

April 20, 2021 (Regular)

**MINUTES
BURKE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING**

Both Burke County and the State of North Carolina had previously declared a state of emergency which was ongoing as of April 20, 2021 due to the global COVID-19 pandemic. Following the N.C. Governor's Executive Order limiting mass gatherings and to protect the health of all meeting participants, attendance in the County Board Room, Burke Services Building, 110 N. Green Street in Morganton, was limited on a first come first served basis, social distancing measures were imposed inside the meeting room and face coverings were recommended. The 6:00 p.m. meeting was streamed live on the County's YouTube channel, BurkeCountyNC, and it was broadcast later on the local cable systems. The agenda, in its entirety, was posted to the County's website, www.burkenc.org, several days prior to the meeting as usual. Those present were:

COMMISSIONERS PRESENT: Jeffrey C. Brittain, Chairman
Scott Mulwee, Vice Chairman
Wayne F. Abele, Sr.
Johnnie W. Carswell
Maynard M. Taylor

STAFF PRESENT: Bryan Steen, County Manager
Margaret Pierce, Deputy County Manager/Finance Director
J.R. Simpson, II, County Attorney
Lance Riddle, Ex. Assist. to Co. Mgr./Deputy Clerk

STAFF ABSENT: Kay H. Draughn, Clerk to the Board (family medical event)

CALL TO ORDER

Chairman Brittain called the meeting to order at 6:00 p.m.

INVOCATION

Rev. Dr. Wayne A. Johnson, Sr., Shiloh AME Church, delivered the invocation.

PLEDGE OF ALLEGIANCE

J.R. Simpson, II, County Attorney, led the Pledge of Allegiance to the American flag.

APPROVAL OF AGENDA

Motion: To approve the agenda.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Wayne F. Abele, Sr., Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

April 20, 2021 (Regular)

APPROVAL OF MEETING MINUTES

Motion: To approve the minutes of February 16, 2021 (regular), March 2, 2021 (pre-agenda), March 9, 2021 (special) and March 16, 2021 (regular) meetings as written.

RESULT: APPROVED [UNANIMOUS]

MOVER: Maynard M. Taylor, Commissioner

AYES: Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

PRESENTATIONS

CHARTER COMMUNICATIONS - UPDATE ON THE FCC RURAL DIGITAL OPPORTUNITY FUND – RDOF AWARDS

Michael Tanck, Charter Communications, Director of Government Affairs, presented an update on the FCC (Federal Communications Commission) Rural Digital Opportunity Fund-RDOF (Rural Digital Opportunity Fund) Awards as follows:

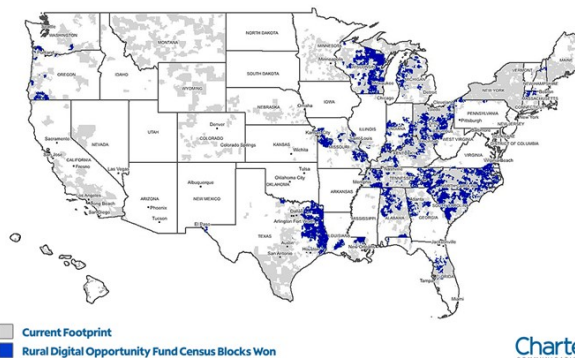
Rural Digital Opportunity Fund -RDOF

- Purpose to expand broadband service into unserved areas
- Economics to expand broadband in rural low density areas
- Eligible Census Blocks - No Broadband Service (25/3 Mbps)
- Reverse Auction
- Awards announced December 7, 2020
- Quite Period ended January 29, 2021

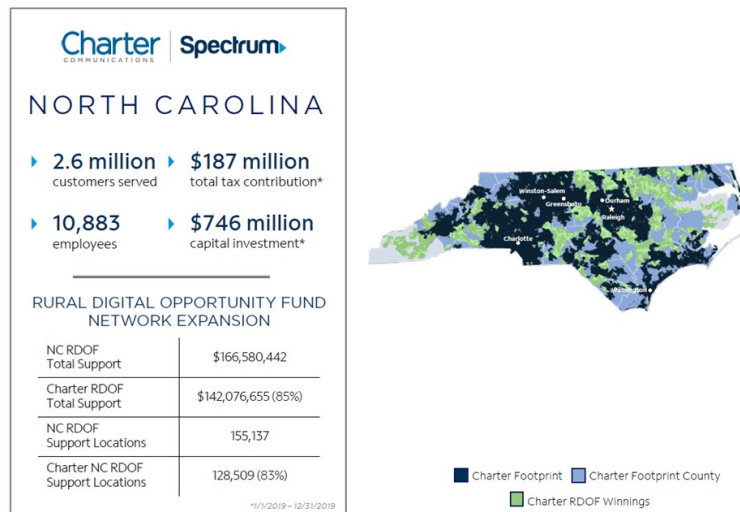


NATIONALLY

\$5 Billion Investment
\$1.2 Billion RDOF Off Set
1 + Million Locations

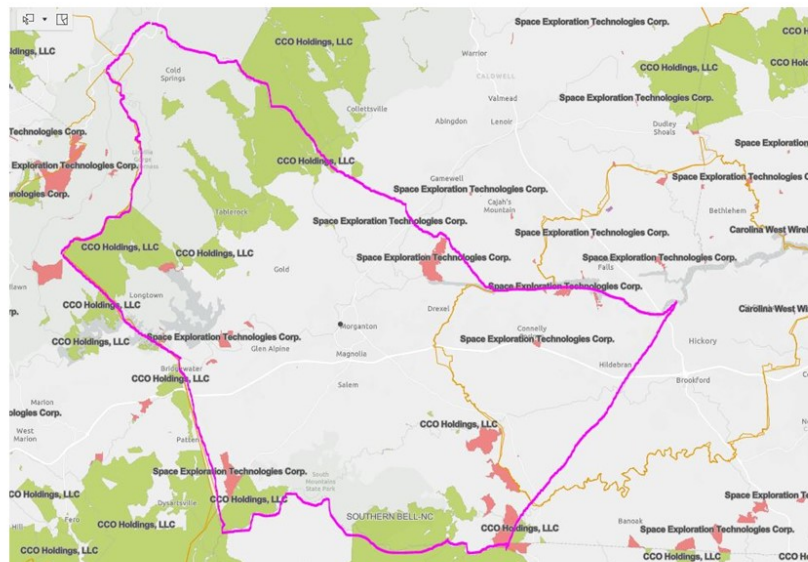


April 20, 2021 (Regular)



Please Note: RDOF Areas and City Locations are Approximated – Visit Cooperative Network Services RDOF Winners Map or FCC.gov for Actual Data | Charter footprint data as of FY2019

Burke County – RDOF Awards



Note: Utilizing \$1.7 million from the FCC, Charter (CCO Holdings, LLC) will build out to the 700 locations in Burke County shown in green.

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April 20, 2021 (Regular)

Rural Digital Opportunity Fund -RDOF

- RDOF Large Effort For Charter
- Establishing New Department
- Initial Steps
- Construction
- Poles / Make Ready
- Type of Service & Speeds
- Timing – 6 Year Construction Program
- Realistic Expectations

RDOF Web Links

General RDOF

- FCC Main Site: <https://www.fcc.gov/auction/904>
- FCC Awards: <https://www.fcc.gov/auction/904/round-results>
- FCC Map: www.fcc.gov/reports-research/maps/rdo-f-phase-i-dec-2020/
- CNS Map: <https://experience.arcgis.com/experience/0b324cabf7b94d9ca34caa9361122d94/>

Charter / Spectrum

- Charter Press Release: <https://corporate.charter.com/newsroom/charter-communications-launches-new-multiyear-multibillion-dollar-initiative-to-expand-broadband-availability-to-over-1-million-new-customer-locations>
- Charter Blog Article: <https://policy.charter.com/blog/charter-announces-5-billion-initiative-to-connect-unserved-americans>
- Spectrum Rural Expansion Website: www.SpectrumRuralExpansion.com



Mike Tanck

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michael.tanck@charter.com

Mr. Tanck noted that Charter will be providing a hardline service (coax or fiber) for their new customers who will be offered the same level of service, as well as a low-cost service, as their other customers across the Carolinas.

April 20, 2021 (Regular)

Chairman Brittain opened the floor for questions and comments from the Board. In response to a question from Commissioner Taylor, Mr. Tanck said the \$17.99 package is a low-cost package that customers must qualify for, discussion ensued on the average cost of service. Commissioner Taylor asked how many new customers will this new initiative serve. Mr. Tanck said the RDOF will add 700 new addresses, but all homes may not sign up. County Manager Steen asked if the presentation could be placed on the County's Facebook page and Mr. Tanck responded in the affirmative. Chairman Brittain asked if it their intent to build the infrastructure even if the walkout is completed and no one wants the service. Mr. Tanck responded in the affirmative and clarified that the walkout is an engineering infrastructure service study and not a pre-sale solicitation.

Motion: To accept the report as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Wayne F. Abele, Sr., Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

SCHEDULED PUBLIC HEARINGS

CM - CONSIDERATION OF EXCEPTIONS TO PERFORMANCE REQUIREMENTS IN DIG AGREEMENT WITH MORGANTON LODGING ASSOCIATES LP & PUBLIC HEARING - 6:00 PM

David Bennett and Mike Kren, Morganton Lodging Associates, presented information regarding exceptions to the DIG agreement as follows:

In October of 2018, the County entered into a grant agreement (DIG) with Morganton Lodging Associates, LP for construction of an 85-bed hotel at 400 N. Green Street in Morganton. Separately, the City of Morganton also entered into a grant agreement with the company for construction of the hotel. The grant agreement established certain performance requirements and/or thresholds that must be met such as the project completion date, the amount of investment, job creation, etc. The hotel was completed in the spring of 2020, but the project did not meet some of the performance requirements outlined in the DIG agreement. While Morganton has paid the company, staff believes that additional Board action, to approve certain exceptions to the DIG requirements, is necessary before any reimbursement can be made. Representatives of the Morganton Lodging Associates, LP were asked to determine if those performance factors were achieved within the established performance period, what the performance factors actually turned out to be and to provide some explanation as to what happened if there was a difference. The Commissioners are asked to take this new information into consideration and decide if they want to grant exceptions to the performance requirements for grant year 2020.

Data for Items 1-6 were provided by Morg. Lodging Associates:

No.	Performance Requirements or Thresholds	Per the Grant Agreement	Actual
1	Project Completion	December 31, 2019	Feb. 20, 2020*
2	Number of hotel beds	85	85
3	Restaurant / Lounge	December 31, 2019	Opened January

April 20, 2021 (Regular)

			2021
4	Square Footage	50,000 sq. feet	50,074 sq. feet
5	Investment	\$12,000,000	\$12,659,358
6	Job Creation	At Least 18 New FT Jobs	12 FT, 8 PT=16 FTE^
7	Payment of Property Taxes	Payment Required	Paid Dec. 9, 2020
8	County Grant Payment	Due / Payable 90 Days After Payment of Property Taxes	Pending BOC Action

*This delay was due to 2019 being the rainiest year on record in Burke County, and is a very small delay in the context of a construction project of this size and scope.

^Because of the global pandemic, at times the hotel is forced to fill a full-time role with 2 part-time people, if that is what is available in the labor market.

The hotel ran at a 38% occupancy in 2020 due to COVID-19, versus the original projection of 68%. As such, an 11% reduction in workforce is expected.

Note: The company's NCUI 101 forms are on file in the County Manager's office and the employment numbers were verified by the Manager.

Chairman Brittain said because a few factors of the DIG agreement were not met because of the COVID-19 pandemic and weather delays, they felt it was necessary to hold this public hearing to ensure everything is done correctly and approve these items as exceptions.

At 6:29 p.m. Chairman Brittain opened the public hearing. The Public Hearing Notice was published in THE NEWS HERALD on April 8, 2021. Further, it was posted to the County's website, www.burkenc.org, on April 8, 2021. No one signed up to address the Board; therefore, Chairman Brittain closed the public hearing.

Motions:

To approve an exception to the project completion requirements as set forth in the DIG agreement for grant year 2020 for Morganton Lodging Associates, LP.

To approve an exception to the DIG job creation requirement for grant year 2020 for Morganton Lodging Associates, LP.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Maynard M. Taylor, Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

COMM. DEV. - AMENDMENT REQUEST TO ORD. 2018-16 & PUBLIC HEARING - 6:00 PM

Pete Minter, Senior Planner, presented information regarding the amendment request to Ord. 2018-16 as follows:

On December 18, 2018, the Burke County Board of Commissioners approved a Parallel Conditional Rezoning for one (1) parcel of land (PIN # 2733063442) from

April 20, 2021 (Regular)

Conservation District - Low Density (CD-L) to Planned Residential Mixed Use – *Conditional District* (PRMU-CD). The purpose of the request was to construct a one-hundred foot (100') tall Communications Tower with a single antenna for an existing off-site FM radio station.

The conditions of the approval were as follows:

1. The rezoning approval shall be specific to the communication tower use. No other uses within the PRMC-CD shall be allowed.
2. The maximum height of the communications tower shall be one-hundred (100') feet. The communications tower and/or equipment compound shall not be expanded upon or altered in any way without prior approval from the County.
3. The radio station shall provide written notice to the County whenever the use of the communications tower is to be discontinued. The communications tower shall be removed from the subject property within 90-days of the said notice.
4. The owners of the WSVM Radio shall be responsible for the removal of the tower from the subject property and the re-establishment of vegetation in the disturbed area(s).

Since the time of approval, the applicant has not moved forward to construct the tower. The property has also been subdivided and the existing SF (single family) dwelling is on its own parcel of land.

REQUEST

The applicant, Eddie Jolly, is requesting an amendment to the December 2018 Conditions of Approval. Mr. Jolly would like to increase the height of the proposed radio tower from one hundred (100') feet to one-hundred fifty (150') feet. The applicant is requesting this change for the following reasons:

1. The additional tower height allows for the wavelength of the transmission system to be as close to quarter wavelength as possible.
2. The radio station is currently operating on an analog radio carrier but intends to operate in High Definition (HD) Radio Mode. This mode replaces the current analog system and will increase the coverage area and audio quality to better serve the public.
3. The additional tower height will allow for "error free" transmission of HD radio data.
4. The current approved tower height only allows for analog transmission. The applicant also would like to relocate the tower to a different location on the property.

PROPERTY IMAGES

April 20, 2021 (Regular)



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April 20, 2021 (Regular)



STAFF COMMENTS

In considering the proposed request, staff would like to point out the following Findings of Fact:

1. The request is an Alteration to the Conditions of a previously approved Conditional Rezoning. The Planning Board is not involved in this decision.
2. The request would be asking for a 50% increase in the height of the tower.
3. The changes to the property (subdivision) and the tower (height and location) will require the applicant to submit an amended Site Development Plan.

April 20, 2021 (Regular)

4. The changes to the approved tower will have to meet the requirements of Section 1107 Communications Towers of the Burke County Zoning Ordinance.
5. The vesting period for an amended approval shall be two (2) years.
6. A Zoning Permit would be required prior to the commencement of any work, including grading the lot.

Chairman Brittain opened the floor for questions and comments from the Board. Commissioner Taylor asked how much further will the tower signal be carried due to the increase in height. Mr. Minter said in discussions with the applicant, part of the request has to do with FCC approval to allow for HD radio for the station which requires the additional height for the tower.

At 6:35 p.m. Chairman Brittain opened the public hearing. The Public Hearing Notice was published in THE NEWS HERALD on April 8, 2021 and April 15, 2021. Further, it was posted to the County's website, www.burkenc.org, on April 8, 2021. No one signed up to address the Board; therefore, Chairman Brittain closed the public hearing.

Motion: To adopt Ord. No. 2021-02 amending Ord. No. 2018-16 as it relates to ZMA 2018-07 and approve the related Statement of Consistency.

Statement of Consistency

The proposed Alteration of ZMA 2018-07 is justified because the alternation would not adversely affect the surrounding area or hinder the tower from meeting the standards of the original approval.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Maynard M. Taylor, Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

Ord. No. 2021-02 reads as follows:

BURKE COUNTY
NORTH CAROLINA

ORDINANCE AMENDING ORDINANCE NO. 2018-16 CONDITIONS OF APPROVAL - COMMUNICATIONS TOWER REF: ZMA 2018-07

Be it ordained that the Burke County Board of Commissioners hereby amend the Conditions of Approval as set forth in Ord. 2018-16 as follows:

CONDITIONS OF APPROVAL

1. The rezoning approval shall be specific to the communications tower use. No other uses within the PRMU-CD shall be allowed.
2. The maximum height of the communications tower shall be **one-hundred fifty (150')**

April 20, 2021 (Regular)

- feet.** The communications tower and/or equipment compound shall not be expanded upon or altered in any way without prior approval from the County.
3. The radio station shall provide written notice to the County whenever the use of the communications tower is to be discontinued. The communications tower shall be removed from the subject property within 90-days of the said notice.
 4. The owners of WSVM Radio shall be responsible for the removal of the tower from the subject property and the re-establishment of vegetation in the disturbed area(s).

Adopted this 20th day of April 2021.

/s/: Jeffrey C. Brittain
 Jeffrey C. Brittain, Chairman
 Burke Co. Board of Commissioners

Attest:

/s/: Kay Honeycutt Draughn
 Kay Honeycutt Draughn, CMC, NCMCC
 Clerk to the Board

COMM. DEV. - ZONING MAP AMENDMENT ZMA 2021-01 & PUBLIC HEARING - 6:00 P.M.

Pete Minter, Senior Planner, presented information regarding ZMA 2021-01 as follows:

REQUEST

Staff has received a rezoning application from Patrick and Jacqueline Welch to rezone a parcel of land totaling 2.29 acres. The request is to rezone the property from its current zoning of Office/Institutional (O/I) to the Residential Two (R-2) zoning district.

BACKGROUND AND SITE ANALYSIS

In 2014, the applicant's property was zoned by the County during the Morganton ETJ Relinquishment. At that time, approximately 2,300 parcels were rezoned from city zoning to county zoning.

On either side of the applicant's residence is a health care office and a church. The city had both Office/Institutional zoning in the immediate area with a small slice of residential zoning corresponding to the applicant's property.

The applicants are now needing to rezone their property to residential in order to refinance their home. The bank will not approve a residential loan because the property is not zoned residential.

The parcel is described as follows:

The parcel is further identified in county records as (PIN# 2702966923 and REID# 5001). The parcel 911 address is 606 Old NC 18, Morganton, NC, 28655. The parcel is located within the Morganton Township and the Salem Fire District of Burke County. The parcel is located within a WS-IV PA Water Supply Watershed. Records indicate that the property can be served by public water and private onsite septic. The parcel has approximately 212 linear feet of frontage on

April 20, 2021 (Regular)

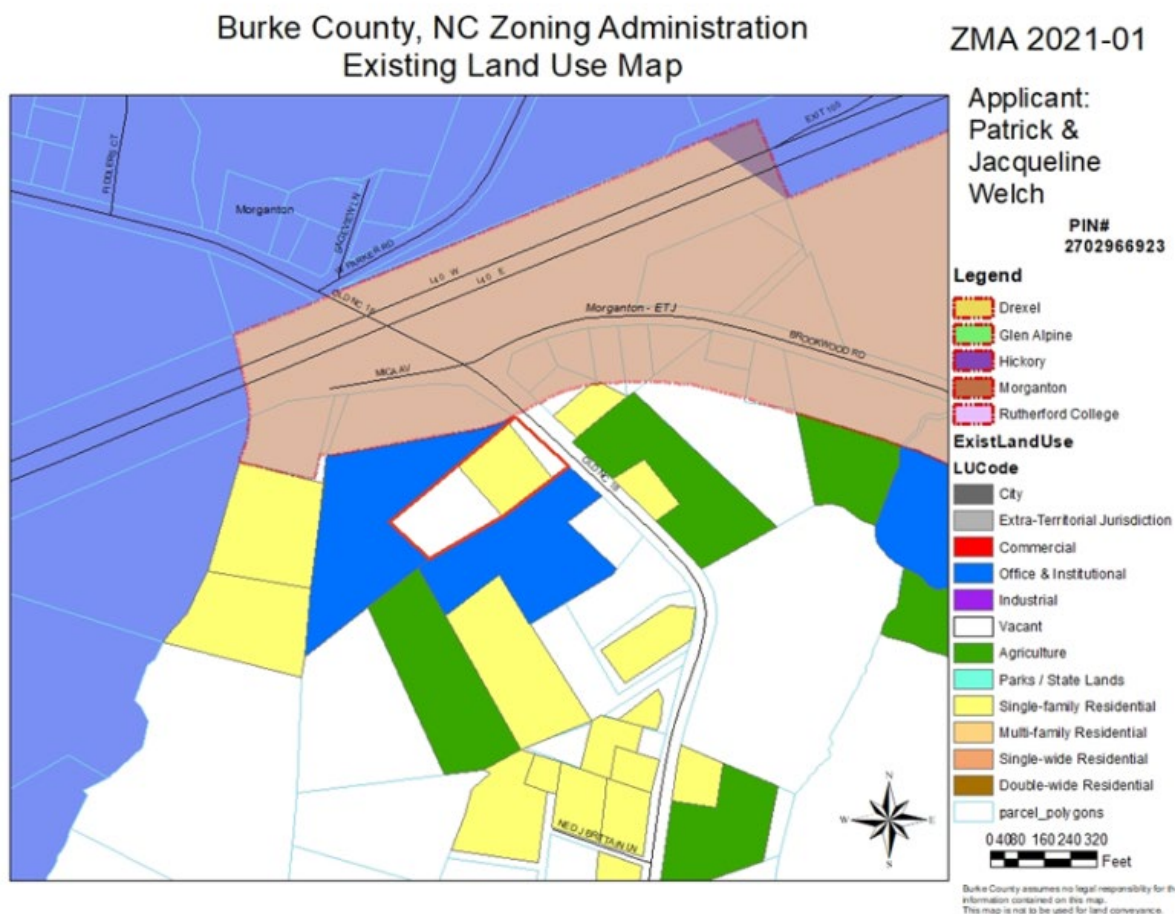
Old NC 18. Old NC 18 is a state maintained public road (SR #1924). The parcel is located within the I-40 Overlay District.

SURROUNDING AREA

The predominant zoning in this area is Residential-Two (R-2), however, the adjoining parcels are zoned Office/Institutional (O/I). To the north is City of Morganton zoning. The Medium Intensity District (MID) district is the closest city zoned district to the subject property. Morganton's Medium Intensity District is intended for a variety of medium-to-high density residential and low-to-medium intensity civic, institutional, office, service, and retail uses designed to keep the impact on adjacent residential areas at a minimum.

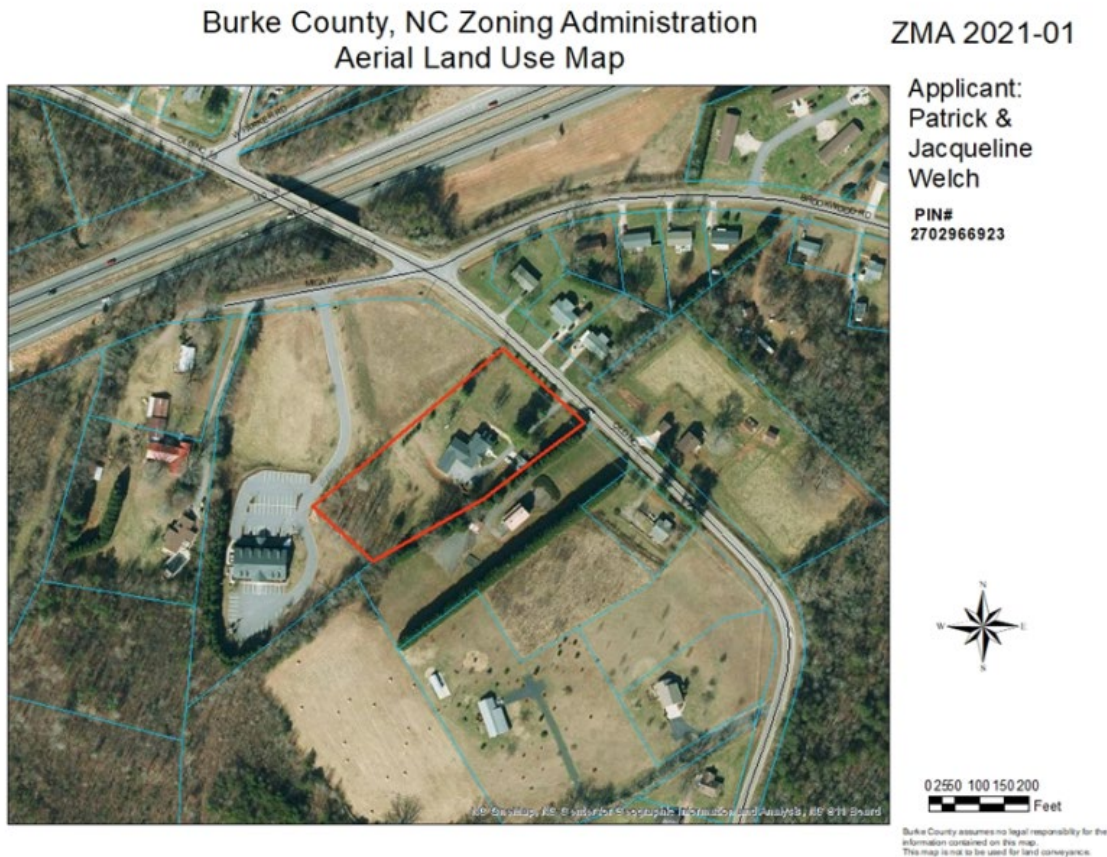
Existing Zoning and Land Uses within the Surrounding Area		
	Current Zoning	Existing Land Uses
North	MID - Morganton	Vacant Land / Residences
South	O/I and R-2 / I-40	Church / Residences / Vacant Land
East	R-2 / I-40	Residences / Vacant Land
West	O/I / R-2 / HID Morganton	Health Care Facility / Residences

The Existing Land Use Map provides a visual representation of the existing uses outlined in the "Existing Zoning and Land Uses within the Surrounding Area" table.



April 20, 2021 (Regular)

The Aerial Land Use Map depicts the health care facility to the west and the church to the south. There is a small subdivision to the north (Brookwood) which is in Morganton's Extraterritorial Jurisdiction (ETJ). Other surrounding land is either vacant or has scattered residential uses on it.

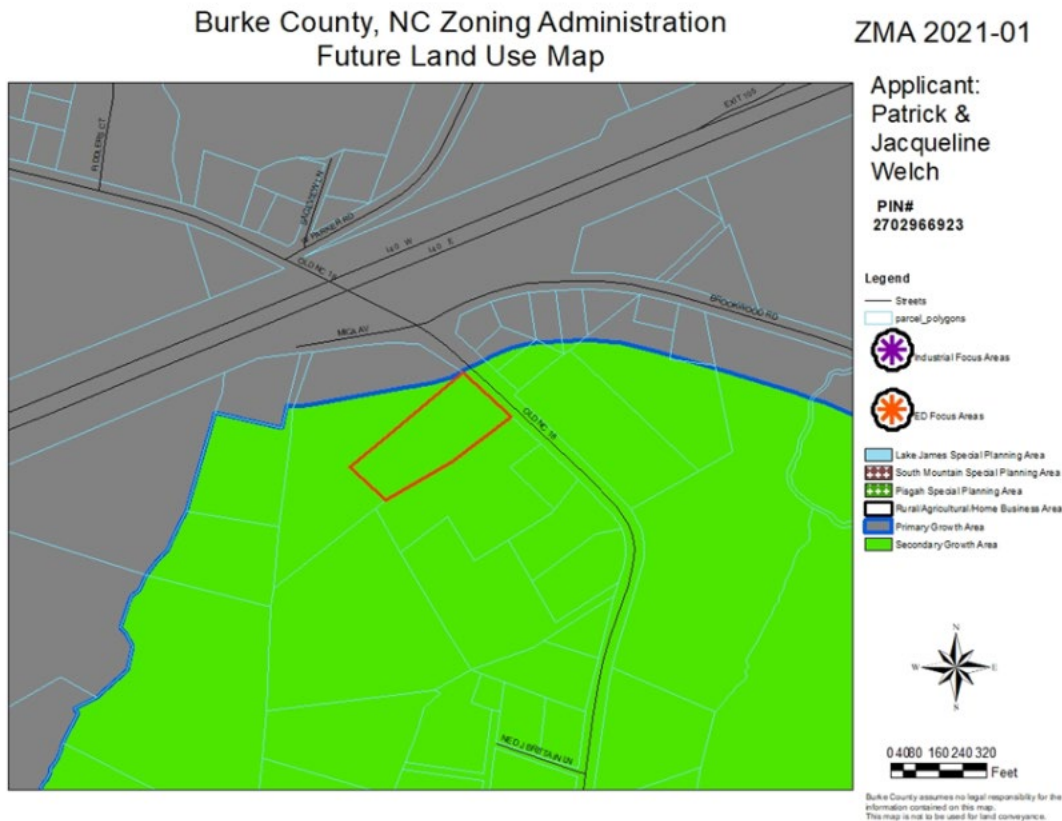


CONFORMITY WITH THE COMPREHENSIVE PLAN

The current land use plan for Burke County is the 2016-2030 Blueprint Burke Strategic Land Use Plan. The subject parcel is located in the Secondary Growth Area. Secondary Growth Areas have many of the same attributes as Primary Growth Areas such as infrastructure, utilities, and transportation corridors. The Primary Growth Area (gray color) is within the city of Morganton's city limits and ETJ.

One of the fundamental policies of the Land Use Plan is to allow and promote multiple types of economic development opportunities. A diverse economy can appeal to a wide range of population groups. This could be achieved through higher density and mixed-use type developments. In addition to residential uses, commercial, institutional, and industrial development can be expected in these areas as needed to support the other uses within this area.

April 20, 2021 (Regular)

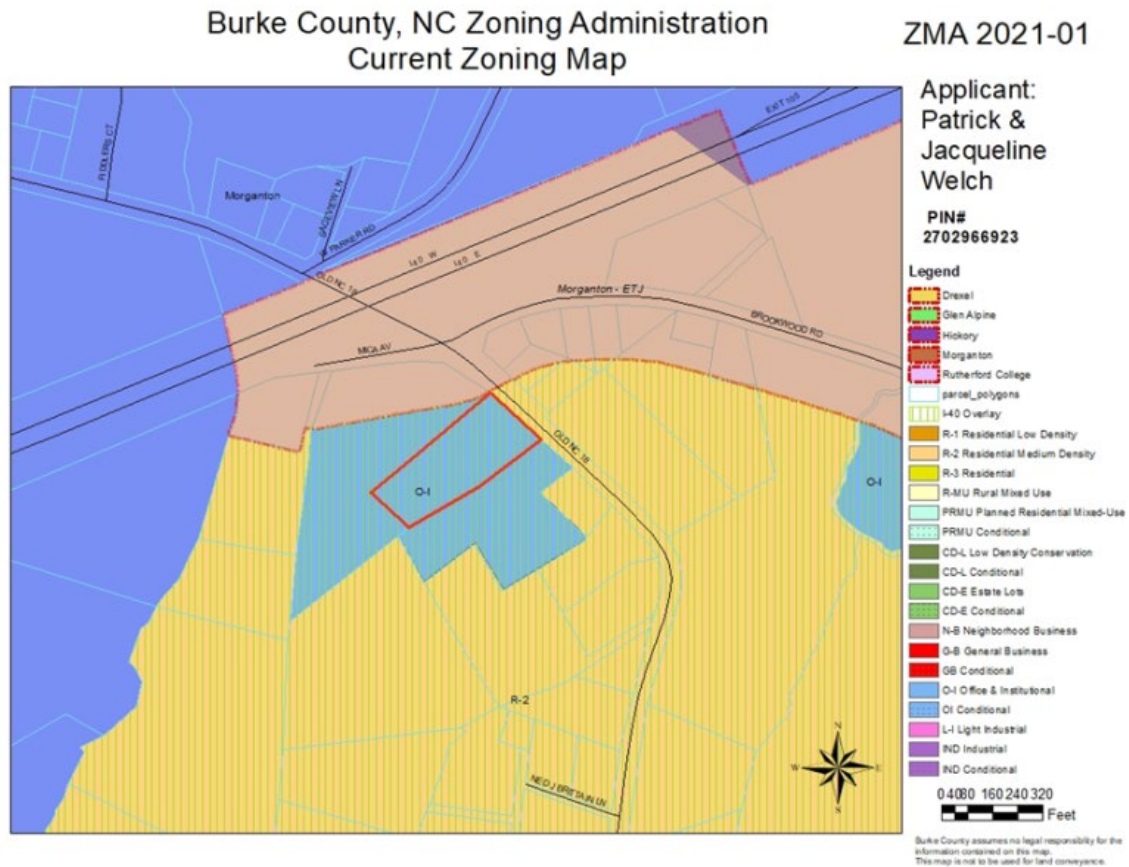


CONFORMITY WITH THE BURKE COUNTY ZONING ORDINANCE

The current Zoning Map shows the zoning for the subject parcel and surrounding area. As stated earlier, the "current" zoning district for this parcel is Office/Institutional (O/I). This zoning conflicts with the existing residential use of the property and creates a *non-conforming* situation. Rezoning the property to the Residential Two (R-2) district would resolve the land use conflict and bring the non-conforming situation into compliance.

The subject parcels have frontage on Old NC 18 (SR# 1924), a minor arterial road. Minor arterials serve to connect activity centers, but they also serve less intense development areas like small retail centers, office centers, and industrial/business parks. Minor arterials provide traffic service for moderate trip lengths. Average trip lengths on minor arterials will be one or two miles long.

April 20, 2021 (Regular)

**STAFF COMMENTS**

Although, the subject parcel is currently zoned Office/Institutional, the current use of the property is a residential use. The majority of land surrounding the subject parcel is zoned either residential (R-2) or Medium to High Intensity (City of Morganton). Both Morganton districts allow residential uses. Rezoning the subject property to the R-2 District would resolve the current zoning/land use conflict and would be compatible with the surrounding land uses in the area. Staff recommends approval of the rezoning petition.

PLANNING BOARD RECOMMENDATION

The Burke County Planning Board held a public meeting on March 25, 2021 to hear this request. The Board heard from staff and the applicant regarding the rezoning petition. There was no one present from the public to speak at the public comment portion of the meeting. The Board had no deliberation and voted unanimously 6-0 to approve the rezoning request.

To assist the Board in their decision, staff has provided the following considerations:

- Is there a public need for additional land to be zoned to the requested classification?
- What is the impact on public services, facilities, infrastructure, fire and safety, and topography?
- What are the nearby development/zoning patterns?

April 20, 2021 (Regular)

- Consider the full range of uses allowed by the proposed district versus the uses allowed within the current zoning district.
- Is the rezoning request compatible with the character of the surrounding area and suitable with the property for certain use?

ADDITIONAL INFORMATION

Please refer to the application, driving directions, photos, and map(s) for more information.



April 20, 2021 (Regular)



April 20, 2021 (Regular)



At 6:43 p.m., Chairman Brittain opened the public hearing. The Public Hearing Notice was published in THE NEWS HERALD on April 8, 2021 and April 15, 2021. Further, it was posted to the County's website, www.burkenc.org, on April 8, 2021. No one signed up to address the Board; therefore, Chairman Brittain closed the public hearing.

Motion: To adopt Ord. No. 2021-03 regarding ZMA 2021-01 and the following Statement of Consistency / Rationale for Decision:

The Burke County Board of Commissioners recommends "Approval" of the proposed rezoning request because:

April 20, 2021 (Regular)

- The proposed zoning reclassification is consistent with the purposes, goals, objectives, and policies, of the adopted land use plan, and other plans for the physical development of the County as adopted by the Board of Commissioners.
- The proposed zoning reclassification is compatible with the overall character of existing development in the immediate vicinity of the subject property.

Rationale for Decision

Rezoning the property to the Residential Two District would be consistent with the existing use of the land and structure. Rezoning the property to the R-2 District would correct the existing non-conforming use of land and bring the property into compliance with the Zoning Ordinance.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Johnnie W. Carswell, Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

Ord. No. 2021-03 reads as follows:

Burke County
North Carolina

An Ordinance Amending the Official Burke County Zoning Map ZMA 2021-01

Be it ordained that the Official Burke County Zoning Map is hereby amended as follows:

An 2.29-acre parcel of land corresponding to PIN#: 2702966923 is hereby re-zoned **from** the Office Institutional District **to** the Residential Two (R-2) Zoning District.

Adopted this 20th day of April 2021.

/s/: Jeffrey C. Brittain
Jeffrey C. Brittain, Chairman
Burke Co. Board of Commissioners

Attest:

/s/: Kay Honeycutt Draughn
Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board

WPCOG - GRANT (CDBG WATER PROJECT 16-I-2914) CLOSEOUT PUBLIC HEARING NO. 2 - 6:00 PM

Information from the agenda packet:

Due to an advertising error, a second (2nd) close-out public hearing on the Rhoney Road / Hwy. 18 South water infrastructure grant (No. 16-I-2914) is required to close the grant. Erin Schotte, WPCOG Community & Economic Development Administrator, will review the pertinent grant information. The

April 20, 2021 (Regular)

advertising cost will be absorbed by the grant administrator, WPCOG.

Erin Schotte, WPCOG grant administrator, reported a public hearing is required to close out the Community Development Block Grant water project on Rhoney Road and Hwy. 18 S. Utilizing a \$2 million grant awarded by the N.C. Division of Water Infrastructure in 2017, this project extended 18,870 LF of 8" water line on NC Highway 18 South (connecting dead end lines currently on Highway 18 South between the 4824 NC Hwy 18 South and John Abee Street intersection) and 12,130 LF of 8" water line on Rhoney Road to Old NC Highway 18 South. Prior to this project, homes in the area were served by rock wells with low yields and the water was high in iron, manganese, and hydrogen sulfide. Other homes were served by springs, with varying water yields contingent on precipitation. Income surveys were conducted for each of the 42 occupied households within the project area; total water project benefit is 64.7% low- to moderate-income individuals. The project provided an additional direct benefit to 23 low-moderate income households (46 low-income persons served) by installing water connections (including service lines, connection at house, and well disconnection). In addition to installing 31,030 LF of new 8" waterline, the Burke County CDBG-I Water Project (16-I-2914) installed 13,267 LF of new water services lines, 29 new hydrants, and 40 new meter setters and boxes.

Summary of Benefits Provided by Infrastructure Project:

- 42 households (85 people) improved with access to new water line (approximately 64.7% low/moderate-income people)
- 23 households (46 persons) (100% low/moderate-income) benefiting with free water tap and housing connection
- 31,000 linear feet of new 8" water lines installed

Budgetary Effect: None for the public hearing. Courtesy reminder: In January of 2019, a construction contract for \$1,843,844.38 was awarded to Piedmont Utility Group, Inc. and up to \$225,000 of General Fund, Fund Balance was appropriated if additional grant funding could not be found. In addition to the construction contract, there were other contracts associated with the project totaling \$381,280: grant administration services (\$170,000), environmental review (\$12,000), engineering services (\$178,280) and construction observation services (\$21,000). For the construction contract, there were two (2) change orders totaling (\$17,507.74); therefore, the final construction contract amount is \$1,826,336.64. Highlights of the change orders are as follows:

Change Order 1

- A 90-day time extension was requested by contractor to allow for coordination with plumber connecting new lines with project beneficiary homes.
- Net Increase of this Change Order: \$0

Change Order 2 (Final)

- Final adjusting change order with bid item quantity adjustments due to quantity changes or design changes.
- Net Decrease of this Change Order: (\$17,507.74)

Unfortunately, no additional grant funding was found. However, only \$117,943.43 of Fund Balance was needed to balance the project budget. In actuality, only \$14,930 of GF Fund Balance was used due to interest earnings and old project funds available in the CDBG Fund.

The total cost of the project was \$2,117,943.43 with the County being responsible for the

April 20, 2021 (Regular)

amount over \$2 million.

With there being no questions from the Board, Chairman Brittain opened the public hearing at 6:48 p.m. The Public Hearing Notice was published in THE NEWS HERALD on April 7, 2021. Further, the notice was posted to the County's website, www.burkenc.org, on April 7, 2021. No one signed up to address the Board. Therefore, Chairman Brittain closed the public hearing.

RESULT: NO ACTION TAKEN.

INFORMAL PUBLIC COMMENTS

At 6:49 p.m., Chairman Brittain opened the floor for informal public comments. Ten (10) citizens signed up to address the Board.

Carol Ervin Largent, 429 Bost Road, said the confederate monument was erected as a commemoration, which means to mark an event, or to honor a person or people. She said God has called everyone to be brothers and sisters in Christ and to love one another in Christ as Christ loved us. Ms. Largent said she has been in Burke County all her life and probably knows someone who's family is affiliated with the monument. She said there are two (2) different things going on with the downtown monument, the people, and the monument itself and noted the monument itself stands for something totally different. Ms. Largent said those events do not mean anything close to righteousness which God is to her. She said the monument stands for two (2) different things in people's minds and questioned how something like the monument can be the center of the community. Ms. Largent referenced Commissioner Taylor's comments at the April pre-agenda meeting regarding the monument and quoted Bible verses, Psalm 97, and Deuteronomy 11. She noted while she may or may not have voted for some of the Commissioners, they are her County Commissioners, and she respects them. However, Ms. Largent said, she expects them to represent her and people who look and speak like her as well as other people. She said objects of remembrance should be neutral, not the center of controversy in the middle of town. She encouraged the Board to not hide behind a law that only protects some people and further encouraged the Board to find solutions. She then quoted Matthew 23.

Lennetta Williams, Morganton, said she supports the removal of the confederate monument, not the destruction of the monument, but the relocation of it. She lived in Morganton for most of her life and when she came back in 1997, many things had changed, but not the unrest that surrounds the statue. Ms. Williams then spoke of a Ku Klux Klan demonstration held at the statue and said the monument protest of last summer was the worst experience she has experienced in her lifetime. She expressed concern for the downtown business owners who she believed were in danger because of individuals who cared more about their rights than about the safety and well-being of the community. She requested that the Board work to make Morganton a healthy place for all citizens.

Claude Maines, Morganton, said his comments are regarding Ridgescreek Drive and his neighbor, Lee Flynn, with whom the neighborhood has had a problem with ever since he moved in. He said Mr. Flynn does not see the neighborhood the way they see their neighborhood and noted they are not necessarily an affluent neighborhood, but they do like to keep the area as clean as possible. Mr. Maines said Mr. Flynn makes a living by doing odd jobs, brings all sorts of things to his house and within six (6) months, it looked like a landfill. He said the house was paid for and given to Mr. Flynn by his mother-in-law and the house, which had no insurance, burned

April 20, 2021 (Regular)

down. Local churches reached out to the Flynn family, Mr. Maines said, but he did not put the assistance to good use, he plays the "pity card" and the neighborhood has had enough. He said the neighbors want him to clean his act up and noted he has had five (5) years to do it, but never did. Mr. Maines said Mr. Flynn's only problem is geography, and he needs to be off by himself or with other people who are more like him.

Robin Buchanan, 2557 Ridgecreek Drive, read the following statement:

To the Burke County Board of Commissioners. Thank you for the opportunity to speak regarding property located at 2372 and 2360 Ridgecreek Drive, Morganton, NC. These two parcels of property are owned by Joy and Jerry L Flynn. The first Sunday in January 2018, the dwelling located at 2372 was heavily damaged by a fire. Following the fire, several of the neighbors along with several local area churches reached out to the Flynn family with assistance. It was our understanding that the Flynn's were going to rebuild and that he had obtained a building permit. As time went by, there was evidence of building materials and other debris being collected at both 2372 and 2360 Ridgecreek Dr. After a period of three (3) plus years, the County has been contacted numerous times to verify the status and to seek assistance to have the place cleaned up. The County Officials have worked with the neighbors through this process to the point of where we are tonight. It is my understanding that a condemnation hearing was held on Tuesday, March 30 and a 60-day demolition order was given. At that time the deadline for demolition and cleanup was May 30, 2021. Both tracts of land are now filled with Styrofoam blocks, large plastic water collection containers (i.e., for farm or commercial property), tarps of all sizes and colors, and a large amount of trash. The Styrofoam blocks are now appearing in the creek at the back of landowner's property and in neighbors' yards. Having lived in the area for 30 plus years, the neighborhood has had its issues, but never have we experienced anything of this nature. Therefore, I speak for the Condemnation Order to remain in place for the burnt house and the demolition and cleanup to remain as of May 30, 2021. I also, petition when said property is cleared, that it is not allowed to be placed at the parcel where he has a metal building (2360 parcel). As the two parcels join and all the debris and trash that is currently related to this condemnation is spread between the two parcels. Both of these tracts of land should be considered as an infectious area. Again, I am speaking in favor of the condemnation, demolition, and clean-up of the parcels of land by May 30, 2021 belonging to Joy and Jerry L. Flynn.

Shirley Taylor, 3095 Taylor Avenue, read the following statement:

Commissioners,
Thank you for allowing opinions to be heard in the subject of our Burke Co. Confederate Statue. To a great number of our Burke County citizens this is a matter of the history of our country, our county and our families. Families cherish photos, medals, stories of relatives / friends who fought in this civil war and future wars. All history contains the good, the bad and the ugly! What is the purpose of history? To remind us of our past – our conduct – our accomplishments – our failures. Remembering is one of our best tools in learning. History is one of the greatest inspirations to learning and improving!

April 20, 2021 (Regular)

Both lead us to consider the good – the bad – and the ugly. Which of these do we want to keep – which of these do we need to learn from and never repeat? The greatest History Book is the Bible! Jesus used the phrase “in remembrance of me.” The dead have passed the torch on to us – the living. It’s up to us to keep the good of history – the lessons learned – alive and expand on them. This is what the Confederate Statue means! We need reminders – we need visible reminders to keep us on the right path. If we delete our history how many life lessons will be forgotten? How many good things will be omitted from our lives? What will be the next movement – the next part of history to be eliminated? Let Burke County stand in the gap and keep learning and history as it is. Thank you!

Barbara Lail, 2577 Lindsey Road, said there are many names listed on the confederate soldier monument, but her special soldier’s name is Solomon Buff. She recounted the hardships and battles that Solomon Buff experienced during the Civil War. She noted that many of the dead never made it home, but they do have a remembrance of their suffering, dying, and duty performed. She said there is a danger that this statue of remembrance and others, being removed. Ms. Lail then referenced the busts of veterans displayed at the current Burke County Courthouse and asked if someone will want them removed, because they did not like the country’s participation in World War II. She said it is important to protect the monuments we have now and encouraged troublemakers to stop because trouble is not needed. While it may be illegal to remove the statue now, she questioned how much trouble it would take before the monument is removed or how long it will be until it becomes legal to remove the statue. She said one day she would like to take her great grandsons to see the name of their relative on the statue.

Diana Register, 106 Edgewood Avenue, spoke in favor of the removal of both the confederate statue and confederate flags on Interstate 40. She said while the Board has done some good things for Burke County in other respects, the Board is failing the community badly by allowing two (2) oversized confederate flags to mark Burke County and the name for that is called a “sundowner community.” She said this is 2021 and the Board is allowing people, some of which do not live in North Carolina, to mark Burke County as a county where only white people are welcome. As a white person, she said she is offended by that and noted it is not only blacks, Latinos, or Asians, it affects everyone, and only the Board can do something about it. Ms. Register said the problem is easily solved by amending the zoning ordinance for the I-40 corridor and noted that a while ago they submitted a petition with 5,000 signatures to the Board and the Board did nothing. Further, Ms. Register said she was appalled by the comments Commissioners Carswell and Taylor made at the pre-agenda meeting concerning the statue. She said laws are laws and they are re-considered, re-written, and re-interpreted and noted the interpretation of the law that says the Board cannot remove the statue is a very narrow interpretation. Ms. Register said there were 5,000 signatures supporting the removal of the confederate flags, and 7,800 for the removal of the confederate statue and all the Board has done is thank them and said they have done everything they can do. She said the statue needs to be removed because it is a commemoration of a war that said some human beings are not even human beings and they have no rights. She said it is past time for the statue to be removed and they are allowing people like her to be threatened.

Eric McNaughton, 4515 Mount Olive Church Road, said he and his family moved to Morganton in 2009 and that he is here to speak about the confederate monument. Based on his review of recent meetings, it is clear the Board hopes to do what is right. He said what the community is

April 20, 2021 (Regular)

dealing with is not participation in cancel culture nor the national movement to remove monuments, nor is it an attempt to erase history. He said they are dealing with what is truth as it pertains to the Morganton community. Mr. McNaughton said, referencing the Board's previous meeting, truth is what it is, it is unmovable, and while he agrees with that statement, however, our interpretation of what truth is, is not ultimate and unmovable. He said he realizes all the good things the monument stands for, states rights, the meaningfulness of the men who gave their lives for the First and Second Amendment which are all very meaningful. However, the monument also symbolizes the militant attempt to maintain oppression of fellow man, which is an unescapable fact, not an interpretation or imagination as was suggested at the pre-agenda meeting. He said the truth that we face together is that maintaining a symbol of oppression on the public square is wrong. Mr. McNaughton said we now have the opportunity to reform to what the truth is and as Dr. Martin Luther King, Jr. and Jesus Christ said, it is our duty to reform laws to allow for God's truth to be what we actually uphold. In closing, he requested the Board remove the confederate monument from the Historic Courthouse Square. Mrs. McNaughton stood at the podium but did not speak.

Malachi Pearson, 514 Rockyford Street, said he started the protest in Morganton last year and the petition, which he has full command of, has 78,000 signatures. Mr. Pearson spoke about the protest at the monument last year and racist comments that were said to a young African American girl. He said he understands the monument is some people's heritage and noted he loves the south and while he is from Colorado, he did not know love until he arrived here. He said when people defend a statue that still supports racism, even if some deny it, he has to deal with it and noted he has received death threats for attempting to get the statue removed. Mr. Pearson asked how far do they have to go with this and how loud do we have to get. He shared his family background which originated from the Connelly plantation and gave an account of a racist encounter with a police officer. Mr. Pearson requested that the Board get a handle on the monument and remove it before it is removed for them.

Lee Flynn, 2372 Ridgecreek Drive, said he is the owner of the controversial property on Ridgecreek Drive and admitted that he has been working on the property for some time now. As a self-employed person doing hands-on projects the old fashion way, without a lot of equipment, does not leave him with a lot of money or time. He said he is at the house a couple of weekends a month and has almost built back one (1) of the structures. However, when the COVID-19 pandemic hit, Mr. Flynn said his business suffered tremendously. Mr. Flynn then said he has had numerous negative encounters with his neighbors that required him to put up fences for privacy / security and that when his home burned down, his family received \$2,500 hundred from various local churches. Mr. Flynn accused his neighbors of exposing his building materials while he is away from the home and noted the perimeter of his property is closed. He said he is not trying to make the neighborhood messy and noted when his family moved to the property in 2015, he used wood, which is why he could not get an insurance policy. Mr. Flynn said he is willing to do whatever it takes to get back into his property. He said his neighbors keep using County officials to inhibit his progress.

With there being no one else to address the Board. Chairman Brittain closed this portion of the meeting.

CONSENT AGENDA

At the request of the Chairman, County Manager Steen reviewed the items on the consent agenda.

April 20, 2021 (Regular)

BOC - OPPOSITION TO INCREASED ACCESS TO MARIJUANA THROUGH DECRIMINALIZATION AND POTENTIAL LEGALIZATION

The resolution proclaims the Commissioners' beliefs that the residents of Burke County as well as the entire State of North Carolina will suffer if increased access to marijuana is allowed through decriminalization and potential legalization. It also implores the North Carolina General Assembly to seriously consider the ramifications of decriminalizing and legalizing marijuana.

Research suggests the most effective and cost-efficient way to reduce substance use is to prevent it before it starts. In a county of 90,000 people, the majority of whom have been impacted by substance use, overdose rates are at an all-time high and fear is soaring.

Motion: To adopt Res. No. 2021-07.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Wayne F. Abele, Sr., Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

Res. No. 2021-07 reads as follows:

STATE OF NORTH CAROLINA
COUNTY OF BURKE

RESOLUTION

Opposition to Increased Access to Marijuana Through Decriminalization and Potential Legalization by the North Carolina General Assembly

WHEREAS, ensuring prevention, education and awareness is consistently shared with all ages and is key in impacting this substance use epidemic; and

WHEREAS, collaborative efforts are occurring across our state and nation with the common goal of saving lives; and

WHEREAS, potential decriminalization, and possible legalization, of marijuana is currently one of the most concerning issues facing the many coalitions working with victims of substance use; and

WHEREAS, decriminalization and/or legalization of any substance reduces the perception of risk or harm and thus increases use of the substance; and

WHEREAS, Burke County's average age of first use of a substance is 12.5 years old - essentially a 6th grader; and

WHEREAS, research shows full development of the brain does not occur until the age of 25, therefore, substance use will cause changes to the brain; and in an underdeveloped brain, like that of an adolescent, these alterations can lead to permanent damage; and

April 20, 2021 (Regular)

WHEREAS, the legality of a substance does not change the fact that it physiologically damages the user with Marijuana being no exception; and

WHEREAS, in every state where marijuana has been decriminalized and/or legalized, youth perception of risk or harm has decreased and as a result adolescent use has skyrocketed; and

WHEREAS, decriminalization and legalization also increases the availability of marijuana, so youth also have increased access; and

WHEREAS, lowered perception of risk or harm coupled with increased availability are contributing to a damaged generation.

NOW, THEREFORE, BE IT RESOLVED that the Burke County Board of Commissioners does hereby proclaim their belief that the residents of Burke County, North Carolina as well as the entire State of North Carolina will suffer if increased access to marijuana is allowed through decriminalization and potential legalization;

AND BE IT FURTHER RESOLVED that the Burke County Board of Commissioners as advocates for an already scarred community and for the safety of our children and families implore members of the North Carolina General Assembly to seriously consider the ramifications of decriminalizing and legalizing marijuana.

Adopted this 20th day of April 2021.

/s/: Jeffrey C. Brittain
Jeffrey C. Brittain, Chairman
Burke Co. Board of Commissioners

Attest:

/s/: Kay Honeycutt Draughn
Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board

BOC - PUBLIC HEALTH MONTH PROCLAMATION

To recognize the service that the Burke County Health Department provides to the community and to encourage Burke County citizens to take steps to protect and promote the health and wellbeing of their families by making healthy personal lifestyle choices and seeking regular preventive health care, approval of this proclamation is requested.

Motion: To adopt Proclamation No 2021-02.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Wayne F. Abele, Sr., Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

Proclamation No. 2021-02 reads as follows:

Burke County
North Carolina

April 20, 2021 (Regular)

Proclamation
Designating the Month of May 2021 as Public Health Month

WHEREAS, the Burke County Health Department has served the community for many years and provided immeasurable contributions to enhancing the quality of life for our residents; and

WHEREAS, public health programs have evolved over the past century from a focus on sanitation and controlling the spread of infectious diseases to now also preventing the onset of chronic diseases; and

WHEREAS, the significant increase in life expectancy is widely credited to improvements in public health programs; and

WHEREAS, public health promotes improved lifestyles by providing services and supporting policies to help young people stay well and develop into healthy adults.

NOW, THEREFORE, BE IT RESOLVED that the Burke County Board of Commissioners does hereby proclaim the month of May 2021 as Public Health Month and encourages all citizens of Burke County to take steps to protect and promote the health and wellbeing of their families by making healthy personal lifestyle choices and seeking regular preventive health care.

Adopted this 20th day of April 2021.

/s/: Jeffrey C. Brittain
Jeffrey C. Brittain, Chairman
Burke Co. Board of Commissioners

CLERK - APPOINTMENT TO LIBRARY BOARD OF TRUSTEES

Seat No. 9 (at-large) on the Library Board of Trustees was occupied by Sherry Willard; however, she is not seeking reappointment. An application was received from Susan Berley, WPCC VP for Student & Support Services. The remainder of the 3-year term of appointment ends December 31, 2023.

Motion: To remove Sherry Willard's name from the official roster for the Library Board of Trustees and thank her for her service to the community. To appoint Susan Berley to the Library Board of Trustees, Seat No. 9 (at-large) for the remainder of a 3-year term ending December 31, 2023.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Wayne F. Abele, Sr., Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

CM - PROCLAMATION DECLARING MAY 6, 2021 AS NATIONAL DAY OF PRAYER

The National Day of Prayer tradition predates the founding of the United States of America, evidence by the Continental Congress' proclamation in 1775 setting aside a day of prayer. In 1952, Congress established an annual day of prayer and, in 1988, that law was amended, designating the National Day of Prayer as the first Thursday in May. Though the National Day of

April 20, 2021 (Regular)

Prayer focuses most of its efforts promoting the annual day of prayer, we realize that true life-altering, world-changing prayer cannot happen in a single day. It must become a discipline. The theme for the 2021 National Day of Prayer is "LORD pour out Your LOVE, LIFE, and LIBERTY." The Board is requested to adopt a proclamation.

Motion: To adopt Proclamation No. 2021-03.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Wayne F. Abele, Sr., Commissioner

AYES: Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

Proclamation No. 2021-03 reads as follows:

Burke County
North Carolina

PROCLAMATION
NATIONAL DAY OF PRAYER
THURSDAY, MAY 6, 2021

WHEREAS, civic prayers and national days of prayer have a long and venerable history in our constitutional republic dating back to the First Continental Congress in 1775; and,

WHEREAS, the Declaration of Independence, our first statement as Americans of national purpose and identity, made "the Laws of Nature and Nature's God" the foundation of our United States of America and asserted that people have inalienable rights that are God-given; and,

WHEREAS, the Supreme Court has affirmed the right of state legislatures to open their sessions with prayer, and the Supreme Court and the United States Congress themselves begin each day with prayer; and,

WHEREAS, in 1988 legislation setting aside the first Thursday in May in each year as a National Day of Prayer was passed unanimously by both Houses of Congress and signed by President Ronald Reagan; and,

WHEREAS, the National Day of Prayer is an opportunity for Americans of all faiths to join in united prayer to acknowledge our dependence on God, to give thanks for blessings received, to request healing for wounds endured, and to ask God to guide our leaders and bring wholeness to the United States and her citizens; and,

WHEREAS, it is fitting and proper to give thanks to God by observing a day of prayer in Burke County when all may acknowledge our blessings and express gratitude for them, while recognizing the needs for strengthening religious and moral values in our state and nation; and,

WHEREAS, this year's theme is "LORD pour out Your LOVE, LIFE, and LIBERTY."

NOW, THEREFORE, we, the County Commissioners for Burke County, North Carolina, do hereby proclaim Thursday, May 6, 2021, to be designated as "A Day of Prayer in Burke County" and encourage the citizens of Burke County to observe the day in ways appropriate to its

April 20, 2021 (Regular)

importance and significance.

Adopted this 20th day of April 2021.

/s/: Jeffrey C. Brittain

Jeffrey C. Brittain, Chairman

Burke Co. Board of Commissioners

Attest:

/s/: Kay Honeycutt Draughn

Kay Honeycutt Draughn, CMC, NCMCC

Clerk to the Board

TAX DEPT. - TAX COLLECTION REPORT FOR MARCH 2021

The Board of Commissioners is presented with the Tax Collection Report for the period between July 1, 2020 and March 31, 2021. This reflects the status of collections by the Burke County Tax Collection's Staff. This information is a supplement to the Annual Settlement Report.

Category	Annual Budget	Amount Collected YTD	% Collected	Balance to Collect
Property Tax	\$44,250,000.00	\$44,447,418.92	100.45%	\$197,418.92
Motor Vehicle Tax	\$4,600,000.00	\$4,042,849.78	87.89%	\$557,150.22
Current Year Taxes	\$48,850,000.00	\$48,490,268.70	99.26%	\$359,731.30
Delinquent Taxes	\$700,000.00	\$696,872.08	99.55%	\$3,127.92
Late List Penalty	\$300,000.00	\$403,658.95	134.55%	\$103,658.95

The Tax Levy is the total property tax value not including motor vehicles times the tax rate. This amount changes monthly with the addition of discoveries, other changes, or corrections, and when public utility values are added, typically during September.

Category	Tax Levy	Amount Collected YTD	% Collected	Balance to Collect
Property Tax	\$45,573,569.00	\$44,447,418.92	97.53%	\$1,125,347.07

Motion: To accept the Tax Collection Report for March 2021 as presented.

RESULT: APPROVED [UNANIMOUS]

MOVER: Wayne F. Abele, Sr., Commissioner

AYES: Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

TAX DEPT. - RELEASE REFUND REPORT FOR MARCH 2021

Releases in value and/or refunds of taxes typically occur when:

- ☐ Taxpayers submit information that creates a reduction in value.
- ☐ Situs is corrected between counties and/or municipalities.
- ☐ Valuation appeals reduce the value for real or personal property.
- ☐ The postmark reveals a payment was timely sent.

The Board of Commissioners is presented with the following list of releases and refunds for consideration. The Net Release is a result of the Report Amount minus the Rebilled Amount.

April 20, 2021 (Regular)

Tax System Refunds and Releases				
	Report Amount	Rebilled Amount	Net Release	Refund Amount
Releases (TR-304)	\$3,590.40	\$890.21	\$2,700.19	\$0.00

VTS Refunds Over \$100	
	Refund Amount
VTS Adjustments	\$101.54

*Note: The net loss amount is a result of the report amount minus the rebilled amount.

Motion: To approve the Tax Releases and Refunds for March 2021 as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Wayne F. Abele, Sr., Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

The reports read as follows:

TR-304 BILL RELEASE REPORT MARCH 2021

Bill #	Taxpayer Name	Bill Date	Operator ID (Name)	Release Date	Orig Bill AMT (\$)	Release AMT (\$)	Bill AMT after Release (\$)	Notes & Rebilled AMT
TAX DISTRICT: BURKE COUNTY RELEASE REASON: Business Closed								
0024024918-2020-2020-0000-00-REG	SKETCH ART SPACE	7/1/2020	LINDA WILBUR	3/29/2021	99.00	99.00	0.00	0.00
Subtotal						99.00		0.00
TAX DISTRICT: BURKE COUNTY RELEASE REASON: Deceased								
0000074507-2019-2019-0000-00-REG	BARLOW, RICKY ALLEN	7/1/2019	LINDA WILBUR	3/31/2021	6.12	6.12	0.00	0.00
0000074507-2020-2020-0000-00-REG	BARLOW, RICKY ALLEN	7/1/2020	LINDA WILBUR	3/31/2021	6.12	6.12	0.00	0.00
Subtotal						12.24		0.00
TAX DISTRICT: BURKE COUNTY RELEASE REASON: Duplicate Billing								
0000082821-2019-2019-0000-00-REG	CRESCENT RESOURCES	7/1/2019	LINDA WILBUR	3/15/2021	8.71	8.71	0.00	0.00
0000082821-2020-2020-0000-00-REG	CRESCENT RESOURCES	7/1/2020	LINDA WILBUR	3/15/2021	7.88	7.88	0.00	0.00
0024049460-2020-2020-0000-00-REG	FERGERSON, CHERI ELROD	7/1/2020	CONNIE HOLDER	3/12/2021	191.13	191.13	0.00	0.00
Subtotal						207.72		0.00
TAX DISTRICT: BURKE COUNTY RELEASE REASON: Habitat Deferred								
0000007258-2020-2020-0000-00-REG	HABITAT FOR HUMANITY OF BURKE COUNTY, INC	7/1/2020	AMANDA CONLEY	3/5/2021	106.46	106.46	0.00	0.00
0000061722-2020-2020-0000-00-REG	HABITAT FOR HUMANITY OF BURKE COUNTY, INC	7/1/2020	AMANDA CONLEY	3/5/2021	95.67	95.67	0.00	0.00
0000061730-2020-2020-0000-00-REG	HABITAT FOR HUMANITY OF BURKE COUNTY, INC	7/1/2020	AMANDA CONLEY	3/5/2021	79.93	79.93	0.00	0.00
0000061734-2020-2020-0000-00-REG	HABITAT FOR HUMANITY OF BURKE COUNTY, INC	7/1/2020	AMANDA CONLEY	3/5/2021	97.67	97.67	0.00	0.00
0000061735-2020-2020-0000-00-REG	HABITAT FOR HUMANITY OF BURKE COUNTY, INC	7/1/2020	AMANDA CONLEY	3/5/2021	90.07	90.07	0.00	0.00

April 20, 2021 (Regular)

TR-304 BILL RELEASE REPORT MARCH 2021

Bill #	Taxpayer Name	Bill Date	Operator ID (Name)	Release Date	Orig Bill AMT (\$)	Release AMT (\$)	Bill AMT after Release (\$)	Notes & Rebill AMT
Subtotal						469.80	0.00	
TAX DISTRICT: BURKE COUNTY RELEASE REASON: Not in Burke County								
0000081672-2019-2019-0000-00-REG	LEONARD, PHILIP M SR	7/1/2019	BARBARA HARTLEY	3/16/2021	100.48	100.48	0.00	0.00
0000081672-2020-2020-0000-00-REG	LEONARD, PHILIP M SR	7/1/2020	BARBARA HARTLEY	3/16/2021	94.47	94.47	0.00	0.00
Subtotal						194.95	0.00	
TAX DISTRICT: BURKE COUNTY RELEASE REASON: Release LFUF								
0000061752-2020-2020-0000-00-REG	BILLINGS, GREGORY F	7/1/2020	AMANDA CONLEY	3/5/2021	2,805.34	720.00	2,085.34	0.00
Subtotal						720.00	0.00	
TAX DISTRICT: BURKE COUNTY RELEASE REASON: Sold/Traded								
0024008005-2020-2020-0000-00-REG	STEPANOVICH, JONATHAN PETER	7/1/2020	CONNIE HOLDER	3/3/2021	18.24	18.24	0.00	0.00
0024025146-2019-2019-0000-00-REG	RHONEY, RICKEY A JR	7/1/2019	CONNIE HOLDER	3/8/2021	16.02	16.02	0.00	0.00
Subtotal						34.26	0.00	
TAX DISTRICT: BURKE COUNTY RELEASE REASON: Value Change								
0000010264-2020-2020-0000-00-REG	WOOD, MICHAEL R	7/1/2020	AMANDA CONLEY	3/4/2021	962.21	962.21	0.00	890.21
0000010264-2020-2020-0080-00-DHS	WOOD, MICHAEL R	7/1/2020	AMANDA CONLEY	3/4/2021	890.21	890.21	0.00	0.00
Subtotal						1,852.43		890.21
Total						3,590.40		890.21
Net Release Amount							2,700.19	

NCVTS PENDING REFUND REPORT OVER \$100
DESC VTS: MARCH 2021

Payee Name	Primary Owner	Address 1	Address 3	Refund Type	Bill #	Refund Description	Tax Jurisd.	Levy Type	Change	Interest Change	Total Change
MALONE, ROBERTA WEBB	MALONE, ROBERTA WEBB	1253 HARRISON LOOP	MORGANTON, NC 28655	Adjustment >= \$100	0060043378	Refund Generated due to adjustment on Bill #0060043378-2020-2020-0000-00	01	Tax	(\$89.90)	\$0.00	(\$89.90)
							23	Tax	(\$11.64)	\$0.00	(\$11.64)
										Refund	\$101.54
										Refund	\$101.54
										Total	\$101.54

Commissioner Taylor made the suggestion that the National Day of Prayer proclamation be sent to all the churches in Burke County.

ITEMS FOR DECISION**COMM. DEV. - CONDEMNATION APPEAL - CASE FILE 072-19**

Information from the agenda packet:

Following ongoing issues, stemming from lack of construction progress, failure to obtain proper permits, continued citizen complaints, and structural components being compromised for the structure, dating back from a structure fire in early

April 20, 2021 (Regular)

2018, Burke County Building Inspector Steve Holden posted the partially burnt dwelling/residence, addressed as 2372 Ridgecreek Drive as "UN-SAFE" on March 25, 2021. This posting was completed after several failed attempts to notify the landowner, Lee Flynn, went unreturned by both notice letter mailings and cell phone calls from Steve Holden.

In accordance with NC General Statutes, upon the posting of the dwelling as "UN-SAFE" a Condemnation Hearing must occur within ten (10) days of the formal posting. From the posting on March 25, 2021, a Condemnation Hearing was conducted via a conference call on March 30, 2021. From that discussion, a Condemnation Order was issued offering the requirement for demolition of the partially burnt dwelling, to occur on or before May 30, 2021. NC Statutes limit building inspections to no more than sixty (60) days, for a given order or remedy. If the property owner needs additional time, or time beyond the sixty (60) day maximum, then an appeal must be filed by the property owner within ten (10) days of the given order and hearing. Mr. Flynn provided staff with a written appeal on April 5, 2021. From that written appeal, the final decision now becomes the responsibility of the Board of Commissioners to decide on due action and process.

With the written appeal and per the Statutes, the Board of Commissioners have the responsibility to either:

Affirm the Order as Written,
Affirm and Modify the Order to Offer Additional Time for Remedy, or
Revoke the Order as Written and Remove the Decision of the Building Inspector.

Staff believes that due to the visual situation of the site, and due to the fact that the landowner, in advance of the condemnation hearing, has already begun demolition on the rear of the home, that the written order from Steve Holden should be upheld to the fullest extent possible.

Budgetary Effect: There is no budgetary effect at this time. If the parcel owner cannot fulfill the obligations of the Order, and if the requirement for removal is approved by the Commissioners, fees, demolition, and/or liens could be assessed to the property. It is also worth noting that this property has existing solid waste violations and penalties, noted within the respective case file, which are delinquent. These fines currently stand at a fee amount of \$400.00.

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April 20, 2021 (Regular)

To Whom It may Concern:
Mr Steve Holden,
I Jerry Lee Flynn want a appeal.
Thank you Jerry Lee Flynn
4/5/2021


This space is intentionally left blank.

April 20, 2021 (Regular)

Burke County Community Development

Building Inspections

Planning

Code Enforcement

March 30, 2021

Jerry Lee Flynn
3123 Samuel Street
Newton, NC 28658

Subject: **Order of Remedy of Property (General Statute 153A-366)**
Property Address: 2372 Ridgecreek Drive
Property Pin # 1782634121

To Whom It May Concern:

Following a public hearing, conducted on March 30th of 2021, the following Order is being issued regarding property listed to your ownership at 2372 Ridgecreek Drive of Burke County as described by the regulations set forth within North Carolina General Statute 153A-369. This Order is being issued regarding proper remedy concerning the Condemnation of an abandoned and partially burnt dwelling located on the noted property.

You are hereby, from the issuance of this Order, allowed sixty (60) days, or until May 30th of 2021, to offer remedy for the abandoned dwelling in the manner of:

Demolish and remove all debris associated with the abandoned dwelling. Demolition shall include the removal of all debris and building material rubbish from the parcel. Demolition and material removals must be completed within the allotted sixty (60) day period. A demolition permit is required for removal of the dwelling to ensure all utilities have been terminated and water sources have been tapped. Building Inspections has proceeded with updating, for our records a valid demolition permit, at zero cost to you, to update the already expired demolition permit for the site, as was issued back on August 20th of 2018. Please be advised that this demolition permit shall expire on the expiration date of this noted order, which shall be May 30, 2021.

Failure to comply with this given Order can result in a Class 1 Misdemeanor, as outlined within North Carolina General Statute 153A-371. Let it be noted, you are allowed ten (10) days to file an appeal to this Order. All appeals must be provided in writing and supplied to the Clerk of the Burke County Board of Commissioners as well as Burke County Building Inspections for review. This appeal should be requested if you do not agree with this ruling of demolition, or if you are seeking more time for compliance than what is allowed by NC General Statutes. Please be advised that existing civil penalties for solid waste violations, as issued from Code Enforcement, have not been waived and are required for payment before new construction can occur for either parcel listed to your ownership on Ridgecreek Drive. A copy of this Order shall remain on file for future reference and referral. For any questions regarding any matters addressed herein, or to question the given Order listed, please feel free to contact this office for assistance. Your advanced cooperation and assistance shall be most appreciated.

Sincerely,



Steve Holden
Chief Building Official for Burke County

CC: Case File #072-19
Bradley N. Kirkley, Zoning Administrator/CZO
JR Simpson, Attorney for Burke County



P.O. Box 219, 110 North Green Street, Morganton, North Carolina 28680
Email: comdev@burkenc.org Telephone: (828) 764-9030 – FAX: (828) 764-9021

April 20, 2021 (Regular)



April 20, 2021 (Regular)

Burke County Community Development

Building Inspections
Planning
Code Enforcement

April 8, 2021

Jerry Lee Flynn
3123 Samuel Street
Newton, NC 28658

**Subject: Appeal Proceeding/Decision Item for Board of Commissioners
 Attendance Requested**

Property Address: 2372 Ridgecreek Drive
Property Pin # 1782634121

To Whom It May Concern:

In compliance with NC General Statute requirements, and as formally appealed on April 5th of 2021, for the matter of condemnation of a partially burnt/damaged single-family residence, addressed as 2372 Ridgecreek Drive in Burke County, this notice is provided to make you aware of the item being placed on the regular agenda of the Burke County Board of Commissioners, and to be decided upon at their regularly scheduled meeting on April 20, 2021. The meeting will take place within the Commissioners Board Room, located at 110 North Green Street (Door E) in Morganton, NC. The meeting will begin at 6:00 PM and your attendance is requested.

This written notice shall be mailed via first class mailing, as well as, posted at the property address, on the front door of the damaged structure, as to serve as due notice and make you equally informed. A copy of this notice shall also remain on file for future reference and referral. For any questions regarding any matters addressed herein, please feel free to contact this office for assistance. Once again, your attendance and continued cooperation is most appreciated.

Sincerely,

Steve Holden
Chief Building Official for Burke County

CC: Case File #072-19
 Bradley N. Kirkley, Zoning Administrator/CZO
 Kay Draughn, Clerk to the Board of Commissioners

P.O. Box 219, 110 North Green Street, Morganton, North Carolina 28680
Email: comdev@burkenc.org Telephone: (828) 764-9030 – FAX: (828) 764-9021

Mr. Kirkley reviewed the information from the agenda packet and noted that the photos

April 20, 2021 (Regular)

provided in the packet were not taken by himself, but by Deputy James Marler in conjunction with Chief Building Inspector, Steve Holden.

Chairman Brittain opened the floor for questions and comments from the Board. Commissioner Taylor noted that Mr. Flynn said he would do anything the County asked. He inquired if there is a resolution to this situation that does not result in the demolition of his house. Mr. Kirkley said he would defer any structural questions to Mr. Holden, but in looking at the pictures (shown above), the rear of the home is beyond repair and while permits could be issued to repair the home, the homeowner was the one to put the home in its present condition. Commissioner Taylor asked what happens next if the home is demolished. Mr. Kirkley said Mr. Flynn owns two (2) properties, the home that caught fire and an adjoining property that contains a metal hut and noted it is his understanding that what Mr. Flynn would like to do is remove the burnt home and reestablish the hut into a livable dwelling. He also said if the subject property were cleaned up, a new home could be built on it. Commissioner Taylor asked if the home is demolished, would the cost be passed onto the landowner. Mr. Kirkley said if the order is upheld, and if nothing is done on behalf of Mr. Flynn to comply with the order as written, staff would have to come back before the Board with quotes, bids, and options for cleanup and remedy. Any clean-up costs would be secured by a lien on the property. Discussion continued.

Alan LeCroy, a local attorney, said he was authorized by Mr. Flynn to make an offer which he believes the Board can grant. He said Mr. Flynn believes he can complete the work on the home by September 30 if an extension is granted, but not by May 30 as outlined in the order. Mr. LeCroy said Community Development staff's process has been legally deficient in several ways and noted that General Statute (GS) 153-A was repealed as of June 2020 and replaced by GS 160-D. Therefore, the notices of violations Mr. Flynn received, referenced a statute that no longer exists. Mr. LeCroy advised that they could insist that the process start over and refer to the correct statute; however, they are asking in good faith to give Mr. Flynn until September 30 to comply, and they will forget about the legal deficiencies that have happened up until this point. He said they could proceed with a regular order, referencing the correct statute in the applicable provisions, and Mr. Flynn would complete the work by September 30, 2021. Otherwise, he would get an injunction because the process has been legally deficient. Lastly, Mr. LeCroy noted that Mr. Flynn has experienced financial difficulties caused by the COVID-19 pandemic.

Chairman Brittain called on Attorney Simpson to give his opinion. Attorney Simpson said GS 160-D now provides the current statute for local governments to deal with demolition and condemnation and noted that he does not believe it is a fatal error that an earlier statute was referenced, however, the order should be updated to reflect the current statute. He said the Board does have the ability to give Mr. Flynn more than 60 days, noting that Mr. Holden, the Chief Building Inspector, does not have that authority.

Commissioner Taylor asked if Mr. Flynn intends to hire professionals to demolish the home and noted that this does not seem like a six (6) month project. He further stated: (1) he would feel differently if the case had not been ongoing for several years; (2) neighbors should not be able to dictate to other neighbors what someone can do with their property; (3) Mr. Flynn has received neighborly abuse; (4) when all else fails, you follow the law; and (5) he would feel more comfortable granting an extension of 90 days.

Mr. LeCroy said: (1) Mr. Flynn does not have the funds to hire a separate company to complete

April 20, 2021 (Regular)

the work but is gathering the money to rent equipment and hire laborers to assist him in completing the work; (2) he will get dumpsters and will salvage materials to rebuild on the site; and (3) only giving his client 90 days is setting him up for failure. He pleaded with the Board to give Mr. Flynn until September 30. In response to a question from Chairman Brittain, Mr. Kirkley said this situation has been ongoing for many years and noted in 2018, after the fire, there was only a permit for the repair of a wall which has been a point of contention. Mr. Kirkley said none of the required permits have been pulled for this project (i.e., electrical, plumbing, etc.). He also acknowledged certain challenges the property owner has experienced such as monetary issues and not living near the property. Although staff has tried to work with Mr. Flynn, as a public office, they have a responsibility to follow up when complaints are received. He said from staff's perspective, they have waited four (4) years and their purpose and goal is to relieve the nuisance problem. Mr. Holden noted that Mr. Flynn is currently in the process of turning the hut, on the adjoining piece of land, into a house, using materials from the subject property but no permits have been pulled yet. Chairman Brittain asked if the Board were to reset the condemnation process, what would be the time frame. Attorney Simpson said most likely 90 days. Chairman Brittain asked could any timelines be set to see some progress on the September 30 requested date. Mr. LeCroy said he pressed his client on the September 30 date and came to that date after discussion with him. He further said Mr. Flynn would be hard pressed to complete the work within 90 days and said he does not want to have to go to the courthouse to get the extension. Further, Mr. LeCroy said that there is a fence around the property and the back of the house is not visible. Chairman Brittain disagreed noting he has driven by the property. Commissioner Carswell asked if it is his client's intention to clear everything off the property. Mr. LeCroy said everything on the side damaged by fire, but he would like to salvage some materials that can be used to build a housing structure. Chairman Brittain clarified that there is a lot of debris that needs to be removed. Mr. LeCroy advised that his client will remove all the debris and that the neighborhood will accept no less. Commissioner Taylor asked if Mr. Flynn has considered contacting a fire department to use the house as a practice burn building. Mr. LeCroy said it is something they could explore and would help Mr. Flynn make that phone call. Commissioner Carswell asked if it is correct that if the Board gave Mr. Flynn 90 days, he would not have the funds to purchase / rent the equipment to remove the debris. Mr. LeCroy said that is correct. Commissioner Carswell asked what is the Board's guarantee that he is going to be able complete the work after 91 days. Mr. LeCroy said the September 30 deadline is what he has pressed his client on, and Mr. Flynn has told him he can get it done by September 30th, but he cannot give the Board a guarantee. Vice Chairman Mulwee said if Mr. Flynn has not been able to afford it up to this point, he does not see that changing whether it is three (3) months or five (5) months from now. He said he does not want to be here five (5) months from now with the neighbors who have to look at this eyesore. He recommended upholding the staff recommendation to uphold the deadline of May 30, 2021.

Motion: To uphold the Building Inspectors' ruling and uphold the requirement deadline of May 30, 2021 for the owner(s) to comply with the Condemnation Order for Case File 072-19.

RESULT:	APPROVED [3 TO 2]
MOVER:	Scott Mulwee, Vice Chairman
AYES:	Jeffrey C. Brittain, Scott Mulwee and Johnnie W. Carswell
NAYS:	Wayne F. Abele, Sr. and Maynard M. Taylor

BOC - REPORTS & COMMENTS

Chairman Brittain opened the floor for reports and comments from Commissioners and staff.

April 20, 2021 (Regular)

Attorney Simpson gave an update on projects he has worked on since the Board's last meeting.

Commissioner Taylor said his reports are in the agenda packet for review. He said he attended the Tex's Fish Camp reopening ribbon cutting. He reported that Partners Health Management (PHM) is growing and added three (3) additional counties, Cabarrus, Union, and Stanley.

Chairman Brittain concurred with Commissioner Taylor's comments regarding PHM and it speaks highly of the work they have been doing. He thanked Lance Riddle, Ex. Assist. to Co. Mgr./Deputy Clerk for filling in for Clerk Draughn and asked everyone to please keep Clerk Draughn's mother in their prayers as she deals with medical issues. He reminded the Board that the May 4 pre-agenda meeting will be at 3:00 p.m. in the BOC Room and the recessed meeting will take place at 4:00 p.m. He said the May 18 regular meeting will be at 6:00 p.m. in the BOC Room, the May 25 and May 27 budget meetings will be in the BOC Room at 2:00 p.m. He noted that on May 31 county offices will be closed for Memorial Day and the June 1 pre-agenda meeting will be at 3:00 p.m. in the BOC Room. Further, he reminded everyone to please spay / neuter their pets, adopt / foster a pet from Animal Services, and to please pick up litter in the County.

RESULT: NO ACTION TAKEN.

VACANCY ANNOUNCEMENTS

CLERK - BOARDS AND COMMITTEES VACANCY REPORT

Mr. Riddle, Executive Assistant / Deputy Clerk, reviewed the vacancy list as follows:

- Adult Care & Nursing Home Community Advisory Committee
- Council on Aging
- Juvenile Crime Prevention Council
- City of Morganton - Board of Adjustment (ETJ)
- City of Morganton - Planning Board (ETJ)
- Burke Senior Center Advisory Council
- Recreation Commission
- WPCC Board of Trustees
- Child Protection & Child Fatality Prevention Team

Chairman Brittain encouraged interested citizens to please get involved with a board or committee.

RESULT: NO ACTION TAKEN.

CLOSED SESSION

RESULT: NOT NEEDED. NOT HELD.

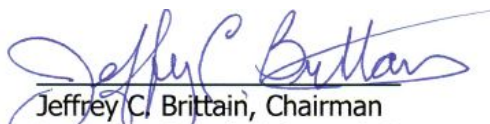
RECESS

Motion: To recess until 4:00 p.m. on May 4, 2021 in the BOC Meeting Room.

April 20, 2021 (Regular)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Maynard M. Taylor, Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., Johnnie W. Carswell and Maynard M. Taylor

Approved this 18th day of May 2021.


Jeffrey C. Brittain, Chairman
Burke Co. Board of Commissioners

Attest:


Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board