

**THE ERWIN BOARD OF COMMISSIONERS
JUNE 2023 REGULAR WORKSHOP
MONDAY, JUNE 26, 2023 @ 6:00 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. **NEW BUSINESS**
 - A. Pavement Condition Study (**Page 2**)
 - B. Al Woodall Park Parking (**Page 29**)
 - C. American Tower (**Page 32**)
 - D. Personnel Policy Update (**Page 103**)
 - E. Wondertown Drive Subdivision Preliminary Plat (**Page 104**)
 - F. ZT-2023-003 (**Page 112**)
 - G. Zoning Updates Text Amendment (**Page 120**)
 - H. M-1 Zoning Text Amendment (**Page 142**)
 - I. Erwin Fire Department (**Page 148**)
 - J. BOA-2023-08 (**Page 149**)
 - K. Contract for Computer Support Services (**Page 150**)

4. **MANAGER'S REPORT**

5. **GOVERNING COMMENTS**

6. **ADJOURNMENT**

ERWIN BOARD OF COMMISSIONERS
REGULAR WORKSHOP MINUTES
JUNE 26, 2023
ERWIN, NORTH CAROLINA

The Board of Commissioners for the Town of Erwin with Mayor Randy Baker presiding held its Regular Workshop in the Erwin Municipal Building Board Room on Monday, June 26, 2023, at 6:00 P.M. in Erwin, North Carolina.

Board Members present were: Mayor Randy Baker and Commissioners David Nelson and Timothy Marbell.

Board Members absent were: Mayor Pro Tem Ricky Blackmon, and Commissioners Alvester McKoy, Charles Byrd, and William Turnage

Town Manager Snow Bowden and Town Clerk Lauren Evans were present.

Mayor Baker called the meeting to order at 6:00 P.M.

Commissioner Marbell led the Pledge of Allegiance.

AGENDA ADJUSTMENT/APPROVAL OF AGENDA

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

NEW BUSINESS

Pavement Condition Study

Steve Lander, Director of Pavement Management at WithersRavenel, came forward and presented a presentation to the Board with WithersRavenel's findings. The roads in Erwin are on the high end of poor condition and the low end of fair condition. He recommended annual roadway funding, regular pavement condition studies every 2-3 years, utilizing the full repair toolbox, lifecycle modeling, and integrating with other assets.

The presentation is attached to these minutes as attachment #1.

Al Woodall Park Parking

Town Manager Snow Bowden stated Town Engineer Bill Dreitzler prepared the plan presented a year or so ago. At that time the Board was not ready to move forward with it but now we see a need for more parking. We had two options which would add about 31 additional parking spots. We may need to take a couple of spots out to add on to the connection and it would require a lot of dirt to be hauled in. He also mentioned that there was a creek in the area that we would need to tile in. We were possibly looking at an \$80,000-\$90,000 estimate. This will not solve our parking issue at Al

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: June 22, 2023

Subject: Pavement Condition Study

We will learn the results from our pavement condition study that was prepared by the firm Withers Ravenel at this workshop meeting. Steve Lander will be at the meeting to discuss the findings and a potential action plan.

Attachments:

- PCS presentation



FRONT PORCH FRIENDS

Town of Erwin, NC 2023 Pavement Condition Survey Deliverables Meeting

June 19, 2023



FIRM PROFESSIONALS

STEVE LANDER, PE

Director of Pavement Management
30 Years of Experience

Rob Holland

Construction Manager II
Construction Administration
35 Years of Experience

Zach Ward, EI

Field Technician
3 Years of Experience

Justin Richardson

GIS Technician
15 Years of Experience



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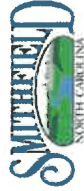
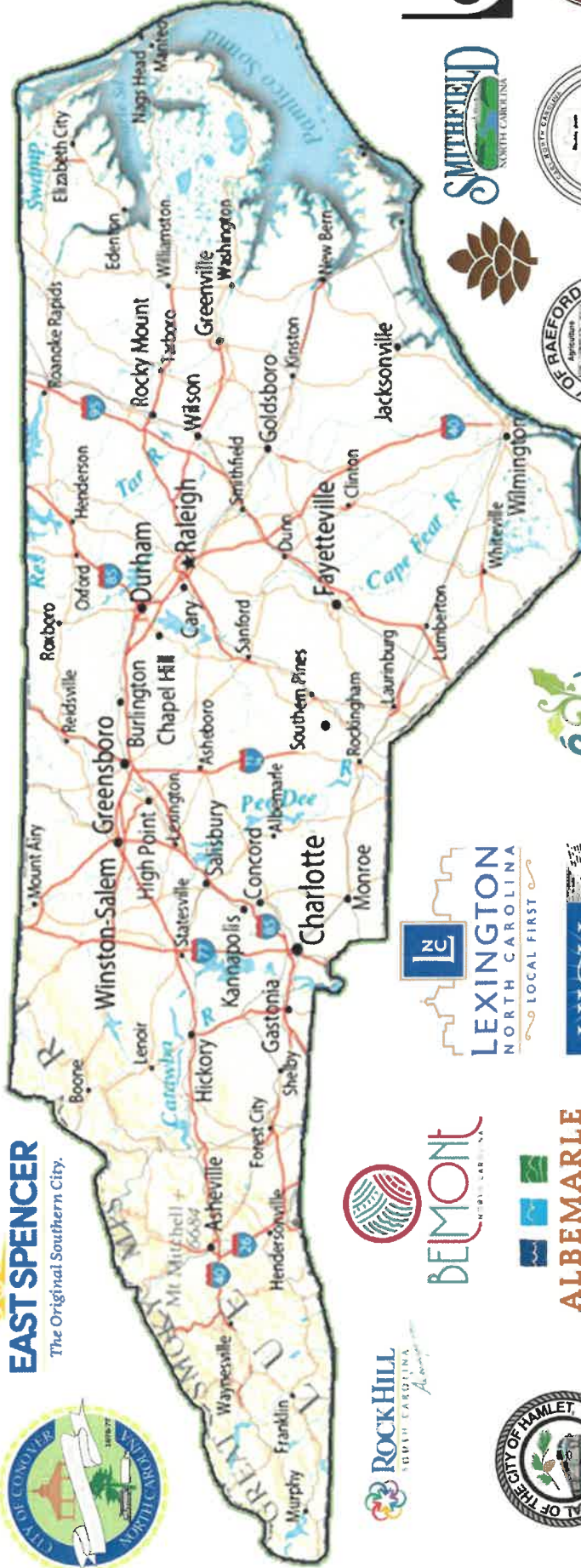
FRONT PORCH FRIENDS



EAST SPENCER
The Original Southern City.



Rolesville
Est. 1837
Sustaining Community • Capital Connection



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Project Deliverables

- Appendix B – Street Listings
- Database
- GIS
- PCI Map
- Presentation
- Report and Figures



PROJECT PURPOSE

- Phase 1 – Pavement Condition Survey (PCS)
 - FHWA recommends a survey every 2-3 years
 - Unbiased Perspective
- Report



PCS

Windshield survey

- Experienced 2-person crew
- Survey vehicle maintains 5-10 mph speed

Equipment

- Vehicle
- Laptop – Field Application
- Measuring wheel
- GPS

Safety

- PPE • Vehicle mounted signs • Strobe lights

Pavement Condition Survey

Map: Desktop Tablet Home Tablet Type Scale Address Latitude Longitude City

Latitude: 40.61137
Longitude: 89.61137

Map: N -1 0 1 2 3

Width: 30 Length: 0.75 Lanes: 2

Square Yards: 2,931

GIS Length: 879.21

Pavement Type: Paved Unpaved Concrete Bittek Composite

Current PCI: 20.1 Previous PCI: 0

Current Rating: 23 (High/5-75) Previous Rating: 100

Fatigue Cracking: 100 (None)

Block Cracking: 100 (None)

Patching/Potholes: 94 (High/0-5)

Surface Defects: 68 (Medium/Extreme)

Roughness/Riding: 100 (None)

Reflective Cracking: 100 (None)

Comment:

Median: No Yes

Shoulders: No Yes

Check Seal: No Yes

Sub Gutter: 0 1 2

Sub Cause Type: None Roll Std Valley Vert Other

Pavement in Gutter: No Yes

Subway: None One Both

Marking Condition: N P F G

Special Humps: No Yes

Box Lane: No Yes

Drainage: No Yes

Spot Repair Tree Mark: N C S TR

Save QC Complete Repair Cancel

1625663.931 763269.144 Feet

PCS Methodology

- Erwin maintains 30 miles of asphalt pavement streets
- WR completed the PCS in April 2023
- Seven common pavement surface distresses observed (LTTP)

1. Fatigue Cracking (3x6)
2. Transverse Cracking (3x4)
3. Block Cracking (3x6)
4. Patching/Potholes (3x6)
5. Surface Defects (3x4)
6. Rutting/Roughness (3x4)
7. Reflective Cracking (3x4)



Permeant Condition Survey

Prefix: Division: Street Name: Street Type: Suffix: Completed Today: 0

From: To: Class: Jurisdiction: Total Remaining: 0

Asphalt Height: -2 -1 -N 1 2 3

Width: Length: Lanes:

GIS Length: Square Yards:

Current Rating: Previous Rating:

Material: No Yes

Shoulder: No Yes

Crack Seal: No Yes

Sub. Seal: 0 1 2

Call. Grade Type: None Roll Sid Valley Van Other

Permeant Inflow: No Yes

Storm: None One Both

Flowing Condition: N P F G

Shouldering: No Yes

Man Lane: No Yes

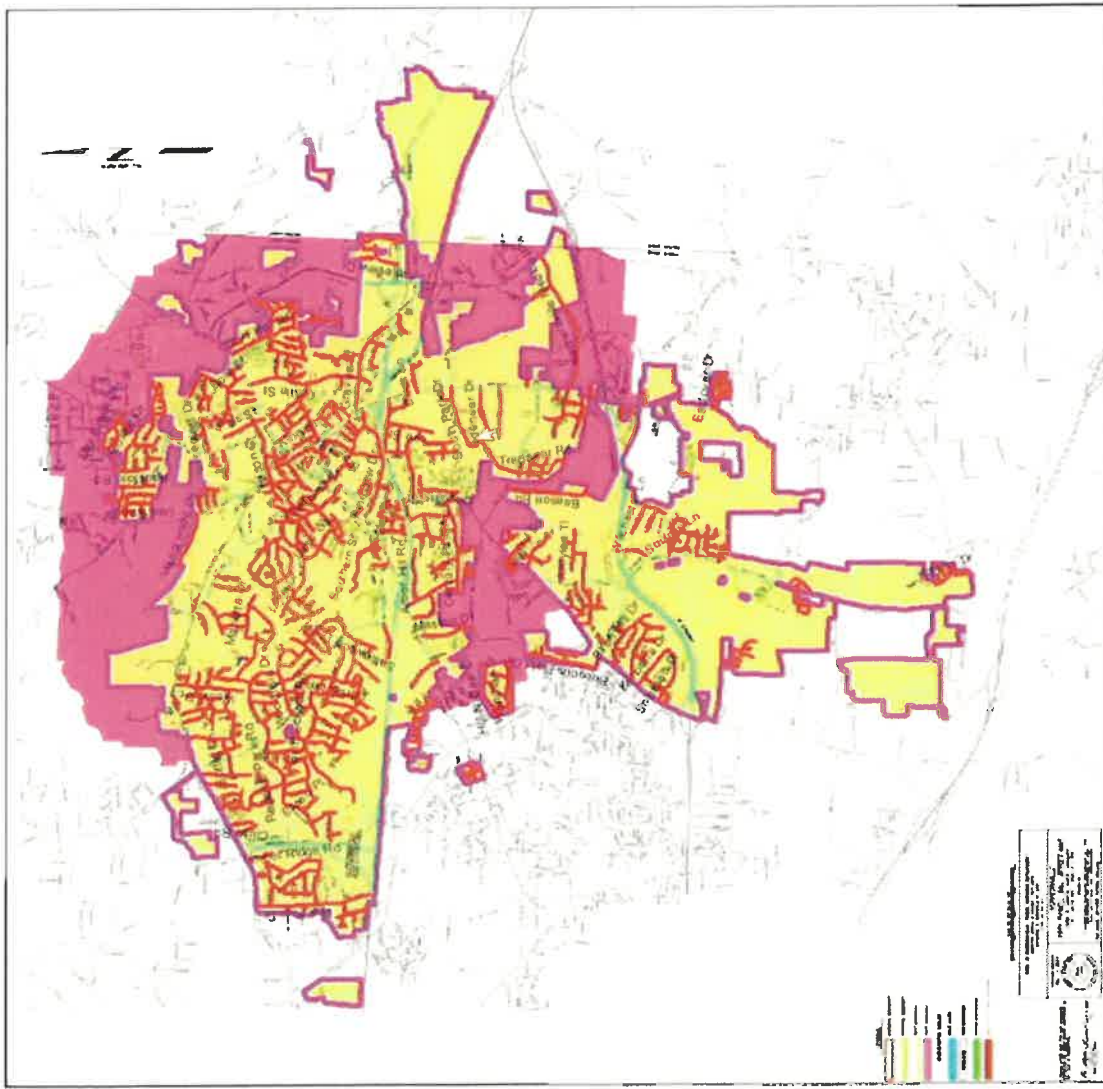
Driveway: No Yes

Street Rec'd: No Yes

Street Rec'd: N O S TR

Comment:

Save QC Complete Repair Reset Cancel



Basic Street Inventory

Table 3 – Pavement Types

Surface Type	Miles	Percent of System
Asphalt Pavement (P)	30.15	100.0%
Unpaved (U)	0.00	0.0%
Total	30.15	100.0%

Basic Street Inventory

Table 4 - Low and High-Volume Street Breakdown

Volume	% Miles	Miles	Lane Miles	Avg Rating	Cost Per Mile	Total Cost	% Cost
Low	89.7%	27.03	54.06	66	\$242,995	\$6,568,147	86.7%
High	10.3%	3.12	6.30	60	\$324,266	\$1,011,709	13.3%
Total	100.0%	30.15	60.36	65	\$251,405	\$7,579,856	100.0%

Basic Street Inventory

Table 5 – Additional Attributes

Attribute	Present (%)	Miles	Good (%)	Fair (%)	Poor (%)
Shoulder Drop Offs	23.2%	7.0	-	-	-
Noticeable Drainage Issues	6.4%	1.9	-	-	-
No Shoulders Present	19.4%	5.8	-	-	-
Pavement Marking Condition	4.7%	1.4	0.0%	2.5%	2.2%
Tree Root Damage	8.8%	2.7	-	-	-

* % is based on the percentage of the total roadway mileage (30.15)

Fatigue Cracking (FC)												Surface Defects (SD)											
Severity	Extent (Miles)						Total Miles	% Miles	Extent (Miles)						Total Miles	% Miles							
	0 to 5%	5 to 10%	10 to 25%	25 to 50 %	50 to 75%	75 to 100%			Low	Med	High	Extreme	< 25%	25 to 50%			50 to 75%	75 to 100%					
None							12.48	41.4%															
Low	4.25	2.59	0.63	0.00	0.00	0.00	7.47	24.8%															
Medium	3.58	1.27	1.51	0.74	0.11	0.00	7.20	23.9%															
High	1.19	0.34	0.65	0.69	0.13	0.00	3.00	10.0%															
Transverse Cracking (TC)												Rutting/ Roughness (RR)											
Severity	Extent (Miles)						Total Miles	% Miles	Extent (Miles)						Total Miles	% Miles							
	> 100'	100' to 50'	50' to 25'	25 to 50'	50 to 75%	75 to 100%			Low	Med	High	Extreme	< 25%	25 to 50%			50 to 75%	75 to 100%					
None							8.07	26.8%															
Low	2.04	2.31	0.91	0.14	0.14	0.14	5.40	17.9%															
Medium	2.70	6.96	2.58	0.89	13.14	43.6%																	
High	0.32	1.86	1.11	0.25	3.54	11.7%																	
Block Cracking (BC)												Reflective Cracking (RC)											
Severity	Extent (Miles)						Total Miles	% Miles	Extent (Miles)						Total Miles	% Miles							
	0 to 5%	5 to 10%	10 to 25%	25 to 50 %	50 to 75%	75 to 100%			Low	Med	High	Extreme	> 100'	100' to 50'			50' to 25'	< 25'					
None							16.92	56.1%															
Low	0.07	0.53	0.71	0.43	0.27	0.00	2.01	6.7%															
Medium	1.28	2.32	2.59	1.97	1.26	0.91	10.33	34.3%															
High	0.30	0.17	0.00	0.09	0.21	0.09	0.88	2.9%															
Patching Potholes (PP)												Severely Cracking (SC)											
Severity	Extent (Miles)						Total Miles	% Miles	Extent (Miles)						Total Miles	% Miles							
	0 to 5%	5 to 10%	10 to 25%	25 to 50 %	50 to 75%	75 to 100%			Low	Med	High	Extreme	> 100'	100' to 50'			50' to 25'	< 25'					
None							21.12	70.1%															
Low	2.05	0.41	0.00	0.00	0.00	0.00	2.46	8.2%															
Medium	2.23	0.24	0.09	0.00	0.00	0.00	2.56	8.5%															
High	3.67	0.34	0.00	0.00	0.00	0.00	4.01	13.3%															

Findings

- PCI = 65
- Other Municipalities
- Network Condition – “Fair”
- Current Backlog = \$7.6M

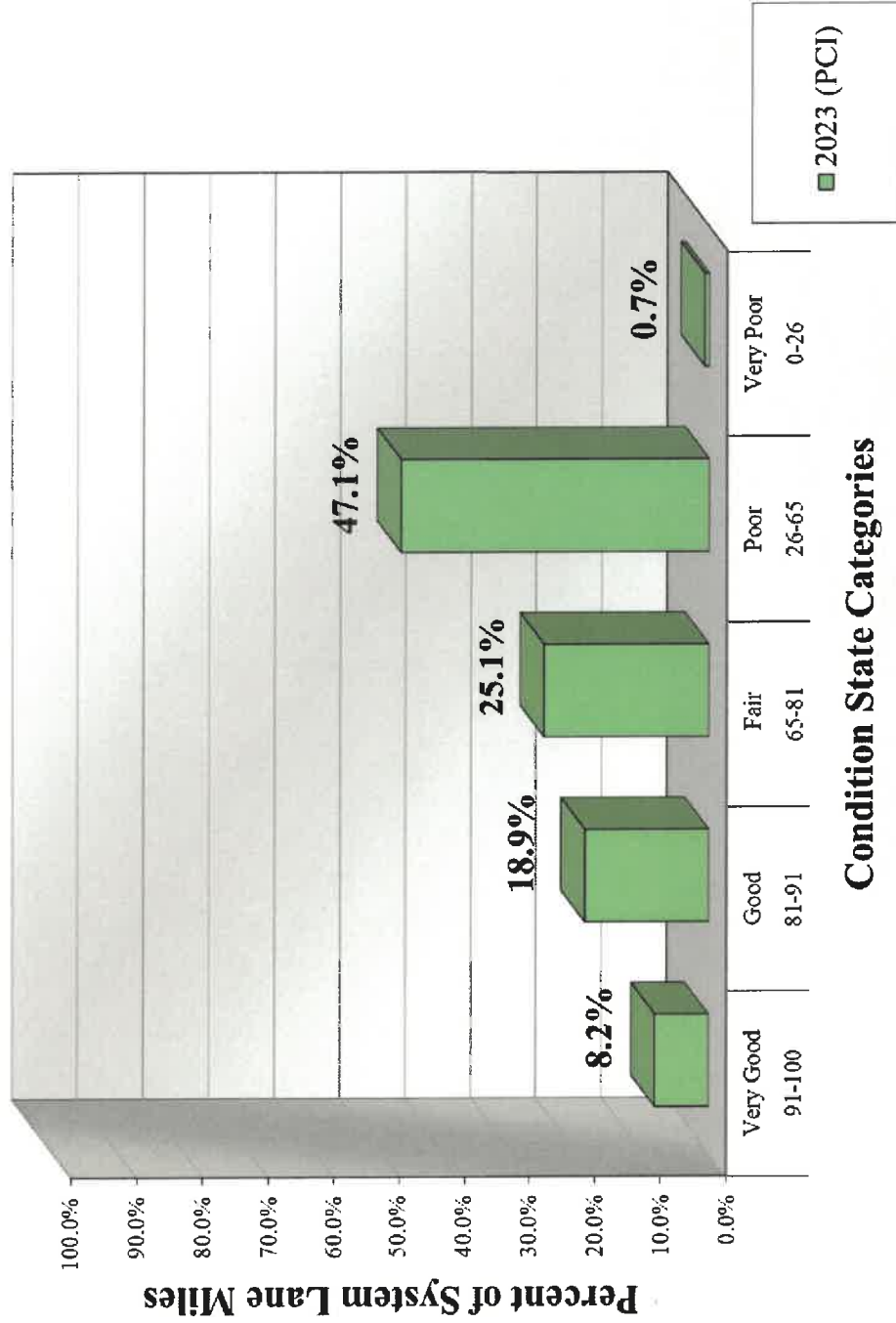
PCI Condition State	
VERY GOOD	91 – 100
GOOD	81 – 91
FAIR	65 – 81
POOR	26 – 65
VERY POOR	0 – 26



Table 1 - Municipal PCI Comparison

Municipalities	Centerline Miles	PCI
Apex	133	79
Asheville	411	61
Belmont	60	73
Cary	522	82
Clayton	92	69
Clemmons	76	78
Clinton	49	73
Conover	54	74
Erwin	30	65
Elkin	28	67
Greensboro	1,047	53
Havelock	47	68
High Point	450	66
Kernersville	98	69
Lexington	126	65
Morrisville	60	85

Figure 2 - Condition State Categories for 2023



Unit Costs

Table 7 – Repair Activities and Unit Costs

Repair Activity	Unit Cost	Segment Life Extension (YR) *	\$/SY/YR*
Preservation – Prevent (Rejuvenator)	\$1.20/SY	4	\$0.30
Crack Sealing	\$0.85/SY	4	\$0.21
Patching (4" Full-Depth Asphalt)	\$56.00/SY	15	\$3.73
Preservation – Correct (Micro Surface)	\$6.00/SY	5	\$1.20
Rehabilitation (2" Mill and Overlay)	\$40.00/SY	17	\$2.35
Reconstruction	\$55.00/SY	25	\$2.20

* Numbers are averages and can vary with costs and pavement performance; \$/SY/YR = Unit Cost divided by Segment Life Extension (YR)

Note: All Unit Costs are industry averages and are subject to fluctuation due to quantities and contractor responsiveness.

Repair Activity Recommendations

Table 2 – Repair Activity Recommendations

PCI Range	Recommended Repair Activity
81 to 100	Preservation – Prevent, Crack Sealing, or Patching
65 to 81	Preservation – Correct
26 to 65	Rehabilitation
0 to 26	Reconstruction

Repair Activities



Rejuvenator



Micro Surfacing



Rehabilitation



Reconstruction (FDR)



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Repair Activities

Table 8 - Summary Table of Repair Activities

Primary Activity	Centerline Miles Low Vol	Cost Low Vol	Centerline Miles High Vol	Cost High Vol	Total Centerline Miles	% Miles	Total Cost	Cost/ Mile	% Cost
Preservation - Prevent	1.87	\$25,284	0.00	\$0	1.87	6.2%	\$25,284	\$13,521	0.3%
Crack Sealing	1.35	\$14,834	0.37	\$3,922	1.72	5.7%	\$18,756	\$10,905	0.2%
Patching	2.36	\$124,578	0.10	\$13,793	2.46	8.2%	\$138,371	\$56,248	1.8%
Preservation - Correct	6.94	\$504,273	0.59	\$44,842	7.53	25.0%	\$549,115	\$72,924	7.2%
Rehabilitation	12.35	\$5,809,427	1.87	\$895,017	14.22	47.2%	\$6,704,444	\$471,480	88.5%
Reconstruction	0.13	\$89,751	0.09	\$54,135	0.22	0.7%	\$143,886	\$654,027	1.9%
Total Repair	25.00	\$6,568,147	3.02	\$1,011,709	28.02	92.9%	\$7,579,856	\$270,516	100.0%
No Repair	2.03	\$0	0.10	\$0	2.13	7.1%	\$0	\$0	0.0%
Total System	27.03	\$6,568,147	3.12	\$1,011,709	30.15	100.0%	\$7,579,856	\$251,405	100.0%

Figure 3 - Distribution of Repair Needs by Repair Category
Percentage of Total Lane Miles
Total Lane Miles: 60.36

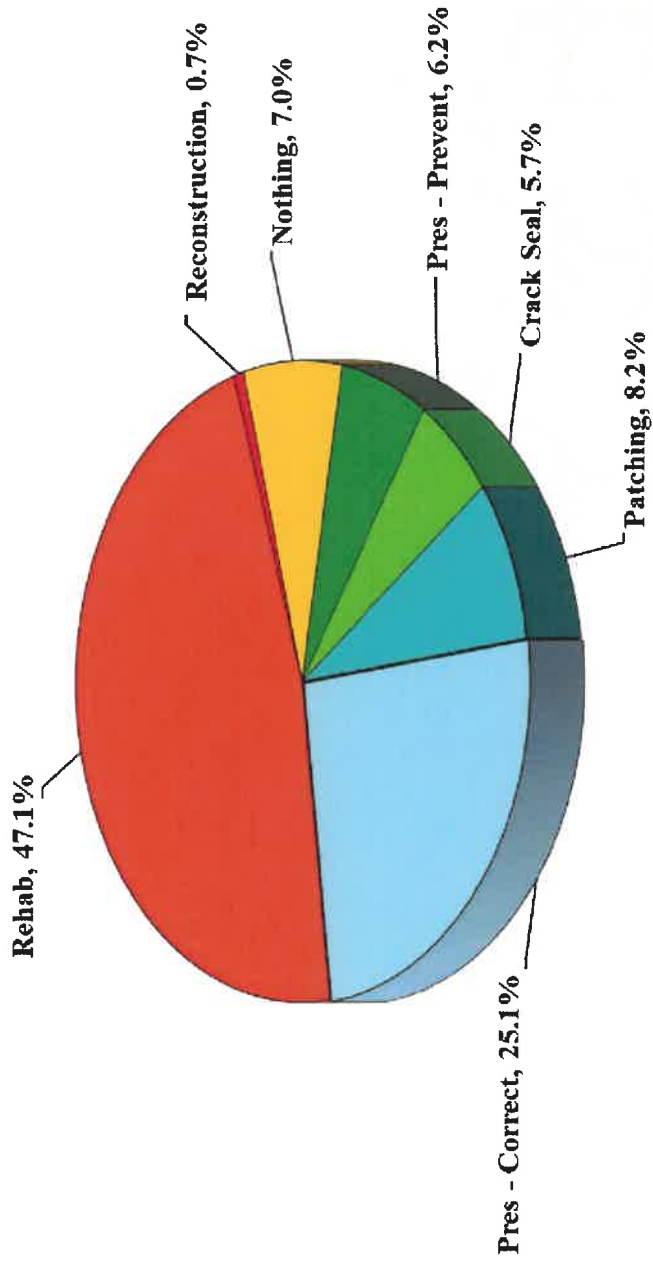
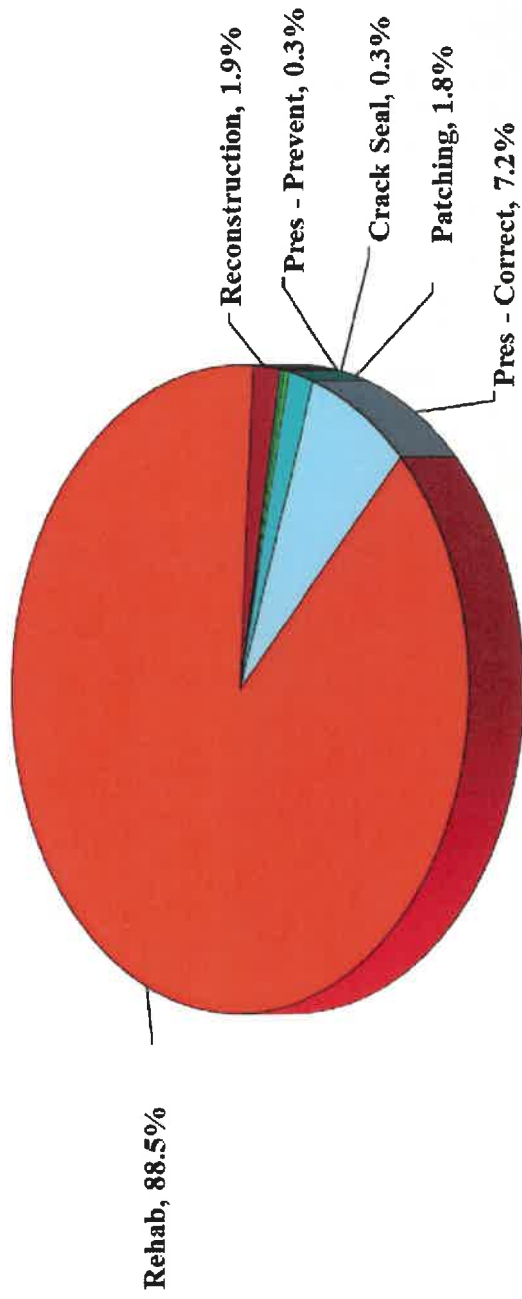


Figure 4 - Distribution of Repair Costs by Repair Category
Percentage of Total Cost
Total Cost: \$7,579,856



Roadway Assets

- Erwin Streets – 358,521 SY
- Reconstruction Unit Cost – \$55.00/SY
- Roadway Assets = \$19.7M

Recommendations

- **Annual Roadway Funding**
 - \$10,000 to \$15,000/centerline mile/YR
 - \$300,000/YR to \$450,000/YR
- **Regular PCSs (Every 2-3 Years)**
- **Utilizing the Full Repair Toolbox**
- **Lifecycle Modeling**
- **Integrate with Other Assets**

Contract Documents – Phase 2





Phase 3 - Construction Inspection



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FRONT PORCH FRIENDS

WithersRavenel

Steve Lander, PE – 336.215.5521

Zach Ward, EI – 910.770.7589



MINUTES CONTINUED FROM JUNE 26, 2023

Woodall Park but it would help temporarily. We have applied for grant funding to assist in gaining back access to field 4.

The consensus of the Board was to hold this conversation until more Board Members were present at our July Workshop.

American Tower

Town Manager Snow Bowden stated the Town received a counteroffer from American Tower. The most they were willing to guarantee was 10 years of rent. They offered the same terms as last time with the \$10,000 one-time signing bonus, \$1,750.00 per month rent, and a 10% term escalator every five years. He stated he cannot tell the Board that American Tower will not leave.

The consensus of the Board was to hold this conversation until more Board Members were present at our July Workshop.

Personnel Policy Update

Town Erwin Manager Snow Bowden stated we will be implementing an employee of the quarter program. He and Town Clerk Lauren Evans felt it would be beneficial to update our personnel policy to provide the honoree with one day of leave to take within the next three months. The leave cannot be used to extend a holiday or split into increments.

The consensus of the Board was to place this item under Consent on the agenda for our Regularly Scheduled Meeting in July.

Wondertown Drive Subdivision Preliminary Plat

Town Manager Snow Bowden informed the Board that this subdivision would provide 11 proposed lots on Wondertown Drive. He was still waiting on the developer to get back to him regarding the corner lots between Erwin Road and Bayles Street. According to the Harnett County GIS, there is a stormwater easement but the easement was not included on the map. The Planning Board did recommend this for approval. This is a preliminary plat and Harnett County will still have to ensure that Harnett Regional Water can provide water and sewer to all 11 lots. The prior request in this area was for 34 lots and was a lot higher density. He stated the developer has cleaned up the area and will have to prove that there are no wetlands prior to developing in that area. This subdivision will help clean up that section of Wondertown and will be a big win for the community.

The consensus of the Board was to place this item under New Business on the agenda for our Regularly Scheduled Meeting in July.

ZT-2023-003

Town Manager Snow Bowden informed the Board that this rezoning case will be presented at our Regularly Scheduled meeting in July. The request is to have a vacant parcel located at the corner of

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: June 26, 2023

Subject: Al Woodall Park Parking

Our Town Engineer Bill Dreitzler prepared this plan a year or so again. At the time, we were not ready to move forward with it. This proposed plan would allow us to expand our current parking lot at Al Woodall Park and utilize the area that used to have the gazebo located on it. This is a preliminary plan that would allow for 31 additional spots. We would lose three spots from our existing parking lot to make this work. These improvements would require a lot of dirt to be hauled in to level the area to prepare the site for the additional parking. In the current market, I would estimate that this project might be a \$60-\$70k job.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: June 26, 2023

Subject: American Tower

I reached back out to De'Andre Freeman based on the conversation that we had at our last workshop meeting. He countered back with the same terms and a 10 year rent guarantee.



May 2, 2023

TOWN OF ERWIN NC
ATTN: Snow Bowden
PO BOX 459
ERWIN, NC 28339

RE: American Tower Site No. 273036 / ERWIN NC ("Tower Site")

Dear Valued Landlord,

As the leading independent operator of wireless and broadcast communication sites, American Towers LLC (together with its affiliates and subsidiaries, "American Tower") understands the importance of maintaining productive long-term relationships with its landlords. American Tower has therefore engaged MD7 to reach out to its landlords to review ways to grow and develop those relationships.

Based upon current market conditions, we need to adjust the financial terms of this Tower Site's contract in order to ensure the long-term stability of the Tower Site and allow all parties to benefit. The proposal below outlines two options available for the tower on your property:

Option 1: Rent Reduction

- A one-time signing bonus of \$10,000.00.
- \$1,750.00 per month commencing upon amendment completion.
- 10% term escalation will commence upon amendment completion.
- Providing 2 terms of 5 years each; final expiration date will be March 2, 2079.

Option 2: Perpetual Easement

- One-time payment of \$400,000.00 in exchange for a perpetual real estate interest.
- This can also be structured as a set number of guaranteed monthly or annual installments payments with interest, personalized to fit your long-term financial needs.

I look forward to working with you to secure this mutually beneficial relationship for the years to come. After you review the options outlined above, please contact me to discuss further.

Respectfully,
De'Andre Freeman
DFreeman@md7.com
(858) 401-7299

MD7 | Lease Consultant
An authorized vendor of American Towers LLC and its subsidiaries and affiliates

Date 4/20/23

TOWN OF ERWIN NC
PO BOX 459
ERWIN, NC 28339

**Re: Letter of Authorization
American Tower Site #273036**

Dear Landlord:

As you know, a subsidiary of American Tower Corporation built, acquired, subleases or manages the tower on your property. We very much appreciate the relationship we have with you and want to remain at this location for as long as possible. With that in mind, we would like to discuss several long-term options for qualifying Landlords.

American Tower has hired MD7 to work directly with you and to go over the features and potential long-term benefits of these programs. A member of the MD7 team, **De'Andre Freeman**, will be contacting you in the near future and can be reached directly at **858-401-7299**.

Thank you and I look forward to our continued relationship.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory M. Pearson', written in a cursive style.

Gregory M. Pearson
Manager, Land Acquisitions

OPTION AGREEMENT TO PURCHASE COMMUNICATIONS EASEMENT

THIS AGREEMENT (this "**Option Agreement**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between [ATC Entity], a Delaware limited [Incorporation] ("**Buyer**") and [Landlord Entity], [Status/Incorporation] ("**Seller**") (Buyer and Seller being collectively referred to herein as the "**Parties**").

In consideration of the foregoing recitals and the mutual covenants set forth herein, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Seller hereby grants to Buyer an exclusive option (the "**Option**") to purchase a communications perpetual, exclusive easement and perpetual, non-exclusive access and utility easement (collectively, the "**Easements**"), which Easements shall be memorialized in an easement agreement, the form and substance of which shall be substantially similar to the agreement attached hereto as **Exhibit A** and incorporated herein by reference (the "**Easement Agreement**"). The Easement Agreement shall grant, convey, and transfer to Buyer certain rights as described in the Easement Agreement over, across, in, and under that certain real property owned by Seller in the County of [County], State/Commonwealth of [State] (the "**Premises**"), and on which Buyer currently leases or subleases land from Seller pursuant to the terms of that certain [Name of Lease] dated [Date] (as the same may have been amended and modified from time to time, the "**Lease**"). The Seller shall also assign to Buyer all of Seller's right, title and interest in the Lease, including, but not limited to, Seller's right to collect any rent as described in the Lease. The Buyer shall have the sole, exclusive and absolute right to exercise the Option as provided herein. Seller hereby represents and warrants that it has the full power and authority to enter into this Option Agreement and the person(s) executing this Option Agreement on behalf of Seller, as the case may be, have the authority to enter into and deliver this Option Agreement on behalf of Seller. If applicable, Seller shall execute a resolution and consent affidavit prepared by Buyer evidencing proper signing authority, or Seller must otherwise demonstrate, in Buyer's sole and absolute discretion, the person(s) executing this Option Agreement on behalf of Seller, have the authority to enter into and deliver this Option Agreement on behalf of Seller.
2. Subject to the terms of this Option Agreement, Buyer may exercise the Option by countersigning the Easement Agreement and paying to Seller an amount equal to _____ and **No/100 Dollars** (\$_____) [the "**Purchase Price**"] by check or by wire transfer of funds. The day on which payment is made to Seller is referred to herein as the "**Closing**". Buyer shall have the right to deduct from the Purchase Price, on a prorated basis, any prepaid monthly and/or annual rental payments made pursuant to the Lease, which are attributable to the period subsequent to the first day of the next calendar month following the date of Closing. Seller agrees to accept the Purchase Price as full and final compensation for conveying the Easements to Buyer. The Purchase Price shall be paid to, and all taxable income shall be reported by, _____. From and after the Option Effective Date, Seller shall not (and hereby agrees not to) solicit or accept any offers to purchase, lease, license, or otherwise transfer, convey, and/or assign any easement or other interests, rights, and/or title in and/or to all or any portion of the Premises or the Lease, or continue negotiations with other potential purchasers or other third parties with respect to the same, until the Termination Date (as defined below).
3. The Parties shall use best efforts to close the transaction contemplated herein within ninety (90) days of the Effective Date. Unless otherwise agreed to in writing by the Parties, this Option Agreement shall automatically terminate upon the earlier of the date of Closing or the 180th day following the Effective Date (said date being referred to herein as the "**Termination Date**"). Between the Effective Date and the sooner of the date of Closing or Termination Date, Buyer and its agents, employees, contractors, and designees may hereafter enter the Premises for the purposes of inspecting, surveying or otherwise evaluating the Premises to determine whether Buyer will, in its sole and absolute discretion, exercise the Option. Seller shall provide Buyer with any reasonable documentation requested by Buyer to facilitate payment to Seller or to otherwise assist in expediting Buyer's completion of its due diligence. If all or any portion of the Premises is encumbered by a mortgage or other security instrument, Seller agrees to obtain a Non-Disturbance Agreement ("**NDA**") from the applicable lender(s) on a form to be provided by Buyer. If, despite Seller's best efforts, Seller is unable to obtain the NDA, Seller may request a risk assessment to determine whether Buyer will exercise the Option without an NDA, in which case Seller shall provide Buyer with authorization to verify Seller's credit

worthiness and any additional documentation and/or information requested by Buyer in connection with such risk assessment.

4. Seller shall execute and deliver to Buyer the Easement Agreement, together with any other documents reasonably necessary for Buyer to record the Easement Agreement with the appropriate recorder's office and to obtain title insurance. In the event Seller executes and delivers the Easement Agreement to Buyer prior to Closing, said documents shall be held in escrow by Buyer until the earlier of Closing or termination of this Option Agreement as provided hereunder.
5. Seller hereby acknowledges and agrees that Buyer has not made any representations or warranties to Seller, including, without limitation, Buyer's likelihood of exercising the Option or the tax implications of the contemplated transaction, and the Parties further agree that all terms and conditions of the Option Agreement are expressly stated herein.
6. The Parties agree and intend for this Option Agreement to be a legally binding contract and for the terms of this Option Agreement (as well as any information furnished to Seller by Buyer in connection herewith) to remain confidential. Except for Seller's family, attorney or broker, if any, or if required pursuant to a court action or applicable law, Seller shall not disclose the terms of this Option Agreement without the prior written consent of Buyer, which may be withheld or conditioned in Buyer's sole and absolute discretion. This provision shall survive Closing and/or the termination of this Option Agreement.
7. This Option Agreement may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Option Agreement by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Option Agreement by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Option Agreement by all Parties to the same extent as an original signature. This Option Agreement shall be governed and construed by the laws of the State or Commonwealth in which the Premises is located without regard to the conflicts of laws provisions of such State or Commonwealth. Buyer may assign its rights, title, and interest in and to this Option Agreement to an affiliate or subsidiary of Buyer without the consent or approval of (or notice to) Seller.
8. All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein; To Seller at: [Notice]; To Buyer at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
9. Unless extended by Buyer, in Buyer's sole and absolute discretion, this Option Agreement shall automatically become null and void and of no further force and effect if it is not executed by Seller and actually received by Buyer on or before _____, 201__.

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

BUYER:

[ATC Entity],

a Delaware limited [Incorporation],

Signature: _____

Print Name: _____

Title: _____

Date: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

SAMPLE

SELLER:

[Landlord Entity],
[Status/Incorporation],

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____

SAMPLE

EXHIBIT A

[EASEMENT AGREEMENT TO FOLLOW]

SAMPLE

Prepared by and Return to:

Attorney [Attorney], Land Management
Site No: [Site No]
Site Name: [Site Name]
c/o American Tower
10 Presidential Way
Woburn, MA 01801

(Recorder's Use Above this Line)

STATE/COMMONWEALTH OF [STATE]

Assessor's Parcel No.: [APN]

COUNTY OF [COUNTY]

EASEMENT AND ASSIGNMENT AGREEMENT

This Easement Agreement ("**Agreement**") dated as of _____, 201_ (the "**Effective Date**"), by and between [**Landlord Entity**], [Status/Incorporation] ("**Grantor**") and [**ATC Entity**], a Delaware limited [Incorporation] ("**Grantee**").

BACKGROUND

Grantor is the owner of the real property described in **Exhibit "A"** attached hereto and by this reference made a part hereof (the "**Premises**"). Grantor desires to grant to Grantee certain easement rights with respect to the Premises, as more particularly described below, and subject to the terms and conditions of this Agreement.

AGREEMENTS

For and in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

- Grant of Easements.** Grantor, for itself and its heirs, personal representatives, successors and assigns, hereby grants, bargains, sells, transfers and conveys to Grantee, its successors and/or assigns: (i) a perpetual, exclusive easement (the "**Exclusive Easement**") in and to that portion of the Premises more particularly described on **Exhibit "B"** attached hereto and by this reference made a part hereof (the "**Exclusive Easement Area**"); and (ii) a perpetual, non-exclusive easement (the "**Access and Utility Easement**"; the Exclusive Easement and Access and Utility Easement, collectively, the "**Easements**") in and to that portion of the Premises more particularly described on **Exhibit "C"** attached hereto and by this reference made a part hereof (the "**Access and Utility Easement Area**"; the Access and Utility Easement Area and Exclusive Easement Area, collectively, the "**Easement Areas**"). The Easement Areas shall be used for the purposes set forth herein and shall expressly include that portion of the Premises upon which any of Grantee's fixtures, structures, equipment or other personal property are located as of the date of this Agreement.
- Private Easement.** Nothing in this Agreement shall be deemed to be a dedication of any portion of the Easement Areas for public use. All rights, easements and interests herein created are private and do not constitute a grant for public use or benefit.

3. Successors Bound. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, personal representatives, lessees, successors and assigns. It is the intention of the parties hereto that all of the various rights, obligations, restrictions and easements created in this Agreement shall run with the affected lands and shall inure to the benefit of and be binding upon all future owners and lessees of the affected lands and all persons claiming any interest under them.

4. Duration. The duration of this Agreement and the Easements granted herein (the "**Term**") shall be perpetual, unless Grantee provides written, recordable notice of Grantee's intent to terminate this Agreement and the Easements described herein, in which event this Agreement, the Easements, and all obligations of Grantee hereunder shall terminate upon Grantee's recordation of any such notice. For the avoidance of doubt, Grantee may, in its sole and absolute discretion, unilaterally terminate this Agreement, the Easements, and all of Grantee's obligations hereunder without the approval of or consent of Grantor as provided in the immediately preceding sentence.

5. Easement Consideration. Grantor hereby acknowledges the receipt, contemporaneously with the execution hereof, of all consideration due hereunder. Accordingly, no additional consideration shall be due during the Term.

6. Use of Easement Areas.

a. Exclusive Easement. The Exclusive Easement Area may be used by Grantee and any of its affiliates, customers, tenants, subtenants, lessees, licensees, successors, and/or assigns together with any of the employees, contractors, consultants, and/or agents of the foregoing (collectively, the "**Permitted Parties**") for the purposes of installing, constructing, maintaining, operating, modifying, repairing and/or replacing improvements, equipment, structures, fixtures, a communications tower, antennae and other personal property as Grantee may deem necessary or appropriate, which may be located on or in the Exclusive Easement Area from time to time, for the facilitation of communications and other related uses. Any such property, including any equipment, structures, fixtures and other personal property currently on or in the Exclusive Easement Area, shall not be deemed to be part of the Premises, but instead shall remain the property of Grantee or the applicable Permitted Parties. At any time during the Term and at any time within 180 days after the termination of this Agreement, Grantee and/or any applicable Permitted Parties may remove their equipment, structures, fixtures and other personal property from the Easement Areas. Grantee may make, without the consent or approval of Grantor, any improvements, alterations or modifications to the Exclusive Easement Area as are deemed appropriate by Grantee, in its sole and absolute discretion. Grantee shall have the unrestricted and exclusive right, exercisable without the consent or approval of Grantor, to lease, sublease, license, or sublicense any portion of the Exclusive Easement Area, but no such lease, sublease or license shall relieve or release Grantee from its obligations under this Agreement. Grantor shall not have the right to use the Exclusive Easement Area for any reason and shall not disturb Grantee's nor any Permitted Parties' right to use the Exclusive Easement Area in any manner. Grantee may, at Grantee's sole and exclusive option, construct a fence around all or any part of the Exclusive Easement Area and shall have the right to prohibit anyone, including Grantor, from entry into such Exclusive Easement Area.

b. Access and Utility Easement. The Access and Utility Easement shall be used by Grantee and the Permitted Parties for pedestrian and vehicular (including trucks) ingress and egress to and from the Exclusive Easement Area at all times during the Term on a seven (7) days per week, twenty-four (24) hours per day basis. Grantee shall have the non-exclusive right to construct, reconstruct, add, install, improve, enlarge, operate, maintain and remove overhead and underground utilities, including, without limitation, electric, fiber, water, gas, sewer, telephone, and data transmission lines (including wires, poles, guys, cables, conduits and appurtenant equipment) in, on, or under the Access and Utility Easement Area in order to connect the same to utility lines located in a publicly dedicated right of way. Notwithstanding the foregoing, Grantor shall not in any manner prevent, disturb, and/or limit access to the Access and Utility Easement Area or use of the Access and Utility Easement by Grantee or any of the Permitted Parties, and Grantor shall not utilize the Access and Utility Easement Area in any manner that interferes with Grantee's or any of the Permitted Parties' use of such area as expressly provided herein. In the event the Access and Utility Easement Area cannot, does not, or will not fully accommodate the access and utility needs of the Grantee during the Term, or if it is reasonably determined by Grantor or Grantee that any utilities that currently serve the Exclusive Easement Area are not encompassed within the description of the Access and Utility Easement Area as set forth herein, Grantor and Grantee agree to amend the description of the Access and Utility Easement Area provided herein to include the description of such areas and/or to relocate the Access and Utility Easement, for no additional consideration, and to create a revised legal description for the Access and Utility Easement Area that will reflect such relocation. The Access and Utility Easement and the rights granted herein with

respect to the same shall be assignable by Grantee to any public or private utility company to further effect this provision without the consent or approval of Grantor.

7. Non-Compete. During the Term, Grantor shall not sell, transfer, grant, convey, lease, and/or license by deed, easement, lease, license or other legal instrument, an interest in and to, or the right to use or occupy any portion of the Premises or Grantor's contiguous, adjacent, adjoining or surrounding property to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**"), without the prior written consent of Grantee, which may be withheld, conditioned, and/or delayed in Grantee's sole, reasonable discretion.

8. Assignment. Grantee may assign this Agreement, in whole or in part, to any person or entity at any time without the prior written consent or approval of, or notice to, Grantor, including, but not limited to, an affiliate of Grantee. If any such assignee agrees to assume all of the obligations of Grantee under this Agreement, then Grantee will be relieved of all of its obligations, duties and liabilities hereunder.

9. Covenants; Representations; Warranties.

a. Grantor hereby represents and warrants to Grantee the following: (i) Grantor is the owner in fee simple of the Easement Areas, free and clear of all liens and encumbrances; (ii) Grantor has the full authority and power to enter into and perform its obligations under this Agreement, and, to the extent applicable, the person or persons executing this Agreement on behalf of Grantor have the authority to enter into and deliver this Agreement on behalf of Grantor; (iii) to the best of Grantor's knowledge, there is no condemnation proceeding pending or threatened against all or any portion of the Premises; (iv) no claim, litigation, proceeding, or investigation is pending or, to the best of Grantor's knowledge, threatened against Grantor or all or any portion of the Premises that could affect Grantee's use of the Easement Areas as contemplated herein; (v) Grantor has not filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors or suffered the appointment of a receiver to take possession of substantially all of its assets; (vi) to the best of Grantor's knowledge, the Premises is in compliance with all applicable laws, ordinances and regulations, including those governing Hazardous Materials (as defined below); (vii) to the best of Grantor's knowledge, there is no proceeding pending or threatened to change the zoning status of the Premises; (viii) Grantor is not indebted to any party, including, without limitation, any local or state or the federal government for which a lien or claim of lien has been or could be asserted against all or any portion of the Premises; (ix) there are no leases, written or oral, affecting all or any portion of the Easement Areas, except for any agreements entered into between Grantee or its affiliates and third parties; (x) the Easement Areas do not constitute or form a part of Grantor's homestead, or, in the event that the Easement Areas are located upon homestead property, then Grantor's spouse (if applicable) shall join in the execution of this Agreement; (xi) Grantor has paid all taxes, assessments, charges, fees, levies, impositions and other amounts relating to the Premises due and payable prior to the Effective Date; and (xii) Grantee shall peaceably and quietly hold, exercise, and enjoy the Easements during the Term without any hindrance, molestation or ejection by any party whomsoever.

b. During the Term, Grantor shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Premises, including the Easement Areas. Grantee hereby agrees to reimburse Grantor for any personal property taxes in addition to any increase in real property taxes levied against the Premises, to the extent both are directly attributable to Grantee's improvements on the Easements (but not, however, taxes or other assessments attributable to periods prior to the date of this Agreement), provided, however, that Grantor must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Grantee) of such personal property taxes or real property tax increase to Grantee along with proof of payment of same by Grantor. Anything to the contrary notwithstanding, Grantee shall not be obligated to reimburse Grantor for any applicable taxes unless Grantor requests such reimbursement within one (1) year after the date such taxes became due. Grantor shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Grantee from time to time. Subject to the requirements set forth in this Section, Grantee shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from Grantor. Grantee shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Grantee. If Grantor fails to pay when due any taxes affecting the Premises as required herein, Grantee shall have the right, but not the obligation, to pay such taxes on Grantor's behalf and: (i) deduct the full amount of any such taxes paid by Grantee on Grantor's behalf from any future payments required to be made by Grantee to Grantor hereunder; (ii) and demand reimbursement from Grantor, which reimbursement payment Grantor shall make within ten (10) days of such demand by Grantee; and/or (iii) collect from

Grantor any such tax payments made by Grantee on Grantor's behalf by any lawful means.

c. Without Grantee's prior written consent, which consent may be withheld or conditioned in Grantee's sole and absolute discretion, Grantor shall not (i) cause any portion of the Easement Areas to be legally or otherwise subdivided from any master tract of which it is currently a part, or (ii) cause any portion of the Easement Areas to be separately assessed for tax purposes.

d. Grantor shall not suffer, grant, create, transfer, or convey (or cause to be suffered, granted, created, transferred, or conveyed) any claim, lien, encumbrance, easement, interest, restriction or other charge or exception to title to the Easement Areas or any other portion of the Premises that would adversely affect Grantee's use of the Easement Areas as contemplated herein.

e. Grantor shall not, and shall not permit any third party to use, generate, store, or dispose of any Hazardous Materials on, under, about, or within the Premises in violation of any Environmental Laws (as defined below). As used herein, "**Hazardous Materials**" shall mean any: contaminants, oils, asbestos, PCBs, hazardous substances, or wastes as defined by federal, state, or local environmental laws, regulations, or administrative orders or other materials the removal of which are required or the maintenance of which are prohibited or regulated by any federal, state, or local governmental authorities having jurisdiction over all or any portion of the Premises. As used herein, "**Environmental Laws**" shall mean any laws, regulations, ordinances, and/or administrative orders applicable to all or any portion of the Premises, which govern Hazardous Materials.

f. Grantee shall not, and shall not permit any third party to use, generate, store, or dispose of any Hazardous Materials on, under, about, or within the Easement Areas in violation of any Environmental Laws.

g. Grantor hereby agrees to and does indemnify and shall defend and hold harmless Grantee and its officers, directors, shareholders, agents, contractors, and attorneys for, from, and against all damages asserted against or incurred by any of them by reason of or resulting from a breach by Grantor of any representation, warranty or covenant of Grantor contained herein.

h. The representations, warranties, covenants, agreements, and indemnities contained in this section shall survive the execution and delivery of this Agreement indefinitely.

10. **Non-Disturbance.** During the Term, Grantor will not improve or alter the Premises or grant, convey, transfer, or otherwise enter into any other easement, ground lease, lease, license, or similar agreement or contract with respect to any portion of the Premises if the same would interfere with, disturb, limit, or impair Grantee's permitted use of the Easement Areas. Grantor hereby acknowledges that Grantee and the Permitted Parties are currently utilizing the Exclusive Easement Area for the purpose of transmitting and receiving communication signals, including, but not limited to, wireless telecommunications signals. Grantor and Grantee recognize and acknowledge that Grantee's use of the Easement Areas set forth in this Agreement would be materially frustrated if the communications signals were blocked or otherwise interfered with, or if access and/or utilities to and from the Exclusive Easement Area were inhibited, even if temporarily. Grantor, for itself, its successors and assigns, hereby agrees to use its best efforts to prevent the occurrence of any of the foregoing and shall promptly undertake any remedial action necessary to comply with the terms and provisions of this Section. Grantee shall have the express right, among others, to seek an injunction to prevent any of the activities prohibited by this Section.

11. **Grantee's Securitization Rights; Estoppel.** Grantor hereby consents to the granting by Grantee of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "**Security Interest**") in Grantee's interest in this Agreement and all of Grantee's property and fixtures attached to and lying within the Exclusive Easement Area and further consents to the exercise by Grantee's mortgagee ("**Grantee's Mortgagee**") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Grantor shall recognize the holder of any such Security Interest of which Grantor is given prior written notice (any such holder, a "**Holder**") as "Grantee" hereunder in the event a Holder succeeds to the interest of Grantee hereunder by the exercise of such remedies. Grantor further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Grantee or Holder.

12. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth below:

To Grantee: [ATC Entity]
c/o American Tower
10 Presidential Way
Woburn, MA 01801

To Grantor: Joe Smith
P.O. Box
Town, MA 01234

With copy to: [ATC Entity]
c/o American Tower
116 Huntington Avenue
Boston, MA 02116
Attn: Legal Department

Grantor or Grantee, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

13. **Force Majeure.** The time for performance by Grantor or Grantee of any term, provision, or covenant of this Agreement shall automatically be deemed extended by time lost due to delays resulting from strikes, civil riots, floods, labor or supply shortages, material or labor restrictions by governmental authority, litigation, injunctions, and any other cause not within the control of Grantor or Grantee, as the case may be.

14. **Miscellaneous.** This Agreement shall be recorded at the sole expense of Grantee and shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth. The captions and headings herein are for convenience and shall not be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions, scope or intent of this Agreement. This Agreement and any other documents executed in connection herewith, constitute the entire understanding between the parties with regard to the subject matter hereof and there are no representations, inducements, conditions, or other provisions other than those expressly set forth herein. Grantee has not provided any legal or tax advice to Grantor in connection with the execution of this Agreement. This Agreement may not be modified, amended, altered or changed in any respect except by written agreement that is signed by each of the parties hereto.

15. **Cumulative Remedies.** Except as otherwise expressly provided herein, each and every one of the rights, benefits and remedies provided to Grantor or Grantee in this Agreement, or in any instrument or documents executed pursuant to this Agreement, are cumulative and shall not be exclusive of any other of said rights, remedies and benefits allowed by law or equity to Grantor or Grantee.

16. **Counterparts.** This Agreement may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though Grantor and Grantee are not signatories to the original or the same counterpart.

17. **Severability.** Should any part or provision of this Agreement be rendered or declared invalid by a court of competent jurisdiction, such invalidation of such part or provision shall not invalidate the remaining portions of the Agreement, and they shall remain in full force and effect and this Agreement shall be construed as if such part or provision had been so limited or as if such provision had not been included herein, as the case may be. Additionally, if any laws, rules or regulations promulgated by any state, county or local jurisdiction, including without limitation those concerning zoning, subdivision or land use, or should any court of competent jurisdiction, make the sale of the Easements herein either void or voidable, Grantor agrees that upon the written request of Grantee, the parties shall execute a reasonably acceptable ground lease between Grantor, as landlord, and Grantee, as tenant (with the Exclusive Easement area being the leased premises therein, and the Access and Utility Easement area remaining a non-exclusive easement for access and utility purposes) for uses consistent with those set forth herein. The parties agree that no additional consideration shall be paid to Grantor for entering into such a lease and said lease must (a) expressly provide that Grantee shall not be required to obtain the consent of Grantor to enter into any sublease or license of any portion of the leased premises or

to permit sublessees or licensees to utilize the non-exclusive easement for access and utilities, (b) be for a term of ninety-nine (99) years, or as long as permitted by applicable law.

18. Attorney's Fees. If there is any legal action or proceeding between Grantor and Grantee arising from or based on this Agreement, the non-prevailing party to such action or proceeding shall pay to the prevailing party all costs and expenses, including reasonable attorney's fees and disbursements, actually incurred by such prevailing party in connection with such proceeding and in any appeal in related thereto. If such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorney's fees and disbursements shall be included in and as a part of such judgment.

19. Government Approvals/Applications. Grantor hereby covenants and agrees that (a) neither Grantor nor any affiliate of Grantor shall at any time oppose in any manner (whether at a formal hearing, in written documentation, or otherwise) any zoning, land use or building permit application of Grantee and (b) Grantor shall promptly cooperate with Grantee in making application for and/or otherwise obtaining all licenses, permits, and any other necessary approvals that may be required for Grantee's intended use of the Easement Areas.

20. Assignment of Ground Lease. The parties hereby acknowledge and agree that the Premises is currently subject to that certain [Name of Lease] dated [Date] originally by and between _____ and _____ as amended from time to time (collectively, the "Lease"), as evidenced by that certain memorandum of lease recorded in the records of [County] County, [State]. Grantor hereby acknowledges and agrees that there currently exists no default under the Lease, and no conditions that, with the passage of time, would constitute a default under the Lease. Grantor hereby assigns, transfers, sets over and delivers to Grantee all of Grantor's rights, title and interests in, to, and/or under the Lease, including, without limitation, all rents and other monies due to Grantor under the Lease from and after the Effective Date, and Grantee hereby accepts and assumes all of the obligations which are the responsibility of the landlord under the Lease from and after the Effective Date. Grantor hereby releases and forever remises Grantee from all claims arising under the Lease. Grantor hereby indemnifies and holds Grantee harmless with respect to any demands, claims, actions, causes of action, assessments, expenses, costs, damages, losses, and liabilities (including reasonable attorneys' fees and costs) which are actually asserted, instituted, assessed, incurred, and/or sustained against or by Grantee and/or the Permitted Parties with respect to or in connection with matters arising or accruing under the Lease prior to the Effective Date. Grantee hereby indemnifies and holds Grantor harmless with respect to any demands, claims, actions, causes of action, assessments, expenses, costs, damages, losses, and liabilities (including reasonable attorneys' fees and costs) which are actually asserted, instituted, assessed, incurred, and/or sustained against or by Grantor with respect to or in connection with matters arising or accruing under the Lease from and after the Effective Date.

21. Further Acts; Attorney-In-Fact. Grantor, at Grantee's sole cost and expense, shall cooperate with Grantee in executing any documents necessary to protect Grantee's rights under this Agreement or Grantee's use of the Easements and to take such action as Grantee may be reasonably required to effect the intent of this Agreement. Grantor hereby irrevocably appoints Grantee as Grantor attorney-in-fact coupled with an interest to prepare, execute, deliver, and submit land-use, building permit and zoning applications related to Grantee's permitted use of the Easement Areas, on behalf of Grantor, to federal, state and local governmental authorities.

22. Survey. Grantee may elect, at Grantee's expense, to cause a boundary, as-built or similar survey of all or any portion of the Easement Areas (the "Survey") to be prepared by a surveyor duly licensed under the laws of the state in which the Premises is located. Grantor further agrees that upon written notice from Grantee to Grantor, Grantee may elect, in Grantee's sole and absolute discretion, to replace Exhibit B and Exhibit C with a revised Exhibit B and Exhibit C depicting and/or describing the Exclusive Easement Area and Access and Utility Easement Area, as applicable, in accordance with the Survey prepared at Grantee's election.

23. Waiver. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT SHALL GRANTOR OR GRANTEE BE LIABLE TO THE OTHER FOR, AND GRANTOR AND GRANTEE HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, THE RIGHT TO RECOVER INCIDENTAL, CONSEQUENTIAL (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE OR LOSS OR BUSINESS OPPORTUNITY), PUNITIVE, EXEMPLARY, AND SIMILAR DAMAGES.

24. Condemnation. In the event Grantor receives notification of any condemnation proceeding affecting the Easement Areas, or any portion thereof, Grantor shall provide notice of the proceeding to Grantee within forty-eight (48) hours. If a condemning authority takes all of the Easement Areas, or any portion thereof, Grantee shall be entitled to pursue Grantee's own award in the condemnation proceeds, which for Grantee will include, where applicable, the value of its communications facility, moving expenses, consideration paid to Grantor for the Easements, and business dislocation expenses.

[END OF DOCUMENT – SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

SAMPLE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the day and year set forth below.

GRANTOR:

2 WITNESSES

[Landlord Entity],
a [Status/Incorporation],

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____
Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

GRANTEE:

2 WITNESSES

[ATC Entity]

a Delaware limited [Incorporation]

Signature: _____

Print Name: _____

Title: _____

Date: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

On this the ____ day of _____, 201__, before me, the undersigned Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My Commission Expires: _____

{Seal}

Attachments:

Exhibit "A" – Premises

Exhibit "B" – Exclusive Easement Area

Exhibit "C" – Access and Utility Easement Area

Exhibit "A"
The Premises

This Exhibit A may be replaced by descriptions and/or depictions from an As-Built Survey conducted by Grantee at Grantee's option that depict and/or describe the Premises

SAMPLE

EXHIBIT "B"
Exclusive Easement Area

This Exhibit B may be replaced with descriptions and/or depictions from an As-Built Survey conducted by Grantee at Grantee's option that depict and/or describe the Exclusive Easement Area, and if applicable, guy wire and guy anchor easements

SAMPLE

EXHIBIT "C"
Access and Utility Easement Area

This Exhibit C may be replaced with descriptions and/or depictions from an As-Built Survey conducted by Grantee at Grantee's option that depict and/or describe the Access and Utility Easement Area

All existing utility and access easements from Exclusive Easement Area to a public right of way including but not limited to:

SAMPLE

Prepared by and Return to:

Attorney [Attorney], Land Management
c/o American Tower
10 Presidential Way
Woburn, MA 01801
Tax Parcel ID No: [APN]

MARITAL STATUS AFFIDAVIT AND SPOUSAL CONSENT TO PERPETUAL EASEMENT

RE: Option Agreement to Purchase Communications Easement, and Easement and Assignment Agreement by and between [Landlord Entity], [Status/Incorporation] ("**Grantor**") and [ATC Entity], a Delaware limited [Incorporation] ("**Grantee**") effective on _____, 201__, (collectively, the "**Easement**") involving an up-front, lump-sum payment made by Grantee to Grantor to obtain a perpetual easement on a portion of the real property owned by Grantor.

I, _____, as Grantor, hereby declare under the pains and penalties of perjury that

I am (*circle one*) Married/Single.

My Spouse's name is _____. I declare that Grantee and any third party may rely on this document and may accept a faxed, scanned or otherwise electronically reproduced copy of this document as if it were an original.

[SIGNATURE(S) NEXT PAGE]

GRANTOR:

2 WITNESSES

[Landlord Entity]

a [Status/Incorporation],

Signature: _____

Print Name: _____

Title: _____

Date: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

[SPOUSAL CONSENT, IF APPLICABLE, NEXT PAGE]

SPOUSAL CONSENT TO PERPETUAL EASEMENT

I, _____, legal spouse of _____, as Grantor, hereby consent to the above referenced Easement and all provisions therein, and agree to be legally bound by the Easement. I hereby waive and release any and all homestead and/or dower or curtesy rights that I may have in the Easement and the property encumbered by the Easement. I authorize Grantee to remit all proceeds due under the Easement to Grantor (or as otherwise specified by Grantor) and agree that all taxable income shall be reported by Grantor (or as otherwise specified by Grantor). I further authorize Grantee to accept and rely on a faxed, scanned or otherwise electronically reproduced copy of this authorization as if it were an original.

SPOUSE

2 WITNESSES

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

{Seal}

Instructions for completing the Resolution and Consent Affidavit

IMPORTANT INFORMATION BELOW

In order to avoid delays in the completion of this transaction, the Resolution and Consent Affidavit must be signed by **ALL** Members, Partners, Directors, Shareholders, Officers or Trustees of the organization. Section 6 of this form allows for the organization to appoint one person to sign the remaining documents but **ONE HUNDRED PERCENT (100%)** of the ownership or voting interest of the organization must sign this first. Failure to comply with these instructions or properly indicate the percentage of ownership and/or voting interest will result in delays and could require the documents to be re-executed. If you have any questions, please contact your land lease representative.

Prepared by and Return to:
Attorney [Attorney], Land Management
c/o American Tower
10 Presidential Way
Woburn, MA 01801
Tax Parcel ID No: [APN]

RESOLUTION AND CONSENT AFFIDAVIT

[Landlord Entity], [Status/Incorporation]

Be it known that, under the pains and penalties of perjury, the undersigned Members, Partners, Directors, Shareholders, Officers or Trustees (collectively "**Affiants**") of the above referenced entity (the "**Seller**"), hereby declare and resolve the following:

1. Seller (*or its predecessor in interest*) has leased or subleased a portion of land to [ATC Entity], a Delaware limited [Incorporation] (*or its predecessor in interest*), (hereinafter "**Buyer**") under a [Name of Lease] originally dated [Date] (as the same may have been amended, the "**Lease**").
2. Seller and Buyer desire to enter into an Option Agreement to Purchase Communications Easement, and an Easement and Assignment Agreement (collectively, the "**Easement**") which will grant Buyer a perpetual easement in, over, under, across and through land owned by the Seller and Buyer will provide a one-time, lump-sum payment to Seller as more fully set forth in the Easement.
3. Seller is a legal entity and in full compliance with all applicable laws required by the state in which Seller is located and originally created, or if not in compliance, the Affiants listed hereunder are all the only legal and equitable interest owners of Seller and are the only Members, Partners, Directors, Shareholders or Trustees of Seller.
4. The Affiants hereby consent to the Easement and all provisions therein and declare that Seller is hereby authorized to enter into the Easement with Buyer.
5. The Affiants also declare that they have full legal authority to bind Seller under the laws of the State or Commonwealth upon which Seller's property is located and Affiants have the full authority to execute any and all agreements on behalf of Seller and to nominate individuals to act on Seller's behalf.
6. The Affiants hereby nominate the below listed individual (the "**Nominee**") as attorney-in-fact to execute the Easement on behalf of Affiants and Seller, as well as any other documents necessary to complete the Easement transaction and comply with the provisions therein. The Nominee shall have full power and authority to act on

behalf of Affiants and on behalf of Seller for the sole purpose of completing the Easement transaction. In addition, the Nominee shall have full authority to direct the manner in which all payments will be made by Buyer to Seller pursuant to the Easement, including identifying which bank accounts to transfer funds to in the event a wire payment is made by Buyer.

NOMINEE: (Print Name) _____
(Address) _____

7. This document shall become effective as of the date of the last notarized signature of Affiants listed below.
8. Buyer and any third party may rely on a faxed, scanned or otherwise electronically reproduced fully-executed copy of this document as if it were an original.
9. This document can only be amended by addendum or other instrument that is fully executed and notarized by all Affiants listed hereunder.

[SIGNATURE AND NOTARY PAGES NEXT]

SAMPLE

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW:

AFFIANT NO. 1

2 WITNESSES

Signature: _____
Print Name: _____
Date: _____

Signature: _____
Print Name: _____

Title: *(circle one)* Member, Partner, Director,
Shareholder, Officer, Trustee

Signature: _____
Print Name: _____

Percentage Ownership or Voting Interest: _____%

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

{Seal}

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW:

AFFIANT NO. 2

2 WITNESSES

Signature: _____
Print Name: _____
Date: _____

Signature: _____
Print Name: _____

Title: *(circle one)* Member, Partner, Director,
Shareholder, Officer, Trustee

Signature: _____
Print Name: _____

Percentage Ownership or Voting Interest: _____%

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

{Seal}

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW:

AFFIANT NO. 3

2 WITNESSES

Signature: _____
Print Name: _____
Date: _____

Signature: _____
Print Name: _____

Title: *(circle one)* Member, Partner, Director,
Shareholder, Officer, Trustee

Signature: _____
Print Name: _____

Percentage Ownership or Voting Interest: _____%

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

{Seal}

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW:

AFFIANT NO. 4

2 WITNESSES

Signature: _____
Print Name: _____
Date: _____

Signature: _____
Print Name: _____

Title: *(circle one)* Member, Partner, Director,
Shareholder, Officer, Trustee

Signature: _____
Print Name: _____

Percentage Ownership or Voting Interest: _____%

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

{Seal}

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW:

AFFIANT NO. 5

2 WITNESSES

Signature: _____
Print Name: _____
Date: _____

Signature: _____
Print Name: _____

Title: *(circle one)* Member, Partner, Director,
Shareholder, Officer, Trustee

Signature: _____
Print Name: _____

Percentage Ownership or Voting Interest: _____%

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

{Seal}

EXECUTED UNDER THE PAINS AND PENALTIES OF PERJURY ON THE DATE WRITTEN BELOW:

AFFIANT NO. 6

2 WITNESSES

Signature: _____
Print Name: _____
Date: _____

Signature: _____
Print Name: _____

Title: *(circle one)* Member, Partner, Director,
Shareholder, Officer, Trustee

Signature: _____
Print Name: _____

Percentage Ownership or Voting Interest: _____%

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

{Seal}



AMERICAN TOWER[®]
CORPORATION

DISCLOSURE AND AUTHORIZATION FORM

I, _____, ("*Grantor*") hereby authorize American Tower and its subsidiaries ("*ATC*") to obtain my credit report and any other personal financial information.

I understand that after ATC obtains and reviews my information and assesses the financial risks involved in entering a transaction with me, that ATC has the right, in its sole and absolute discretion, to refuse to enter into any contemplated transactions and that the financial investigation to be performed by ATC is no guarantee that a pending transaction will be approved by ATC.

My Social Security Number is: _____

GRANTOR:

Signature: _____

Print Name: _____

Date: _____

THE _____ AMENDMENT TO LEASE AGREEMENT

This [Number] Amendment to [Name of Lease] (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between [Landlord Entity], a [state/type of entity] ("**Landlord**") and [ATC Entity], a Delaware limited [Incorporation] ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain [Name of Lease] dated [Lease Date] (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises are also described on **Exhibit A**; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Rent and Escalation.** Commencing with the second rental payment due following the Effective Date, the rent payable from Tenant to Landlord is hereby reduced to _____ and No/100 Dollars (\$_____.00) per month (the "**Rent**"). The Parties hereby acknowledge and agree that all applicable increases and escalations to the Rent shall continue in full force and effect through the term of the Lease, as amended hereby. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to _____.
2. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. In the event there is a conflict between the Lease and this Amendment, this Amendment shall control. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent and/or approval from, or to provide notice to, Landlord for any future activities at or uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises, and/or assigning all or any portion of Tenant's interest in this Lease, as modified by this Amendment. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense, but without additional consideration owed to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. Landlord hereby appoints Tenant as Landlord's attorney-

in-fact coupled with an interest to prepare, execute and deliver land use and zoning and building permit applications that concern the Leased Premises, on behalf of Landlord with federal, state and local governmental authorities, provided that such applications shall be limited strictly to the use of the Leased Premises as a wireless telecommunications facility and that such attorney-in-fact shall not allow Tenant to re-zone or otherwise reclassify the Leased Premises or the Parent Parcel. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

3. **Non-Compete.** During the original term, any Existing Renewal Terms, and/or any New Renewal Terms of the Lease, as amended hereby, Landlord shall not sell, transfer, grant, convey, lease, and/or license by deed, easement, lease, license or other legal instrument, an interest in and to, or the right to use or occupy any portion of the Parent Parcel or Landlord's contiguous, adjacent, adjoining or surrounding property to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**") without the prior written consent of Tenant, which may be withheld, conditioned, and/or delayed in Tenant's sole, reasonable discretion.
4. **Limited Right of First Refusal.** Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor. If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to a Third Party Competitor or (ii) assign all or any portion of Landlord's interest in the Lease to a Third Party Competitor (any such offer, the "**Offer**"), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
5. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (v) to the best of Landlord's knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant's rights under the Lease, as amended and modified by this Amendment and (vi) the square footage of the Leased Premises is the greater of Tenant's existing improvements on the Parent Parcel or the land area conveyed to Tenant under the Lease. The

representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment. Landlord hereby does and agrees to indemnify Tenant for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Tenant as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive the execution and delivery of this Amendment.

6. **Confidentiality.** Notwithstanding anything to the contrary contained in the Lease or in this Amendment, Landlord agrees and acknowledges that all the terms of this Amendment and the Lease and any information furnished to Landlord by Tenant in connection therewith shall be and remain confidential. Except with Landlord's family, attorney, accountant, broker, lender, a prospective fee simple purchaser of the Parent Parcel, or if otherwise required by law, Landlord shall not disclose any such terms or information without the prior written consent of Tenant. The terms and provisions of this Section shall survive the execution and delivery of this Amendment.
7. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein; To Landlord at: [Notice]; To Tenant at: Attn: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
8. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.
9. **Governing Law.** Notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
10. **Waiver.** Notwithstanding anything to the contrary contained herein, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.
11. **Tenant's Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "**Security Interest**") in Tenant's interest in this Lease, as amended, and all of Tenant's property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's mortgagee ("**Tenant's Mortgagee**") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a "**Holder**") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant hereunder by the exercise

of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant or Holder.

12. **Taxes.** During the term of the Lease, as the same may be modified and/or amended from time to time, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant's improvements on the Leased Premises (but not, however, taxes or other assessments attributable to periods prior to the Effective Date), provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Anything to the contrary notwithstanding, Tenant shall not be obligated to reimburse Landlord for any applicable taxes unless Landlord requests such reimbursement within one (1) year after the date such taxes became due. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.

[SIGNATURES FOLLOW ON NEXT PAGE]

LANDLORD:

[Landlord Entity]

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

DRAFT

TENANT:

[ATC Entity]

a Delaware limited [Incorporation]

Signature: _____

Print Name: _____

Title: _____

Date: _____

DRAFT

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below.

IF NO DESCRIPTION: Being situated in the County of New Castle, State of Delaware, and being known as
New Castle County APN: 15-010.00-053.

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

ACCESS AND UTILITIES

The Access and Utilities Easements include all easements of record as well as existing access and utilities currently servicing the Leased Premises to and from a public right of way.

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

DRAFT

Prepared by and Return to:

American Tower
10 Presidential Way
Woburn, MA 01801
Attn: Land Management/_____, Esq.
ATC Site No: [site entry]
ATC Site Name: [site name entry]
Assessor's Parcel No(s): [APN]

Prior Recorded Lease Reference:

Book____, Page____
Document No:_____
State of_____
County of_____

MEMORANDUM OF LEASE

This Memorandum of Lease (the "**Memorandum**") is entered into on the _____ day of _____, 201____ by and between [**Landlord Entity**], a [state/type of entity], ("**Landlord**") and [**ATC Entity**], a Delaware limited [Incorporation] ("**Tenant**").

NOTICE is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and Lease.** Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain [Name of Lease], dated [Date] (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises is also described on **Exhibit A**.
2. **Expiration Date.** Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be _____. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.
3. **Leased Premises Description.** Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the Lease, to cause an as-built survey of the Leased Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Leased Premises set forth on **Exhibit A** with a legal description or legal descriptions based upon such as-built survey. Upon Tenant's request, Landlord shall execute and deliver any documents reasonably necessary to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the Lease.
4. **Right of First Refusal.** There is a right of first refusal in the Lease.

5. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.
6. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein; To Landlord at: [Notice], To Tenant at: Attn: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn Legal Dept. 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
7. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.
8. **Governing Law.** This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have each executed this Memorandum as of the day first above written.

LANDLORD

2 WITNESSES

[Landlord Entity]

a [state/type of entity],

Signature: _____

Print Name: _____

Title: _____

Date: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

[SIGNATURES CONTINUE ON NEXT PAGE]

TENANT

WITNESSES

[ATC Entity]

a Delaware limited [Incorporation]

Signature: _____

Print Name: _____

Title: _____

Date: _____

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

On this ____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below.

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of; (i) the land area conveyed to Tenant in the Lease, (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel or (iii) the legal description or depiction below (if any).

ACCESS AND UTILITIES

The Access and Utilities Easements include all easements of record as well as existing access and utilities currently servicing the Leased Premises to and from a public right of way.

THE FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Site Lease with Option (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between **Town of Erwin NC**, a North Carolina municipal corporation, ("**Landlord**") and **American Towers LLC f/k/a American Towers, Inc.**, a Delaware limited liability company ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Site Lease with Option dated March 3, 2009 (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises are also described on **Exhibit A**; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** Tenant shall pay to Landlord a one-time payment in the amount of **Twenty-Five Thousand and No/100 Dollars (\$25,000.00)**, payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord, on or before April 30, 2018; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum (as defined herein) executed by Landlord.
2. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on March 3, 2009 and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an "**Existing Renewal Term**" and, collectively, the "**Existing Renewal Terms**"), the Lease is otherwise scheduled to expire on March 2, 2029. In addition to any Existing Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of eight (8) additional five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the Lease, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below) and (b) Landlord shall be able to terminate this Lease only in the event of a material default by Tenant, which default is not cured within sixty (60) days of Tenant's receipt of written notice thereof, provided, however, in the event that Tenant has diligently commenced to cure a material default within sixty (60) days of Tenant's actual receipt of notice thereof and reasonably requires additional time beyond the sixty (60) day cure period described herein to effect such cure, Tenant shall have such additional time as is necessary (beyond the sixty [60] day cure period) to effect the cure. References in this Amendment to "**Renewal Term**" shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and

Site No: 273036
Site Name: Erwin NC

OLL AM 10/11

return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as **Exhibit B** and by this reference made a part hereof (the "**Memorandum**") executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.

3. **Rent and Escalation.** The Parties acknowledge and agree that the rent payable from Tenant to Landlord under the Lease is **One Thousand Nine Hundred Ninety-One and 82/100 Dollars (\$1,991.82.00)** per month (the "**Rent**"). Commencing on March 3, 2019 and on each successive annual anniversary thereof, Rent due under the Lease shall increase by an amount equal to **three percent (3%)** of the then current Rent. In the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to **Town of Erwin NC**. The escalations in this Section shall be the only escalations to the Rent and any/all rental escalations otherwise contained in the Lease are hereby null and void and of no further force and effect.
4. **Deletions.** The Parties hereby acknowledge and agree that Section 15 of Lease is deleted in its entirety.
5. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. The Parties hereby agree that no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses. Landlord hereby acknowledges and agrees that Tenant shall not need consent or approval from, or to provide notice to, Landlord for any future activities at or uses of the Leased Premises, including, without limitation, subleasing and licensing to additional customers, installing, modifying, repairing, or replacing improvements within the Leased Premises, and/or assigning all or any portion of Tenant's interest in this Lease, as modified by this Amendment. Tenant and Tenant's sublessees and customers shall have vehicular (specifically including truck) and pedestrian access to the Leased Premises from a public right of way on a 24 hours per day, 7 days per week basis, together with utilities services to the Leased Premises from a public right of way. Upon request by Tenant and at Tenant's sole cost and expense but without additional consideration owed to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. Landlord hereby appoints Tenant as Landlord's attorney-in-fact coupled with an interest to prepare, execute and deliver land use and zoning and building permit applications that concern the Leased Premises, on behalf of Landlord with federal, state and local governmental authorities, provided that such applications shall be limited strictly to the use of the Leased Premises as a wireless telecommunications facility and that such attorney-in-fact shall not allow Tenant to re-zone or otherwise reclassify the Leased Premises or the Parent Parcel. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
6. **Limited Right of First Refusal.** Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a Third Party Competitor (as herein defined). If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**") or (ii) assign

all or any portion of Landlord's interest in the Lease to a Third Party Competitor (any such offer, the "Offer"), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than forty-five (45) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.

7. **Landlord Statements.** Landlord hereby represents and warrants to Tenant that: (i) to the extent applicable, Landlord is duly organized, validly existing, and in good standing in the jurisdiction in which Landlord was organized, formed, or incorporated, as applicable, and is otherwise in good standing and authorized to transact business in each other jurisdiction in which such qualifications are required; (ii) Landlord has the full power and authority to enter into and perform its obligations under this Amendment, and, to the extent applicable, the person(s) executing this Amendment on behalf of Landlord, have the authority to enter into and deliver this Amendment on behalf of Landlord; (iii) no consent, authorization, order, or approval of, or filing or registration with, any governmental authority or other person or entity is required for the execution and delivery by Landlord of this Amendment; (iv) Landlord is the sole owner of the Leased Premises and all other portions of the Parent Parcel; (v) to the best of Landlord's knowledge, there are no agreements, liens, encumbrances, claims, claims of lien, proceedings, or other matters (whether filed or recorded in the applicable public records or not) related to, encumbering, asserted against, threatened against, and/or pending with respect to the Leased Premises or any other portion of the Parent Parcel which do or could (now or any time in the future) adversely impact, limit, and/or impair Tenant's rights under the Lease, as amended and modified by this Amendment; and (vi) the square footage of the Leased Premises is the greater of Tenant's existing improvements on the Parent Parcel or the land area conveyed to Tenant under the Lease. The representations and warranties of Landlord made in this Section shall survive the execution and delivery of this Amendment. Landlord hereby does and agrees to indemnify Tenant for any damages, losses, costs, fees, expenses, or charges of any kind sustained or incurred by Tenant as a result of the breach of the representations and warranties made herein or if any of the representations and warranties made herein prove to be untrue. The aforementioned indemnification shall survive the execution and delivery of this Amendment.
8. **Confidentiality.** Notwithstanding anything to the contrary contained in the Lease or in this Amendment, Landlord agrees and acknowledges that all the terms of this Amendment and the Lease and any information furnished to Landlord by Tenant in connection therewith shall be and remain confidential. Except with Landlord's family, attorney, accountant, broker, lender, a prospective fee simple purchaser of the Parent Parcel, or if otherwise required by law, Landlord shall not disclose any such terms or information without the prior written consent of Tenant. The terms and provisions of this Section shall survive the execution and delivery of this Amendment.
9. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: Town of Erwin NC, Attn: Snow Bowden, Town Manager, PO Box 459, Erwin, NC 28339; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116.

Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

10. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.
11. **Governing Law.** Notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
12. **Waiver.** Notwithstanding anything to the contrary contained herein, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.
13. **Tenant's Securitization Rights; Estoppel.** Landlord hereby consents to the granting by Tenant of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "**Security Interest**") in Tenant's interest in this Lease, as amended, and all of Tenant's property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's mortgagee ("**Tenant's Mortgagee**") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a "**Holder**") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant or Holder.
14. **Taxes.** The Parties hereby agree that Section 10 of the Lease is deleted in its entirety. During the term of the Lease, Landlord shall pay when due all real property, personal property, and other taxes, fees and assessments attributable to the Parent Parcel, including the Leased Premises. Tenant hereby agrees to reimburse Landlord for any personal property taxes in addition to any increase in real property taxes levied against the Parent Parcel, to the extent both are directly attributable to Tenant's improvements on the Leased Premises (but not, however, taxes or other assessments attributable to periods prior to the Effective Date), provided, however, that Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of such personal property taxes or real property tax increase to Tenant along with proof of payment of same by Landlord. Anything to the contrary notwithstanding, Tenant shall not be obligated to reimburse Landlord for any applicable taxes unless Landlord requests such reimbursement within one (1) year after the date such taxes became due. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from

Landlord. Tenant shall pay applicable personal property taxes directly to the local taxing authority to the extent such taxes are billed and sent directly by the taxing authority to Tenant. If Landlord fails to pay when due any taxes affecting the Parent Parcel as required herein, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within thirty (30) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

Site No: 273036
Site Name: Erwin NC

LANDLORD:

Town of Erwin NC
a North Carolina municipal corporation,

Signature: *Snow Bowden*
Print Name: **Snow Bowden**
Title: **Town Manager**
Date: 3/19/2018

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT:

American Towers LLC f/k/a American Towers, Inc.
a Delaware limited liability company

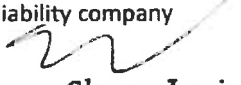
Signature: 
Print Name: Shawn Lanier
Title: Vice President - Legal
Date: 3-29-2018

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below.

SITUATE IN THE CITY OF HARNETT, TOWNSHIP OF DUKE, COUNTY OF HARNETT, STATE OF NORTH CAROLINA:

COMMENCING AT AN EXISTING IRON PIPE AT THE POINT OF INTERSECTION OF THE NORTHERN R/W MARGIN OF WEST "N" STREET, 60' R/W AND THE EASTERN R/W MARGIN OF NORTH 14TH STREET, 50' R/W IN THE TOWN OF ERWIN, NORTH CAROLINA, SAID COMMENCING POINT BEING THE SOUTHWEST CORNER OF WALTER B. MCNEIL (BOOK 471, PAGE 22) NOW OR FORMERLY; THENCE LEAVING SAID POINT OF INTERSECTION AND RUNNING WITH THE EASTERN R/W MARGIN OF NORTH 14TH STREET, NORTH 03 DEG. 02 MIN. 34 SEC. EAST 468.58' TO THE POINT OF CURVATURE OF A SIMPLE CIRCULAR CURVE TO THE LEFT HAVING A RADIUS DISTANCE OF 491.76', AN ARC DISTANCE OF 204.96' WITH A CHORD BEARING AND DISTANCE OF NORTH 08 DEG. 53 MIN. 50 SEC. WEST, 203.48' TO A POINT ON THE EASTERN R/W MARGIN OF NORTH 14TH STREET, THE POINT OF BEGINNING; THENCE CONTINUING TO RUN WITH SAID R/W MARGIN A SIMPLE CIRCULAR CURVE TO THE LEFT HAVING A RADIUS DISTANCE OF 491.76', AN ARC DISTANCE OF 26.80' WITH A CHORD BEARING AND DISTANCE OF NORTH 22 DEG. 23 MIN. 57 SEC. WEST, 26.80' TO THE POINT OF TANGENCY ON SAID R/W MARGIN; THENCE CONTINUING TO RUN WITH SAID R/W NORTH 23 DEG. 57 MIN. 36 SEC. WEST, 306.25' TO THE POINT OF INTERSECTION OF EASTERN R/W MARGIN OF NORTH 14TH STREET AND THE SOUTHERN BOUNDARY OF SPECIALTY PRODUCTS INTERNATIONAL, LTD. (BOOK 885, PAGE 896); THENCE LEAVING THE EASTERN R/W MARGIN OF NORTH 14TH STREET AND RUNNING WITH THE SOUTHERN BOUNDARY OF SPECIALTY PRODUCTS INTERNATIONAL, LTD., NORTH 65 DEG. 04 MIN. 43 SEC. EAST, 157.03' TO AN EXISTING IRON STAKE IN THE WESTERN BOUNDARY OF REGISTER AVERY (739/482-485) NOW OR FORMERLY; THENCE RUNNING WITH SAID WESTERN BOUNDARY SOUTH 23 DEG. 57 MIN. 36 SEC. EAST, 336.11' TO A POINT IN SAID WESTERN BOUNDARY; THENCE LEAVING THE WESTERN BOUNDARY OF REGISTER- AVERY AND RUNNING WITH A NORTHERN BOUNDARY OF THE TOWN OF ERWIN (885/993), SOUTH 66 DEG. 11 MIN. 55 SEC. WEST, 157.74' TO THE POINT OF BEGINNING AND CONTAINING 1 2061 ACRES + (52,539 SQUARE FEET)

Being situated in Harnett County, State of North Carolina, and being Parcel Number: 0605971008000811

EXHIBIT A (Continued)

LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease (10,000 square feet); (ii) Tenant's (and Tenant's customers') existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress and utility purposes from the Leased Premises to and from a public right of way.

SITE LEASE WITH OPTION

THIS SITE LEASE WITH OPTION (this "Lease") is by and between Town of Erwin, a North Carolina municipal corporation ("Landlord") and T-Mobile South, LLC, a Delaware limited liability company ("Tenant").

1. Option to Lease.

(a) In consideration of the payment of two thousand five hundred and no/100 dollars (\$2,500.00) (the "Option Fee") by Tenant to Landlord, Landlord hereby grants to Tenant an option to lease a portion of the real property described in the attached Exhibit A (the "Property"), on the terms and conditions set forth herein (the "Option"). The Option shall be for an initial term of twelve (12) months, commencing on the Effective Date (as defined below) (the "Option Period"). The Option Period may be extended by Tenant for an additional twelve (12) months upon written notice to Landlord and payment of the sum of two thousand five hundred and no/100 dollars (\$2,500.00) ("Additional Option Fee") at any time prior to the end of the Option Period.

(b) During the Option Period and any extension thereof, and during the Initial Term and any Renewal Term (as those terms are defined below) of this Lease, Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses and permits or authorizations required for Tenant's use of the Premises (as defined below) from all applicable government and/or regulatory entities (including, without limitation, zoning and land use authorities, and the Federal Communications Commission ("FCC") ("Governmental Approvals"), including all land use and zoning permit applications, and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals and variances, land-use permits. Landlord expressly grants to Tenant a right of access to the Property to perform any surveys, soil tests, and other engineering procedures or environmental investigations ("Tests") on the Property deemed necessary or appropriate by Tenant to evaluate the suitability of the Property for the uses contemplated under this Lease. During the Option Period and any extension thereof, and during the Initial Term or any Renewal Term of this Lease, Landlord agrees that it will not interfere with Tenant's efforts to secure other licenses and permits or authorizations that relate to other property. During the Option Period and any extension thereof, Tenant may exercise the Option by so notifying Landlord in writing, at Landlord's address in accordance with Section 12 hereof.

(c) If Tenant exercises the Option, then Landlord hereby leases to Tenant that portion of the Property sufficient for placement of the Antenna Facilities (as defined below), together with all necessary space and easements for access and utilities, as generally described and depicted in the attached Exhibit B (collectively referred to hereinafter as the "Premises"). The Premises, located at 819 North 14th Street, Erwin, NC 28339, comprises approximately ten thousand (10,000) square feet.

2. Term. The initial term of this Lease shall be five (5) years commencing on the date of exercise of the Option (the "Commencement Date"), and terminating at midnight on the last day of the initial term (the "Initial Term").

3. Renewal. Tenant shall have the right to extend this Lease for three (3) additional and successive five-year terms (each a "Renewal Term") on the same terms and conditions as set forth herein. This Lease shall automatically renew for each successive Renewal Term unless Tenant notifies Landlord, in writing, of Tenant's intention not to renew this Lease, at least thirty (30) days prior to the expiration of the Initial Term or any Renewal Term. If Tenant shall remain in possession of the Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

4. Rent.

(a) From and after the Commencement Date, Tenant shall pay Landlord or designee, as rent, one thousand six hundred sixty-six and 67/100 dollars (\$1,666.67) per month ("Rent"). The first payment of Rent shall be due within twenty (20) days following the Commencement Date and shall be prorated based on the days remaining in the month following the Commencement Date, and thereafter Rent will be payable monthly in advance by the fifth day of each month to Landlord at the address specified in Section 12 below. If this Lease is terminated for any reason (other than a default by Tenant) at a time other than on the last day of a month, Rent shall be prorated as of the date of termination and all prepaid Rent shall be immediately refunded to Tenant. Landlord, its successors, assigns and/or designee, if any, will submit to Tenant any documents required by Tenant in connection with the payment of Rent, including, without limitation, an IRS Form W-9.

(b) During the Initial Term and any Renewal Terms, monthly Rent shall be adjusted, effective on the first day of each year of the Initial or Renewal Term, and on each such subsequent anniversary of the Initial or Renewal Term as the case may be, to an amount equal to one hundred two percent (102%) of the monthly Rent in effect immediately prior to the adjustment date.

5. Permitted Use. The Premises may be used by Tenant for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair, removal or replacement of related facilities, including, without limitation, tower and base, antennas, microwave dishes, equipment shelters and/or cabinets and related activities. There will be no permanent generator on the site, but temporary generators are allowed in the case of a loss, or anticipated loss, of power.

6. Interference. Tenant shall not use the Premises in any way which interferes with the use of the Property by Landlord or lessees or licensees of Landlord with rights in the Property prior in time to Tenant's (subject to Tenant's rights under this Lease, including, without limitation,

non-interference). Similarly, Landlord shall not use, nor shall Landlord permit its lessees, licensees, employees, invitees or agents to use, any portion of the Property in any way which interferes with the operations of Tenant. Such interference shall be deemed a material breach by the interfering party, who shall, upon written notice from the other, be responsible for terminating said interference. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

7. Improvements; Utilities; Access.

(a) Tenant shall have the right, at its expense, to erect and maintain on the Premises improvements, personal property and facilities necessary to operate its communications system, including, without limitation, radio transmitting and receiving antennas, microwave dishes, tower and base, temporary (but not permanent) generators, equipment shelters and/or cabinets and related cables and utility lines and a location based system, as such location based system may be required by any county, state or federal agency/department, including, without limitation, additional antenna(s), coaxial cable, base units and other associated equipment (collectively, the "Antenna Facilities"). Tenant shall have the right to alter, replace, expand, enhance and upgrade the Antenna Facilities at any time during the term of this Lease. Tenant shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. Landlord acknowledges that it shall neither interfere with any aspects of construction nor attempt to direct construction personnel as to the location of or method of installation of the Antenna Facilities and the Easements (as defined below). The Antenna Facilities shall remain the exclusive property of Tenant and shall not be considered fixtures. Tenant shall have the right to remove the Antenna Facilities at any time during and upon the expiration or termination of this Lease.

(b) Tenant, at its expense, may use any and all appropriate means of restricting access to the Antenna Facilities, including, without limitation, the construction of a fence.

(c) Tenant shall, at Tenant's expense, keep and maintain the Antenna Facilities now or hereafter located on the Property in commercially reasonable condition and repair during the term of this Lease, normal wear and tear and casualty excepted. Upon termination or expiration of this Lease, the Premises shall be returned to Landlord in good, usable condition, normal wear and tear and casualty excepted. Within thirty (30) days of the expiration or earlier termination of this Lease, Tenant, at its sole cost and expense, shall remove the Antenna Facilities (including any foundations that it has placed upon the Premises up to one (1) foot below grade level), repair any damage to the Premises caused by Tenant, and restore the Premises to substantially the same condition as it was in on the Commencement Date, normal wear and tear and casualty excepted. Immediately following the Commencement Date hereunder, Tenant agrees to obtain a bond, in an amount to be determined by Tenant in its reasonable discretion, payable to Landlord, from a bond company duly licensed to do business in the state in which the Property is located in favor of Landlord (the "Bond"). The Bond shall secure Tenant's removal of its equipment from the Site following the expiration or earlier termination of the Lease. Tenant agrees to deliver to Landlord a copy of the Bond within a reasonable time following Tenant's receipt thereof. However, should the Town of Erwin require Tenant to obtain a similar Bond, Landlord shall not require Tenant to post a duplicative Bond. In the event Tenant fails to remove its equipment within such thirty (30) day period, the Landlord shall provide written notice stating that Tenant has failed to remove its Antenna Facilities (the "Abandonment Notice"). If Tenant fails to remove its Antenna Facilities within thirty (30) days after receipt of the Abandonment Notice, any portion of the Antenna Facilities remaining at the Premises shall be deemed to be abandoned, and, in addition to Landlord's right to charge Tenant for the cost of removing such Antenna Facilities and restoring any damage to the Property, Landlord shall have the right to retain or dispose of such Antenna Facilities, as if such Antenna Facilities were the property of Landlord.

(d) Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the Property (including, but not limited to, the installation of temporary emergency power generators). Landlord agrees to use reasonable efforts in assisting Tenant to acquire necessary utility service. Tenant shall, wherever practicable, install separate meters for utilities used on the Property by Tenant. In the event separate meters are not installed, Tenant shall pay the periodic charges for all utilities attributable to Tenant's use, at the rate charged by the servicing utility. Landlord shall diligently correct any variation, interruption or failure of utility service.

(e) As partial consideration for Rent paid under this Lease, Landlord hereby grants Tenant easements on, under and across the Property for ingress, egress, utilities and access (including access for the purposes described in Section 1) to the Premises adequate to install and maintain utilities, including, but not limited to, the installation of power and telephone service cable, and to service the Premises and the Antenna Facilities at all times during the Initial Term of this Lease and any Renewal Term (collectively, the "Easements"). The Easements provided hereunder shall have the same term as this Lease.

(f) Tenant shall have 24-hours-a-day, 7-days-a-week access to the Premises at all times during the Initial Term of this Lease and any Renewal Term, at no charge to Tenant.

(g) Tenant shall maintain and repair all access roadways from the nearest public roadway to the Premises in a manner sufficient to allow vehicular and pedestrian access at all times, at its sole expense, except for any damage to such roadways caused by Landlord.

8. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

(a) upon thirty (30) days' written notice by Landlord if Tenant fails to cure a default for payment of amounts due under this Lease within such thirty (30) day period;

(b) immediately upon written notice by Tenant if Tenant notifies Landlord of any unacceptable results of any Tests prior to Tenant's installation of the Antenna Facilities on the Premises, or if Tenant does not obtain, maintain, or otherwise forfeits or cancels any license (including, without limitation, an FCC license), permit or any Governmental Approval necessary to the installation and/or operation of the Antenna Facilities or Tenant's business;

(c) upon thirty (30) days' written notice by Tenant if Tenant determines that the Property or the Antenna Facilities are inappropriate or unnecessary for Tenant's operations for economic or technological reasons;

(d) immediately upon written notice by Tenant if the Premises or the Antenna Facilities are destroyed or damaged so as in Tenant's reasonable judgment to substantially and adversely affect the effective use of the Antenna Facilities. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction, and Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant. If Tenant elects to continue this Lease, then all Rent shall abate until the Premises and/or the Antenna Facilities are restored to the condition existing immediately prior to such damage or destruction, but in no event shall rent abate for more than ninety (90) days; or

(e) at the time title to the Property transfers to a condemning authority pursuant to a taking of all or a portion of the Property sufficient in Tenant's determination to render the Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.

9. **Default and Right to Cure.** Notwithstanding anything contained herein to the contrary and without waiving any other rights granted to it at law or in equity, each party shall have the right, but not the obligation, to terminate this Lease on written notice pursuant to Section 12 hereof, to take effect immediately, if the other party fails to perform any covenant or commits a material breach of this Lease and fails to diligently pursue a cure thereof to its completion after thirty (30) days' written notice specifying such failure of performance or default.

10. **Taxes.** Landlord shall pay when due all real property taxes for the Property, including the Premises. In the event that Landlord fails to pay any such real property taxes or other fees and assessments, Tenant shall have the right, but not the obligation, to pay such owed amounts and deduct them from Rent amounts due under this Lease. Notwithstanding the foregoing, Tenant shall pay any personal property tax, real property tax or any other tax or fee which is directly attributable to the presence or installation of Tenant's Antenna Facilities, only for so long as this Lease remains in effect. If Landlord receives notice of any personal property or real property tax assessment against Landlord, which may affect Tenant and is directly attributable to Tenant's installation, Landlord shall provide timely notice of the assessment to Tenant sufficient to allow Tenant to consent to or challenge such assessment, whether in a Court, administrative proceeding, or other venue, on behalf of Landlord and/or Tenant. Further, Landlord shall provide to Tenant any and all documentation associated with the assessment and shall execute any and all documents reasonably necessary to effectuate the intent of this Section 10. In the event real property taxes are assessed against Landlord or Tenant for the Premises or the Property, Tenant shall have the right, but not the obligation, to terminate this Lease without further liability after thirty (30) days' written notice to Landlord, provided Tenant pays any real property taxes assessed as provided herein.

11. Insurance and Subrogation and Indemnification.

(a) Tenant will maintain Commercial General Liability Insurance in amounts of One Million and no/100 Dollars (\$1,000,000.00) per occurrence and Two Million and no/100 Dollars (\$2,000,000.00) aggregate. Tenant may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance Tenant may maintain.

(b) Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other. Landlord and Tenant shall give their respective insurance carriers notice of these waivers and shall secure an endorsement from each carrier to the effect that the waivers given in this Section 11(b) shall not adversely affect or impair the policies of insurance or prejudice the right of the named insured on the policy to recover thereunder. In event that this waiver adversely affects or impairs the policies of insurance or prejudices the right of the named insured on the policy to recover thereunder, this waiver provision shall be void.

(c) Subject to the property insurance waivers set forth in subsection 11(b), Landlord and Tenant each agree to indemnify and hold harmless the other party from and against any and all claims, damages, costs and expenses, including reasonable attorney fees, to the extent caused by or arising out of the negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying party or the employees, agents, contractors, licensees, tenants and/or subtenants of the indemnifying party, or a breach of any obligation of the indemnifying party under this Lease. The indemnifying party's obligations under this section are contingent upon its receiving prompt written notice of any event giving rise to an obligation to indemnify the other party and the indemnified party's granting it the right to control the defense and settlement of the same.

(d) Notwithstanding anything to the contrary in this Lease, the parties hereby confirm that the provisions of this Section 11 shall survive the expiration or termination of this Lease.

(e) Tenant shall not be responsible to Landlord, or any third-party, for any claims, costs or damages (including, fines and penalties) attributable to any pre-existing violations of applicable codes, statutes or other regulations governing the Property.

12. Notices. All notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. Landlord or Tenant may from time to time designate any other address for this purpose by providing written notice to the other party.

If to Tenant, to:

T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006
Attn: PCS Lease Administrator

With a copy to:

Attn: Legal Dept.

And with a copy to:

T-Mobile South, LLC
4 Sylvan Way
Parsippany, NJ 07054-3801
Attn: Lease Administration Manager

With a copy to:

Attn: Legal Dept.

If to Landlord, to:

Town of Erwin
PO Box 459
Erwin, NC 28339

Send Rent payments to:

Town of Erwin
PO Box 459
Erwin, NC 28339

13. Quiet Enjoyment, Title and Authority. As of the Effective Date and at all times during the Initial Term and any Renewal Terms of this Lease, Landlord covenants and warrants to Tenant that (i) Landlord has full right, power and authority to execute and perform this Lease; (ii) Landlord has good and unencumbered fee title to the Property free and clear of any liens or mortgages, except those heretofore disclosed in writing to Tenant and which will not interfere with Tenant's rights to or use of the Premises; (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Landlord; and (iv) Tenant's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.

14. Environmental Laws. Landlord represents that it has no knowledge of any substance, chemical or waste (collectively, "Hazardous Substance") on the Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Landlord and Tenant shall not introduce or use any Hazardous Substance on the Property in violation of any applicable law. Landlord shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental laws, all spills or other releases of any Hazardous Substance not caused by Tenant, that have occurred or which may occur on the Property. Each party agrees to defend, indemnify and hold harmless the other from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability (collectively, "Claims") including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that the indemnitee may suffer or incur due to the existence of any Hazardous Substances on the Property or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment (collectively, "Actions"), that relate to or arise from the indemnitor's activities on the Property. Landlord agrees to defend, indemnify and hold Tenant harmless from Claims resulting from Actions on the Property not caused by Tenant. The indemnifications in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. This Section 14 shall survive the termination or expiration of this Lease.

15. Assignment and Subleasing. Tenant shall have the right to assign or otherwise transfer this Lease and the Easements (as defined above) to any person or business entity which: (i) is FCC licensed to operate a wireless communications business; (ii) is a parent, subsidiary, or affiliate of Tenant or Tenant's parent; (iii) is merged or consolidated with Tenant; (iv) acquires more than fifty percent (50%) of either an ownership interest in Tenant or the assets of Tenant in the "Metropolitan Trading Area" or "Basic Trading Area" (as those terms are defined by the FCC) in which the Property is located; and/or (v) upon written approval of landlord, to any entity or company whose primary business function is the management or operation of wireless communications real estate or leases, which approval shall not be unreasonably withheld, conditioned or delayed. Upon such assignment, Tenant shall be relieved of all liabilities and obligations hereunder and Landlord shall look solely to the assignee for performance under this Lease and all obligations hereunder. Tenant may sublease the Premises, upon written notice to Landlord. Tenant may otherwise assign this Lease upon written approval of Landlord, which approval shall not be unreasonably delayed, withheld, conditioned or denied.

Landlord shall have the right to assign or otherwise transfer this Lease and the Easements granted herein, upon written notice to Tenant except for the following; any assignment or transfer of this Lease which is separate and distinct from a transfer of Landlord's entire right, title and interest in the Property, shall require the prior written consent of Tenant which may be withheld in Tenant's sole discretion. Upon Tenant's receipt of (i) an executed deed or assignment and (ii) an IRS Form W-9 from assignee, and subject to Tenant's consent, if required, Landlord shall be relieved of all liabilities and obligations hereunder and Tenant shall look solely to the assignee for performance under this Lease and all obligations hereunder.

Additionally, notwithstanding anything to the contrary above, Landlord or Tenant may, upon notice to the other, grant a security interest in this Lease (and as regards the Tenant, in the Antenna Facilities), and may collaterally assign this Lease (and as regards the Tenant, in the Antenna Facilities) to any mortgagees or holders of security interests, including their successors or assigns (collectively "Secured Parties"). In such event, Landlord or Tenant, as the case may be, shall execute such consent to leasehold financing as may reasonably be required by Secured Parties.

16. Successors and Assigns. This Lease and the Easements granted herein shall run with the land, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

17. Waiver of Landlord's Lien. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities or any portion thereof, which shall be deemed personal property for the purposes of this Lease, whether or not the same is deemed real or personal property under applicable laws, and Landlord gives Tenant and Secured Parties the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, in Tenant's and/or Secured Party's sole discretion and without Landlord's consent.

18. Miscellaneous.

(a) The prevailing party in any litigation arising hereunder shall be entitled to reimbursement from the other party of its reasonable attorneys' fees and court costs, including appeals, if any.

(b) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements with respect to the subject matter and property covered by this Lease. Any amendments to this Lease must be in writing and executed by both parties.

(c) Landlord agrees to cooperate with Tenant in executing any documents necessary to protect Tenant's rights in or use of the Premises. A Memorandum of Lease in substantially the form attached hereto as Exhibit C may be recorded in place of this Lease by Tenant.

(d) In the event the Property is encumbered by a mortgage or deed of trust, Landlord agrees, upon request of Tenant, to obtain and furnish to Tenant a non-disturbance and attornment agreement for each such mortgage or deed of trust, in a form reasonably acceptable to Tenant.

(e) Tenant may obtain title insurance on its interest in the Premises. Landlord agrees to execute such documents as the title company may require in connection therewith.

(f) This Lease shall be construed in accordance with the laws of the state in which the Property is located, without regard to the conflicts of law principles of such state.

(g) If any term of this Lease is found to be void or invalid, the remaining terms of this Lease shall continue in full force and effect. Any questions of particular interpretation shall not be interpreted against the drafter, but rather in accordance with the fair meaning thereof. No provision of this Lease will be deemed waived by either party unless expressly waived in writing by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision.

(h) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacities as indicated.

(i) This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument.


(j) All Exhibits referred to herein and any Addenda are incorporated herein for all purposes. The parties understand and acknowledge that Exhibits A and B may be attached to this Lease and the Memorandum of Lease, in preliminary form. Accordingly, the parties agree that upon the preparation of final, more complete exhibits, Exhibits A and/or B, as the case may be, may be replaced by Tenant with such final, more complete exhibit(s).

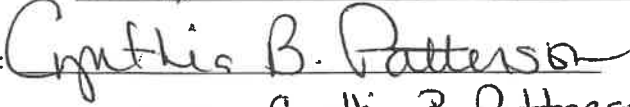
(k) If either party is represented by any broker or any other leasing agent, such party is responsible for all commission fee or other payment to such agent, and agrees to indemnify and hold the other party harmless from all claims by such broker or anyone claiming through such broker.


(l) Tenant will provide a landscape buffer on the Premises in accordance with the ordinances for the Town of Erwin.

The effective date of this Lease is the date of execution by the last party to sign (the "Effective Date").

LANDLORD: Town of Erwin

By: 
Printed Name: Bryan Thompson
Title: Town Manager
Date: 3.3.09

ATTEST: 
Printed Name: ~~Ramola S. Addison~~ Cynthia B. Patterson
Title: Town Clerk

TENANT: T-Mobile South, LLC 
By: _____
Printed Name: Todd Wheeler
Title: Area Director, Network Engineering & Operations
Date: 2/20/09

T-Mobile Legal Approval

**EXHIBIT A
Legal Description**

The Property is legally described as follows:

All that certain lot or parcel of land located in Duke Township in the Town of Erwin, Harnett County, State of North Carolina and being more particularly described as follows:

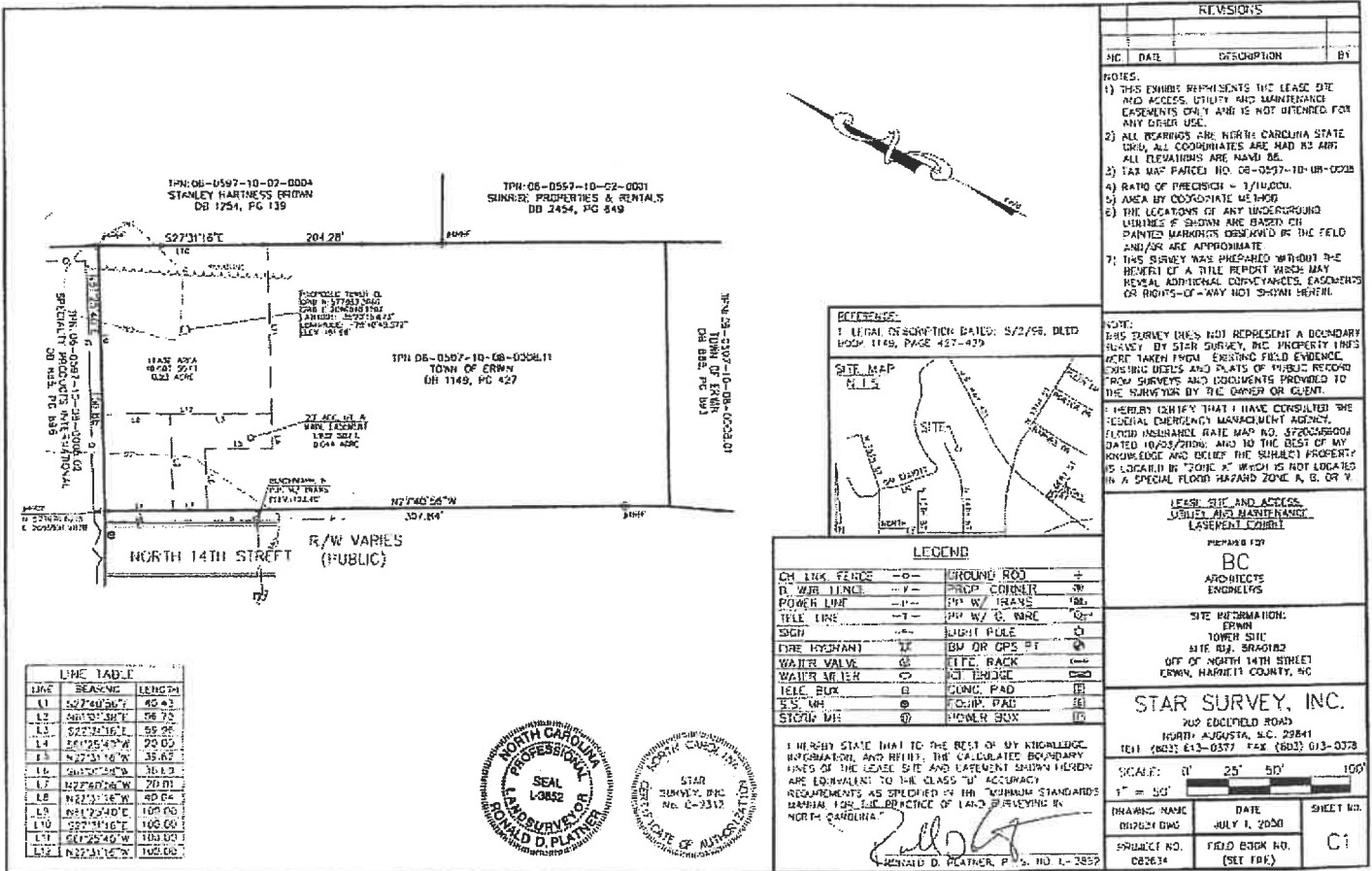
COMMENCING at an existing iron pipe at the Point of Intersection of the Northern R/W margin of West "N" Street, 60' R/W and the Eastern R/W margin of North 14th Street, 50' R/W in the Town of Erwin, North Carolina, said commencing point being the Southwest corner of Walter B. McNeill (Book 471, Page 22) now or formerly; thence leaving said point of intersection and running with the Eastern R/W margin of North 14th Street, North 03 deg. 02 min. 34 sec. East 468.58' to the Point of Curvature of a simple circular curve to the left having a radius distance of 491.76', an Arc Distance of 204.96' with a Chord Bearing and Distance of North 08 deg. 53 min. 50 sec. West, 203.48' to a point on the Eastern R/W margin

of North 14th Street, the Point of Beginning; thence continuing to run with said R/W margin a simple circular curve to the left having a radius distance of 491.76', an arc distance of 26.80' with a chord bearing and distance of North 22 deg. 23 min. 57 sec. West, 26.80' to the point of tangency on said R/W margin; thence continuing to run with said R/W margin North 23 deg. 57 min. 36 sec. West, 306.25' to the point of intersection of Eastern R/W margin of North 14th Street and the Southern boundary of Specialty Products International, Ltd. (Book 885, Page 896); thence leaving the Eastern R/W margin of North 14th Street and running with the Southern boundary of Specialty Products International, Ltd., North 65 deg. 04 min. 43 sec. East, 157.03' to an existing iron stake in the Western boundary of Register-Avery (739/482-485) now or formerly; thence running with said Western boundary South 23 deg. 57 min. 36 sec. East, 336.11' to a point in said Western boundary; thence leaving the Western boundary of Register-Avery and running with a Northern boundary of the Town of Erwin (885/893), South 66 deg. 11 min. 55 sec. West, 157.74' to the POINT OF BEGINNING and containing 1.2061 Acres (52,539 Square Feet)±.

And being the same property conveyed to the Town of Erwin in deed appearing of recording in Book 1149, at page 427 in the office of the Register of Deeds of Harnett County, North Carolina.

EXHIBIT B

The location of the Premises within the Property (together with access and utilities) is more particularly described and depicted as follows:



THIS DOCUMENT IS THE PROPERTY OF T-MOBILE. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. ANY UNAUTHORIZED USE OF THIS DOCUMENT IS STRICTLY PROHIBITED. T-MOBILE SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

BC
architects
engineers

300 S. BROAD ST. SUITE 1700
Raleigh, NC 27601
P: 919.978.1100
F: 919.978.1101
www.bcnc.com

PROJECT NO. SRA0182-A
SITE NAME: ERWIN
812 N. 14TH STREET
ERWIN, NC 28520



DATE: 07-21-07
SCALE: AS SHOWN
DRAWN BY: [unintelligible]
CHECKED BY: [unintelligible]

OVERALL SITE PLAN

SHEET NO. A-0	TOTAL SHEETS 2
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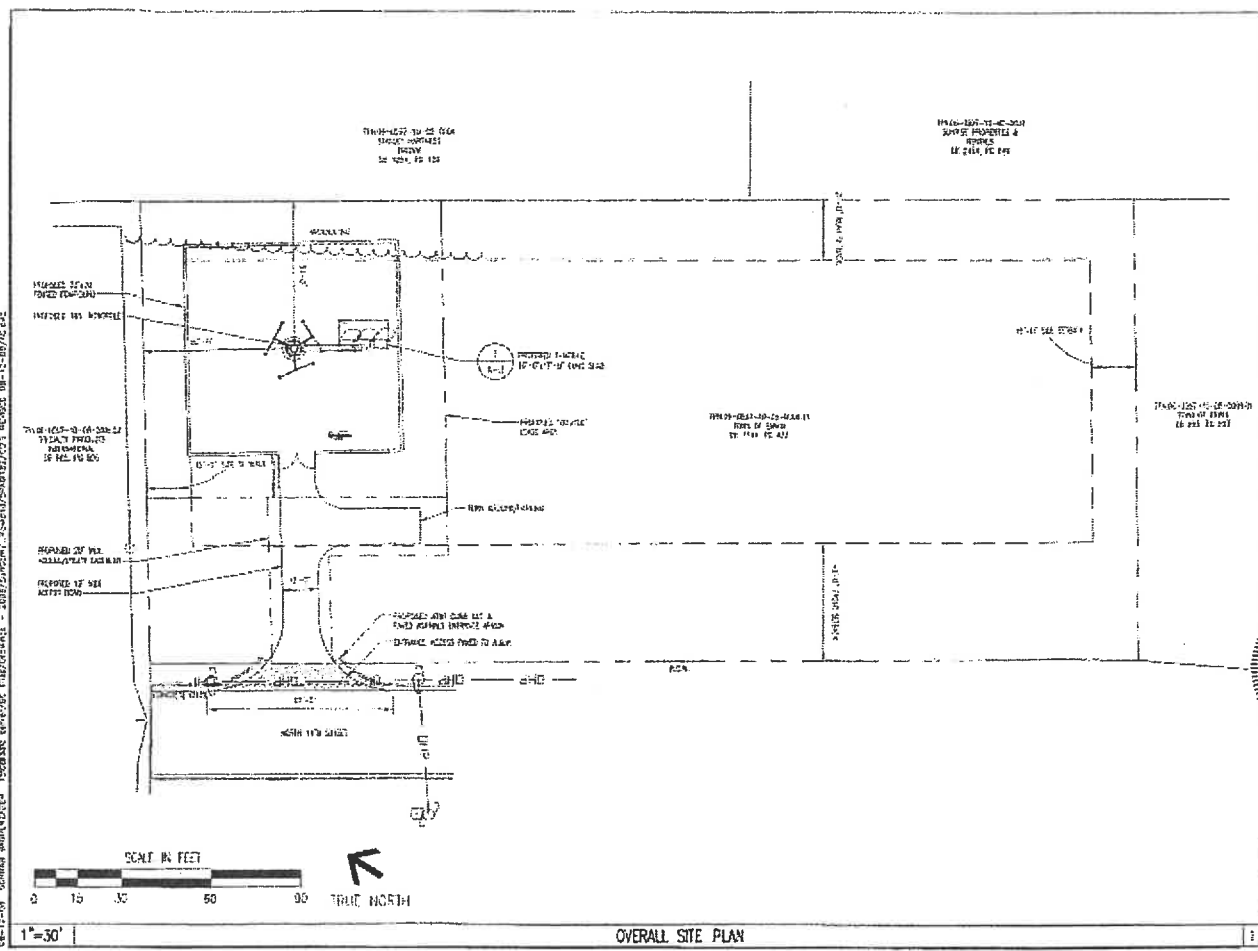


EXHIBIT C

**Memorandum
of
Lease**

MEMORANDUM OF LEASE

Assessor's Parcel Number: 06-0597-10-08-0008.11

Between Town of Erwin ("Landlord") and T-Mobile South, LLC ("Tenant")

A Site Lease with Option (the "Lease") by and between Town of Erwin, a North Carolina municipal corporation, ("Landlord") and T-Mobile South, LLC, a Delaware Limited liability company ("Tenant") was made regarding a portion of the following property:

See Attached Exhibit "A" incorporated herein for all purposes

The Option is for a term of twelve (12) months after the Effective Date of the Lease (as defined under the Lease), with up to one additional twelve (12) month renewal ("Optional Period").

The Lease is for a term of five (5) years and will commence on the date as set forth in the Lease (the "Commencement Date"). Tenant shall have the right to extend this Lease for three (3) additional and successive five-(5) year terms. The Lease including all extensions shall expire on _____.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum effective as of the date of the last party to sign.

LANDLORD: Town of Erwin

By: _____
Printed Name: Bryan Thompson
Title: Town Manager
Date: _____

ATTEST: _____

Printed Name: Pamela S. Addison

Title: Town Clerk

TENANT: T-Mobile South, LLC

By: _____
Printed Name: Todd Wheeler
Title: Area Director, Network Engineering & Operations
Date: _____

[Notary block for Landlord]

[Landlord Notary block for a Corporation, Partnership ,or Limited Liability Company]

STATE OF NORTH CAROLINA)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____ by Bryan Thompson, Town Manager of the Town of Erwin a North Carolina municipal corporation, and attested by Pamela S. Addison, its Town Clerk on behalf of said Town of Erwin.

Dated: _____



(Use this space for notary stamp/seal)

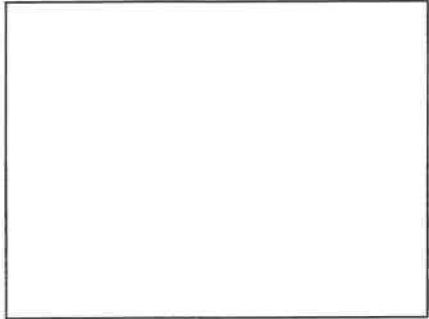
Notary Public
Print Name _____
My commission expires _____

[Notary block for Tenant]

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Todd Wheeler is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Area Director, Network Engineering & Operations of T-Mobile South, LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notary stamp/seal)

Notary Public
Print Name _____
My commission expires _____

**Memorandum of Lease Exhibit A
Legal Description**

The Property is legally described as follows:

Property description attached hereto and incorporated by reference.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: June 26, 2023

Subject: Personnel Policy Update

We have proposed some updates to our personnel policy. Starting this month, we will be implementing an employee of the quarter program and one benefit we would like to provide to our honorees is one day of leave to take within the month.

Attachments:

- Proposed Employee of the Quarter Leave Update to Personnel Policy

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 eight hours (twelve hours for Patrol Officers) must be used within the next three months of receiving the award and must be used to take a whole day of leave. The time cannot be split into increments or used 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.

Erwin Planning Board

REQUEST FOR CONSIDERATION

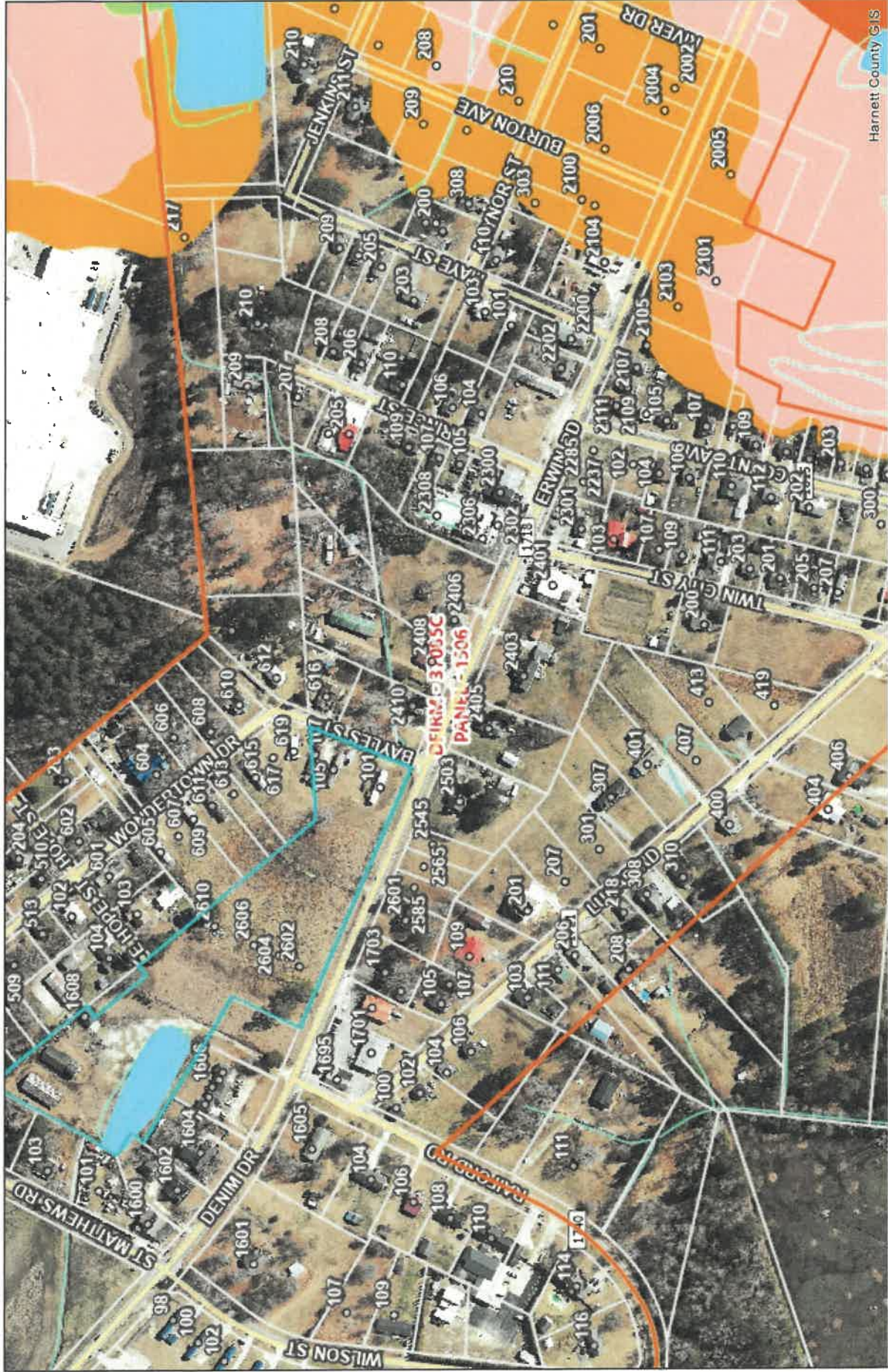
To: The Honorable Mayor and Board of Commissioners
From: Snow Bowden, Town Manager
Date: June 26, 2023
Subject: Wondertown Drive Subdivision Preliminary Plat

The Town of Erwin has received a preliminary plat proposal for a subdivision off of Wondertown Drive and Bayles Street. The preliminary plat includes 11 proposed lots with road frontage on two separate municipal streets. The proposal will call for the new 11 lots to be served by Harnett Regional Water for water and sewer. There are no environmental issues based on a review from Harnett County GIS data. The previously identified wetlands on this property are not located on any of the new proposed lots for development. There does appear to be a storm water easement on the proposed lot at the corner of Bayles Street and Denim Drive.

R-10 Zoning District

- Minimum required front yard-25 feet
- Minimum required rear yard-25 feet
- Minimum required side yard-8 feet
- Minimum lot area 6,000 square feet
- Minimum lot width 50 feet (single-family)
 - *The minimum lot width is 75 feet for multi-family

Harnett GIS



Harnett County GIS

1 inch = 376 feet

0 165 330 660 Feet

Surrounding County Boundaries

- City Limits
- County Boundary
- Address Numbers

Major Roads

- Interstate
- NC
- US

Airport

Road Centerlines

- Railroad
- Parcels
- Cape Fear River
- BlueLineStreams

GIS/E-911 Addressing
June 12, 2023

NOT FOR LEGAL USE.

Harnett GIS



NOT FOR LEGAL USE

<ul style="list-style-type: none"> Surrounding County Boundaries City Limits County Boundary Address Numbers 	<ul style="list-style-type: none"> Airport MajorRoads <ul style="list-style-type: none"> Interstate NC 	<ul style="list-style-type: none"> US RoadCenterlines Railroad 	<div style="text-align: center;"> </div>
<p>GIS/E-911 Addressing June 12, 2023</p>			<div style="text-align: center;"> <p>1 inch = 188 feet</p> </div>

Part 9 Chapter 3	Article 3 Procedure for Review and Approval of Subdivision Plats	Subdivision Regulations
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Plats		
Information	Preliminary	Final
Title Block Containing	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Property designation		
Name of owner	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Location (including township, county and state)	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Date or dates survey was conducted and plat prepared	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
A scale of drawing in feet per inch listed in words or figures	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
A bar graph	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Name, address, registration number and seal of the Registered Land Surveyor	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The name of the subdivider	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Corporate limits, township boundaries, county lines if on the subdivision tract	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The names, addresses and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, and professional engineers responsible for the subdivision	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The registration numbers and seals of the professional engineers	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Date of plat preparation	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
North arrow and orientation	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The names of owners of adjoining properties	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The names of any adjoining subdivisions of record or proposed and under review	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Minimum building setback lines	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The zoning classifications of the tract to be subdivided and adjoining properties	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Existing property lines on the tract to be subdivided and on adjoining properties	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Proposed lot lines, lot and block numbers, and approximate dimensions	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The lots numbered consecutively throughout the subdivision	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, or streambeds and any streams other natural features affecting the site	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The exact location of the flood hazard, floodway and floodway fringe areas from the community's FHB or other FEMA maps	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>

Part 9 Chapter 3	Article 3 Procedure for Review and Approval of Subdivision Plats	Subdivision Regulations
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Plats		
Information	Preliminary	Final
The following data concerning streets:	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Proposed streets	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Existing and plated streets on adjoining properties and in the proposed subdivision	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Rights-of-way, locations and dimensions	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Payment widths	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Approximate grades	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Design engineering data for all corners and curves	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Typical street cross sections	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Street names	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Type of street dedication; all streets must be designated either "public" or "private". Where public streets are involved which will not be dedicated to a municipality, the subdivider must submit the following documents to the N. C. Department of Transportation District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; (the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist);	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
†-Required on preliminary and final plats for major subdivisions and required only on a final plats for minor subdivisions.		
Typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas.		
Where streets are dedicated to the public, but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street.		✓ <input type="checkbox"/>
If any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the North Carolina Department of Transportation, Division of Highways' Manual on Driveway Ordinance		
Evidence that the subdivider has obtained such approval	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The location and dimensions of all:		
Utility and other easements	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Riding trails	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Natural buffers	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Pedestrian or bicycle paths	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Parks and recreation areas with specific type indicated	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
School sites	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Areas to be dedicated to or reserved for public use	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Areas to be used for purposes other than residential with the purpose of each stated	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Plats		

<h1 style="margin:0;">Part 9</h1> <p style="margin:0;">Chapter 3</p>	<h2 style="margin:0;">Article 3</h2> <h3 style="margin:0;">Procedure for Review and Approval of Subdivision Plats</h3>	<h2 style="margin:0;">Subdivision Regulations</h2>
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Information	Preliminary	Final
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership) of recreation and open space lands	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
The plans for utility layouts including:		
Public or Community Sewage System (if any)	✓ <input type="checkbox"/>	✓ <input checked="" type="checkbox"/>
Storm sewers	✓ <input type="checkbox"/>	✓ <input checked="" type="checkbox"/>
Other drainage facilities, (if any)	✓ <input type="checkbox"/>	✓ <input checked="" type="checkbox"/>
Public water system (if any)	✓ <input type="checkbox"/>	✓ <input checked="" type="checkbox"/>
Natural gas lines	✓ <input type="checkbox"/>	✓ <input checked="" type="checkbox"/>
Telephone lines	✓ <input type="checkbox"/>	✓ <input checked="" type="checkbox"/>
Electric lines	✓ <input type="checkbox"/>	✓ <input checked="" type="checkbox"/>
Illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blow offs, manholes, force mains and gate valves.		
Plans for individual water supply and septic tank systems, if any.	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Profiles based upon Mean Sea Level datum for sanitary sewers and storm sewers	✓ <input type="checkbox"/>	
Site calculations including: -Acreage in total tract to be subdivided.	✓ <input type="checkbox"/>	
Acreage in parks and recreation areas and other nonresidential uses.	✓ <input type="checkbox"/>	
1-Required on preliminary and final plats for major subdivisions and required only on a final plats for minor subdivisions.		
Total number of parcels in created	✓ <input type="checkbox"/>	
Acreage the smallest lot in the subdivision	✓ <input type="checkbox"/>	
Linear feet in streets	✓ <input type="checkbox"/>	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places-	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute.		✓ <input type="checkbox"/>
The accurate locations and descriptions of all monuments, markers and control points.		✓ <input type="checkbox"/>
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established.	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
A copy of the erosion control plan submitted to the appropriate authority, and a copy of the letter of approval of the erosion control plan by the appropriate authority.	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
Topographic map with contour intervals of five feet	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>
All certifications required in § 9-3031	✓ <input type="checkbox"/>	✓ <input type="checkbox"/>

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MINUTES CONTINUED FROM JUNE 26, 2023

Bait Road and Antioch Church Road rezoned from R-15 to RD. The purpose of this rezoning is that they want to build a church on the site and a church can be built on any property in Erwin except property zoned R-15. Churches are allowed as a permitted by right in RD. If the request is approved, the applicants will apply for a text amendment.

Zoning Updates Text Amendment

Town Manager Snow Bowden stated these are proposed text amendments to our general ordinances. The proposed changes will help streamline the process and make it easier for people to conduct business in Erwin. The Planning Board did recommend these proposed text amendments for approval.

The consensus of the Board was to move forward with the Public Hearing for this item our Regularly Scheduled Meeting in July.

M-1 Zoning Text Amendment

Town Manager Snow Bowden stated the Planning Board strongly recommended these updates to our M-1 District for approval. These changes would make it possible for retail shops, service establishments, outdoor dining educational uses, trades enterprises, tattoo parlors, body piercing establishments, and public facilities are permitted by right. The biggest change is adding Brewery/Microbrewery and Distillery. These changes will help the new owners of Central Carolina Industrial Park develop the mill.

Mayor Baker inquired about the separation distance needed between the same uses. We could not technically zone a use out so that is a discussion that needed to be had among the Planning Board and then the Town Board.

Town Manager Snow Bowden stated the Planning Board did not get into a deep discussion on the matter. Everyone on the Planning Board was just excited to see the definitions of the Brewery/Microbrewery. This conversation will be revisited over the next few years as the owners of Central Carolina Industrial Park develop the property.

Commissioner Nelson expressed his concern about allowing adult entertainment establishments.

Mayor Baker stated certain statutory requirements would not allow the Board to discriminate against those establishments but that was why he mentioned the separation requirements to limit the amount of the same establishments within a certain distance.

Town Manager Snow Bowden stated we could keep adult entertainment as a special use if the Board saw fit. Adult Entertainments are allowed as a special use in the M-1 and you legally cannot exclude it.

Mayor Baker stated this is an issue where the Board may need to consult with legal counsel and the Board needs to be in full understanding of what the parameters are. We need additional information and additional legal advice on the procedure before moving forward. As mayor, his job is to make sure the Board is procedurally correct.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: June 26, 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.



**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 I 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**.

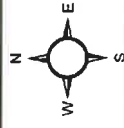
Attachments:

- ZT-2023-002 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



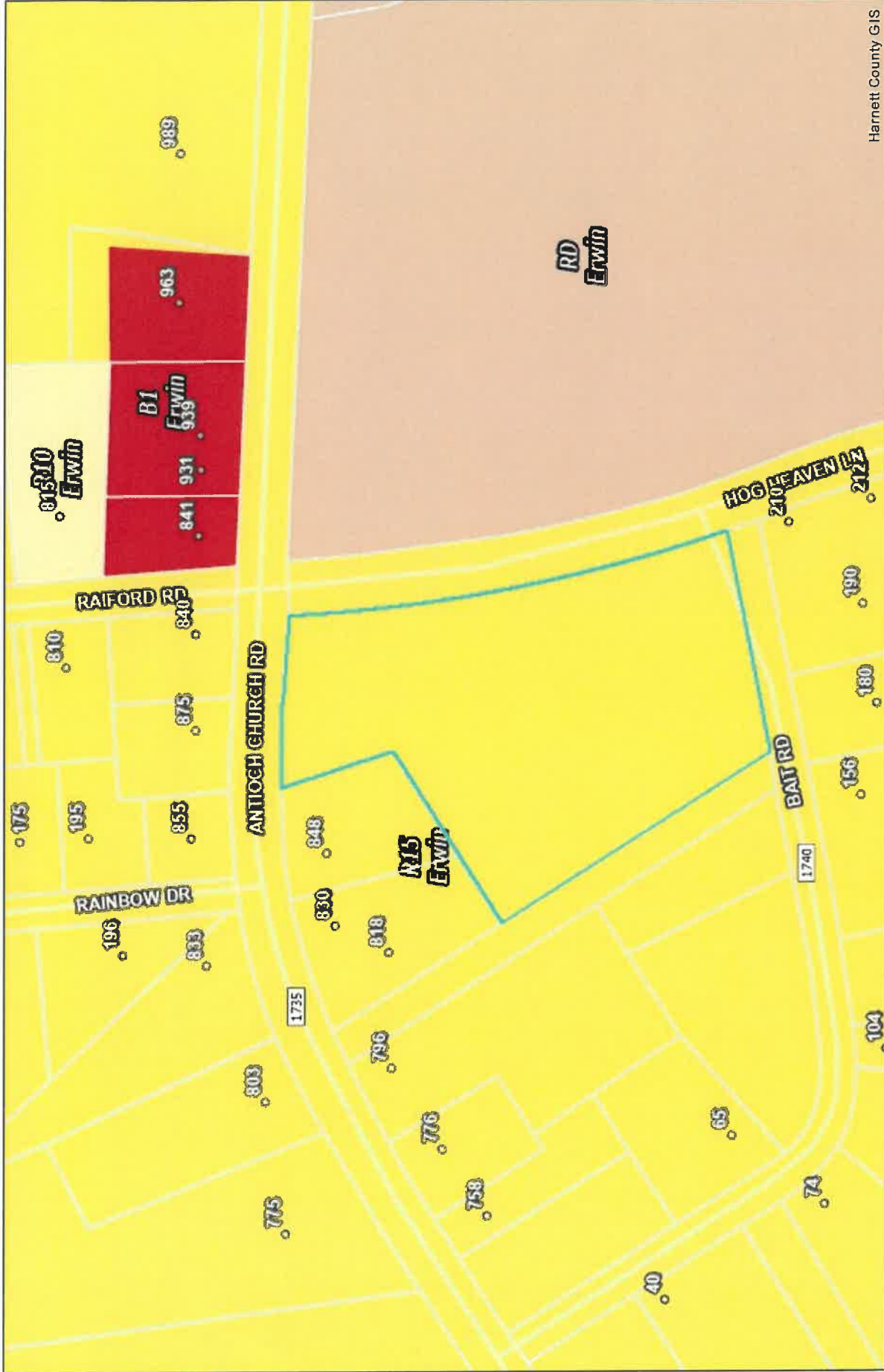
1 inch = 188 feet

- 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

NOT FOR LEGAL USE .

Harnett GIS



Harnett County GIS

1 inch = 188 feet

0 80 160 320 Feet

N
W E
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Surrounding County Boundaries
 City Limits
 County Boundary
 Address Numbers

MajorRoads
 Interstate
 NC
 US

Airport

Roads
 Mile_Markers
 Mile_Markers
 Railroad
 Parcels

CapeFearRiver

GIS/E-911 Addressing
 May 25, 2023

NOT FOR LEGAL USE .

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: June 26, 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 (used but less than five years old as of date of zoning permit issuance).
- (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.

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: June 26, 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
14. Educational uses
15. Trades and similar enterprises catering to household and business establishments.
16. 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.
17. 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.
18. Public facilities.
19. Brewery/Microbrewery
20. 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.

MINUTES CONTINUED FROM JUNE 26, 2023

The consensus of the Board was to hold this conversation and take it back to the Planning Board for discussion. Then bring it back to the Town Board with more information when more Board Members were present and the Board can consult legal advice.

Erwin Fire Department

Town Manager Snow Bowden stated Town Clerk Lauren Evans provided the Board with minutes from the May 4, 2010, Board Meeting for the Board's knowledge. We discussed this topic at our budget workshop about bringing the full-time employees of the Fire Department on as Town Employees and leasing them to the Erwin Fire and Rescue. Town Staff is working on drafting an MOU for the Fire Department. There will be no cost to the Town. We collect a fire tax and write a check to the Erwin Fire and Rescue every month, which we could use to cover the costs. This partnership would be a way to help to keep the Town of Erwin and our community safe by helping with retention and recruitment for the Fire Department. Full-time employees would then have access to the state retirement system.

The consensus of the Board was to place this item under Old Business on the agenda for our Regularly Scheduled Meeting in July.

BOA-2023-008

The consensus of the Board was to place this item under Consent on the agenda for our Regularly Scheduled Meeting in July.

Contract for Computer Support Services

The consensus of the Board was to place this item under Consent on the agenda for our Regularly Scheduled Meeting in July.

MANAGER'S REPORT

Town Manager Snow Bowden stated he had no news for the Board at that time. He would have a full report at our Regularly Scheduled Meeting in July.

GOVERNING COMMENTS

Mayor Baker thanked everyone for their participation in the workshop. He made the Board aware that there was a Public Hearing item that was tabled at our Regularly Scheduled Meeting in June due to a lack of information involving an unopen portion of a road. At this point, we still do not have concrete evidence that the Town has authority or ownership of this section.

Town Manager Snow Bowden stated he has done a lot of research on the matter. He had not seen any documentation that the Town ever had authority over that section on East L Street. He had reached out to the NCLM and was advised that NC General Statute makes the matter a moot point and the road no longer exists. The map the easement was on was from the 1950s prior to the Town's incorporation in 1967. He had sent updated information to our Town Attorney's office and he had

Erwin Board of Commissioners

REQUEST FOR CONSIDERATION

To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: June 26, 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.

**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

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: _____

Printed Name: _____

Title: _____

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

By: _____

Printed Name: _____

Title: _____

COUNTY:

COUNTY OF HARNETT

By: _____

County Manager

MINUTES CONTINUED FROM JUNE 26, 2023

been in contact with Town Attorney Tim Morris' paralegal. He stated whatever our Town Attorney advises, we need to do.

The consensus of the Board was to place this item on the agenda for our Regularly Scheduled Meeting in July for informational purposes only.

Mayor Baker asked everyone to continue keeping Town Attorney Tim Morris in our thoughts and prayers.

ADJOURNMENT

Commissioner Nelson made a motion to adjourn at 7:20 P.M. and was seconded by Commissioner Marbell. **The Board voted unanimously.**

**MINUTES RECORDED AND TYPED BY
LAUREN EVANS TOWN CLERK**

ATTEST:



Randy Baker

Mayor



Lauren Evans

Town Clerk