

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

**1. MEETING CALLED TO ORDER**

- A. Invocation
- B. Pledge of Allegiance

**2. AGENDA ADJUSTMENTS /APPROVAL OF AGENDA**

**3. CONSENT**

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

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

**4. SPECIAL PRESENTATION**

**5. PUBLIC COMMENT**

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

**6. PUBLIC HEARING**

- A. ZT-2023-003 (**Page 27**)
- B. Zoning Updates Text Amendment (**Page 44**)
- C. M-1 Zoning Text Amendment (**Page 75**)

**7. OLD BUSINESS**

- A. Erwin Fire Department Personnel Leasing MOU (**Page 88**)
- B. Update on East L Street (**Page 101**)

**8. MANAGER'S REPORT**

**9. ATTORNEY'S REPORT**

**10. GOVERNING BODY COMMENTS**

**11. ADJOURNMENT**

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

**ERWIN BOARD OF COMMISSIONERS**

**REGULAR WORKSHOP MINUTES**

**MAY 22, 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, May 22, 2023, at 6:00 P.M. in Erwin, North Carolina.

Board Members present were: Mayor Randy Baker, Mayor Pro Tem Ricky Blackmon, and Commissioners Alvester McKoy, Charles Byrd, David Nelson, and Timothy Marbell.

Board Members absent were: Commissioner William Turnage

Town Manager Snow Bowden, Town Clerk Lauren Evans, and Town Engineer Bill Dreitzler were present.

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

Commissioner McKoy gave the invocation.

Commissioner Nelson led the Pledge of Allegiance.

**AGENDA ADJUSTMENT/APPROVAL OF AGENDA**

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

**OLD BUSINESS**

**West K Street**

Town Engineer Bill Dreitzler came forward and stated he was still working with the contractors to get prices from the suppliers. They were fairly confident that the culvert placement was going to be in the \$800,000-\$1.1 million range. It had to be RCP pipes because of the depth. They were also confident that the open channel was more complicated because of the potential property owner but they were looking at a budget in the \$400,000-\$700,000 range. Being above the \$500,000 range triggers general statutes requirements and a formal bid, sealed bids, with bid bonds, performance bonds, and payment bonds were required. A solid bid package would need to be prepared. He asked the Board to allow him to secure an engineering firm to prepare a set of plans, specs, and a full bid document with the contract. He had an engineering firm go look at the project and asked them to provide him with budget numbers. With the possible surveying required, we were looking that the \$50,000-\$70,000 range. The \$50,000 would cover only designing the culvert replacements. He recommended designing our culvert replacements as our main option but with the potential to have designs opening the street as an alternative and then a decision must be made whether it would be worth the additional cost. His thought was if we are in the \$400,000-\$700,000 range to open the street, the cost and benefits must be weighed. The cost may be less but he did not feel that the benefit

## **MINUTES CONTINUED FROM MAY 22, 2023**

would be less. He felt we would regret opening up the street rather than spending a little more and fixing it the correct way. This process will not be quick. Supplies are severely delayed. Even once receiving the designs and hiring a contractor, we are months away from receiving the materials. He asked the Board for direction, would they like for him to continue working with the engineering firm he already spoke with, they are a small company with reasonable prices or we could put an RFQ out, soliciting from engineering firms evaluating and selecting the top rated firm and negotiate a contract with them.

Discussion continued among the Board.

**The consensus of the Board was that they need all the data in front of them. The Board instructed Town Engineer Bill Dreitzler to send out a scope RFQ with every option.**

Mayor Baker asked staff to put something more suitable up to block off the road such as the interlocking fencing that DOT uses.

### **East L Street**

Town Manager Snow Bowden informed the Board that we will be holding a Public Hearing at our regularly scheduled meeting the following Thursday, June 1, 2023, to discuss closing the unopen portion of East L Street. If the road is closed, the land will be deeded back to the property owner.

## **NEW BUSINESS**

### **DM2 Retainer Contract Extension FY 2023-2024**

**The consensus of the Board was to place this on our Consent Agenda for our Regularly Scheduled Meeting in June.**

### **Auditor Contract and Engagement Letter**

**The consensus of the Board was to place this on our Consent Agenda for our Regularly Scheduled Meeting in June.**

### **American Tower**

Town Manager Snow Bowden stated American Tower merged with Sprint. Now T-mobile and Sprint are one company and looking to downsize cell towers. If we agreed to their terms the Town would lose \$657,870. He recommended a counteroffer to send back to the company.

Mayor Baker asked for the numbers for the current lease.

Town Manager Snow Bowden stated in our current lease to 2069 with the escalation rate would bring in 2,000,751,825.81 to be exact. The proposed terms and an extension of 10 years would bring in 2,000,093,995.87 until 2079.

## MINUTES CONTINUED FROM MAY 22, 2023

Mayor Baker inquired about the current monthly rent.

Town Manager Snow Bowden stated the current rent is \$2,500 and goes up 3% annually in March. If we agree to the proposed terms, the rental payment will increase by 10% every 5 years.

**The consensus of the Board was to deny American Tower's proposed terms unless they are willing to guarantee funds for the next 25 years.**

### **Erwin Website**

Town Clerk Lauren Evans presented the Board with the progress of the new Town of Erwin Website.

## MANAGER'S REPORT

Town Manager Snow Bowden informed the Board that:

- The former site of the Erwin Mill or Erwin Business Complex. The new site is being marketed under the name of Central Carolina Industrial Park. They are still cleaning up the site and making improvements to the site daily. He knew that they had made some of their existing tenants upset and some tenants had already left and most plan on leaving soon.
  - He was working with the new owners on a weekly basis. We were working on a potential rezoning or text amendment to be presented to the Planning Board at our June Town Board meeting.
- We were gathering feedback for our updated Land Use Plan at the moment. He had a follow-up meeting with Stewart Group the following day. He believed that we were still hoping to adopt the updated plan in August 2023.
- We NEED volunteers for the Planning Board. We were about to lose three members that are "In-Town". We can replace one of them with one of our alternates but we need volunteers. We asked and encouraged a lot of people. If you know someone that might be interested please encourage them to apply or to call him. We desperately need members from our ETJ. We were going to reach out to Michael Shean in August because he will be eligible to rejoin at that point. He had to sit out a year after serving two three-year terms.
- We received our last reimbursement request from the State of NC for the PARTF project at Al Woodall Park. We had to make a few extra inquiries due to staffing changes at the State level but the check was in the bank today for \$15,604.57. Our partners at the state level were great to work with on this project. He thanked our Town Engineer Bill Dreitzler and our Recreation Director Doug Stevens for all of their efforts with this project.
- The proposed budget for FY 2023/2024 was available for public inspection. Our Town Clerk Lauren Evans sent it out to all of you by email earlier that day. We will be printing off hard copies of the budget for all of you. They will be delivered this Friday. The public hearing was scheduled for next Thursday, June 1<sup>st</sup>.
- He was still waiting to hear back from Harnett County in regards to the request he sent to be reimbursed for the improvements we had to make to the ditch near Erwin Elementary to help with the flooding issues that were due to the new school on this site.
- Our Town Attorney had drafted legal complaints against two of the more serious code violations that we had in Town.

## **MINUTES CONTINUED FROM MAY 22, 2023**

- He attended an event the prior week at Good Hope Hospital that was put together by their new Executive Director Mark Morris. He thought it was well put together and the improvements to this site looked great. They had made some serious improvements to the entire site. This project had been a few years in the making.
- At our last Town Board meeting we received a complaint on a few homes and ditches. Erwin Public Works still needed to get out and clean out a few of the drain tiles on Barnes Drive but that was in the works if it was not completed the same day. The other ditches have been cleaned out.
  - Our Code Enforcement Officer reached out to the property owner at 704 North 16<sup>th</sup> Street. The person that owns the home inherited the home. He currently lives in Texas. He was aware that the home needed work and he told us that he was getting a plan together to fix the home so it could be used.
  - The house at 709 North 16<sup>th</sup> Street was apparently taken by NC Medicaid according to the property owner that is listed on GIS. We were still investigating this. There were taxes owed on this property He had asked Harnett County to see if they could do anything to start the process to collect these back taxes.
  - The house at 708 North 16<sup>th</sup> Street was tied up with a number of heirs. There was no homeowner listed on GIS. There were back taxes on the property. He had asked Harnett County to look into starting the process to collect taxes on this parcel.
  - The house at 406 West K Street had been an issue in Erwin for years. Last year, we completed a title search and we never got anywhere with it. He knew that someone had asked Harnett County to start the process to collect taxes on this parcel as well.

## **GOVERNING COMMENTS**

Commissioner Nelson inquired about a Town Ordinance on how fences are supposed to look.

Town Manager Snow Bowden stated fences should not face the opposing property owners and can only be 4ft in the front and 6ft on the sides and rear. There are only certain materials the fence can be made out of.

Commissioner Nelson stated he had received complaints about a fence.

Town Manager Snow Bowden stated he was aware of the property Commissioner Nelson was talking about. Fines have been sent and they fix it but it gets damaged again. The property owner had been instructed to take the fence down.

Commissioner Nelson stated additional parking is crucial for Al Woodall Park. He thanked Town Staff and Police Department for everything they do. The Remembrance Service was very nice and he hoped we continued to do it every year.

Commissioner Byrd stated as always he is thankful for Town Staff. He expressed his concern for the issues at the Ivey property. We need to do something. A year has passed and he needed Town Attorney Tim Morris to do something about it now, no more waiting around.

Commissioner Blackmon inquired about the grass complaint at the house on East K Street he previously spoke with Town Manager Snow Bowden about.

**MINUTES CONTINUED FROM MAY 22, 2023**

Town Manager Snow Bowden stated he would follow up with Code Enforcement Officer Chris Jones on why the home had not been cut yet.

Commissioner McKoy stated he was sick and tired of his neighbor and he tries to get along with all of his neighbors. He was sick and tired of smelling sewage. His neighbor never came before the Board. The plumbing is hooked up to her house and she is running water to her accessory building to push all the water out of her commode. She is very busy and her home is not zoned for business.

Mayor Baker inquired about the Comprehensive Land Use Plan progress.

Town Manager Snow Bowden stated we were on track to have the Comprehensive Land Use Plan adopted in August.

Mayor Baker stated Code Enforcement Officer Chris Jones needed to visit between Wondertown Drive and Hope Street, there is a yard down there with grass high across from Mr. Talley's house. He stated the Board appreciated the valuable staff and everything they do. Things are happening in Town for the better and people are taking note.

**ADJOURNMENT**

Commissioner Byrd made a motion to adjourn at 7:06 P.M. and was seconded by Commissioner Nelson. **The Board voted unanimously.**

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

**ATTEST:**

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**Randy Baker**

**Mayor**

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**Lauren Evans**

**Town Clerk**

# ERWIN BOARD OF COMMISSIONERS

## REGULAR MINUTES

JUNE 1, 2023

### ERWIN, NORTH CAROLINA

The Board of Commissioners for the Town of Erwin with Mayor Pro Tem Ricky Blackmon presiding held its Regular Meeting in the Erwin Municipal Building Board Room on Thursday, June 1, 2023, at 7:00 P.M. in Erwin, North Carolina.

Board Members present were Mayor Randy Baker, Mayor Pro Tem Ricky Blackmon, and Commissioners Timothy Marbell, David Nelson, Charles Byrd, William Turnage, and Alvester McKoy.

Town Manager Snow Bowden, Town Clerk Lauren Evans, Finance Director Linda Williams, Town Attorney Tim Morris, and Police Chief Jonathan Johnson were present.

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

Commissioner McKoy gave the invocation.

Pastor Thomas Greene led the Pledge of Allegiance.

Mayor Baker welcomed back Commissioner Turnage. It was a privilege to see him walk through the door.

#### AGENDA ADJUSTMENT/APPROVAL OF AGENDA

Town Manager Snow Bowden requested to add Planning Board Alternate Kathryn Moore Application under consent as Item H. He also requested to remove Item A under Public Hearing. The applicant for SU-2023-002 requested for the application to be withdrawn.

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

#### CONSENT

Commissioner Blackmon made a motion to approve **(ITEM A)** Minutes Regular Workshop on April 24, 2023 **(ITEM B)** Minutes Regular Meeting on May 4, 2023 **(ITEM C)** Minutes of Budget Workshop on May 18, 2023 **(ITEM D)** DM2 Retainer Contract Extension FY 2023-2024 **(ITEM E)** Auditor Engagement Letter and Contract **(ITEM F)** BOA-2023-06 **(ITEM G)** BOA-2023-07 **(ITEM H)** Planning Board Alternate Kathryn Moore Application and was seconded by Commissioner Byrd. **The Board voted unanimously.**

## MINUTES CONTINUED FROM JUNE 1, 2023

### PRESENTATION OF JUNE CITIZEN OF THE MONTH

Betty Ann Williams previously of 502 S 10<sup>th</sup> Street was posthumously recognized as the June 2023 Citizen of the Month. Mayor Baker presented her family with a Proclamation Plaque.

### PUBLIC COMMENT

No one was present to speak.

### PUBLIC HEARING

#### **East L Street**

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

Town Manager Snow Bowden stated that the Town of Erwin advertised for four consecutive weeks to close an unopen portion of East L Street. We also posted it in two separate spots on the property. We followed all of the procedures but there was still some information that we needed to find out. There were some inconsistencies in different surveys. He stated Town Attorney Tim Morris may have had something to share.

Mayor Baker asked Town Staff due to a lack of information could the Board move forward with the Public Hearing or if would it be under best advisement to table the request until the completion of the research.

Town Attorney Tim Morris stated there were some factual points that we needed to follow up with to give a more accurate decision.

Mayor Baker stated under the advisement of our Town Attorney, we will need to table the request until further information could be brought forth. He apologized to the individuals who came to speak. He asked the discretion of the Board to open the Public Hearing and allow comments prior to tabling the request or just to simply table the entire Public Hearing until our next regularly scheduled meeting.

Commissioner Blackmon stated we could table the request but we need to readvertise the Public Hearing and send the Notices out again.

Commissioner Blackmon made a motion to table the Public Hearing for East L Street until our regularly scheduled Board Meeting on July 6, 2023, in the Erwin Municipal Building Board Room at 7 PM and was seconded by Commissioner Nelson. **The Board voted unanimously.**

#### **Proposed Fiscal Year 2023-2024 Budget**

The Public Hearing being still open, the Board moved on to the next item of business.

Town Manager Snow Bowden stated that based on the feedback from the Board at the two Budget Workshops, he put together a budget with no tax increase, staying the same at \$.48. There were no



### **MINUTES CONTINUED FROM JUNE 1, 2023**

major fee increases except increases on trash and recycling due to GFL increasing their fees by 7%. The total budget was \$4,633,272.00. The proposed budget did have a one-time transfer from the American Rescue Plan of \$649,456. These funds must be allocated by 2024 and spent by 2026. The proposed budget included funds to update our UDO, an increased line item for the Code Enforcement Officer to clean up properties in Town, and final payment for year two of the Library Consolidation with the County which will free up about \$70,000 in the next year's budget, and funds to hire a full-time planner. Capital purchases included:

- Police Department: two new vehicles, a UTV
- Public Works: two work trucks, funds to retrofit our old limb truck
- Recreation: one work truck

Also included in the proposed budget were funds for a sizable increase in employee salaries. At least 5%, some got a little bit more to be in good standing with the area. We have dedicated employees and it is a lot easier to retain the employees we have than to recruit new employees. Our employees are hardworking and well deserving. He stated he hoped he had enough information to pass the budget but if the Board had any questions or needed any changes to let him know.

Mayor Baker asked if anyone would like to come forward and speak regarding the proposed budget.

No one came forward.

Mayor Baker asked if the Board had any questions about the proposed budget.

Commissioner Blackmon stated at our budget workshop we discussed adjusting salaries based on the surrounding area but he did not see that included in the budget. He wanted to see a survey of the surrounding areas and did not see funds set aside for that.

Town Manager Snow Bowden stated we can propose a Budget Amendment to move funds around to cover a salary survey mid-year.

Commissioner Blackmon stated he just wanted to make sure we had funds available prior to approving the proposed budget.

Town Manager Snow Bowden stated he forgot to mention earlier that the only other fee increase was for a \$10.00 increase on beer and wine "Off-Premises"

Commissioner Blackmon thanked Town Manager Snow Bowden and Town Staff for putting together the proposed budget. It was a conservative budget but he thought it was a good budget.

Commissioner Turnage stated he was not present to help with the budget process this year but he wanted to commend Town Manager Snow Bowden for an excellent job. He was very happy that we will keep the tax rate at \$.48. He liked that there was \$17,000 in sidewalks. He asked the Board to consider allowing Town Manager Snow Bowden to put a package together for NCDOT to see if they would cover the cost of sidewalks on S 13<sup>th</sup> Street.

Town Manager Snow Bowden stated he planned to apply for a Bike-Ped Grant in the fall.

Commissioner Nelson made a motion if the Board spends the money to hire a company for a salary survey that the Board will agree to pay our employees whatever the survey says. He felt it would be a shame to spend \$15,000 on a survey and not pay our employees what they deserve.

## MINUTES CONTINUED FROM JUNE 1, 2023

Mayor Baker stated the survey was not included in this year's budget, it will be an amendment mid-year.

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

Commissioner Blackmon made a motion to approve the Budget Ordinance Town of Erwin FY 2023-2024 and was seconded by Commissioner Byrd. **The Board voted unanimously.**

## MANAGER'S REPORT

Town Manager Snow Bowden thanked our Finance Director Linda Williams for helping to put the budget together.

He informed the Board that:

- We were still making progress on our Land Use Plan. At the moment, we were planning for a draft presentation of the Land Use Plan at our June Planning Board meeting on June 19<sup>th</sup>. We will take any feedback received at that meeting and update the plan with the first open house scheduled for July 13<sup>th</sup> at 5 PM. At the moment, we were working on a location for this meeting. We were trying to coordinate with the staff at the First Free Will Baptist Church at 300 W N Street to see if we can host the meeting there.
  - We were hoping to have a final draft of the plan to present to the Town Board at our August workshop meeting on Monday, August 28<sup>th</sup>. We were hoping to have the team from Stewart down here to make a formal presentation at our September regularly scheduled Town Board meeting.
- There was a fiber company that installs Fiber-Optic Cable called Lumos that has selected Harnett and Johnson County as their next build-out locations. They had reached out to him briefly. He told them that we would need to have a much more in-depth conversation about any work in Erwin.
- We will have a proposed drawing to expand the parking lot at Al Woodall Park at our next workshop meeting. It would require a lot of dirt to be hauled in but we could add around 28 new parking spaces with this plan.
- We should have an update on our Pavement Condition Study report from Withers Ravenel at our June workshop meeting.
- It had been pretty busy here lately. At our next Planning Board meeting we have a rezoning case, an 11-lot proposed subdivision, two text amendments, and two hardship variance requests for the Board of Adjustments.
- He took a few moments to recognize our Town Clerk Lauren Evans. She had contributed to a lot of positive change in the culture here at Town Hall. She also recently completed the Municipal and County Administration course at the UNC SOG. He was made aware she had obtained her North Carolina Certified Municipal Clerk certification. He asked the Board to take a second to give her a round of applause.
- He thanked the Town Board for allowing him to be the Town Manager.

## **MINUTES CONTINUED FROM JUNE 1, 2023**

### **ATTORNEY'S REPORT**

Town Attorney Tim Morris thanked the Board for allowing him to be the Town Attorney. He stated it was an honor to serve next to Town Manager Snow Bowden. He stated the June Citizen of the Month was very special to him, we could not have given the recognition to Betty Williams when she was alive.

### **GOVERNING COMMENTS**

Mayor Baker stated Betty Williams was very well deserving of the Citizen of the Month award. Anyone who knew her knew she would not have accepted it.

Commissioner Turnage thanked everyone for the phone calls, cards, and visits while he was in the hospital. He was thankful for his life and his wife.

Commissioner thanked the Recreation Director and staff for the fine job they did this baseball season. They had 30 teams this year. He thanked Town Staff, the Police Department, and the Public Works staff for all they do. He was appreciative to Town Manager Snow Bowden and Town Attorney Tim Morris for all they do.

Commissioner Byrd stated he was thankful for the Town Staff and appreciate our Citizens who come and support the Town at our meetings. It meant a lot because it is easy to sit back and complain but people who come, listen, and care about what is going on in our Town are valuable to the Town Board.

Commissioner Blackmon stated we had the greatest staff. He congratulated Town Clerk Lauren Evans on her accomplishment and stated the Board was so proud of her.

Commissioner McKoy congratulated Town Clerk Lauren Evans on her accomplishment and stated she does such a wonderful job as well as the other staff. It has been a pleasure serving with the wonderful Town Board. He echoed Commissioner Byrd, our citizens coming out to the Town Meetings was very important and he encouraged others to come and see what is going on in Town. This was our Town and he was proud of where he lived. He stated he had been receiving phone calls from constituents in his Ward and rode around our Town. We have had a lot of rain and he was still hyping on the drainage issue. We have several ditches that need to be cleaned out. Our ditches are in a mess. He stated he sat and watched our Public Works truck clean out the ditches and all kinds of mess came out of the ditches. He asked Town Manager Snow Bowden where we were on fixing the drainage issues.

Town Manager Snow Bowden stated our Town Engineer Bill Dreitzler is evaluating the ditches near Porter Park and they need to get quotes from a few different companies to install a ditch on N 16<sup>th</sup> Street. He also sent in a request to Representative Penny and the NC House to request funds to complete a Stormwater Study to evaluate our ditches.

Commissioner McKoy stated the ditches on Womack Drive were a concern.

Town Manager Snow Bowden stated Town Staff had gone back and forth with NCDOT on the issue. Our Public Works staff blew out the tiles at are in it the prior week.

**MINUTES CONTINUED FROM JUNE 1, 2023**

Commissioner McKoy stated he knew Town Manager Snow Bowden would stay on top of it. Mr. Bowden did a wonderful job and the Board appreciated him.

Mayor Baker thanked the citizens and stated we needed the seats filled at our meetings. We need input from our citizens. It is hard to guide, direct, and make policies and procedures without knowing what our citizens want, need, and desire. He thanked Town Staff. He thanked Code Enforcement Officer Chris Jones for what he does for the Town. He congratulated Town Clerk Lauren Evans, no one ever doubted her, and she is exceptional at performing her duties. He made the Board aware that there was an article in Tar Heel Traveler for the Erwin GoodFellas.

**ADJOURNMENT**

Commissioner Blackmon made a motion to adjourn at 7:38 P.M. and was seconded by Commissioner Byrd. **The Board voted unanimously.**

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

**ATTEST:**

\_\_\_\_\_  
**Randy Baker**  
**Mayor**

\_\_\_\_\_  
**Lauren Evans**  
**Town Clerk**

**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

## **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

## **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.

## **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



**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:**

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**Randy Baker**

**Mayor**

---

**Lauren Evans**

**Town Clerk**

## **Section 28: Employee of the Quarter Leave**

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

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

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

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

ETJ



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



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

Applicant Name: Howard Stafford Madala Date of Application: 6/01/23  
Home Address: 129 Bumpass Creek Ccwy DUWN NC 28334  
Street Address Town Zip Code  
Home Phone: \_\_\_\_\_ Business/Other Phone: (910) 891-8535  
FAX Number: \_\_\_\_\_ Email Address: STAFFORMadala@gmail.com

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

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

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

If yes, please explain \_\_\_\_\_

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

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

Interested local government

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

Planning Board  Recreation

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

**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 6<sup>th</sup> 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

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: July 6, 2023

Subject: ZT-2023-003

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

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

### Attachments:

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

JUNE 19th @ TP Planning Board

JULY 6th @ TP Town Board

PAID

MAY 25 2023

CHK 2007

Revised 9-19-2014



# Application for an **TOWN OF ERWIN** **Amendment To The Official Zoning Map** of Erwin, NC

Staff Only: Zoning Case # Z-2023 - 003  
Fee: \_\_\_\_\_ Check # \_\_\_\_\_ MO \_\_\_\_\_ Cash \_\_\_\_\_  
PB Recommendation:    A    D    A/W Conditions  
BOC Date: \_\_\_\_\_ Decision:    A    D    T    A/W Conditions

Print Applicant Name: ALEXANDER LOCKAMY  
Name of Legal Property Owner: BURNING BUSH CHURCH, MELDEN HADLER  
Location of Property: Corner of Hiss Road NW of Arthur

Please Circle One of the Following: Less than one Acre    One to 4.99 Acres    Five or more Acres

Zoning change requested from R15 to RD

If Conditional District, note conditions: \_\_\_\_\_

Harnett County Tax Map PIN 1506-17-8791

Property owner(s) of area requested and address(es)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If more space is required, please attach to this document separately)

- Submit names and addresses of property owners immediately adjacent to the proposed rezoning area (and properties within 100 feet of proposed rezoning area) and across any street(s) and identify on an area map
- Attach a metes and bounds description, deed drawing of the area involved or a reference to lots in an approved subdivision on the entire property requested for change
- This application must be filed with the Town Hall by 4:00 p.m. on the Friday which is at least 25 days before the meeting at which it is to be considered and may be withdrawn without penalty no later than 19 days prior to the public hearing

Whenever an application requesting an amendment has been acted on and denied by the Town Board, such application, or one substantially similar shall not be reconsidered sooner than one year after the previous denial.

It is understood by the undersigned that the Zoning Map, as originally adopted and as subsequently amended, is presumed by the Town to be appropriate to the property involved and that the burden of proof for a zoning amendment rests with the applicant. Applicant is Encouraged to Discuss the Proposed Zoning Amendment with Affected Property Owners.

Alexander Lockamy  
Signature of Applicant

910-658-5206 - 910-747-1167  
Contact Number

402 Nth 13th St Erwin NC 28339  
Mailing Address of Applicant

COPY



**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

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**Applicant Information**

**Owner of Record:**

Name: The Burning Bush Church and Harper Wilden,  
Trustee

Address: 402 North 13<sup>th</sup> Street

City/State/Zip: Erwin, NC 28339

**Applicant:**

Name: Alexander Lockamy

Address: 402 North 13<sup>th</sup> Street

City/State/Zip: Erwin, NC 28339

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**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

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**Vicinity Map**

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

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## 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.

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## Services Available

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

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## 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. <b>YES</b></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.) <b>YES</b></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. <b>YES</b></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. <b>YES</b></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>

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## Statement of Consistency

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

Or

## Statement of In-Consistency

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

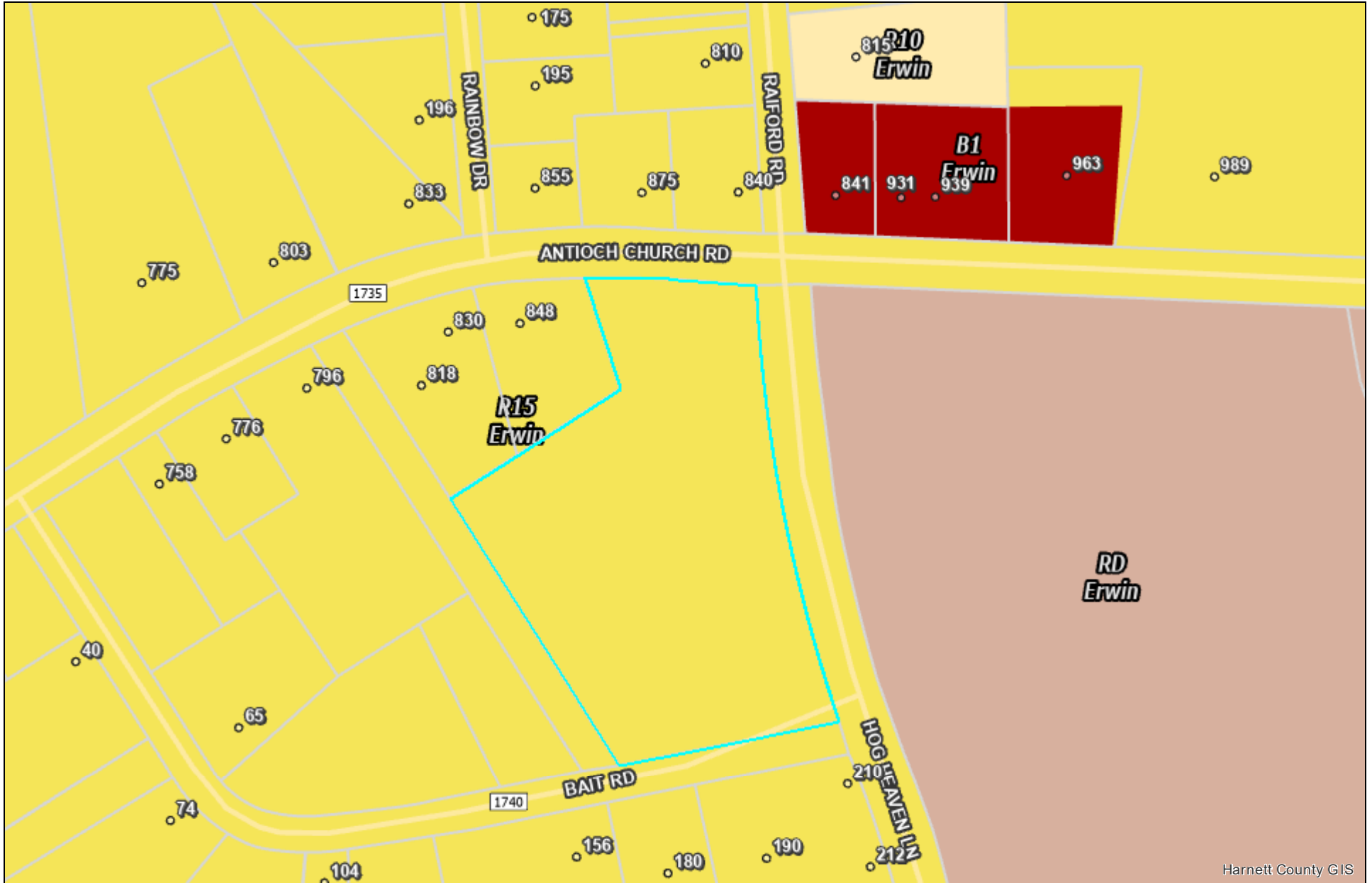
## Attachments:

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



# Harnett GIS

NOT FOR LEGAL USE

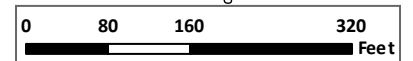
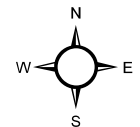


Harnett County GIS

GIS/E-911 Addressing

May 25, 2023

- |                               |                   |              |               |
|-------------------------------|-------------------|--------------|---------------|
| Surrounding County Boundaries | Airport           | Roads        | CapeFearRiver |
| City Limits                   | <b>MajorRoads</b> | Mile_Markers |               |
| County Boundary               | Interstate        | Mile_Markers |               |
| Address Numbers               | NC                | Railroad     |               |
|                               | US                | Parcels      |               |



1 inch = 188 feet

# Harnett GIS

NOT FOR LEGAL USE

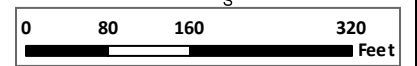
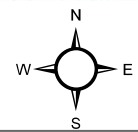


Harnett County GIS

GIS/E-911 Addressing

May 25, 2023

- |   |  |  |   |
|---|--|--|---|
|  Surrounding County Boundaries |  Airport    |  Roads        |  CapeFearRiver |
|  City Limits                   | <b>MajorRoads</b>  | <b>Mile_Markers</b>  |   |
|  County Boundary               |  Interstate |  Mile_Markers |   |
|  Address Numbers               |  NC         |  Railroad     |   |
|   |  US         |  Parcels      |   |



1 inch = 188 feet

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

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

Laura Flores  
840 Raiford Road  
Erwin, NC 28339

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

Mary Stafford  
776 Antioch Church Road  
Dunn, NC 28334

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

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

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

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

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



# TOWN OF ERWIN

P.O. Box 459 · Erwin, NC 28339  
Ph: 910-897-5140 · Fax: 910-897-5543  
[www.erwin-nc.org](http://www.erwin-nc.org)

06/12/2023

## Notice of a Public Hearing ZT-2023-003

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

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

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

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

Regards,

Snow Bowden  
Town Manager

# NOTICE OF PUBLIC HEARING

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

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

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

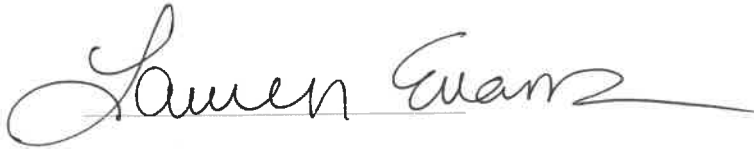
6/20,27/2023

### Statement-of-Consistency

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



Angela Gundersen  
Planning Board Chair



Lauren Evans  
Town Clerk

## Statement-of-Consistency

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

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Randy Baker  
Mayor

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Lauren Evans  
Town Clerk

## Statement-of-Inconsistency

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

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Randy Baker  
Mayor

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Lauren Evans  
Town Clerk





# TOWN OF ERWIN

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David L. Nelson  
William R. Turnage

**ORDINANCE FOR MAP AMENDMENT CASE # ZT-2023-003  
AMENDMENT TO THE OFFICIAL ZONING MAP TO REZONE  
FROM RESIDENTIAL (R-15) TO RURAL DISTRICT (RD)  
PER ZONING ORDINANCE ARTICLE XXIII  
FOR HARNETT COUNTY PINS 1506-17-8791.000.  
ORD 2023-2024: 004**

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

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

HARNETT COUNTY TAX ID #  
061506 0075

05-08-2023 BY: SM

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

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

### NORTH CAROLINA GENERAL WARRANTY DEED

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

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

### WITNESSETH:

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

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

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

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

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

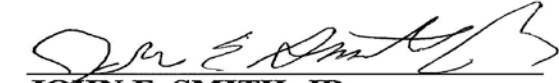
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

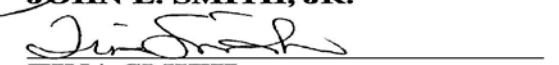
And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons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

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

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

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

  
\_\_\_\_\_  
**JOHN E. SMITH, JR.**

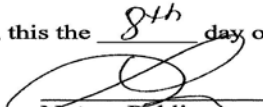
  
\_\_\_\_\_  
**TINA SMITH**

*Notary acknowledgment on next page*

STATE OF NORTH CAROLINA  
COUNTY OF HARNETT

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

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

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

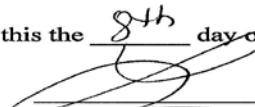
My Commission Expires: 5/31/26



STATE OF NORTH CAROLINA  
COUNTY OF HARNETT

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

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

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

My Commission Expires: 5/31/26



Adopted this the 6<sup>th</sup> day of July 2023.

\_\_\_\_\_  
Randy Baker,  
Mayor

**ATTEST:**

\_\_\_\_\_  
Lauren Evans  
Town Clerk

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: July 6, 2023

Subject: Zoning Updates Text Amendment

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

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

Attachments:

- Proposed zoning updates to Chapter 36

## **ARTICLE IV. RURAL DISTRICT (RD)**

### **Sec. 36-77. Intent.**

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

(Code 1977, § 9-4024.1)

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

The following are permitted principal uses and structures:

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

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

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

The following are permitted accessory uses and structures:

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

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

### **Sec. 36-80. Special uses.**

The following are conditional uses:

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

**(12) Vehicular sales and rental**

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

### **Sec. 36-81. Dimensional requirements.**

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

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

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

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

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

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

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

Refer to article XVIII of this chapter.

(Code 1977, § 9-4024.6)

**Sec. 36-83. Signs.**

Refer to article XIX of this chapter.

(Code 1977, § 9-4024.7)

**Sec. 36-84. Lights.**

Refer to article XVII of this chapter.

(Code 1977, § 9-4024.8)

**Sec. 36-85. General provisions.**

Refer to article XV of this chapter.

(Code 1977, § 9-4024.9)

**Secs. 36-86—36-113. Reserved.**

***ARTICLE V. RESIDENTIAL (R-15)***

**Sec. 36-114. Intent.**

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

(Code 1977, § 9-4025.1)

**Sec. 36-115. Permitted uses and structures.**

The following are permitted uses and structures:

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

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

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

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

(Code 1977, § 9-4025.3)

### **Sec. 36-117. Special uses and structures.**

The following are conditional uses and structures:

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

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

### **Sec. 36-118. Dimensional requirements.**

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

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

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

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

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

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

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

Refer to article XVIII of this chapter.

(Code 1977, § 9-4025.6)

### **Sec. 36-120. Signs.**

Refer to article XIX of this chapter.



(Code 1977, § 9-4025.7)

**Sec. 36-121. Lights.**

Refer to article XVII of this chapter.

(Code 1977, § 9-4025.8)

**Sec. 36-122. General provisions.**

Refer to article XV of this chapter.

(Code 1977, § 9-4025.9)

**Secs. 36-123—36-142. Reserved.**

***ARTICLE VI. RESIDENTIAL (R-10)***

**Sec. 36-143. Intent.**

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

(Code 1977, § 9-4026.1)

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

The following are permitted uses and structures:

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

(5) Public facilities.

(6) Customary Home Occupations

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

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

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

(Code 1977, § 9-4026.3)

### **Sec. 36-146. Special uses.**

The following are conditional uses:

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

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

### **Sec. 36-147. Dimensional requirements.**

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

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

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

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

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

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

Refer to article XVIII of this chapter.

(Code 1977, § 9-4026.6)

**Sec. 36-149. Signs.**

Refer to article XIX of this chapter.

(Code 1977, § 9-4026.7)

**Sec. 36-150. Lights.**

Refer to article XVII of this chapter.

(Code 1977, § 9-4026.8)

**Sec. 36-151. General provisions.**

Refer to article XV of this chapter.

(Code 1977, § 9-4026.9)

***ARTICLE VI-A. RESIDENTIAL MILL VILLAGE DISTRICT***

**Sec. 36-152. Intent.**

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

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

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

The following are permitted uses and structures:

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

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

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

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

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

### **Sec. 36-155. Special uses.**

The following are conditional uses:

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

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

### **Sec. 36-156. Dimensional requirements.**

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

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

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

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

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

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

Refer to article XVIII of this chapter.

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

**Sec. 36-158. Signs.**

Refer to article XIX of this chapter.

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

**Sec. 36-159. Lights.**

Refer to article XVII of this chapter.

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

**Sec. 36-160. General provisions.**

Refer to article XV of this chapter.

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

**Secs. 36-161—36-170. Reserved.**

***ARTICLE VII. RESIDENTIAL (R-6)***

**Sec. 36-171. Intent.**

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

(Code 1977, § 9-4027.1)

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

The following are permitted uses and structures:

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

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

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

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

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

(Code 1977, § 9-4027.3)

### **Sec. 36-174. Special uses.**

The following are conditional uses:

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

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

### **Sec. 36-175. Dimensional requirements.**

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

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

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

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

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

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

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

Refer to article XVIII of this chapter.

(Code 1977, § 9-4027.6)

### **Sec. 36-177. Signs.**

Refer to article XIX of this chapter.

(Code 1977, § 9-4027.7)

### **Sec. 36-178. Lights.**

Refer to article XVII of this chapter.

(Code 1977, § 9-4027.8)

### **Sec. 36-179. General provisions.**

Refer to article XV of this chapter.

(Code 1977, § 9-4027.9)

## ***ARTICLE VII-A. DOWNTOWN MILL VILLAGE (DMV)***

### **Sec. 36-181. Intent.**

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

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

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

The following are permitted uses and structures:

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

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

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

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

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

### **Sec. 36-184. Special uses.**

The following are conditional uses:

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



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

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

**Sec. 36-185. Dimensional requirements.**

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

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

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

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

**Secs. 36-186—36-196. Reserved.**

***ARTICLE VIII. CENTRAL BUSINESS (CB)***

**Sec. 36-197. Intent.**

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

(Code 1977, § 9-4028.1)

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

The following are permitted principal uses and structures:

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

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

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

The following are permitted accessory uses and structures:

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

(Code 1977, § 9-4028.3)

### **Sec. 36-200. Special uses.**

The following are conditional uses:

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

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

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

### **Sec. 36-201. Dimensional requirements.**

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

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

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

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

### **Sec. 36-202. Buffers.**

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

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

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

Refer to article XVIII of this chapter.

(Code 1977, § 9-4028.7)

**Sec. 36-204. Signs.**

Refer to article XIX of this chapter.

(Code 1977, § 9-4028.8)

**Sec. 36-205. Lights.**

Refer to article XVII of this chapter.

(Code 1977, § 9-4028.9)

**Sec. 36-206. General provisions.**

Refer to article XV of this chapter.

(Code 1977, § 9-4028.10)

**Secs. 36-207—36-235. Reserved.**

***ARTICLE IX. NEIGHBORHOOD BUSINESS (B-1)***

**Sec. 36-236. Intent.**

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

(Code 1977, § 9-4029.1)

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

The following are permitted principal uses and structures:

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

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

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

The following are permitted accessory uses and structures:

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

(Code 1977, § 9-4029.3)

### **Sec. 36-239. Special uses.**

The following are conditional uses:

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

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

### **Sec. 36-240. Dimensional requirements.**

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

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

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

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

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

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

**Sec. 36-241. Buffers.**

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

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

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

Refer to article XVIII of this chapter.

(Code 1977, § 9-4029.7)

**Sec. 36-243. Signs.**

Refer to article XIX of this chapter.

(Code 1977, § 9-4029.8)

**Sec. 36-244. Lights.**

Refer to article XVII of this chapter.

(Code 1977, § 9-4029.9)

**Sec. 36-245. General provisions.**

Refer to article XV of this chapter.

**Secs. 36-246—36-270. Reserved.**

***ARTICLE X. HIGHWAY BUSINESS (B-2)***

**Sec. 36-271. Intent.**

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

(Code 1977, § 9-4030.1)

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

The following are permitted uses and structures:

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

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

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

The following are permitted accessory uses and structures:

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

(Code 1977, § 9-4030.3)

### **Sec. 36-274. Special uses.**

The following are conditional uses:

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

- (8) Vehicular sales and rental.

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

### **Sec. 36-275. Dimensional requirements.**

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

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

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

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

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

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

### **Sec. 36-276. Buffers.**

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

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

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

Refer to article XVIII of this chapter.

(Code 1977, § 9-4030.7)

### **Sec. 36-278. Signs.**

Refer to article XIX of this chapter.



(Code 1977, § 9-4030.8)

**Sec. 36-279. Lights.**

Refer to article XVII of this chapter.

(Code 1977, § 9-4030.9)

**Sec. 36-280. General provisions.**

Refer to article XV of this chapter.

(Code 1977, § 9-4030.10)

**Secs. 36-281—36-308. Reserved.**



# TOWN OF ERWIN

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

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

**WHEREAS**, the current language of Chapter 36 Zoning reads:

### ARTICLE IV. - RURAL DISTRICT (RD)

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

The following are permitted principal uses and structures:

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

#### **Sec. 36-80. - Special uses.**

The following are conditional uses:

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

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

## **ARTICLE VI. - RESIDENTIAL (R-10)**

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

The following are permitted uses and structures:

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

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

### **Sec. 36-146. - Special uses.**

The following are conditional uses:

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

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

## **ARTICLE VI-A. - RESIDENTIAL MILL VILLAGE DISTRICT**

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

The following are permitted uses and structures:

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

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

### **Sec. 36-155. - Special uses.**

The following are conditional uses:

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

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

## **ARTICLE VII. - RESIDENTIAL (R-6)**

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

The following are permitted uses and structures:

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

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

### **Sec. 36-174. - Special uses.**

The following are conditional uses:

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

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

## **ARTICLE IX. - NEIGHBORHOOD BUSINESS (B-1)**

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

The following are permitted principal uses and structures:

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

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

**Sec. 36-239. - Special uses.**

The following are conditional uses:

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

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

**ARTICLE X. - HIGHWAY BUSINESS (B-2)**

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

The following are permitted uses and structures:

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

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

**Sec. 36-274. - Special uses.**

The following are conditional uses:

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

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

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

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

**ARTICLE IV. - RURAL DISTRICT (RD)**

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

The following are permitted principal uses and structures:

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

**Sec. 36-80. - Special uses.**

The following are conditional uses:

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

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

**(12) Vehicular sales and rental**

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

**ARTICLE VI. - RESIDENTIAL (R-10)**

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

The following are permitted uses and structures:

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

**(5) Public facilities.**

**(6) Customary Home Occupations**

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

**Sec. 36-146. - Special uses.**

The following are conditional uses:

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

- (2) Planned unit development.
- (3) Condominiums and townhouse development.
- (4) Nursing homes.
- (5) Clubs or lodges.
- (6) ~~Customary home occupations.~~
- (7) ~~Public facilities.~~

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

**ARTICLE VI-A. - RESIDENTIAL MILL VILLAGE DISTRICT**

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

The following are permitted uses and structures:

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

**(5) Customary Home Occupation**

**(6) Public Facilities**

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

**Sec. 36-155. - Special uses.**

The following are conditional uses:

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

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

**ARTICLE VII. - RESIDENTIAL (R-6)**

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

The following are permitted uses and structures:

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

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

**Sec. 36-174. - Special uses.**

The following are conditional uses:

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

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



## **ARTICLE IX. - NEIGHBORHOOD BUSINESS (B-1)**

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

The following are permitted principal uses and structures:

(1) Small retail stores and shops and service establishments whose operation is conducted entirely within an enclosed building.

(2) Offices for business and professional purposes.

(3) Principal uses permitted in the R-6 district, with the exception of Class A manufactured homes.

(4) Family care home.

(5) Public facilities.

(6) Bed and breakfast.

(7) Mobile food vendors.

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

### **(9) Customary Home Occupations**

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

### **Sec. 36-239. - Special uses.**

The following are conditional uses:

~~(1) Vehicular services.~~

(2) Convenience store.

~~(3) Day care centers, day nurseries, preschools, and similar uses. Day care centers, day nurseries, preschools, and similar uses may not be located within a 300-foot radius measured from the center of the property of another day care center, day nursery, preschool, or similar use.~~

~~(4) Customary home occupations.~~

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

## **ARTICLE X. - HIGHWAY BUSINESS (B-2)**

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

The following are permitted uses and structures:

(1) Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building.

(2) Offices for business and professional purposes.

(3) Social uses, such as social halls, lodges, fraternal organizations, clubs, and similar activities.

(4) Trades and similar enterprises catering to household and business establishments.

(5) Motels, hotels, bed and breakfasts, boardinghouses and roominghouses, and other similar establishments.

(6) Religious uses, including churches and other places of worship, religious education buildings, and parish houses.

(7) Family care home.

(8) Municipal facilities.

(9) Mobile food vendors.

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

**(11) Convenience store.**

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

**Sec. 36-274. - Special uses.**

The following are conditional uses:

(1) ~~Convenience store.~~

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

(3) Vehicular services.

(4) Public facilities.

(5) Private recreation facilities for profit.

(6) Electronic gaming operations.

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

(8) Vehicular sales and rental.

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

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

Adopted this 6<sup>th</sup> day of July 2023.

ATTEST:

\_\_\_\_\_  
Randy Baker  
Mayor

\_\_\_\_\_  
Lauren Evans  
Town Clerk

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: July 6, 2023

Subject: M-1 Zoning Text Amendment

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

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

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

### Attachments:

- Proposed updates
- Definitions

## **ARTICLE XI. INDUSTRIAL DISTRICT (M-1)**

### **Sec. 36-309. Intent.**

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

(Code 1977, § 9-4031.1)

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

The following are permitted principal uses and structures:

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

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

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

The following are permitted accessory uses and structures:

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

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

### **Sec. 36-312. Special uses.**

The following are special uses:

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

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

### **Sec. 36-313. Dimensional requirements.**

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

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

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

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

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

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

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

### **Sec. 36-314. Buffers.**

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

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

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

Refer to article XVIII of this chapter.

(Code 1977, § 9-4031.7)

### **Sec. 36-316. Signs.**

Refer to article XIX of this chapter.

(Code 1977, § 9-4031.8)

### **Sec. 36-317. Lights.**

Refer to article XVII of this chapter.

(Code 1977, § 9-4031.9)

**Sec. 36-318. General provisions.**

Refer to article XV of this chapter.

(Code 1977, § 9-4031.10)

**Secs. 36-319—36-339. Reserved.**

## Definitions

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

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

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





# TOWN OF ERWIN

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www.erwin-nc.org

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

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

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

## **ARTICLE II. - DEFINITIONS**

### **Sec. 36-34. - Definitions.**

## **ARTICLE XI. - INDUSTRIAL DISTRICT (M-1)**

### **Sec. 36-309. - Intent.**

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

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

The following are permitted principal uses and structures:

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

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

### **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)

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Refer to article XVIII of this chapter.

(Code 1977, § 9-4031.7)

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(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.**

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

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

**ARTICLE XI. - INDUSTRIAL DISTRICT (M-1)**

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

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

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- (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)

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The following are special uses:

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

### **Sec. 36-313. - Dimensional requirements.**

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

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

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

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

**Sec. 36-314. - Buffers.**

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

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

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

**Sec. 36-316. - Signs.**

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

**Sec. 36-317. - Lights.**

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

**Sec. 36-318. - General provisions.**

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

**Secs. 36-319—36-339. - Reserved.**

**ARTICLE II. - DEFINITIONS**

**Sec. 36-34. - Definitions.**

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

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

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

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

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

Adopted this 6<sup>th</sup> day of July 2023.

ATTEST:

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Randy Baker  
Mayor

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Lauren Evans  
Town Clerk

# Erwin Board of Commissioners

## REQUEST FOR CONSIDERATION

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To: The Honorable Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

Date: July 6, 2023

Subject: Erwin Fire Department

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





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

### Background

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

### Guidance

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

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

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

### Further Discussion

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

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

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

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

Attachment: Memorandum from Groom Law Group

# GROOM LAW GROUP

## MEMORANDUM

August 17, 2022

TO: Department of State Treasurer

FROM: David N. Levine  
Kimberly M. Boberg

RE: Fire Department – Leased Employees

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

### Summary Conclusion

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

### Background

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

### Legal Background

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

**A. Current Governmental Plan Federal Authority**

1. Internal Revenue Code

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

2. ERISA

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

3. Treasury and DOL Regulations

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

4. IRS Revenue Rulings

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

5. Prior IRS Private Letter Rulings

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

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

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

6. Prior DOL Advisory Opinions.

a. Agency or Instrumentality

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

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

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

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

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

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

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

b. De Minimis Exception

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

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

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

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

## **B. ANPRM Factors**

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

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

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<sup>4</sup> 76 Fed. Reg. 69172 (November 8, 2011).

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

### **C. Common Law Employee Guidance**

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

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

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

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



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

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

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

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

#### **D. Plan Language**

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

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

#### **Analysis**

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

#### **A. Governmental “Status” of the Nonprofit Fire Department**

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

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

#### **B. Leased Employees as Common Law Employees of Municipality**

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

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

#### **C. De Minimis Rule**

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

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

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

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

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

#### **D. Firefighter versus Employee**

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

---

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

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

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



# TOWN OF ERWIN

P.O. Box 459 · Erwin, NC 28339  
Ph: 910-897-5140 · Fax: 910-897-5543  
[www.erwin-nc.org](http://www.erwin-nc.org)

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

Memo To: Mayor and Board of Commissioners

From: Snow Bowden, Town Manager

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

Date: 7/6/2023

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

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

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

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

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

Regards,

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

Snow Bowden  
Town Manager

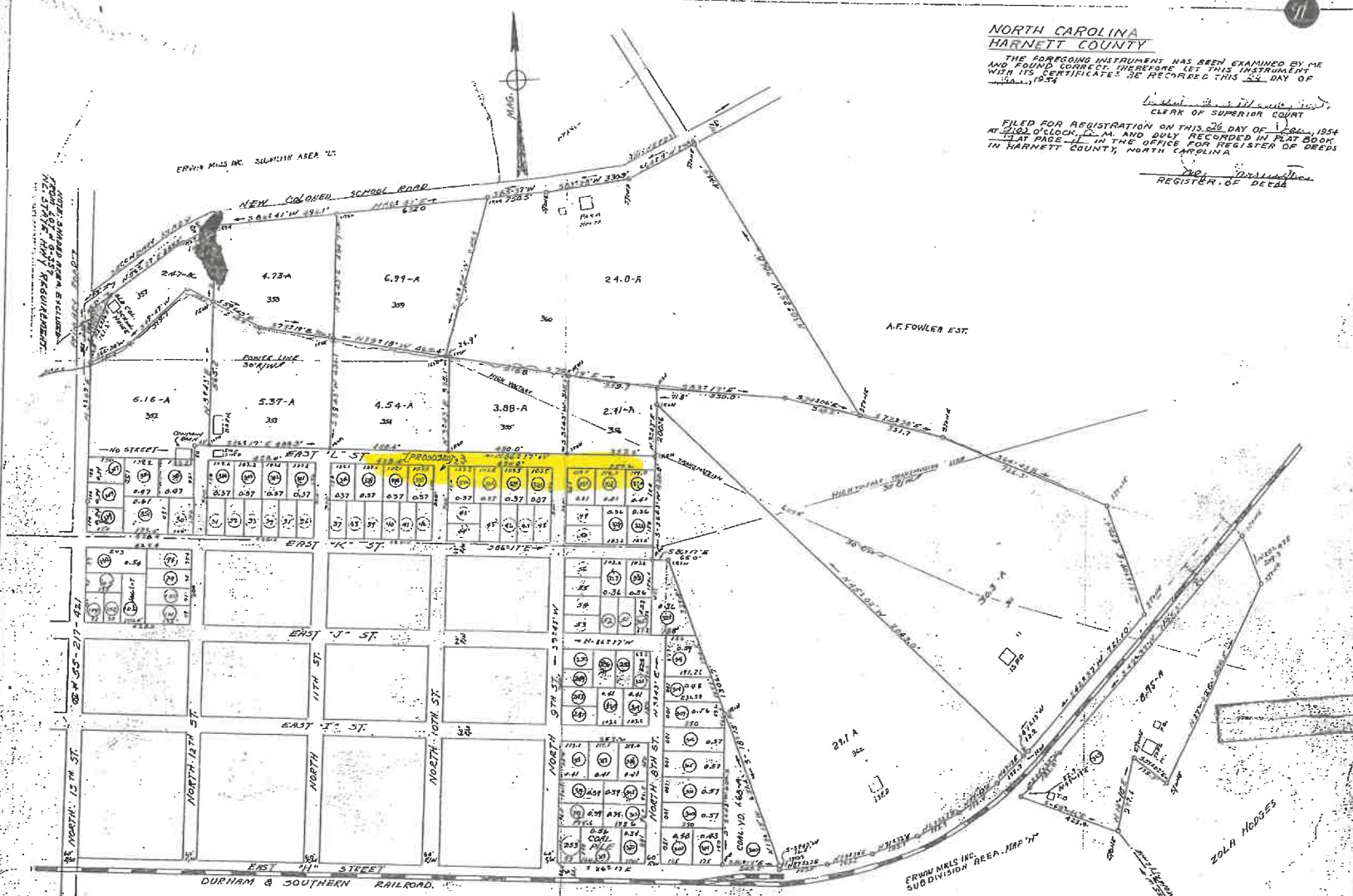
**NORTH CAROLINA  
HARNETT COUNTY**

THE FOREGOING INSTRUMENT HAS BEEN EXAMINED BY ME  
AND FOUND CORRECT. THEREFORE LET THIS INSTRUMENT  
WITH ITS CERTIFICATE BE RECORDED THIS 26 DAY OF  
MAY, 1954

*W. J. Ferrel & Co.*  
CLERK OF SUPERIOR COURT

FILED FOR REGISTRATION ON THIS 26 DAY OF MAY, 1954  
AT 10:02 O'CLOCK, P.M. AND DULY RECORDED IN PLAT BOOK  
13 AT PAGE 11 IN THE OFFICE FOR REGISTER OF DEEDS  
IN HARNETT COUNTY, NORTH CAROLINA

*W. J. Ferrel*  
REGISTER OF DEEDS



NOTE:  
30THRU 53  
WAS THEN SOLD  
WITH UNLAPSE NOTES.  
THE SECTION BE A SUBDIVISION  
OF ERWIN MILLS INC. BEGINNING 1951  
1ST SECTION 322 SUBDIVISION 1953

**SUBDIVISION MAP 'G' OF  
LAND OWNED BY ERWIN MILLS INC, ERWIN, N.C.  
DATE 11/53 SCALE 1"=200**

**NORTH CAROLINA  
HARNETT COUNTY**

**H. T. TURLINGTON, SURVEYOR  
AREA BY LAT. & DER.**

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

TO WHOM IT MAY CONCERN  
I, H. T. TURLINGTON AN N.C. STATE REGISTERED  
SURVEYOR DO HEREBY CERTIFY THAT I HAVE  
SURVEYED THE LAND AS SHOWN AND THE SAME  
IS TRUE AND CORRECT TO THE BEST OF  
MY KNOWLEDGE AND BELIEF  
SIGNED *H. T. Turlington*  
SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF  
MAY 1954  
MY COMMISSION EXPIRES 10/1/54  
*D. R. [Signature]*  
NOTARY PUBLIC FOR N.C.



NORTH CAROLINA:  
HARNETT COUNTY:

H. T. TURLINGTON, FIRST BEING DULY SWORN DEPOSES THAT HE IS A REGISTERED SURVEYOR AND THAT THIS PLAT WAS PREPARED BY HIM FROM AN ACTUAL SURVEY MADE IN July, 1962, THAT THE COURSES SHOWN HEREIN ARE BASE ON THE MAGNETIC MERIDIAN AND ARE THEREFORE VARIABLE AND THAT THE SAME IS TRUE AND CORRECT

*Harold Turlington*  
REGISTERED SURVEYOR

I, B. B. Hudson A NOTARY PUBLIC IN AND FOR HARNETT COUNTY, NORTH CAROLINA DO HEREBY CERTIFY THAT H.T. TURLINGTON PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE DUE EXECUTION OF THE FORGOING CERTIFICATE

WITNESS MY HAND AND NOTARIAL SEAL THIS 7 DAY July, 1962.

*B. B. Hudson*  
NOTARY PUBLIC FOR N. C.

MY COMMISSION EXPIRES 12/16/67

NORTH CAROLINA  
HARNETT COUNTY

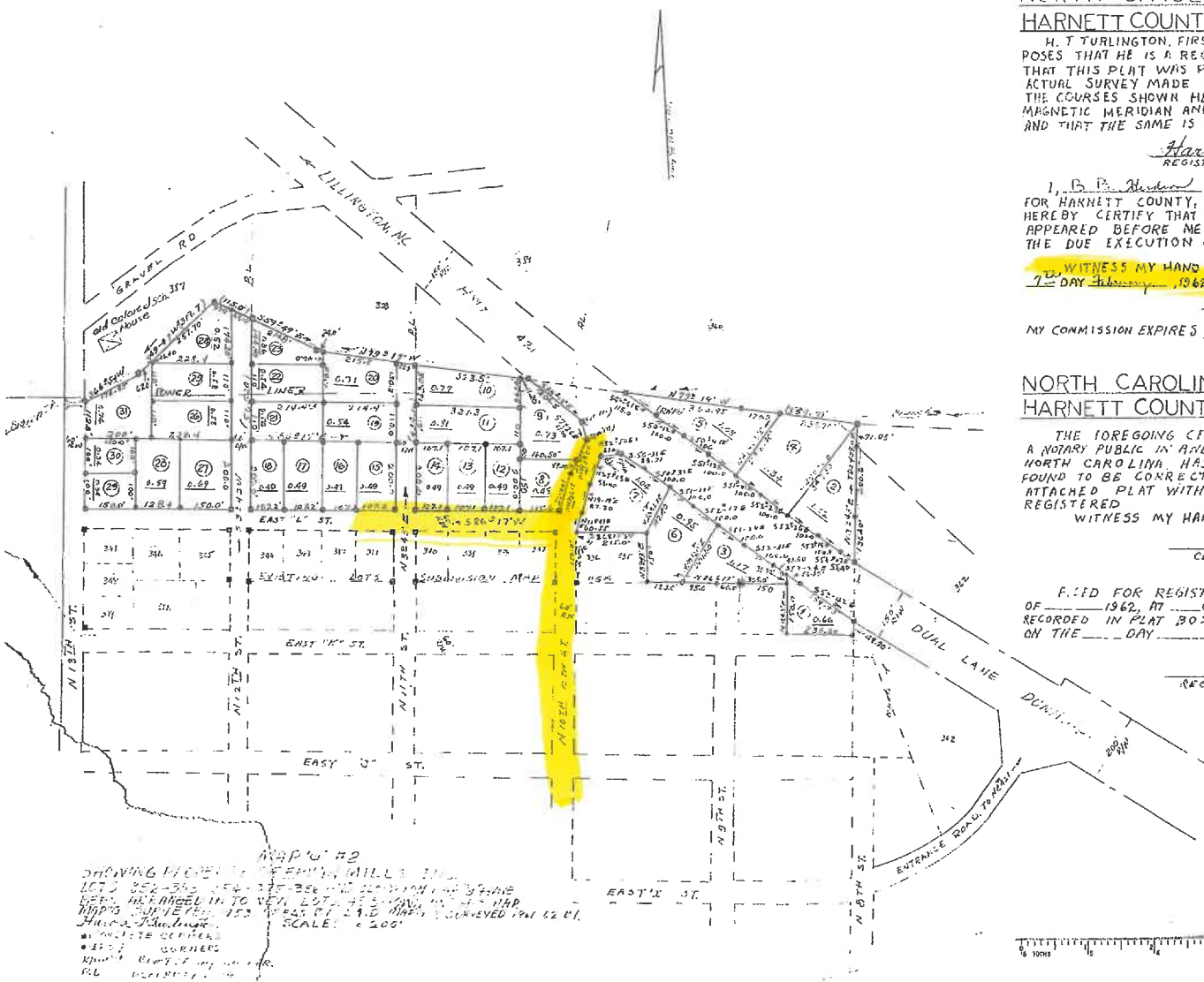
THE FOREGOING CERTIFICATE OF A NOTARY PUBLIC IN AND FOR HARNETT COUNTY, NORTH CAROLINA HAS BEEN EXAMINED AND FOUND TO BE CORRECT. THEREFORE LET THE ATTACHED PLAT WITH THESE CERTIFICATES BE REGISTERED

WITNESS MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1962.

CLERK SUPERIOR COURT

FILED FOR REGISTRATION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 1962, AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. AND DULY RECORDED IN PLAT BOOK NO. \_\_\_\_\_ AT PAGE NO. \_\_\_\_\_ ON THE \_\_\_\_\_ DAY \_\_\_\_\_, 1962.

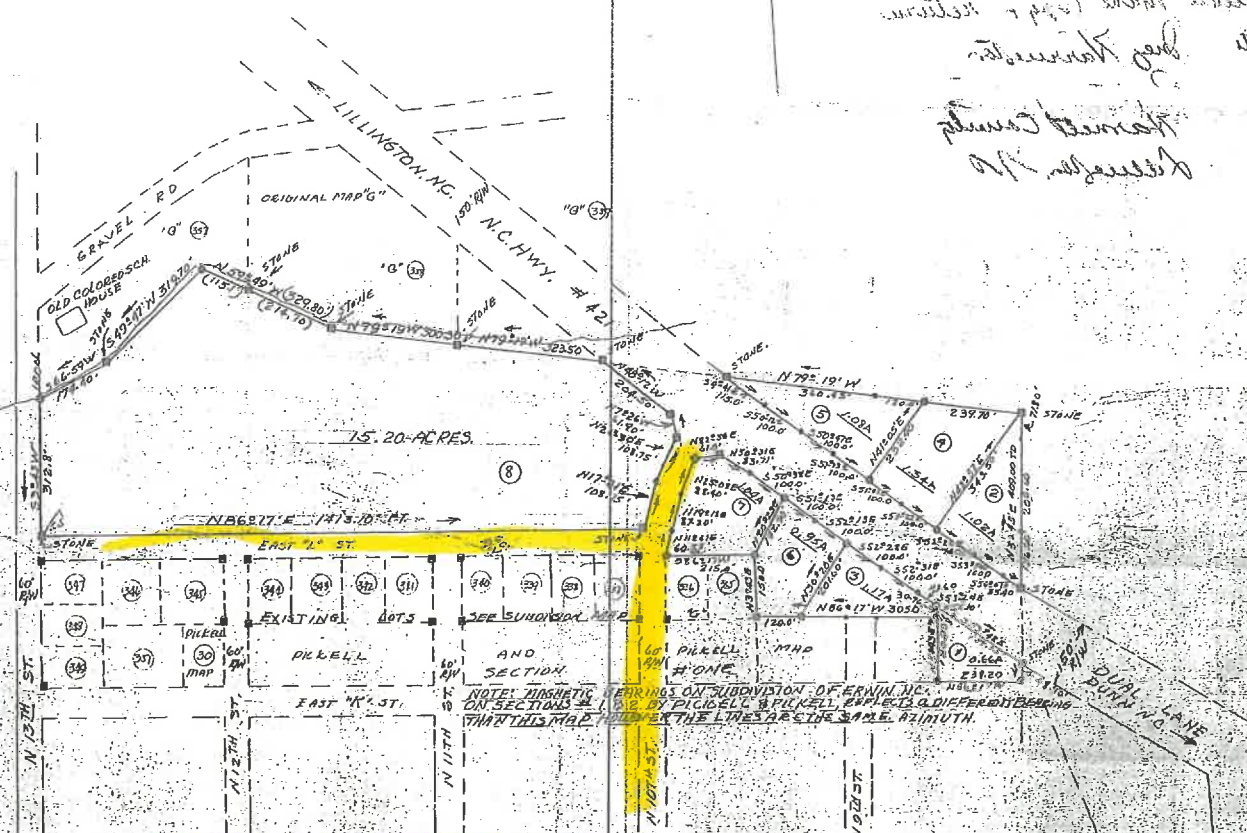
REGISTER OF DEEDS FOR HARNETT CO.



SHOWING LOTS OF FEMMA HILLS TRACT  
LOT 254-340 OF THE 350-LOT SECTION OF THE FEMMA HILLS TRACT  
BEING ADJACENT TO NEW 12TH ST. BEING PART OF THE MAP  
MADE BY SURVEYOR H. T. TURLINGTON IN 1962. SCALE: 1" = 200'



Handwritten notes: "Harnett County", "Deed No.", "Harnett County", "Deed No.", "Harnett County", "Deed No."



**SUBDIVISION MAP 'G'**  
SHOWING PROPERTY OF ERWIN MILLS, INC.,  
ERWIN, N.C. THIS MAP SUPERSEDES MAP 'G'  
LOTS NO. 1 THROUGH 33 TAKE SHAPE AS MAP 'G'  
LOTS NO. 34 THROUGH 35 HAVE BEEN COMBINED INTO ONE  
AND SHOWN AS LOT 36  
ORIGINAL SURVEY MAP 'G' 1955 BY H.T. TOLINGTON RES. SURV.  
MAP 'G' 2 MADE FROM ADDITIONAL SURVEY 1961-62  
MAP 'G' 3 MADE MARCH 19TH 1966 BY J. J. JONES  
SCALE 1" = 200'

**NORTH CAROLINA, HARNETT COUNTY:**  
FILED FOR REGISTRATION THIS DAY OF  
AT OCTOBER M. AND DULY RECORDED IN 1966  
BOOK NO. AT PAGE NO. IN THE REGISTER OF  
DEED IN HARNETT COUNTY.

REGISTE OF DEEDS.

THE CITY LIMITS AS SHOWN ON THIS MAP REPRESENTS THE SAME LOCATION AS SHOWN ON THE ORIGINAL MAP MADE, JULY 1, 1967

*Donald J. Furlong* L-408  
REGISTERED SURVEYOR 1-5-69

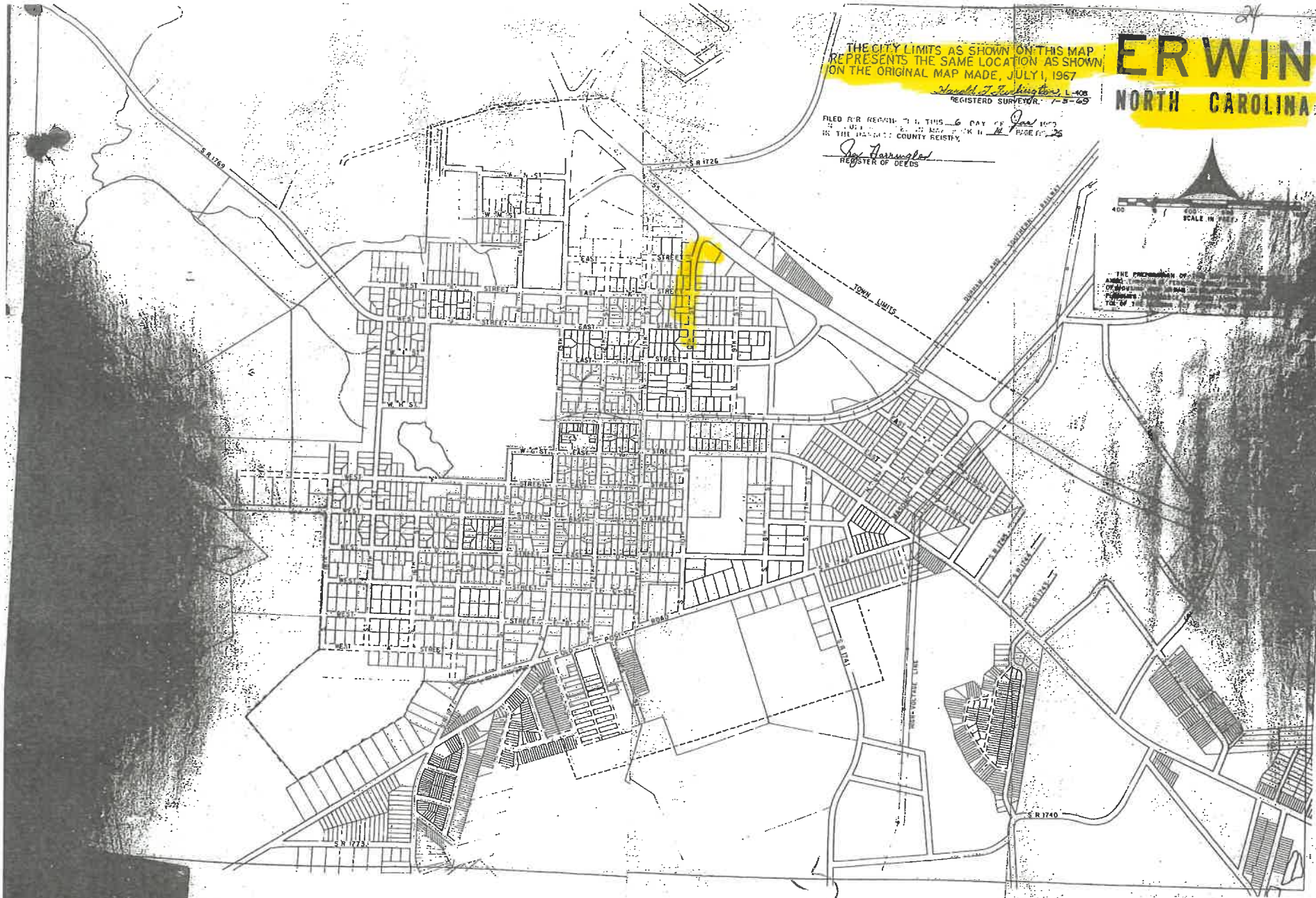
FILED FOR RECORD IN THIS OFFICE ON *Jan 10 1973*  
IN THE HARRIS COUNTY REISTRY, PAGE *112*

*Joe Harwood*  
REGISTER OF DEEDS

# ERWIN NORTH CAROLINA



THE PREPARATION OF THIS MAP AND THE INFORMATION THEREON IS THE SOLE RESPONSIBILITY OF THE SURVEYOR AND HIS ASSISTANTS. THE REGISTER OF DEEDS HAS NO LIABILITY FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.



Town's  
Orig.  
plat

107 2 100 111 4 5

Map # 2001-888

NOTE: This property does not appear to be located within 2,000 feet of a N. C. G.M. System Monumentation.

This is to certify that I have consulted the Federal Insurance Administration Flood Hazard Boundary Maps and found the above property described (in pink) located in a special flood hazard area.

*Andrew H. Joyner*  
Andrew H. Joyner, P.L.S. # 2469

State of North Carolina  
County of Harnett  
Annette L. Mize Review Officer of Harnett  
County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

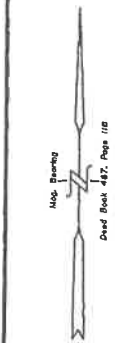
8/15/01  
Date

NORTH CAROLINA  
COUNTY OF HARNETT  
I, Tracy B. Joyner, Notary Public,  
do hereby certify that the above map or plat was recorded on August 2001  
at 4:21 P.M.  
Tracy B. Joyner  
Notary Public

SITE		EAST		L		EAST	
EAST ST	ST	W	A.S.T.	ST	ST	ST	ST
EAST							
EAST 1ST	1ST	T	1ST	2ND	3RD	ST	4TH
EAST							
EAST 2ND	2ND	T	1ST	2ND	3RD	ST	4TH
EAST							
EAST 3RD	3RD	T	1ST	2ND	3RD	ST	4TH
EAST							
EAST 4TH	4TH	T	1ST	2ND	3RD	ST	4TH
EAST							

I, Andrew H. Joyner, Professional Land Surveyor No. 2469, Certify That This Plat is Of A Survey Of An Existing Parcel Or Parcel Of Land And Does Not Create A New Street Or Change An Existing Street.  
*Andrew H. Joyner*  
Andrew H. Joyner, P.L.S. # 2469

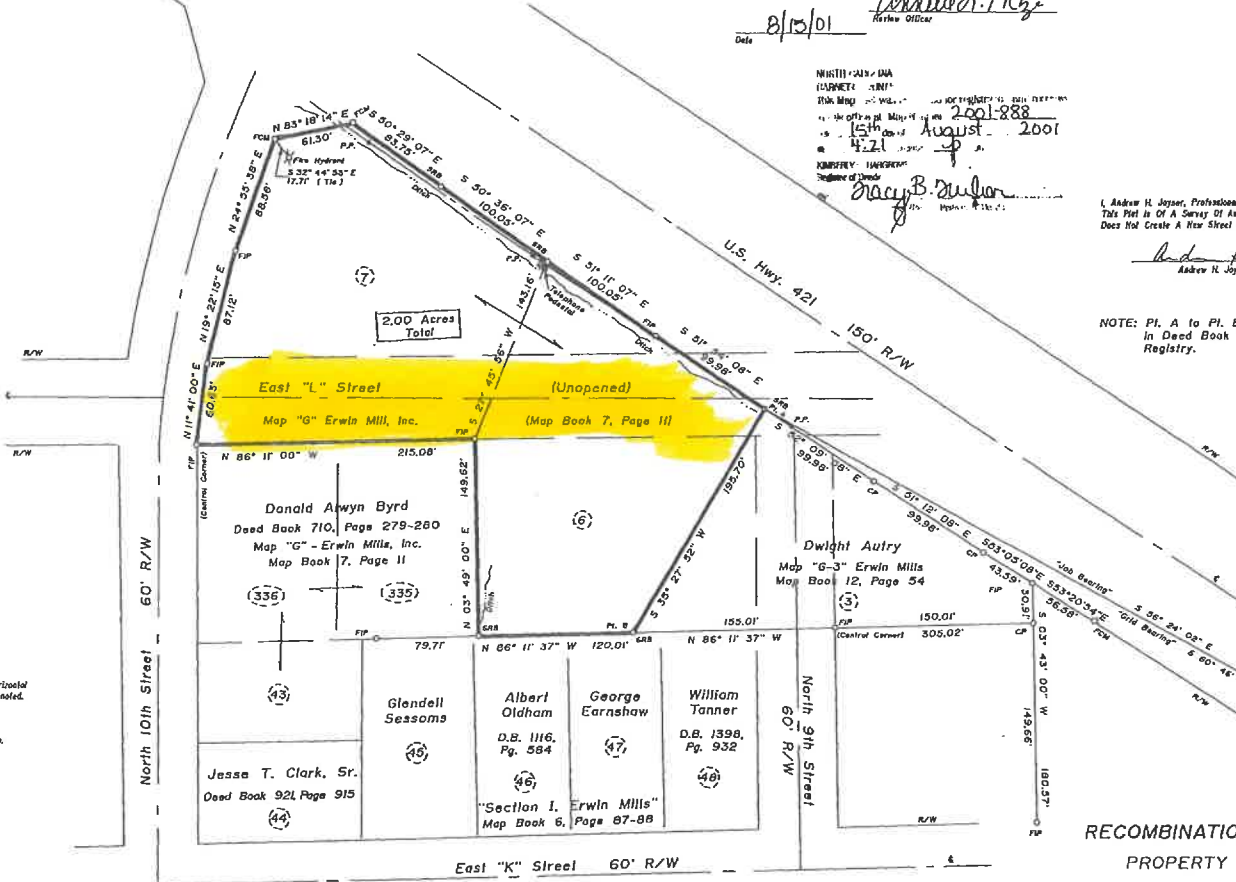
NOTE: PL. A to PL. B is Agreed Property Line as recorded in Deed Book         , Page         , Harnett County Registry.



**LEGEND**

FP-----Found Iron Pipe  
SP-----Set Iron Pipe  
FCM-----Found Concrete Monument  
FPM-----Found P.K. Nail  
SPN-----Set P.K. Nail  
FBN-----Found Barbed  
SRB-----Set Rebar  
R/W-----Right of Way  
C-----Centerline  
PNC-----Point Not Established  
CP-----Calculated Point  
P.P-----Power Pole

NOTE: All measurements shown are horizontal ground measurements unless otherwise noted.  
Area computed by coordinates.  
Pl. A to NC85 "ADAMS" is a Tie Line.



NORTH CAROLINA  
HARNETT COUNTY  
I, Andrew H. Joyner, a Registered Land Surveyor, certify that this map and plat shown under my supervision from the actual survey made under my supervision. I find the description recorded in Book         , Page         , (Harnett), and the ratio of graduation as established by the State Department of Education, and the recording and recording as shown on the above map and plat from information given to me.  
I find this map and plat prepared in accordance with G.S. 41-36 as amended. I witness my signed diploma, registration number and title, this 15th day of August, A.D. 2001.



NO APPROVAL NECESSARY BY THE PLANNING BOARD OF THE TOWN OF ERWIN.  
8-15-2001  
Date *Mike Goodwin*  
Mike Goodwin, Code Administrator

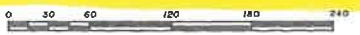
NOTE: Survey being all of Lot No. 6 & Lot No. 7 of "Map G-3, Erwin Mills Inc." as recorded in Map Book 7, Page 11, Harnett County Registry.  
NOTE: Deed Reference; Book 487, Page 118.



RECOMBINATION FOR PROPERTY OF:  
**DAVID L. BRADHAM and wife,**  
**MEREDITH L. BRADHAM and**  
**WILLIAM E. LASATER, JR.**

DUKE TWP., HARNETT COUNTY, N.C.  
SURVEY BY: JOYNER PIEDMONT SURVEYING  
P.O. Box 115, Duke, N.C. 28534  
Phone: (910) 692-2017

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



Lot No. 6 - Pl. # 06-0597-1103-0008  
Lot No. 7 - Pl. # 06-0597-1103-0008-01

Map # 2001-888

NOTE: This property does not appear to be located within 2,000 feet of a H.C. Grid System Manometer Station.

This is to certify that I have consulted the Federal Insurance Administration Flood Hazard Boundary Maps and found the above property described is (is not) located in a special flood hazard area.

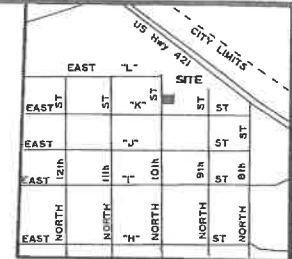
Andrew H. Joyner, P.L.S. # 2469

State of North Carolina  
County of Harnett

I, Christine L. Wallace, Review Officer of Harnett County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Christine L. Wallace  
Review Officer

Date 3-15-04



I, Andrew H. Joyner, Professional Land Surveyor No. 2469, Certify That This Plat is Of A Survey Of Another Category, Such As A Recombination Of Existing Parcels, A Court-Ordered Survey Or Other Exception To The Definition Of Subdivision.

Andrew H. Joyner  
Andrew H. Joyner, P.L.S. # 2469

NORTH CAROLINA  
HARNETT COUNTY  
This Map/Plat was prepared by control and recorded in the office of Map Number 2004-209 on the day of March, 2004, at 9:00 o'clock A.M.  
KIMBERLY S. HARGROVE  
Register of Deeds  
By: Joyner  
Assistant Register of Deeds



2004004382  
ON REGISTRATION REGISTER OF DEEDS  
KIMBERLY S. HARGROVE  
HARNETT COUNTY, NC  
2004 APR 15 09:07:03 AM  
BX: 2004 PG: 209-210 FEE: \$21.00

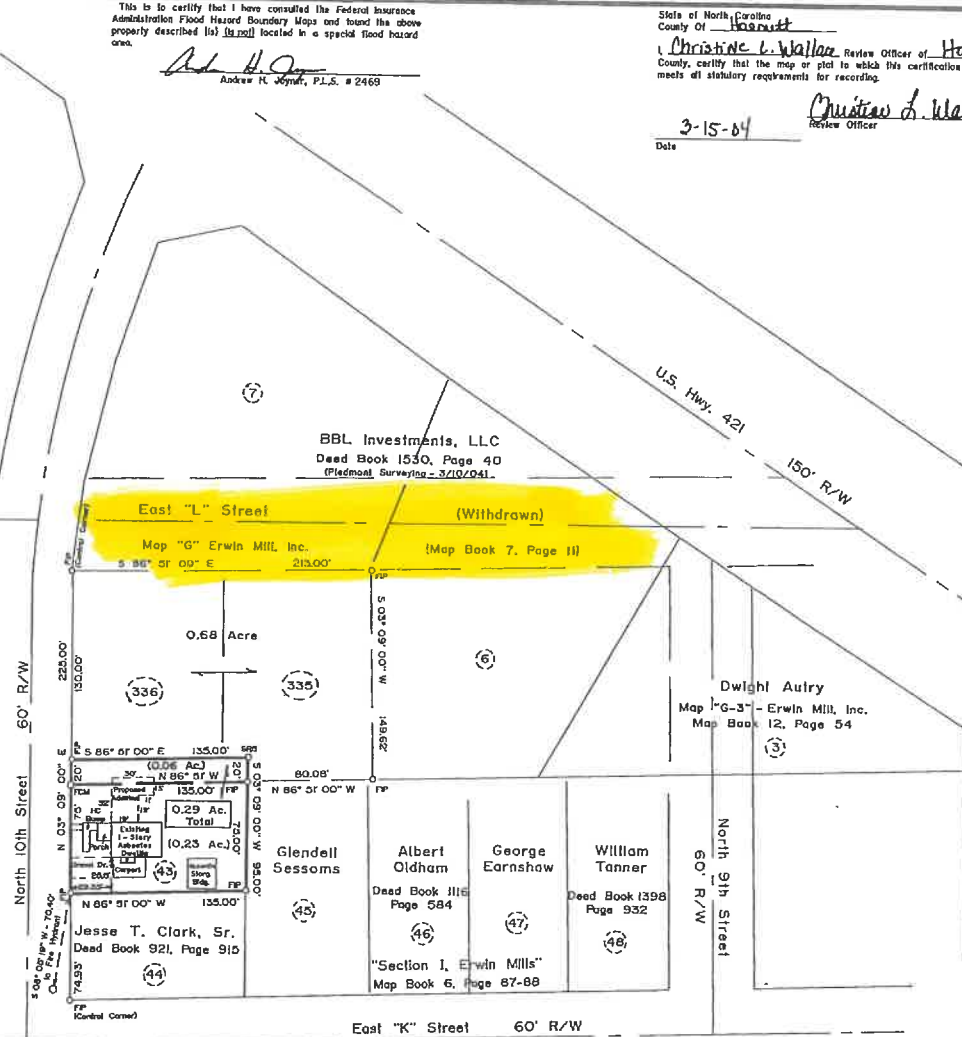
INSTRUMENT # 2004004382

NOTE: Lot No. 335 and Lot No. 336 of "Map G - Erwin Mills, Inc." (Map Book 7, Page 11) Previously Recombined.

**LEGEND**

- FP-----Found Iron Pipe
- SP-----Set Iron Pipe
- FCM-----Found Concrete Monument
- FPKN-----Found P.K. Nail
- SPKN-----Set P.K. Nail
- FRB-----Found Rebar
- SRB-----Set Rebar
- R/W-----Right of Way
- ⊕-----Centerline
- PHC-----Point Not Established
- H.C. Resp-----Headcap Ramp

NOTE: All measurements shown are horizontal ground measurements unless otherwise noted.  
Area computed by coordinates.



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

Date 3/12/04  
Mike Thompson  
Mike Thompson, Subdivision Administrator

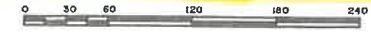
RECOMBINATION SURVEY FOR:  
**DONALD ALWYN BYRD**  
and wife,  
**MELBA H. BYRD**

403 North 10th Street, Erwin, N.C. 28339

DUKE TWP., HARNETT COUNTY, N.C.  
SURVEY BY: JOYNER PIEDMONT SURVEYING

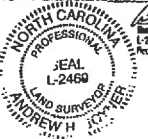
100 East Cumberland Street, P.O. Box 113, Dunn, N.C. 28346  
Phone (910) 892-2011

ZONE: MARCH 10, 2004 SCALE: 1" = 60'



Lot No. 43 - PIN # 0597-85-1972.000  
0.06 Acre Out Of - PIN # 0597-86-2014.000

NORTH CAROLINA  
HARNETT COUNTY  
I, Andrew H. Joyner, a Professional Land Surveyor, certify that this plat was drawn under my supervision from best actual survey work under my supervision. (Signed description according to Book 322, Page 27-28 at 3 o'clock, that the plat of previous use shown to broken their ditched from subdivision level in Book 7, Page 11, that this plat was prepared in accordance with G.S. 41-30 as amended, previous plat or other records, registration number and seal this day of March, A.D. 2004.



North Carolina  
Cumberland County  
I, Melissa C. Duncan, a Notary Public of the County and State aforesaid, certify that Andrew H. Joyner a Registered Land Surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument, witness my hand and official stamp or seal, this 12th day of March, 2004.



NOTE: 0.06 acres surveyed being a portion of Lot No. 335 and Lot No. 336 of "Map G - Erwin Mills, Inc." (Map Book 7, Page 11) as recorded in Deed Book 710, Page 279-280 and as such being a recombination with Lot No. 43 of "Section I, Erwin Mills" (Map Book 6, Page 87-88) as recorded in Deed Book 710, Page 279-280, Harnett County Registry.

Map # 2004-209