

Town of Maggie Valley  
Special Called Board of Aldermen Meeting  
June 6, 2022  
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Members Present: Mayor Mike Eveland, Aldermen: John Hinton, Tammy Wight, Phillip Wight and Jim Owens.

Staff Present: Interim Town Manager Vickie Best, Town Planner Kaitland Finkle

Others Present: Staff from the Firm of WithersRavenel

**1. Meeting Called to Order**

Mayor Eveland called the meeting to order at 6:30 pm on Monday, June 6, 2022, in the Town Hall Boardroom. Three ordinances were scheduled for Consideration of Approval. Mayor Eveland asked that people limit their comments during the public hearings to five-minutes and give everyone an opportunity to speak.

**2. Consideration of Update to the 2007 Maggie Valley Land Use Plan**

**a. Presentation by WithersRavenel**

Planner Kaitland Finkle summarized the purpose of updates to the 2007 Land Use Plan. North Carolina General Statute Chapter 160D requires that if a local government wants to enforce zoning, they must have, and reasonably maintain, a Comprehensive Plan or Land Use Plan. Maggie Valley's Land Use Plan was originally adopted in 2007. The School of Government recommends updating this document every five to 10 years, so the Town is a few years out of the 10-year window. To be compliant with the 160D requirement, the Plan must be updated by July 1, 2022. Updates are provided in this document, but there is still work to be done which will be addressed as a second phase. She expressed her hope to get the update passed during this meeting.

She then turned it over to WithersRavenel Consultant Karen Mallo. Ms. Mallo introduced the project team: Daniel Rauh, and Brendie Vega Director of Planning.

The WithersRavenel presentation included the following topics:

- Purpose of the Plan
- Land Use Plan Basics and Content
- Workflow
- Kickoff and SWOT Analysis
- Changes to the Plan
- Future Land Use Map
- Next Steps
- The Comprehensive Plan
- Public Engagement Methods Moving Forward

Planning prepares a Town for the future, making the best use of its assets. Maggie Valley has a lot of assets, and we want to be able to make the best of the assets. The Town's basic guidance document has been in place since 2007, and created a vision, and goals to achieve that vision. That tool is used by Planning staff and the Board to make decisions. It is required to enforce zoning. Anytime a zoning change happens or there is a change to the map, it requires a consistency statement, meaning going

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back and making sure that the decision is consistent with the adopted plan. Chapter 160D indicates an updated plan must be approved before July 1, 2022.

Three questions that should always be asked when getting ready to work on a Land Use Plan or Comprehensive Plan:

- 1) Where are we now?
- 2) Where do we want to be?
- 3) How do we get there?

The Plan should answer those questions.

Ms. Mallo demonstrated how to identify items from the 2007 Plan that have been updated and what is left to be updated. The Introduction, Background, and Population and Housing were all updated with new census data. Development Constraints, Community Issues and Recommendations remained relatively unchanged and will be looked at in Phase II. The Implementation Matrix was also updated noting what has been achieved, what is included in the UDO, and what will be looked at in the Comprehensive Plan.

In March 2022, a kickoff meeting was held with WithersRavenel, Town staff, Mayor Eveland and the Board of Aldermen, and the Advisory Boards. Before, during, and after that kickoff, WithersRavenel has been completing demographic research and updating the Plan. The firm also took a tour of the town. From those meetings and research came a list of Strengths, Weaknesses, Opportunities and Threats (SWOT).

In the drafts provided to the Board, anything in grey and highlighted represented new text, and anything struck through was removed. Updated demographic data contained many strikethroughs. The previous Plan was based on anticipated development that may or may not have happened. Updates considered the new transportation plan, and the multi-modal recommendation that is happening along Soco Road.

Yellow highlighted items in the implementation matrix are in progress or are going to be approved if the Unified Development Ordinance (UDO) is approved. The green highlights are items that have already been completed. Items in orange will happen in the next phase – the Comprehensive Plan. Red indicates things that are prohibited, either from a State Statute or just a practice that WithersRavenel doesn't recommend.

There are no changes to the Land Use Map, currently. The proposed zoning map being presented with the UDO is based on the Land Use Map in existence now. However, the Land Use Map will change during Phase II when speaking in more detail about utility availability, proposed transportation, and infrastructure improvements, and will include a strong community engagement component. Consideration will be made to the availability of developable property and community resources.

Consultant Mallo quoted NCGS 160D-605 (a) "If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required." Explaining that means if a Land Use Plan is not consistent with the UDO and

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the UDO map gets approved, it in effect, changes the Land Use Plan. She says it's a great steppingstone to the next phase, which is when the Land Use Map will be looked at in more detail.

Directing attention to the current Land Use Map, Ms. Mallo explained yellow and green areas are primarily residential. Moving forward, some of the areas will shift based on the availability of sewer and water. For example, an area might not be seen as where development needs to occur in the future. Instead, it will show where the resources are available. So, the current Land Use Plan and anything that comes in conflict with the UDO zoning map will essentially be updated to the effect of the UDO.

Alderman Phillip Wight asked whether the UDO supersedes the Land Use Plan. She explained the UDO is law, a Code of Ordinances. The Land Use Plan is a guidance document, not technically law. Towns can't enforce anything in their Land Use Plan. The UDO language will supersede what comes out of the Land Use Plan; however, this document is not meant to be pushed aside by the UDO. The recommendations that were made in the 2007 Land Use Plan implemented changes that will be seen in the UDO.

He sought further clarity, stating his understanding that the Comprehensive Plan was more legal, and time defined than the UDO. He thought the need was for a Comprehensive Plan for code enforcement, but the UDO is still optional, being the tool to get things to Point B. Planner Finkle chimed in that these are two separate documents. The Land Use Plan is the visioning document, with updated demographic, housing information, etc. Updates to the Land Use Plan will not change community needs, recommendations, or goals at this time. That is planned for Phase II. This is to update information in the Land Use Plan to be in compliance with General Statutes before July 1<sup>st</sup>.

Mayor Eveland said that beginning July 1, and over the next six months to one year, there will be opportunity for everyone in the area to speak out about things they would like to see in the new Comprehensive Plan.

After adoption of the Land Use Plan Update, the kickoff of Phase II will begin. The goal of the Comprehensive Plan is to take things a step further than just looking at land use. This means considerations will be made for economics, community services, utilities, housing, and transportation. Launching of extensive public engagement efforts with the Town will occur. All that comes with a new Future Land Use Map based on the findings of WithersRavenel's background research as well as input from the community. Then there will be a new implementation plan and new action items.

Explaining what a comprehensive plan looks like, consultant Mallo said it begins with identifying existing and future land uses (what people want to see in the future.) Demographics and background data is collected, looking at things like the population change in year-round citizens versus seasonal residents, changing housing trends over time, such as the push for short-term rentals and apartments. There are several transportation plans in the works, and these will be evaluated to see how they will affect the Plan. They will determine what utilities are available. For example, where is water, sewer, is there a need for broadband, and availability of community services at capital facilities. She said WithersRavenel has an entire department in their firm that deals with economic development, and they will look at economic development patterns.

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The final piece is public participation and community engagement. Expect public workshops, and online surveys both on social media and the Town website. Community events and workshops will be conducted, and folks will begin seeing easily recognizable logo and branding.

After approval of the Updated Land Use Plan, it will be time to move forward with the next steps of the Comprehensive Plan, taking a broader look at the Town and what the vision will be for the future.

Alderman Hinton asked whether the next step in the research attempts to quantify growth based on recent history. Consultant Mallo explained that the data is somewhat of a trajectory, but they will also consider things like how many beds are available for tourists, how many properties are being rented out, etc. They will use information put out by the Census Bureau, Chamber of Commerce, and Tourism Development Authority and other community information data that is available.

Alderman Phillip Wight asked if this research hasn't already been completed. Some research has already been completed, she explained, updating what was in the current Land Use Plan. He then asked why the meeting was being held because he thought money was paid up front to have the Comprehensive Plan completed, then the Town would pass the UDO. However, he was hearing her say that the Comprehensive Plan would be modified based on the UDO. He said he wasn't trying to be controversial, just that he had been told that the Comprehensive Plan came first.

Planner Finkle went over updates made to the Land Use Plan to show what WithersRavenel has accomplished to date, explaining only a simple update was being proposal before moving on to Phase II of a new Comprehensive Plan. She went on to point out what was cut out of the document and what was added. Most of the information, she concluded, was not changed. Population growth is reflected, both within the town and surrounding communities, showing Maggie Valley to be the fastest growing municipality in Haywood County. Information is factual and up to date as of this date, with no outdated data from 2007. All this was to make sure an accurate snapshot is being provided that is reasonably up to date within five to ten years. Dwelling units, permit information, household numbers and school information have been updated, pulling factual numbers from various data sources.

If we are the fastest growing municipality around, has a study been completed to determine if there is an end (i.e., is Maggie Valley going to be maxed out without building up), asked Alderman Phillip Wight. As to exactly when the town is expected to reach capacity with the land currently available, Planner Finkle said an exact date or acreage has not been projected. However, part of the new Future Land Use Map will look at vacant parcels so it can be shown that these may be right for development. She reiterated that this is an existing Land Use Plan that is simply being updated with factual information in order to be compliant with NCGS. Development constraints largely have not changed, but floodplain updates have been made. Existing community issues were not changed, as these need to be vetted through the community engagement process which will be accomplished in Phase II. The Land Use Plan was originally vetted in 2007 when it was adopted. Changes to the document have gone through all notice requirements and this is simply an update.

She ended this presentation with a review of the Implementation Matrix, saying it is important to point out what has been achieved since 2007. While there are some things, the majority are in place in the



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draft UDO, and some things that still have not been done, for example, rezoning key vacant tracts before they are developed.

The original 2007 document and map are already available online, and the changes will be made available as well. Mayor Eveland commented this was a lot of information for people to review. It will take six months to a year to complete a brand new Comprehensive Plan, but this document allows the Board to move forward, as it will get Maggie Valley up to date and in compliance with the State.

The location for accessing this document on the Town's website:

<https://maggievalleync.gov/government/departments/planning-development-departments/>.

b. Public Hearing

Mayor Eveland opened the public hearing at 7:00 p.m.

Rick Helfers of 329 Clearview Drive addressed Council. "I serve on the Planning Board, and we need to pass this. There have been some decent changes to update the 2007 Land Use Plan to make it current for this year, and there are a number of areas that we are hoping to look at once this update is passed. Not mentioned tonight are certain pockets of the population. Maggie Valley has several population pockets. Permanent residents are addressed in this plan, but not addressed are part-time residents, visitors, overnighers, and festival goers who rent. Sources of this information could include Post Office, Police Department, and surveys of business owners along Soco Road. While you want to use the most accurate information you can obtain, you will not get it exact. Also not mentioned tonight is an updated slope analysis, which I think is very important. That is going to be very important because several properties along Soco Road extend in depth to the back and we need to appreciate the fact that some are partially buildable, and others are very hard to build on. So those are the primary changes that I wanted to hear tonight that we are going to get ready to do. We have an opportunity in the latter half of this year to engage with WithersRavenel as they engage with the citizens and the Boards, to make a really good document. This is an opportunity to get a Comprehensive Plan that will include all the things that we've been thinking about and bring it together into one document for the Board of Aldermen to use. Transportation, communication – all kinds of goodies. So, I would like for you to give every good consideration to pass this document tonight. Thank you."

Sam Ferguson owner of Ferguson Mobile Home Park on Moody Farm Road questioned zoning of the mobile home park, stating it appears that the park is zoned the same as the RV park next door. Mayor Eveland explained that there were no changes to the existing map for the Land Use Plan being discussed, and asked Planner Finkle to provide more clarity to Mr. Ferguson.

Stomping Ground owner Kyle Edwards then addressed the Board. "Not a man in here that has experience with these mountain slopes like I have. I am a general contractor, and I have worked in them all my life. I don't like the idea of somebody else buying a lot and coming in here to tell me what I can do with my property. I just don't believe in that. If I'm paying taxes, it's my personal property, and none of your business. And I think you ought to take a look at the people's property rights. That's one thing. Like ETJ – I've got a one-hundred-acre farm down here, and I don't believe there's a man in here with a house and lot that's got one hundred acres of land in this valley. Bart Campbell and Betty Jo have, and

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you should not be regulating their property. I have argued that since I was on this Board. Maggie Valley did not do them right when I owned that big campground, and the Town wouldn't pay for a road to go back to it. Does that man realize what it will cost to bury power lines in this valley? It would bust you for the next two hundred years. How much are you going to spend?" [Someone can be heard explaining they would be able to apply for grant money] Alderman Phillip Wight said there is a small offer on the table from the State, but grant money is tax money. Mayor Eveland said he didn't disagree but asked that speakers stay on topic.

Mr. Edwards continued (there's) "just so much ignorance when someone else tells me what I can do with my property. It is time to stand up for our property rights. ETJ needs to be eliminated. You're regulating something that you don't get any money out of, and the people can't vote for you. And they can't vote against you. And I think this Board will probably be changed next time, from what I gather in the Valley. They're not a bit happy with what's going on. Take the bridle off this Valley and let it run. If you have a business in this community, you know what I'm talking about. If you don't have a business, then you don't know. It is hard to survive on six months, and you are not going to fill a motel over 45 days a year, maybe thirty days a year. I just don't believe it is right for you all to try to regulate people because you don't know what you are doing. I don't mean that to sound derogatory, I'm just telling you the way I feel. You don't go by your own regulations. Like the Festival Grounds. They are a good thing, but it disturbs everybody in Evans Cove, and Burton can't run the Wedding Chapel because of it, until he gets your permission. That is not right. I bet you never had a complaint about my music at The Stomping Ground because it is enclosed. I know you can't afford to build a building like I have, but you can cut it down and work with your neighbors. Because there are people in Evans Cove coming to me all the time saying it is so loud that I can't even go to bed. Business is tough, hard to survive. We don't need to overregulate this community. When you start telling people what to do with their property, you are wrong. I try to do what is right by everybody and you can't regulate the people on every little business. If you tried to run a service station in Maggie...all these campgrounds are a good example. They buy food, eat at restaurants. Visitors come stay in bed and breakfasts, and hotels and motels. And we've got to help people, not work against them. Thank you."

Mayor Eveland requested no clapping or boos.

Next up was Jim Harden, owner of 67 Ferndale Road. He said he has a couple of C1s attached to his home in that area. He wanted to know if the Comprehensive Plan is basically to keep the 2007 Plan alive. Mayor Eveland explained right now it is to update the current Land Use Plan to this date. Parts of the Land Use Plan haven't been changed from 2007. WithersRavenel over the next year will make the big picture changes in a new Comprehensive Plan. That's after they talk with residents and businesses.

Mr. Harden then asked if the usage plan had changed. Mayor said this would be part of the next subject tonight, the UDO. Mr. Harden asked if he has a firewood business, but the map says it is not available, will the business be grandfathered if it changes? Yes, and it is transferrable even if sold if it is the same usage. If usage changes, it could not be changed back.

He moved to an incident that occurred when he allowed an individual to put up a tent during the elections. He said the Town shut them down due to competition with the Festival Grounds. "The Town charges people to put up a tent, so therefore, I guess they are losing money. They ran him off, but I

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agree with Kyle [Edwards], it's my property, if I want to allow him in, to do his thing with what he believes in and for who he wants elected president, I don't think, just because the Town wants to make money on the Festival Grounds that private property owners should be not allowed. I view it as I pay taxes on the property, and I should have the right as a property owner to allow them to do that. It was temporary."

Alderman Phillip Wight says he could agree, and that this could be addressed through the Festival Grounds rules. Mr. Harden said it was water under the bridge.

Mr. Harden asked about appeals, if something is adopted that the private property owner doesn't agree with. He spoke about C1 zoning, and the lack of RV repair businesses. He said there's an overabundance of RV parks, but nowhere to repair them. Many storage units are closing, and mobile homes won't be allowed. If people own property, there should be a way to contest the C1 zoning if they can prove the need. If the property owners can be encouraged down that road, it would be helpful.

Linda Taylor owner of The Valley Inn spoke next. "We own several properties in Maggie Valley. When the presenters put the first page up, they said no changes are proposed to the Land Use Map at this time. However, looking at one parcel in particular, we purchased 3.79 acres at the cost of \$100k an acre in 2006, with the intent that we would be able to do something with it at our retirement, which we are on the cusp of. You have changed my property from C2 which allows an RV park to moody farm road mixed use – which I don't know what it is – but I know it doesn't include RV parks because we are pushing them out of town. I've been to enough meetings to know that. But my question to you is, how can you say that you are not proposing changes if you are changing the zoning?"

Planner Finkle then again tried clarifying the three items on the agenda tonight. "We have not begun discussing the UDO, we have not begun discussing the Zoning Map. Right now, we are discussing the 2007 Land Use Plan. The document that I showed you earlier is what we are discussing right now. There are no changes to a Future Land Use Map. This is the only document right now that is being discussed for public hearing. This item (the UDO Zoning Map) is not being discussed or voted on right now. It is an entirely separate item that we will give an entire presentation on, open its own public hearing for. So absolutely, you will get an opportunity, but I don't want people to be confused, because the document that we are looking at this second - Number 1 on the agenda - is not changing the Future Land Use Map. It is not rezoning people's properties. It's not taking away people's ability to use their land or making any new recommendations for their land. It's simply updating information from the 2007 Land Use Plan. I wanted to make that clear for you all and clear for the Board. This does not have anything to do with the UDO or the Zoning Map."

Ms. Taylor continued, "The majority of the Town is zoned residential. I was on the Board when the C1 district was defined, and one of the reasons we did what we did was to avoid residential property encroaching too much in the commercial district. We wanted to protect the commercial district. Being on the Sunshine List, I keep seeing over and over again where people have asked for a special exception. In fact, Mayor, your house is built in a C1 district, but you have a special exception. And so has everyone else that came behind you. I think you need to put some precautions in because if we lose our commercial district, we're going to lose what Maggie Valley is and what it has always stood for. And

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that's the only comment I have about that. I'll listen to the rest of this to hear how I'm going to be zoned. Thank you."

Mayor Eveland closed the public hearing at 7:15 p.m.

c. Consideration of Approval: Ordinance 995

Alderwoman Tammy Wight asked for confirmation of action needed. Reminding everyone of the Agenda Setting Meeting tomorrow and a Board of Alderman Meeting next week, she questioned her Board Members should take the document home and review before agreeing to pass without fully looking at its contents.

Planner Finkle responded that was an option but reiterated that WithersRavenel had been hired to do factual research and update information to be compliant to today's date. The Implementation Matrix was shown so everyone could see what has already been achieved, and what can be achieved in the future. Alderwoman Wight stated her understanding but said she would feel more comfortable if she had more time to review before passing. She asked if there was a need to pass it before the Town Council Meeting. Planner Finkle said it needs to be approved by July 1<sup>st</sup> as required by North Carolina General Statute so zoning can continue to be enforced.

Alderman Owens said the changes appear to be updates to numbers, like census updates, etc. and that it is straight forward. However, Alderman Phillip Wight said it felt like they were "having to pass it to see what's in it."

The Planning Board had a similar dilemma and wanted to see several items changed. When they submitted their recommendations to the Board of Aldermen, there were items they wanted included in Phase II. Community issues and recommendations, for example, were a standalone document that they are looking to see included in Phase II.

Alderman Phillip Wight asked if the Board of Aldermen could do the same and pass the Board's concerns and recommendations back, after approving tonight. Planner Finkle assured him that the contract with WithersRavenel is for more than this one update. Having only been hired in March, they did not have time to do the Future Land Use Map and engage the public to come up with new community issues. This was the Planning Board's consideration when they came up with a list of items to be set aside and included in the next phase of the plan.

Mayor Eveland commented that chances are people are not looking at a lot of things in this document the same way they were in 2007. Planner Finkle agreed, stating that's why they haven't taken time to update community issues and recommendations. It will be easier to start with a blank slate – to ask people in the community what they feel the issues are without starting from a document written in 2007.

There are three pages of recommendations the Planning Board wants to move forward to the next phase. Alderman Phillip Wight said he puts a lot of trust in the Town's Planning Board. Further suggesting that the Board of Aldermen could add their questions to the list already started by the Planning Board. Alderman Hinton added that is comfortable to him, and it's part of the process of going



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to the next phase. The list of items the Planning Board has asked to be included in Phase II will be provided to the Board of Aldermen for consideration.

Planner Finkle added that WithersRavenel is already working on the next phase, referencing Mr. Helfers comments earlier about seasonal population and the slope analysis and Alderman Wight's comments on vacant land. The Firm is already looking at the Future Land Use Map. Before giving the Board a map to just adopt, it needs to be vetted by the public, she said.

**ALDERMAN OWENS MADE A MOTION TO APPROVE ORDINANCE 995. MOTION CARRIED UNANIMOUSLY.**

**3. Consideration of Unified Development Ordinance (UDO)**

Planner Finkle introduced the 130-page Unified Development Ordinance document. NC General Statute 160D 103 allows for combining of regulations into a unified ordinance. The Maggie Valley Zoning Ordinance was adopted in 1998 and is largely what is in use today. The Land Use Plan developed in 2007 made several recommendations, some of which were reviewed earlier in this meeting.

The ordinance needs to be brought up to date as well as being made more meaningful to address changes that will be occurring in the Town. Some of those recommendations include expanding the number of zoning districts, adopting the conditional rezoning process, looking at changes to the Sign Ordinance to make it legally compliant with Federal law, developing criteria for protecting areas in environmental concern from what used to be the Planned Unit Development Process into a Conservation or Cluster Subdivision Process, having new development bury underground power lines when possible, changing C2 to MU2 designation along Moody Farm Road, addressing traffic concerns through conditional zoning, and developing a mixed use designation specifically geared toward large scale attractions.

There are twelve chapters, most of which are unchanged from what they are today.

The Flood Plain Chapter is the model ordinance from the State that was adopted in 2012, and it remains unchanged.

The Definitions Chapter remains largely unchanged other than a few modifications about manufactured homes, how Class A vs Class B are measured, the definition of modular homes, and accessory dwelling units. A few definitions have been added.

The Zoning Enforcement Procedures are largely the same. They used to be scattered in about four different locations in the Code of Ordinances, and now they are in one location.

The Administration Chapter outlines the Zoning Board of Adjustment and the Planning Board and how they operate.

Moving on to the Signs Chapter, Planner Finkle reported that there was a large Federal case a while ago that said Towns must be Content Neutral and that you can't regulate what goes on signs because of

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freedom of speech. What can be regulated is the size of signs, based on the districts where they are located. Size of signs are not proposed to be changed. There is language about temporary signage, as feather flags and inflatable signage have become a traffic concern. These were already in the ordinance as it is today, so this clarifies the language as it stands. The rules were not changed, just the written words changed to make it more enforceable. The ordinance has always said that moving devices were not allowed, but it never specified what moving devices are.

The Building Design Chapter is now the previously adopted Architectural and Design standards which are unchanged.

The Additional Use Standards are mostly unchanged. This includes things like Adult Establishments, Manufactured Home Parks, Campgrounds, things that have always been required to prove additional use standards have been met.

The Conditional Zoning Chapter is obviously new, as well as the new Zoning Districts which we have been discussing in depth over the last few months. The bulk of the Unified Development Ordinance is our existing codes and regulations combined.

Chapter One outlines legal requirements and vested rights. If someone already has a valid permit, they can continue to operate under that permit. A lot of conversation is being had about non-conformities. Planner Finkle explained that if someone has a business or uses land in a certain way that is currently allowed, you can continue to do so. You can sell the property, and that is allowed to continue to exist. However, if that property becomes a non-conformity, based on the Table change or a Zoning District change, it couldn't be expanded without coming into compliance. She referenced the speaker who earlier in the meeting brought up a good point about wanting to do something on his own property and asking how he could go about doing that. She explained that will fall in the Conditional Zoning Process.

Acknowledging that much of the conversation has been about the Zoning Districts, Planner Finkle said this has been changed slightly since last week, following discussion in the Aldermen Workshop. There has been confusion about names of the districts. Many of the names for the districts were outlined in the 2007 Land Use Plan. There are a few that have been changed due to confusion about their meaning.

R4 is a new district that was specified in the 2007 Land Use Plan. It is called Seasonal and Short-term Residential, but that is not the only thing allowed in that district. RV parks and manufactured homes parks are allowed, so it is not only Seasonal and Short-term Residential properties. Also changed from what had been the Neighborhood Business District, then became the Jonathan Creek Mixed Use District, to General Mixed Used District. It mirrors the Soco Road Mixed Use District in all ways except for allowing additional uses on the properties that currently exist.

The C1 District was previously referred to as the General Business District. It is now the Central Business District.

Density is proposed to increase in all the Mixed Use and Commercial Districts. There were no Commercial zoning designations removed from properties, other than those that were requested by individuals. All Commercial properties – either C1 or C2 - have maintained either a Commercial or Mixed-Use designation other than those requested by individual property owners to change.



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The proposal is for five Residential Districts instead of three, four Mixed Use Districts and three Commercial Districts. Two districts are floating, Town Center and Manufactured Home Park. They can be requested to be located on a property as a rezoning would, but they are not mapped ahead of time. That may change once the new Future Land Use Map is completed.

Planner Finkle then turned to the Use Table. Changes not reflected in the document being reviewed include: "P" means Permitted by Right; "PS" means Permitted with Standards; "S" means only allowed with a Special Use Permit (previously Special Exceptions); and "-" indicates something that is not allowed. Previously there were a several things that were only allowed as a Special Exception that are now being Permitted with Standards.

The Zoning Board of Adjustment (ZBOA) is a quasi-judicial board that hears cases based on evidence and findings. The first seven items they consider are standards that the Town Planner could approve. The biggest change is to Single family dwellings which are being permitted in certain commercial and mixed use zoning districts with Standards, and therefore not having to go before the ZBOA. Whereas other items still require that extra level of going before ZBOA, such as things being looked at specifically for neighborhood compatibility.

Certain things have been specifically requested, for example, Hotels, Motels, and Inns were an allowed use along Moody Farm Road, but individuals in that neighborhood requested that be a Special Use Permit that would be required to go before ZBOA for a hearing to identify whether it is compatible with the neighborhood.

Since the Workshop last week, there are only two changes that were proposed by the Planning Board. First, Manufactured Homes Class A, which is a double-wide or larger will be allowed in the R1 District, but only as a Special Exception. The other is Farm Machinery Sales and Service, instead of being Permitted with Standards in MU3, will be required to go before the ZBOA as a Special Use Permit to once again be looked at for neighborhood compatibility for the area in which it is being requested.

Differences in this Table from the Current Use Table are based on recommendations in the 2007 Land Use Plan. By having more districts, the Town can spread out what happens in each of those districts. Dellwood has been identified as the district that allows the most intense uses. Things like automobile repair shops, warehouses, mini-storage units, RV storage, things that may take a little more land, but may also have more impact on the surrounding communities. This was done simply because Dellwood has the most of those types of businesses already in operation. Flea markets, parking lots and automobile shops are already located on Dellwood, and that area was identified to continue to grow in that manner. Others were identified to continue to grow in other areas, looking at tourism centric or high-density residential. It meant looking at the Zoning Map to see where specific uses should be located.

Alderman Hinton received confirmation to his question of whether this was the same Table of Uses that has been in progress for several weeks, other than the two changes previously mentioned. Those are proposed changes to Manufactured Homes Class A and Farm Machinery Sales and Services.

Planner Finkle said the Town is fortunate to have someone on the Planning Board who is good with artistic visualizations and to have had a previous Planner who used SketchUp, being able to show what a

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setback means and where setbacks are measured from. Most people don't understand that setbacks are measured from the right of way, not from the edge of the pavement.

Mayor Eveland commented that as the Town moves forward with the approved UDO, he anticipates the need for additional changes. When this happens, he wanted to know whether the Planning Board would bring them to the Board of Aldermen to make the change, or is a text amendment appropriate, because he wants to utilize that process as much as possible. Planner Finkle agreed, saying that during her time in Brevard, they kept a running list of text amendments. Some were developer requested - when they wanted to look at certain things that would make development flow more easily. Others were Board requested. She encouraged everyone to take note, and if there are things identified that don't make sense or that should be changed, anyone (Board, citizens, staff, anyone) is allowed to request a text amendment.

Planner Finkle then went over the districts. She emphasized that none of the numbers have changed, only names. General Business changed to Central Business and Jonathan Creek Mixed Use changed to General Mixed Use. Otherwise, the numbers are the same as have been discussed for the past six to eight weeks.

The Mixed Use and Commercial Districts are all growing in density, so they all allow larger density than is allowed today. The new R0 District, which is largely the ETJ, will require larger lot sizes. For people who already have lots within the ETJ, this will not make any difference. Those lots pre-existed, and they are still allowed to build on and sell the lots. This will only affect owners who want to chop up land into new subdivisions. The R0 district requires one half acre per dwelling unit. That is because these are largely located on septic systems and have wells. Both R0 and R1 are slotted for single-family development. R2 allows more density than is currently allowed. R3 is the same as what passed about a month ago, and R4 is the seasonal and short-term residential.

Referencing Sam Ferguson's comments during public hearing earlier in the evening, Planner Finkle says this is the only district that allows manufactured home parks. It also allows RV parks and campgrounds. People can request a mobile home park as a Floating District, but Ferguson's Mobile Home Park was designated as R4, so that it would not become non-conforming. It is the only mobile home park in Town, and it is to remain as a legal use.

The Mixed-Use Districts, for the most part, are tied to specific areas. The Soco Road Mixed Use is the area located between the two Moody Farm Road intersections for parcels fronting Soco Road. It is a Mixed-Use District which still allows for commercial uses, while also allowing high-density residential uses. The same is mostly true for Moody Farm Road with slight differences in the commercial uses allowed. General Mixed Use is currently only designated along the Jonathan Creek Corridor, but someone can request that district anywhere in Town limits.

The Community Attraction Mixed Use is located around the Ghost Town area. It also includes Tube World.

Town Center is not denoted on the zoning map because it will be a Conditional Zoning District that someone needs to request. Planner Finkle suggested that this presents an opportunity to the Board to work with someone to pitch a Town Center that is unique to the property they bring.

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Last are the three Commercial Districts. C1 was General Business, now it is Central Business, it allows more density than is currently allowed. The Gateway District does consider which commercial usages should be allowed at the Hwy 19 and 276 Interchange. As mentioned previously, Dellwood Road is set aside for more intense uses.

A point of topic recently has been temporary uses. Planner Finkle says that people have asked about yard sales and allowing people to sell merchandise on personal property. Conversation has centered around special events. Mobile food vending, as approved recently as a text amendment, is now located in the Temporary Use section of the Unified Development Ordinance.

Regarding Temporary Uses, Mayor Eveland asked that if a property owner does something from this section on their property, then they need to follow the standards herein and apply for a permit. Planner Finkle responded that a permit isn't always required, which is detailed in the different types of Temporary Uses. She pointed out that Temporary Uses are allowed in all the districts except for Residential Districts. Temporary uses include things such as religious services, craft fairs, car shows, sell of agricultural products, and Christmas tree sales.

The Conditional Zoning Process was the next item that Planner Finkle reviewed. Conditional Zoning must be requested by the property owner. If someone has an idea that may not fit with the Table of Uses or with Density and Dimensional Standards, they could request a Conditional Zoning to come before the Board. Required with submission of the Application is a list of property uses, and a proposal for what will go on the property (i.e., the number of structures, dwelling units, etc.) This process provides an opportunity for a developer/property owner to work with the Board to come up with a site-specific plan. Each request must be vetted by the Planning Board and goes through the same process as a rezoning. A Consistency Statement – that it is consistent with the Future Land Use Plan – is required as always. However, flexibility is given to this specific zoning district, and the stand-alone Table of Uses and the stand-alone Density and Dimensional Standards each contain a disclaimer that explains these criteria.

The Conditional Zoning Process also allows the Town Board to place conditions on a property. Those conditions must be mutually agreed upon by the property owner and the Board. For example, if the Board feels there needs to be buffers or screening, the Applicant must agree to the conditions.

There is also an opportunity to require additional plans, such as environmental, stormwater, or traffic plans. Recognizing the cost involved, triggers will be identified as progress moves forward on the UDO. Mayor Eveland restated that in the new UDO these are things that will be triggered because certain things are happening, because not every applicant is required to do those things. Alderman Hinton said that this consideration would provide developers a new tool to work with if they weren't in complete compliance with the way the zoning district was laid out. Planner Finkle said anyone can request this type of zoning district. Explaining that if someone couldn't meet certain setbacks or maybe they need to go a little taller in height because of the flood plain, things like these can be worked out one on one between the Board and the developer. Mayor Eveland said these triggers can help the Board make better decisions, as well as the Developer and the neighborhood, because it gives options to conform so everyone is happy.

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If a site plan is adopted, the document contains a provision that minor modifications can be done without going through the entire process. Major modifications are required to go back before the Board, however.

Cluster Developments are only afforded to property owners with ten acres or greater. These individuals can go through the Cluster Development process and have the potential of gaining one additional lot per acre as a density bonus. While there are still requirements in place, such as access to streets and setbacks to exterior property lines, there are limited requirements allowing for more flexibility.

There are some Suggested Conditions. For example, exterior or perimeter setbacks are suggested to increase from ten feet to twenty feet. There are suggestions on open space requirements, as well as buffering and landscaping. These are all suggestions because the Conditional Zoning Process is the discussion between the Board of Aldermen and the developer. There may be sites greater than ten acres that would like to have a density bonus, but due to certain circumstances can't provide a larger buffer on all sides yet may be able to provide open space in return. These suggested conditions, again, would allow the Board to work one on one with the property owner.

Anyone wishing to go through the Conditional Zoning Process will be required to hold a neighborhood meeting. This will be the first step and provides an opportunity for them to meet with the people in the area to show the preliminary plans before going to the Planning Board and before going to the Board of Aldermen. The first stop after meeting with Town staff is to schedule and hold a meeting with the neighbors in an informal setting to go over the plans. Information about those informal neighborhood meetings will be written up and provided to the Planning Board and Board of Aldermen. It will outline who attended, what was discussed, concerns and whether the developer addressed the concerns before moving on to the Planning Board. The neighborhood compatibility meeting is very key and goes beyond the regular requirement of only sending notice to adjoining neighbors, and uses a buffer currently set at five hundred feet. Any property owner within five hundred feet would receive an invitation to the neighborhood meeting.

Mayor Eveland said this could be the most exciting and challenging change in the UDO because it provides opportunities for a lot of different things. Planner Finkle agreed, stating it opens opportunities to property owners and developers to come before the Boards with a project that may not meet the Town's code as it is written. It also gives an opportunity for neighbor's concerns to be addressed, possibly even before coming before the Planning Board. Even at the Public Hearing before the Board of Aldermen, concerns can be addressed, with additional conditions, at that point in time.

Planner Finkle said it is a tool that is used largely across the state. Some communities require all rezonings to go through this process, so that each site can be reviewed at a level of higher scrutiny and provide opportunity for conditions to be added. Maggie Valley still has the Zoning Map that allows things that are permitted by right, but this is a flexible option that may be provided for development that happen outside those standards.

Alderman Phillip Wight said he thought that things like RV parks, campgrounds and community attractions should be able to be permitted with a number for special exceptions. He also pointed out that MU1 along Soco Road almost mirrors C1. He named several businesses in the area, and said he

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wasn't sure how those mix with residential. Planner Finkle agreed that this area may ultimately require different districts.

Currently, there are no sign or landscaping regulations or architectural standards for the different zoning districts. These regulations are required for all commercial buildings and all multi-family buildings anywhere in Town or the ETJ. Planner Finkle said she thinks when the new Comprehensive Plan is being reviewed, they should look at neighborhoods who may want to see additional things happen, specifically tied to these districts. She said this is not being proposed right now but having these districts could allow something like that to happen. For instance, maybe the architectural standards don't need to occur in Dellwood. Perhaps a warehouse doesn't need to be held to such a higher standard on Dellwood than if it were located at the Gateway. Some of those things could be lessened, or made stricter, based on the district they are in, aside from just the uses.

Mayor Eveland said he sees the UDO as a living, breathing document that will continue to expand. Some of the concerns that Alderman Wight expressed could be things that the Board looks at and makes changes to. The new Comprehensive Plan will be the same, and there will be things that have to be looked at and adjusted. This is going to be challenging he said, but it is important to remember that this is living, breathing and will continue to move forward. Planner Finkle agreed, and said she anticipates more amendments to the document, assuring it is reflective of the community.

Planner Finkle said that the document was handed over to her as completed. It contains the 160D requirements that were required to go in effect last year by N.C. General Statute. So, the code is up to date with the requirements adopted in 2020, and that were required to be in place by 2021. She said that she had spent much of her time making sure that it was in legal compliance. She said it is important to note that there are pieces of the document that were pulled or suggested from other places. The majority, however, is the existing code as it was written in 1998. There are a few pieces that have been pulled and recommended from other places. She said since she did not do the drafting of the ordinance, she cannot speak to where they were pulled from. Moving forward, the document will need to be changed and updated to address things such as Alderman Wight mentioned earlier. Certain uses should be allowed in certain districts, and things may need to be added or changed.

Mayor Eveland said that, especially with regard to the Mixed Uses and maybe the Gateway also, once a Comprehensive Plan is in place, some of these may change because the new Comprehensive Plan is going to guide what the Board would like to do in the future. Planner Finkle concurred. The Planning Board spent more than six months, meeting two times a month, to go over and amend the Table of Uses. A few things were recommended, based on the public engagement opportunities, both on the table and the map. Already the Planning Board has taken into consideration the input that has been provided, and Planner Finkle shared those changes with the Board as they occurred. Mayor Eveland said it is especially important that the Board and audience understands that communication will need to continue.

Planner Finkle went on to say that the Additional Use Standards remain largely unchanged: Adult Establishments, Automotive Repair, Cell Towers, Farm Machinery Sales, Flea Markets, Service Stations, Home Occupations, Mobile Home Parks, RV Parks. (Mobile Home Parks used to be ten units per acre and now has dropped down to eight.) These standards are all located in one location now. She said the



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goal of this document was to have everything in one place, so it can be utilized without a developer or property owner having to look through five separate ordinances.

The Appearance Standards contained in Chapter 6 have also remained unchanged. Once again, this section has been formatted to make it visually what people need, to understand things like what roof pitches mean, etc.

The Subdivision Standards section did receive changes. The biggest change has to do with the Road Table. It was modified in conjunction with communication from the Town's Public Works Director since the Town takes over roads. The Street Design Standards were modified. Currently, there is only one road standard in place. Thirty feet of road right of way, 18% grade, eighteen feet of pavement, shoulder width, cul-de-sacs are largely unchanged. A Limited Road Classification is proposed for subdivisions where there are three or more homes located on a single road. Right now, these do not have to meet any standards, being treated like a private driveway. This change proposes an 18% grade when there are three or more homes. Alderman Wight clarified that this pertains to new construction only. Mayor Eveland said he agrees with this, because sometimes three or more homes, will turn into fifteen or twenty in ten years, and if the standards are not in place to start, there's less control.

Planner Finkle says one or two homes will still be considered a driveway and doesn't need to meet standards. Once three or more homes are included, there needs to be enough room for Emergency Services. She cautioned that this part of the document is a work in progress. She says as developments come into play, she foresees 1) either to amend portions of the text, or 2) going through the ZBOA for a variance.

There is always the option when someone cannot meet requirements to go through the variance procedure. She says this is a situation where she sees this possibly needing to occur. For example, a lot with three or more homes may need to get a variance from having to meet the requirements based on pre-existing conditions. It was recently seen with the Hambleton property, because he could not meet the thirty feet of right of way regulation.

Historically, this section does receive variances, and she sees this being true moving forward. However, she also says that she anticipates amendments as the Town continues to work with developers on smaller projects. What is in place right now is due to collaboration with the Public Works Director, and what he thought would be best for the new Limited Road Classification.

Language in the Subdivision chapter on underground utilities was changed. No black and white or fixed rules that utilities must be placed underground; however, it is strongly encouraged, and a reason must be supplied if utilities cannot be placed underground. This applies to new development and will be something that is asked of new developers. It is not required 100% but is language that is starting to be incorporated into the document. Mayor Eveland said things like this need to have open discussion, giving everyone the opportunity to see the benefits. Planner Finkle says she doesn't expect it to happen every time. A lot of the other language that has been added per Public Works Director Mike Mehaffey about dams and bridges that the Town doesn't wish to take over for liability or maintenance reasons.



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The Street Lighting Ordinance has been relocated to this section. Lighting was once a hot topic, and Planner Finkle says the wording has been moved to allow lights being turned off (from the Town covering costs) if certain criteria isn't met.

No major changes occurred in the Sign Ordinance. SketchUp was used to help people better understand exactly what it means. It outlines types of signs and how large they can be. Mayor Eveland asked if the Signage Ordinance in place now is consistent with other Towns. He has observed that some municipalities are requiring signs to be smaller, and wondered if in the future, this would need to be revisited. Planner Finkle responded that it is definitely a conversation to have. Communities are all over the place with signs. Some don't allow any monument signs and only allow pedestal signs. Some don't allow any signs on the facade of the building. She committed to look at other similarly sized and geographically similar municipality requirements and bring that information back to the Board.

She returned to a conversation earlier about when advertisement signs and inflatable signs are allowed and when they are permitted. Allowance for multiple businesses on a single parcel are made. Their sign numbers are based on both individual and cumulative requirements. So, for multiple businesses, they are allowed some additional signage size and are therefore not penalized for opening new businesses.

Pertaining to the rest of the document, Administration is unchanged. Enforcement is existing.

Alderman Wight asked about Chapter 11 regarding manufactured homes. Planner Finkle stated the language was still the same. The dilemma has always been single-wide vs double-wide mobile homes. Language in ordinances use Class A vs Class B. The only requirement being that length could not be four times the width. The language added was a minimum square footage for a home to be counted as double-wide. The minimum has been set to 960 square feet. This has come up a couple of times for the ZOBA, where people had to get approval for what was considered a double-wide, but the length didn't exceed four times the width. With this new language, they would not have been approved because of the 960 square foot requirement. This is to make sure that a manufactured home looks more like a double-wide, than just a smaller single-wide.

Mayor Eveland called a 10-minute recess at 8:15 pm.

a. Public Hearing

Mayor Eveland opened the public hearing at 8:27 p.m.

Allen Alsbrooks, owner of Hearth and Home was the first speaker. He questioned whether restrictions can be placed on single family homes, but this is not allowed by the State. His other question, regarding the Sign regulations was whether accommodations could be made for flag signs. Mayor Eveland suggested that he bring that topic to the August meeting for discussion.

Linda Taylor again spoke, this time voicing her concerns about the C2 district, now the MU2. She said she was told that MU2 would enhance her property and that she could have a campground. Then the moratorium on campgrounds went into effect, which she heard has been removed. She wanted to know when and why the district changed. She also said the Town needs to review the mobile home lot

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size, considering how it will affect people. Planner Finkle advised her that the mobile home lot size would allow for sixteen on a two-acre lot.

Developer Frankie Wood commended the Board's and Town Staff's efforts. He said we need to have better communication, but the UDO is a great thing.

Mayor Eveland closed the public hearing at 8:42 p.m.

b. Consideration of Approval: Ordinance 996

Alderman Owens said he wanted to express his appreciation to the Planning Board and Planner Finkle for their time and work on the UDO. He said he liked the flexibility afforded by it and hoped to get it passed and in compliance with NCGS 160D. Alderman Hinton agreed.

Alderwoman Wight asked when campgrounds were removed from the MU2. Planner Finkle said she would need to do more research and let her know when the change was made. She also wanted to know if WithersRavenel had recommended no new uses, but the Planning Board wanted them. She asked whether the UDO excluded preexisting lots. Even if the Table of Uses changes, only new constructions are affected. Single family homes in all districts are still buildable as long as they meet the setbacks, even if they don't meet the lot size. Does zoning cause problems with insurance, when residential is in a commercial district? This needs to be reviewed in the future.

**ALDERMAN PHILLIP WIGHT MADE A MOTION TO APPROVE ORDINANCE 996, WITH CHANGES THAT THE MU2 CAMPGROUNDS AND COMMUNITY ATTRACTIONS SHOULD BE PERMITTED. MAYOR EVELAND, ALDERWOMAN WIGHT AND ALDERMEN HINTON AND OWENS ALL OPPOSED. THE MOTION FAILED 1 TO 4 VOTE.**

Mayor Eveland said he did not want to make changes at tonight's meeting. Alderman Owens state there was no difference in RV Parks and Campgrounds.

A statement was made that increasing density causes people not to want to live here, and that campgrounds should be back as an allowed use. Property rights should be back. Alderman Owens said that tweaks could be made as the plan moves forward.

**ALDERMAN JIM OWENS MADE A MOTION TO APPROVE ORDINANCE 996 AS PRESENTED. MAYOR EVELAND AND ALDERMAN HINTON VOTED IN THE AFFIRMATIVE. ALDERMAN PHILLIP WIGHT AND ALDERWOMAN TAMMY WIGHT OPPOSED. MOTION CARRIED BY MAJORITY.**

Alderwoman Tammy Wight read a prepared statement.

"The new UDO allows the Maggie Valley Town Board more authority and is again another government overreach of power. With the proposed UDO, anyone can go before the Board of Aldermen and ask for a Conditional Use that is not shown as an allowed use. The Board of Aldermen may permit a use not shown as an allowed use for one property owner and may also disallow a use for another property owner based on bias and/or liability, either by granting the request or simply stating that it is not an

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allowed use. This is why the Zoning Board of Adjustment works. Our Zoning Board has done a great job. Continuing to allow the Zoning Board of Adjustment to make these decisions keeps the process fair and honest. Many of you paid hundreds of thousands of dollars for property here with the understanding of what you thought your property rights were. Fellow Board Members are ready to strip you of those rights, and it is ok, because they have the power to do so, and you should understand they know what is best. I am against zoning, and I am against taking away property rights."

c. Consideration of Consistency Statement

**ALDERMAN HINTON MADE A MOTION TO APPROVE CONSISTENCY STATEMENT. MAYOR EVELAND AND ALDERMAN HINTON VOTED IN THE AFFIRMATIVE. ALDERMAN PHILLIP WIGHT AND ALDERWOMAN TAMMY WIGHT OPPOSED. MOTION CARRIED BY MAJORITY.**

**4. Consideration of UDO ZONING MAP**

a. Public Hearing

A letter of opposition from Raven Ridge was discussed. There are only two properties that don't match. Map will be changed to the request from June 5, 2022.

Mayor Eveland opened the public hearing at 9:17 p.m.

Once the map is adopted, the Town can start using this for zoning. Planner Finkle is also to work with County GIS to get information updated on their website.

The sewer line goes all the way to I-40. Sewer capacity is not an issue currently.

The Critical Watershed is a very small portion of our Town— no ETJ. They must always follow regulations.

Mayor Eveland closed the public hearing at 9:24 p.m.

b. Consideration of Approval: Ordinance 997

**ALDERMAN JOHN HINTON MADE A MOTION TO APPROVE ORDINANCE 997 WITH CHANGES. MAYOR EVELAND, ALDERMAN OWENS, AND ALDERMAN PHILLIP WIGHT VOTED IN THE AFFIRMATIVE. ALDERWOMAN TAMMY WIGHT OPPOSED. MOTION CARRIED BY MAJORITY.**

c. Consideration of Consistency Statement

**ALDERMAN PHILLIP WIGHT MADE A MOTION TO APPROVE CONSISTENCY STATEMENT WITH CHANGES. MAYOR EVELAND, ALDERMAN OWENS, AND ALDERMAN HINTON VOTED IN THE AFFIRMATIVE. ALDERWOMAN TAMMY WIGHT OPPOSED. MOTION CARRIED BY MAJORITY.**

**ON MOTION OF ALDERWOMAN TAMMY WIGHT, THE MEETING ADJOURNED AT 9:25 p.m.**

  
Mayor Mike Eveland

  
Regina Massie, Minute Taker

