

**THE ERWIN BOARD OF COMMISSIONERS
JULY 2023 REGULAR MEETING
THURSDAY, JULY 6, 2023 @ 7:00 P.M.
ERWIN MUNICIPAL BUILDING BOARDROOM
AGENDA**

1. **MEETING CALLED TO ORDER**
 - A. Invocation
 - B. Pledge of Allegiance
2. **AGENDA ADJUSTMENTS /APPROVAL OF AGENDA**
3. **CONSENT**

All items on Consent Agendas are considered routine, to be enacted on one motion without discussion. If a Board member or citizen request discussion of an item, the item will be removed from the Consent Agenda and considered under New Business.

 - A. Minutes Regular Workshop on May 22, 2023 **(Page 2)**
 - B. Minutes Regular Meeting on June 1, 2023 **(Page 7)**
 - C. Minutes Regular Workshop on June 26, 2023 **(Page 13)**
 - D. Personnel Policy Update **(Page 17)**
 - E. Planning Board Application- Howard Staffon Godwin **(Page 19)**
 - F. BOA-2023-08 **(Page 20)**
 - G. Contract for Computer Support Services **(Page 21)**
4. **SPECIAL PRESENTATION**
5. **PUBLIC COMMENT**

Each speaker is asked to limit comments to 3 minutes, and the requested total comment period will be 15 minutes or less. Citizens should sign up prior to the start of the meeting. Please provide the clerk with copies of any handouts you have for the Board. Although the Board is interested in hearing your concerns, speakers should not expect Board action or deliberation on the subject matter brought up during the Public Comment segment. Thank you for your consideration of the Town Board, staff, and other speakers. §160A-81.1
6. **PUBLIC HEARING**
 - A. ZT-2023-003 **(Page 27)**
 - B. Zoning Updates Text Amendment **(Page 44)**
 - C. M-1 Zoning Text Amendment **(Page 75)**
7. **OLD BUSINESS**
 - A. Erwin Fire Department Personnel Leasing MOU **(Page 88)**
 - B. Update on East L Street **(Page 101)**
8. **MANAGER'S REPORT**
9. **ATTORNEY'S REPORT**
10. **GOVERNING BODY COMMENTS**
11. **ADJOURNMENT**

****IN ACCORDANCE WITH ADA REGULATIONS, PLEASE NOTE THAT ANYONE WHO NEEDS AN ACCOMMODATION TO PARTICIPATE IN THE MEETING SHOULD NOTIFY THE TOWN CLERK AT (910) 591-4202 AT LEAST 48 HOURS PRIOR TO THE MEETING.****

ERWIN BOARD OF COMMISSIONERS**REGULAR MINUTES****JULY 6, 2023****ERWIN, NORTH CAROLINA**

The Board of Commissioners for the Town of Erwin with Mayor Baker presiding held its Regular Meeting in the Erwin Municipal Building Board Room on Thursday, July 6, 2023, at 7:00 P.M. in Erwin, North Carolina.

Board Members present were Mayor Randy Baker and Commissioners Timothy Marbell, Charles Byrd, William Turnage, and Alvester McKoy.

Board Members absent were Mayor Pro Tem Ricky Blackmon and Commissioner David Nelson, Town Manager Snow Bowden, Town Clerk Lauren Evans, Finance Director Linda Williams, Code Enforcement Officer Chris Jones, Public Works Director Mark Byrd, and Police Chief Jonathan Johnson were present.

Mayor Baker called the meeting to order at 7:00 PM.

Commissioner McKoy gave the invocation.

Commissioner Turnage led the Pledge of Allegiance.

AGENDA ADJUSTMENT/APPROVAL OF AGENDA

Commissioner Turnage made a motion to approve the agenda as presented and was seconded by Commissioner Byrd. **The Board voted unanimously.**

CONSENT

Commissioner Turnage made a motion to approve **(ITEM A)** Minutes Regular Workshop on May 22, 2023 **(ITEM B)** Minutes Regular Meeting on June 1, 2023 **(ITEM C)** Minutes Regular Workshop on June 26, 2023 **(ITEM D)** Personnel Policy Update **(ITEM E)** Planning Board Application- Howard Staffon Godwin **(ITEM F)** BOA-2023-08 **(ITEM G)** Contract for Computer Support Services and was seconded by Commissioner McKoy. **The Board voted unanimously.**

SPECIAL PRESENTATION

Octavio "Toby" Cano, an Equipment Operator for the Erwin Public Works Department, was awarded the first-ever Employee of the Quarter Award for the Town of Erwin. Mayor Baker presented him with a Plaque.

Section 28: Employee of the Quarter Leave

Town employees awarded with the Employee of the Quarter shall be given one day's worth of leave. The 8 hours (12 hours for Police Patrol) must be used within the same month of receiving the award and must be used to take a whole day of leave. The time cannot be split into increments or to extend a holiday. It cannot roll over and will not be paid out in the instance of an employee leaving his or her employment with the Town of Erwin either voluntarily or involuntarily.

Employee of the Quarter Leave is subject to the following conditions:

1. The leave must be taken at a time mutually agreed upon by the employee and the Town;
2. The Town may require the employee to request the leave in writing at least one week prior to the time of the desired leave; and

Employee of the Quarter Leave requests must be approved by an employee's Department Head. Employee of the Quarter Leave time requests can be denied by a Department Head if it is not feasible for that employee to be off at the requested time.

ETJ



APPLICATION FOR APPOINTMENT TO A BOARD FOR THE TOWN OF ERWIN, NORTH CAROLINA



The Town of Erwin appreciates your interest in serving on a Board and requests that you complete the following application. This application requests general information based on your interest in applying for a Board for the Town of Erwin.

Applicant Name: Howard Stafford Bodwin Date of Application: 6/01/23

Home Address: 129 Bumpass Creek Accg Duwn NC 28334
Street Address Town Zip Code

Home Phone: _____ Business/Other Phone: (910) 891-8535

FAX Number: _____ Email Address: STAFFOR Bodwin@gmail.com

In order to consider this application, the Town of Erwin requests the following information:

Date of Birth 7/24/62 Do you reside within the Town Limits of Erwin: Yes No
Occupation: _____ Length of residence in Erwin: 59 Years _____ Months

Have you ever pled guilty to or been found guilty or any criminal offense or been convicted of any offense other than a minor traffic violation? Yes ___ No

If yes, please explain _____

Any evidence found to be incorrect on the application may result in disqualification.

Please write a brief statement as to why you are interested in serving on one of these Boards.
Interested local government

Please indicate your preference by the number (first choice being "1")

Planning Board Recreation _____

Please note: If you are applying for the Planning Board you will not be able to serve on another Board.

STATE OF NORTH CAROLINA

COMPUTER SUPPORT SERVICES AGREEMENT

COUNTY OF HARNETT

This Computer Support Services Agreement (the "Agreement") is made and entered into as of the 1st day of July, 2023 by and between the County of Harnett, a body politic, organized and existing under the laws of the State of North Carolina (hereinafter referred to as "County") and the Town of Erwin, a municipal corporation, organized and existing under the laws of the State of North Carolina (hereinafter referred to as "Town").

WITNESSETH:

WHEREAS, Town desires computer support services for its governmental operations from County;

WHEREAS, County desires to provide to Town computer support services for Town's governmental operations;

WHEREAS, Town and County have reached an agreement for the provision of computer support services to the Town as described herein and the parties desire to set forth the terms and conditions of this agreement in this Contract; and

NOW, THEREFORE, in consideration of the mutual benefits, representations, and agreements contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree, each with the other, as follows:

1. **Purpose.** The purpose of this Contract is to set forth the understandings and agreements of the parties regarding the computer support services to be performed by County for Town.
2. **Services Provided by County.** The County shall provide to Town, including its various commissions, agencies, and programs the following computer support services:

- A. Hosting, maintenance and support of Town staff 1-99 e-mail accounts @
 - a. Option 1 - \$14/mailbox/month basic email Microsoft 365. Includes:
 - i. Microsoft 365 Exchange Plan 1 and 2
 - ii. Email box storage space 100gb per user
 - iii. Daily backups of email data
 - iv. Barracuda SPAM filtering service
 - v. Barracuda Email archiving
 - vi. Security monitoring
 - b. Option 2 - \$20/mailbox/month E1 Microsoft 365. Includes:
 - i. All of basic email Microsoft 365 above

- ii. Online web Office applications
 - iii. OneDrive up to 1TB of storage
 - iv. Microsoft Teams
 - v. Other Microsoft online applications
 - c. Option 3 - \$32/mailbox/month E3 Microsoft 365. Includes:
 - i. All of E1 Microsoft 365 above
 - ii. Local Office applications on up to 5 devices
- B. Provide 10mb minimum (burstable up to 200mb) Internet Connection @ \$75/month;
- C. Provide 50mb MetroE connectivity to county resources @ \$500/month;
- D. Provide use of County's data center for up to 4 servers and 1TB of network storage @ \$400/month
- a. Each additional server is \$100/month
 - b. Each additional 1TB is \$100/month
 - c. Includes
 - i. Offsite replication of systems
 - ii. Regular backup of systems
 - iii. Security monitoring
- E. VOIP Phone system @ \$12.50/phone/fax/month;
- a. Voicemail, with voicemail to email feature
 - b. DID allocation
 - c. Free long distance calling
 - d. Auto Attendant capabilities
 - e. Instant messaging client option
- F. NetMotion annual license fee @ \$6/per client/month
- G. Labor for maintenance, repairs, security patching and upgrades to Town computers;
- H. Installation and upgrades of software requested by Town;
- I. Serve as a liaison with Town's software vendors;
- J. Provide consultation for any other technology needs of the Town.
- K. Provide consultation for the Town's GIS mapping needs that is outside of normal county mapping functions

Any expenses incurred for the purchase of hardware and/or software necessary to provide for the maintenance and/or repairs of Town's computers, peripheral devices or networking equipment will be the sole responsibility of Town. The County shall perform computer support services on an as needed basis as requested by Town. All services provided by the County pursuant to this Agreement shall occur during the County's normal business hours of 8:00 a.m. to 5:00 p.m., Monday thru Friday.

3. **Compensation and Payment.** Compensation for the computer support services shall be **\$4,000 for a 50-hour block of time @ \$80/hour** plus reimbursement of directly incurred out-of-

pocket expenses including any support fees. County will also charge for services noted in section 2 above. County shall invoice Town quarterly for computer support services and out-of-pocket expenses and provide a detailed description for all out-of-pocket expenses directly incurred. Any unused hours will be billed no later than June 30, 2024. Any overages will be billed at \$85/hour. Said invoices shall be submitted to:

Snow Bowden, Town Manager
Town of Erwin
PO Box 675
Erwin, NC 27521

Each invoice is due and payable to County within thirty (30) days of the date of the invoice. Town shall pay an additional charge of one and one-half percent per month (18% annually) per month not to exceed the maximum rate allowed by law for any payment not received by County more than thirty (30) days from the date of invoice.

4. **Term of Agreement, Amendment and Termination.** The term of this Agreement is July 1, 2023 to June 30, 2024. This Agreement may be amended from time to time upon the mutual consent of Town and County expressed in writing. Either party may terminate this Agreement for any reason upon sixty (60) days written notice to the other party. Termination shall not relieve Town of any financial obligations incurred prior to termination.

5. **Documents and Reports.** Town shall furnish or cause to be furnished to County all such reports, data, specifications, documents or other information deemed necessary by County for proper performance of County's services. County may rely upon the documentation so provided in performing the services required under this Agreement; provided however, County assumes no responsibility or liability for their accuracy.

6. **Town Data.** Town retains ownership and custody of its data and County does not have ownership, custody, or control of Town Data. County will backup Town Data for the sole purposes of disaster recovery and will provide Town an automated backup of data stored on Town's designated servers and network connected computers. County will back up emails for a period of ten (10) years and all other data for a period of one (1) year. Town is solely responsible for generating and formatting all data. Town is solely responsible for the integrity of all data targeted for backup. County will back up Town Data as it exists at the time of backup, with all faults, and will restore Town Data in the same format in which it is backed up. Town is solely responsible for retaining data and records in accordance with its retention schedules. Town is solely responsible for fulfilling and satisfying all public records requests and all requests for data in connection to litigation. Data backups prepared for disaster recovery purposes will be used to restore data that has been deleted or lost. This agreement does not create a requirement for the County to respond to or assist in satisfying public records or litigation requests from the disaster recovery data backups.

7. **Limitation of Liability.** Town shall hold County harmless for any and all claims, liabilities, losses, damages, costs or expenses arising out of or relating to the provision of services provided by County to Town hereunder. Town and County waive special, incidental, indirect or consequential damages, including lost profits, good will, revenues or savings, for claims, disputes, or other matters in question arising out of or relating to this Agreement. This limitation of liability will survive the expiration or termination of this Agreement.

8. **No Third-Party Beneficiary.** Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party against either Party.

9. **Severance Clause.** In the event any provision of this Agreement is adjudged to be not enforceable or found invalid, such provision shall be stricken and the remaining provisions shall be valid and enforceable.

10. **Notices.** All notices or other communications which shall be made pursuant hereto shall be in writing and shall be deemed to be given and received (a) when hand delivered to the address stated below, (b) three (3) days after being mailed to the address stated below, postage prepaid by certified or registered mail of the United States, return receipt requested to the address set forth below:

TO: Town of Erwin
PO Box 675
Erwin, NC 27521
Attn: Town Manager

TO: County of Harnett
455 McKinney Parkway
County Administration Building
Post Office Box 759
Lillington, North Carolina 27546
Attn: County Manager

With Copy to: County Staff Attorney
455 McKinney Parkway
County Administration Building
Post Office Box 238
Lillington, North Carolina 27546

Either party to this Agreement may change its designated person or designated address at any time and from time to time by giving notice of such change to the other party in the manner set forth above.

11. **Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the State of North Carolina. The North Carolina State Courts located in Harnett County, North Carolina shall have jurisdiction to hear any dispute under this Agreement and any legal or equitable proceedings by either party must be filed in Harnett County, North Carolina.

12. **Mediation.** Any claim, dispute or other matter in question arising out of or related to this Agreement may, per the mutual agreement of both parties, be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by either party. The Parties agree that the mediation will be conducted and governed by the North Carolina Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions, and N.G. Gen. Stat. §7A-38.1(c), except as specifically provided otherwise herein. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Harnett County, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

13. **Entire Agreement.** This Agreement represents the entire and integrated agreement between County and the Town and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may only be amended by written instrument signed by County and the Town.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives or officers have executed this Agreement as to the date and year first above written.

TOWN:

TOWN OF Erwin

By: Stan Bowler

Printed Name: Stan Bowler

Title: Town Manager

This instrument has been pre-audited in the manner required by the Local Government Budget & Fiscal Control Act.

THIS INSTRUMENT HAS BEEN
PREAUDITED IN THE MANNER REQUIRED
BY THE LOCAL GOVERNMENT BUDGET
AND FISCAL CONTROL ACT

By: Linda P. Williams
Printed Name: Linda P. Williams
Title: Finance Director

Linda P. Williams
TOWN OF ERWIN FINANCE

COUNTY:

COUNTY OF HARNETT

By: _____

County Manager

BUDGET ORDINANCE AMENDMENT
BOA 2023 – 08
FISCAL YEAR 2022-2023

BE IT ORDAINED by the Governing Board of the Town of Erwin, North Carolina that the following amendments are made to the annual budget ordinance for the fiscal year ending June 30, 2023.

Section 1. This Budget Ordinance Amendment seeks to Increase Revenues and Increase Expenditures by \$ 20,000. This will recognize additional revenues for Sales and Use Tax and an increase in expenses in the Public Works Admin. Dept. and Community Building Dept. This adjustment will keep the budget in balance.

Section 2. To amend the General Fund: The revenues are to be changed as follows:

Account	Description	Current Approp.	Increase/Decrease	Amended Appropriation
10-3450-000	Sales & Use Tax	\$772,732	(+) 20,000	\$792,732

Section 3. To amend the General Fund: The Expenditures are to be changed as follows:

Account	Description	Current Approp.	Increase/Decrease	Amended Appropriation
10-5450-150	Maint & Repair -Grounds	\$1,500	(+) 15,000	\$16,500
10-5450-180	Departmental Equip.	\$1,575	(+) 3,000	\$4,575
10-6400-160	Community Center	\$1,000	(+) 2,000	\$3,000

Section 4. Copies of this budget amendment shall be furnished to the Clerk, the Governing Board, the Budget Officer and the Finance Director for their direction.

Adopted this 6th day of July 2023.


 Randy L. Baker, Mayor

ATTEST:


 Lauren Evans, Town Clerk

MINUTES CONTINUED FROM JULY 6, 2023

PUBLIC COMMENT

No one was present to speak.

PUBLIC HEARING

ZT-2023-003

Commissioner McKoy made a motion to open the Public Hearing and was seconded by Commissioner Turnage. **The Board voted unanimously.**

Town Manager Snow Bowden stated that the Town of Erwin received a rezoning request for a vacant tract of land on the corner of Bait Road and Antioch Church Road to be rezoned from R-15 to RD. The Planning Board did recommend the request for approval. The applicants were requesting to have the parcel rezoned to build a church on the property and currently churches are not allowed in R-15. RD zoning is adjacent to the property.

Mayor Baker asked if anyone was present to speak in favor of the request.

Pastor Alexander Lockamy of 194 Roosevelt Road came forward and stated his church was currently in a building on N 13th Street and had standing room only. They purchased the property on Antioch Church Road and they are requesting to rezone the property to build a bigger church to hold more people than their current facility.

Mayor Baker asked if anyone else was present to speak in favor of the request.

No one came forward.

Mayor Baker asked if anyone was present to speak against the request.

No one came forward.

Commissioner Byrd made a motion to close the Public Hearing and was seconded by Commissioner McKoy. **The Board voted unanimously.**

Commissioner Byrd made a motion to recommend that the proposed rezoning application meets all the Findings of Facts in the Affirmative and was seconded by Commissioner McKoy. **The Board voted unanimously.**

Commissioner Byrd made a motion that the requested rezoning to RD is compatible with all of the Town of Erwin's regulatory documents and would not only have a positive impact on the surrounding community, but would enhance the public health, safety, and general welfare as stated in the evaluation. It is recommended that this rezoning request be **Approved** and was seconded by Commissioner McKoy. **The Board voted unanimously.**

Commissioner McKoy made a motion to recommend the approval of Ordinance For Map Amendment Case # Z1-2023-003 Amendment To The Official Zoning Map To Rezoned From R-15 To RD Per Zoning Ordinance Article XXIII For Harnett County PIN 1506-17-8791.000 and was seconded by Commissioner Byrd. **The Board voted unanimously.**



**TOWN OF ERWIN
BOARD OF COMMISSIONERS
REGULAR MEETING
THURSDAY, JULY 6, 2023 AT 7PM**

PUBLIC COMMENT- *Each speaker is asked to limit comments to 3 minutes, and the requested total comment period will be 15 minutes or less. Citizens should sign up prior to the start of the meeting. Please provide the clerk with copies of any handouts you have for the Board. Although the Board is interested in hearing your concerns, speakers should not expect Board action or deliberation on subject matter brought up during the Public Comment segment. Thank you for your consideration of the Town Board, staff and other speakers. §160A-81.1*

Name	Address	Subject
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____
11. _____	_____	_____
12. _____	_____	_____

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: July 6, 2023

Subject: ZT-2023-003

The Town has received a request to have a vacant parcel at the corner of Bait Road and Antioch Church Road rezoned from R-15 to our Rural District (RD). The parcel is adjacent to property that is already found in our RD district. The property was bought with the intention of building a new church on the site. Our R-15 Zoning District is one of our more restrictive zoning districts and churches are not allowed at all. The vast majority of our other zoning districts allow churches. I believe that there is a reasoning behind this so I recommended to the current property owners that it made more sense to request for the parcel to be rezoned versus request a text amendment to our Code of Ordinances. The Planning Board did recommend this rezoning request be approved.

*Note- If the rezoning request is approved the property owners will still be subject to further administrative approvals by Town Staff and Harnett County Staff. The site will have to follow all of our development guidelines.

Attachments:

- ZT-2023-003 Application
- ZT-2023-003 Staff Report
- Harnett County GIS Image with zoning
- Harnett County GIS Image with no zoning
- Property owners notified
- ZT-2023-003 Public Notice Letter
- ZT-2023-003 Newspaper Notice
- Planning Board Statement of Consistency
- Statement of Consistency
- Statement of Inconsistency
- ZT-2023-003 Map Amendment Ordinance



**REZONING MAP REQUEST
STAFF REPORT**

Case: ZT-2023-003

Snow Bowden, Town Manager

townmanager@erwin-nc.org

Phone: (910) 591-4200 Fax: (910) 897-5543

Planning Board: 06/19/2023

Town Commissioners: 07/06/2023

Requested zoning map amendment to a vacant parcel of land located at the corner of Antioch Church Road and Bait Road

Applicant Information

Owner of Record:

Name: The Burning Bush Church and Harper Wilden,
Trustee

Address: 402 North 13th Street

City/State/Zip: Erwin, NC 28339

Applicant:

Name: Alexander Lockamy

Address: 402 North 13th Street

City/State/Zip: Erwin, NC 28339

Property Description

Tract – Vacant property adjacent to 848 Antioch Church Road

Harnett County Tax PIN 1506-17-8791.000

Acres 3.22

Zoning District- R-15

Vicinity Map

- See Attached Harnett County GIS Image with zoning districts
- See Attached Harnett County GIS Image without zoning districts

Physical Characteristics

Site Description: Vacant tract of land that is 3.22 acres. It is mostly flat and not in a flood zone or federally protected wetland area. It is at the corner of Antioch Church Road and Bait Road.

Surrounding Land Uses: This land is surrounded by primarily other residential land uses. There are commercial land uses in the area as well. The old cricket farm is right down the road and is currently not operating. But that can always change.

Services Available

- Harnett County Regional Water
 - There does not appear to be sewer in this area.
- Duke Energy for electric
- Centurylink for telephone

Staff Evaluation

The applicant has requested that this parcel be rezoned from R-15 to Rural District (RD)

Town Staff would recommend this rezoning request be evaluated for feasibility.

Staff Evaluation

Yes No The IMPACT to the adjacent property owners and the surrounding community is reasonable, and the benefits of the rezoning outweigh any potential inconvenience or harm to the community

- **Reasoning:** The applicant is requesting a zoning district that is already adjacent to the existing parcels in the area therefore this parcel would have the same allowed land uses as the other parcels in this area.

Yes No The requested zoning district is COMPATIBLE with the existing Land Use Classification.

- **Reasoning:** This parcel is located in an area identified for low intensity growth in our 2014 Land Use Plan. This area does allow for compatible growth with surrounding development.

Yes No The proposal does ENHANCE or maintain the public health, safety, and general welfare.

- **Reasoning:** The proposed rezoning request would allow for church to be built on this parcel.

Yes No The request is for a SMALL SCALE REZONING and should be evaluated for reasonableness.

- **Reasoning:** This is one tract of land that is 3.2 acres

<p>There is a convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group. YES</p>	<p>All of the permitted and potential land uses that require a special use permit would be appropriate.</p>
<p>There is a convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.) YES</p>	<p>All of the permitted and potential land uses that require a special use permit would be appropriate.</p>
<p>There is a convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change. YES</p>	<p>The character of the neighborhood will not be damaged. This parcel is located off of a main state highway.</p>
<p>The proposed change is in accord with the Land Development Plan and sound planning principles. YES</p>	<p>This parcel is located in an area identified for low intensity growth. This tract of land is better suited for the request use compared to what is currently allowed.</p>

Statement of Consistency

The requested rezoning to RD is compatible with all of the Town of Erwin's regulatory documents and would not only have a positive impact on the surrounding community, but would enhance the public health, safety, and general welfare as stated in the evaluation. It is recommended that this rezoning request be **Approved**.

Or

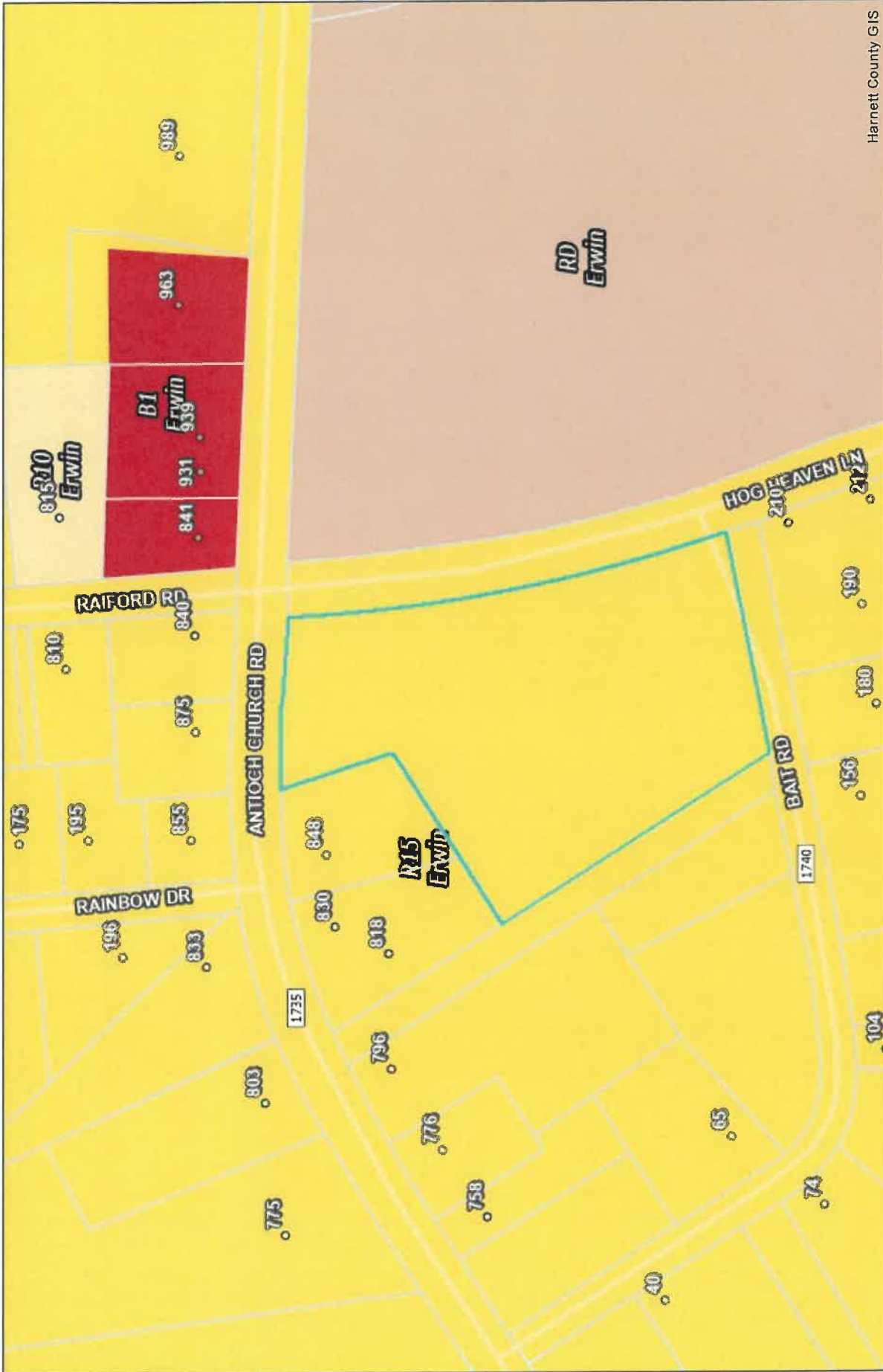
Statement of In-Consistency

The requested rezoning to RD is **NOT** compatible with all of the Town of Erwin's regulatory documents and it would have a negative impact on the surrounding community. It is recommended that this rezoning request **NOT BE APPROVED**.

Attachments:

- ZT-2023-003 Application
- Harnett County GIS Image with zoning districts
- Harnett County GIS Image without zoning districts
- Adjacent property owner sheet
- Public notice letter sent to adjacent property owners

Harnett GIS



Harnett County GIS

1 inch = 188 feet

0 80 160 320 Feet

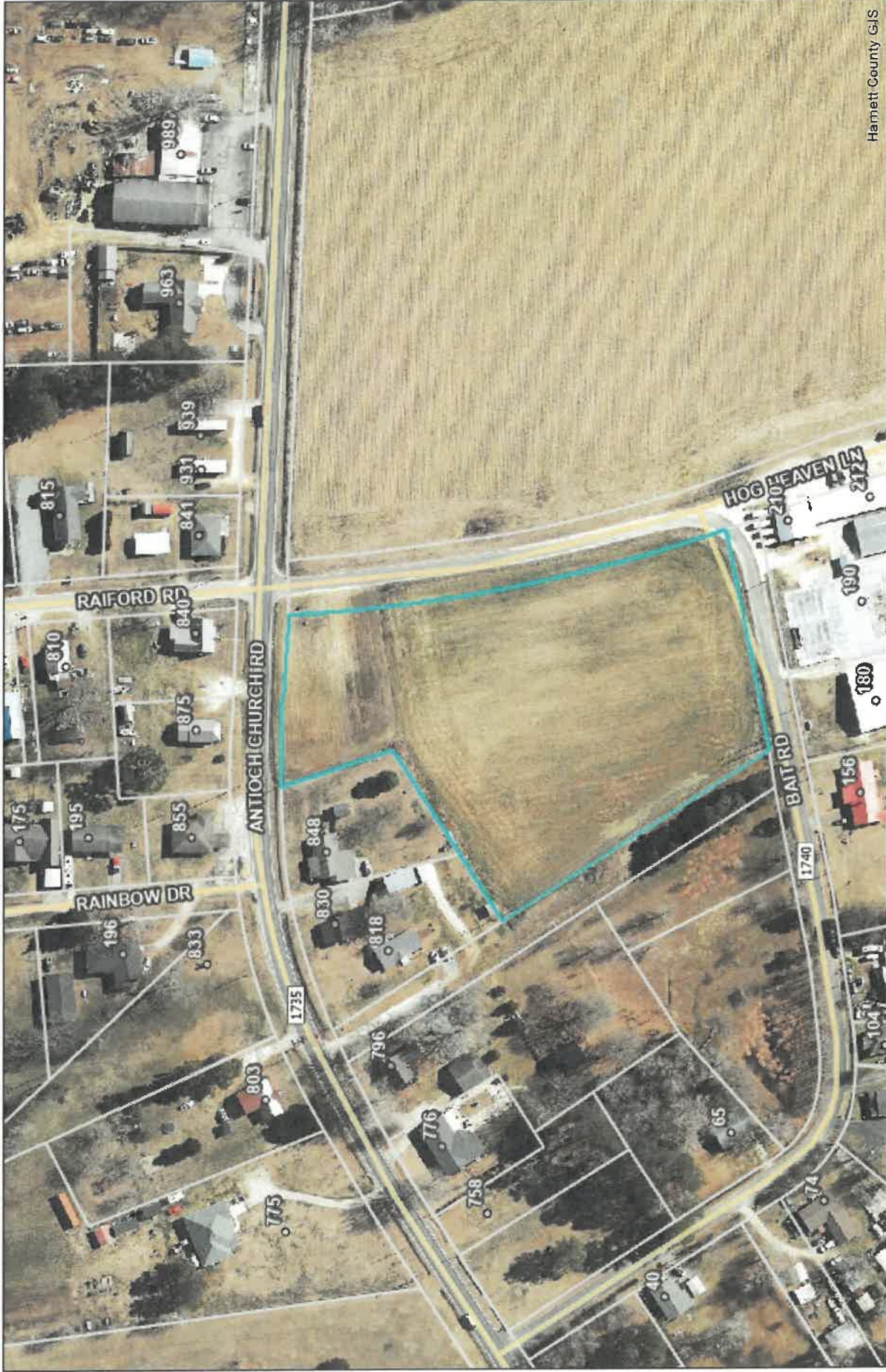
N
W E
S

- Surrounding County Boundaries
- City Limits
- County Boundary
- Address Numbers
- Major Roads
 - Interstate
 - NC
 - US
- Airport
- Roads
- Cape Fear River
- Mile Markers
- Railroad
- Parcels

GIS/E-911 Addressing
May 25, 2023

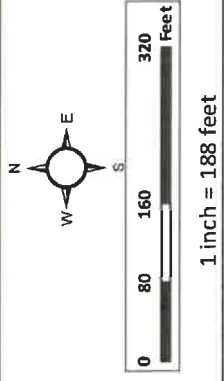
NOT FOR LEGAL USE .

Harnett GIS



NOT FOR LEGAL USE .

Harnett County GIS



- Surrounding County Boundaries
- City Limits
- County Boundary
- Address Numbers
- Airport
- MajorRoads
- Interstate
- NC
- US
- Roads
- Mile_Markers
- Mile_Markers
- Railroad
- Parcels
- CapeFearRiver

GIS/E-911 Addressing
May 25, 2023

Charles and Ginger Bass
848 Antioch Church Road
Dunn, NC 28334

Raymond and Charlotte McConnell
818 Antioch Church Road
Dunn, NC 28334

Avila's Construction, LLC.
4702 Pricess Lita Way
Raleigh, NC 27610

Felix Butler Jr.
875 Antioch Church Road
Dunn, NC 28334

Laura Flores
840 Raiford Road
Erwin, NC 28339

Edwin Morgan, Trustee
J.C. Peacock, Trustee
815 Raiford Road
Erwin, NC 28339

Alvis Oldham, Jr.
1004 Warren Road
Erwin, NC 28339

Anchor Properties of Raleigh, LLC.
503 Wrennstone Ct.
Apex, NC 27529

Mary Stafford
776 Antioch Church Road
Dunn, NC 28334

The Burning Bush Church
Harper Wilden, Trustee
402 N 13th Street
Erwin, NC 28339



TOWN OF ERWIN

P.O. Box 459 · Erwin, NC 28339
Ph: 910-897-5140 · Fax: 910-897-5543
www.erwin-nc.org

06/12/2023

Notice of a Public Hearing ZT-2023-003

Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

The Board of Commissioners of the Town of Erwin will hold a public hearing pursuant to NC General Statute 160D-406 on July 6th, 2023 at 7:00 P.M. at the Erwin Town Hall, 100 West F Street, Erwin, North Carolina to hear public comment on a proposed rezoning request. The rezoning request is to have the parcel rezoned to our Rural District (RD) from its current zoning district R-15.

There has been a zoning map amendment application submitted to the Town. The property does not have an address. It is located at the corner of Bait Road and Antioch Church Road. The parcel is adjacent to 848 Antioch Church Road. The parcel can be identified by its Harnett County Tax PIN #1506-17-8791.000.

A copy of this case is available for review at the Erwin Town Hall. Questions concerning this case can be addressed to the Town Manager Snow Bowden at 910-591-4200 or by email at townmanager@erwin-nc.org.

Regards,

Snow Bowden
Town Manager

NOTICE OF PUBLIC HEARING

The Town of Erwin Board of Commissioners will conduct a Public Hearing on the following items pursuant to NC General Statute 160D-406, on Thursday, July 6, 2023, at 7:00 P.M. in the Erwin Municipal Building Board Room located at 100 West F Street, Erwin, NC 28339. Questions can be addressed to the Town Manager Snow Bowden at 910-591-4200 or by email at townmanager@erwin-nc.org.

- Case ZT-2023-003: Request to have a parcel located at the corner of Antioch Church Road and Bait Road rezoned from R-15 (residential) to Rural District(RD). The property can also be identified by its Harnett County Tax PIN #1506-17-8791.000.
- Zoning Text Amendment request to define a dog kennel in the Town of Erwin Code of Ordinances.
- Text Amendments to Chapter 36 Zoning in the Town of Erwin Code of Ordinances.

These cases are available for review at the Erwin Town Hall. All persons desiring to be heard either for or against the proposed items set forth above are requested to be present at the above-mentioned time and place.
6/20,27/2023

Statement-of-Consistency

The requested rezoning to RD is compatible with all of the Town of Erwin's regulatory documents and would not only have a positive impact on the surrounding community, but would enhance the public health, safety, and general welfare as stated in the evaluation. It is recommended that this rezoning request be **Approved**.



Angela Gundersen
Planning Board Chair



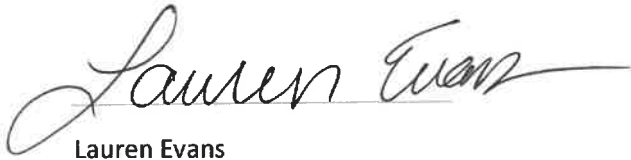
Lauren Evans
Town Clerk

Statement-of-Consistency

The requested rezoning to RD is compatible with all of the Town of Erwin's regulatory documents and would not only have a positive impact on the surrounding community, but would enhance the public health, safety, and general welfare as stated in the evaluation. It is recommended that this rezoning request be **Approved**.



Randy Baker
Mayor



Lauren Evans
Town Clerk



TOWN OF ERWIN

P.O. Box 459 • Erwin, NC 28339
Ph: 910-897-5140 • Fax: 910-897-5543
www.erwin-nc.org

Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

**ORDINANCE FOR MAP AMENDMENT CASE # ZT-2023-003
AMENDMENT TO THE OFFICIAL ZONING MAP TO REZONE
FROM RESIDENTIAL (R-15) TO RURAL DISTRICT (RD)
PER ZONING ORDINANCE ARTICLE XXIII
FOR HARNETT COUNTY PINS 1506-17-8791.000.**

ORD 2023-2024: 004

Per Chapter 36 Zoning, Article XXIII, Changes and Amendments, Harnett County PIN 1506-17-8791.000 owned by Wilden Harper and Robertson McNeill and Maurice Mosley as Trustees of The Burning Bush Church have been rezoned to RD, Case # ZT-2023-003.

Matthew S. Willis Register of Deeds
Harnett County, NC
Electronically Recorded
05/08/2023 03:34:35 PM NC Rev Stamp: \$180.00
Book: 4192 Page: 68 - 70 (3) Fee: \$26.00
Instrument Number: 2023007208

HARNETT COUNTY TAX ID #
061506 0075

05-08-2023 BY: SM

Prepared by and return to: Lynn Matthews, Atty, 1103 W. Cumberland Street, Dunn, NC 28334

EXCISE TAX: \$180.00
Parcel ID No.: 061506 0075

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED, made this 8th day of May, 2023, by and between JOHN E. SMITH, JR. and wife, TINA SMITH of 1174 Old Hamilton Road, Dunn, NC 28334, hereinafter called GRANTOR, and WILDEN HARPER and ROBERTSON MCNEILL and MAURICE MOSLEY as Trustees of THE BURNING BUSH CHURCH, a unincorporated religious organization whose address is 402 N 13th Street, Erwin, NC 28339, hereinafter called GRANTEE.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine or feminine as required by context.

WITNESSETH:

That the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Duke Township, Harnett County, North Carolina and more particularly described as follows:

BEING that 3.22-acre parcel of land according to a survey and map dated November 18, 1998 by Joyner Piedmont Surveying, Dunn, North Carolina, and entitled, "Property of Waylon B. Warren and wife, Geraldine H. Warren", which map is recorded as Number 98-548, Harnett County Registry, to which reference is hereby made for a more full and complete description of this parcel of land.

Submitted electronically by "Matthews Law Group PC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Harnett County Register of Deeds.

All or a portion of that property herein conveyed does not include the primary residence of a Grantor. (N.C. Gen. Stat. §105-317.2).

The property hereinabove described was acquired by Grantor by instrument in Book 3948, Page 164, Harnett County Registry.

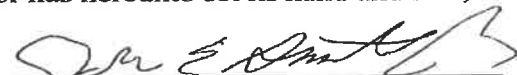
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

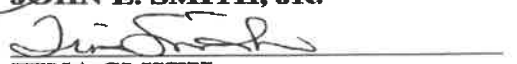
And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

1. General utility easements of record.
2. Easements, restrictions and rights of way of record.
3. 2023 ad valorem taxes which are not yet payable.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal, the day and year first above written.



JOHN E. SMITH, JR.


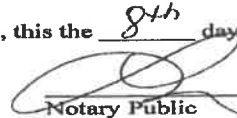
TINA SMITH

Notary acknowledgment on next page

STATE OF NORTH CAROLINA
COUNTY OF HARNETT

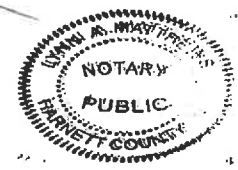
I, Lynn A. Matthews, a Notary Public, do hereby certify that **John E. Smith, Jr.** appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the 8th day of May, 2023.



Notary Public

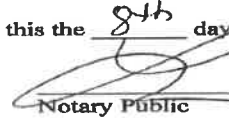
My Commission Expires: 5/31/26



STATE OF NORTH CAROLINA
COUNTY OF HARNETT

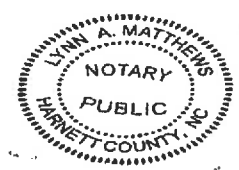
I, Lynn A. Matthews, a Notary Public, do hereby certify that **Tina Smith** appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the 8th day of May, 2023.

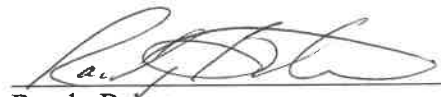


Notary Public

My Commission Expires: 5/31/26




Adopted this the 6th day of July 2023.



Randy Baker,
Mayor

ATTEST:



Lauren Evans
Town Clerk

MINUTES CONTINUED FROM JULY 6, 2023

Zoning Updates Text Amendment

Commissioner Byrd made a motion to open the Public Hearing and was seconded by Commissioner Turnage. **The Board voted unanimously.**

Town Manager Snow Bowden stated these were proposed text amendments to almost all of our district except the M-1 District which was separate and would be discussed next on the agenda. All of the changes were displayed in red font and were additions to what is permitted by moving the requested uses from Special Uses to Permitted by Right. The Planning Board did recommend these changes for approval. These changes have been recommended in previous studies to streamline the process of approval for applicants.

Mayor Baker inquired whether we had any Public Comments at our Planning Board Meeting.

Town Manager Snow Bowden stated we did not have any Public Comments at our Planning Board Meeting.

Mayor Baker asked if anyone was present to speak in favor of the proposed text amendments.

No one came forward.

Mayor Baker asked if anyone was present to speak against the proposed text amendments.

No one came forward.

Commissioner Byrd made a motion to close the Public Hearing and was seconded by Commissioner Turnage. **The Board voted unanimously.**

Town Manager Snow Bowden asked to strike the years in parenthesis under R-6 Permitted principal uses and Structures, Item 5, Manufactured Home, Class A on page 54. That was a staff typo, we cannot regulate by years the Manufactured Class A Homes in R-6 and should only apply to R-6.

Commissioner Byrd made a motion to recommend the approval of the Ordinance of the Town Of Erwin, North Carolina Amending Chapter 36 Zoning, Ordinance 2023-2024: 001 and removing the year restriction on Manufactured Class A Homes in R-6 reasoning that the Town of Erwin cannot propose an age standard and was seconded by Commissioner McKoy. **The Board voted unanimously.**

M-1 Zoning Text Amendment

Commissioner Turnage made a motion to open the Public Hearing and was seconded by Commissioner Byrd. **The Board voted unanimously.**

Town Manager Snow Bowden these proposed changes only apply to our M-1 District which was mostly where the Erwin Mill site was located, where Public Works was located, and in our Planning Zone. Staff was proposing to add permitted uses such as retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building, outdoor dining, educational uses, trades and similar enterprises catering to household and business establishments, public facilities, brewery/microbrewery, and distillery to be permitted by right.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: July 6, 2023

Subject: Zoning Updates Text Amendment

The Planning Board has reviewed these proposed text amendments and has recommended them for approval. The proposed changes have addressed some of the primary requests that we receive that can be reviewed and handled by Town Staff more efficiently such as “Class A Manufactured Homes” in our R-6 Zoning District. The proposed changes move “Customary Home Occupations” to permitted in the districts that they are currently allowed with a special use permit. Customary Home Occupations are well-defined in our current Code of Ordinances and most of the requests are regulated by the state such as cosmetology. Some requests such as a home office should not require a special use permit.

We are happy to make any additions or deletions that you see best fit. Town Staff believes these proposed changes are in our best interest. As a reminder, the upcoming budget for the next Fiscal Year includes funds to update our Code of Ordinances so we will be discussing other changes in the next few months based on the adoption of our updated Land Use Plan.

Attachments:

- Proposed zoning updates to Chapter 36

ARTICLE IV. RURAL DISTRICT (RD)

Sec. 36-77. Intent.

This district is established to promote low-density residential and agricultural uses. The regulations of this district are intended to protect the agricultural sections of the community from an influx of uses likely to render them undesirable for farms and future development and to ensure that residential developments dependent on private wells and septic tanks will occur at sufficiently low densities to ensure a healthful environment.

(Code 1977, § 9-4024.1)

Sec. 36-78. Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Single-family dwellings.
- (2) Farms and agricultural uses for crop and livestock production. Note: A farm shall not be construed to include commercial poultry and swine production, cattle feed lots, and fur-bearing animals.
- (3) Family care home.
- (4) Religious uses, including churches and other places of worship, religious education buildings and parish houses.
- (5) Municipal facilities.
- (6) Manufactured Class A homes on individual lots.
- (7) Customary Home Occupations
- (8) Equine stables (private or commercial use). Only applicable in the Planning Zone. Equine stables are not permitted inside Town Limits.
- (9) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (10) Public facilities.

(Code 1977, § 9-4024.2; Ord. of 5-3-2001; Ord. of 11-6-2014)

Sec. 36-79. Permitted accessory uses and structures.

The following are permitted accessory uses and structures:

- (1) Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (Refer to article XV of this chapter.)
- (2) Stands to sell agricultural products produced on premises, provided that sufficient off-street parking is provided off the right-of-way. (See Accessory uses—On-premises produce stands).

(Code 1977, § 9-4024.3; Ord. No. ZT-2013-003 , § 3(9-4024.3), 9-5-2013)

Sec. 36-80. Special uses.

The following are conditional uses:

- (1) ~~Public facilities.~~
- (2) Social uses, such as social halls, lodges, and headquarters of fraternal organizations, clubs, and similar activities.
- (3) Cemeteries.
- (4) Animal medical care.
- (5) Places of public assembly.
- (6) Fairground and carnival activities.
- (7) ~~Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.~~
- (8) ~~Customary home occupations.~~
- (9) ~~Equine stables (private or commercial use).~~
- (10) Mining activities.
- (11) Storage building (The intention of this proposed use is to allow property owners that have existing buildings that are a primary use on this lot to lease them for storage).

(12) Vehicular sales and rental

(Code 1977, § 9-4024.4; Ord. of 5-3-2001; Ord. of 11-6-2014; Ord. No. 2015-2016:004 , § 2, 8-6-2015; Ord. No. 2018-2019-006 , 5-2-2019; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-81. Dimensional requirements.

(a) The following regulations shall govern all permitted and conditional uses in this district:

- (1) Minimum lot area: 20,000 square feet (0.459 acres).
- (2) Minimum lot width: 100 feet (for lots without public water and sewer). (Except in subdivisions - Minimum lot widths of 75 feet and 60 feet for cul-de-sac lots.)
- (3) Minimum required front yard: 40 feet (excluding steps).
- (4) Minimum required rear yard: 40 feet (excluding steps).
- (5) Minimum required side yard: 12 feet.
- (6) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.

(b) All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists, then the measurement will be taken from the access easement line.

(Code 1977, § 9-4024.5; Ord. of 8-2-2012; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-82. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4024.6)

Sec. 36-83. Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4024.7)

Sec. 36-84. Lights.

Refer to article XVII of this chapter.

(Code 1977, § 9-4024.8)

Sec. 36-85. General provisions.

Refer to article XV of this chapter.

(Code 1977, § 9-4024.9)

Secs. 36-86—36-113. Reserved.

ARTICLE V. RESIDENTIAL (R-15)

Sec. 36-114. Intent.

This district is established as an area in which the principal use of land is for single-family residential purposes. The regulations of this district are intended to stabilize existing residential areas and promote low density, high quality residential areas.

(Code 1977, § 9-4025.1)

Sec. 36-115. Permitted uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwellings.
- (2) Municipal facilities.

(Code 1977, § 9-4025.2; Ord. of 5-3-2001)

Sec. 36-116. Permitted accessory uses and structures.

Permitted accessory uses and structures include any use or structure customarily incidental to a principal use or structure or to a conditional use for which, a permit has been issued. (See article XV of this chapter.)

(Code 1977, § 9-4025.3)

Sec. 36-117. Special uses and structures.

The following are conditional uses and structures:

- (1) Customary home occupations.
- (2) Equine stables (private or commercial use).

(Code 1977, § 9-4025.4; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-118. Dimensional requirements.

The following regulations shall govern all permitted and conditional uses in this district:

- (1) Minimum lot area: 15,000 square feet (0.344 acres).
- (2) Minimum lot width: 75 feet.
- (3) Minimum required front yard: 35 feet (excluding steps).
- (4) Minimum required rear yard: 35 feet (excluding steps).
- (5) Minimum required side yard: Ten feet.
- (6) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.
- (7) See section 36-413, street access.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Code 1977, § 9-4025.5; Ord. of 5-3-2012; Ord. of 8-2-2012; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-119. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4025.6)

Sec. 36-120. Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4025.7)

Sec. 36-121. Lights.

Refer to article XVII of this chapter.

(Code 1977, § 9-4025.8)

Sec. 36-122. General provisions.

Refer to article XV of this chapter.

(Code 1977, § 9-4025.9)

Secs. 36-123—36-142. Reserved.

ARTICLE VI. RESIDENTIAL (R-10)

Sec. 36-143. Intent.

The purpose of this district is to provide for proper development of neighborhoods with medium population densities comprised primarily of single-family dwellings.

(Code 1977, § 9-4026.1)

Sec. 36-144. Permitted uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwellings.
- (2) Municipal facilities.
- (3) Religious uses, including churches and other places of worship, religious education buildings, and parish houses, but not including cemeteries.
- (4) Family care home.
- (5) Public facilities.
- (6) Customary Home Occupations

(Code 1977, § 9-4026.2; Ord. of 5-3-2001)

Sec. 36-145. Permitted accessory uses and structures.

Permitted accessory uses and structures include any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (See article XV of this chapter.)

(Code 1977, § 9-4026.3)

Sec. 36-146. Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (2) Planned unit development.
- (3) Condominiums and townhouse development.
- (4) Nursing homes.
- (5) Clubs or lodges.
- ~~(6) Customary home occupations.~~
- ~~(7) Public facilities.~~

(Code 1977, § 9-4026.4; Ord. of 5-3-2001; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-147. Dimensional requirements.

- (a) The following regulations shall govern all permitted and conditional uses in this district:
 - (1) Minimum lot area: 10,000 square feet (0.229 acres).
 - (2) Minimum lot width: 75 feet.
 - (3) The administrative official shall determine frontage for irregularly shaped lots.
 - (4) All setbacks may not apply to individual planned units, condominium, or town home developments.
- (b) The following are the minimum setbacks or building envelopes for properties located within the R-10 district:
 - (1) Minimum required front yard: 35 feet (excluding steps).
 - (2) Minimum required rear yard: 35 feet (excluding steps).
 - (3) Minimum required side yard: Ten feet.
 - (4) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.
- (5) Street access. See section 36-413.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Code 1977, § 9-4026.5; Ord. of 8-5-2010; Ord. of 8-2-2012; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-148. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4026.6)

Sec. 36-149. Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4026.7)

Sec. 36-150. Lights.

Refer to article XVII of this chapter.

(Code 1977, § 9-4026.8)

Sec. 36-151. General provisions.

Refer to article XV of this chapter.

(Code 1977, § 9-4026.9)

ARTICLE VI-A. RESIDENTIAL MILL VILLAGE DISTRICT

Sec. 36-152. Intent.

The purpose of this district is to provide for proper development of neighborhoods with medium population densities comprised primarily of single-family dwellings.

(Ord. No. 2016-2017:003 , 11-3-2016)

Sec. 36-153. Permitted uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwellings.
- (2) Municipal facilities.
- (3) Religious uses, including churches and other places of worship, religious education buildings, and parish houses, but not including cemeteries.
- (4) Family care home.
- (5) Customary Home Occupation
- (6) Public Facilities

(Ord. No. 2016-2017:003 , 11-3-2016)

Sec. 36-154. Permitted accessory uses and structures.

Permitted accessory uses and structures include any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (See article XV of this chapter.)

(Ord. No. 2016-2017:003 , 11-3-2016)

Sec. 36-155. Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (2) Planned unit development.
- (3) Condominiums and townhouse development.
- (4) Nursing homes.
- (5) Clubs or lodges.
- ~~(6) Customary home occupations.~~
- ~~(7) Public facilities.~~

(Ord. No. 2016-2017:003 , 11-3-2016; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-156. Dimensional requirements.

- (a) The following regulations shall govern all permitted and conditional uses in this district:
 - (1) Minimum lot area: 7,000 square feet (0.1606979 acres).
 - (2) Minimum lot width: 65 feet.
 - (3) The administrative official shall determine frontage for irregularly shaped lots.
 - (4) All setbacks may not apply to individual planned units, condominium, or town home developments.
- (b) The following are the minimum setbacks or building envelopes for properties located within the R-10 district:
 - (1) Minimum required front yard: 15 feet (excluding steps).
 - (2) Minimum required rear yard: 15 feet (excluding steps).
 - (3) Minimum required side yard: Eight feet.
 - (4) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

 - a. Highest point of the building shall not exceed 80 feet.
 - (5) Street access. See section 36-413.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Ord. No. 2016-2017:003 , 11-3-2016; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-157. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Ord. No. 2016-2017:003 , 11-3-2016)

Sec. 36-158. Signs.

Refer to article XIX of this chapter.

(Ord. No. 2016-2017:003 , 11-3-2016)

Sec. 36-159. Lights.

Refer to article XVII of this chapter.

(Ord. No. 2016-2017:003 , 11-3-2016)

Sec. 36-160. General provisions.

Refer to article XV of this chapter.

(Ord. No. 2016-2017:003 , 11-3-2016)

Secs. 36-161—36-170. Reserved.

ARTICLE VII. RESIDENTIAL (R-6)

Sec. 36-171. Intent.

The purpose of this district is to provide areas for a mixture of single-family and multifamily dwelling units.

(Code 1977, § 9-4027.1)

Sec. 36-172. Permitted principal uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwelling units.
- (2) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.
- (3) Family care home.

- (4) Municipal facilities.
- (5) Manufactured home, Class A
- (6) Customary Home Occupation

(Code 1977, § 9-4027.2; Ord. of 5-3-2001; Ord. of 11-6-2014)

Sec. 36-173. Permitted accessory uses and structures.

Permitted accessory uses and structures include any use or structure customarily incidental to a principal use or structure or to a conditional use for which, a permit has been issued. (See article XV of this chapter.)

(Code 1977, § 9-4027.3)

Sec. 36-174. Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (2) Planned unit developments.
- (3) Condominium and townhouse developments.
- (4) Two-family dwelling.
- (5) Multifamily dwelling.
- ~~(6) Customary home occupations.~~
- ~~(7) Manufactured home, Class A (used but less than five years old as of date of zoning permit issuance).~~
- (8) Public facilities.

(Code 1977, § 9-4027.4; Ord. of 5-3-2001; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-175. Dimensional requirements.

- (a) The following regulations shall govern all permitted and conditional uses in this district:
 - (1) Minimum lot area: Single-family dwelling: 6,000 square feet.
 - (2) Two-family or multifamily dwelling: 8,000 square feet per development and an additional 2,000 square feet per unit.
 - (3) Minimum lot width: Single-family dwelling: 50 feet.
 - (4) Multifamily dwelling: 75 feet.
 - (5) The administrative official shall determine frontage for irregularly shaped lots.
 - (6) All setbacks may not apply to individual planned units, condominium, or townhome developments.
- (b) The following are the minimum setbacks or building envelopes for properties located within the R-6 district:
 - (1) Minimum required front yard: 25 feet (excluding steps).

- (2) Minimum required rear yard: 25 feet (excluding steps).
- (3) Minimum required side yard: Eight feet.
- (4) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Code 1977, § 9-4027.5; Ord. of 8-5-2010; Ord. of 8-2-2012; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-176. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4027.6)

Sec. 36-177. Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4027.7)

Sec. 36-178. Lights.

Refer to article XVII of this chapter.

(Code 1977, § 9-4027.8)

Sec. 36-179. General provisions.

Refer to article XV of this chapter.

(Code 1977, § 9-4027.9)

ARTICLE VII-A. DOWNTOWN MILL VILLAGE (DMV)

Sec. 36-181. Intent.

The purpose of this district is to serve as a transition between residential and more intensive nonresidential districts as well as to encourage the redevelopment of existing or older neighborhoods characterized by single-family residences on relatively smaller lots and provide reduced setback requirements and a defined street orientation. This includes residential and commercial uses with a low noise and traffic impact which would generally be considered compatible with a residential area which may or may not have buffering requirements as documented in section 36-241 of this article.

(Ord. No. 2016-2017:002 , 10-6-2016)

Sec. 36-182. Permitted principal uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwelling units.
- (2) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.
- (3) Family care home.
- (4) Municipal facilities.
- (5) Offices for business and professional uses.
- (6) Park, public.
- (7) Restaurant whose operation is conducted entirely within an enclosed building, no drive-up window or service.
- (8) Athletic and exercise facilities whose operation is conducted entirely within an enclosed building.

(Ord. No. 2016-2017:002 , 10-6-2016)

Sec. 36-183. Permitted accessory uses and structures.

Permitted accessory uses and structures include any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (See article XV of this chapter.)

(Ord. No. 2016-2017:002 , 10-6-2016)

Sec. 36-184. Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (2) Bed and breakfast.
- (3) Customary home occupations.
- (4) Public facilities.
- (5) Tavern/bar/pub whose operation is conducted entirely within an enclosed building.
- (6) Mixed uses whose operation is conducted entirely within an enclosed building.
- (7) Two-family dwelling.
- (8) Multifamily dwelling, apartments or condominiums.
- (9) Mixed uses in a single structure, minimum first floor 50 percent retail or offices for business or professional uses, whose operation is conducted entirely within an enclosed building.
- (10) Townhouses.

- (11) Multifamily dwellings, upper floors of commercial buildings—mixed uses.
- (12) Mixed uses commercial and/or office building.
- (13) Entertainment facilities whose operation is conducted entirely within an enclosed building.
- (14) Personal service establishments whose operation is conducted entirely within an enclosed building.

(Ord. No. 2016-2017:002 , 10-6-2016; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-185. Dimensional requirements.

- (a) The following regulations shall govern all permitted and conditional uses in this district:
 - (1) Minimum lot area: 7,000 square feet.
 - (2) Two-family: 9,000 square feet per development and an additional 2,000 square feet per unit.
 - (3) Minimum lot width: 65 feet.
 - (4) Two-family dwelling: 75 feet.
 - (5) The administrative official shall determine frontage for irregularly shaped lots.
- (b) The following are the minimum setbacks for properties located within the DMV district:
 - (1) Minimum required front yard: 18 feet (excluding steps).
 - (2) Minimum required rear yard: 15 feet (excluding steps).
 - (3) Minimum required side yard: 8 feet.
 - (4) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.

(Ord. No. 2016-2017:002 , 10-6-2016; Ord. No. 2019-2020-007 , 3-5-2020)

Secs. 36-186—36-196. Reserved.

ARTICLE VIII. CENTRAL BUSINESS (CB)

Sec. 36-197. Intent.

This district is established to protect and promote the centrally located trade and commercial service center of the community.

(Code 1977, § 9-4028.1)

Sec. 36-198. Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building.
- (2) Offices for business and professional purposes.
- (3) Social uses, such as social halls, lodges, headquarters of fraternal organizations, clubs, and similar activities.
- (4) Trades and similar enterprises catering to households and business establishments, provided that all materials are stored and operations take place within an enclosed building.
- (5) Motels, hotels, bed and breakfast, boardinghouses and roominghouses, and other similar establishments.
- (6) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.
- (7) Family care home.
- (8) Municipal facilities.
- (9) Mobile food vendors.

(Code 1977, § 9-4028.2; Ord. of 5-3-2001; ZT-2013-005 , § 2, 10-3-2013)

Sec. 36-199. Permitted accessory uses and structures.

The following are permitted accessory uses and structures:

- (1) Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (Refer to article XV of this chapter.)
- (2) Commercial signs customarily incidental to a business establishment subject to the provisions of article XIX of this chapter.

(Code 1977, § 9-4028.3)

Sec. 36-200. Special uses.

The following are conditional uses:

- (1) Vehicular services.
- (2) Convenience store.
- (3) Multifamily dwellings (on upper floors of commercial buildings).
- (4) Public facilities.
- (5) Vehicular sales and rentals:
 - a. Minimum lot size shall be 0.5 acre.
 - b. Outdoor loudspeakers or audio system shall not be utilized. (Does not include special events.)

- c. Balloons, signs, or other items shall not be attached to vehicles and prohibited from being displayed outside the building.
- d. Portable signs shall be prohibited.
- e. Signs. See article XIX of this chapter.

(Code 1977, § 9-4028.4; Ord. of 5-3-2001; Ord. of 7-23-2009; Ord. of 11-20-2014; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-201. Dimensional requirements.

The following regulations shall govern all conditional uses in the district:

- (1) Minimum lot area: There shall be no minimum area requirement for lots in this district.
- (2) Minimum lot width: There shall be no minimum width requirement for lots in this district.
- (3) Minimum required front yard: The minimum front yard depth shall be the average of the front yard depths which have been established by buildings in one or both adjoining side lots; in all cases, there shall be sufficient setback from the street curb line to provide space for a minimum 12-foot sidewalk.
- (4) Minimum required rear yard: Ten feet. No rear yard is required where a public alley abuts the rear property line.
- (5) Minimum required side yard: There shall be no minimum side yard required.
- (6) The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:
 - a. Highest point of the building shall not exceed 80 feet.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Code 1977, § 9-4028.5; Ord. of 8-2-2012; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-202. Buffers.

- (a) Buffer strips as herein defined shall be required in this district for all uses where they abut land which is zoned residential.
- (b) The buffering requirement may be waived by the board of adjustment along any boundary which is naturally screened by evergreen plant materials or topography or may be deferred in isolated areas. Refer to article XV of this chapter for additional landscaping requirements.

(Code 1977, § 9-4028.6; Ord. of 12-10-2009)

Sec. 36-203. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4028.7)

Sec. 36-204. Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4028.8)

Sec. 36-205. Lights.

Refer to article XVII of this chapter.

(Code 1977, § 9-4028.9)

Sec. 36-206. General provisions.

Refer to article XV of this chapter.

(Code 1977, § 9-4028.10)

Secs. 36-207—36-235. Reserved.

ARTICLE IX. NEIGHBORHOOD BUSINESS (B-1)

Sec. 36-236. Intent.

This district is established to promote and protect small commercial and service uses providing convenience type goods to surrounding residential districts.

(Code 1977, § 9-4029.1)

Sec. 36-237. Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Small retail stores and shops and service establishments whose operation is conducted entirely within an enclosed building.
- (2) Offices for business and professional purposes.
- (3) Principal uses permitted in the R-6 district, with the exception of Class A manufactured homes.
- (4) Family care home.
- (5) Public facilities.
- (6) Bed and breakfast.
- (7) Mobile food vendors.
- (8) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (9) Customary Home Occupations

(Code 1977, § 9-4029.2; ZT-2013-005 , § 2, 10-3-2013)

Sec. 36-238. Permitted accessory uses and structures.

The following are permitted accessory uses and structures:

- (1) Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued.)
- (2) Commercial signs customarily incidental to a business establishment subject to the provisions of article XIX of this chapter.

(Code 1977, § 9-4029.3)

Sec. 36-239. Special uses.

The following are conditional uses:

- ~~(1) Vehicular services.~~
- (2) Convenience store.
- ~~(3) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.~~
- ~~(4) Customary home occupations.~~

(Code 1977, § 9-4029.4; Ord. of 11-20-2014; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-240. Dimensional requirements.

The following regulations shall govern all permitted and conditional uses in this district:

- (1) Minimum lot area: 6,000 square feet (0.138 acres).
- (2) Minimum lot width: 50 feet.
- (3) Minimum required front yard: 20 feet.
- (4) Minimum required rear yard: 30 feet.
- (5) Minimum required side yard: There shall be no required side yard except where a lot abuts a residentially zoned lot. In such instance, the abutting side yard shall be at least 12 feet wide.
- (6) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Code 1977, § 9-4029.5; Ord. of 8-2-2012; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-241. Buffers.

- (a) Buffer strips as herein defined shall be required in this district for all uses where they abut land which is zoned residential.
- (b) The buffering requirement may be waived by the board of adjustment along any boundary which is naturally screened by evergreen plant materials or topography or may be deferred in isolated areas.
- (c) Refer to article XV of this chapter for additional landscaping requirements.

(Code 1977, § 9-4029.6; Ord. of 12-10-2009)

Sec. 36-242. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4029.7)

Sec. 36-243. Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4029.8)

Sec. 36-244. Lights.

Refer to article XVII of this chapter.

(Code 1977, § 9-4029.9)

Sec. 36-245. General provisions.

Refer to article XV of this chapter.

Secs. 36-246—36-270. Reserved.

ARTICLE X. HIGHWAY BUSINESS (B-2)

Sec. 36-271. Intent.

It is the purpose of this district to accommodate a wide variety of large commercial, wholesale, and retail businesses.

(Code 1977, § 9-4030.1)

Sec. 36-272. Permitted principal uses and structures.

The following are permitted uses and structures:

- (1) Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building.
- (2) Offices for business and professional purposes.
- (3) Social uses, such as social halls, lodges, fraternal organizations, clubs, and similar activities.
- (4) Trades and similar enterprises catering to household and business establishments.
- (5) Motels, hotels, bed and breakfasts, boardinghouses and roominghouses, and other similar establishments.
- (6) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.
- (7) Family care home.
- (8) Municipal facilities.
- (9) Mobile food vendors.
- (10) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of other day care center, day nursery, preschool, or similar use.

(11) Convenience store.

(Code 1977, § 9-4030.2; Ord. of 5-3-2001; ZT-2013-005 , § 2, 10-3-2013)

Sec. 36-273. Permitted accessory uses and structures.

The following are permitted accessory uses and structures:

- (1) Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (See article XV of this chapter.)
- (2) Commercial signs customarily incidental to a business establishment subject to the provisions of article XIX of this chapter.

(Code 1977, § 9-4030.3)

Sec. 36-274. Special uses.

The following are conditional uses:

- ~~(1) Convenience store.~~
- (2) Outdoor storage of vehicles, or equipment or material. See section 36-276.
- (3) Vehicular services.
- (4) Public facilities.
- (5) Private recreation facilities for profit.
- (6) Electronic gaming operations.
- ~~(7) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of other day care center, day nursery, preschool, or similar use.~~

(8) Vehicular sales and rental.

(Code 1977, § 9-4030.4; Ord. of 5-3-2001; Ord. of 9-6-2012; Ord. No. 2013-2014:003, 1-9-2014; Ord. of 11-20-2014; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-275. Dimensional requirements.

The following regulations shall govern all permitted and conditional uses in this district:

- (1) Minimum lot area: 20,000 square feet (0.459 acres).
- (2) Minimum lot width: 100 feet.
- (3) Minimum required front yard: 30 feet.
- (4) Minimum required rear yard: 20 feet.
- (5) Minimum required side yard: There shall be no required side yard except where a lot abuts a residentially zoned lot. In such instance, the abutting side yard shall be at least 20 feet wide.
- (6) Maximum building height: 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Code 1977, § 9-4030.5; Ord. of 8-2-2012; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-276. Buffers.

- (a) Buffer strips as herein defined shall be required in this district for all uses where they abut land which is zoned residential.
- (b) The buffering requirement may be waived by the board of adjustment along any boundary which is naturally screened by evergreen plant materials or topography or may be deferred in isolated areas.
- (c) Refer to article XV of this chapter for additional landscaping requirements.

(Code 1977, § 9-4030.6; Ord. of 12-10-2009)

Sec. 36-277. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4030.7)

Sec. 36-278. Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4030.8)

Sec. 36-279. Lights.

Refer to article XVII of this chapter.

(Code 1977, § 9-4030.9)

Sec. 36-280. General provisions.

Refer to article XV of this chapter.

(Code 1977, § 9-4030.10)

Secs. 36-281—36-308. Reserved.



TOWN OF ERWIN

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ORDINANCE OF THE TOWN OF ERWIN, NORTH CAROLINA AMENDING CHAPTER 36 ZONING ORD 2023-2024: 001

WHEREAS, the current language of Chapter 36 Zoning reads:

ARTICLE IV. - RURAL DISTRICT (RD)

Sec. 36-78. - Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Single-family dwellings.
- (2) Farms and agricultural uses for crop and livestock production. Note: A farm shall not be construed to include commercial poultry and swine production, cattle feed lots, and fur-bearing animals.
- (3) Family care home.
- (4) Religious uses, including churches and other places of worship, religious education buildings and parish houses.
- (5) Municipal facilities.
- (6) Manufactured Class A homes on individual lots.
(Code 1977, § 9-4024.2; Ord. of 5-3-2001; Ord. of 11-6-2014)

Sec. 36-80. - Special uses.

The following are conditional uses:

- (1) Public facilities.
- (2) Social uses, such as social halls, lodges, and headquarters of fraternal organizations, clubs, and similar activities.
- (3) Cemeteries.
- (4) Animal medical care.
- (5) Places of public assembly.
- (6) Fairground and carnival activities.
- (7) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (8) Customary home occupations.
- (9) Equine stables (private or commercial use).
- (10) Mining activities.
- (11) Storage building (The intention of this proposed use is to allow property owners that have existing buildings that are a primary use on this lot to lease them for storage).

(Code 1977, § 9-4024.4; Ord. of 5-3-2001; Ord. of 11-6-2014; Ord. No. [2015-2016:004](#), § 2, 8-6-2015; Ord. No. [2018-2019-006](#), 5-2-2019; [Res. No. 2021-2022-001](#), 7-1-2021)

ARTICLE VI. - RESIDENTIAL (R-10)

Sec. 36-144. - Permitted uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwellings.
- (2) Municipal facilities.
- (3) Religious uses, including churches and other places of worship, religious education buildings, and parish houses, but not including cemeteries.
- (4) Family care home.

(Code 1977, § 9-4026.2; Ord. of 5-3-2001)

Sec. 36-146. - Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (2) Planned unit development.
- (3) Condominiums and townhouse development.
- (4) Nursing homes.
- (5) Clubs or lodges.
- (6) Customary home occupations.
- (7) Public facilities.

(Code 1977, § 9-4026.4; Ord. of 5-3-2001; [Res. No. 2021-2022-001](#), 7-1-2021)

ARTICLE VI-A. - RESIDENTIAL MILL VILLAGE DISTRICT

Sec. 36-153. - Permitted uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwellings.
- (2) Municipal facilities.
- (3) Religious uses, including churches and other places of worship, religious education buildings, and parish houses, but not including cemeteries.
- (4) Family care home.

(Ord. No. [2016-2017:003](#), 11-3-2016)

Sec. 36-155. - Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (2) Planned unit development.
- (3) Condominiums and townhouse development.
- (4) Nursing homes.

- (5) Clubs or lodges.
 - (6) Customary home occupations.
 - (7) Public facilities.
- (Ord. No. [2016-2017:003](#) , 11-3-2016; [Res. No. 2021-2022-001](#) , 7-1-2021)

ARTICLE VII. - RESIDENTIAL (R-6)

Sec. 36-172. - Permitted principal uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwelling units.
 - (2) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.
 - (3) Family care home.
 - (4) Municipal facilities.
- (Code 1977, § 9-4027.2; Ord. of 5-3-2001; Ord. of 11-6-2014)

Sec. 36-174. - Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
 - (2) Planned unit developments.
 - (3) Condominium and townhouse developments.
 - (4) Two-family dwelling.
 - (5) Multifamily dwelling.
 - (6) Customary home occupations.
 - (7) Manufactured home, Class A (used but less than five years old as of date of zoning permit issuance).
 - (8) Public facilities.
- (Code 1977, § 9-4027.4; Ord. of 5-3-2001; [Res. No. 2021-2022-001](#) , 7-1-2021)

ARTICLE IX. - NEIGHBORHOOD BUSINESS (B-1)

Sec. 36-237. - Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Small retail stores and shops and service establishments whose operation is conducted entirely within an enclosed building.
 - (2) Offices for business and professional purposes.
 - (3) Principal uses permitted in the R-6 district, with the exception of Class A manufactured homes.
 - (4) Family care home.
 - (5) Public facilities.
 - (6) Bed and breakfast.
 - (7) Mobile food vendors.
- (Code 1977, § 9-4029.2; [ZT-2013-005](#) , § 2, 10-3-2013)

Sec. 36-239. - Special uses.

The following are conditional uses:

- (1) Vehicular services.
 - (2) Convenience store.
 - (3) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
 - (4) Customary home occupations.
- (Code 1977, § 9-4029.4; Ord. of 11-20-2014; [Res. No. 2021-2022-001](#), 7-1-2021)

ARTICLE X. - HIGHWAY BUSINESS (B-2)

Sec. 36-272. - Permitted principal uses and structures.

The following are permitted uses and structures:

- (1) Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building.
 - (2) Offices for business and professional purposes.
 - (3) Social uses, such as social halls, lodges, fraternal organizations, clubs, and similar activities.
 - (4) Trades and similar enterprises catering to household and business establishments.
 - (5) Motels, hotels, bed and breakfasts, boardinghouses and roominghouses, and other similar establishments.
 - (6) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.
 - (7) Family care home.
 - (8) Municipal facilities.
 - (9) Mobile food vendors.
- (Code 1977, § 9-4030.2; Ord. of 5-3-2001; [ZT-2013-005](#), § 2, 10-3-2013)

Sec. 36-274. - Special uses.

The following are conditional uses:

- (1) Convenience store.
 - (2) Outdoor storage of vehicles, or equipment or material. See [section 36-276](#).
 - (3) Vehicular services.
 - (4) Public facilities.
 - (5) Private recreation facilities for profit.
 - (6) Electronic gaming operations.
 - (7) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of other day care center, day nursery, preschool, or similar use.
 - (8) Vehicular sales and rental.
- (Code 1977, § 9-4030.4; Ord. of 5-3-2001; Ord. of 9-6-2012; Ord. No. 2013-2014:003, 1-9-2014; Ord. of 11-20-2014; [Res. No. 2021-2022-001](#), 7-1-2021)

WHEREAS, the Town of Erwin wishes to amend the current language of the same in order to better reflect the desired development within the Town's Planning Jurisdiction; and

WHEREAS, the Town of Erwin wishes to amend the current language of the same to read:

ARTICLE IV. - RURAL DISTRICT (RD)

Sec. 36-78. - Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Single-family dwellings.
 - (2) Farms and agricultural uses for crop and livestock production. Note: A farm shall not be construed to include commercial poultry and swine production, cattle feed lots, and fur-bearing animals.
 - (3) Family care home.
 - (4) Religious uses, including churches and other places of worship, religious education buildings and parish houses.
 - (5) Municipal facilities.
 - (6) Manufactured Class A homes on individual lots.
 - (7) **Customary Home Occupations**
 - (8) **Equine stables (private or commercial use). Only applicable in the Planning Zone. Equine stables are not permitted inside Town Limits.**
 - (9) **Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.**
 - (10) **Public facilities.**
- (Code 1977, § 9-4024.2; Ord. of 5-3-2001; Ord. of 11-6-2014)

Sec. 36-80. - Special uses.

The following are conditional uses:

- (1) ~~Public facilities.~~
- (2) Social uses, such as social halls, lodges, and headquarters of fraternal organizations, clubs, and similar activities.
- (3) Cemeteries.
- (4) Animal medical care.
- (5) Places of public assembly.
- (6) Fairground and carnival activities.
- (7) ~~Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.~~
- (8) ~~Customary home occupations.~~
- (9) ~~Equine stables (private or commercial use).~~
- (10) Mining activities.

(11) Storage building (The intention of this proposed use is to allow property owners that have existing buildings that are a primary use on this lot to lease them for storage).

(12) Vehicular sales and rental

(Code 1977, § 9-4024.4; Ord. of 5-3-2001; Ord. of 11-6-2014; Ord. No. 2015-2016:004 , § 2, 8-6-2015; Ord. No. 2018-2019-006 , 5-2-2019; Res. No. 2021-2022-001 , 7-1-2021)

ARTICLE VI. - RESIDENTIAL (R-10)

Sec. 36-144. - Permitted uses and structures.

The following are permitted uses and structures:

(1) Single-family dwellings.

(2) Municipal facilities.

(3) Religious uses, including churches and other places of worship, religious education buildings, and parish houses, but not including cemeteries.

(4) Family care home.

(5) Public facilities.

(6) Customary Home Occupations

(Code 1977, § 9-4026.2; Ord. of 5-3-2001)

Sec. 36-146. - Special uses.

The following are conditional uses:

(1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.

(2) Planned unit development.

(3) Condominiums and townhouse development.

(4) Nursing homes.

(5) Clubs or lodges.

(6) ~~Customary home occupations.~~

(7) ~~Public facilities.~~

(Code 1977, § 9-4026.4; Ord. of 5-3-2001; [Res. No. 2021-2022-001](#), 7-1-2021)

ARTICLE VI-A. - RESIDENTIAL MILL VILLAGE DISTRICT

Sec. 36-153. - Permitted uses and structures.

The following are permitted uses and structures:

(1) Single-family dwellings.

(2) Municipal facilities.

(3) Religious uses, including churches and other places of worship, religious education buildings, and parish houses, but not including cemeteries.

(4) Family care home.

(5) Customary Home Occupation

(6) Public Facilities

(Ord. No. [2016-2017:003](#), 11-3-2016)

Sec. 36-155. - Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (2) Planned unit development.
- (3) Condominiums and townhouse development.
- (4) Nursing homes.
- (5) Clubs or lodges
- ~~(6) Customary home occupations.~~
- ~~(7) Public facilities.~~

(Ord. No. [2016-2017:003](#) , 11-3-2016; [Res. No. 2021-2022-001](#) , 7-1-2021)

ARTICLE VII. - RESIDENTIAL (R-6)

Sec. 36-172. - Permitted principal uses and structures.

The following are permitted uses and structures:

- (1) Single-family dwelling units.
- (2) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.
- (3) Family care home.
- (4) Municipal facilities.
- (5) Manufactured home, Class A**
- (6) Customary Home Occupation**

(Code 1977, § 9-4027.2; Ord. of 5-3-2001; Ord. of 11-6-2014)

Sec. 36-174. - Special uses.

The following are conditional uses:

- (1) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.
- (2) Planned unit developments.
- (3) Condominium and townhouse developments.
- (4) Two-family dwelling.
- (5) Multifamily dwelling.
- ~~(6) Customary home occupations.~~
- ~~(7) Manufactured home, Class A (used but less than five years old as of date of zoning permit issuance).~~
- (8) Public facilities.

(Code 1977, § 9-4027.4; Ord. of 5-3-2001; [Res. No. 2021-2022-001](#) , 7-1-2021)

ARTICLE IX. - NEIGHBORHOOD BUSINESS (B-1)

Sec. 36-237. - Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Small retail stores and shops and service establishments whose operation is conducted entirely within an enclosed building.
- (2) Offices for business and professional purposes.
- (3) Principal uses permitted in the R-6 district, with the exception of Class A manufactured homes.
- (4) Family care home.
- (5) Public facilities.
- (6) Bed and breakfast.
- (7) Mobile food vendors.
- (8) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.**
- (9) Customary Home Occupations**
(Code 1977, § 9-4029.2; [ZT-2013-005](#), § 2, 10-3-2013)

Sec. 36-239. - Special uses.

The following are conditional uses:

- ~~(1) Vehicular services.~~
- (2) Convenience store.
- ~~(3) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.~~
- ~~(4) Customary home occupations.~~
(Code 1977, § 9-4029.4; Ord. of 11-20-2014; [Res. No. 2021-2022-001](#), 7-1-2021)

ARTICLE X. - HIGHWAY BUSINESS (B-2)

Sec. 36-272. - Permitted principal uses and structures.

The following are permitted uses and structures:

- (1) Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building.
- (2) Offices for business and professional purposes.
- (3) Social uses, such as social halls, lodges, fraternal organizations, clubs, and similar activities.
- (4) Trades and similar enterprises catering to household and business establishments.
- (5) Motels, hotels, bed and breakfasts, boardinghouses and roominghouses, and other similar establishments.
- (6) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.
- (7) Family care home.
- (8) Municipal facilities.

(9) Mobile food vendors.

(10) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of other day care center, day nursery, preschool, or similar use.

(11) Convenience store.

(Code 1977, § 9-4030.2; Ord. of 5-3-2001; [ZT-2013-005](#), § 2, 10-3-2013)

Sec. 36-274. - Special uses.

The following are conditional uses:

(1) ~~Convenience store.~~

(2) Outdoor storage of vehicles, or equipment or material. See section 36-276.

(3) Vehicular services.

(4) Public facilities.

(5) Private recreation facilities for profit.

(6) Electronic gaming operations.

~~(7) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of other day care center, day nursery, preschool, or similar use.~~

(8) Vehicular sales and rental.

(Code 1977, § 9-4030.4; Ord. of 5-3-2001; Ord. of 9-6-2012; Ord. No. 2013-2014:003, 1-9-2014; Ord. of 11-20-2014; [Res. No. 2021-2022-001](#), 7-1-2021)

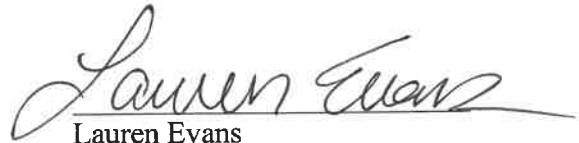
NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Erwin, North Carolina that the current language as herein found with respect to Chapter 36 Zoning of the Town Code is stricken where indicated by strikethrough lines and include such language as herein indicated by bold print.

Adopted this 6th day of July 2023.

ATTEST:



Randy Baker
Mayor



Lauren Evans
Town Clerk

MINUTES CONTINUED FROM JULY 6, 2023

Mayor Baker asked if anyone was present to speak in favor of or against the proposed text amendments.

No one came forward.

Commissioner McKoy made a motion to close the Public Hearing and was seconded by Commissioner Byrd. **The Board voted unanimously.**

Commissioner Byrd inquired about retail shops in the M-1 district.

Town Manager Snow Bowden stated retail shops would require the building to certainly meet the building code.

Commissioner Byrd asked what guidelines there were around the brewery/distillery.

Town Manager Snow Bowden informed that the brewery/distillery would be regulated by ABC State Regulations.

Commissioner Byrd made a motion to recommend the approval of the Ordinance of the Town Of Erwin, North Carolina Amending Chapter 36 Article II- Definitions and Article XI.- Industrial District (M-1), Ordinance 2023-2024: 002 and was seconded by Commissioner Turnage. **The Board voted unanimously.**

OLD BUSINESS

Erwin Fire Department

Mayor Baker asked Town Manager Snow Bowden for some information. An MOU was not before the Board tonight but this item of business was brought up at our Workshop and due to a lack of quorum at our Workshop, he wanted to bring it before the Board again for an official vote for Staff to draft an official document.

Town Manager Snow Bowden stated he meant to have a MOU for the Board but he ran out of time. Town Clerk Lauren Evans printed a copy of the minutes from May 24, 2010, the last time the Board discussed this topic. If the consensus of the Board is to move forward, we can draft a letter stating we plan to enter into an MOU with the Erwin Fire and Rescue to bring their full-time employee on as full-time Erwin employees and lease them to the Erwin Fire Department. He brought to the Board's attention the attachment in the agenda from the State. He was hoping the State would send him a sample MOU but he had not received it at the time of the meeting.

Commissioner Byrd asked to be recused as it was a conflict of interest because he served as the Vice Chairman of the Board of Directors for the Erwin Fire Department.

*Commissioner Marbell made a motion to excuse Commissioner Byrd and was seconded by Commissioner McKoy. **The Board voted unanimously.***

Mayor Baker stated the Board heard the circumstances from Town Manager Snow Bowden. The MOU had not been officially drafted at the time of the meeting but it would allow the employees of Erwin Fire Department to fall under the retirement system of the Town. There would be several details that needed to be worked out by both the Town Board and Fire Department Board of Directors. The details and negotiations would take place after the MOU was in place. The Town of

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: July 6, 2023

Subject: M-1 Zoning Text Amendment

Town Staff has prepared a few updates to our M-1 Zoning District (M-1). We do not have that many parcels located in our M-1 Zoning District. The largest area of Town that is currently zoned M-1 is the site of the former Erwin Mill now known by the name of Central Carolina Industrial Park. In previous studies completed for the Town before they have recommended an overlay district for this site in order to help it be redeveloped. This proposed text amendment does not create an overlay district. However, it does recommend a few changes to help streamline the process for the redevelopment of the mill. The changes allow for the current property owners of any property found in our M-1 Zoning District to retain all of their vested rights as property owners of a property in an industrial zoning district.

In full disclosure to all of you, these proposed changes include a definition for a brewery, microbrewery, and distillery. Town Staff believes that the proposed changes are proactive and will help with the redevelopment of the Central Carolina Industrial Park. Please keep in mind that any change of “use” in a building or a section of a building will require certain upgrades to get the building up to certain required building and fire codes.

The proposed changes allow for a few new land uses and they move a few uses that currently require a special use permit to a use that is permitted by right. As a reminder, the upcoming budget does include funds to update our Code of Ordinances. Therefore, we might be discussing other changes based on feedback from the public and the eventual adoption of our updated Land Use Plan.

Attachments:

- Proposed updates
- Definitions

ARTICLE XI. INDUSTRIAL DISTRICT (M-1)

Sec. 36-309. Intent.

This district is established to protect and promote suitable locations for wholesaling, manufacturing and processing industries.

(Code 1977, § 9-4031.1)

Sec. 36-310. Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Manufacturing, assembling and processing industries.
- (2) Wholesale, warehouse, and transfer activities.
- (3) Farms and agricultural uses.
- (4) Vehicular services.
- (5) Family care home.
- (6) Convenience store.
- (7) Municipal facilities.
- (8) Offices for business and professional purposes.
- (9) Mobile food vendors.
- (10) Athletic and exercise facilities, indoor and instructional.
11. Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building
12. Outdoor dining
13. Educational uses
14. Trades and similar enterprises catering to household and business establishments.
15. Public facilities.
16. Brewery/Microbrewery
17. Distillery

(Code 1977, § 9-4031.2; Ord. of 5-3-2012; ZT-2013-005 , § 2, 10-3-2013; Ord. No. 2013-2014:006, § 2, 1-9-2014; Ord. of 11-20-2014)

Sec. 36-311. Permitted accessory uses and structures.

The following are permitted accessory uses and structures:

- (1) Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (See article XV of this chapter.)
- (2) Commercial signs customarily incidental to a business establishment subject to the provisions of article XIX of this chapter, except industrial sites that are 50 acres or greater than the provisions set forth in section 36-549(6), special provisions for certain signs.
- (3) Wholesale and warehouse activities may include retail showroom, display, or sales area as an accessory use.

(Code 1977, § 9-4031.3; Ord. No. 2013-2014:004, § 2, 1-9-2014)

Sec. 36-312. Special uses.

The following are special uses:

- (1) Junkyards and auto salvage yards. (Refer to section 36-424.)
- (2) Billboards and outdoor advertising signs. (Refer to article XIX of this chapter.)
- (3) Body piercing establishments. Body piercing establishments may not be located within 300 feet of another body piercing establishment, tattoo parlor/establishment or an adult entertainment establishment.
- (4) Tattoo parlor/establishment. Tattoo parlors/establishments may not be located within 300 feet of another tattoo parlor/establishment, body piercing establishment or an adult entertainment establishment.
- (5) Flea markets/rummage sales (see definition) that are enclosed completely within a building.
- (6) Adult entertainment establishments. No adult entertainment establishment shall be located within 1,000 feet of another adult entertainment establishment. No adult entertainment establishment shall be located within 1,000 feet of any property zoned for residential use or any church or school. No adult entertainment establishment shall be located within 300 feet of a tattoo parlor/establishment or body-piercing establishment. Note: All measurements for the preceding distances shall be measured from the property lines of the lots of said uses as shown on a current survey or where a current survey is not available, as shown on the county official tax maps.
- (7) Tower (collocation alternatives shall be encouraged as well as the use of existing structures for antennae placement).
- (8) Outdoor storage (see definition), provided that in the interest of safety to children and adjacent property, outdoor storage areas shall be encompassed by a wall, at least six feet high, or a fence and buffer strip approved by the planning board.
- ~~(9) Public facilities.~~
- (10) Electronic gaming operations within M-1 and B-2 Zoning District.

(Code 1977, § 9-4031.4; Ord. of 5-3-2001; Ord. of 3-11-2010; Ord. of 9-6-2012; Res. No. 2021-2022-001 , 7-1-2021)

Sec. 36-313. Dimensional requirements.

The following regulations shall govern all permitted and conditional uses in this district:

- (1) Minimum lot area: 40,000 square feet (0.918 acres).

- (2) Minimum lot width: 100 feet.
- (3) Minimum required front yard: 40 feet.
- (4) Minimum required rear yard: 20 feet except where a lot abuts a residential district. In such an instance, the abutting rear yard shall be at least 30 feet wide.
- (5) Minimum required side yard: 15 feet except where a lot abuts a residential zoned lot. In such an instance, the abutting rear yard shall be at least 30 feet wide.
- (6) Maximum building height: 35 feet unless each required setback is increased by one foot for each foot above 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

- a. Highest point of the building shall not exceed 80 feet.
- (7) Maximum lot coverage by all structures: 50 percent.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Code 1977, § 9-4031.5; Ord. of 8-2-2012; Ord. No. 2019-2020-007 , 3-5-2020)

Sec. 36-314. Buffers.

- (a) Buffer strips as herein defined shall be required in this district for all uses where they abut land which is zoned residential.
- (b) The buffering requirement may be waived by the board of adjustment along any boundary, which is naturally screened by evergreen plant materials or topography or may be deferred in isolated areas.

(Code 1977, § 9-4031.6; Ord. of 12-10-2009)

Sec. 36-315. Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4031.7)

Sec. 36-316. Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4031.8)

Sec. 36-317. Lights.

Refer to article XVII of this chapter.

(Code 1977, § 9-4031.9)

Sec. 36-318. General provisions.

Refer to article XV of this chapter.
(Code 1977, § 9-4031.10)

Secs. 36-319—36-339. Reserved.

Definitions

Brewery means a facility for the brewing of alcoholic beverages, including beer, ales, wine and/or similar beverages that produces more than twenty-five thousand (25,000) barrels per year. The facility may include a tasting room, additional space for consumption on-site with food, and retail space to sell the beverages in sealed containers directly to patrons on site. The facility must follow all NC ABC regulations.

Microbrewery means a facility for the brewing of alcoholic beverages, including beer, ales, wine and/or similar beverages that produces less than twenty-five thousand (25,000) barrels per year, primarily intended for consumption on the premises or by sealed containers to be sold directly to the consumer. The facility may include a tasting room, additional space for consumption on site with food, and retail space to sell the beverages to patrons on site. Microbreweries are also referred to as brewpubs, wine bars, and pubs. The facility must follow all NC ABC regulations.

Distillery means a facility, where distilled spirits are produced for wider distribution and limited consumption on premises with a maximum production of 75,000 gallons per year. The establishments may include a tasting room, additional space for consumption on-site with food, and retail space to sell the spirit in sealed containers directly to patrons on site. The facility must follow all NC ABC regulations.



TOWN OF ERWIN

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www.erwin-nc.org

Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

ORDINANCE OF THE TOWN OF ERWIN, NORTH CAROLINA AMENDING CHAPTER 36 ARTICLE II- DEFINITIONS AND ARTICLE XI.- INDUSTRIAL DISTRICT (M-1) ORD 2023-2024: 002

WHEREAS, the current language of Chapter 36 Article II- Definitions and Article XI.- Industrial District (M-1) reads:

ARTICLE II. - DEFINITIONS **Sec. 36-34. - Definitions.**

ARTICLE XI. - INDUSTRIAL DISTRICT (M-1)

Sec. 36-309. - Intent.

This district is established to protect and promote suitable locations for wholesaling, manufacturing and processing industries.
(Code 1977, § 9-4031.1)

Sec. 36-310. - Permitted principal uses and structures.

The following are permitted principal uses and structures:

- (1) Manufacturing, assembling and processing industries.
- (2) Wholesale, warehouse, and transfer activities.
- (3) Farms and agricultural uses.
- (4) Vehicular services.
- (5) Family care home.
- (6) Convenience store.
- (7) Municipal facilities.
- (8) Offices for business and professional purposes.
- (9) Mobile food vendors.
- (10) Athletic and exercise facilities, indoor and instructional.

(Code 1977, § 9-4031.2; Ord. of 5-3-2012; [ZT-2013-005](#), § 2, 10-3-2013; Ord. No. 2013-2014:006, § 2, 1-9-2014; Ord. of 11-20-2014)

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The following are permitted accessory uses and structures:

- (1) Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (See article XV of this chapter.)

(2) Commercial signs customarily incidental to a business establishment subject to the provisions of article XIX of this chapter, except industrial sites that are 50 acres or greater than the provisions set forth in [section 36-549](#)(6), special provisions for certain signs.

(3) Wholesale and warehouse activities may include retail showroom, display, or sales area as an accessory use.

(Code 1977, § 9-4031.3; Ord. No. 2013-2014:004, § 2, 1-9-2014)

Sec. 36-312. - Special uses.

The following are special uses:

(1) Junkyards and auto salvage yards. (Refer to [section 36-424](#).)

(2) Billboards and outdoor advertising signs. (Refer to article XIX of this chapter.)

(3) Body piercing establishments. Body piercing establishments may not be located within 300 feet of another body piercing establishment, tattoo parlor/establishment or an adult entertainment establishment.

(4) Tattoo parlor/establishment. Tattoo parlors/establishments may not be located within 300 feet of another tattoo parlor/establishment, body piercing establishment or an adult entertainment establishment.

(5) Flea markets/rummage sales (see definition) that are enclosed completely within a building.

(6) Adult entertainment establishments. No adult entertainment establishment shall be located within 1,000 feet of another adult entertainment establishment. No adult entertainment establishment shall be located within 1,000 feet of any property zoned for residential use or any church or school. No adult entertainment establishment shall be located within 300 feet of a tattoo parlor/establishment or body-piercing establishment.

Note: All measurements for the preceding distances shall be measured from the property lines of the lots of said uses as shown on a current survey or where a current survey is not available, as shown on the county official tax maps.

(7) Tower (collocation alternatives shall be encouraged as well as the use of existing structures for antennae placement).

(8) Outdoor storage (see definition), provided that in the interest of safety to children and adjacent property, outdoor storage areas shall be encompassed by a wall, at least six feet high, or a fence and buffer strip approved by the planning board.

(9) Public facilities.

(10) Electronic gaming operations within M-1 and B-2 Zoning District.

(Code 1977, § 9-4031.4; Ord. of 5-3-2001; Ord. of 3-11-2010; Ord. of 9-6-2012; [Res. No. 2021-2022-001](#), 7-1-2021)

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(3) Minimum required front yard: 40 feet.

(4) Minimum required rear yard: 20 feet except where a lot abuts a residential district. In such an instance, the abutting rear yard shall be at least 30 feet wide.

(5) Minimum required side yard: 15 feet except where a lot abuts a residential zoned lot. In such an instance, the abutting rear yard shall be at least 30 feet wide.

(6) Maximum building height: 35 feet unless each required setback is increased by one foot for each foot above 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

a. Highest point of the building shall not exceed 80 feet.

(7) Maximum lot coverage by all structures: 50 percent.

All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.

(Code 1977, § 9-4031.5; Ord. of 8-2-2012; [Ord. No. 2019-2020-007](#), 3-5-2020)

Sec. 36-314. - Buffers.

(a) Buffer strips as herein defined shall be required in this district for all uses where they abut land which is zoned residential.

(b) The buffering requirement may be waived by the board of adjustment along any boundary, which is naturally screened by evergreen plant materials or topography or may be deferred in isolated areas.

(Code 1977, § 9-4031.6; Ord. of 12-10-2009)

Sec. 36-315. - Off-street parking and loading.

Refer to article XVIII of this chapter.

(Code 1977, § 9-4031.7)

Sec. 36-316. - Signs.

Refer to article XIX of this chapter.

(Code 1977, § 9-4031.8)

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Refer to article XV of this chapter.

(Code 1977, § 9-4031.10)

Secs. 36-319—36-339. - Reserved.

WHEREAS, the Town of Erwin wishes to amend the current language of the same in order to better reflect the desired development within the Town's Planning Jurisdiction; and

WHEREAS, the Town of Erwin wishes to amend the current language of the same to read:

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The following are permitted principal uses and structures:

- (1) Manufacturing, assembling and processing industries.
- (2) Wholesale, warehouse, and transfer activities.
- (3) Farms and agricultural uses.
- (4) Vehicular services.
- (5) Family care home.
- (6) Convenience store.
- (7) Municipal facilities.
- (8) Offices for business and professional purposes.
- (9) Mobile food vendors.
- (10) Athletic and exercise facilities, indoor and instructional.
- (11) Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building**
- (12) Outdoor dining**
- (13) Educational uses**
- (14) Trades and similar enterprises catering to household and business establishments.**
- (15) Public facilities.**
- (16) Brewery/Microbrewery**
- (17) Distillery**

(Code 1977, § 9-4031.2; Ord. of 5-3-2012; [ZT-2013-005](#), § 2, 10-3-2013; Ord. No. 2013-2014:006, § 2, 1-9-2014; Ord. of 11-20-2014)

Sec. 36-311. - Permitted accessory uses and structures.

The following are permitted accessory uses and structures:

- (1) Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued. (See article XV of this chapter.)
- (2) Commercial signs customarily incidental to a business establishment subject to the provisions of article XIX of this chapter, except industrial sites that are 50 acres or greater than the provisions set forth in [section 36-549](#)(6), special provisions for certain signs.
- (3) Wholesale and warehouse activities may include retail showroom, display, or sales area as an accessory use.

(Code 1977, § 9-4031.3; Ord. No. 2013-2014:004, § 2, 1-9-2014)

Sec. 36-312. - Special uses.

The following are special uses:

- (1) Junkyards and auto salvage yards. (Refer to [section 36-424.](#))
- (2) Billboards and outdoor advertising signs. (Refer to article XIX of this chapter.)
- (3) Body piercing establishments. Body piercing establishments may not be located within 300 feet of another body piercing establishment, tattoo parlor/establishment or an adult entertainment establishment.
- (4) Tattoo parlor/establishment. Tattoo parlors/establishments may not be located within 300 feet of another tattoo parlor/establishment, body piercing establishment or an adult entertainment establishment.
- (5) Flea markets/rummage sales (see definition) that are enclosed completely within a building.
- (6) Adult entertainment establishments. No adult entertainment establishment shall be located within 1,000 feet of another adult entertainment establishment. No adult entertainment establishment shall be located within 1,000 feet of any property zoned for residential use or any church or school. No adult entertainment establishment shall be located within 300 feet of a tattoo parlor/establishment or body-piercing establishment. Note: All measurements for the preceding distances shall be measured from the property lines of the lots of said uses as shown on a current survey or where a current survey is not available, as shown on the county official tax maps.
- (7) Tower (collocation alternatives shall be encouraged as well as the use of existing structures for antennae placement).
- (8) Outdoor storage (see definition), provided that in the interest of safety to children and adjacent property, outdoor storage areas shall be encompassed by a wall, at least six feet high, or a fence and buffer strip approved by the planning board.
- (9) ~~Public facilities.~~
- (10) Electronic gaming operations within M-1 and B-2 Zoning District. (Code 1977, § 9-4031.4; Ord. of 5-3-2001; Ord. of 3-11-2010; Ord. of 9-6-2012; [Res. No. 2021-2022-001](#), 7-1-2021)

Sec. 36-313. - Dimensional requirements.

The following regulations shall govern all permitted and conditional uses in this district:

- (1) Minimum lot area: 40,000 square feet (0.918 acres).
- (2) Minimum lot width: 100 feet.
- (3) Minimum required front yard: 40 feet.
- (4) Minimum required rear yard: 20 feet except where a lot abuts a residential district. In such an instance, the abutting rear yard shall be at least 30 feet wide.
- (5) Minimum required side yard: 15 feet except where a lot abuts a residential zoned lot. In such an instance, the abutting rear yard shall be at least 30 feet wide.
- (6) Maximum building height: 35 feet unless each required setback is increased by one foot for each foot above 35 feet.

The maximum height of any structure shall be the same as required by the underlying zoning district unless otherwise stated herein. Non-residential buildings located within the areas identified Medium Intensity, High Intensity, Downtown, and Employment Center Land Use Classifications are exempt from the district height requirement if they conform to the following:

a. Highest point of the building shall not exceed 80 feet.
(7) Maximum lot coverage by all structures: 50 percent.
All setbacks shall be measured from either the property line or public right-of-way whichever is closer. If no public right-of-way exists then the measurement will be taken from the access easement line.
(Code 1977, § 9-4031.5; Ord. of 8-2-2012; [Ord. No. 2019-2020-007](#), 3-5-2020)

Sec. 36-314. - Buffers.

(a) Buffer strips as herein defined shall be required in this district for all uses where they abut land which is zoned residential.
(b) The buffering requirement may be waived by the board of adjustment along any boundary, which is naturally screened by evergreen plant materials or topography or may be deferred in isolated areas.
(Code 1977, § 9-4031.6; Ord. of 12-10-2009)

Sec. 36-315. - Off-street parking and loading.

Refer to article XVIII of this chapter.
(Code 1977, § 9-4031.7)

Sec. 36-316. - Signs.

Refer to article XIX of this chapter.
(Code 1977, § 9-4031.8)

Sec. 36-317. - Lights.

Refer to article XVII of this chapter.
(Code 1977, § 9-4031.9)

Sec. 36-318. - General provisions.

Refer to article XV of this chapter.
(Code 1977, § 9-4031.10)

Secs. 36-319—36-339. - Reserved.

ARTICLE II. - DEFINITIONS

Sec. 36-34. - Definitions.

***Brewery* means a facility for the brewing of alcoholic beverages, including beer, ales, wine and/or similar beverages that produces more than twenty-five thousand (25,000) barrels per year. The facility may include a tasting room, additional space for consumption on-site with food, and retail space to sell the beverages in sealed containers directly to patrons on site. The facility must follow all NC ABC regulations.**

***Microbrewery* means a facility for the brewing of alcoholic beverages, including beer, ales, wine and/or similar beverages that produces less than twenty-five thousand (25,000) barrels per year, primarily intended for consumption on the premises or by sealed containers to be sold directly to the consumer. The facility**

may include a tasting room, additional space for consumption on site with food, and retail space to sell the beverages to patrons on site. Microbreweries are also referred to as brewpubs, wine bars, and pubs. The facility must follow all NC ABC regulations.

Distillery means a facility, where distilled spirits are produced for wider distribution and limited consumption on premises with a maximum production of 75,000 gallons per year. The establishments may include a tasting room, additional space for consumption on-site with food, and retail space to sell the spirit in sealed containers directly to patrons on site. The facility must follow all NC ABC regulations.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Erwin, North Carolina that the current language as herein found with respect to Chapter 36 Article II- Definitions and Article XI.-Industrial District (M-1) of the Town Code is stricken where indicated by strikethrough lines and include such language as herein indicated by bold print.

Adopted this 6th day of July 2023.

ATTEST:



Randy Baker
Mayor



Lauren Evans
Town Clerk

MINUTES CONTINUED FROM JULY 6, 2023

Erwin would need to send the MOU to the Fire Department Board of Directors for review and then both Boards would have to agree to move forward. The vote at this meeting was not to make the final decision but to instruct Town Staff to prepare the draft MOU and bring it back before the Board for approval. He asked if there were any further questions or comments before the vote.

None of the Board Members had questions.

Commissioner McKoy made a motion to instruct staff to develop a Memorandum of Understanding and bring it back before the Town Board for approval and was seconded by Commissioner Turnage. **The Board voted unanimously.**

Commissioner Byrd was now back and considered for voting on the agenda.

East L Street

Town Manager Snow Bowden stated Town Staff had prepared a letter that addressed this matter. It had been determined that the Town did not have authority to close an unopened road that was not existent and a public hearing would not be appropriate. Staff also included copies of all the maps associated with the property that are on file with the Harnett County Register of Deeds. The Town Board did not have the authority to close a road that did not exist.

Mayor Baker verified that a copy of the letter would be forwarded to the parties requesting the closure.

Town Manager Snow Bowden stated he would forward the letter to Dr. Bradham and his attorney.

Discussion continued among the Board.

Mayor Baker stated according to our legal counsel, legal counsel for the NCLM, and Town Staff, the Board did not have the power to close East L Street.

MANAGER'S REPORT

Town Manager Snow Bowden informed the Board that:

- Harnett Regional Water fixed the issue that caused the sinkhole at the intersection of East H Street and 12th Street. We were still waiting on them to complete resurfacing this site and a few other sites in Town where they have had to make some repair work.
- The filing period for the Municipal 2023 office began at 12:00 PM on July 7, 2023, and ends at 12:00 PM on July 21, 2023, for Wards 2, 4, and 6, The fee to run remained at \$25. Election Day will be on 10/10/2023. If a runoff is necessary it will be on 11/7/2023. If the Board had any questions or needed any additional information, please let him know.
- Our meeting for next month was already looking busy we will have at least two public hearings. We have had a special use permit submitted to the Town for apartments to be built off of 13th Street. We also have had a variance submitted for a proposed subdivision of the parcel that the old Erwin Mill now the Central Carolina Industrial Park.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: July 6, 2023

Subject: Erwin Fire Department

At the moment, Town Staff is still trying to complete a Memorandum of Understanding (MOU) that would be between the Town of Erwin and the Erwin Fire and Rescue Department. This MOU will need to be approved by both organizations. This MOU will allow for the Town of Erwin to “lease” employees to the Erwin Fire and Rescue Department so they can receive certain benefits that other local government employees are eligible for in the State of North Carolina. There will be no additional costs to the Town of Erwin to take this action.



TO: Employers in the Local Governmental Employees' Retirement System (LGERS)
FROM: N.C. Department of State Treasurer, Retirement Systems Division (RSD)
DATE: November 23, 2022
RE: "Leased Employee" Agreements with Nonprofit Incorporated Fire/Rescue Departments

Background

During 2022, RSD has become aware of instances where a municipality considers a "leased employee" arrangement with a nonprofit incorporated fire/rescue department ("department") providing services to the municipality. The details may differ by case, but the basic arrangement is typically as follows. The "leased employee" will be officially employed by the municipality, eligible for pay and benefits as a municipality employee. The department will reimburse the municipality for salary and benefit costs. The department hires the employee and directs their work.

Guidance

RSD urges municipalities who participate in LGERS, before entering into this type of "leased employee" arrangement, to review the attached legal analysis provided to RSD for its own purposes carefully. Municipalities must independently determine whether the "leased employees" will be eligible for membership in LGERS, and if so, whether as general employees, as opposed to firefighters or rescue squad workers.¹ In making this evaluation, RSD urges municipalities to bear in mind the following:

- It is each employer's responsibility to report its eligible employees to LGERS, and the regular reporting of that information "constitutes a certification of its accuracy." G.S. 128-30(g)(4).
- The attached legal memorandum outlines a history of federal and common law guidance on this topic that has sometimes varied and is not tailored to any municipality's specific facts and circumstances.
- In case of doubt, employers should understand the critical importance of protecting the "governmental" status of LGERS. While the municipality "leasing" the employee will make the decision as to whether the employee qualifies for LGERS membership, the consequences of an erroneous determination could affect all members and employing entities under LGERS.

¹ RSD does not provide legal advice to municipalities. Municipalities may not rely on the analysis of RSD's counsel and should conduct their own analysis and look to advice of their own counsel.

Further Discussion

If the municipality is a participating employer in LGERS, this type of arrangement raises potential concerns about the administration of retirement benefits.

- On the one hand, the municipality is required to report its eligible employees for participation in LGERS. On the surface, this would seem to include the "leased employees" who are in positions requiring LGERS participation.
- On the other hand, LGERS is a governmental plan under the meaning of Section 414(d) of the Internal Revenue Code. All members of LGERS enjoy tax treatment based on this "governmental" status. One, but not the only, example is that in general, the contributions employees make to LGERS (6% of their pay) are not immediately subject to income tax. LGERS has always opposed policy recommendations, and avoided administrative decisions, that could jeopardize the system's tax status for the hundreds of thousands of individuals, and approximately 900 employing units, who participate. There is reasonable concern that accepting members who may be found to be "non-governmental" could jeopardize the tax status of LGERS. In fact, LGERS has in the past received at least one Private Letter Ruling from the Internal Revenue Service (in 2001) indicating that "deeming employees of a fire department which is not a department of a municipal government, a county government, or a sanitary district maintained by such government entity but which is incorporated as a nonprofit corporation under the law of [North Carolina] and is certified by the Commissioner of Insurance to be employees of the local county, incorporated city, or town unit for purposes of [LGERS], ... will adversely affect the status of [LGERS] as a governmental plan under section 414(d) of the Code."

Because of the importance of this question, RSD recently requested a legal memorandum on the topic from its tax counsel, Groom Law Group. A copy of the memorandum follows this memo. The memorandum states that subject to certain assumptions and limitations, there is a reasonable basis to conclude that the participation of these "leased employees" would not jeopardize the tax status of LGERS. Importantly, those assumptions and limitations depend on a case-by-case analysis of various issues. One issue is whether the department may be governmental in nature; another is whether the "leased employees" are common law employees of the municipality. The final portion of the memo points out that even if "leased employees" may be eligible for membership, their eligibility may be as general employees, rather than as firefighters or rescue squad workers.

Each municipality should conduct its own analysis and obtain advice of its own counsel in making a determination.

Attachment: Memorandum from Groom Law Group

GROOM LAW GROUP

MEMORANDUM

August 17, 2022

TO: Department of State Treasurer

FROM: David N. Levine
Kimberly M. Boberg

RE: Fire Department – Leased Employees

This memorandum addresses the extent to which there is a potential plan qualification risk to the Local Governmental Employees' Retirement System ("LGERS") if certain employees are leased to nonprofit fire departments by LGERS participating employers.

Summary Conclusion

Subject to the assumptions and limitations set forth in this letter, pending future guidance, it is reasonable to permit the Leased Employees (defined below) to participate in LGERS without jeopardizing LGERS' qualification as a "governmental plan" as provided in section 414(d) of the Internal Revenue Code of 1986, as amended (the "Code") and section 3(32) of the Employee Retirement Income Security Act of 1974 ("ERISA").

Background

Municipalities will sometimes provide fire prevention and suppression services through an exclusive contract with a local nonprofit fire department. The nonprofit fire department will enter into an employee leasing agreement with the municipality where the services are provided. Under the agreement, individuals will be hired by the municipality and leased to the nonprofit fire department to provide services ("Leased Employees"). The Leased Employees will be employees of the municipality, will be paid by the municipality, and will receive the same benefits as other full-time employees of the municipality. Participation in LGERS will be mandatory for the Leased Employees, consistent with participation by other full-time municipality employees.¹ However, the Leased Employees will fall under the direct command of the fire chief, an employee of the nonprofit fire department, and the nonprofit fire department will make hiring decisions (for implementation by the municipality) and will reimburse the municipality for all payroll expenses, including benefits.

Legal Background

¹ If the Leased Employees are given the choice whether to participate in LGERS, that would raise cash or deferred arrangement concerns that would require further analysis.

A. Current Governmental Plan Federal Authority

1. Internal Revenue Code

Code section 414(d) defines "governmental plan" to mean "a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing"

2. ERISA

ERISA section 3(32) defines "governmental plan" to mean "a plan established or maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing. . . ."

3. Treasury and DOL Regulations

At this time, there are no adopted regulations interpreting Code section 414(d) or ERISA section 3(32).

4. IRS Revenue Rulings

IRS Revenue Ruling 89-49 (Jan. 1, 1989) outlines factors to consider in determining whether an organization is an agency or instrumentality of the United States or any state or political subdivision so that the employees of the organization can be covered by a governmental plan. Specifically, the IRS identified the following factors: (i) the degree of control that the federal or state government has over the organization's everyday operations, (ii) whether there is specific legislation creating the organization, (iii) the source of funds for the organization, (iv) the manner in which the organization's trustees or operating board are selected, and (v) whether the applicable governmental unit considers the employees of the organization to be employees of the applicable governmental unit.

5. Prior IRS Private Letter Rulings

The IRS currently includes the issue of whether a plan is a governmental plan on their "no ruling" list. Therefore, while they have addressed this question in the past, until further notice, they will no longer issue a private letter ruling or determination letter regarding a Plan's governmental status under Code section 414(d). *See Rev. Proc. 2022-3, § 3.01(70).*

Prior to the above limitation, the IRS did issue private letter rulings regarding a plan's governmental status. In one such ruling, the IRS generally applied the factors from Revenue Ruling 89-49 for determining whether a sponsoring organization is an agency or instrumentality of a state. The IRS held that certain plans in which the organization's employees participated were governmental plans based on facts including that a local county and the board of a public university had the power to appoint and remove the organization's board of trustees, exercised considerable control over the day to day operations of the organization, and monitored the organization's financial affairs, and that a public medical school, through its faculty members,

directly supervised the operation of the organization's clinical departments that were chaired by such faculty members. *See* Private Letter Ruling 199947039 (Sept. 1, 1999).²

6. Prior DOL Advisory Opinions.

a. Agency or Instrumentality

The DOL has consistently noted that the terms "agency" and "instrumentality" are not defined in ERISA, and that there are no current regulations that interpret those terms. The DOL has specifically noted that the definition of governmental plan should be broadly construed - "not so narrow as to include only plans which are ultimately within the exclusive control of governmental entities." DOL Adv. Op. 79-36A (Jun. 11, 1979). The DOL noted that Congress was reluctant to extend the requirements under ERISA to plans covering governmental entities before analyzing the issue further. *Id.* In accordance with that Congressional intent, the DOL has previously taken an expansive approach as to whether a plan was "established or maintained" by a governmental entity, so those plans remain exempt from ERISA. *Id.*

In previous rulings, the DOL, like the IRS, has reviewed the individual facts and circumstances of each case to evaluate whether a plan is a governmental plan. While there is no established list of factors published by the DOL, the important factors for an entity in determining whether the entity's employees are eligible to participate in a governmental plan have been the following:

- Governmental Functions: Whether the entity performs public and essential government functions. *See* DOL Adv. Op. 2003-18A (Dec. 23, 2003).
- Public Funding: The extent to which the plan is funded by a governmental entity. *See* DOL Adv. Op. 2004-01A (Jan. 27, 2004).
- Government Administration: The extent to which the governmental entity is involved in the discretionary administration of the plan. *Id.*

These factors are not as comprehensive as the currently applicable IRS factors, but they are generally consistent with the ANPRM (as defined below).

² Code section 6110(k)(3) provides that a private letter ruling (a "PLR") "may not be used or cited as precedent." Thus, in any dispute between the Service and a taxpayer other than a taxpayer that receives a PLR, the PLR may not be cited as valid authority. However, although a PLR is not formal precedent that may be cited, it is authority that a taxpayer may consider to establish the tax consequences of a potential transaction or situation. *See Hanover Bank v. Comm'r*, 369 U.S. 672, 686-687 (1962) ("although the petitioners are not entitled to rely upon unpublished private rulings which were not issued specifically to them, such rulings do reveal the interpretation put upon the statute by the agency charged with the responsibility of administering the revenue laws."); *Ogiony v. Comm'r*, 617 F.2d 14, 17 (2d Cir. 1980) (concurring opinion).

With regard to the third factor in the previous paragraph—that the governmental entity be involved in the discretionary administration of the plan—the DOL’s prior opinions have varied on the extent of the involvement required. In one ruling, a plan was governed by seven trustees, with only one appointed by the governmental entity. Even though a majority vote was required for action, the DOL held that this was sufficient governmental involvement in the plan’s administration. *See* DOL Adv. Op. 79-83A (Nov. 20, 1979); *see also* DOL Adv. Op. 2000-11A (Sept. 22, 2000) (three out of five trustees being governmental representatives was sufficient); DOL Adv. Op. 2000-07A (May 17, 2000) (one out of twelve trustees appointed by state was sufficient). However, the past DOL rulings have provided conflicting conclusions: in one instance the DOL ruled that a plan was a governmental plan even though the governmental entity had no trustees in the plan and did not otherwise participate in the operations of the plan, but in another ruling the DOL took the opposite position. *Compare* DOL Adv. Op. 86-23A (Sept. 9, 1986) *with* DOL Adv. Op. 83-36A (Jul. 5, 1983).

Regardless of the governmental employer’s involvement, under existing guidance, the DOL has consistently required that a governmental plan be funded by a governmental employer and that the employer perform a governmental function.³

b. De Minimis Exception

Even where a particular employer is not governmental, the DOL has reviewed individual cases to determine whether the participation by that employer’s non-governmental employees in a governmental plan is de minimis. In multiple cases, the DOL has found non-governmental employee participation in a governmental plan of approximately 2% or less qualifies as de minimis, but there is no defined percentage at which the level of non-governmental employee participation becomes no longer de minimis. *See* DOL Adv. Op. 2005-17A (Jun. 22, 2005) (5 out of 33,600 participants); DOL Adv. Op. 2005-07A (May 3, 2005) (1,500 out of 315,000 participants); DOL Adv. Op. 2000-08A (Jun. 12, 2000) (no more than 540 of 158,000 participants); DOL Adv. Op. 2000-04A (Mar. 30, 2000) (3 out of 838 participants); DOL Adv. Op. 2000-01A (Feb. 18, 2000) (11 out of 1488 participants); DOL Adv. Op. 99-15A (Nov. 19, 1999) (236 out of 10,987 participants); DOL Adv. Op. 99-10A (Jul. 26, 1999) (inclusion of 28 nongovernmental employees of an educational accrediting agency in CalPERS did not cause CalPERS to fail to be a governmental plan); DOL Adv. Op. 99-07A (May 19, 1999) (300 out of 25,221 participants); DOL Adv. Op. 95-27A (Nov. 8, 1995) (270 out of 3,700 participants); DOL Adv. Op. 95-15A (Jun. 26, 1995) (12 out of 10,987 participants); and DOL Adv. Op. 95-14A (Jun. 26, 1995) (253 out of 183,000 participants). *See also* DOL Adv. Op. 2012-01A (Apr. 27, 2012) (participation not de minimis where there are 175,000 non-governmental employees eligible to enroll, but only 100,000 current participants).

In an analogous area, the IRS has held that a de minimis number of non-church employees may be covered by a church plan (subject to Code and ERISA exemptions similar to governmental plans) without adversely affecting the status of the plan as a church plan under

³ The IRS, DOL and PBGC intend to apply consistent rules to determine whether a plan is a governmental plan under both the Code and ERISA. *See* Preamble to the ANPRM discussed *infra*.

Code section 414(e). See IRS Priv. Ltr. Rul. 9810034 (Dec. 11, 1997) (130 out of 5,218 participants); IRS Priv. Ltr. Rul. 9441040 (Jul. 18, 1994) (less than 7.5% non-church employee participants); IRS Priv. Ltr. Rul. 9204034 (Oct. 29, 1991) (less than 5% non-church employee participants); and IRS Priv. Ltr. Rul. 8734045 (May 28, 1987) (6 out of 2200 participants). However, unlike the DOL, the IRS has never ruled on de minimis participation in the governmental plan context.

B. ANPRM Factors

In an Advanced Notice of Proposed Rulemaking (“ANPRM”)⁴ issued in 2011, the IRS identified the following factors to be considered when determining the governmental status of a plan as a plan established and maintained for the employees of an entity which is an agency or instrumentality of a state or a political subdivision of a state:

- **Major Factors**
 - **Control of Governing Board or Body.** The entity’s governing board or body is controlled by a state or political subdivision of a state.
 - **Membership of Governing Board or Body.** The members of the governing board or body are publicly nominated and elected.
 - **State or Political Subdivision Responsibility for Debts and Liabilities.** A state (or political subdivision of the state) has fiscal responsibility for the general debts and other liabilities of the entity (including funding responsibility for the employee benefits under the entity’s plans).
 - **Treatment of Employees.** The entity’s employees are treated in the same manner as employees of the state (or a political subdivision of the state) for purposes other than providing employee benefits (e.g., the entity’s employees are granted civil service protection).
 - **Delegation of Sovereign Powers.** In the case of an entity that is not a political subdivision, the entity is delegated, pursuant to a statute of a state or political subdivision, the authority to exercise sovereign powers of the state or political subdivision (e.g., the power of taxation, the power of eminent domain, and the police power).
- **Minor Factors**
 - **Control of Operations.** The entity’s operations are controlled by a state (or political subdivision of the state).

⁴ 76 Fed. Reg. 69172 (November 8, 2011).

- **Source of Funding.** The entity is directly funded through tax revenues or other public sources.
- **Enabling Legislation.** The entity is created by a state government or political subdivision of a state pursuant to a specific enabling statute that prescribes the purposes, powers, and manners in which the entity is to be established and operated.⁵
- **Federal Income Taxation of the Entity.** The entity is treated as a governmental entity for federal employment tax or income tax purposes or under other federal laws.
- **Applicability of State Laws for State Governmental Entities.** The entity is determined to be an agency or instrumentality of a state (or political subdivision thereof) for purposes of state laws.
- **Judicial Determination of Agency or Instrumentality Status.** The entity is determined to be an agency or instrumentality of a state (or political subdivision of the state) by a state or federal court.
- **Ownership Interest.** A state (or political subdivision of the state) has the ownership interest in the entity and no private interests are involved.
- **Governmental Purpose.** The entity serves a governmental purpose.

C. Common Law Employee Guidance

The IRS and courts have identified a number of factors for determining an individual's status as an independent contractor versus an employee of an employer. Such determination requires a facts and circumstances analysis, based largely on the degree of control exercised by the party for whom the individual is performing services – generally, an individual is an employee when the person for whom the services are performed has the right to control and direct the individual. This control reaches not only the result to be accomplished, but also the details and means by which that result is to be accomplished. Note that the right to control must be present, but need not actually be exercised. However, there is no one determining factor or magic number of relevant factors that would require a particular conclusion.

IRS Revenue Ruling 87-41 cites 20 factors for consideration in determining whether an individual is an employee or independent contractor.

- Many relate to the business entity – an individual is likely an employee if the entity has: the right to require compliance with instructions; the right to require training; the right to integrate the individual's services into business operations; the right to require that services be rendered personally; the right to hire, supervise and pay assistants; a

⁵ The advance notice does not consider mere incorporation under a state's general corporate laws as being created under a specific enabling statute.

continuing relationship with the individual; the right to establish set hours of work; the right to require full-time employment; the right to set the location where the work is to be done; the right to set the order the work is done; the right to require submission of reports; an hourly/weekly/monthly payment process; an expense payment process; tools and materials which are supplied to the individual; not invested in separate facilities where the individual performs services; and the right to discharge the individual.

- Others look more directly to the individual – an individual is likely an employee if the individual is not able to realize a profit or suffer a loss as a result of his services; working for multiple unrelated parties at the same time; making his services available to the general public; or prevented from terminating his services for the entity.

Nationwide Mut. Ins. Co. v. Darden, 503 U.S. 318 (1992), is the seminal case holding that “employee,” for purposes of the employee benefit plan rules, is determined under traditional agency law principles, and cites the 20 factor test for employee status under IRS Rev. Rul. 87-41.

In *Community for Creative Non-Violence v. Reid*, 490 U.S. 730 (1989), the court set out 12 factors to determine a hiring party’s right to “control the manner and means by which the product is accomplished.” The twelve factors are: the skill required; the source of the instrumentalities and tools; the location of the work; the duration of the relationship between the parties; whether the hiring party has the right to assign additional projects to the hired party; the extent of the hired party’s discretion over when and how long to work; the method of payment; the hired party’s role in hiring and paying assistants; whether the work is part of the regular business of the hiring party; whether the hiring party is in business; the provision of employee benefits; and the tax treatment of the hired party.

D. Plan Language

N.C. Gen. Stat. section 128-21(10) defines “Employee” to include “all full-time, paid firemen who are employed by any fire department that serves a city or county or any part of a city or county and that is supported in whole or in part by municipal or county funds.”

N.C. Gen. State. Section 128-21(11b) defines “Firefighter” as “a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees’ Retirement System and maintains a fire department certified by the North Carolina Department of Insurance and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.”

Analysis

In determining the eligibility of the Leased Employees to participate in LGERS, there are several potential levels of analysis that could support the conclusion that Leased Employees may participate in LGERS.

A. Governmental “Status” of the Nonprofit Fire Department

When determining whether the nonprofit fire department itself could be considered governmental, and thus the Leased Employees, even if common law employees of the nonprofit fire department, could participate in LGERS, the factors in Revenue Ruling 89-49 and the ANPRM guide the review.

The municipality will treat the Leased Employees as employees of the municipality and will pay the Leased Employees and fund their participation under LGERS. While the nonprofit fire department will contract to reimburse the municipality for these costs, ultimate financial responsibility will remain with the municipality. The Leased Employees will be treated as municipality employees in all respects, beyond eligibility for benefits, consistent with other municipality employees. In addition, the nonprofit fire department will serve a governmental purpose in providing fire prevention and suppression services, albeit subject to some degree of control by a private entity. On the other hand, the nonprofit fire department will not be subject to the control of the municipality in its provision of services, is likely to be (at least partially) funded by non-public sources, and is not created pursuant to a specific enabling statute. While no single factor is determinative, pending future guidance, certain Revenue Ruling 89-49 and ANPRM factors could be read to support the treatment of the fire department as a governmental agency or instrumentality of the municipality. Under that conclusion, it would be reasonable to conclude that LGERS would continue to qualify as a governmental plan even if the nonprofit fire department is the common law employer of the Leased Employees.

B. Leased Employees as Common Law Employees of Municipality

A second approach would be to conclude that the Leased Employees are common law employees of the municipality.

With respect to the status of the Leased Employees, the applicable guidance is in the context of independent contractor versus employee, but does advise a determination of the proper employer of an employee. Common law employee status is a facts and circumstances determination, looking to the factors delineated by the IRS and the courts, with the right to control and direct the employee an important consideration. If too much control is exercised by the nonprofit fire department, the Leased Employees may be determined to be employees of the fire department rather than the municipality. In that case, the nonprofit fire department's status as an agency or instrumentality of the municipality becomes important. If, however, the Leased Employees are found, based on the facts and circumstances, to be common law employees of the municipality, there is little, if any, risk to LGERS continued treatment as a governmental plan.

C. De Minimis Rule

If the nonprofit fire department is both found to be the common law employer of the Leased Employees and to not be governmental under the Rev. Rul. 89-49 and ANPRM-based facts and circumstances tests, it would then be necessary to fall back on the possible application of a de minimis rule. Unfortunately, there is no "explicit and unambiguous" guidance regarding de minimis non-governmental participation. That said, as discussed above, the DOL and IRS have issued a number of advisory opinions and private letter rulings addressing permissible de minimis participation of certain employees in specific plans, without providing hard and fast rules. However, as noted previously, IRS private letter rulings issued to other parties may

generally not be relied upon or cited as precedent, and DOL Advisory Opinions are treated similarly. Therefore, there is risk in relying on opinions not issued to the parties involved herein, though such guidance does provide helpful parameters.

The ANPRM also includes de minimis language, but it currently addresses only plan coverage for employees of a labor union or plan under Code section 413(b)(8). Otherwise, the current draft proposed regulations do not include special rules addressing existing practices under which a small number of employees of a nongovernmental entity participate in a plan that would otherwise constitute a governmental plan under Code section 414(d). That said, the ANPRM does request comments on whether a de minimis exception should be provided:

Parameters that could be taken into account for such a special rule include the following: (1) whether the private employees were previously employees of the sponsoring governmental entity; (2) whether the private employees were previously participants in the governmental plan; (3) whether the number or percentage of such former employees who participate in the governmental plan is de minimis (and, if so, what constitutes a de minimis number or percentage); (4) whether the coverage is pursuant to pre-existing plan provisions; (5) whether the private employer performs a governmental function and has been officially designated as a State entity for plan participation purposes; and (6) whether the employer is ineligible to sponsor the particular type of governmental plan

Therefore, while an applicable de minimis rule is not included in current draft proposed regulations under the ANPRM, the IRS request for comments on such rule does indicate that it will be considered for inclusion in the eventual proposed and final regulations. While the number of Leased Employees will depend on the number of jurisdictions that follow this leasing approach, there are about 295,000 current members in LGERS, which provides some room before reaching the de minimis levels approved in prior DOL advisory opinions and analogous IRS rulings. It is unlikely the level of participation by the Leased Employees would rise to the level so as not to be considered de minimis under current guidance and, if a de minimis rule is included in future guidance, that future guidance as well. As such, the facts of this arrangement support a conclusion that LGERS will likely retain its governmental status even if the Leased Employees were considered employees of the nonprofit fire department, due to the anticipated inclusion of a de minimis rule under eventual proposed and final regulations. That said, there is currently no defined standard and the final rules addressed in the ANPRM could contain stricter rules (or no de minimis rule).⁶

D. Firefighter versus Employee

In addition to the above considerations regarding the Leased Employees' general eligibility for LGERS is the necessary determination of whether they would qualify as a

⁶ In addition, we believe it is likely, based on informal comments by senior IRS national office representatives over the years, that some form of transition relief will be provided for existing participants or participating employers in governmental plans, particularly in view of constraints on making changes to public plans under many state laws.

“Firefighter” or an “Employee” under LGERS.⁷ The definition of Firefighter is more limiting, requiring that a governmental employer participating in LGERS maintain the North Carolina Department of Insurance-certified fire department. Qualification of the nonprofit fire department as an agency or instrumentality of the municipality would not only support the Leased Employees participation in LGERS, but would arguably also support classification of the Leased Employees as “Firefighters” under LGERS. However, a determination that the nonprofit fire department is not an agency or instrumentality of the municipality would require a member-level eligibility determination under the common law or de minimis rules discussed above, and would lead to a classification of “Employee” under LGERS (if eligible).

⁷ A determination of whether the Leased Employees meet the definition of Firefighter under LGERS is not conclusive for other State benefits that rely on a different definition.



TOWN OF ERWIN

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Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

Memo To: Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Re: 216 East Jackson BLVD Harnett County Tax PIN 0597-86-3184.000

Date: 7/6/2023

This letter is in reference to the public hearing that we advertised and tabled at our regularly scheduled June Town Board meeting which was held on 6/1/2023 at 7PM. The public hearing was tabled and Town Staff was instructed to look into this request for further clarification. I have attached six maps that are recorded with the Harnett County Register of Deeds Office. The maps are in chronological order of being prepared and recorded. The "unopened" "proposed" section of "East L Street" is shown on "Map G" which was on land that was owned by Erwin Mills, INC. at the time. "Map G" was recorded before the Town of Erwin was incorporated. Therefore the roads were not maintained by the Town of Erwin. "Map G2" was recorded in 1962, also before the Town of Erwin was incorporated and the proposed road/easement is not shown on this map. "Map G3" was recorded in 1966 also before the Town of Erwin was incorporated and the proposed road/easement is not shown on this map. I have included the original plat recording of the Town of Erwin and this proposed road and easement is not shown on this map.

The recombination survey from 9/2000 which was prepared for David Bradham, Meredith Bradham and William Lasater does show an unopened section of East L Street on the map, but it references "Map G". "Map G" was **not** the most recent map on file with the Harnett County Register of Deeds Office.

There is no recording of any easement with the Harnett County Register of Deeds Office for this road. The proposed road is only found on the original "Map G" which was recorded in 1953 before the Town of Erwin was incorporated. The proposed road is not found on "Map G2" or "Map G3" which were both recorded before the Town of Erwin was incorporated. The proposed road is not shown on the original plat of the Town of Erwin which was recorded in 7/1967.

It appears to be no statutory authority to close an unopened road that does not exist. Consequently, a public hearing will not be appropriate.

- Map G 1/1953
- Map G 2 2/1962
- Map G 3 3/1966
- Original plat of the Town of Erwin 7/1967
- Recombination Survey Map 9/2000
- Recombination Survey Map 3/2004

Regards,

A handwritten signature in cursive script that reads "Snow Bowden".

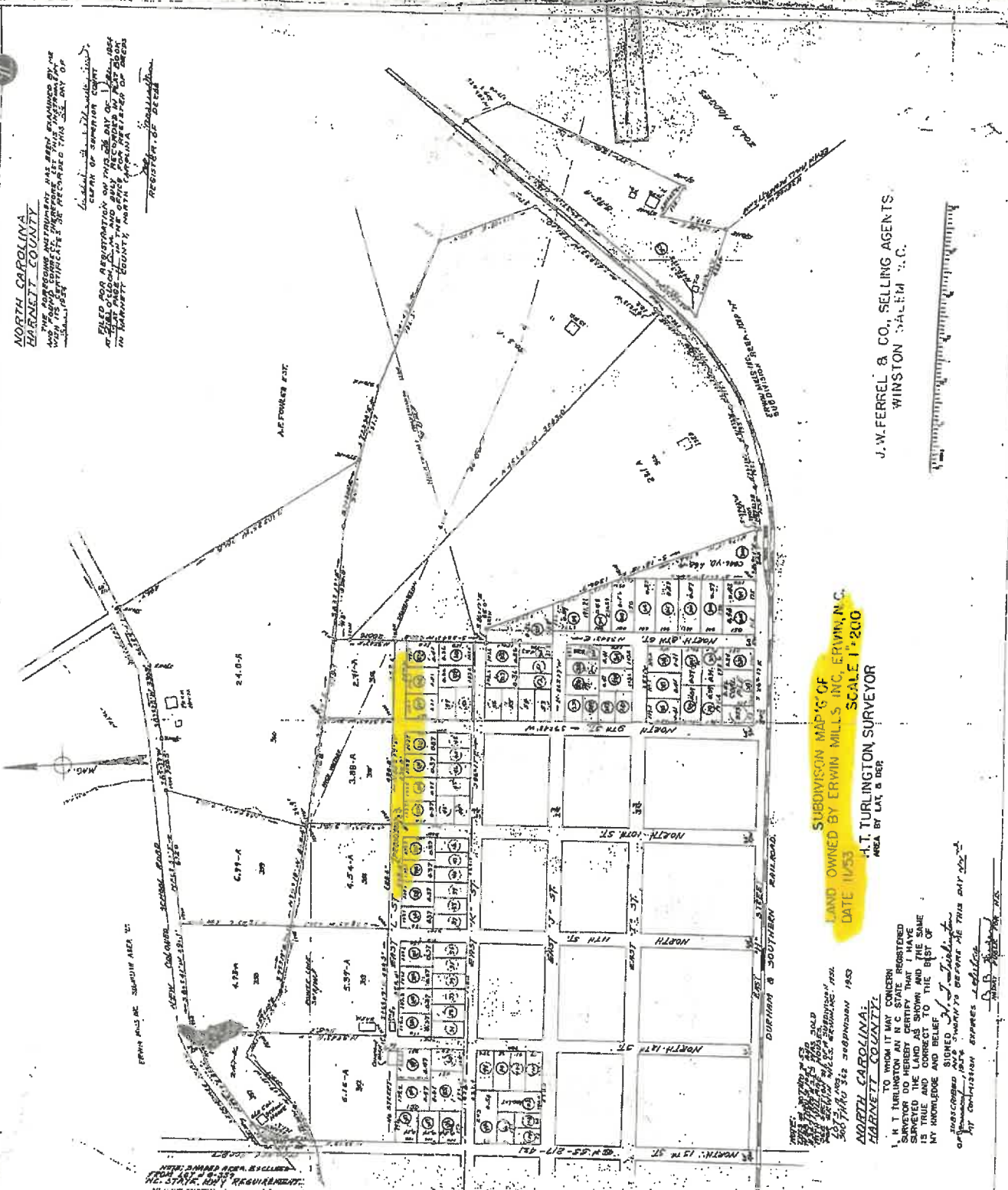
Snow Bowden
Town Manager

**NORTH CAROLINA
HARNETT COUNTY**

THIS MAP AND INSTRUMENT HAS BEEN EXAMINED BY ME
AND I HEREBY CERTIFY THAT THE SAME COMPLY WITH
THE REQUIREMENTS OF THE ACT RELATIVE TO THE
RECORDING OF MAPS AND INSTRUMENTS IN THIS STATE.

FILED FOR REGISTRATION IN THE OFFICE OF THE REGISTER
OF DEEDS IN HARNETT COUNTY, NORTH CAROLINA
ON THE 11th DAY OF FEBRUARY 1953
AT 10:30 A.M.

REGISTER OF DEEDS



**SUBDIVISION MAPS OF
LAND OWNED BY ERWIN MILLS, INC., ERWIN, N.C.
DATE 11/25/53**

**H.T. TURLINGTON SURVEYOR
AREA BY LAT. & DEP.**

TO WHOM IT MAY COME
I, H.T. TURLINGTON AN N.C. STATE REGISTERED
SURVEYOR DO HEREBY CERTIFY THAT I HAVE
SURVEYED THE LAND AS SHOWN AND THE SAME
CONFORMS TO THE BEST OF
MY KNOWLEDGE AND BELIEF
SIGNED *H.T. Turlington*
SUBSCRIBED AND SWORN TO before me this 11th day of
February 1953 at Erwin, N.C.
My Commission Expires 1-1-55
Notary Public

J.W. FERREL & CO., SELLING AGENTS
WINSTON-SALEM, N.C.



NOTE: SHADING AREA IS CALLED
"ERWIN MILLS" AREA BY THE
N.C. STATE MAP REQUIREMENT.

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40

NOTE: This property does not appear to be recorded with 2000 and all R. C. Civil System Measurements.

NOTE: This is to certify that I have examined the Plat and returned the same to the County Clerk's Office for recording. I have also examined the original plat and find it correct in all respects.

NOTE: This is to certify that I have examined the Plat and returned the same to the County Clerk's Office for recording. I have also examined the original plat and find it correct in all respects.

NOTE: This is to certify that I have examined the Plat and returned the same to the County Clerk's Office for recording. I have also examined the original plat and find it correct in all respects.

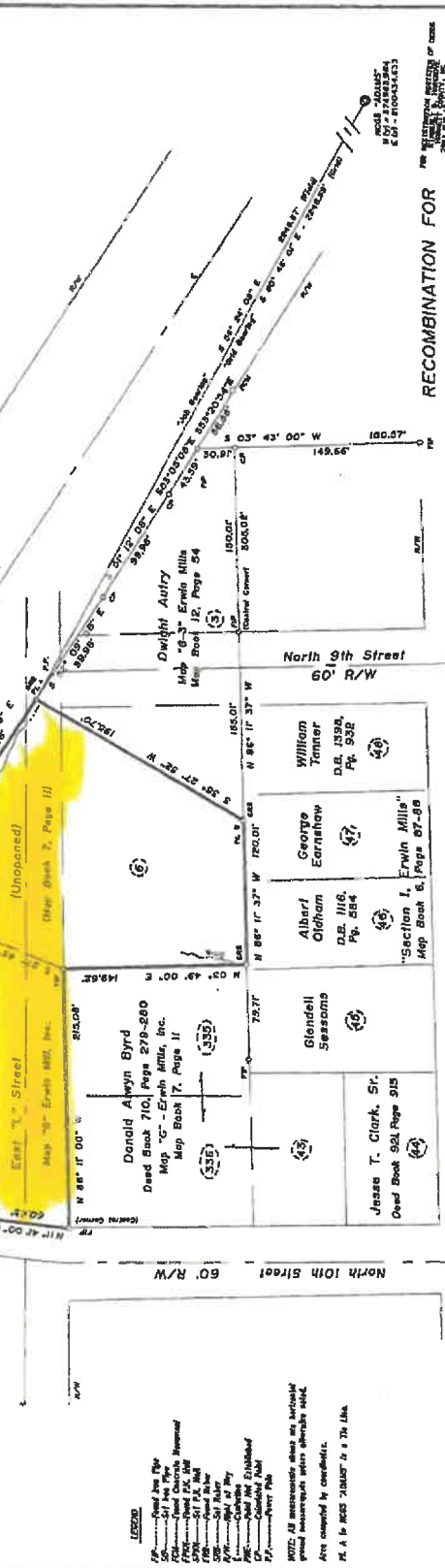
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RECOMBINATION FOR PROPERTY OF:

DAVID L. BRADHAM and wife,

MEREDITH L. BRADHAM and

WILLIAM E. LASATER, JR.

DUKE TWP., HARNETT COUNTY, N.C.

SURVEY BY: JOYNER PIEDMONT SURVEYING

DATE: SEPTEMBER 28, 2000 SCALE: 1" = 60'

NO APPROVAL NECESSARY BY THE PLANNING BOARD OF THE TOWN OF ENWICK.

DATE: 8-15-2001

DATE: 8-15-2001

DATE: 8-15-2001

NOTE: Survey being all of Lot No. 6 & Lot No. 7 of Map 6-3, Erwin Mills, Inc. as recorded in Map Book 7, Page II, Harnett County Registry.

NOTE: Deed Reference: Book 487, Page 118.



NOTE: This is to certify that I have examined the Plat and returned the same to the County Clerk's Office for recording. I have also examined the original plat and find it correct in all respects.

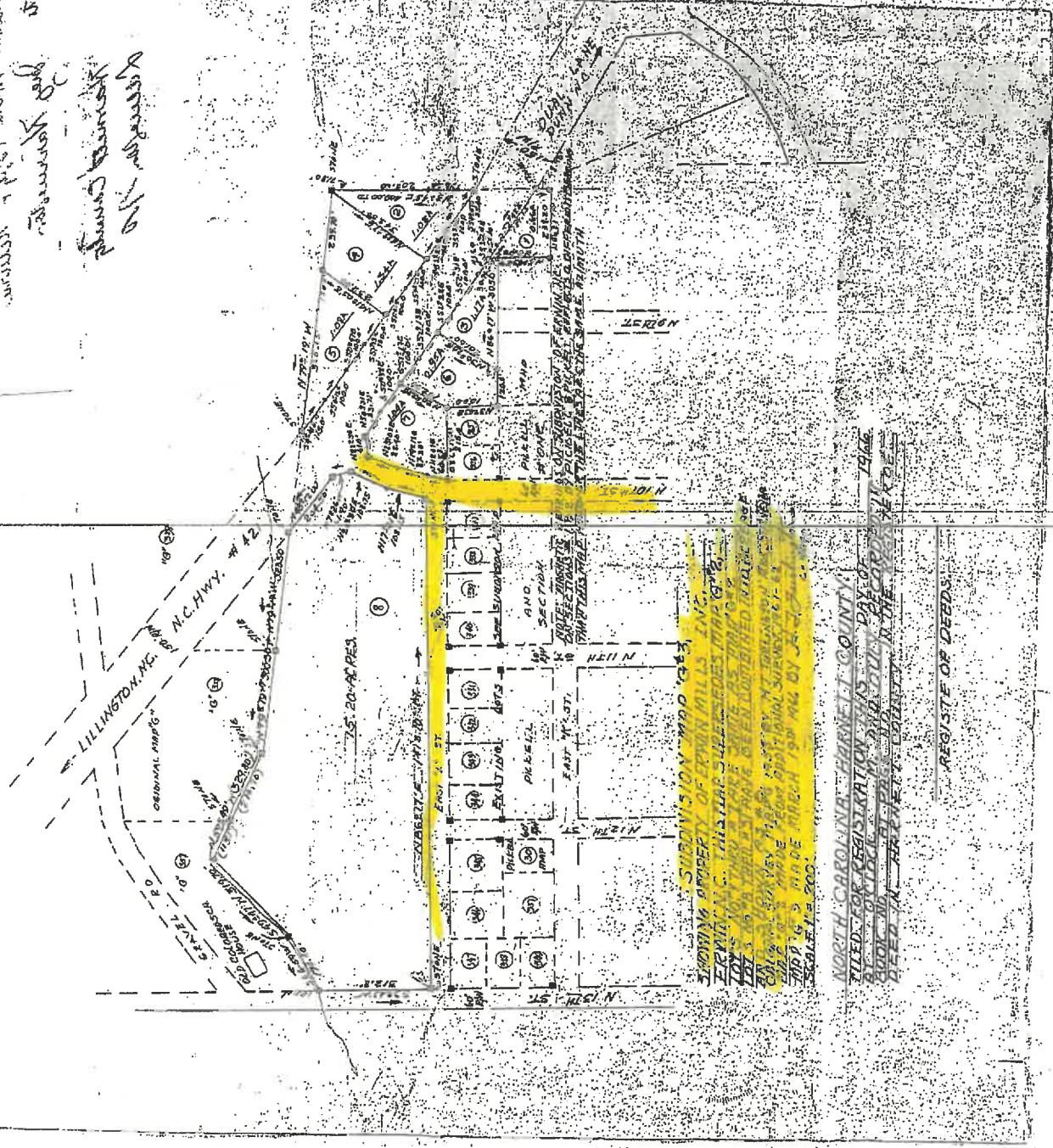
Map # 2001-888

Map # 2001-888

75

Stamm, N.C.
Carmel, N.C.
1938 - 1940

Section 110
Herring Camp
per Herring
Herring Camp (with section)



SUBDIVISION MADE 1938
SHOWING PROPERTY OF FERN HILLS, INC.
FERN HILLS, INC. HAS LATE SURVEY MAP OF
LOT 3 AND LOTS 4 AND 5 MADE BY J. H. HARRIS
ON 10/15/1938. THIS MAP IS BEING SUBMITTED IN
COMPLIANCE WITH THE REQUIREMENTS OF
SECTION 110, N.C. CODE, AS AMENDED BY
SECTION 111, N.C. CODE.

NORTH CAROLINA - HARRIS COUNTY
FILED FOR REGISTRATION THIS DAY OF
NOVEMBER 1938 IN THE PUBLIC
RECORDS OF HARRIS COUNTY

REGISTRY OF DEEDS

MINUTES CONTINUED FROM JULY 6, 2023

- We were having a public meeting on Thursday, July 13th at the First Free Will Baptist Church from 5:00 PM till 7:00 PM to review the draft copy of our updated Land Use Plan. We planned to incorporate any additional feedback received at this meeting and update the plan to include that information and present it to the Planning Board at our July meeting to get their input. We planned on taking their input and finalizing everything. We planned to present a final copy to the Planning Board at their August meeting. He was planning on sharing the proposed plan with the Town Board at our August workshop meeting and having staff from Stewart here at our September meeting to present the plan to the Town Board.
 - He thanked the members of the First Free Will Baptist Church for allowing us to host this meeting at their church.
- He planned on reaching out to Bruce with NC Commerce to get an update on the CORE program that we were selected to be in. We had planned on starting the work in the fall. Hopefully, it will be good timing with our updated Land Use Plan and a hopeful start of updating our ordinance.
- Johnson Brothers were scheduled to resurface the roads in July. They were supposed to have the work done before June 30th but did not. These roads were included in the Powell Bill 2022-2023 resurfacing project awarded a few months ago.
- We received 6 Submittals on West K. I may not be available at the July Workshop but if not, we definitely planned to have a contract for the Board of Commissioners at the August meeting.
- He would be looking at the Pope drainage (North 9th Street) with Public Works Direct Mark Byrd next week and preparing a Bid Form.
- We were going to have a meeting with V1 Fiber soon to discuss what we expect out of them to fix the damage they caused on West E Street when they hit the water line while installing fiber. The road was passable at the moment but it was damaged and needs to be fixed. During this meeting, we were also going to follow up with them and ensure that they start filling in all of the holes that they have dug into our streets as well. They have started filling in some of the holes but not all of them. We were still filing complaints and V1 Fiber is addressing them as we report them. The vast majority of complaints had been handled to the best of his knowledge. If you or anyone you know had an issue please let Town Staff know and we would address it.
- We were working with HRW on an RFQ and an Interlocal Agreement for the St. Matthews ARPA funds. The current thought was to use ARPA for water and the developer is responsible for sewer. We were expecting to receive the construction drawings for the planned unit development off of St. Matthews next week.
- The Ample Storage site was still under review with the State of North Carolina Department of Environmental Quality.
- The Powell Bill submittal deadline was 7/21.
- We would be hosting the 10-U Tar Heel All-Stars baseball tournament at Al Woodall Park the following week.

ATTORNEY'S REPORT

Town Manager Snow Bowden informed the Board that our Town Attorney Tim Morris asked him to thank everyone for all of their thoughts and prayers. Mr. Morris also insisted that Mr. Bowden give his report and say "Thank you for letting me be your Town Attorney."

MINUTES CONTINUED FROM JULY 6, 2023

GOVERNING COMMENTS

Commissioner McKoy thanked Town Manager Snow Bowden for the fantastic job with the Stormwater issues. He echoed the Land Use Plan update meeting being held on July 13th at First Free Will Baptist Church. It will be a Public Meeting from 5:00 PM to 7:00 PM. He asked the citizens to tell their neighbors and everyone to come if they can. This was our Town we were talking about.

Commissioner Byrd thanked all of our Town Staff for the great job they were doing. He stated he spoke with Town Manager Snow Bowden about a water problem at the corner of 12th Street and D Street, behind the school. He clarified that the County would take responsibility for moving the water.

Town Manager Snow Bowden stated that was what he was originally told but they thought there may have been some changes.

Commissioner Byrd stated good things were going on in Erwin.

Commissioner Turnage stated he wanted to comment on the speed trap on Iris Bryant Road. Someone took down the speed marker at the corner of Iris Bryant Road and Chicora Club Drive and it was laying on the edge of the road. He called Public Works on Monday and it was still laying there on Thursday. A car had to have hit the speed limit sign and damaged the car. He reported that four speed marker signs from Iris Bryant Road to S 13th Street have been taken down and never replaced. He asked the Board to go by The Gettin Place in south Erwin. He spoke with Code Enforcement Officer Chris Jones who had already spoken with the owner of the property. The owner promised to clean it up and he had not at the time of our meeting. He asked if the house on riverside was zoned for residential because it is a junk pile.

Town Manager Snow Bowden stated we were aware and was waiting for Town Attorney Tim Morris to come back in practice and we would get it cleaned up.

Commissioner Turnage stated he was proud of Erwin, he had lived here 88 years. We have some places that need to be cleaned up. We need to back up Mr. Jones. It was time to get things done in Erwin, whatever it takes. The grass at the intersection of Iris Bryant Road and S 13th is out of hand. The lot behind E-Mart is also high.

Commissioner Byrd thanked Code Enforcement Officer Chris Jones for all he has done. He had his hands full coming in as long as we went without a Code Enforcement Officer.

Mayor Baker thanked the citizens and extended a special invitation to come back next month. He echoed the comments of Commissioner McKoy, the Land Use Plan updates meeting was so important for us to hear from our citizens. This was our Town and it needed to be shaped, molded and developed the way our citizens what to see it. The Town Board will listen to you and we need your input. He pointed out Si Harrington in the audience. He stated Mr. Harrington was a very important gentleman in our community and he can tell you anything you want or need to know about the history of Erwin. The Town received a bench dedication at our History Room by a young man fulfilling his Eagle Scout Project. We would like to implement a history trail and each historically significant place would have its own dedicated bench, similar to the bench in front of the History Room. Mayor Baker planned to donate a bench in honor of his mother. He hoped this program would spread to our businesses and people in Town to buy back into this Town that we call home. If we do not love it, who else will?

MINUTES CONTINUED FROM JULY 6, 2023

Mayor Baker expressed his appreciation for his invitation to the Good Fellas breakfast. Those who missed it on Tar Heel Traveler missed a treat because it echoed people from Erwin and how they hold onto friendship. He thanked the citizens for their participation in our Meeting and asked them to please come back next month. He thanked all Town Staff for all their efforts. Without our staff, we cannot do anything.

ADJOURNMENT

Commissioner Byrd made a motion to adjourn at 7:57 P.M. and was seconded by Commissioner McKoy. **The Board voted unanimously.**

MINUTES RECORDED AND TYPED BY

LAUREN EVANS TOWN CLERK

ATTEST:



Randy Baker

Mayor



Snow Bowden

Town Manager