinas	4	4493											X			X	
martial arts instructional schools	3	7999										X	X	X		X	
miniature golf facilities	3	7999											X			X	10
physical fitness centers	3	7991								X	X	X	X	X	X	X	
public parks	2	7990	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
recreation facilities, public	2	7999	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
recreation facilities, private: including country clubs, private neighborhood parks & multi-family recreation areas where the principal use is permitted in the zoning district	2	7997	S	S	S	S	S	S	S	S	S						12
saddle, hunting, fishing, boating and similar private clubs	4	7999	S										X			X	12
shooting ranges, indoor	3	7999											X			X	
shooting ranges, outdoor, local government only	4	7999														X	
swim and tennis clubs	3	7997	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13
swimming pool, private	3	7997	X	X	X	X	X	X	X	X	X	X	X	X	X	X	13

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<b>Educational &amp; Institutional Uses</b>																	
ambulance services	3	4119									X	X	X			X	
cemetery	3	0000	C													X	14
churches, synagogues & other associated activities	2	8661	X	X	X	X	X	X	X	X	X	X	X	X		X	
colleges or universities	3	8220	X								X	X	X			X	
correctional institutions	3	9223														X	
day care centers, (6 or more)	3	8322	S					S	S	X	X	X	X	X	S	X	15/43
governmental offices & facilities	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
hospitals, public & private	3	8026									X	X	X			X	
libraries	3	8231									X	X	X	X	X	X	
museums or art galleries	3	8412									X	X	X	X	X	X	
congregate or convalescent care facility	3	8050							S	S	S		S			S	16
group care facility	3	8050								S			S			S	16
nursing home	3	8050							S	S	S		S			S	16
orphanages	2	8361									X	X	X				
philanthropic institutions	3	8399									X	X	X	X		X	
post offices	3	0000								X	X	X	X	X	X	X	
retreat centers	3	0000	X							X	X	X	X				
schools, including public schools & private schools, having a curriculum similar to those given in public schools	3	8210	X	X	X	X	X	X	X	X	X	X	X			X	
schools, specialty training, such as cosmetology, vocation or trade services, not elsewhere classified, where no retail, wholesale, or repair is conducted	3	8240									X	X	X			X	

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
<b>Business, Professional &amp; Personal Services</b>																	
accounting, auditing, or bookkeeping	3	8721									X	X	X	X	X	X	
administrative or management services	3	8740									X	X	X	X		X	
advertising agencies or representatives	3	7310									X	X	X	X		X	
agencies & offices rendering specialized services not involving retail trade such as real estate, insurance, advertising, architecture, engineering, & accounting and not listed elsewhere	3	0000									X	X	X	X	X	X	
animal clinics and hospitals; including totally enclosed kennels operated in connection with animal clinics or hospitals	4	0742	S								X		X			X	17
animal kennels	4	0000	S										X			X	18

automobile parking lots & facilities for permitted uses in the district	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
automobile parking (commercial)	3	7521										X	X			X	
automobile rental or leasing	4	7510										X	X	X		X	
automobile repair & service (excluding storage of wrecked or junked vehicles)	4	0000										X	X			X	
automobile storage	4	0000														X	19
automobile towing & storage services	4	7549														X	19
automobile washing facilities	4	7542										X	X			X	
automobile wrecking or junk yards	5	5093														X	19
banking, including loan offices & investment houses	3	6000									X	X	X	X	X	X	
barber and beauty shops	3	7241									X	X	X	X	X	X	
building maintenance services	4	7349											X			X	
bus stations	4	4100										X	X			X	
chiropractors' offices	3	8041									X	X	X	X	X	X	
clothing alterations or repairs	3	0000										X	X	X	X	X	
communicative facilities, including radio & television broadcasting excluding towers that exceed the height limits	3	0000									X	X	X			X	
computer services	3	0000									X	X	X	X	X	X	
contractors' facilities with open storage	4	0000	S										X			X	41
contractors' offices (no storage)	3	0000	S								X	X	X			X	41
<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
convenience food stores: not operating between 11pm-6am	3	5411										X	X			X	
operating 11pm-6am, 24hr	4	5411										X	X			X	
dental offices and laboratories	3	8071									X	X	X	X	X	X	
doctors' offices & laboratories	3	8000									X	X	X	X	X	X	
drive-in theaters	4	7833														X	
dry cleaning & laundry facilities	3	7211										X	X		X	X	
economic, social, or educational research	3	8732									X	X	X			X	
employment agencies, personnel agencies	3	7360									X	X	X			X	
engineering, architectural, surveying services	3	0000									X	X	X	X		X	
equipment rental & leasing	4	7350											X			X	
equipment repairs, heavy	4	7690														X	
equipment repairs, light	4	7690											X			X	
exterminating services	3	7342											X			X	
farm related enterprises such as vegetable stands, fishing ponds, horticulture. (*Does not include: landscaping services, farm supplies, or stables. Items removed 11/2017)	3	0000	X														
finance or loan offices	3	6100									X	X	X	X	X	X	

fraternal organizations	2	8640	S								X	X	X	X		X	11
freezer lockers	3	0000														X	
funeral homes	3	7261						S	S		X	X	X	X		X	20
insurance agencies	3	6411									X	X	X	X		X	
internal service facilities, incidental to permitted uses, including cafeterias, day care facilities, snack bars, pharmacies, optical stores & similar retail activities when conducted solely for use of employees, patrons, or occasional visitors; provided, such activities are within the principal building & advertising for it is not permitted beyond the premises	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
interior decorator	3	0000									X	X	X	X		X	
Laundromats	3	7215										X	X	X	X	X	
law offices	3	8111									X	X	X	X	X	X	
locksmith shops, including repair	3	7690										X	X	X		X	
<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
medical, dental, or related offices	3	8000									X	X	X	X	X	X	
medical or dental laboratories	3	8071									X	X	X	X	X	X	
mini-warehouses	4	0000								S		X	X	X	X	X	21
motels & hotels	3	7011											X			X	
motion picture productions	3	7810										X	X		X	X	
noncommercial research organizations	3	8733									X	X	X		X	X	
office, not classified elsewhere (no retail)	3	0000									X	X	X	X	X	X	
optometrists & ophthalmologists	3	8000									X	X	X	X	X	X	
photocopying & duplicating services	3	7334									X	X	X	X	X	X	
photo finishing laboratories	3	7384										X	X	X	X	X	
photography studio	3	7221									X	X	X	X	X	X	
picture framing shop	3	7699									X	X	X	X	X	X	
psychologists' offices	3	8000									X	X	X	X	X	X	
real estate offices	3	0000									X	X	X	X	X	X	
recreational vehicle parks or campsites	4	7033														X	22
refrigerator or large appliance repairs	4	7623											X			X	41
rehabilitation or counseling services	3	8300										X	X	X		X	
repair shops not classified elsewhere	4	0000											X			X	
research, development, or testing services	3	8730											X			X	
septic tank services	3	7699											X			X	
service stations ( not including truck stops)	4	7530										X	X	X	X	X	
shoe repair or shoeshine shops	3	7251										X	X	X	X	X	
signs as regulated by Article IX	*		X	X	X	X	X	X	X	X	X	X	X	X	X	X	
stock, security or commodity brokers	3	6200									X	X	X	X	X	X	

structures & uses clearly incidental to a permitted use	3	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
tanning salons	3	7299										X	X	X	X	X	
tattooing	3	7299											X			X	45
taxi terminals	4	4121										X	X			X	
taxidermists	3	7699											X			X	
tire recapping	4	7534											X			X	
travel agencies	3	4720									X	X	X	X	X	X	
truck driving schools	3	8249														X	
truck & utility trailer rental, sales & leasing, light	4	0000											X			X	
<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
truck & utility trailer rental, sales & leasing, heavy	4	0000											X			X	
truck washing	4	7542														X	
upholstering & furniture refinishing	4	7641											X			X	
utility company offices	3	0000									X	X	X	X	X	X	
veterinary services (no outside kennels)	3	0740									X		X			X	
vocational, business, secretarial schools	3	8240									X	X	X			X	
watch, clock, jewelry repair shops	3	7631	C									X	X	X	X	X	41

<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
<b><u>Retail Trade</u></b>																	
ABC sales for on premises consumption	3	0000										X	X	X		X	23
antique shops	3	5936	S									X	X	X	X	X	24
apparel sales	3	5600										X	X	X	X	X	
appliance sales & service	3	5722	S									X	X	X		X	41
art studio & galleries	3	8412										X	X	X	X	X	
arts & craft sales; similar specialty retail	3	0000	S									X	X	X	X	X	24
auction houses	3	0000											X			X	
automobile & trucks dealers; new and used	4	7510											X			X	
automobile parts & supply store	3	5531										X	X	X		X	
bakeries; retail	3	5461										X	X	X	X	X	
bicycle sales & repair	3	5941										X	X	X	X	X	
boat dealers; sales & repair	4	5551											X			X	
book stores	3	5942									X	X	X	X	X	X	
building supply dealers	4	5211											X			X	
camera & photography; sales & service	3	5946										X	X	X		X	
candy stores	3	5441										X	X	X	X	X	
carpet sales & storage	3	5710										X	X			X	
clothing shops	3	5600										X	X	X		X	

catalogue stores	3	5961										X	X		X	X	
computer sales	3	5734										X	X	X	X	X	
dairy products stores	3	5451										X	X		X	X	
department & variety stores	3	5300										X	X	X	X	X	
drug stores & pharmacies	3	5912								X		X	X	X	X	X	
electronic product sales	3	5730										X	X	X	X	X	
fabric or piece goods stores	3	5949										X	X	X	X	X	
farm machinery sales & service	4	5083											X				X
farmer's or produce markets	3	5430										X	X				X
farm supplies	4	0000										X	X				X
flea market	3	5999											X				X
floor covering, drapery or upholstery	3	5710										X	X	X	X	X	
florist shop	3	5992	S								X	X	X	X	X	X	41
fuel oil sales	4	5980											X				X
furniture sales	3	5712										X	X				X
furniture repair, including upholstery	4	7641											X				X
garden centers or retail nurseries	3	5261											X	X	X	X	
<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
gift, novelty & souvenir shop	3	5947	S									X	X	X		X	24
grocery store	3	5400										X	X	X	X	X	
hardware store	3	5251										X	X	X	X	X	
hobby & toy stores	3	5945										X	X	X	X	X	
home furnishings, miscellaneous	3	5719										X	X	X			X
jewelry sales & repair	3	5944										X	X	X	X	X	
leather goods sales	3	5948										X	X	X	X	X	
lighting goods sales	3	5948										X	X	X			X
liquor stores	3	5921										X	X	X			X
mirobrewery & brewpub	3	2082									S	X	X	X		X	23
miscellaneous retail sales	3	5999										X	X				X
mobile home sales & services	4	5271											X				X
motorcycle sales	4	5571											X				X
music stores including instrument repair	3	5736										X	X	X	X	X	
newsstand, magazines	3	5994										X	X	X	X	X	
office supply store	3	5999										X	X	X	X	X	
optical goods sales	3	5995										X	X	X	X	X	
paint, glass, and wallpaper stores	3	0000										X	X	X			X
pawn shop	3	0000										X	X				X
pet stores	3	5999										X	X	X			X
radio & television, stores & repairs	3	5731										X	X	X			X
record, tape, cd stores	3	5735										X	X	X	X	X	
recreation vehicles sales & service	4	5561											X				X
restaurants (with drive-through)	4	5812										X	X				X
restaurants (w/o drive-through)	3	5812									X	X	X	X	X	X	

retail sales & service where not classified elsewhere, and where all retail sales & services are conducted within an enclosed building	3	0000										X	X	X	X	X	41
retail sales & services not classified elsewhere including outdoor storage	3	0000											X			X	
service stations, gasoline	4	5541										X	X	X	X	X	
shoe sales and or repair	3	0000										X	X	X	X	X	
shopping centers & malls	3	0000											S		S	X	25
sporting goods stores	3	5941										X	X	X	X	X	
tire dealers & services	4	5531											X			X	
tobacco stores	3	5993										X	X	X	X	X	
<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
truck shops	4	0000														X	
video tape rental & sales	3	7841										X	X	X	X	X	
wine & craft beer shop	3	5921										X	X	X	X	X	
woodworking shops, retail	4	5999										X	X	X	X	X	

<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
<b>Wholesale Trade</b>																	
agriculture chemicals/pesticides/fertilizers	4	5191	S													X	26
agriculture products, other	4	5159	S										X			X	26
ammunition	3	5099														X	
animals & animal products, other	4	5159														X	
apparel, piece goods & notions	3	5130											X			X	
bakeries; wholesale	4	2050											X			X	
books, periodicals, & newspaper	3	5192											X			X	
bulk mail & packaging	3	4212											X			X	
chemicals & allied products	4	5169														X	
courier services, central facility	3	4215											X			X	
courier service substations	4	4215											X			X	
drugs & sundries	3	5122											X			X	
durable goods, other	3	5099											X			X	
electrical goods	4	5060											X			X	
farm supplies, others	4	5191											X			X	
flowers, nursery stock & florist supplies	4	5193											X			X	
forest products	4	5099											X			X	
furniture & home furnishings	3	5020											X			X	
groceries & related products	3	5140											X			X	
hardware	3	5072											X			X	
jewelry, watches, precious stones & metals	3	5094											X			X	
livestock	4	5154	S													X	27
lumber & other construction materials	4	5030											X			X	

machinery, equipment & supplies	4	5080											X			X	
market showrooms (furniture, apparel, etc.)	4	0000										X	X			X	
metals & minerals	4	5050											X			X	
motor vehicles, parts & supplies	4	5010											X			X	
movers & storage operations	4	4214											X			X	
paints & varnishes	4	5198											X			X	
paper & paper products	4	5110											X			X	
petroleum & petroleum products	4	5170														X	
plastics materials	4	5162											X			X	
plumbing & heating equipment	4	5070											X			X	
<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
professional & comm. Equipment & supplies	4	5040											X			X	
Regional Brewery (15,000 - 6,000,000 barrels/year)	4												S	S	S	X	23
resins	4	5162											X			X	
scrap & waste materials, recycling	4	5093														X	19
sporting & recreational goods & supplies	4	5091											X			X	
tobacco & tobacco supplies	3	5194											X			X	
toys & hobby goods & supplies	3	5092											X			X	
trucking or freight terminals	4	4210														X	
utility equipment & storage yards	4	0000											X			X	
wallpaper & paintbrushes	4	5198											X			X	
warehousing & storage, not including storage of any hazardous materials or waste as determined by any agency of the federal, state or local government	4	0000											X			X	

<b>USE TYPES</b>	<b>LUC</b>	<b>SIC</b>	<b>A-R</b>	<b>R-20</b>	<b>R-15</b>	<b>R-12.5</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>	<b>M-R</b>	<b>O-I</b>	<b>C-B</b>	<b>G-B</b>	<b>I-C</b>	<b>C-N</b>	<b>I</b>	<b>SR</b>
<b>Public Works</b>																	
electric transmission distribution poles, towers supporting cable, lines & related appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
governmental public works facilities, utilities, infrastructure & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
natural gas distribution lines & related appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
power generation, natural gas plants & similar production facilities	5	0000														X	

radio, television & similar transmitting towers that exceed height but not including wireless telecommunications towers	4	0000	X													X			X	35
sewage collection lines, pump stations & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
sewage treatment plants, non government public	4	0000	X	S	S	S	S	S	S	S	S	S	X	X					X	36
telephone & television cable poles, towers, supporting cable, lines & related appurtenances.	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
water distribution lines, booster pumps, storage facilities & appurtenances	4	0000	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
water treatment plants, non-government public	4	0000	X	S	S	S	S	S	S	S	S	S	X	X					X	36
wireless telecommunication towers & facilities	4	0000	S								S		S	S					X	37

**Section 6.5 Special Requirements to the Table of Permitted and Conditional Special Uses**

The Table of Permitted and Conditional Special Uses of Article VI contains a column on the far right labeled “SR” for Special Requirements. In any case where a use listed in the Table of Permitted and Conditional Special Uses has a number in the SR column opposite the use, the use must comply with the additional Special Requirements contained in this section corresponding to the Special Requirement number. For example, the use “Mobile Home Park” has the number “7” in the SR column opposite the use, therefore, the development of a Mobile Home Park must meet the special requirements for SR 7 Mobile Home Park of this section.

**SR 8. Planned Unit Development**

- a. PUD’s shall be permitted only when requested as a Conditional Use District and accompanied by a rezoning request to one of the following Zoning Districts: CUD-AR; CUD -R-20; CUD -R-15; CUD -R-12.5; CUD -R-10; CUD -R-8; and CUD -R-6.
- b. Application for PUD shall be approved only if the following findings area made:
  - 1. That application of planned unit development requirements to the property will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
  - 2. That application of planned unit development requirements to the property will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
  - 3. The application of planned unit development requirements to the property will produce a development functioning as a cohesive, unified project; and
  - 4. That application of planned unit development requirements to the property will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the Town.
- c. An approved PUD Conditional Use-Permit District and the approved verified development plan shall govern all uses and development activities in a PUD.
- d. Except as otherwise provided by this SR, a PUD shall be subject to all the applicable standards, procedures and regulations of the other parts of this

ordinance.

- e. Minimum Size: No PUD shall be approved for a site of less than that shown in the following table. The site must be contiguous property under unified ownership or control.

Districts	Minimum
CU-AR; CU-R-20; CU-R-15; CU-R-12.5 CU-R-10	12 acres
CU-R-8; CU-R-6	6 acres

- f. USES: Uses permitted in a PUD shall be in accordance with the following schedule, provided, that uses to be in a PUD shall be stated in the ~~Conditional use permit~~ **Conditional District**.

- 7. Unified Development Plan: The application for a PUD ~~Conditional Use Permit as part of a Conditional Use District~~ **Conditional Use District** rezoning shall be accompanied by a unified development plan in the form of a site specific development plan.

**SR 37. Wireless Telecommunication Towers and Facilities**

- e. Towers with a height of two hundred and fifty (250) feet or greater in any district shall be subject to Board of Adjustment approval as a ~~Conditional~~ **Special** Use Permit.

**L. Off-Premises Signs**

- 3) The use posting such signage must be located within an Agricultural- Residential Zoning District and must be a legal Permitted Use or approved ~~Conditional~~ **Special** Use within the Zoning Ordinance. Nonconforming uses established prior to the date of adoption of this ordinance shall not be eligible uses for the purposes of this section.

**Section 12.5 Powers and Duties of the Board of Adjustment**

- 4. ~~Conditional~~ **Special** Use Permits.

To hear and decide, in particular cases, and subject to appropriate conditions and safeguards, permits for conditional uses as authorized by Article VI. In granting a ~~conditional~~ **Special Use Permit** the Board shall make the following affirmative findings:

- a. The Use requested is among those listed as an eligible ~~Conditional~~ Special Use in the District in which the subject property is located;
- b. That the ~~Conditional~~ Special Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;
- c. That the ~~Conditional~~ Special Use meets all required conditions and specifications;
- d. That the ~~Conditional~~ Special Use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- e. That the location and character of the ~~Conditional~~ Special Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Town and its environs.

In granting a ~~Conditional~~ Special Use Permit, the Board may impose such additional restrictions and requirements upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the ~~Conditional~~ Special Use Permit, otherwise the Permit shall be denied. Any ~~Conditional~~ Special Use Permit so authorized shall be perpetually binding upon the property included in such Permit unless subsequently change or amended by the Board, as provided for in this Article.

The Board may change or amend any ~~Conditional~~ Special Use Permit, after a public hearing and subject to the same consideration as provided for in this Article for the original issuance of ~~Conditional~~ Special Use Permit.

No proposal to amend or change any ~~Conditional~~ Special Use Permit shall be considered within three (3) months of the date of the original authorization of such Permit or within three (3) months of hearing of any previous proposal to amend or change such Permit.  
*(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

## ARTICLE XIII. AMENDMENT PROCEDURES; CONDITIONAL ~~USE~~ DISTRICTS

### **Section 13.1**            **General**

The Town Council may amend, supplement or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional ~~Use~~ District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the Town's comprehensive zoning plan, he shall apply for rezoning to the appropriate Conditional ~~Use~~ District. ~~and simultaneously apply for Conditional Use Permit specifying the nature of his proposed development. No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

### **Section 13.2**            **Amendment Initiation**

Applications to change, supplement or amend this Ordinance may be initiated by:

1. Textual Amendment
  - a. The Town Council;
  - b. The Planning Board;
  - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.
  
2. Map Amendment
  - a. The Town Council;
  - b. The Planning Board;
  - c. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Provided, however, map amendments involving Conditional ~~Use~~ Districts may only be initiated by the owner or authorized agent of the owner. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*

### **Section 13.3**            **Submittal**

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator.

The Zoning Administrator, before scheduling any application for amendment for consideration by the Planning Board, shall ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Zoning Administrator, but shall be returned to the applicant with a notation of the deficiencies in the application.

Completed applications shall be received a minimum of ten (10) days prior to the Planning Board meeting at which the proposed amendment is scheduled to be considered.

All applications for amendment shall contain, as a minimum, a description of the proposed change and if it would require a change of the zoning maps, the application shall include a map drawn to a scale of not less than four hundred (400) feet to the inch and not more than twenty (20) feet to the inch showing the land covered by the proposed amendment, a legal description of the property and a list of names and addresses of all owners of property involved in the map change and all adjoining owners as shown on County tax records.

~~Any application requesting a change to a Conditional Use District shall be accompanied by a Conditional Use Permit application showing the use or uses proposed and any conditions being proposed by the applicant. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

### **Section 13.5                      Town Council Action**

The Zoning Administrator shall present any proposed amendments to the Town Council at its next regular scheduled meeting, following Planning Board action, at which it hears rezoning proposals. The Zoning Administrator shall transmit to the Town Council the Planning Board's record of action on the proposed amendments.

The Town Council shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held. Notwithstanding the provisions of Section 13.6, a simple majority vote of the Town Council shall be required to amend this ordinance. Notice of public hearing shall be given as required by N.C.G.S. ~~160A, Article 19, Part 3 (Zoning)~~ **160D.**

### ~~**Section 13.6                      Protest Petition**~~

~~In case, however, of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in a proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three fourths of all the members of the Town Council. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.~~

~~No protest against any change in or amendment to the Zoning Map shall be valid or effective for the purposes of this Article unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of~~

~~the petition. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

### **Section 13.7 Special Provisions for Conditional Use Districts and Conditional Use Permits**

Proposals for rezoning to any Conditional Use District shall be requested during a rezoning. ~~always be accompanied by a request for a Conditional Use Permit.~~ Such proposals and requests shall be processed and considered in in the same procedure as conventional rezoning proposals, except as otherwise set forth herein, and the voting shall be the same as that required for zoning matters.

~~Any proposal for a Conditional Use District rezoning and its accompanying request for a Condition Use Permit shall be heard and considered simultaneously. If the Town Council should determine that the property involved in the proposal should be rezoned and the Conditional Use Permit issued, it shall adopt an Ordinance rezoning the property and authorizing the issuance of the Conditional Use Permit. Otherwise the proposal shall be denied. (2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)~~

In ~~granting~~ **approving** a Conditional ~~Use Permit~~ **District**, the Town Council shall make the following affirmative findings:

1. That the Use(s) requested is among those listed as an eligible ~~Conditional~~ Use in the ~~Conditional Use District in which the subject property is located.~~ corresponding General ~~Use~~ **Zoning** District.
2. That the Use Limitations and Conditions as proposed and/or imposed for the Conditional ~~Use Permit~~ **District** meet or exceed and/or are at least as restrictive as the minimum standards for the corresponding General ~~Use~~ **Zoning** District.
3. That the Use Limitations and Conditions as proposed and/or imposed for the requested Conditional ~~Use Permit~~ **District** can reasonably be implemented and enforced for the subject property.
4. That when implemented the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all those uses and the minimum standards of the corresponding General ~~Use~~ Zoning District.
5. That the applicant has agreed to the use limitations and conditions as proposed and/or imposed for the requested Conditional ~~Use Permit~~ **District**. *(00-02, adopted 08/14/2000)*

~~In granting a Conditional Use Permit, the Town Council may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Town Council shall authorize the issuance of the Conditional Use Permit, otherwise the Permit shall be denied.~~

Any Conditional **Use Permit District** so authorized shall be perpetually binding upon the property involved in such Permit unless subsequently changed or amended by the Town Council, as provided for in this Article.

The Town Council may change or amend any Conditional **Use Permit District**, after a public hearing upon recommendation by the Planning Board and subject to the same consideration as provided for in this section for the original issuance of a Conditional **Use Permit District**.

No proposal to amend or change any Conditional **Use Permit District** shall be considered within twelve (12) months of the date of the original authorization of such Permit or within twelve (12) months of hearing of any previous proposal to amend or change any such Permit. *(2000 Zoning Ordinance, 0- 51-02149900, adopted 02/14/2000)*

#### **Section 14.1                      Administrative Officer**

- D. To make and keep all records necessary and appropriate to the office including record of issuance and denial of all Zoning Compliance Certificates, **Conditional Special** Use Permits, Amendments, Variances, Appeals, and of receipt of complaints of violations of this ordinance and action taken on the same.

#### **Section 14.4                      Zoning Compliance Certificate With Vested Rights**

In granting such Permit, the Board of Adjustment shall make the following affirmative findings:

- 1) The use requested is among those listed as a Permitted or **Conditional Special** Use in the District in which the subject property is located or is to be located and complies with all the requirements of this Ordinance and other applicable ordinances.
- 2) The requested Permit is either essential or desirable for the public convenience or welfare.
- 3) The requested Permit will not impair the integrity or character of the surrounding or adjoining Districts, and will not be detrimental to the health, safety or welfare of the community.
- 4) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

In granting a Zoning Compliance Certificate With Vested Rights, the Board of Adjustment may impose such additional restrictions and requirements upon such Certificate as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a variance, **Conditional Special** Use Permit or modification be obtained shall not confer a vested right unless and until the necessary variance, **Conditional Special** Use Permit or modification is obtained. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Certificate, otherwise the Certificate shall be denied. Any Permit so authorized shall remain vested for a period of two years from the date of the action granting the Certificate.

**Section 15.3 Effects Upon Outstanding Building Permits, Zoning Compliance Permits and **Conditional Special** Use Permits**

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Inspector prior to the time of passage of this Ordinance or any amendment thereto; provided, however, that where construction is not begun under such outstanding permit within a period of one hundred eighty (180) days subsequent to the passage of this Ordinance or any amendment thereto, or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any **Conditional Special** Use Permit which has been granted prior to the adoption of this Ordinance and which **Conditional Special** Use is no longer carried forth on this Ordinance provided that a Building Permit has been obtained and construction begun within one hundred eighty (180) days of the date of the approval of such Permit and provided that such Building Permit is prosecuted to completion as approval of such Permit and provided that such Building Permit is prosecuted to completion as provided above. Such valid **Conditional Special** Uses including those already existing for non-continued uses may be constructed, continued and reconstructed the same as any permitted use subject to such use limitations and other conditions as provided for in the original issuance of the **Conditional Special** Use Permit. Any such **Conditional Special** Use that is changed to any permitted use for any period of time shall not be permitted to resume the **Conditional Special** Use. *(2000 Zoning Ordinance, D-51-02149900, adopted 02/14/2000)*

**Section 15.4 Definitions**

Conditional District. A zoning district in which site plans or individualized development conditions are imposed.

~~Conditional Special Use.~~ 1) Uses listed in the Section 6.4 -Table of Permitted and ~~Conditional Special~~ Uses - of this ordinance which require approval of a ~~Conditional Special~~ Use Permit in accordance with the procedures of Section 12.5;

~~2) A use of land permitted in a Conditional Use District upon approval by the Town Council as part of the Conditional Use rezoning process.~~

((\*\*\*MOVED ALPHABETICALLY FROM C’s TO S’s))

**\*\*Must ensure that ordinance definitions for the flowing terms are not inconsistent with the definition provided in state law and regulation: *building, dwelling, selling 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.)**

**Section 15.4 Definitions**

Administrative decision. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

Administrative hearing. A proceeding to gather facts needed to make an administrative decision.

Bedroom: A room designated as sleeping or bedroom on the plans and permit application.

Building. ~~See “structure”-~~ Any structure used or intended for supporting or sheltering any use or occupancy.

Determination. A written, final, and binding order, requirement, or determination regarding

an administrative decision.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development. Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-8-2.
- d. The initiation or substantial change in the use of land or the intensity of use of land

Development approval. An administrative or quasi-judicial approval made pursuant to G.S. 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to G.S. 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this G.S. 160D, or a local act or charter that regulates land use or development.

Dwelling. A building intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Evidentiary hearing. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under G.S. 160D.

Legislative decision. The adoption, amendment, or repeal of a regulation under G.S. 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. 160D.

Legislative hearing. – A hearing to solicit public comment on a proposed legislative decision.

Planned unit development. A tract(s) of land under single corporation, firm, partnership or association ownership, or otherwise unified ownership or control, planned and developed as integral unit in a single development scheme or a well defined series of development operations in accordance with an approved site plan.

Planning and development regulation jurisdiction. The geographic area defined in Part 2 of G.S. 160D within which a city or county may undertake planning and apply the development regulations authorized by G.S. 160D.

Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Sleeping Unit. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

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**\*\* Must adopt broadened conflict-of-interest standards for governing and advisory boards. (G.S. 160D-109.)**

**Section 15.4A Conflicts of Interest (G.S. 160D-1-9)**

- a) Governing Board. – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- b) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

- c) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by G.S. 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under G.S. 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- d) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to G.S. 160D shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- e) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- f) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

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**\*\*Must not exclude manufactured homes based on the age of the home. (G.S. 160D-910.)**

Mobile home, class "A". A multi-sectional mobile home ~~constructed after July 1, 1976~~, that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the additional criteria for Class "A" mobile homes contained in Article IX.

Mobile home, class "B". A mobile home ~~constructed after July 1, 1976~~ that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect as the time of construction.

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**\*\* Must prohibit third-party down-zonings; may process local government-initiated down-zonings (S.L. 2019-111, Pt. I.)**

**Section 13.2                    Amendment Initiation**

Applications to change, supplement or amend this Ordinance may be initiated by:

3.        Textual Amendment
  - a.        The Town Council;
  - b.        The Planning Board;
  - c.        Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.
  - d.        Third party down-zonings are prohibited. The Town Council and/or the Planning Board may initiate down-zonings (S.L. 2019-111, Pt. 1).
  
4.        Map Amendment
  - a.        The Town Council;
  - b.        The Planning Board;
  - c.        Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person. Provided, however, map amendments involving Conditional Use Districts may only be initiated by the owner or authorized agent of the owner. *(2000 Zoning Ordinance, 0-51-02149900, adopted 02/14/2000)*
  - d.        Third party down-zonings are prohibited. The Town Council and/or the Planning Board may initiate down-zonings (S.L. 2019-111, Pt. 1).

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**\*\* 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.)**

**Section 13.3                    Submittal**

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator. Applications for conditional zonings shall be considered the applicant's/landowner's written consent to the conditions related to the conditional-zoning.

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## ARTICLE VIII. OFF-STREET PARKING AND LOADING

### B. Definition of a Parking Space

The storage space of one (1) automobile. The size of a parking space shall be in accordance with geometric design principles for the type space and lot. (~~See Table I, Geometric Design Standards~~ in accordance with the Town of Winterville Design Manual).

\*\* (REMOVED TABLE 1 – GEOMETRIC DESIGN STANDARDS FOR PARKING)

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

August 2020 Update

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](http://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) (Many changes may already be reflected in the local ordinance. If so, no additional change is necessary for the ordinance.)
- 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**

Session Law 2020-25 (S.B. 720) amended Chapter 160D to incorporate other legislative changes from 2019 and make technical corrections. Those changes are noted in this updated checklist with new language underlined and cut language shown with strikethrough. Notably, S.L. 2020-25 altered the effective date of Chapter 160D. All powers and actions authorized under Chapter 160D are available as of June 19, 2020 (local ordinances may be updated and made effective immediately), but local governments have until July 1, 2021, to update local ordinances and policies to comply with the requirements of Chapter 160D. For that reason, the asterisks from the original checklist are removed. For the time before a local government amends its ordinances to comply with Chapter 160D, the rules and requirements of Chapter 160A (for municipalities) or Chapter 153A (for counties) will effectively remain controlling for that local government.

~~\*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*. (G.S. 160D-706; 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).)
- For counties, the county **may** apply zoning and subdivision regulations to all or part of the county's planning and development regulation jurisdiction. Cities with zoning must apply zoning jurisdiction-wide. (G.S. 160D-201; S.L. 2020-25.)

## 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.)
- △ **Be aware** that a local government must comply with existing rules for uses that were previously nonconforming situations. If a use loses its nonconforming status, by amortization or change of use or otherwise, the local government must bring an enforcement action within ten years of the loss of nonconforming status. (160D-1405(c1); 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~~ upon adoption of updated local ordinances or July 1, 2021. (G.S. 160D-703; S.L. 2020-25; S.L. 2019-111, § 2.9(b).)
- Must not set a minimum square footage for structures subject to the One- and Two-Family Residential Building Code.** (G.S. 160D-703; S.L. 2019-174.)
- 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. (G.S. 160D-804.1; S.L. 2020-25; 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 not require a developer, as a condition to subdivision approval, to bury a power line existing above ground and outside of property to be subdivided.** (G.S. 160D-804; S.L. 2019-174.)

- 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.)
- Municipalities may petition court to appoint a receiver for vacant structures. (160D-1130.)

#### 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 to board of adjustment. Default rule is that preservation appeals 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 or land-use 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 down-zonings initiated by the local government or landowner (G.S. 160D-601; 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. (G.S. 160D-703(b); 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. (G.S. 160D-703(b); 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. (G.S. 160D-705(c); 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. (G.S. 160D-1402(k); G.S. 160D-1403.2; 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).) Building permits expire after six months, as under prior law (no change to building permits). (G.S. 160D-1111.)
- May** extend expiration for development approvals for which construction is commenced and then is discontinued; default rule is that such approvals are valid for 24 months after discontinuation. (G.S. 160D-108(d).) Building permits for which work has been discontinued expire after twelve months, as under prior law (no change to building permits). (G.S. 160D-1111.) ~~**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).) **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** 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 (other than the board of adjustment); 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-1111 ~~G.S. 160D-108(d)(1).~~)
- **Must** recognize the default rule that development approvals/permits are valid for twelve months, unless altered by statute or extended by local rule ~~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-108.1 ~~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(c)(~~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(h)(~~e~~), -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-108(h); 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(i)(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. 143-755; 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. 143-755; 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. (G.S. 143-755; G.S. 160D-108(b); 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; G.S. 160D-1403.1)
- △ **Be aware** that other civil actions may be authorized—G.S. 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. (G.S. 160D-1402; 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. (G.S. 160D-1402; S.L. 2019-111, § 1.9.)
- △ **Be aware** of specific judicial instructions for decisions of appeals of quasi-judicial decisions. (G.S. 160D-1402(k); 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. (G.S. 160D-1403.2; S.L. 2020-25; 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. (G.S. 160D-1402(j1); S.L. 2019-111, Pt. I.)



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Consent Agenda

**Meeting Date:** November 9, 2020

**Presenter:** Anthony Bowers, Finance Director

**Item to be Considered**

**Subject:** Release and Refund of Taxes.

**Action Requested:** Approve the Release and Refund of Taxes.

**Attachment:** Listing of Owner's due release and refunds.

**Prepared By:** Anthony Bowers, Finance Director

**Date:** 10/29/2020

**ABSTRACT ROUTING:**

TC: 11/2/2020

TM: 11/5/2020

Final: tjp - 11/5/2020

**Supporting Documentation**

In general, tax refunds do not have a budgetary impact on the Town due to the fact that payments have been received twice for the same property. The total refunds are in the amount of \$3,317.63 and the total amount of releases are \$1,332.09.

The Town Council has approved a resolution authorizing the Finance Officer to be able to approve the request for releases and refunds in amounts less than \$100.00 dollars.

Please see the attached information as submitted by the Tax collector.

**Budgetary Impact:** None, as we will not amend the budget due to this small amount of releases.

**Recommendation:** Approve the release and refunds.

**Town of Winterville**  
**Tax Refunds and Releases**  
October 21, 2020

**Real Property Tax Refunds**

Name	Year	Parcel	Date	Amount	Reason
KING, LEEZA G	2020	70033	10/1/2020	\$9.50	Overpayment by mortgage company
BARGABOS, RALPH	2020	84517	10/1/2020	\$213.76	Overpayment by mortgage company
CAROLINA EASTERN HOMES LLC	2020	85582	10/1/2020	\$18.17	Overpayment by attorney
BROERICK, ELEANOR	2020	65217	10/1/2020	\$49.95	Overpayment by mortgage company
A SYDES CONSTRUCTION	2020	85738	10/1/2020	\$745.87	Overpayment by attorney
SOUTHERN DEVELOPMENT GROUP	2020	68313	10/1/2020	\$535.98	Overpayment by attorney
A SYDES CONSTRUCTION	2020	85741	10/2/2020	\$1,047.00	Overpayment by attorney
CAVINESS AND CATES BULDING	2020	85574	10/2/2020	\$10.00	Overpayment by attorney
LYMON, WILBUR E	2020	85737	10/2/2020	\$400.81	Overpyament by bank
LASSITER, WANDA JOYCE	2020	31956	10/15/2020	<u>\$286.59</u>	Refund after Exemption
			Total	<u>\$3,317.63</u>	

**Personal Property Refunds**

Name	Year	Account	Date	Refund	Reason
			Total	\$0.00	

**Real Property Releases**

Name	Year	Parcel	Date	Released	Reason
LYONS, BRENDA	2020	21478	9/15/2020	\$123.50	Tax Relief Exemption
LASSITTER, WANDA	2020	31956	10/15/2020	\$286.59	Tax Relief Exemption
LEAK, GERALD	2020	73158	10/15/2020	\$213.75	Veteran Exemption
MCKINNON, DAVID	2020	80747	10/20/2020	\$213.75	Veteran Exemption
MORALES, TIMOTHY	2020	68520	10/20/2020	<u>\$213.75</u>	Veteran Exemption
			Total	<u>\$1,051.34</u>	

**Personal Property Releases**

Name	Year	Account	Date	Released	Reason
FORREST, TIMOTHY GENE	2020	1067950	8/21/2020	\$2.99	Outside City Limits
GARCIA ECHAVARRIA, FRANCISCO	2020	1058108	8/25/2020	\$19.00	Business Closed
WELLS FARGO VENDOR FINACIAL SVC	2020	250707	8/25/2020	\$1.01	Corrected Value
CANON FINANCIAL SER INC	2020	309080	8/25/2020	\$6.92	Corrected Value
MITCHELL, VERONON DOUGLAS II	2020	823055	9/9/2020	\$64.46	Corrected Value
DKEN RECORDS LLC	2020	962774	9/15/2020	\$168.41	Company Closed
PERALTA-ZAMBRANO, MARTHA	2020	1073545	9/29/2020	<u>\$17.96</u>	Outside City Limits
			Total	<u>\$280.75</u>	

<b>Total Refunds</b>	<b>10</b>	<b>\$3,317.63</b>
<b>Total Releases</b>	<b>12</b>	<b>\$1,332.09</b>

The Release (G.S. 105-381 or 382), Corrections (G.S. 105-325), or Refunds (G.S. 105-381 or 382) of tax bills outlined above are approved by The Town of Winterville Council.

\_\_\_\_\_  
Veronica W. Roberson, Mayor Pro Tem

\_\_\_\_\_  
November 9, 2020  
Date Approved



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** Old Business

**Meeting Date:** November 9, 2020

**Presenter:** Terri L. Parker, Town Manager

**Item to be Considered**

**Subject:** Winterville Human Relations Board Ordinance.

**Action Requested:** Council Discussion and Direction.

**Attachment:** DRAFT Ordinance

**Prepared By:** Terri L. Parker, Town Manager

**Date:** 10/28/2020

**ABSTRACT ROUTING:**

TC: 11/2/2020

TM: 11/5/2020

Final: tjp - 11/5/2020

**Supporting Documentation**

Attached please find a the DRAFT Ordinance for the newly formed Winterville Human Relations Board which was approved for creation at the August Regular meeting.

**Budgetary Impact:** TBD.

**Recommendation:** NA.

Draft Human Relations Ordinance

**ORDINANCE NO. 20-O-111**

**HUMAN RELATIONS BOARD**

**§32.100 HUMAN RELATIONS BOARD.**

Under the direction of Council, there is hereby established a six (6)-member Human Relations Board. This Board will be appointed by Council, and will assist the Council and the Town with the following:

- The study of problems in the area of human relations.
- The promotion of equity for all citizens.
- The promotion of understanding, respect, and goodwill among all citizens.
- The provision of channels of communication among diverse groups.
- Encouraging the employment of qualified people without regard to race, color, religion, gender, sex, age, national origin, disability or genetic information.
- Encouraging youth to become better trained and qualified for employment.

**§32.101 MEMBERSHIP.**

The Human Relations Board shall consist of six (6) members who are residents within the Town corporate limits.

**§ 32.102 TERMS, APPOINTMENTS AND COMPENSATION.**

*(A) Term and appointment.*

1. Board members shall serve two (2)-year staggered terms and be appointment by Council.
2. The initial terms of appointment for members shall be:
  - Two members for a one (1)-year term.
  - Two members for a two (2)-year term.
  - Two members for a three (3)-year term.
  - Thereafter, each newly appointed voting member shall serve for a two (2)-year term.
3. Members may be reappointed, and no member shall serve more than three (3) consecutive terms. Each member shall hold office until the qualification and appointment of his/her successor or until one (1) year has lapsed since the expiration of the term for which the member was appointed, which first occurs.

(B) The Town Council may in its discretion appoint up to two (2) high school and two (2) college/university student representatives from high schools and/or colleges and universities located which serve the Town of Winterville. Such student representatives will be non-voting members of the Human Relations Board. Town Council shall appoint one (1) member of Town

Council to act as the non-voting Liaison to the Human Relations Board. The appointed Liaison shall attend the meetings and keep Town Council informed as to the activities of the Board.

(C) *Compensation.* Members of the Human Relations Board shall serve without compensation.

### **§ 32.103 VACANCIES AND REMOVAL OF MEMBERS.**

(A) Movement from within the Town limits will result in removal from the Human Relations Board. The Council will subsequently appoint a replacement to serve the remainder of the unexpired term.

(B) Meeting Attendance.

(1) Absences caused by illness, injury, death, bereavement, personal emergency, or other similar situations shall be recognized as an excused absence. Excused absences are generally defined as medical or family emergencies or unavoidable business/personal conflicts.

(2) Three (3) consecutive absences from regularly scheduled meetings if notification of any such absence has not been submitted to the Chairperson or Staff Liaison prior to the meetings where the absence occurred will be considered unexcused absences.

(3) Five (5) absences from regularly scheduled meetings of the Human Relations Board in any calendar year if notification of any such absence has not been submitted to the Chairperson or Staff liaison prior to the meetings where the absence occurred shall be considered unexcused absences.

(4) In the event that a vacancy occurs by reasons stated in Section II, the Chairperson of the Human Relations Board shall immediately notify the Town Council liaison, so that the vacancy can be filled in accordance with Town Ordinance by the Town Council.

(5) Members may also be removed from the Board by breach of Section III of the By-Laws governing general conduct of Human Relations Board members.

### **§32.103 ORGANIZATION.**

(A) The Human Relations Board shall choose its own officers.

(1) Officers will serve one (1)-year terms, with no limits on the number of terms that may be served.

(2) Elections will be held at the start of the fiscal year, during the month of July.

(3) The Town Clerk shall serve as the Staff Liaison to the Board.

**§32.104 MEETINGS OF THE HUMAN RELATIONS BOARD.**

(A) The Human Relations Board will approve a schedule of monthly meetings for each calendar year, including day and time of said meetings. The schedule of meetings will be posted on all applicable Town outlets as well as in the Office of the Town Clerk.

(B) A quorum for the official conduct of business shall consist of a simple majority of voting Human Relations Board members.

(C) The Human Relations Board shall keep meetings of its proceedings.

**§32.105 DUTIES AND RESPONSIBILITIES.**

(A) *Work Plan.*

(1) The Human Relations Board shall submit a work plan to Town Council in March of each year. The work plan should list the proposed activities of the Board and any associated budget requests.

(2) The Plan will be presented annually to the Council during the Town's Annual Budget process, and upon approval, shall become Human Relations Board Annual Work Plan.

(B) *Other Requested Work.* The Human Relations Board, when requested by Council, shall consider and report upon any matter coming within the scope of its work.



**Town of Winterville  
Town Council  
Agenda Abstract**

**Item Section:** New Business

**Meeting Date:** November 9, 2020

**Presenter:** Ryan C. Willhite, Chief of Police

**Item to be Considered**

**Subject:** No parking on east side of southbound West Railroad Street.

**Action Requested:** Approval and addition of this portion of West Railroad Street to the Parking Prohibited Schedule in the Town Ordinance.

**Attachment:** Proposed Ordinance 20-O-112.

**Prepared By:** Ryan C. Willhite, Chief of Police

**Date:** 11/3/2020

**ABSTRACT ROUTING:**

TC: 11/3/2020

TM: 11/5/2020

Final: tjp - 11/5/2020

**Supporting Documentation**

Since changing of Railroad Street to a One-Way street between Main Street and Depot Street, the Town Staff has noticed an issue with citizens and patrons parking curbside on the east side of southbound West Railroad Street. The parking is directly behind the angled parking spaces and proposes a safety issue and traffic hazard. Currently, parking in this location is not prohibited, and some of the old parking space paint is visible which encourages parking here. Staff is recommending prohibiting parking curbside on the east side of southbound West Railroad Street between Depot Street and Main Street. We also recommend covering the marked spaces that were painted in white which are showing through as well as signage and new yellow paint scheme to easily identify this as a no parking area.

**Budgetary Impact:** The Department's current budget will absorb costs.

**Recommendation:** Approval of request.

**ORDINANCE NO. 20-O-112**

**ORDINANCE AMENDING CHAPTER 75 OF THE CODE OF ORDINANCES  
OF THE TOWN OF WINTERVILLE, NORTH CAROLINA**

BE IT ORDAINED by the Town Council of the Town of Winterville, North Carolina that Title VII Chapter 75 of the Code of Ordinances of the Town of Winterville is hereby amended as follows:

**CHAPTER 75: PARKING SCHEDULES.**

**SCHEDULE I: PARKING PROHIBITED.**

(A) (1) Parking is prohibited at all times on the following street:

<i>Street</i>	<i>Location</i>	<i>Side</i>	<i>Ord. or Res. No.</i>	<i>Date Passed</i>
West Railroad Street	Southbound from Depot Street to Main Street.	East	20-O-112	11-9-2020

(2) Signage giving notice of parking restrictions shall be erected.

(1992 Code, Chapter 75, Sch. I)

This Ordinance shall be effective upon adoption.

Adopted this the 9<sup>th</sup> day of November 2020.

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Veronica W. Roberson, Mayor Pro Tem

ATTEST:

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Donald Harvey, Town Clerk