



Community Appearance Commission

Regular Meeting

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

~ Agenda ~

Jane Shook
828-268-6960

Tuesday, November 23, 2021

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**
 - October 26, 2021 Meeting Minutes
- IV. Public Comment**
- V. Election of Chair and Vice-Chair**
- VI. Residential Tree Cutting Program**
 - Residential Tree Cutting Presentation
- VII. Other Discussion**
- VIII. Adjournment**

**TOWN OF BOONE
COMMUNITY APPEARANCE COMMISSION
MEETING MINUTES
TUESDAY, OCTOBER 26, 2021 5:30 P.M.**

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

TOWN COUNCIL LIASION MEMBERS PRESENT: Sam Furguele and Dalton George

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

CALL TO ORDER

Vice-Chair Sarah-Davis Cagle called to order the Boone Community Appearance Commission meeting, held via WebEx, a video conferencing software, on Tuesday, October 26, 2021, at 5:33 p.m.

Ms. Jane Shook asked everyone to introduce themselves to the new Commission Members Bugge and Cook.

ADOPTION OF AGENDA

Vice-Chair Cagle made a motion, seconded by Member Bugge, to adopt the agenda as written.

Vote: Aye – All

Nay – None

The motion passed.

APPROVAL OF MINUTES

Chair Williams made a motion, seconded by Vice-Chair Cagle, to approve the March 31, 2021, and April 20, 2021 meeting minutes as written.

Vote: Aye – 3 (Cagle, Cook and Williams)

Nay – None

Abstain – 1 (Bugge)

The motion passed.

DOWNTOWN PLANNING PROJECTS UPDATE

Ms. Shook informed the Community Appearance Commission members that the Council had approved the Downtown Planning Projects for the B1 Downtown Expansion and the Downtown Local Historic District. She further stated that the Council accepted Planning Commission's recommendations.

Ms. Shook reviewed the minor changes to the eight properties discussed at the public hearing. She said three properties near the western side of town entrance, and five properties off Green Street and Straight Street, were removed and remained as their original zoning. She noted that some minor modifications were made to the text.

Ms. Shook reviewed the final project boundary map. She pointed out several areas on the map including: the green area as the properties removed from Green Street and Straight Street, the dark pink area as the B1

Communication: October 26, 2021 Meeting Minutes (Approval of Minutes)

Downtown Interface properties, the lighter pink area as the B1 Downtown Core properties, and the yellow area as the single-family properties with accessory apartments. She said there were other properties that Council agreed to rezone. She explained that the final information is in the Town Council meeting packet dated October 21, 2021. She pointed out that the table shows all the properties and how they were impacted. She said the red strikethroughs in the text are the properties that were removed.

Ms. Shook said the recommendation of approval by Council was to allow existing single-family and two-family dwellings within the project area, and B1 occupancy of unlimited family and up to four unrelated. She said the exception would be when the property was redeveloped to allow existing single-family and two-family dwellings within the project area to be rezoned to R1A occupancy of the unlimited family and up to four unrelated. She said the addresses for these dwellings were in the text. She said there was a limitation at the end placed on it, and it is a requirement for a minimum building footprint in the B1 Downtown Core.

Ms. Shook said the public hearing included discussion on larger sized parcels. She noted that these larger parcels are in the B1 Downtown Interface versus the B1 Downtown Core and how the minimum building footprint would impact those properties. She said it was agreed that the other standards for the B1 Downtown Interface would help to control density and building size versus having a minimum building footprint.

Ms. Shook said at the public hearing that when the rooftop additions were discussed, there was a recommendation to remove the term 'block,' which is a reference in the ordinance. She said that these "block" buildings did not necessarily mean block-like, cinder block, or block-buildings. She said if "block" remained in the ordinance, people might interpret it as only applying to block-like or cinder-block type buildings versus any other type of construction.

Ms. Shook said that language was added to the additions and renovations section of the ordinance for materials on non-historic buildings to be replaced with original material, similar design, workmanship, and composition.

Ms. Shook said that Council approved these said changes effective immediately as of October 21, 2021. She pointed out that we now have additional protections, which allows the Town to be more proactive. She said that the Downtown Planning Project website had been updated with the information. She said it would continue to be updated as we continue with the new ordinance and the associated forms.

Ms. Shook said that Mr. John Ward, Town Manager, mentioned at the public hearing that we did have some applications that came in just before this approval. She said that the applications would have to be determined complete following the ordinance requirements before October 21, 2021. She noted that at some point, we would transition into the Town's new website.

Ms. Shook thanked all of the board members from the Community Appearance Commission for their help on the Downtown Planning Projects over the past ten years or more. Council Liaison Furguele noted that around 2001 or 2002, the Council directed that the Town have an ordinance drafted to create a historic district. He said that in 30 or 40 years, you will know that you have done something well for those that will still be around. Ms. Shook said if anyone has questions on the Downtown Planning Projects to contact her.

UPCOMING ASSIGNMENTS

Ms. Shook explained that after the resolution of the Downtown Planning Projects, Council had directed the CAC to work on some other assignments. She said that the CAC also serves as the Town's Tree Board. She said several assignments are associated with that role.

Ms. Shook said the Council wanted the CAC to make proposed recommendations on regulating historic and larger significant trees in residential zones. The Town currently regulates landscape standards on commercial and residential properties, but not in the low-density residential districts. She said the CAC would also need to make proposed recommendations on having a tree permit and requiring a certified arborist. She said this would include considering a residential tree-cutting program and what this program would control.

Ms. Shook said the Council asked the CAC to invite experts in bird health to participate in discussions about the lives of bees and birds in our community. She said the CAC would make proposed recommendations to Council regarding how the Town can balance values of maintaining their attractive community with protecting natural areas and habitats. She said that this task must be done along with or subsequent to considering tree protection in residential areas.

Ms. Shook said the Council also asked the CAC to make proposed recommendations on implementing appropriate Food Council recommendations. She said that in 2019 the Council worked with the Food Council on recommendations for the Town of Boone. She said one of the recommendations was for the Town of Boone to incorporate edible landscaping. She said discussion is needed on ways to incorporate edible landscaping into other types of landscape. She said the CAC would work with the Town of Boone Public Works Department to implement the edible landscaping successfully.

Ms. Shook pointed out that the Council also directed the CAC to review the Town's nuisance ordinance. The Council wanted the CAC to look at other town regulations and find the best standards to balance the bee's and birds' habitats. She said that the CAC might also need to look at town code regulations that impact bird health. She noted that Council discussed that the height of the grass should be maybe three or four inches tall. She said that, in reality, a bird habitat needs a more natural area. She pointed out that we need to balance what we previously called nuisances with our natural habitat. She noted that the Council had agreed to attend and mentioned at the time that they would like to attend the CAC meetings when these types of presentations happened. She said we are at that point and should probably start scheduling these presentations.

Ms. Shook said that in November 2021 that we can begin and work on residential tree cutting. She said it might be December 2021 or January 2022 before we can start the other presentations.

Council Liaison Furguele said that around 2018, the Council directed an updated evaluation on the tree canopy. He mentioned this since the Town of Boone no longer had the Extra-Terrestrial Jurisdiction, which contributed significantly to the percentage of the tree canopy. He further explained that the perception was that the Town had lost a lot of tree canopy since it was last surveyed. Ms. Shook explained that the new evaluation on the tree canopy has not been completed but is on the town staff's list of projects. She said that the town staff is waiting on more calculations needed to evaluate the tree canopy. She said it might even be next spring before the state will do a flyover, which is usually completed every five years. She said the information gathered from the flyover is what the town staff needs to do the updates. She also noted that the Urban Forest Master Management Plan has to be updated as requested by Council.

Council Liaison Furguele said that as long as he has lived in Boone, the Town has picked up the leaves, and he said that is a bad practice because it is bad for an insect or a bird's life. He mentioned that the approach, as a town, is to try to appeal to the 1950 standards, but the long-term consequences for the bird and bee habitats are not always considered. He talked about coal tar on parking lots and how it pollutes the creeks and destroys the fish. He spoke of the use of Round-Up to kill the weeds. He said many communities ban the use of Round-Up. Chair Williams noted that the Town uses a large amount of Round-Up. He said he has seen

them put down Round-Up on both sides of his street. Chair Williams pointed out that the Town will have to be accountable for what they can and cannot use in our community.

Chair Williams talked about the grass cutting height in the nuisance ordinance. He said that we could give people flexibility, but we need to be prepared for those people who are going to want to spend the least amount of money or do things the cheapest way possible. He said there has to be a balance between protecting the natural habitats and the property owner neglecting to cut the grass.

Ms. Shook added that whatever programs the CAC comes up with will be balanced with the educational component. Ms. Shook encouraged the CAC to drive by the house on Highland Avenue to see how they have converted their yard into a natural habitat. She said it is a good example of what could be done.

Ms. Shook said she has contact information for local experts with sustainability and the Food Council. She said she would work on getting some of these contacts scheduled in December of 2021.

Council Liaison George said it would be beneficial to any edible landscape project to have a map indicating where the edible food is located, and where it is already in our landscape. He suggested that this information be included in the Town's media and digital presence.

Ms. Shook pointed out that town staff in the Public Works Department can answer questions about their town practices. Council Liaison Furguele asked if she could get Mr. George Santucci, Sustainability Projects Manager, involved because of his expertise in the reforestation areas. Ms. Shook said she would collaborate with Mr. Santucci on the things that the CAC is working on.

OTHER MATTERS BY BOARD MEMBERS OR STAFF

The CAC decided to have their November 23, 2021, at 5:30 p.m. meeting to discuss residential tree cutting. The CAC decided to cancel their meeting on December 28, 2021, at 5:30 p.m. Council Liaison Furguele noted that the new Council Members would be seated on December 14, 2021.

ADJOURNMENT

Vice-Chair Cagle made a motion, seconded by Chair Williams, to adjourn the meeting at 6:32 p.m.

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

Brian Williams, 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.”