



Community Appearance Commission

Regular Meeting

<http://www.townofboone.net/>

~ Agenda ~

Jane Shook
828-268-6960

Tuesday, January 25, 2022

5:30 PM

WebEx

WATCH OR FOR PUBLIC COMMENT: Individuals who wish to watch this meeting or who wish to address the Commission remotely can do so through WebEx either online or by phone. If you wish to provide public comment remotely, please email jane.shook@townofboone.net or call in at (828) 386-7025 and you will be provided with an invite to the meeting. Staff will moderate the WebEx session to ensure all participants have an opportunity to participate.

- I. Call to Order**
- II. Adoption of Agenda**
- III. Approval of Minutes**

November 23, 2021 Meeting Minutes

- IV. Public Comment**
- V. Residential Tree Cutting**

Residential Tree Cutting Presentation (November 23, 2021)

- VI. Discussion of CAC Priorities**
- VII. Other Discussion**
- VIII. Adjournment**

**TOWN OF BOONE
COMMUNITY APPEARANCE COMMISSION
MEETING MINUTES
TUESDAY, NOVEMBER 23, 2021, 5:30 P.M.**

COMMISSION MEMBERS PRESENT: Chair Sarah-Davis Cagle, Vice-Chair Michael Bugge, Christy Cook, and Maggie Trumpover

TOWN COUNCIL LIASION MEMBERS PRESENT: Dalton George and Sam Furguele

STAFF MEMBERS PRESENT: Jane Shook, Director of Planning and Inspections, Jessica Mitchell, Long-Range/Special Projects Planner, Brandon Wise, Environmental Planner and Marlene Crosby, Board Secretary

CALL TO ORDER

Vice-Chair Sarah-Davis Cagle called to order the meeting of the Boone Community Appearance Commission, held via WebEx, a video conferencing software, on Tuesday, November 23, 2021, at 5:30 p.m.

ADOPTION OF AGENDA

Member Cook made a motion, seconded by Member Bugge, to adopt the agenda as written.

Vote: Aye – All

Nay – None

The motion passed.

APPROVAL OF MINUTES

Vice-Chair Cagle made a motion, seconded by Member Trumpower, to approve the October 26, 2021 meeting minutes as written.

Vote: Aye – All

Nay – None

The motion passed.

PUBLIC COMMENT

Ms. Jane Shook, Director of Planning and Inspections, noted that Ms. Jody Feimster had joined the meeting. Ms. Shook asked Ms. Feimster if she would like to speak at this meeting. Ms. Feimster declined to talk and noted that she just wanted to listen to the meeting.

ELECTION OF CHAIR AND VICE-CHAIR

Ms. Shook explained that the election of Chair and Vice-Chair normally occurs in July of each year after the board members change. She said that since Former Chair Brian Williams has left the commission, she thought it was important to go ahead and fill the Chair and Vice-Chair positions, depending on who is nominated and elected for the Chair position.

Vice-Chair Cagle nominated herself for the Chair position. There were no other nominations for the Chair position.

Motion and Vote:

Vice-Chair Cagle made a motion, seconded by Member Cook, to elect Vice-Chair Cagle to the Chair position.

Vote: Aye – All

Communication: November 23, 2021 Meeting Minutes (Approval of Minutes)

Nay – None

The motion passed.

Member Bugge nominated himself for the Vice-Chair position. There were no other nominations for the Vice-Chair position.

Motion and Vote:

Chair Cagle made a motion, seconded by Member Cook, to elect Member Bugge to the Vice-Chair position.

Vote: Aye – All

Nay – None

The motion passed.

RESIDENTIAL TREE CUTTING PROGRAM

Ms. Shook explained that a Residential Tree Cutting Program is one of the four assignments that the Council has tasked the CAC to work on at this time. She said this agenda item is next on the CAC's work plan assignments. She further explained that the following presentation by Ms. Jessica Mitchell, Long Range/Special Projects Planner, will introduce possibilities for a Residential Tree Cutting Program. Ms. Shook introduced the new Town of Boone Environmental Planner to the CAC, Mr. Brandon Wise. She said he would also be involved in a potential Residential Tree Cutting Program.

Ms. Mitchell gave an overview of the Residential Tree Cutting Program presentation outlined in the meeting packet. She pointed out that the said presentation includes some basic research information about what the Town currently has in regards to tree preservatoin. She explained the current Unified Development Ordinance includes requirements found in UDO Article 31 Landscape Standards, UDO Appendix C, the Urban Forestry Master Management Plan, and the 2006 Comprehensive Plan. She explained where the Town has suggested tree cutting programs, including the Boone Re-Leaf Program from 2015 that has not been implemented. She also explained possible future options, including Tree Protection Language Possibilities, Tree Removal Standards, Canopy Coverage Requirements, Inspection, Enforcement, and North Carolina Legislation.

Ms. Mitchell talked about UDO Article 31, Current Landscape Standards. From this Article, she pointed out that Section 1 (Applicability) states where the current Landscape Standards apply. Section 13 (Preservation of Existing Trees and Vegetation) states tree preservation requirements. She said Article 34 includes relevant definitions such as a Historic Tree, Land-Disturbing Activity, a Significant Tree, and a Tree Protection Area.

Ms. Mitchell pointed out that the Zoning Districts in the Landscape Standards (Article 31) do not apply to the R1, R1S, R1A, RR, R2, R4, R5, RA, B1 Downtown Core, B1 Downtown Interface, WD Wellness District, or E4 Educational Child Daycare.

Ms. Mitchell pointed out that UDO Appendix C provides Landscape Standards that Staff uses to ensure landscaping requirements are met. They provide guidance on tree protection for construction as well as tree care. She said Section C2 of the appendix includes details on the Tree Protection Area and the maintaining of it. She noted that Section C5 has a table of accepted vegetation for development projects and construction.

Ms. Mitchell talked about the Urban Forestry Master Management Plan from 2009. She said this plan includes master goals which state measures that are part of the current policies and also are suggestions for future changes. The goals from the plan comprise protecting and increasing the existing Tree/Forest Canopy Cover, improving Tree Planting/Protection policies, continuing and expanding public education and awareness of policies and resources, and continuing and enhancing tree maintenance programs to increase overall tree health. She also talked about how improved urban forest maintenance is required to maximize tree benefits, increase service life, improve aesthetics, and ensure public safety.

A specific topic discussed by Ms. Mitchell were the tree credits given based on the caliper, or diameter, of a healthy preserved tree or shrub. This credit is given by a certified horticulturist, arborist, forester, landscape architect, North Carolina landscape contractor, or North Carolina certified plant professional. She pointed out different regulations for preserving historic trees, including the drip lines outside of the building footprint. Ms. Mitchell talked about tree surveys and development site plans that are required to include the location of all the trees that are eight inches or more in diameter. She said those types of trees would be proposed for credit. She said this tree information would be included when any new development is submitting a plan for approval.

Ms. Mitchell talked about the existing regulations defining levels of activity as land-disturbing activity; this land-disturbing activity is for a site with existing trees to be preserved and to meet the landscaping requirements. She also said there are regulations for not allowing land-disturbing activities until development approval.

Ms. Mitchell talked about the education for the public involving the community for citizens, businesses, town staff, leaders, or developers about the benefits of trees and availability of town resources and the various ways they can become involved.

Ms. Mitchell reviewed the 2006 Comprehensive Plan Policies relevant to Tree Protection sections. She pointed out that the Comprehensive Plan states that “[t]he Town shall protect and enhance a high quality of life...and natural beauty as the most effective, long term component of an economic developed strategy.” Additional Comprehensive Plan policies include “[d]evelopment which preserves the natural features of the site, including existing topography streams and significant trees and vegetation, which shall be reflected in the Town’s development standards.” Further relevant plan policies state “[m]easures to improve the effectiveness of grading, landscaping and buffering standards for new and existing development shall be encouraged,” and “[t]he significance of street trees in providing visual relief... and livability shall be recognized through public policies and actions to encourage their planting and maintenance.”

Ms. Mitchell explained that the previous Town of Boone Environmental Planner suggested creating a volunteer-based program called Boone Re-Leaf Program (2015). She explained that it was a partnership with the NeighborWoods Program, which is a community-based, volunteer-based initiative through the Arbor Day Foundation. She said this program focuses on tree care and planting. She further explained that the Boone Re-Leaf Program was to be a collaborative effort to replenish and sustain Boone’s valuable tree canopy while educating the community on tree care and management. She pointed out that the NeighborWoods Program through the Arbor Day Foundation usually occurs in October.

Council Liaison Furguele added that other sections of the UDO protect trees that were not mentioned in this presentation. He pointed out that most of the Town’s viewshed were taken away when the General Assembly removed the Town’s Extraterritorial Jurisdiction. He said the UDO does require people to consider the siting of their buildings to minimize the destruction of trees, especially the larger trees. He talked about the Town’s Municipal Code and the Town’s practices. He said the CAC could make recommendations to the Town regarding its measures of cutting trees. He suggested that the CAC make recommendations on expanding the tree canopy into residential areas, in addition to the voluntary program. He suggested recommending a mandate at least for the historic trees. He pointed out that a mandatory tree preservation program cannot have the same scope as new commercial development because many large trees are cut down in residential areas.

Council Liaison Furguele said several historic trees were cut down when clear-cutting occurred on property behind his house a few years ago. He said the tree removal changed the neighborhood. He said it also created erosion and sediment issues on that property. Mr. Brandon Wise, Environmental Planner, explained that erosion issues arise from clear-cutting and require erosion control rules. Mr. Wise continued to explain that erosion control is not involved when the root structure of a tree is not disturbed or if the ground is not disturbed. Mr. Wise stated this based on his knowledge of North Carolina erosion control rules.

Discussion ensued on tree removal. Ms. Shook said the Staff recently revised the land-disturbing activity definition to limit the number of trees someone can remove without applying for a permit. She said there has always been a fine line between someone cutting down a tree on residential property and when it becomes land-disturbing activity. She pointed out that tree cutting on a property is difficult to know about if there is not a permit issued for a property. Council Liaison Furguiele explained why he believes there are no requirements for trees in residential areas. He said past Council members were strongly opposed to residential tree protection. He said the focus on tree removal changed when the Town lost the ETJ, and also because of accelerating effects of climate change. He also noted that he felt that the constraints from a historical perspective are not valid anymore.

Ms. Mitchell compared the Town of Boone UDO to possible Tree Protection Ordinance Language. She said that she looked at Asheville, North Carolina Code of Ordinance, specifically the language regarding Tree Removal Standards. In these Tree Removal Standards, there are regulations by zoning districts including Residential zoning districts. The standards are specifically for subdivisions of land with steep slopes or an aquatic buffer. She said the standards for development approval include a separate plan along with all of the other site plans. She explained how the separate plan shows the tree canopy area and where the development intends to preserve trees. She said they have different requirements for calculating the tree canopy area compared to the Town UDO. She mentioned how Asheville requires tree removal permits for any tree on properties with a steep slope or an aquatic buffer, and any removal of any tree within an established tree canopy protection area. These permits do include certain fees, and approval requires a photo of the tree, a letter from a certified arborist stating that tree removal is necessary. She continued with how the said letter provides reason for tree removal such as whether the tree was dead, diseased, or dying, or if the tree poses a threat to life or property safety. She said Asheville's standards require a replanting plan to detail how development intends to build back the tree canopy. She said these permits have a ten-business-day turnaround. She mentioned how this information and example provides guidance for standards in residential areas. She also reviewed the requirements for site-plan approval, tree canopy protection plan, a new permitting process for tree removals, and defining tree debris or downed trees. She said the North Carolina Forest Service includes terminology for "tree snags" and "downed-logs", which are not currently defined in Town standards.

Council Liaison Furguiele talked about the language in the Community Appearance Standards and the municipal code regarding the length of the grass and the removal of downed branches. He said some of this language goes against protecting insect life or habitats. He suggested that at some point this language be addressed to reform the municipal code to help better preserve natural habitats.

Ms. Mitchell talked about Tree Removal Standards. She reviewed a North Carolina State University publication titled "Protecting and Retaining Trees: A Guide for Municipalities and Counties in North Carolina." She said in the article that they looked at various local ordinances and ways to add such language. She mentioned this source discussed different categories for tree removal provisions on acreage over a stated size, and language for trees providing habitat for endangered wildlife. She said after doing this research, she noted that regulating residential tree cutting is new because the information is not readily visible or readily accessible to compare. She talked about standards with exemptions for permits and inspections. She said some exemptions for residential areas include dead or damaged trees, those at risk to public health and safety, and also including if trees are in utilities' right-of-ways, future projects, or blocking stormwater control mechanisms.

Ms. Mitchell talked about forestry activity. She said the most significant sections of the Asheville, North Carolina standards were not necessarily for tree removal but trying to maintain tree canopy coverage. She said the general guidance is classifying different areas based on land use and having a standard percentage for increasing tree canopy. Tree canopy protection measures are based on saving the existing tree canopy or setting a standard for sites lacking existing tree canopy.

Ms. Mitchell stated that whichever direction is decided for additional tree protection measures, it would be recommended to propose a timeframe for inspecting trees, such as additional written guidance on how long a tree should be inspected. She said that Asheville's standards do include enforcement standards. She mentioned these standards have alternatives including a payment option, or to plant or preserve trees within the same district.

Ms. Mitchell talked about the NC House Bill 496 for Property Owners' Rights/Tree Ordinance. She noted that this bill did not pass the NC Legislation. She explained that this bill would prohibit local governments from adopting ordinances regulating the removal of trees from private property without the General Assembly's express authorization. Council Liaison Furguele said that if this bill passes, it will negate any existing ordinances for tree removal.

Ms. Shook pointed out that the Town of Boone has a new website at www.townofboone.net. She explained that a button on the homepage takes you to the Planning and Inspections web page, where there are links for Plans and Studies. She showed where to access the Urban Forest Master Management Plan under the Comprehensive Plan documents. This plan includes the 2009 percentage of the tree canopy, broken down in charts within the document. The master management plan details tree canopy information, showing that we were just under 35% for tree canopy coverage. She said that at that time the stated goal was 40%. Ms. Shook said she felt it was important that the CAC review this particular plan as we go through this process. She told how Staff will acquire additional data to study the tree canopy. She said it is also essential to ensure that people maintain their trees and adequately care for them. Mr. Wise added to the discussion of proper tree care in that individuals question landscape maintenance on their property. He mentioned a difference between proper care and tree removal, which causes further potential issues.

Chair Cagle asked Council Liaison Furguele to explain the mandate from Council to the CAC regarding the Municipal Code versus the UDO. Council Liaison Furguele said the mandate was broad from Council, and it was to look across town ordinances. He pointed out that the CAC does not have an official role with some parts of the Municipal Code. He pointed out that the CAC would not be able to draft language, but they could make recommendations and start to evaluate the Municipal Code, starting with leaf removal in the fall, which is not a very environmentally healthy Town practice.

Ms. Shook asked the CAC to begin to review the material presented at this meeting and available on the Town website. Ms. Shook mentioned how members should be prepared to discuss it at the January 2022 CAC meeting. She said that the CAC had previously discussed inviting environment experts to their next meeting to speak on particular habitats and tree preservation. She noted that Council would be invited to attend these presentations as well.

OTHER MATTERS BY BOARD MEMBERS OR STAFF

Ms. Shook reminded the CAC that they voted at their November 2021 meeting to cancel their December 2021 meeting. She said the next meeting will be held on January 25, 2022.

ADJOURNMENT

Vice-Chair Cagle made a motion, seconded by Member Cook, to adjourn the meeting at 6:44 p.m.

Vote: Aye – All
Nay – None
The motion passed.

Sarah-Davis Cagle, Chair

Marlene Crosby, Board Secretary

Residential Tree Cutting

Research by Planning & Inspections Staff

Community Appearance Commission

November 23, 2021

Overview

Where We Are

Current UDO Requirements

[UDO Article 31 Landscape Standards](#)

[UDO Appendix C](#)

[Urban Forestry Master Management Plan](#)

[2006 Comprehensive Plan](#)

Where We Have Been

Boone Re-leaf Program (2015)

Future Options

Tree Protection Language Possibilities

Tree Removal Standards

Canopy Coverage Requirements

Inspection & Enforcement

NC Legislation

UDO ([Article 31](#))

Current Landscape Standards Review

- Section 1 (Applicability) states where the current Landscape Standards currently apply.
- Section 13 (Preservation of Existing Trees and Vegetation) state tree preservation requirements including
 - tree credits for developments given credits by specialized individuals
 - preserving Historic trees
 - submitting a tree survey with site plans for new construction
 - retaining all existing healthy Significant trees, and allows for evaluating a tree's health if deemed unhealthy before removal
 - protecting existing vegetation but **not** allowing **any** land-disturbing activity without approval nor without development approval ([4.01.01.A.](#), [4.01.01.D](#))
 - defining a Tree Protection Area, and penalties for damage of vegetation

Zoning Districts Landscape Standards do **not** apply to:

- R1 Single-Family Residential
- R1S Small-Home Residential
- R1A Single-Family Residential with Accessory Dwelling
- RR Residential Rehabilitation
- R2 Two-Family Residential
- R4 Two-Family/Manufactured Home Residential
- R5 55+ Housing Residential
- RA Residential/Agriculture
- B1 Downtown Core & B1 Downtown Interface
- WD Wellness District
- E4 Educational Child Daycare

[Article 34 Definitions](#): Historic Tree, Land-Disturbing Activity, Significant Tree, and Tree Protection Area

UDO (Appendix C)

- Appendix C provides Landscape Standards that are used by Staff to ensure landscaping requirements are being met.
- The Standards provide guidance of tree protection, such as during construction, as well as tree care.
- Section C2 of the appendix includes additional details on a Tree Protection Area and how the area should be handled and maintained during construction.
- As an accepted plant and tree list, Section C5 includes several tables of vegetation to select from during construction. (View Tables on pages 9-15 of Appendix C).
- Cohesiveness with the Urban Forestry Master Management Plan with the inclusion of the pruning guide in Appendix C from the Plan.

Urban Forestry Master Management Plan (2009)

- Master Goals (page v) include measures that are seen within current policies and also as suggestions for future changes.
- Protecting and Increasing the existing Tree/Forest Canopy Cover is the first goal that could use additional UDO language to support.
- Improving Tree Planting/Protection policies can be done by reviewing and modifying the existing language of the UDO and other existing policies. Revising language can increase tree protection measures.
- Continuing and expanding public education and awareness of policies and resources.
- Continuing and improving tree maintenance programs to increase overall tree health.

View [Urban Forestry Master Management Plan](#)

Comprehensive Plan Policies Relevant to Tree Protection

- 2.1 THE ECONOMY
 - 2.1.1. Economic Development (Sections A, A.1, A.2, A.3, A.4)
 - 2.1.5. Downtown (Sections A, A.1)
- 2.2 INFRASTRUCTURE
 - 2.2.5. Environmental Health (Sections C., E.)
- 2.3 THE COMMUNITY
 - 2.3.1. Community Appearance (Sections A., B., B.1, B.2, B.3)
 - 2.3.2. Community Character (Sections C., C.1, D., D.1, D.2)
 - 2.3.3. Housing and Neighborhoods (Section A)

[View the Comprehensive Plan](#)

Boone Re-leaf Program (2015)

- Proposed volunteer-based program suggested in 2015
- NeighborWoods is a community-based, volunteer-based initiative through the Arbor Day foundation. This program focuses on tree care and planting.
 - For more information: Neighborwoods Month at arborday.org
- The proposed program revolves around
 - a collaborative effort to replenish and sustain Boone's Tree Canopy
 - educating the community on tree care and management
 - coordinating efforts with local utility providers for trees within utility right-of-ways and replacement trees

Example NeighborWoods Program – [Hendersonville, NC](#)

- Additional partnering beyond utilities: property owners, businesses, neighborhood groups, and organizations.
- Participants are provided trees, mulch and assistance from experts, and sign a pledge after planting.
- Defining specific areas where trees can be planted and allowing a variety of species.

Future Possible Text Changes

Comparing the Town of Boone UDO to other Tree Protection Ordinance language.

All possibilities are open to discussion and collaboration to current Town of Boone UDO and other policy language.

Tree Protection Language Possibilities

- Comparison to [Asheville's Code of Ordinance, Chapter 7 Development, Article XIX](#)
 - Defining areas where trees should be protected
 - Applying tree removal standards to Residential zoning districts for subdivisions of land or within steep slopes
 - Including an additional plan for site plan approval
 - Tree Canopy Protection Plan showing the designated tree canopy area and all trees on a development site indicating areas that prohibit tree removal
 - New Permitting process for Tree Removals
 - Establish conditions for a Tree Removal permit – including within steep slopes or tree protection areas – as well as, fees and requirements
 - Determine application approval time – Asheville uses 10 business days
- Define tree debris, or downed trees
 - NC Forest Service includes the terminology “Tree Snags” and “Downed-Logs”
 - Page 36 of [Developing Tree Protection Ordinances in North Carolina](#)

Tree Removal Standards

- NC State University publication: [*Protecting and Retaining Trees: A Guide for Municipalities and Counties in North Carolina*](#)
- Specific Tree Removal suggestions:
 - Removal of **any** tree without permission
 - Removal of trees on specified acreage
 - Removal of tree or any regulated tree larger than a specified DBH
 - Removal of trees providing habitat for endangered wildlife
- Creating and requiring a permit for tree removal
- Standards have exemptions for permits or inspections, including
 - existing or proposed single-family detached dwellings or two-family dwellings
 - allowing tree removal for dead, dying, diseased, or damaged trees, trees at risk to public safety, trees in utility right-of-way or stormwater mechanisms, or under forestry activity

Canopy Coverage Requirements

- Establish Tree Canopy requirements depending on Land Use or Zoning District
 - Create standards for **Saving Existing Tree Canopy** and/or for **Sites Lacking Existing Tree Canopy**
 - Based on density having different percentages of saving tree canopy areas or preserving for new tree planting areas
 - Table 1 under Tree Replacement Section ([NC State University publication](#))
- Comparison to [Asheville's Code of Ordinance, Chapter 7 Development, Article XIX](#)
 - Establishing tree canopy exclusions such as for utilities, easements (drainage easements), stormwater infrastructure
 - Similarly, establishing tree canopy classifications based on Land Use or based on Existing Canopy Preservation and New Tree Canopy Installation
 - View Tables in [Section 7-19-2 Tree canopy preservation requirements](#)
 - EXAMPLE: Residential Subdivision is classified as Class A or Class C. Depending on the existing tree canopy (%), there are different requirements for new tree canopy installation (%) with the objective of reaching a total required tree canopy (%).
 - Establish procedures for measuring tree canopy and giving credit for existing tree canopy
 - Depending on a specified site acreage (for instance, greater than or equal to 2 acres, or less than 2 acres), the canopy can be checked by ground checking or aerial analysis.
 - A qualified individual will determine tree canopy credit based on the size of a tree (DBH). Canopy credit includes different square footage levels.

Inspection & Enforcement

- Written guidance on tree inspections (how long to continue inspecting).
- If considered for specified tree removals and permitting, enforcement for permits would be required.
- Permits could be issued by P&I Staff, but depending on the number of permits received, additional staff would be a necessity.
- Comparison to [Asheville's Code of Ordinance, Chapter 7 Development, Article XIX](#)
 - Creating an alternative for compliance – payment option or plant/preserve trees within the same district removing trees (additional source: Asheville [Tree Canopy Preservation](#), pages 2-3).
 - Asheville bases tree removal enforcement on ordinance Enforcement standards. Town of Boone UDO Enforcement section can be found in [Article 12](#).

NC Legislation

- [NC House Bill 496](#): Property Owners' Rights/Tree Ordinances
- This is a bill that **has not passed** in NC legislation. Despite this bill not passing in legislation, there is the possibility of this bill appearing again in the future.
- The bill “would prohibit local governments from adopting ordinances regulating the removal of trees from private property without the General Assembly’s express authorization.”
- HB 496 would “clarify that local governments...cannot adopt or enforce ordinances regulating the removal of trees from private property.”