

AGENDA

CITY OF NEWTON



March 17, 2020

AGENDA
CITY OF NEWTON
NEWTON CITY COUNCIL - REGULAR MEETING

March 17, 2020
7:00 p.m.

- | | | |
|------|-----|---|
| Page | 1. | <u>Call to Order – Mayor Eddie Haupt</u> |
| | 2. | <u>Opening – Council Member Anne Wepner</u> |
| 3 | 3. | <u>Approval of Minutes from the March 3, 2020, Regular Meeting</u> |
| | 4. | <u>Consideration of Consent Agenda Items</u> |
| 7 | A. | Tax Releases |
| 8 | B. | Sewer Adjustments |
| 9 | C. | Consideration of Appointments to Boards and Commissions |
| 16 | D. | Consideration of Revisions to the Public Art Commission Bylaws |
| | 5. | <u>Comments from the Public: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING):</u> |
| | 6. | <u>Public Hearing</u> |
| 21 | A. | Consideration of Rezoning - #2020-01 Filed by Kevin McMillan |
| | 7. | <u>Presentations</u> |
| | A. | Drone Video of Greenway |
| 38 | B. | Retail Strategies |
| | 8. | <u>Old Business</u> |
| 41 | A. | Consideration of Amendment to the Fee Schedule for Splash Pad |
| | 9. | <u>New Business</u> |
| 43 | A. | Consideration of Budget Ordinance Amendment to Recognize Revenue and Authorize Expenditure for Capital Purchase in FY 2019-2020 Budget |
| 45 | B. | Introduction of Proposed Sidewalk Dining Ordinance |
| 49 | C. | Introduction of Proposed Food Trucks Ordinance |
| | 10. | <u>City Manager's Report</u> |
| | 11. | <u>Questions and Comments From Mayor and Council</u> |
| | A. | Reports from Appointed Representatives on Outside Boards – Council Member Ed Sain |
| | 12. | <u>Closed Session - Per North Carolina General Statutes 143-318.11(a)(3), 143-318.11(a)(6)</u> |
| | 13. | <u>Adjournment</u> |

**MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL**

March 3, 2020 – 7:00 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, March 3, 2020 at Newton City Hall.

PRESENT: Mayor Eddie Haupt, Mayor Pro Tem John Stiver and Council Members Jerry Hodge, Anne Wepner, Jody Dixon, Beverly Danner and Ed Sain

STAFF: City Manager Todd Clark, Assistant City Manager Sean Hovis, City Clerk Amy S. Falowski, City Attorney John Cilley, City Department Heads and members of the management team

ITEM 1: CALL TO ORDER

Mayor Eddie Haupt welcomed everyone and called the meeting to order.

ITEM 2: OPENING Invocation and Pledge of Allegiance

Council Member Jerry Hodge provided the opening and Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES

Upon motion duly made by Council Member Ed Sain, seconded by Mayor Pro Tem John Stiver, it was unanimously **RESOLVED:**

That the Minutes from the February 18, 2020 Regular Meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

Upon motion duly made by Council Member Jody Dixon, seconded by Mayor Pro Tem John Stiver, it was unanimously **RESOLVED:**

That the Consent Agenda be – APPROVED

- A. Tax Releases
- B. Sewer Adjustments
- C. Consideration to Donate Surplus of Rescue Equipment to Catawba Valley Community College
- D. Consideration to Apply for a Grant for 800 mhz Radio Equipment – Fire Dept.
- E. Consideration of a Financial Contribution to Fund a Scholarship in the Name of Mark Story

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 5: COMMENTS FROM THE PUBLIC: PEOPLE WHO WISH TO COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING.

Mayor Eddie Haupt asked if anyone present would like to make comment concerning non-agenda items.

Sherry Sigmon, owner of Big Sig's thanked first responders for recently helping a friend at her store that had an A-fib episode.

Ms. Sigmon also stated that she missed a recent council meeting, but she said that questions were asked concerning the DNDA that she felt like should have been asked within closed doors. She stated that the DNDA is a volunteer group that works hard and that she would like city council to come to them if they have any questions. She also asked that they come to events and meetings to see the planning that is going on or if there is something that council needs from them.

ITEM 6: **Presentations**

A. Kiwanis Club – Police Officer and Firefighter of the Year Awards

Ed Sain presented awards from the Kiwanis Club for Police Officer of the Year to Master Police Officer Tou Ber Yang and Firefighter Andrew Gottry. Mayor Haupt and City Council thanked Officers Yang and Gottry for doing such a great job for the city.

B. Chamber of Commerce – Lindsey Keisler

Lindsey Keisler, President and CEO, gave a brief presentation to City Council about the Chamber of Commerce, and handed out information.

C. Economic Development Website Update – Alex Frick

Public Information Officer Alex Frick presented the Economic Development Website to City Council and showed them all the new and easily navigated features.

ITEM 7: **New Business**

A. Consideration of Resolution to Adopt the Unifour Multi-Jurisdictional Hazard Mitigation Plan

Planner Alex Fulbright stated that in conjunction with the Cities and Counties within the Unifour, the City has completed the process drafting the **Multi-Jurisdictional Hazard Mitigation Plan**. The Federal Emergency Management Agency (FEMA) requires that the City has a Hazard Mitigation Plan.

Mr. Fulbright stated that originally completed in November 2019 and approved by North Carolina Emergency Management on January 21, 2020, the Unifour Hazard Mitigation Plan assesses the vulnerability and risks posed to the area by natural hazards such as floods, tornadoes, high winds and winter storms, and includes recommended actions to help eliminate or reduce those risks. Mr. Fulbright stated that having a current FEMA-approved plan in place assures that Newton remains eligible for a range of state and federal disaster assistance, as well as pre-disaster hazard mitigation grant funds made available each year by FEMA on a nationally competitive basis.

Mr. Fulbright stated that the 2020 Mitigation Action items describes proactive steps the City is committed to take towards reducing risks posed by identified natural hazards. A description of each action item, hazard addressed, estimated cost and item priority, are detailed on these sheets. The action items also provide a status on efforts made by the City over the past five years.

Mr. Fulbright noted that this Multi-Jurisdictional Hazard Mitigation Plan is different than the City's Multi-Hazard Plan. This **Hazard Mitigation Plan** is intended to assess risks posed by natural hazards and makes recommendations to help eliminate those risks, while the **Multi-Hazard Plan** identifies essential emergency management response procedures during disaster events.

Mr. Fulbright stated that the Hazard Mitigation Plan update was paid for through a FEMA Pre-Disaster Mitigation Grant. The grant funds were used to contract with a private consulting firm, AECOM, to assist in the process of ensuring the plan's compliance with new state and federal guidelines. FEMA has already reviewed the update and found all required revisions are adequate for preliminary approval.

Mr. Fulbright stated that staff recommends that City Council adopts the Unifour Multi-Jurisdictional Hazard Mitigation Plan and the sections of the plan that are specific to the City of Newton.

Upon motion duly made by Council Member Jody Dixon, seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Unifour Multi-Jurisdictional Hazard Mitigation Plan be – ADOPTED.

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

B. Consideration of Downtown Economic Development Incentives

Main Street Manager Shannon Johnson stated that in accordance with the adopted work plan of 2019, the Downtown Newton Development Association developed additional economic development incentives to encourage investment in the Downtown Newton District. Below is the recommendation of the DNDA:

- Building Up Fit Grant – This grant will assist investors with up fitting a building for an allowable business within the Downtown District. The approved funds will only be reimbursable for *real* property improvements to ensure that the grant investment remains with the building in perpetuity.

Ms. Johnson stated that if approved by City Council, the Downtown Newton Development Association will administer this grant beginning March 1st. Ms. Johnson recommended approval of the Downtown Newton Development Association's proposed Building Up Fit Grant for the encouragement of investment in *real* property within the Downtown District.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Jerry Hodge, it was unanimously RESOLVED:

That the Building Up Fit Grant for Real Property Improvements, as Proposed by the Newton Development Association, be – APPROVED.

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 8: City Manager's Report

Meetings & Events

- March 6th, 2020 Breakfast with the Stars, 7:00 a.m. – Western Steer
- April 2nd National Incident Management System (NIMS) Training, 8:30 – 11:30 a.m. – Catawba County Emergency Services Building – Emergency Operations Center
- April 7th – Catawba County Chamber of Commerce Future of Catawba County Summit, 7:30 a.m. – 12:00 p.m. – Hickory Metro Convention Center

Projects

Update on Streetscape – Randy Williams
Update on Census – Randy Williams
Wastewater Treatment Plant
Bids on Young Dr. Culvert
Fire Dept. Ladder Truck

ITEM 9: Questions and Comments from Mayor and Council

Mayor Haupt asked if there were any questions or comments from City Council.

Council Member Jody Dixon gave a report on recent and upcoming attractions at the Newton Depot.

ITEM 10: Adjournment

Upon motion duly made by Council Member Jody Dixon, seconded by Council Member Ed Sain, it was unanimously RESOLVED:

That the Meeting be – ADJOURNED

Amy S. Falowski, City Clerk

Eddie Haupt, Mayor



CITY OF NEWTON

Inter-office Correspondence

TO: E. Todd Clark, City Manager

DATE: March 6, 2020

RE: Tax Releases – February 2020

FROM: Vickie Thomas, Finance Director

The following tax releases have been received from the Catawba County Tax Collector. The reason for each release is annotated beside the name.

Tax Year	Tax Release Number	Name	Reason	Amount of Release
2019	101	Arrowood, Gerald T.	Property qualified for elderly exemption status	\$262.98
2019	102	Coulter, Jonathan D.	Situs change	\$31.19
2019	103	Danner, Phillip D.	Small underpayment	\$0.46
2019	104	Ikon Property 001 LLC	Small underpayment	\$0.21
2019	105	Ikon Property 002 LLC	Small underpayment	\$0.22
2019	106	Lutz, Franklin W.	Small underpayment	\$0.16
2019	107	Miles, Curtis J.	Small underpayment	\$0.03
2018	108	Reinhardt, Darryl K.	Small underpayment	\$0.02
2018	109	Reinhardt, Darryl K.	Small underpayment	\$0.09
2019	110	Smith, Rebecca P.	Small underpayment	\$0.04

Should you have any questions or need clarification, please notify. Releases are submitted as required by NCGS § 105-381(b).

CITY OF NEWTON

Sewer Adjustments

TO: E. Todd Clark, City Manager **DATE:** 3/10/2020
RE: Sewer Adjustments – 03/17/2020
FROM: Vickie Thomas, Finance Director

The following sewer adjustment is recommended for approval. The adjustment is recommended as a result of a water leak at the service address or a pool fill up.

Account Number	Name	Service Address	Adjustment Period	Amount of Adjustment
21000800-008	Mark Selph	229 Oak Ct	Jan- Feb	56.55

Backup documentation to support each adjustment is on file in the Finance Department.
Should you have questions or require further clarification, please notify.

CITY OF NEWTON REQUEST FOR COUNCIL ACTION

DATE: March 11, 2020

TO: City Council

FROM: Eddie Haupt, Mayor

CONSIDERATION OF: Appointments

Members of City Council, I would like to recommend the following appointments:

Joseph Pendergrass – Tree Board

Jim Gargis – Recreation Commission

Addie Shuford – Appearance Commission

Teresa Keimig – Appearance Commission

Falowski,Amy

From: pio@newtonnc.gov
Sent: Monday, February 3, 2020 7:08 PM
To: Falowski,Amy
Cc: Frick,Alex
Subject: Board/Committee application

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Name = Joseph Pendergrass
Address = 1669 sigmon dairy rd
City_Town = Newton
Stat_Prov = North Carolina
Zip_Postal_Code = 28658
Phone = 8284641873
Email = millardjmp@yahoo.com
Which board or committee? = Tree board
Why are you interested? = Want to give to the community.
Professional/educational background = Tree trimming ,farmer.nd outdoors person
Special skills, experience and background = Worked as a tree trimmer for Tom's tree service for a few year.
Gardengrove Ca.
How did you hear about vacancy? = Online
Client IP = 47.135.110.13

Board and/or Committee Application

City of Newton
PO Box 550
Newton, NC 28658
828-695-4300



Name JIM GARGIS

Mailing Address 210 BRENTWOOD Cir

Home Address 210 BRENTWOOD Cir Newton NC 28658

Work Phone# _____ Home# _____ Cell# 828 381 2046

Resident of the city ☒ Yes ☐ No Number of Years 47

Business owner in the city ☒ Yes ☐ No Number of Years 23

1. Why are you interested in serving on the Recreation Board/Committee?

TO BE A PART OF POLICY DECISIONS FOR FUTURE

2. What is your professional and educational background?

WOODWORKING MACHINERY SALES, BUSINESS OWNER,

BSFMMIE NC STATE

3. Do you have special skills, experience or background which would assist you in working on this Board/Committee?

Former member and Chair person for Rec. Comm.

4. How did you hear about this Board/Committee vacancy?

I ASKED IF THERE WAS AN OPENING

J. Gargis
Signature

2-8-20
Date

Thank you for your interest in the City of Newton and specifically your interest in being considered for a city board or committee. You along with other applicants will be considered for any current vacancies. Upon submittal to the city this application and the information provided herein will be kept on file with the city and be considered public information

Board and/or Committee Application

City of Newton
PO Box 550
Newton, NC 28658
828-695-4300



Name Addie Shuford

Mailing Address 126 McDaniel Circle

Home Address Same AS Above

Work Phone# (828) 464-1761 Home# N/A Cell# (828) 569-9039

Resident of the city Yes/No Number of Years 46

Business owner in the city Yes/No Number of Years _____

1. Why are you interested in serving on the Apparatus Board/Committee?

2. What is your professional and educational background?

3. Do you have special skills, experience or background which would assist you in working on this Board/Committee?

4. How did you hear about this Board/Committee vacancy?

Addie Shuford
Signature

01-29-20
Date

Thank you for your interest in the City of Newton and specifically your interest in being considered for a city board or committee. You along with other applicants will be considered for any current vacancies. Upon submittal to the city this application and the information provided herein will be kept on file with the city and be considered public information

1. *Why are you interested in serving on the Board/Committee?*

I love playing a role in my community. I feel as though I could bring new ideas to the table, as far as our community is concerned. Our minority community often feels they are overlooked in many ways. My children are beside me 100%, and I love that. Which is why I ran for Newton City Council; no, I did not win, but that did not stop me from doing my part to better my community. For example, serving as a Sports-Mom for a total of 26 years; 12 years as a Teacher Assistant and In-School Suspension Teacher, a Coach, a Mentor, and Leader. While at Newton- Conover I served on the Project Graduation Board with Mrs. Alice Averitt-Sanzone, and Mrs. Beth Bock. This is my 12th year at Bandy's High School as the Sports-Mom for Football and Basketball. I am also in my 12th year as our Community Voice person. I aid the Police in Catawba County and Burke County in the fight to keep our youth off drugs and out of gangs, and in turn brought up 16 children (5 biological, 11 foster) of my own to be functioning responsible adults in society.

2. *What is your professional and educational background?*

I currently serve as a manager at the local Burger King (6 years and counting) overseeing inventory, waste, truck order, birthdays, etc., a Funeral Director for Burke Mortuary for the last 5 years, I have a Teacher's Aide Certificate, a Healthcare Activity Director's Certification, and I am currently enrolled at CVCC where I am taking Criminal Justice courses.

3. *Do you have special skills, experience or background which would assist you in working on this Board/Committee?*

I have extended knowledge on and of the law, from my experiences working alongside our Police Force, been a citizen of Newton for 43 years

and thus have a familiarity with our community that has in turn afforded me the trust of many citizens, worked in Customer Service for 28 years so I know how to communicate with people effectively, and I have a burning passion to improve our city.

4. How did you hear about this Board/ Committee vacancy?

I was encouraged to apply for this committee at the Council Meeting, by Mr. Ed Sain, Ms. Patty Cook, and Ms. Sandra Waters; after the election I was in need of a task that would greatly benefit my community and was suggested to apply.

Board and/or Committee Application

City of Newton
PO Box 550
Newton, NC 28658
828-695-4300



Name Teresa Keimig
Mailing Address 724 North Main Ave
Home Address Newton, NC 28658
Work Phone# N/A Home# N/A Cell# 785-393-4140
Resident of the city Yes/No Number of Years 2 years
Business owner in the city Yes/No Number of Years _____

1. Why are you interested in serving on the Appearance Board/Committee?

We have grown to love Newton and would like to give back to the community. Being a part of the growth of this community. Becoming more acquainted with fellow residents.

2. What is your professional and educational background?

Retired RN

3. Do you have special skills, experience or background which would assist you in working on this Board/Committee?

Huge love of gardening, Decorating for Holidays and giving back. Decorated the whole 4th floor of Hospital for Holidays. (Labor & delivery unit I worked at)

4. How did you hear about this Board/Committee vacancy?

Committee members I met when awarded yard of the month this year and member who toured our home for Kiwanis Christmas tour of homes.

Teresa M Keimig
Signature

1-5-2020

Date

Thank you for your interest in the City of Newton and specifically your interest in being considered for a city board or committee. You along with other applicants will be considered for any current vacancies. Upon submittal to the city this application and the information provided herein will be kept on file with the city and be considered public information

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

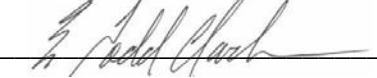
DATE: March 11, 2020

TO: Todd Clark, City Manager

FROM: Alex Frick, Public Information Officer

CONSIDERATION OF: Approval of Public Art Commission Bylaws

Approved for Council Consideration



Background:

The Newton Public Art Commission adopted bylaws shortly after it was founded in 2017. Modifications of such bylaws have been made over the past three years.

The original bylaws stated the commission shall consist of eleven qualified members and included provisions that a minimum of one member and a maximum of three members may reside outside the corporate limits of the City. Qualified members were left undefined except for the residency requirement.

The attached proposed modifications, which were unanimously approved by the Public Art Commission at their Feb. 19 meeting, state the commission shall consist of eleven qualified members and includes provisions that City Council shall appoint ten at-large members and one elected City Council official as the eleventh member. The City Manager shall also appoint one member of the City staff as an ex-officio member who shall not be counted toward the maximum membership provision of eleven members and shall not be a voting member. Qualified applicants are defined. A minimum of six at-large members shall be residents of the City.

The commission proposes the attached bylaws for the transaction of business to allow qualified applicants to join the commission subject to the approval of City Council.

Requested Action:

Approve the attached proposed Newton Public Art Commission bylaws.

NEWTON PUBLIC ART COMMISSION BYLAWS

ARTICLE I. - IN GENERAL

Purpose and intent.

The City of Newton recognizes the importance of facilitating the creation and installation of art for public spaces that evokes social and aesthetic interaction. It is intended that works of public art will enliven public space, promote community identity and sense of place, and contribute to a vibrant and engaging city. The goal for the public art program is a transparent and directed public process for commissioning and acquiring art for public spaces that will contribute to the city's cultural and economic vitality.

Definitions.

The following words, terms and phrases when used in this chapter, shall have the meanings ascribed to them in this Section, except where the context indicates a different meaning:

Annual public art plan. An annual plan that prioritizes new public art projects and reports on the status of all works in planning, development, design, and installation.

Commission. The term "commission" is the City of Newton Public Art Commission.

Public art. The term "public art" means any work of art acquired by the city and integrated into the design of, or placed or performed in, on or about a place generally accessible or visible to the general public.

Staff. The term "staff" shall refer to that employee of the city designated by the city manager to administer the day-to-day operations of the public art program. This position resides within city government, where it can facilitate planning, communications, and projects across municipal departments to achieve design coherence.

City. The term "city" shall mean the City of Newton unless otherwise stated.

Work of art. The term "work of art" means any application of skill and taste to the production of tangible objects according to aesthetic principles, including but not limited to paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, drawings and ceramics, but excluding purely structural or supportive elements, advertising, or those required by applicable law, code, rule or regulation.

ARTICLE II. - PUBLIC ART COMMISSION

Membership; terms of office; ex-officio members; compensation.

~~The commission shall consist of eleven members. The city council shall appoint members from a list of qualified applicants who have submitted an advisory board application. Members shall be residents of the city with the exception of a minimum of one member and a maximum of three members residing outside the corporate limits. Members shall serve three-year staggered terms with three members to be appointed or reappointed each year. No member shall serve more than two full three-year consecutive terms. Once a member has served two full consecutive terms, the member must be off the public arts commission for a minimum of one year before being eligible to serve again. If any member shall fail to attend three consecutive meetings or more than half of the meetings in one calendar year without just cause, then that member shall be replaced by the city council. Any vacancy that occurs during a term shall be filled for the unexpired term by the city council. An unexpired term or term of less than three years shall not count towards the term limit provision. Notwithstanding any provision of this section, all members shall serve at the pleasure of the city council. The city council shall appoint one elected official as a member. The city manager shall appoint one member of the city staff as an ex-officio member. Members shall receive no compensation for their services.~~

The commission shall consist of eleven members. The city council shall appoint ten at-large members from a list of qualified applicants who have submitted an advisory board application and shall appoint one elected city council official as the eleventh member. The City Manager shall also appoint one member of the city staff as an ex-officio member who shall not be counted toward the maximum membership provision of eleven members and shall not be a voting member. Qualified applicants shall be members of the community defined as: (a) a person working for or associated with a Newton business; (b) a Newton property owner; (c) a professional or business person operating in Newton, or within Newton's Extra-Territorial Planning Jurisdiction, and with an express interest in public art in Newton; (d) a resident of Newton, or a resident of Newton's Extra-Territorial Planning Jurisdiction, with an express interest in public art in Newton; or (e) a member of a local civic organization or historical society with an express interest in public art in Newton. A minimum of six at-large members of the commission shall be residents of the city. At-large members shall serve three-year staggered terms with three to be appointed or reappointed in

years one and two and four members to be appointed or reappointed in year three. No at-large member shall serve more than two full three-year consecutive terms. Once a member has served two full consecutive terms, the member must rotate off the commission for a minimum of one year before being eligible to serve again. If any member shall fail to attend three consecutive meetings or more than half of the meetings in one calendar year without just cause, then that member shall be replaced by city council. Any vacancy that occurs during a term shall be filled for the unexpired term by the city council. An unexpired term or terms of less than three years shall not count toward the term limit provision. Notwithstanding any other provision of this section, all members shall serve at the pleasure of the city council. Members shall not receive any compensation for their services on the public art commission.

Organization; meetings; quorum; votes.

(a) The public art commission shall meet for the purpose of organization as soon as reasonably possible after January 1 of each year. The public art commission shall elect its own officers who shall include a chairman and vice-chairman. The role of secretary shall be filled by the city staff member appointed as ex-officio. The members shall propose bylaws for the transaction of business subject to the approval of such bylaws by the city council. A copy of the bylaws shall be filed with the city clerk and shall constitute a public record.

(b) The public art commission is a public body and shall meet on a regular basis but not less than quarterly. A special meeting may be called by the chairman, vice-chairman or three members of the public art commission. Minutes shall be kept by the secretary and filed with the city clerk.

(c) A quorum shall consist of a majority of the members currently appointed. No proxies shall be allowed.

Duties

(a) The commission advises city residents and its elected officials about public art projects, planning, and program management. Commission members are expected to provide leadership to enhance the experience of public space, be an effective decision-making body to recommend and implement approved public art policy and procedures, and to maintain thoughtful public participation, outreach, and communications concerning public art.

(b) The commission is charged with creating public art guidelines and annually submitting the annual public art plan to the city council. Additionally, the commission may prepare a proposed public art plan for review and consideration by the city council during the city council's annual budget review and deliberations.

(c) Specifications, procedures, standard forms and guidelines for implementation of the public art program may hereafter be developed and adopted by the commission, taking into consideration the advice and recommendations of the city manager and finance director. The Public art program will follow national standards of best practice for all artist selection processes for projects under consideration, if such practices are permitted by applicable law.

(d) The commission shall have the authority to solicit gifts of art on behalf of the city and to encourage public-spirited citizens to contribute funds, as well as permanent works of art, to the city and thereby help to beautify the city and the public buildings and grounds situated therein.

(e) The commission may designate liaisons from the commission to relevant city advisory boards, including but not limited to Recreation, Tree Board, DNDA and Appearance Commission.

(f) At a regularly scheduled meeting of the city council, staff or a commission designated representative will present a report outlining the commission's accomplishments after the close of each fiscal year.

Conflicts of interests.

Any conduct that creates an appearance of impropriety or may otherwise impair a commission member's or artist selection committee member's judgment in the selection of a project site, finalist, or artist is prohibited. It is understood that the city council requires anyone in a position to receive financial gain from the selection of works of arts or artists to be ineligible to serve on the artist selection committee. Furthermore, artist selection committee members and participating panelists must declare any conflict of interest and recuse themselves if a conflict of interest arises.

ARTICLE III. - ACQUISITION OF PUBLIC ART

Artist selection committee.

(a) With respect to any proposed public art project, the commission may designate an artist selection committee to evaluate potential artists or acquisitions. Arts professionals who have knowledge of the visual arts and/or design (public art administrators, artists, architects, landscape architects, art historians, museum and exhibition curators, art critics, educators) should be considered by the commission for service on the artist selection committee.

(b) The commission may invite, or instruct the artist selection committee to invite, arts professionals to provide input with respect to each phase of public art project identification, artist selection, design reviews, and interim approvals of project deliverables from conceptual design through fabrication and installation.

(c) The artist selection committee, utilizing professional consultants when necessary, will review materials submitted by the artist to determine the technical feasibility and needs of the work. The artist selection committee will prepare and submit to the commission a written report to include at a minimum: technical feasibility, projected budget, maintenance needs, durability and anticipated life span of the work of art, safety hazards and potential for vandalism, artistic quality, proposed site, context within the town's collection, professional credentials of the artist, and the impact on collection diversity.

Siting public art.

(a) Proposals for the siting of public art are reviewed and considered by the commission.

(b) Site selection for public art will be reviewed with the following criteria, which may include, but are not limited to: the safety and security of the proposed site; ease of access for routine maintenance using standard city equipment; visibility and accessibility by a broad public audience; the context of the proposed work of art at the proposed site (taking into account social, cultural, historical, ecological, physical and functional context); the support of the city agencies and departments responsible for operating and maintaining the site; the support of officially recognized advisory bodies that are responsible for making recommendations concerning the use of city-owned property; and community support for the proposed site.

(c) The commission may elect to site works of art in public space on public easements should the commission determine that the site is of significant public benefit and visibility.

Commission review of capital projects incorporating public art.

The city's approval of site and building plans for capital projects incorporating public art shall be conditioned upon the commission's prior approval of the artistic and aesthetic components of the public art to be incorporated.

Ownership; documentation of public art.

(a) All works of art commissioned or purchased by the city shall be owned by and vested in the name of the city, and title therein shall be and remain vested in the city. Notwithstanding the foregoing, all copyrights to the work of art shall be retained by the artist of the work of art unless specifically acquired by the city.

(b) Staff will provide complete records of accession, deaccession, loan, or donation including, but not limited to, a signed bill of sale, deed of gift, acknowledgment of receipt, registration information, location card, exhibition record, photographs or slides, and independent appraisal; verification that the work of art is unique and an edition of one (unless stated to the contrary in the contract and accepted by the city); and whether there is an endowment fund for the work of art's maintenance.

Deaccession of public art.

(a) The commission shall review all proposals for deaccession, which should be a seldom-used action that operates with a presumption against removing works from the collection. Adverse public reaction should be carefully weighed and, in general, not be the cause for deaccession of public art. Review for deaccessioning purposes shall include consideration of the following: condition or security of the work of art, need for excessive and cost-prohibitive maintenance or repair, flaws in design or construction making repair unfeasible, or whether the work of art's physical or structural condition endangers public safety.

(b) If deaccession of a work of art is recommended by the commission, options for its disposition must be considered, including: sale, trade, transfer to another suitable institution, or destruction. Destruction should be recommended only when the work of art is so compromised as to no longer represent its original state. The commission shall include its recommendation for disposition (and the basis therefor) when it recommends deaccession to the city council. The commission may adopt additional procedures regarding deaccession and disposition. Any disposition of public art will be conducted in compliance with applicable law, including the provisions of Chapter 160A, Article 12 of the North Carolina General Statutes.

ARTICLE IV. - PUBLIC ART AND PRIVATE PROPERTY OWNERS; ART ON LOAN

Public art and private property owners.

Private development projects requiring city approval and/or planning review will be encouraged to include either an artist on the design team or works of art with public access within the development. The commission will be available to assist private interests with such projects.

Art on loan.

Works of art loaned to the town will be covered by the town's fine arts insurance for the duration of the loan. Each donor of a work of art (by loan or by gift) should be encouraged to provide funding for the ongoing maintenance costs of their gift and be encouraged to make their gift without restrictions or stipulations.

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

DATE: March 11, 2020

TO: E. Todd Clark, City Manager

FROM: Alex Fulbright, Assistant Planning Director

CONSIDERATION OF: Rezoning Application #2020-01 as requested by Kevin McMillan.

Approved for Council Consideration



Background:

Kevin McMillan has submitted an application to rezone two (2) parcels. The request is to rezone property located in the northwest quadrant of the intersection of Northwest Blvd and West 1st Street from R-20 Single Family Residential to P-1 Office and Intuition. The subject site consists of a 0.84 acres tract identified as Catawba County Pins 3730-11-75-3168 and 3730-11-75-3360.

Review:

Zoning History:

The subject site was zoned R-15 on both the 1958 and 1966 zoning maps. R-15 is the predecessor to the R-20 Single Family Residential zoning district, which is what the property was zoned on the 1983 zoning map and currently. There have been no prior attempts to change the zoning of the subject site. There has been several changes to the zoning in the proximity of the subject site over the years, which are as follows:

1987 – Property just south of the subject site, where Willis Reynolds, CVS, and Newton Vision Center is located was rezoned from R-20 to P-1 Office and intuition.

1997 – Property south of Willis Reynolds, where CVS and Newton Vision Center was rezoned from P-1 to B-4 General Business. This property was included in the 1987 request above.

1998 –Property southwest of the subject site, also known as Court Street Commons, which contains Newton Family Physicians and Azalea Glen was rezoned from R-20 to PD-MX Planned Development Mixed Use.

2005 – Property southeast of the subject site was rezoned from R-11 Single family and Two Family Residential to P-1. This property is/was a vacant parcel on Northwest Blvd adjacent to the Insurance and Lawyers offices

Surrounding Land Use and Zoning:

North—Property to the north of the subject property is a part of Hildebrand Heights Subdivision, a single family home development. The zoning is R-20 Single Family Residential.

South—Property to the south of the subject property is Willis Reynolds Funeral Home and is zoned P-1.

West— Property to the west of the subject property is a part of Hildebrand Heights Subdivision, a single family home development. The zoning is R-20 Single Family Residential.

East— Property to the east is First Baptist Church, Allied Financial Service, and State Farm. The zoning is R-11 Single Family and Two Family Residential and P-1 Office and intuitional.

Transportation:

The property is located on Northwest Blvd (US Hwy 321 Business), a major arterial for the City of Newton, and West 1st Street, local neighborhood street. The 2017 Average Daily Traffic Count for Northwest Blvd was 22,000. This thoroughfare was widened to five lanes in 1992 and has a capacity of 37,400 cars per day. There are no traffic counts for West 1st Street; however, there are no known problems along the street and it is not included in any plans to be improved.

Utilities:

Water and Sewer are available to the site.

Land Development Plan:

The subject site is located outside of the City's Adopted Area Plans so it is subject to the guidance provided in the 1988 Land Development Plan. The 1988 future land use map, which is attached, identifies the subject site as a barricade area located between residential and commercial land uses. Land uses in barricade areas are generally moderately intensive land use which in this context could be a higher density residential district or office and intuitional. One

of the major points in the Land Development Plan for Residential Land is to protect the existing stable neighborhoods from inappropriate types of scale and intensity of land use.

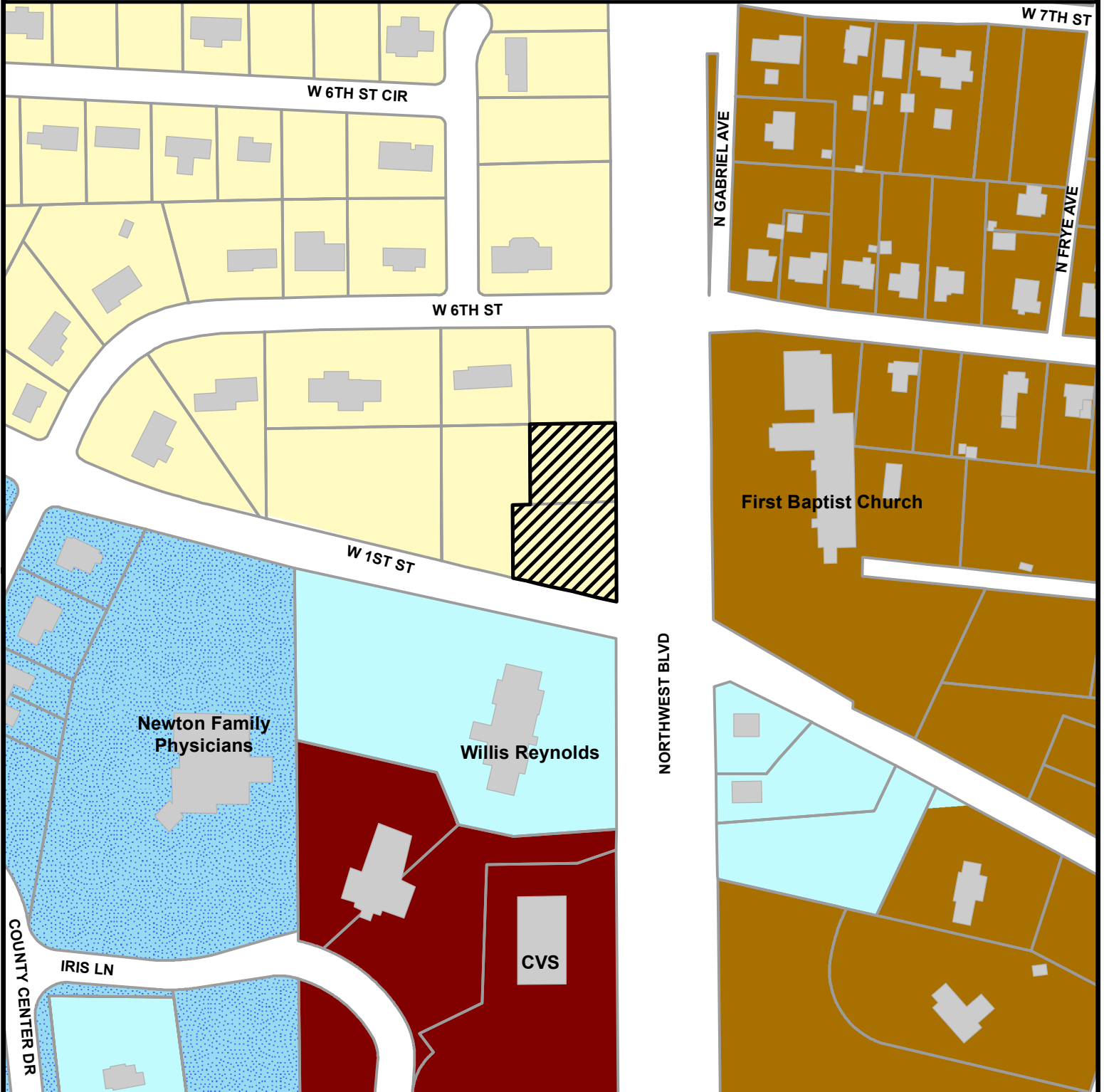
Recommendation action:

Staff recommended approval to the Planning Commission at their meeting held on February 25th at the conclusion of the public hearing, the Planning Commission voted to unanimously to recommend approval to the City Council. The request is consistent with the Land Development Plan for the area and the site has appropriate utilities. Any adverse impacts to adjoining properties would be mitigated by development standards contained in the City's Zoning Ordinance, which would apply when the property is developed; standards include but are not limited to buffers, screening, structure placement, density of development, and signage.



Rezoning #2020-01

Kevin McMillan
Northwest Blvd



Subject Site



Single-and Two-family Residential (R-11)



Single Family Residential (R-20)



General Business (B-4)



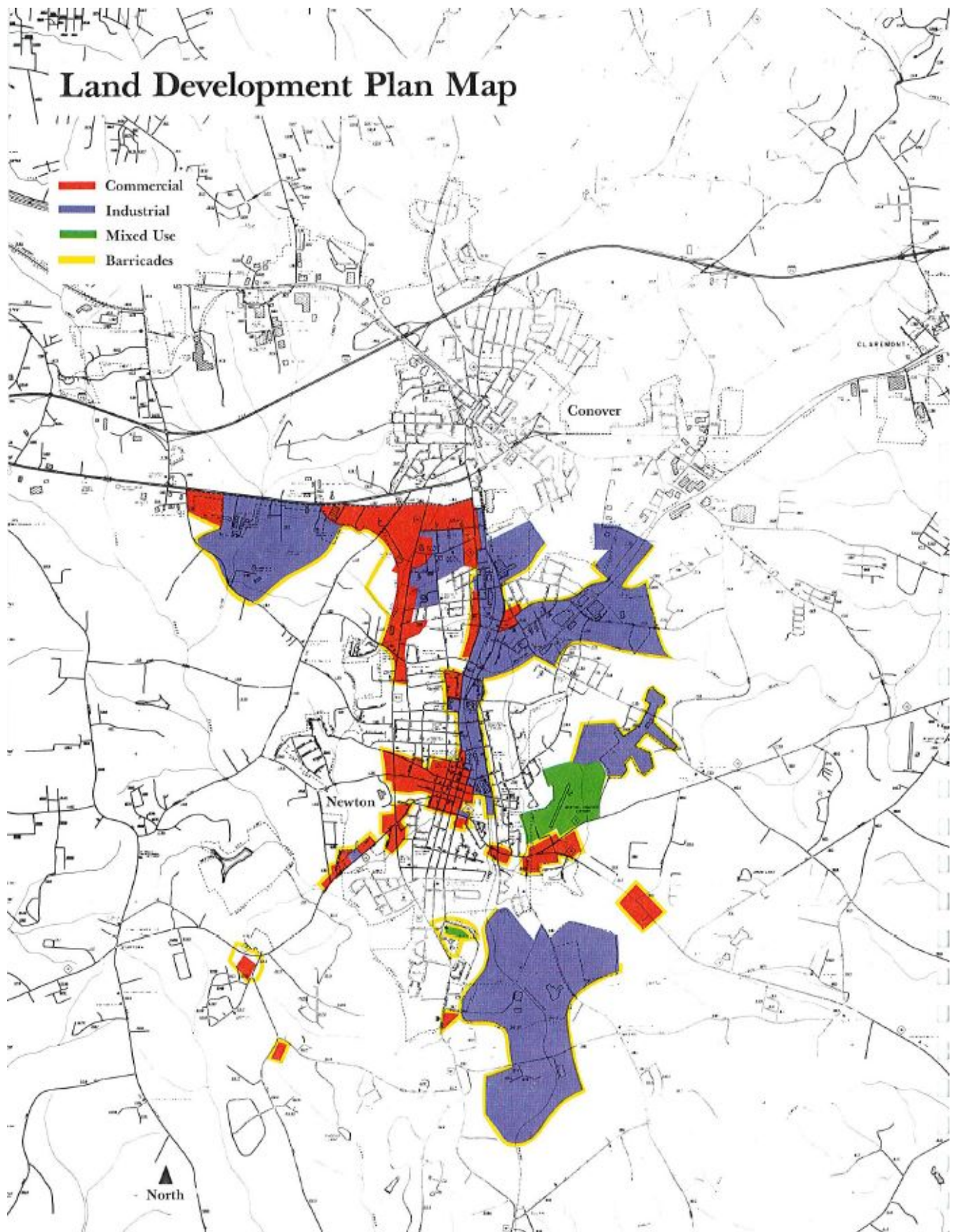
Office and Institutional (P-1)



Planned Development Mixed Use



NOT TO SCALE



Permitted and permissible special uses by districts in the P-1 district

Permitted principal use

Forestry	College/univ./tech. coll.	Real estate services
Truck farming and crop production	Multiple-family	Health practitioner
BUSINESS OFFICES	Single-family	HOSPITAL
Radio and TV studio	Two-family	Labs/medical
Community centers	Professional residential	Medical and dental clinics
Country clubs	Residential maternity homes	Nursing/conval./extended care
Golf courses (18 holes)	Optician and optical supply stores	Contractor's office
Greenways	Automatic bank teller	Funeral parlor
Park and playground	Banks and finance cos.	Photography studio
Recreation clubs	Advertising agency	Barber shop
Aquarium	Arts/graphics service	Beauty salon
Arboreta	Blueprinters/drafting supplies	Accounting
Art galleries	Building cleaning and maintenance service	Architects
Botanical gardens	Computer and data processing service	Auditors/bookkeepers
Libraries	Detective agencies	Engineers
Museums	Employment agencies	Interior designers
MEMBERSHIP ORGANIZATIONS	Insurance agencies	Legal services
Research activities	Management consultants	Surveyors
Cemetery, human	News syndicates	Business schools
PLACES OF ASSEMBLY	Personnel services	Vocational schools
Public utility uses	Photocopying services	Parking off-street
Adult care center	Photo finishing labs.	Alternative tower structure
Child care center	Photography services and studio	Telecommunications tower alternative
Church/synagogue	Public relations services	

Permitted accessory use

Gardening	Radio and TV receiving antenna and dish,	Swimming pool (in ground, regulated)
Private greenhouses	Customary access uses	Swimming pool (above ground, regulated)
Stable, residential	Monument sales	

Special use approved by council

Circus/carnival/fair	Public service facilities	Bed and breakfast
Crematorium	Schools	Bus shelters
Municipal garages	Life care tr./facility	

Special use approved by board of adjustment

Ham radio antenna	Tailoring and dress-making shops	Health clubs
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CITY OF NEWTON, NC
APPLICATION FOR AMENDMENT TO THE OFFICIAL ZONING ATLAS

Application # _____

TO THE PLANNING COMMISSION AND CITY COUNCIL OF THE CITY OF NEWTON, NC:

I, the undersigned, do hereby make application and petition to change the Zoning Atlas of the City of Newton as hereinafter requested.

1. The property for which this Zoning Atlas Amendment is requested is shown as Atlas Sheet _____ Block _____ Parcel _____ PIN See Attached _____. (If more than one parcel is involved, attach a list of all other properties, the nature of the proposed amendment, and a legal description for each).
2. The present zoning classification of the property for amendment is R-20.
3. The proposed zoning classification of this property is P-1.
4. Property owner (s): Name: See Attached
Address: _____
Phone: () _____ (H) (W) _____
5. As required by Article 13 of the Zoning Ordinance, I have attached the following material related to the proposed amendment herein referenced above:

 A fully dimensional survey map at a scale of not less than 100 feet nor more than 20 feet to the inch showing all land, structures and uses covered by this proposed amendment.

 A legal description of each parcel proposed for amendment.

 A description of the changed or changing conditions, if any, in the jurisdiction of the City of Newton, which makes the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.

 A description of how the proposed amendment will carry out the purpose and intent of the adopted Land Development Plan.

The above and attached information is true and accurate to the best of my knowledge.

 02/06/2020
Signature * Date of Filing

- If the applicant is different from property owner, a signed statement by the owner giving permission to rezone their property or properties should be submitted. In the case where more than one property owner is involved, all property owners must submit a written statement giving permission to rezone their properties.-

R-1

To whom it may concern,

02-06-2020

The city of Newton has been amazing for my insurance business. This location on Business Hwy 321 has served as an invaluable piece of my agency's growth. However, I currently lease my building and we are out growing the office space. It's very important for me to stay in this location so I can continue to serve the customers I've worked so hard to obtain. I now have the opportunity to purchase land (Parcel ID 373011753168 and Parcel ID 373011753360) from Ms Beverly Caldwell, Janice Pitts, and William Smith. This land is just across the street from my current location and will be the perfect area for me to build a new office building for my State Farm Insurance Agency.

I have contacted all property owners and collected Signed Statements from each person granting me permission to get these two parcels rezoned.

The office building I plan to build will be approximately 30 Feet By 60 Feet with a parking lot. I have enclosed different examples of metal office buildings with brick and stone veneer appearance that I like.

Please allow these two parcels of land to be rezoned from Residential to Commercial to allow for this dream of mine to come true.

My cell phone is 704-640-3342. You can reach me directly, or at my office.

Thank you.



-Kevin



Kevin McMillan, Agent/Owner

Providing Insurance and Financial Services

55 Northwest Blvd

Newton, NC 28658

Office - 828-994-4475

Fax - 828-994-4479



Assessment Report - Catawba County NC as of January current year

Property Assessment Information:

Card: 1 of 1 Class R

Next Previous Card

Revaluation Date: January 1, 2020

Parcel Information:

Parcel ID: 373011753168

Property Address:

LRK(REID): 25834

Owner Information:

Name: SMITH WILLIAM EDWARD

Name2:

Address: 3 W 6TH ST

City/State/Zip: NEWTON, NC 28658-3103

Assessment Information:

Market Building(s) Value: \$0

Total Market Value: \$13,600

Market Land Value: \$13,600

Use Total Value: \$0

Sales Data:

Date	Type	Price	Source	Validity
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Property Factors:

Topography	Utilities	Street or Road
LEVEL	ALL PUBLIC	PAVED

Building Permit Data:

Issue Date	Number	Amount	Purpose
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Notes:

Note1:

Last Update: 2019-02-12

Card: 1 of 1

Next Previous Card

The Building sketch is not currently available or there is no structure on property.

This map/report product was prepared from the Catawba County, NC Geospatial Information Services. Catawba County has made substantial efforts to ensure the accuracy of location and labeling information contained on this map or data on this report. Catawba County promotes and recommends the independent verification of any data contained on this map/report product by the user. The County of Catawba, its employees, agents, and personnel, disclaim, and shall not be held liable for any and all damages, loss or liability, whether direct, indirect or consequential which arises or may arise from this map/report product or the use thereof by any person or entity.

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Assessment Report - Catawba County NC as of January current year

Property Assessment Information:

Card: 1 of 1 Class R
Next Previous Card

Revaluation Date: January 1, 2020

Parcel Information:

Parcel ID: 373011753360
Property Address:
LRK(REID): 25833

Owner Information:

Name: CALDWELL BEVERLY C
Name2: PITTS JANICE CALDWELL
Address: 801 W 6TH ST
City/State/Zip: NEWTON, NC 28658-3103

Assessment Information:

Market Building(s) Value: \$0
Total Market Value: \$11,500

Market Land Value: \$11,500
Use Total Value: \$0

Sales Data:

Date	Type	Price	Source	Validity
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Property Factors:

Topography	Utilities	Street or Road
LEVEL	ALL PUBLIC	PAVED

Building Permit Data:

Issue Date	Number	Amount	Purpose
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Notes:

Note1:

Last Update: 2019-02-12

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Beverly C Caldwell
3763 Landmark Dr
Sherrills Ford, NC 28673

February 5, 2020

To Whom It Concerns:

RE: Re-Zoning request
Parcel ID: **373011753360**

I would like to grant permission and support the request to re-zone the parcel of property identified as Parcel ID: **373011753360**, located adjacent the corner lot of Northwest Blvd and West 1st Street, and facing Northwest Blvd that is being submitted by Kevin McMillan for a change from current zoning to allow him to purchase and build an office structure suited for his Insurance practice.

I believe that this parcel of property is best used for same type occupancy and is not well suited for residential use as currently zoned due to its location, highway frontage and the fact that it is bordered by the First Baptist Church, Willis Funeral Home and Crematorium, and a similar office complex where Kevin now has his insurance business.

I believe this properly use will clean up the area, add tax value and basis without harming the other residential properties nearby.

Please support his request with our permission and request to allow the change.

Thank you

A handwritten signature in black ink that reads "Beverly C Caldwell". The signature is written in a cursive, flowing style.

Beverly C. Caldwell

Janice Caldwell Pitts
801 West 6th Street
Newton NC 28658

February 4, 2020

To Whom It Concerns:

RE: Re-Zoning request
Parcel ID: **373011753360**

I would like to grant permission and support the request to re-zone the parcel of property identified as Parcel ID: **373011753360**, located adjacent the corner lot of Northwest Blvd and West 1st Street, and facing Northwest Blvd that is being submitted by Kevin McMillan for a change from current zoning to allow him to purchase and build an office structure suited for his Insurance practice.

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I believe this properly use will clean up the area, add tax value and basis without harming the other residential properties nearby.

Please support his request with our permission and request to allow the change.

Thank you

A handwritten signature in cursive script that reads "Janice Caldwell Pitts". The signature is written in black ink and is positioned above the printed name.

Janice Caldwell Pitts

William E. Smith
3 West 6th Street
Newton, NC 28658
smithw@sherrillfurniture.com
828-244-3485

February 3, 2020

To Whom It Concerns:

RE: Re-Zoning request
PIN number **373011753168**

I would like to grant permission and support the request to re-zone the parcel of property identified as PIN 373011753168, located on the corner of Northwest Blvd and West 1st Street that is being submitted by Kevin McMillan for a change from current zoning to allow him to purchase and build an office structure suited for his Insurance practice.

I believe that this parcel of property is best used for same type occupancy and is not suited for residential use as currently zoned due to its location, highway frontage and the fact that it is bordered by the First Baptist Church, Willis Funeral Home and Crematorium, and a similar office complex where Kevin now has his insurance business.

I believe this property use will clean up the area, add tax value and basis without harming the other residential properties nearby.

Please support his request with our permission and request to allow the change.

Thank you

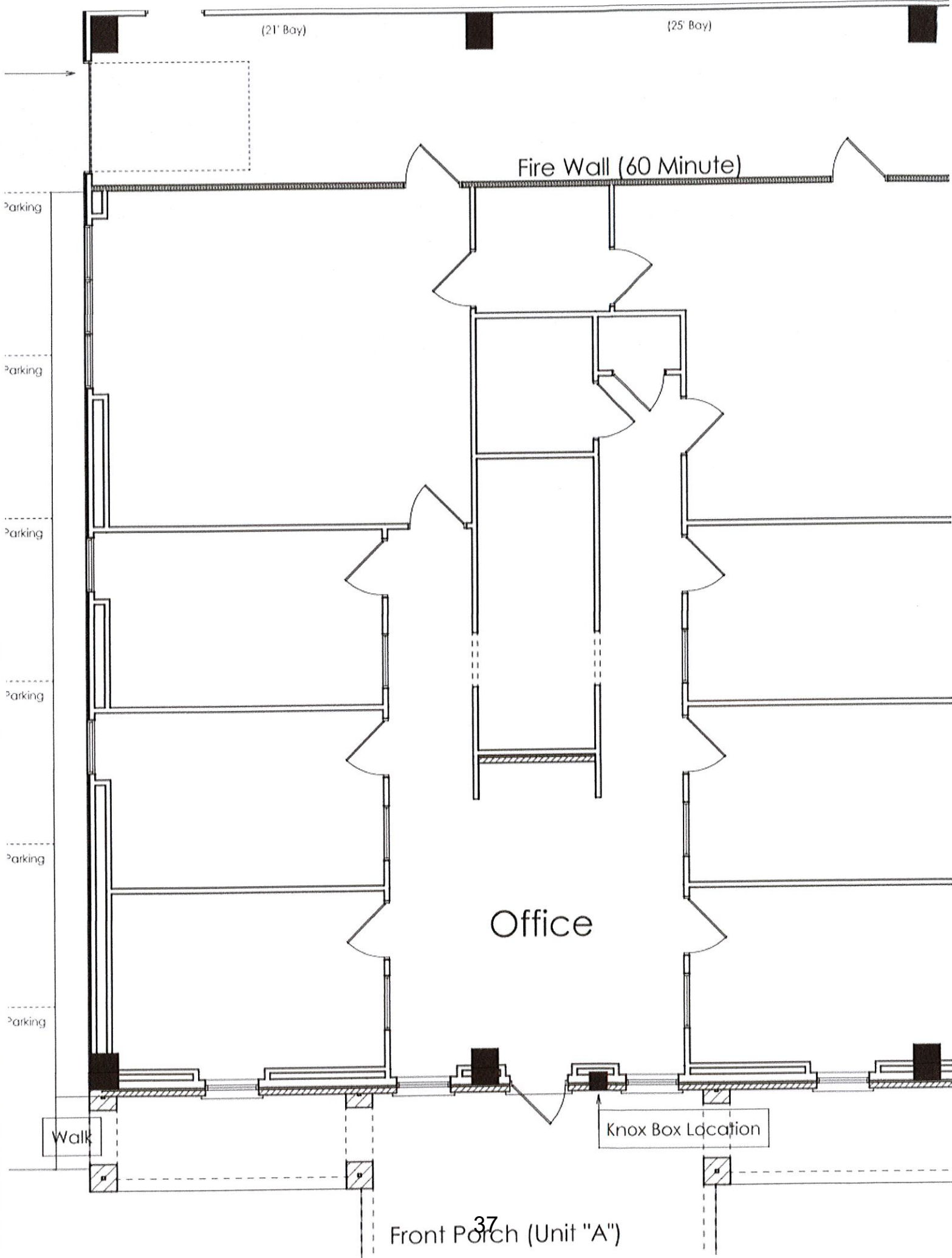
A handwritten signature in black ink, appearing to be 'W. E. Smith', written over a horizontal line.

William E. Smith









(21' Bay)

(25' Bay)

Fire Wall (60 Minute)

Parking

Parking

Parking

Parking

Parking

Parking

Office

Knox Box Location

Walk

37
Front Porch (Unit "A")

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

DATE: March 17, 2020

TO: E. Todd Clark, City Manager

FROM: R. S. Williams, AICP, Planning Director

CONSIDERATION OF: Retail Strategies Economic Development Study

Approved for Council Consideration



Request:

At the Council Workshop in January, Lacy Beasley with Retail Strategies presented a proposal for a Retail Economic Development Study and Recruitment for the City of Newton. This study is cosponsored by ElectriCities. Staff is requesting a directive from the City Council on this proposal.

Background:

The primary scope of work includes the study and commercial analysis in the Newton service area, inventory & evaluation of commercial properties, a customized marketing brochure, and recruitment of retailers, restaurants and brokers with active outreach.

The investment in this project is \$135,000 over the course of three (3) years. Retail Strategies provides a 33% discount to ElectriCities reducing the cost to \$90,000. However a grant provided to member jurisdictions by ElectriCities will share the cost with the City, reducing the cost by 50%. Newton's obligation will be a total of \$45,000 (\$20,000 year 1; \$12,500 year 2; & \$12,500 year 3). This partnership creates a viable option for this type of study.

Recommendation:

The Administration and Planning departments are requesting a directive on this proposal by the City Council and if approved, funding would be requested in the upcoming fiscal year.

Scope of Services



retail strategies

DATA, RESEARCH AND PROSPECTS

DATA & ANALYTICS // DEMOGRAPHICS // PSYCHOGRAPHICS

- Demographic reports including up to 23,000+ variables in radius rings, drive times and custom trade area reports. Population, growth, income, housing values, employment, consumer expenditures and more.
- Mobile tracking data used to identify shopping patterns that will identify the retail trade area beyond municipal boundaries. Analysis is used to show the actual number of potential consumers within the region.
- Retail gap analysis showing the categories with the largest dollar amount of potential spending leaving the community. (i.e. leakage and surplus)
- Conduct retail peer market analysis to identify retailers and restaurants in similar size markets that would be good prospects for recruitment
- Target list of retailers, restaurants and hotels (minimum of 30)
- Lifestyle Segmentation & Psychographics to offer a summary of community personality and local consumer shopping preferences
- Household and consumer spending reports
- Aerial map with retailers and traffic counts identified
- Custom on-demand demographic research – historical, current, and projected demographics – to include market trade areas by radius/drive time, and custom trade area

PROPERTY AND MARKET ANALYSIS

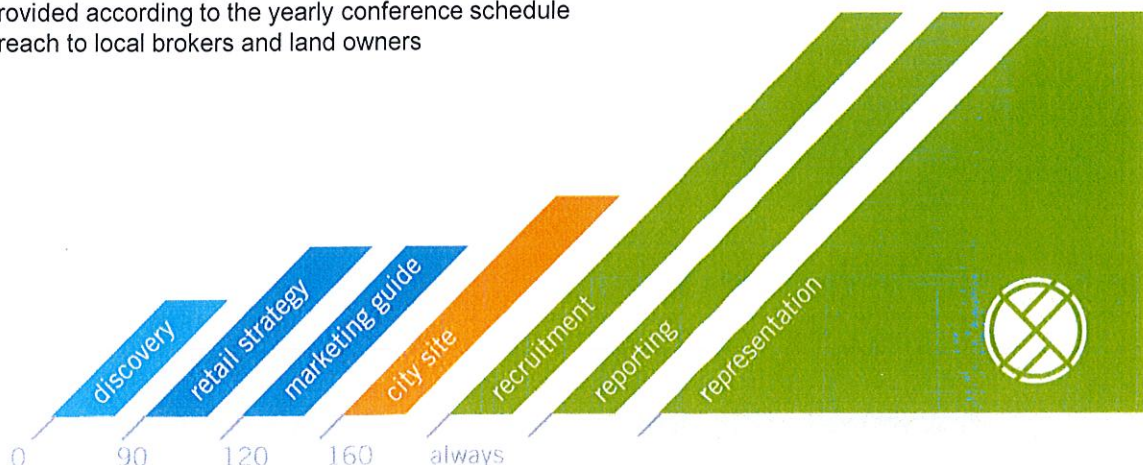
REAL ESTATE ANALYSIS

- Business recruitment zones identified
- Retail real estate analysis performed by licensed and experienced professionals
- Inventory and evaluate priority commercial properties for development, re-development and higher and best use opportunities
- Customized marketing guide (four pages)

RETAIL RECRUITMENT

RECRUITMENT // REPRESENTATION // OUTREACH // CONNECTIVITY

- Pro-active retail recruitment for targeted zones
- Will contact a minimum of 30 overall retailers, restaurants, brokers and/or developers each year
- Updates on new activity will be provided to Client's designated primary point of contact via Basecamp, telephone, or email on a regular basis
- ICSC and Retail Live conference representation including updates provided according to the yearly conference schedule
- Active outreach to local brokers and land owners



Investment



retail strategies

Investment

Retail Strategies agreements are annual with pricing set out for a three-year period. The Client will have the option to discontinue the agreement at the end of each year with no penalty.

ANNUAL INVESTMENT SCHEDULE

\$45,000 annually

\$135,000 for 3 years

ElectriCities of NC Discount

\$40,000 year 1 & \$25,000 years 2 & 3

\$90,000 for 3 years

ElectriCities of NC Grant

Year 1

ElectriCities of NC \$20,000

Community \$20,000

Year 2 & 3

ElectriCities of NC \$12,500

Community \$12,500

Total for 3 Years

ElectriCities of NC \$45,000

Community \$45,000

Client Responsibilities

Client will designate a project liaison who will serve as Retail Strategies' primary contact during the partnership.

Annual report including Return on Investment (ROI) will be provided.

Project fees are due within 30 days of receipt of the invoice. Should the Client request a special assignment, additional work, and/or additional travel needs not specifically referenced in the contract, we will prepare written authorization to be signed by the Client in advance of commencing any additional work.

Pricing valid for 90 days.



**CITY OF NEWTON
REQUEST FOR COUNCIL ACTION**

DATE: March 11, 2019

TO: Todd Clark, City Manager

FROM: Sandra Waters, Parks and Recreation Director

CONSIDERATION OF: Amendment to the Schedule of Fees and Charges for Splash Pad

Approved for Council Consideration



Background:

The City Council held a series of workshops in January and March for planning purposes. It was during these meetings that City Council reviewed the operations of the newly constructed splash pad located at the Main Recreation Center. Many different aspects of operation were discussed and after due consideration, City Council voted to charge patrons for use of the splash pad at the last work session held on March 2, 2020.

Upon the direction of City Council, the staff was directed to prepare an amendment to the Schedule of Fees and Charges for adoption at the March 17, 2020 City Council meeting. The recommended amendments are as follows:

Daily Admission Fee

\$1.00 per Person

Season Pass

\$25.00 per person (Pass Valid Memorial Day-Labor Day of the current season)

*\$1.00 Per Day After Holiday As Long As Splash Pad Is Open.

Private Rental Parties

Resident-\$50.00 for 2 HRS.

Non-Resident-\$75.00 for 2 HRS.

Business/Corporate Events- (Same as Resident/Non-Resident Fees)

Requested Action:

Consideration of the amendment to the Schedule of Fees and Charges for use of the splash pad as outlined in this Request for Council Action.

NEWTON SPLASH PAD

OPEN MEMORIAL DAY TO LABOR DAY

NEWTON RECREATION CENTER, 23 SOUTH BRADY AVE.

Public Hours

1 p.m. to 7 p.m. Monday
1 p.m. to 7 p.m. Tuesday
1 p.m. to 7 p.m. Wednesday
1 p.m. to 7 p.m. Thursday
1 p.m. to 7 p.m. Friday
1 p.m. to 7 p.m. Saturday
1 p.m. to 5 p.m. Sunday

Daily Admission:

\$1 per person

Season Splash Pass:

\$25 per person

Available for Private Parties

10 a.m.- 12 p.m. Saturday
6 p.m.-8 p.m. Sunday

All guests must pay the admission fee and wear the provided wristband to enter the Splash Pad.

All children under the age of 12 must be accompanied by an adult.

Learn more by calling the
Newton Recreation Center
at 828-695-4317.



NEWTON

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

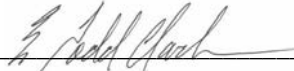
DATE: March 11, 2020

TO: E. Todd Clark, City Manager

FROM: Vidal A. Sipe, Chief of Police

CONSIDERATION OF: Budget Amendment Ordinance to recognize revenue and authorize expenditure for Capital Purchase in FY 2019-2020 Budget.

Approved for Council Consideration



Background:

On January 14, 2020, the police department had a frontline patrol vehicle (2017 Chevy Tahoe) totaled when it was struck by another vehicle at the intersection of Southwest Blvd and West J Street. Glatfelter Claims Management Inc., insurance carrier for the City of Newton has declared the above mentioned vehicle as a total loss. Glatfelter has compensated the City of Newton \$35,571.53 for the 2017 Chevy Tahoe.

Therefore, this Budget Amendment is to recognize \$35,571.53 in revenue from Glatfelter Claims Management Inc., and to authorize expenditure using the insurance claims revenue and an additional \$19,910.85 from the FY 2020 Fund Balance for the purchase of emergency equipment and up fit of one (1) patrol vehicle. Total requested amount is \$55,482.38.

Summary:

Recognize revenue from the insurance claim settlement to be used with the FY 2020 Fund Balance to purchase and up fit one (1) patrol vehicle which has been declared a total loss.

Requested Action:

City Council to adopt the attached Budget Ordinance Amendment and authorize the Newton Police Department to purchase one (1) replacement patrol vehicle and equipment to include installation and complete up fitting using insurance claim proceeds and FY 2020 Fund Balance.

ORDINANCE

AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL YEAR 2019-2020 FOR THE CITY OF NEWTON

WHEREAS, the City Council of the City of Newton have adopted a Budget Ordinance for fiscal year beginning July 1, 2019, and ending June 30, 2020, in accordance with the General Statutes of the State of North Carolina; and

WHEREAS, the City of Newton City Council desires to approve the purchase of a new patrol vehicle. In January, 2020, a police department patrol vehicle was totaled, and the City has since received insurance proceeds of \$35,571.53. The estimated cost of a new replacement vehicle is \$55,482.38, requiring an additional \$19,910.85 use of Fund Balance; and,

WHEREAS, the City of Newton City Council desires to approve utilization of fund balance and the related expenditure for the purchase of a patrol vehicle; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, NORTH CAROLINA, THAT:

THE FOLLOWING SOURCE OF REVENUE AND APPROPRIATION ARE HEREBY APPROVED.

General Fund Revenues		
Fund Balance Appropriation	11-0000.3990	\$ 19,950
Insurance Claims	11-0000.3780	\$ 35,550
General Fund Appropriations		
Capital Outlay – Motor Vehicles	11-4310.8400	\$ 55,500

Adopted this 17th day of March, 2020

Eddie Haupt, Mayor

Amy S. Falowski, City Clerk



CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

DATE: March 12, 2020

TO: E. Todd Clark, City Manager

FROM: R. S. Williams, AICP, Planning Director

CONSIDERATION OF: Revisions to Sidewalk Dining Ordinance draft

Approved for Council Consideration



Request:

At the Council Workshop in January, staff presented a draft for revisions to the Sidewalk Dining Ordinance and received input for the Council. Staff also solicited input and comments from the several restaurants, primarily in the downtown area, on the proposed revisions. The DNDA Board also reviewed the draft.

Background:

The Streetscape Revitalization Project addresses many needs and opportunities in Downtown Newton. One of the design goals was for wider sidewalks to enhance the walkability and provide space to encourage outdoor dining. The Code of Ordinances addresses sidewalk dining with certain regulations, of which upon review, needed to be updated and revised to further encourage and permit this use.

Of the comments received, staff noted there was one primary revision to the draft that should be included. The concept of design standards was originally not included in the draft, however both Council and a public comment indicated this should be included, particularly to not permit plastic street furniture as it was not very durable or visually appealing. Staff is working on specific language to address this revision, but will permit *“wood or metal materials for outdoor dining seating and tables in similar design to the restaurants décor.”*

Recommendation:

Staff requests any questions or comments by the City Council on this revision, or any others you wish to address. Staff will incorporate that in the final draft, with public hearings being held by the Planning Commission and City Council prior to any action.

- (e) *Exception; sidewalk dining.* The purpose of this ordinance [section] shall be to establish a sidewalk dining ordinance within the City of Newton to promote the health, safety and welfare of persons operating sidewalk dining within the City of Newton and to protect the safety of their patrons, pedestrians and other users of roads. The City of Newton may enter into an agreement with the North Carolina Department of Transportation to permit use of the state right of way as provided by G.S. 136-18(9) and 136-27.4.

(1) *Requirements*

- a. General: Sidewalk dining shall be permitted at such locations and subject to such regulations as are set forth in this article.

(2) *Sidewalk dining requirements and conditions:* Table, chairs and other furnishings shall be placed within a maximum of six feet from business/building.

- a. Table, chairs and other furnishings shall be placed exclusively in front of the business that is engaged in sidewalk dining activities in such a manner that at least five feet of unobstructed paved space of the sidewalk, measured from any permanent or semi-permanent object, remains clear for the passage of pedestrians and provides adequate passing space that complies with the Americans with Disabilities Act.
- b. Table, chairs, and other furnishings associated with sidewalk dining activities shall not obstruct any building entrance or exit, emergency entrance or exit, fire hydrant or standpipe, utility access, ventilation area or emergency call box. The sidewalk dining furnishings shall be located at least five (5) feet from any of said facilities with the exception of fire hydrants, which shall be at least fifteen (15) feet from said furnishings.
- c. Tables, chairs and other sidewalk dining furnishings shall not obstruct any driveway, alleyway or access to private property. A minimum five (5) feet of spacing is required from any driveway, public or private, as measured from the driveway apron.
- d. Tables, chairs, and other furnishings associated with sidewalk dining activities shall be constructed of wood or metal materials

for outdoor dining seating and tables in similar design to the restaurant's décor.

- e. The maximum posted speed permitted on the roadway adjacent to the right of way to be used for sidewalk dining activities shall not be greater than 35 miles per hour.
- f. The restaurant operator shall provide evidence of adequate liability insurance in an amount satisfactory to the City of Newton, but in no event in an amount less than amount specified by the City under G.S. 160A-485 as the limit of the local government's waiver of immunity or the amount of tort claim liability specified in G.S. 143-299.2, whichever is greater. The insurance shall protect and name the North Carolina Department of Transportation and the City as additional insureds on any policies covering the business and the sidewalk activities.
- g. The restaurant operator shall provide an agreement to indemnify and hold the department and the City from any claim resulting from the operation of sidewalk dining activities.
- h. The restaurant operator shall provide a copy of all permits and licenses issued by the state, county or city, including health and ABC permits, if any, necessary for the operation of the restaurant or business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the county or city for exterior alterations or improvements to the restaurant.
- i. The restaurant operator shall cease part or all sidewalk dining activities in order to allow construction, maintenance, or repair of any street, sidewalk, utility, or public building, by the department, the City, its agents or employees, or by any other governmental entity or public utility.
- j. Except as elsewhere permitted, the operation or furnishing of the sidewalk café shall not involve any permanent alteration to or encroachment upon any street or sidewalk. The restaurant operator and/or owner of the sidewalk dining operation shall be responsible for repairing any incidental damage to State right of way resulting from the operation of the sidewalk dining.

(3) *Inspection Prior to Usage.*

- a. Upon the issuance of a certificate of occupancy, each owner must have proof of ownership, and liability insurance, and a completed waiver of liability, releasing the North Carolina Department of Transportation and the City of Newton from liability that may arise as a result of operation of a sidewalk dining inside the City of Newton.
- b. All sidewalk dining locations must meet the requirements or minimum standards as set forth above in this section or additional City of Newton ordinances.
- c. All restaurant operators must maintain a valid certificate of occupancy while operating sidewalk dining on right-of-way.
- d. The certificate of occupancy shall not be transferable or assignable.

(4) *Enforcement.*

- a. Any other use or attempted use of any area permitted for sidewalk dining for commercial purpose not otherwise allowed in an area designated for sidewalk dining shall cease immediately upon notification by Code Enforcement.

(Code 1972, Subsection 17-01; Ord. No. 81.43, Subsection 1, 2; Ord. No. 2004.16, Subsection 1, 3-2-2004; Ord. No. 2014-26)

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

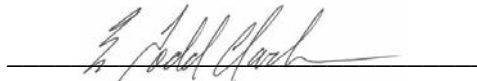
DATE: March 12, 2020

TO: E. Todd Clark, City Manager

FROM: R. S. Williams, AICP, Planning Director

CONSIDERATION OF: Revisions to Food Truck Ordinance draft

Approved for Council Consideration



Request:

At the Council Workshop in January, staff presented a draft for a new Food Truck Ordinance and received input for the Council. Staff also solicited input and comments from the several restaurants, primarily in the downtown area, on the proposed revisions. The DNDA Board also reviewed the draft.

Background:

Food trucks are beginning to have more of presence in Newton over the last few years. The Code of Ordinance does not currently address the use or operation of food trucks in the city. Recently there are a few businesses, particularly downtown, that have expressed their concerns over potential effects to their businesses. While food trucks do serve a need for expanded and temporary dining opportunities, staff is cognizant that these operations could negatively impact the established restaurants.

Of the comments received, staff noted there was one primary revision to the draft that should be addressed. Initially in the proposed draft, hours of operation were set at 10:00 am to 8:00 pm. Concerns were made that these hours did not include breakfast hours or late night hours for operation. Both City Council and public comments indicated this should be revised, as they did not permit food trucks to operate with additional hours. Staff has reviewed this request and revised the draft for *hours of operation from 10:00 am to 10:00 pm*. Staff reviewed ordinances from cities across the state and did not find that breakfast hours were generally included.

In similar course with hours of operation, another comment was received that the 2 hour limit (or on-street parking hours) on food trucks using the public right-of-way (streets) was restrictive. Upon writing the initial draft, staff reviewed this and recommended that this was in keeping with other vehicles using on-street parking. Additionally, there is a concern expressed by some that there is not enough parking in downtown. Therefore staff wanted to address this so that there would not be an overuse, abuse or reduction the available customer / citizen parking by food truck operations.

Recommendation:

Staff requests any questions or comments by the City Council on this revision, or any others you wish to address. Staff will incorporate that in the final draft, with public hearings being held by the Planning Commission and City Council prior to any action.

(a) Definitions.

1. *Food truck* means a licensed, motorized vehicle or mobile food unit licensed by the NC State Division of Motor Vehicles and as authorized by N.C.G.S. 130A-247 et seq., which is temporarily stored in a location where food items are sold to the general public and is a vehicle mounted, vehicle towed or vehicle carried food service establishment, including ice cream trucks, designed to be readily moved.
2. *Permitted parking space* means the location identified by the City as an on-street parking space with markings indicating as being designated for such use.
3. *Vendor* means any person who owns, operates or manages a business that uses and who prepares or serves pre-packaged or cooked food and/or beverages for sale to the public on a recurring basis from a food truck.

(b) Food Truck Standards.

A food truck providing service must meet all of the following standards:

1. The food truck shall not be located within one hundred (100) feet of the main entrance of any restaurant, any outdoor dining space, or any fixed location of a competing nature nor shall food truck block or park in front of any other open business, unless said business owns the food truck, or permission given by property owner. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
2. No food truck may be parked in a location that prohibits or restricts access to a private property. A minimum five (5) foot spacing is required from any driveway, measured from the driveway apron.
3. The food truck must be located at least five (5) feet from any utility box, utility vault, handicapped ramp, or similar feature. The food truck must be located at least fifteen (15) feet from a fire hydrant. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
4. The food truck vendor must dispose of all waste associated with the food truck operation. City receptacles may not be utilized for this purpose. No liquid waste or grease may be poured into any tree pit, storm drain, street, gutter pan, sidewalk or any other public space. Grease cannot be released into the City's sanitary sewer system. The food truck vendor shall make available hand sanitizer to its customers.

5. A food truck may operate on every day of the week from the hours of 10:00 a.m. to 10:00 p.m. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
 6. Vendor shall comply with all regulations and requirements of the North Carolina official County Health Department as well as any other governmental unit so authorized to issue such rules and regulations and shall provide documentation of compliance upon request.
 7. Food trucks must have the following fire extinguisher on board during hours of operation: minimum Class 2A, 10B and C rated extinguisher. If food preparation involves deep frying, a Class K fire extinguisher must also be on the truck. Fire extinguishers shall be maintained pursuant to National Fire Protection Association (NFPA) standard 10.
 8. A food truck vendor shall not operate the food truck as a drive-through window.
 9. The noise level from the food truck motor and generator must comply with the City's noise ordinance.
 10. No signage shall be allowed other than signs permanently attached to the motor vehicle. The food truck vendor shall not place or use sound equipment on or in the area of the mobile food unit. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
 11. Alcohol may not be sold or served by any food truck vendor.
 12. Vendor or vendor's designee shall be in attendance of the food truck at all times, except in case of emergency.
 13. Vendor will bear all costs associated with the establishment and operation of the food truck, including, but not limited to the provision of water and electrical power. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
- (c) Privately Owned Property Location for Operation of Food Truck
- In addition to the standards enumerated in Section 66-17(b), a food truck providing service from privately owned property must meet the additional following standards:
1. A food truck may conduct business on privately owned, non-residential property subject to the approval of the property owner.
 2. The vendor for the food truck must submit proof of approval from the property owner upon request to do so by public official.
- (d) Parks Located Within the City of Newton for Operation of Food Truck.

In addition to the standards enumerated in Section 66-17(b), a food truck providing service from a public park must meet the additional following standards:

1. A food truck may utilize City of Newton Parks as enumerated in Section 70.1 as referenced in the Newton City Code.
2. All food trucks must receive prior written approval from the City of Newton to engage in food truck operations.
3. All food trucks must observe park hours and shall not be allowed to operate when said park is closed.

(e) Right-of-way Eligible for Food Truck Service.

In addition to the standards enumerated in Section 66-17(b), a food truck providing service from the right-of-way must meet all of the following additional standards:

1. The food truck may only be parked within the permitted parking space within City of Newton owned rights of way or maintained by the City of Newton but at no time shall be parked on any Department of Transportation right of way as provided for in North Carolina Statute 136-18(9), North Carolina Administrative Code 19A NCAC 02E.0414 and NCDOT Maintenance Operations Manual General Ordinance 14. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
2. All food trucks must be situated on the street right of way to allow at least five (5) feet of unobstructed space for pedestrians on sidewalks, pedestrian paths and other locations intended primarily for pedestrian travel. If any applicable law, including Americans with Disability Act regulations, shall require a greater distance, the greater distance shall apply.
3. All food trucks must be situated such that the service window from which customers place orders are on the sidewalk or other pedestrian walkway side of the food truck and at no time shall customers be allowed to place orders from the motoring public side of said food truck. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
4. The food truck may not operate or park within the permitted parking space before 10:00 AM and must cease operation and leave the permitted parking space by 10:00 PM. The food truck must observe the two-hour parking limit, as well as all other parking restrictions. This

requirement shall not apply during festivals and other events when the streets are closed during such festival or event.

(f) Enforcement.

1. Civil Penalties.

a. Violations of any of the provisions of this section will result in the following civil penalties:

- i. First offense in any twelve-month period ...\$100.00
- ii. Second or more offense in any twelve-month period...\$500.00

b. The City Manager or the Manager's designee may issue a notice of violation assessing civil penalties. The notice shall be issued in writing and shall set forth with reasonable specificity the basis for the civil penalty. The notice of violation shall be served by registered or certified mail, or by personal service. When service is made by registered or certified mail, a copy of the notice may also be sent by first class mail. Service shall be deemed sufficient if the first class mail is not returned by the Post Office within ten (10) days after the mailing. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty.

c. The notice of violation shall contain a time period by which the violation must be corrected. From and after the date specified in the notice, each subsequent day that the violation continues in existence shall constitute a separate and distinct offense subject to additional civil penalties.

d. If a person fails to pay any civil penalty within thirty (30) days after the decision becomes final, the City may recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt.

2. Administrative Fee.

Any person who violates this article shall pay an administrative fee of one hundred dollars (\$100.00) per violation in addition to civil penalty.

3. Other Remedies.

In addition to civil penalties, a violation of this division is a misdemeanor and may also be enforced through injunctive or other equitable relief, or a combination of remedies.

4. Appeals.

- a. A party aggrieved may appeal any decision under this section to the City Manager within fifteen (15) calendar days after the contested decision. An appeal must be made in writing and shall contain the reasons supporting the appeal and any evidence that supports it. The person appealing may review the evidence that is the basis of any suspension or violation during the City's normal business hours. The City Manager or his designee shall review the information provided and shall issue a written decision determining whether a violation has occurred.
- b. After receiving a determination from the City Manager or his designee, a party aggrieved may appeal to the City Council within twenty-one (21) calendar days after the City Manager's decision (or the decision of his designee) was mailed. The scope of the City Council's review shall be limited to verifying the facts supporting a written decision or Findings of Fact made on a suspension. If the City Council finds that the facts as found are correct, the civil penalty, administrative fee, or suspension shall be upheld.

(g) Termination or Amendment of Streetside Vending.

The City Council may amend, revise or terminate streetside vending by ordinance duly enacted.