

**THE ERWIN PLANNING BOARD/BOARD OF ADJUSTMENTS  
MARCH REGULAR MEETING  
MONDAY, MARCH 18, 2019 AT 7:00 PM  
ERWIN MUNICIPAL BUILDING BOARD ROOM**

**AGENDA**

**1. MEETING CALLED TO ORDER**

- A. Invocation
- B. Pledge of Allegiance

**2. CONSENT AGENDA**

- A. Minutes from Regular Meeting on February 18, 2019 (**Page 2**)

**3. OLD BUSINESS**

- A. Update

**4. NEW BUSINESS**

- A. Text Amendment to change Chapter 36 Zoning, Article IV, Section 36-80 Conditional Uses (**Page 6**)
- B. Text Amendment to change Chapter 12 Environment, Article IV, Section 12-92 Definitions & Section 12-93 Weeds, Ditch Flow Obstruction or Vegetative Nuisance (**Page 8**)

**5. ADJOURNMENT**

**PLANNING BOARD  
MEETING MINUTES  
MONDAY, FEBRUARY 18, 2019  
ERWIN, NORTH CAROLINA**

The Town of Erwin Planning Board, with Chairperson Nancy Jackson presiding, held its regular meeting in the Town Hall at 100 West F St. Erwin, NC on Monday, February 18, 2019 at 7:00 PM.

Board members present were: Chairperson Nancy Jackson, Melinda Alvarado, Elizabeth Pate and Pat Cameron, In Town Alternate Judy Price, Out of Town Member Norman Avery, Ray Rogers and Out-of-Town-Alternate Michael Shean.

Board Members absent were: In-Town Members Alan West and Roger Chavis and In-Town Alternate Ronald Beasley.

Town Manager Snow Bowden and Town Clerk Cynthia Patterson were present.

Board Member Melinda Alvarado gave the invocation.

Those present recited the Pledge of Allegiance.

**CONSENT ITEMS**

Board Member Norman Avery made a motion to approve the minutes of January 22, 2019 and was seconded by Board Member Elizabeth Pate. **Motion Unanimously Approved.**

**OATH**

Board Alternate Elizabeth Pate was sworn in as Board Member by Town Clerk Cynthia Patterson. Ms. Pate is replacing Board Member William Schuh. Mr. Schuh resigned effective February 1, 2019.

**OLD BUSINESS**

**AMENDMENT TO THE ERWIN TOWN CODE OF ORDINANCE  
RESTRICTING PARKING OF EIGHTEEN WHEELERS ON ANY TOWN  
STREET TO SECTION 32-303, ARTICLE XI, CHAPTER 32**

Police Chief Jonathan Johnson came forward and explained his recommendation to the board for an amendment to the Erwin Town Code of Ordinance restricting parking of eighteen wheelers on any Town street to Section 32-303, Article XI, Chapter 32 and also adding Section 32-304A, for penalties. The following was proposed:

**Currently:**

Sec. 32-303 - Parking of trucks.

## MINUTES CONTINUED FROM FEBRUARY 18, 2019

It shall be unlawful to park any trucks on the west side of Granville Street between King Street and Queen Street.

### **Proposed Change**

Sec. 32-303. - Parking of trucks.

- It shall be unlawful to park or leave standing on a street in the Town of Erwin, any oversize vehicle, truck or truck and trailer combination with an individual length of 25 feet or more on any street. Owners of the above-stated vehicles shall use private property for parking and storing of such vehicles within the Town. Penalty see Section 32-304, A.
- Vehicles left parked or standing in a prohibited area as a result of an emergency stop shall not be in violation of this section for a period of one day, provided the location does not create a traffic hazard necessitating immediate removal of the vehicle.
- Temporary parking at a construction site during the period of active construction in a prohibited area shall not be in violation provided the location does not create a traffic hazard necessitating immediate removal of the vehicle.
- This section shall not apply to trucks actively delivering or receiving merchandise from a residence or providing a service to a residence.

### **Proposed Addition**

#### **Sec. 32-304A – Penalty**

- A. Parking of trailers prohibited on Town Streets. For a first offense, the fine shall be \$10, for a second offense within 30 days of a first offense the fine shall be \$20, for a third offense within 30 days of a second fine the fine shall be \$25 and the town shall have the right to have the trailer towed off at the expense of the owner.

Board Member Norman Avery informed the board that he would like to excuse himself from voting due to a Conflict of Interest due to the fact that he rents spaces to 18-wheelers at his business.

Board Member Ray Rogers made a motion to excuse Board Member Norman Avery due to a conflict on this matter and was seconded by Board Member Elizabeth Pate. **Motion Unanimously Approved.**

Board Member Pat Cameron made a motion to recommend to the Board of Commissioner's the approval of Amendment to the Erwin Town Code of Ordinance restricting parking of eighteen wheelers on any Town Street to Section 32-303 & Section 32-304A, Article XI, Chapter 32 and was seconded by Board Member Ray Rogers. **Motion Unanimously Approved.**

MINUTES CONTINUED FROM FEBRUARY 18, 2019

NEW BUSINESS

ZT-2019-01 REZONING FROM R-10 (RESIDENTIAL) TO M1-CD  
(INDUSTRIAL DISTRICT-CONDITIONAL DISTRICT) FOR VACANT  
PROPERTY AT THE END OF WALTER DRIVE  
(HC TAX PIN#0596-99-2982.000)

Mike Doran with US Cellular came forward and spoke to the board. Mr. Doran stated that this is a vacant tract of land next to a subdivision that has nine homes located inside the subdivision. The tract of land is just outside of Erwin Town Limits in the planning zone. The tower being proposed will be 150 ft. in height and no other additions will be on the tower.

Board Member Pat Cameron asked the Town Manager if this would interfere with pre-approved cell tower on West C. Street. Mr. Bowden stated that no, it will not change.

**The Board then went into Findings of Facts.**

1. Board Member Pat Cameron made a motion that Yes, 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. The request is for a conditional district that would allow a telecommunications tower. This tower would provide coverage for a large group of residents in Erwin/surrounding area that have US Cellular as their provider. Due to being a conditional district the owner could only have uses that are approved by the Town Board and was seconded by Board Member Mindy Alvarado. **Motion Unanimously Approved.**
2. Board Member Judy Price made a motion that No, the requested district is compatible with the existing Land Use Classification. The area that these two parcels are located were identified as areas for medium intensity growth the 2014 Land Use Plan. Most of the growth was intended for residential growth in with some low impact business growth. At one point, this tract of land was going to be subdivided to expand the Thomas Court subdivision. But the subdivision was never approved and was seconded by Board Member Ray Rogers. **Motion Unanimously Approved.**
3. Board Member Mindy Alvarado made a motion that yes, the proposal does enhance or maintain the public health, safety and general welfare and was seconded by Board Member Pat Cameron. **Motion Unanimously Approved.**
4. Board Member Norman Avery made a motion that No, the request is for a small scale rezoning and should be evaluated for reasonableness and was seconded by Board Member Mindy Alvarado. **Motion Unanimously Approved.**

**MINUTES CONTINUED FROM FEBRUARY 18, 2019**

Board Member Mindy Alvarado made a motion that the requested rezoning to M1-Conditional District 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 with conditions that only a 150 foot telecommunication tower can be located at this site and was seconded by Board Member Norman Avery. **Motion Unanimously Approved.**

**Zoning Update**

Board Member Pat Cameron informed the board that he had requested zoning violations that have been issued by the Town during the past 24 months. He thanked the Town Manager for getting the information back to him. He then gave a copy of the information to all of the board members.

After some discussion, Board Member Pat Cameron made a motion to have a joint work session with the Board of Commissioners to discuss what expectations are expected for the Planning Board and have both boards work together in updating the Code of Ordinance and was seconded by Board Member Norman Avery. **Motion Unanimously Approved.**

**ADJOURNMENT**

Board Member Ray Rogers made a motion to adjourn the meeting at 7:18 pm and was seconded by Board Member Melinda Alvarado. **Motion Unanimously Approved.**

**MINUTES RECORDED AND TYPED BY  
CYNTHIA B. PATTERSON TOWN CLERK**

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**Nancy S. Jackson**  
**Chairperson**

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**Cynthia B. Patterson, CMC**  
**Town Clerk**

NEW BUSINESS

## Erwin Planning Board

### REQUEST FOR CONSIDERATION

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To: Planning Board Members  
From: Snow Bowden, Town Manager  
Date: March 18, 2019  
Subject: Text Amendment to change Chapter 36 Zoning, Article IV, Section 36-80  
Conditional Uses

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Town Staff has proposed a change to the conditional uses in our Rural District (RD). Town Staff has proposed that you could use a building for storage as a conditional use in our RD zoning district. This would be a low density/neighborhood business use for property in our RD zoning district.

#### Attachments

- Proposed amendment to the Conditional Uses in RD zoning

Town Staff would like to propose an amendment to Section 36-80 Conditional uses in the RD Zoning District.

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*

NEW BUSINESS

## Erwin Planning Board

### REQUEST FOR CONSIDERATION

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To: Planning Board Members  
From: Snow Bowden, Town Manager  
Date: March 18, 2019  
Subject: Text Amendment to change Chapter 12 Environment, Article IV, Section 12-92  
Definitions & Section 12-93 Weeds, Ditch Flow Obstruction or Vegetative  
Nuisance

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Town Staff has proposed a change to our environmental nuisance ordinance. We have been having issues with property owners not taking care of ditches that are on their private property. This proposed amendment to our environmental nuisance violations would make it clearer that property owners are responsible for ditches on their private property.

#### Attachments

- Proposed amendment to environmental nuisance ordinance



- **ARTICLE IV. - WEEDS, HEDGES, TALL GRASS, DITCHES AND OTHER VEGETATION**

- **Sec. 12-92. - Definitions.**

Weeds and nuisance vegetation under this article shall include the following which may occur on any lot within the corporate limits of the town:

- (1) Weeds or vegetation allowed to grow to a height greater than 12 inches on the average, or any accumulation of dead weeds, grass or brush, on any lot regardless of size and whether developed or undeveloped, or on any occupied or unoccupied lot or land less than one acre in area excluding wooded areas, that may provide safe harborage for rats, mice, snakes, and other vermin
- (2) Any dead, diseased, infested or dying tree or shrub on any property so near to a street, public right-of-way or a public utility easement as to constitute a danger to street trees, public utility services' streets, sidewalks, vehicle travel, persons or property other than that of the owner of the tree;
- (3) Vegetation which creates a nuisance by its existence (i.e., poison ivy, kudzu);
- (4) Dead or dying trees or plants which may cause a hazardous situation if they fall;
- (5) Vines or climbing plants growing into or over any street tree, fire hydrant, pole, utility wire or electrolier;
- (6) Branches, roots, trees, shrubs or foliage that interfere with visibility on, illumination of, or the free, safe, or undamaged use of, or access to or along any portion of any public street or sidewalk;
- (7) Hedges or dense, thorny shrubs extending into the public right-of-way;
- (8) Branches of trees that extend within eight vertical feet from any portion of a public sidewalk or within 14 vertical feet from any portion of a public street.
- (9) Any ditch, natural or artificial channel, stormwater retention or detention pond or other impoundment device which is operating improperly and/or found to prohibit or obstruct the natural drainage flow of stormwater, as determined by the Town's authorized designee.

(Code 1977, § 8-4001; Ord. of 3-25-1986; Ord. of 2-5-1998; Ord. of 4-7-2005, pt. I(8-4001))

- **Sec. 12-93. – Weeds, ditch flow obstruction or vegetative nuisance unlawful.**

It shall be unlawful for property owners to permit a weed, ditch flow obstruction or vegetative nuisance condition to exist on their property.

(Code 1977, § 8-4002; Ord. of 3-25-1986)

- **Sec. 12-94. - Enforcement.**

- (a) When any condition in violation of this article is found to exist, the town manager or such persons as may be designated by the town manager, shall give notice to the owner of the premises to abate or remove such conditions within a specified deadline.
- (b) Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within the specified time, the town may proceed to correct the same as authorized by this article. In addition, such notice shall state that if violation remains thereafter, a civil citation may be issued and may also result in other forms of abatement, including additional court costs and/or attorney fees and liens.
- (c) Service of such notice shall be by any one of the following methods:
  - (1) By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of 16 years and a member of the family of the owner.
  - (2) By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon.
  - (3) By posting and keeping posted, for ten days, a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by subsections (1) and (2) of this section.

(Code 1977, § 8-4003; Ord. of 3-25-1986; Ord. of 2-5-1998; Ord. of 4-7-2005, pt. I(8-4003))

- **Sec. 12-95. - Abatement by the town.**

- If the owner of any property fails to comply with a notice given pursuant to this section, within the time specified after the service of such notice, he shall be subject to prosecution for violation of this article in accordance with law and each day that such failure continues shall be a separate offense. In addition, the town manager may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

(Code 1977, § 8-4004; Ord. of 3-25-1986; Ord. of 8-6-1992; Ord. of 2-5-1998; Ord. of 4-7-2005, pt. I(8-4004))

- **Sec. 12-96. - Trimming plants at intersections.**

- The owner or occupant of any lot or lands lying and abutting on any intersection of two streets or any combination thereof in the town and having shrubs or bushes on such lot or lands, shall trim or cause to be trimmed all shrubs and bushes located within 20 feet of the intersection of the property lines nearest to the street intersection and abutting the sidewalk or the normal sidewalk location, so that no bush or shrub shall exceed three feet in height above the surface of either the sidewalk or the normal sidewalk location.

(Code 1977, § 8-4005; Ord. of 3-25-1986)

- **Sec. 12-97. - Destruction of trees or bushes.**

- No person, except by direction or authority of the director of public works, shall box, bore, cut, break down, deface, injure or destroy any trees, shrubs or bushes on any street or right-of-way.

(Code 1977, § 8-4006; Ord. of 3-25-1986)

- **Sec. 12-98. - Trimming plants extending over streets.**

- The owner or occupant of any lot or lands lying and abutting on any street in the town and having trees, shrubs or bushes on their lot or lands extending over the property line onto such street shall trim or cause to be trimmed such trees to the clear height of not less than nine feet above the surface of the sidewalk or street.

(Code 1977, § 8-4007; Ord. of 3-25-1986)

- **Sec. 12-99. - Removal of unsafe trees by owner.**

- The director of public works shall have the authority, and it shall be the director's duty to order trimming, preservation or removal of trees or plants upon private property when the director finds such an act necessary to public safety or to prevent the spread of disease or insects in public trees or places. The owner shall not fail to trim, remove or take steps to preserve such tree within 30 days of the order to trim, remove or preserve the tree.

(Code 1977, § 8-4008; Ord. of 3-25-1986)

- **Sec. 12-100. - Assessment of costs by town.**

- Upon completion of the abatement of any nuisance by the town under the provisions of this article, the designated officer shall deliver to the town tax collector a statement including the costs of labor, hauling or other necessary items of expense for such abatement. The tax collector shall thereupon mail to the owner of the lot a bill covering the costs. As provided in G.S. 160A-193, the amount of the bill shall become a lien upon said property and if not paid within 30 days shall be collected in the same manner as provided for the collection of delinquent taxes.

(Code 1977, § 8-4009; Ord. of 3-25-1986; Ord. of 2-5-1998)

- **Sec. 12-101. - Alternative remedies.**

- Nothing in this article nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances, laws or as provided in G.S. [14-4](#). In addition to the remedies provided for herein, any violation of the terms of this article shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in [section 1-5](#).

(Code 1977, § 8-4010; Ord. of 3-25-1986; Ord. of 8-6-1992; Ord. of 4-7-2005, pt. I(8-4010))

**State Law reference**— Abatement of public health nuisances, G.S. 160A-193.

- **Secs. 12-102—12-130. - Reserved.**