



Historic Preservation Commission

Regular Meeting

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

~ Agenda ~

Jane Shook
828-268-6960

Tuesday, May 3, 2022

3:00 PM

WebEx

This meeting will be held remotely using video conferencing software (WebEx).

For information on how to watch, listen, and/or participate in the meeting, please see the WebEx Video Conferencing Information section at the end of this agenda.

I. Call to Order

HPC Advisory Session

II. Adoption of Agenda

III. Approval of Minutes

April 12, 2022 Meeting Minutes

IV. Public Comment

V. HPC Rules of Procedure

Historic Preservation Rules of Procedure (PDF)

VI. Historic District/Landmark Design Standards

Public Art Standards in the Historic District - Draft Text Amendment

Minor Work and Major Work - COA Revision - Draft Text Amendment

VII. Project Updates by Planning Staff

Hayes-Bryan-Greene Cemetery Marker Update

On April 13, 2022, Town Council approved the Hayes-Bryan-Greene Cemetery Marker with text referencing Judge Greene. The location option selected is on the corner of Queen Street and N. Water Street - this location is Watauga County property. The site involves Watauga County and the NC Department of Transportation as N. Water Street is DOT maintained road. Staff is working on an encroachment agreement for the site and coordinating with the Town of Boone

Public Works and Watauga County. Additionally, Staff will be coordinating with Sewah Studios on ordering the marker.

CLG Status Update

Staff has provided a memo of the latest information on the Certified Local Government (CLG) application. The memo includes a statement of the documents for the HPC to review.

VIII. Project Updates by HPC Members**Watauga County Jail Local Landmark Designation Report****IX. Downtown Boone Walking Tours Brochure****Downtown Boone Walking Tours Brochure created by the Cultural Resources Department**

Staff has acquired a printed copy of the Brochure included in the meeting packet. Additionally, Cultural Resources has provided the online version of the brochure through the PocketSights website at the link provided here: <https://pocketsights.com/tours/tour/Boone-Historic-Downtown-Boone-Walking-Tour-3449>

X. Other Discussion**XI. Recess of HPC Advisory Session**

Historic Preservation Commission Meeting

3:00 pm, May 10, 2022

WebEx, Remote Meeting Software

XII. Call to Reconvene

HPC Quasi-Judicial Session

XIII. Z05606-032422 - River Street Ventures

Z05606-032422 - Exhibit 1 - Application

Z05606-032422 - Exhibit 2 - Project Narrative

Z05606-032422 - Exhibit 3 - Photos of Existing Conditions

Z05606-032422 - Exhibit 4 - Site Plan

Z05606-032422 - Exhibit 5 - Structural Engineering Letter

Z05606-032422 - Exhibit 6 - Staff Report

Z05606-032422 - Exhibit 7 - Historic Photos

XIV. Adjournment

WebEx Video Conferencing Information

WATCH OR PARTICIPATE IN THE MEETING: Individuals who wish to give testimony/evidence with respect to this case may do so through WebEx either online (by computer or smartphone) or by telephone. To do so, please email Jane Shook, Director of Planning & Inspections at jane.shook@townofboone.net or call 828-268-6960 and you will be provided with an email invitation to the meeting. All requests for participation must be completed by 2 pm on the day of the meeting.

Staff will be happy to schedule a test meeting with each participant to ensure that they are able to participate the night of the meeting. Please call Jane Shook at 828-268-6960 if you are interested in this option.

Staff will moderate the WebEx session to ensure all participants have an opportunity to speak. Individuals who require user assistance registering or joining the WebEx event on the day/night of the meeting can call 828-268-6960 for support.

CONCERNS REGARDING PARTICIPATION: Please contact Jane Shook, Director of Planning and Inspections by phone at 828-268-6960 as soon as possible if you are concerned about your ability to participate through the options listed above (online or by telephone) in the “To participate in the meeting” section above.

**TOWN OF BOONE
HISTORIC PRESERVATION COMMISSION
MEETING MINUTES
APRIL 12, 2022, 6:00 p.m.**

Historic Preservation Commission Members in Attendance:

Chair Eric Plaag, Vice-Chair Bettie Bond, Chuck Watkins, and Rennie Brantz

Student Member: Izabela Willis

Council Liaisons: Virginia Roseman

Town Staff in Attendance:

Jane Shook-Director of Planning & Inspections, Jessica Mitchell-Long-Range/Special Projects Planner, Christy Turner-Senior Planner, Mark Freed-Director of Cultural Resources, and Marlene Crosby-Board Secretary

Others in Attendance: Allison Meade-Town Attorney, Leigh Blevins and Bill Dixon-Appalachian Architecture, John Cooper and Terry Moore-Mast General Store and Amber Bateman-Director of Watauga County Arts Council

Call to Order

Chair Eric Plaag called the meeting of the Boone Historic Preservation Commission, held via WebEx, to order at 6:03 p.m., and he provided a brief synopsis of the Historic Preservation Commission, its makeup, and function.

Adoption of Agenda

Chair Plaag suggested adding the Watauga County Jail Landmark Designation Update under Number Nine and adding before Number Six, Discussion of the Historic Preservation Commission Meeting Schedule.

Member Brantz made a motion, seconded by Vice-Chair Bond, to adopt the agenda as amended.

Vote: Aye – All

Nay – None

The motion passed.

Public Comment

No individuals requested the opportunity to speak during public comment.

Case Z05530-022822 Mast Store Commercial Entrance

Mr. John Cooper, on behalf of Mast General Store, Inc., has requested a Certificate of Appropriateness (COA) for a modified entry to be constructed for retail space along with a new emergency exit door, which is planned at 130 North Depot Street. Both the modified entrance and emergency exit door are to be aluminum storefront (bronze or dark bronze in color). The exiting wood windows will be replaced with an aluminum storefront to match the new entry and exit doors.

Pursuant to the Town of Boone Unified Development Ordinance (UDO), Appendix D, Downtown Boone Local Historic District, specifically the section on COA Application for Major Work, a COA is required for the replacement of architectural details when there will be a change in design or materials from the original or existing details as well as exterior modification of existing buildings for ADA compliance.

Chair Plaag pointed out that his wife, Ms. Teresa Plaag, is an employee of Mast General Store, the applicant of this case, and Ms. Plaag is also an employee stockholder in the company. He asked if there were any objections from any of the HPC Members or any of the participants to him continuing in this case.

Ms. Meade clarified the statutory specifications about conflict of interest. She said if Chair Plaag was an employee of the Mast General Store or if Ms. Plaag was the applicant, it would be a conflict of interest on both counts; but in this case Chair Plaag's wife was the employee of Mast Store so the relationship was a step removed from what

was contemplated in the statute governing conflicts of interest. Ms. Meade also pointed out that there might be a perceived conflict in that one might speculate that Chair Plaag might fear for his wife's employment if he voted against the Mast General Store application. Chair Plaag stated that he had no such concern and believed that he could be an objective participant in this case. Ms. Meade asked Mr. Cooper, on behalf of Mast General Store, if he had any objection; there was no objection.

Chair Plaag asked if any other Commissioners had a possible conflict of interest or if any Commissioners had engaged in any undisclosed ex parte communication regarding this application. There being no response in the affirmative, Chair Plaag moved forward with this case.

Chair Plaag asked Mr. Cooper if he had an attorney with him at this meeting or was he presenting on his own. Mr. Cooper was having a computer issue and was not able to respond. Mr. Terry Moore, the Facilities Manager for Mast General Store, responded and said that Mast General Store had employed Mr. Bill Dixon from Appalachian Architecture to provide information for this application. Mr. Moore stated that Mr. Cooper asked Mr. Dixon to represent the Mast General Store for this application. Ms. Meade stated that Mr. Dixon could not act as an attorney, but he could give a narrative and evidence about the case. She further explained that Mr. Dixon could not cross-examine or do the other things an attorney would do. Mr. Moore said that they did not feel that they needed an attorney. Ms. Jane Shook, Director of Planning and Inspections, said that Mr. Cooper was still having technical issues but stated that the Commission should proceed with the case without him.

Mr. Dixon was sworn in as a witness by Chair Plaag. Chair Plaag asked Mr. Dixon to give the initial presentation for this case. Chair Plaag asked Mr. Dixon if the applicant had any objections to any of the materials provided in the meeting packet, and Mr. Dixon replied that it did not.

Chair Plaag asked Mr. Dixon if he wished to make an opening statement about the proposed work in this case. Mr. Dixon said the proposal before the Commission is for the appropriateness of replacing the current, non-original plywood door and wood-frame windows at the subject property with metal-framed doors and windows designed consistent with the design of those original features of the original Colvard Chevrolet Showroom. He said the wood windows added in 2005 would be replaced with metal windows, all of which would be consistent with the original windows and storefront of the original Colvard Chevrolet Showroom. Mr. Dixon said he believed the proposal meets the design standards, the intent of the 2006 Comprehensive Plan, and is in the direction that the Town wants to move in. He referred to page 40 of the meeting packet. He said he believed that the proposed exterior modification is congruous with the special character of the historic district.

Chair Plaag asked Ms. Christy Turner, Senior Planner if the Planning Staff wished to present an opening statement or preferred to treat the meeting packet as the Town's opening statement. Ms. Turner said the Planning Staff would present the meeting packet as the opening statement.

Chair Plaag asked Mr. Dixon if he wanted to provide evidence supporting this application. Mr. Dixon referred to page 28 of the meeting packet. He said he thought that items 1.2 through 1.9 were not applicable or that those standards were met. He explained that in replacing the wood windows with metal windows, the original covered windows appear to be metal, as was the other façade. He stated that going back to metal was in keeping with the design standards.

Mr. Dixon noted a correction regarding the historical documentation. He said the porcelain panels were not enamel but were painted metal panels. He said that they were falling off in the late 1990s and early 2000s, and what was left was painted concrete with splotches of glue. In 2005, Mast General Store added the brick façade that was necessitated by those panels. He concluded by stating that the proposed application met the intent of the historic district.

Chair Plaag asked Mr. Dixon if the original skin of the building was similar to a metal panel coated with enamel paint. Mr. Dixon said that was his understanding. Mr. Dixon said that Mr. Moore could better answer this question because he was part of the replacement process.

Chair Plaag asked if there were any questions regarding the material presented in the meeting packet by Mr. Dixon. There were no questions.

Chair Plaag asked Mr. Dixon if the applicant had witnesses to speak to any technical elements or answer any technical questions. Chair Plaag said this might be an appropriate time for Mr. Dixon to call Mr. Moore as a witness to answer the Commissioners' questions. Mr. Dixon said that Mr. Moore could clarify the historical record of the composition of the panels not being porcelain enamel but a painted metal.

After Mr. Moore was sworn in, Chair Plaag asked Mr. Moore about the original skin on the building before the mid-2000s renovations to the building. Mr. Moore pointed out in the historical photos of the building that the panels were wavy and not attached well. He said they were coming loose and were dangerous. He further explained that they obtained permits and removed the panels. He stated they were not all porcelain or anything that would be of historical relevance to the building. He said that at that time, they decided on the brick façade, and the area was used for storage. He said the proposal is to create 2,500 square feet of retail space.

Chair Plaag asked for confirmation that no changes were being proposed to the actual skin of the building. Mr. Dixon said that is correct. Chair Plaag also confirmed that the proposal is about the window and door openings on the west façade of the building to create a storefront in the recessed area where the current paneled wooden paneled sections are located. Chair Plaag reiterated that it is to replicate the original fenestration of the building when it had metal windows and to replicate it not only in muntin divisions, but also in the type of material that would have been used, specifically metal as proposed to a wood. Mr. Dixon said that is correct.

Chair Plaag asked Mr. Dixon about the emergency exits. Mr. Dixon said the plywood panels would be replaced with a storefront door matching the original layout that was originally a doorway.

Chair Plaag asked if there were any other questions for Mr. Moore. Hearing none, Chair Plaag requested the Planning Staff to present any evidence pertinent to the application. Ms. Turner said that she could go over the applicant's request, or the staff report could be considered that included the request. Chair Plaag asked Ms. Turner if there were additional material not included in the staff report that would need to be presented. Ms. Turner said no.

Chair Plaag asked the Commission members if they had any questions regarding the application or the meeting packet, and there were no questions. He asked if any other interested party or any other non-party witness wanted to speak in support of the application. He asked if any interested party or non-party witness wanted to speak or present evidence in opposition to the application. There were no responses to these questions.

Chair Plaag asked the applicant if they would like to rebut any evidence in opposition. Mr. Dixon said no.

Chair Plaag asked Mr. Dixon if he wished to give a closing summary or argument. Mr. Dixon said he would defer a closing statement until the Town provides a closing statement. Chair Plaag asked the Planning Staff if they had a closing statement, and Ms. Turner replied no. Mr. Dixon provided a closing statement regarding the Commission to consider the appropriateness of the project that is to mimic the original Colvard Chevrolet Showroom.

Chair Plaag closed the testimony phase of the case. He opened the floor for the Commissioners to discuss the evidence at hand and limit their discussion to the proposal of its relationship to the standards applicable to the case. Ms. Meade confirmed that there is probably no dispute of fact relevant to the reasons already stated. She agreed that this is entirely a matter of application of the standards to undisputed facts.

Chair Plaag opened the floor for the Commissioners to provide any input on their perception of how the proposal aligns with the standards in place for the Historic District. He reminded the Commissioners of the Historic Preservation Commission Procedure found on packet page 40 and read to the Commissioners the procedure included in the Staff Report. He presented the question before the Commission regarding whether the proposed exterior modification is incongruous or not incongruous with the special character of the historic district. He said, in addition, the Commission may issue the COA subject to reasonable conditions necessary to carry out the purposes of the historic district.

There was consensus from all Commission members that the proposed application is in congruity with the historic district.

Chair Plaag asked for a motion from the Commissioners for this case.

Motion and Vote:

Vice-Chair Bond made a motion, seconded by Member Brantz, to approve this case because it is congruous with the Historic District in addition to the following Staff recommended conditions:

1. Where there is conflict between the application information and the plans (February 28, 2021), the plans control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed exterior modification made by the applicant or its (their) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and other applicable codes for review and approval necessary to issue Zoning and Building Permits.

Vote: Aye – All

Nay – None

The motion passed.

Chair Plaag closed this public hearing at approximately 6:58 p.m.

Approval of Minutes

Chair Plaag made the following proposed changes to the March 8, 2022, meeting minutes:

- Page six, fourth paragraph, the last line at the end of the paragraph: “Chair Plaag noted that pressure washing can be destructive to masonry and would require its own COA application.”
- Page seven, the second paragraph, reword to page 68 of Appendix D and whether it applies to this case. Chair Plaag read aloud this section: “Ms. Turner said she felt that it could be applied, and the wall should be painted with historic colors, but she noted that the building,”
- Page seven, paragraph four in the last line, reword to: “Chair Plaag asked if the mortar is frequently repointed, and Ms. Turner acknowledged that it is,”
- Page eight, paragraph five, add a sentence to the end: “There were no affirmative answers to these questions.”
- Page 12, paragraph three, reword to: “brief conversation with Ms. Meade regarding Town acquisition of abandoned cemeteries. Ms. Mitchell explained the original question for cemetery designation was if there is not a known property owner, how does enforcement of local landmark regulations work.”
- Page 12, paragraph seven, second line, change “Option B to Option C,”
- Page 13, paragraph three, last sentence reword to: “what he said in his narrative about Judge Greene, but Member Watkin’s alternative text proposed dropping Judge Greene’s name from the marker.”

- Page 13, paragraph four in the fourth line, reword to; “Greene who is there is Judge Greene, and this is the person who helped establish the cemetery and maintained it for decades, improving it for years before his death so it could be maintained in the future, then it seems an odd choice,”
- Page 14, paragraph three, reword to: “Chair Plaag said that Mr. Henson explained to him that he interviewed Howard Cottrell several years ago, and Howard Cottrell explained to Henson that he was with his grandfather,”
- Page 14, paragraph four, add a line at the end: “There was consensus to make this change to the Howard Street narrative text.”
- Page 16, paragraph five, second line, delete the phrase: “because it would be part of public art week.”

Member Brantz made a motion, seconded by Vice-Chair Bond, to approve the March 8, 2022, meeting minutes as amended.

Vote: Aye – All

Nay – None

The motion passed.

Discussion of Historic Preservation Commission Meetings and Times

Chair Plaag said he had talked to another Commission member who had expressed concern about having longer meetings that continue for more than two hours. Chair Plaag noted that the Board of Adjustment typically limits their meetings and does not start new things after the three-hour mark. Chair Plaag said he would like to discuss a way to hold two meetings each month. One meeting would be for advisory board topics, and the other meeting would be for quasi-judicial hearings of Certificate of Appropriateness (COA) cases. After Chair Plaag asked each Commission member their thoughts on two meetings each month, the Commissioners proposed the first Tuesday of each month to discuss advisory board topics and the second Tuesday of the month to hear quasi-judicial COA cases.

Vice-Chair Bond said she felt that we need to be more sensitive to the timeframe of the people making the application and the designers. She suggested having the meetings during the regular workday. Student Member Willis noted that her schedule is open from May until August of 2022 if the meetings are virtual. Ms. Meade said that virtual meetings are still undecided. Ms. Meade stated that one could go forward with assuming virtual work for decision-making during this meeting. Ms. Shook agreed.

Ms. Shook pointed out that one of the reasons the Council lightened the Planning Staff workload is to avoid having two meetings each month. Ms. Shook clarified that two meetings do not mean two separate deadlines. She said she would like to see that the Planning Staff’s work is limited, and there are things to be worked out for a second meeting. She asked Ms. Meade if there was a reason that both meetings could not be held during the day. Ms. Meade said both meetings could be held during the day. Chair Plaag pointed out that the HPC changed to an evening meeting to draw more applicants to the board. He said we had gone almost a year with that change, and it has not encouraged other people to apply other than Student Member Willis. Ms. Shook asked Council Liaison Roseman how a meeting change would affect her schedule. Council Liaison Roseman said she wanted to support the HPC and needed enough time to adjust her schedule. Chair Plaag noted that keeping the regular meetings in the evenings might make it easier on Council Liaison Roseman, and she agreed.

Discussion ensued on voting on the possible change of meeting dates and times. Chair Plaag asked Ms. Meade how the HPC should vote on this topic. Ms. Shook and Ms. Meade agreed that the HPC could amend the agenda and still take action. Ms. Shook said the whole point of the HPC discussing design standards and the process is to make everything better. Ms. Meade noted that the HPC could recommend to Council, and the HPC is in complete control of how and when they meet subject to Council agreement. Ms. Meade said the HPC could discuss the said topic and ask the Planning Staff to take the HPC’s views back to Council for their consideration. Chair Plaag said there are three options: (1) Leave the meetings as they are, (2) Split the quasi-judicial and regular meetings into

two, with the quasi-judicial meeting at 3 p.m. on the second Tuesday and the regular meeting at 6 p.m. on some other Tuesday, (3) Moving both meetings to sometime during the day possibly at 3 p.m.

To keep the deadlines, the same, Ms. Shook asked to leave the quasi-judicial hearing on the second Tuesday. Ms. Meade also pointed out from a financial perspective, and Ms. Shook pointed out from an administrative point of view that the meetings during the day would be better. Ms. Meade added that the agenda for both meetings could be published once, together, in advance of the first meeting. This would limit the Planning Staff's work, and everything would be ready in advance. There was a consensus from the HPC members to have a meeting on the first Tuesday to discuss advisory board topics and on the second Tuesday to hear quasi-judicial cases. If there is no case, there will be no need to have a hearing.

Discussion ensued on the Rules of Procedure for the number of cases to be heard in a month. Ms. Shook said the Board of Adjustment does it by time versus number of cases. Ms. Meade said this topic has already been addressed, and it is definitely based on time. She said each case could be ten minutes or two hours, and sometimes you cannot tell in advance. Ms. Meade suggested keeping it on time; she said it is still within the HPC's power to control the length of its meeting in the course of any given meeting. Ms. Meade noted that the general direction contained in the rules of procedure is between two or three hours.

Council Liaison Roseman asked, because we are already so far into the month of April would this proposed change occur in June. Ms. Shook said she thought the change could occur in May. Council Liaison Roseman noted that she might not be able to change her schedule that quickly, but she would re-evaluate it.

Vice-Chair Bond left the meeting at approximately 8:15 p.m.

HPC Rules of Procedure

Ms. Mitchell asked Ms. Meade if she had an update on the HPC Rules of Procedure. Ms. Meade requested that this agenda topic be moved to the first May advisory meeting. Chair Plaag agreed with Ms. Meade's request.

Chair Plaag made a motion, seconded by Member Brantz, to table the HPC Rules of Procedure update for the May 2022 advisory meeting

Vote: Aye – All

Nay – None

The motion passed.

Historic District/Landmark Design Standards

Discussion of Murals and Public Art

Ms. Mitchell noted that this topic was tabled from the last agenda to allow Ms. Meade to speak to Council on it. Ms. Meade said she had scheduled it for Council and then asked Council to postpone their discussion until the HPC had a chance to have an initial discussion. Ms. Meade said she hoped that Council would discuss it on April 13, 2022.

Discussion ensued on standards for Murals and Public Art. Ms. Meade pointed out that she thought the standards could generally use additional information with respect to public art. She said she found a well-written set of standards for public art in Hillsborough, North Carolina. She pointed out public art and murals concerns in the Downtown Historic District and the Town's concerns about murals and public art, but murals specifically. She said if a mural does not have a commercial or advertising message, it is considered public art and not a sign. She said there is no town code or UDO standard that speaks to non-sign murals right now. She said this needs to be addressed Town-wide by the Council. She recommended that the HPC recommend and suggest to Council to adopt Historic District standards on public art, meaning publicly-viewable art installations such as murals. She said that as a separate matter, Council could consider a town-wide mural ordinance and potentially a more

comprehensive program related to publicly-funded/supported art. She noted that public art commissions in larger cities consider applications for publicly-funded/supported art installations.

Ms. Meade asked the HPC to share their view on whether they thought murals were consistent, as a general matter, with the Downtown Historic District. She said the HPC's opinion on murals should be given to Council. Chair Plaag indicated that in his view murals were generally consistent with the historic district, but that there should be historic district standards in place to govern such matters as the appropriate placement and installation of murals. Ms. Meade stated that such standards should consider mass, scale, durability, installation method and placement, and the manner of installation.

Member Watkins took issue with certain prefatory language contained in the Hillsborough historic standards for public art that Ms. Meade had offered for the HPC's consideration, asking just how public art "helps define the community's identity and reveal the unique nature of a specific neighborhood". Ms. Meade that public art and murals are frequently and highly associated with neighborhoods in certain locales, such as Philadelphia.

Chair Plaag asked Ms. Meade to have the Planning Staff email the Hillsborough, North Carolina standards to the HPC members. He also suggested that the Planning Staff contact the State Historic Preservation Office (SHPO) and ask if they can recommend a set of local historic district standards for murals.

Ms. Amber Bateman, Director of the Watauga Arts Council, talked about a statement that was made about murals being placed on doors and then requiring them to stay, negating an opportunity for a doorway to be in that place. She pointed out that just because a mural is painted on a door doesn't mean the mural has to stay there forever.

Ms. Bateman talked about West Jefferson, North Carolina, having a Mural and Arts Council that oversees appropriate murals. She thought a Public Arts Commission in connection with the HPC could oversee the standards of appropriateness and help guide the size of a mural on a building. Chair Plaag told Ms. Bateman that the HPC would not be regulating the murals' content. He said it is appropriate for the HPC to regulate the standards for the location of particular types of murals. He further explained to Ms. Bateman that temporary murals have an approval period of a certain amount of time or until such a time that the building owner decides to rehabilitate the building. Ms. Bateman pointed out that she did not intend the proposed Junaluska Community mural on the Mast General Store entrance doors to be permanent. He pointed out that at this time, there is no set of standards that would have allowed the said mural to be temporary. He said that the HPC needs to develop a set of standards with regard to preserving the historic district. He pointed out that the ability to decide where murals generally will be placed should be done by the HPC and not by a Public Arts Commission.

In summary, Ms. Shook confirmed that Ms. Meade introduced murals and public art standards for the HPC to review and bring back information from the standards for discussion at a future meeting. Ms. Shook clarified that we are not discussing or suggesting that there will be an actual Public Arts Commission. Ms. Meade said she would report to Council the HPC's intent and recommendation for better standards for public art.

Minor/Major Works Draft Text UDO Modification – Presented to Town Council on February 9, 2022

Ms. Mitchell referred to packet page 59 and noted that the Planning Staff and Ms. Meade looked at Article Eight of the UDO. She said they compared how other jurisdictions classify a Statement of Conformity and Certificate of Appropriateness. She detailed that the proposed text in the color blue are the additions, and the text in the color red are the removed items. She stated the comparisons of text came from Cary and Rocky Mount, North Carolina. She said the Planning Staff had presented the proposed text changes to Council in February. Town Council recommended that the HPC review them and make proposed changes. Ms. Shook clarified that Council had suggested that the Planning Staff look at ways to make the COA process and standards more user-friendly. She said that the list does not totally define what should be minor or major works in the current setup.

Chair Plaag explained the HPC's understanding of instances where a proposed work application considered minor work could become major work if the Planning Staff determines that historical elements might be damaged or destroyed or if there is a question the staff is unsure about the proposed work. Ms. Shook noted that she thought this process needed to be clarified on what can be done administratively and what needs to go through the COA process. Ms. Meade said she thought the language needed modifying for the sake of the guidance to the public.

Chair Plaag pointed out the following proposed changes to Article Eight:

- **Article 8.05.02(H)**, if the addition of awnings, canopies, or shutters has a historical component, they go through the COA process. The removal of awnings, canopies, or shutters with no historical component goes through the Statement of Conformity process.
- **Article 8.04.02(D)** Removal of existing fences and walls was proposed to have similar language as previously mentioned regarding historical or no historical components.
- **Article 8.04.02 (B)** Removal of existing decks, patios, and sidewalks was proposed to have similar language as previously mentioned regarding historical or no historical components.
- **Gutters** Removal of gutters and downspouts was proposed to have similar language as previously mentioned regarding historical or no historical components.
- **Lighting** Installation, Alteration, or Removal of exterior lighting fixtures was proposed to have similar language as previously mentioned regarding historical or no historical components.
- **Driveways** Construction of Driveways, Removal of Driveways, and Alteration/addition to existing driveways to Major Work (COA) because of potential historic landscape issues. And include some refining of the language to address a change in gravel, gravel parking lot to asphalt parking lot, which could be minor work to be reviewed by staff.
- **Article 8.03.01(D)**, painting where there is a change in color only because there is no language about colors that are not historically sympathetic to the district or not historical to the building.
- **Article 8.05.02(N)**, All other Roof Attachments are to be clarified along with Rooftop Addition.

In Chair Plaag's statement of Roof Attachments, he questioned if this is to include rooftop accessory uses; for example, a rooftop bar located in the tertiary elevation of the building would need to be reviewed. Ms. Shook replied that it would be considered a rooftop addition versus a rooftop attachment.

Ms. Shook asked to identify if there are other areas to be completed administratively with a Statement of Conformity and what needs to go through the COA process. Chair Plaag noted that he could take another look at the major works category to see if any of those could be moved to minor works. Chair Plaag asked Ms. Shook if she wanted to make the revisions, wait on some additional informal input, and maybe bring a final draft to the May HPC meeting. Ms. Shook noted that we would like to move forward as quickly as possible. Ms. Shook said the Planning Staff could revise it and incorporate it with the text amendment and include the changes for public art. Ms. Meade also suggested moving forward with the proposed Article Eight as quickly as possible. Ms. Meade said she could review the revised draft, and it could go to the next Public Hearing, which would be the quickest way it could be done. Chair Plaag thought the HPC could vote on the proposed draft at the May HPC meeting. Chair Plaag, Ms. Meade, and Ms. Shook agreed that they could make it happen by the May Public Hearing date.

Certificate of Appropriateness Process

Ms. Shook said that from the Planning Staff's perspective, we would like to define better how we meet with applicants in this process. She mentioned that with a successful application at this meeting, she suggested that the Planning Staff could contact the applicant and ask him for a model application or plan for Staff to show future applicants. She said the Planning Staff is looking for ways to help make the process easier for the applicants, whether obtaining historic materials or giving them resources for those historical materials. Ms. Shook mentioned working on making the hearings run more smoothly. Council Liaison Roseman suggested having the applicant attend a hearing to review an application before their case is heard. Ms. Meade suggested that the Commissioners take a critical eye on the staff report and ensure that the standards are relevant to the case. Ms. Meade suggested

that the staff report be much shorter because the longer they are, the less likely people will want to read them. Chair Plaag agreed and noted that it is a balancing act, and we are learning as we go on what is most relevant to be included in the staff reports.

Ms. Meade left the meeting at approximately 8:24 p.m.

Project Updates by Planning Staff

Ms. Mitchell summarized the items presented in the meeting packet and agenda.

Hayes-Bryan-Greene Cemetery Marker Update

Ms. Mitchell said the action request for the Hayes-Bryan-Greene Cemetery historical marker would go to Council for their consideration on April 13, 2022.

Council's Store Historical Marker

Ms. Mitchell said that Sewah Studios received the order form for the Council's Store historical marker. The marker will be made without a QR code from the company.

CLG Status

Ms. Mitchell said she continues to work on the Certified Local Government (CLG) application and that the deadlines are on track for submitting a draft application in mid-May or early June of 2022.

Project Updates

Watauga County Jail Local Landmark Designation Draft Report

Chair Plaag said that he believes that he can finish the draft report in about one week. He said he would try to send out the draft report to the HPC for their review by early next week.

History of North Street Park Land

Chair Plaag explained that Mr. Mark Freed, Director of Cultural Resources, asked him about the North Street Park land history. Mr. Freed was inquiring about the best use of this land. Chair Plaag created a draft report on the park based on his home resources. He said he might have to go to the courthouse, Appalachian State University, or Digital Watauga collections to clarify some things in the report. Chair Plaag said he brought this topic to the HPC's attention because it is historical. He asked Mr. Freed if he had anything to add to this topic. Mr. Freed said that he had some community projects happening at the park. He further mentioned that it is important to know the history of the parks to move forward with other potential developments like a pavilion or other uses for the community space. Council Liaison Roseman commented on the report having postcard images showing the timeline for the park. Chair Plaag said he found it somewhat of a mystery how a parcel could remain essentially untouched for so long.

Other Discussion

There was no other discussion.

Adjournment

Member Watkins made a motion, seconded by Member Brantz, to adjourn the meeting at 8:35 p.m.

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

Eric Plaag, Chair

Marlene Crosby, Board Secretary

Rules of Procedure
Historic Preservation Commission
Town of Boone



Effective January 12, 2022

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Purpose of Rules

1. What are these Rules?

These Rules of Procedures (Rules) apply when the Boone Historic Preservation Commission (hereinafter, “the Commission”) acts in its quasi-judicial capacity to consider applications for Certificates of Appropriateness submitted pursuant to Section 8.03 of the Town of Boone’s Uniform Development Ordinance (hereinafter, “UDO”) by owners of properties designated as local historic landmarks or located within the Town’s designated historic district(s).

These Rules also are designed to answer questions from people who are unfamiliar with the Commission’s processes in order to provide more predictability and therefore more timely processing of applications. They are an attempt to make the procedures more understandable, to address certain details of the Commission’s operation, to create uniform methods for dealing with recurring questions that arise during hearings before the Commission, to provide guidance to people who appear before the Commission so they can better prepare for Commission public hearings, and to facilitate the efficient administration of matters that come before the Commission.

2. What happens if there is a conflict or absence of authority?

In the event of conflict between or among the legal authorities governing the Commission’s actions, the North Carolina General Statutes shall take precedence first, then the UDO, and then these Rules. To the extent applicable law and these Rules are silent or ambiguous as to a procedural matter, the Commission may consult the rules set forth at Chapter 35 of the Town’s Code of Ordinances and Robert’s Rules of procedures for small boards.

The Historic Preservation Commission

1. What is the Historic Preservation Commission?

The Historic Preservation Commission is a citizen volunteer commission established by the Boone Town Council pursuant to Articles 2 and 8 of the UDO and §§ 160D-303 and 160D-942 of the North Carolina General Statutes. The Commission acts in a quasi-judicial capacity to consider applications for Certificates of Appropriateness submitted pursuant to UDO § 8.03 by owners of properties designated as local historic landmarks or located within the Town’s designated historic district(s).

The Commission also hears appeals from administrative denials of applications for Statements of Conformity for minor works. Such appeals shall be treated *de novo* as applications for Certificate of Appropriateness for all purposes under these Rules, except as may be otherwise mutually agreed by the Commission, the Town, and the applicant.

In its advisory (and non-quasi-judicial) capacity, the Commission also makes recommendations to Town Council with respect to a variety of matters related to historic resources within the Town. These Rules have no bearing on the Commission’s actions in its advisory capacity.

2. What does it mean that the Commission is “quasi-judicial”?

A “quasi-judicial” commission is one that operates like a court. Commission members must make decisions on the issues before the Commission based only on evidence presented to the Commission at a hearing and standards set forth in the UDO. The Commission, just like a court, can decide what evidence it believes and what evidence it rejects. Similarly, it can choose to believe a person who

appears before it, or it may find that the person's information or testimony is not credible and it may reject it. In some areas, North Carolina General Statutes dictate what testimony and evidence the Board is allowed to consider. (See Evidence §§ 1,3.)

3. When and where does the Commission meet?

The Commission holds its regular monthly meetings on such dates and times as has been specified by the Boone Town Council and properly noticed by the Town Clerk. Currently, meetings are scheduled on the first Tuesday of the month at 6 p.m. and the meeting location is Town of Boone Council Chambers; however, the date, time and place of the regular monthly meeting is subject to change at any time consistent with the requirements of applicable law. In addition, the Commission may continue regular meetings and may schedule special meetings as it deems appropriate, subject to the requirements of open meetings law and any other applicable law.

4. How does a case come before the Commission?

A written application for a Certificate of Appropriateness, on such forms as may be required by the Planning and Inspections Department (sometimes referred to as "Planning"), must be filed with Planning by a person who has the legal right to file the application and the application must generally be considered complete by the pertinent Planning staff.

The Town of Boone has forms for applications available on its website and in the Planning and Inspections Office. Planning and Inspections is located on the basement level of the Boone Downtown Post Office at 680 West King Street, Boone, NC 28607. The appropriate form must be fully filled out and the fees paid for Planning to process it. Planning will then set the application for hearing at the next available Commission meeting date and provide notice of the hearing to neighbors and the public as required by the UDO.

5. How many Commission members participate on each case?

A full commission is composed of five Town residents; a quorum of at least three members is required to hear a case. Commission members cannot participate in cases in which they have a fixed opinion on the case prior to the hearing that is not susceptible to change; in which they have undisclosed communications with others prior to the hearing regarding the substance of the case; in which they have a close familial, business, or another associational relationship with someone who will be affected by the decision; or in cases in which they have a direct or indirect financial interest in the outcome. (See Membership §§ 6-10)

Membership

1. What is expected of Commission members?

Sections 2.04 and 2.05 of the UDO govern the conduct of the Commission's business and of individual commission members, and shall be considered incorporated herein.

The applications that come before the Commission can be extremely important both financially and in terms of quality of life for the parties, neighboring property owners, and Town residents generally. Commission members are expected to:

- A. Fully comply with all relevant provisions of the Town of Boone Code of Ethics, found at § 30.52 of the Town of Boone Code of Ordinances;

- B.** Disclose to the Commission and/or seek advice from the Town Attorney in the event of any concern about a potential conflict, ex parte communication, or any other matter which could call into question the impartiality and fairness of the Commission member as to any particular matter to be heard by the Commission;
- C.** Review, become familiar with, and remain familiar with these Rules, the UDO, the Comprehensive Plan, and all other adopted plans of the Town of Boone that may relate to decisions by the Commission;
- D.** Fairly apply the UDO and any other applicable law and Town plans to the application before them, even when they personally disagree with applicable standards or policies;
- E.** Review and be familiar prior to the meeting with the application and staff report on each matter that comes before the Commission;
- F.** Advise the Planning Department if the member is no longer eligible to serve on the Commission due to a change of residence or other cause;
- G.** Attend all training sessions of the Commission; and
- H.** Recognizing the gravity of the matters that come before the Commission, conduct themselves in a manner befitting the responsibilities that have been placed upon them, including:
 - 1. Recognizing the high costs parties may incur in appearing before the Commission, making all reasonable efforts to timely arrive for meetings of the Commission so as to avoid keeping parties, their various witnesses and professionals, and members of the public from having to wait for meetings to begin;
 - 2. Dressing for public hearings in appropriate attire so as to communicate to the parties, witnesses, and general public that they take their responsibilities seriously, and understand and consider the matters that come before the Commission matters of serious concern to the participants and the public; and
 - 3. Maintaining a professional and serious decorum during public hearings, including the deliberations and decision-making of the Commission, by:
 - a. Avoiding all whispered conversations with each other;
 - b. Refraining from interrupting other members of the Commission, parties, or witnesses, absent an appropriate reason for doing so;
 - c. Treating all participants and witnesses in hearings, as well as other Commission members, with the degree of respect with which they would like to be treated;
 - d. Avoiding cell phones ringing during meetings, as well as the receiving or sending of text messages during a meeting, absent an emergency; and
 - e. Paying attention to the presentations by parties and witnesses and carefully listening to the comments and questions of other members of the Commission.

2. How are Commission members appointed?

The Commission is comprised of town resident volunteers appointed by the Boone Town Council. A majority of the Commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields.

3. Do Commission members receive compensation for their service?

No, Commission members receive no compensation for their service.

4. What happens if a Commission member cannot participate in a particular hearing?

The Planning and Inspections Department attempts to determine in advance of each meeting whether any Commission member should not or is unavailable to participate in any particular case, and when possible arranges for the appearance of an alternate member for the regular member who is unable to participate. Quorum requirements for the Commission are set under state law and the UDO and the Commission cannot hear a case if there are fewer than three participating members. If a Commission member is recused from the hearing after it has been called and no alternate is present leaving the Commission with less than a quorum, the case cannot be heard and will be continued to a later date.

5. When should a Commission member not participate in a hearing?

A Commission member should not participate in or vote on an application if the member's participation would violate an affected person's constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to:

- A. Having a fixed opinion prior to hearing the matter that is not susceptible to change;
- B. Having undisclosed ex parte communication concerning the matter;
- C. Having a close familial, business, or other associational relationship with an affected person;
- D. Having a financial interest in the outcome.

6. What is ex parte communication?

An ex parte communication occurs when a Commission member discusses with any other person, including another Commission member, party, neighbor, or Town staff, the substance of a case outside the hearing and before the decision in the case is announced. Should a Commission member receive an unsolicited comment from a party or member of the public concerning a case, he or she shall inform the person seeking to comment that discussing a case prior to the hearing is prohibited and shall end the conversation. If that Commission member then participates in the hearing on the case, the member shall disclose at the beginning of the hearing the substance and source of any such unsolicited comment in order to allow any party an opportunity to object to the member's participation in the case.

7. What happens if a Commission member does not discover that the member should not participate in the case until the hearing has started?

Although every effort is made to avoid this, at times a Commission member may not realize until the hearing on the case has already begun that a reason exists that does or may make it inappropriate to participate in a case. As soon as a Commission member realizes that such reason exists or may exist, the member should interrupt the hearing to announce the existence of the reason and if appropriate should withdraw from the case, unless objection to the member's participation is waivable and is in fact waived

by all parties. (See Membership § 9) If an alternate member of the Commission is not present at the time of such withdrawal and a quorum is lost as the result of the withdrawal, the case will be continued and shall be treated as a new case when it is next heard. At the new hearing, the Commission will be directed to disregard whatever evidence was presented to it during the initial hearing and shall base its decision only on the evidence presented at the new hearing.

8. What happens if a Commission member does not withdraw from a case, but another Commission member or a party believes that the Commission member should not participate in the case?

In the event a Commission member does not withdraw from a case, but another Commission member or a party to the case raises an objection to the Commission member's participation, the objecting person must state with specificity the basis for the objection. The Commission member whose participation is questioned shall be entitled to answer the objection, and following such response, the remaining members of the Commission, by majority vote of those participating in the vote, shall rule on the objection. The challenged member of the Commission shall not participate in the vote on the objection.

9. Can an applicant waive its objection to a Commission member participating in the hearing?

Yes, in certain circumstances an objection can be waived. The Town of Boone disfavors any member of the Commission participating in a case for which a valid basis exists for objection to his participation, as described in Membership § 5. However, in some circumstances, if the Commission member discloses the full extent of the matter or circumstances which would prevent participation, and all parties to the case express on the record their wish that the Commission member nevertheless participate in the case, the Board member may do so. However, under state law a Commission member who has, or whose family member has, a direct or indirect financial interest in the case may not participate in the proceedings even if all parties consent to the member's participation.

Pre-Hearing Procedures

1. Who is allowed to submit an application?

Either the party seeking the Commission's decision on a matter within the jurisdiction of the Commission or an authorized person acting on behalf of that party, such as an agent, attorney, employee, or other representative, can fill out an application or appeal for a matter that will be decided by the Commission, but if the person proceeding is a representative, he or she must prove the proper authority to do so.

2. What is a staff report?

In every case which comes before the Commission, Planning staff will prepare a report summarizing the issues and at least some of the history of the matter, and including copies of documents which the Planning Department considers important to an understanding of the case. Staff reports on each case are distributed to members of the Commission in a "Board Book" which is distributed to the members prior to the hearing. Except to the extent that a party objects to material contained in a staff report and the objection is sustained by the Commission, the staff report is considered evidence in the matter and may be considered by the Commission in its decision.

3. Who can examine a file prior to the hearing?

Files related to cases before the Commission are available for inspection by members of the Commission, parties, and members of the public. If a file is particularly voluminous, not every item from the file may be included in the staff report and Board Book. Commission members, parties, and members of the public may arrange to review the file by contacting the Planning and Inspections Department at (828) 268-6960 and making an appointment to do so.

4. Once a case is scheduled for a hearing, can it be delayed?

Yes. Cases are generally placed on the agenda for the Commission as soon as possible once all needed materials have been submitted by the applicant. If an applicant wishes to have consideration of a case delayed, the applicant must submit a written request to the Planning and Inspections Department. Planning staff will transmit the request to the Chair of the Commission, and will notify all other parties involved in the case of the request. Unless a party objects to the request for a continuance, the Chair can either make the decision on the request or refer the request to the Commission itself for a decision. If any party objects to a continuance, it must be decided by the Commission. The Commission can also decide to continue a case on its own initiative if it determines that the case is not ready for hearing or it will not be reached at a particular meeting, but this can only happen at the hearing.

5. If a case is delayed, will it be heard the next month?

Not necessarily. A case which is continued can be scheduled for the next month's regular meeting of the Commission, it can be continued for more than one month, or it can be continued to a special meeting. In unusual circumstances, a case might be continued for more than a month.

6. How does a person intervene as a party in a case?

The applicant and the Town of Boone are always considered parties in a case before the Commission. Other persons can also request that they be allowed to participate in a case as a party, but only a person who has a special and substantial interest in a case before the Commission will be allowed to intervene in the case as a party. In order to intervene as a party in a case, at least twenty-four hours prior to the beginning of the Commission meeting in which the case is to be considered, the person seeking to intervene must complete a "Request to Intervene" form provided by the Planning and Inspections Department. The completed form must state the name and address of the person seeking to intervene, and it must explain the nature of the interest such person has in the outcome of the case. Persons who own property adjacent to or within one-hundred-and-fifty feet of the property in question in the case shall, without further showing, be presumed to have a special and substantial interest in the outcome of a case and will be allowed to intervene. Other persons may establish a substantial interest by showing that the value of their property will be adversely affected by the outcome of the case, or by showing such other distinct and personal interest in the outcome of the case as to distinguish their interests from the interests of the public at large. Organizations whose members include persons with such substantial interest in a particular case may be permitted to participate on behalf of their members upon written proof that they include and are acting on behalf of such members.

7. How does the Commission decide if a person can intervene?

When a person has filed a timely request to intervene, a hearing to determine if intervention will be allowed will precede the hearing on the merits of the case. The Commission shall consider the written application to intervene, and after hearing from the person seeking to intervene and from all other

parties to the case their reasons in support of or against intervention, the Commission shall decide whether the person may intervene in the case. A decision allowing a person to intervene is by majority vote of the Commission.

8. Can a person denied the right to intervene still participate in the case?

Yes. If an application to intervene is denied, the person can still participate in the hearing as a witness.

9. Can a person be compelled to appear as a witness or provide documents?

Yes. Under state law, the Commission Chair has the power to issue subpoenas to require attendance of witnesses or to compel the production of documents or other evidence. To request issuance of a subpoena, the applicant, the Town, or any person with standing under G.S. 160D-1402(c) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled.

10. How are subpoenas served?

Subpoenas are served just as they are in any normal court proceeding (see N.C. Rule of Civil Procedure 45(b)). They can be served by personal delivery by the sheriff, by the sheriff's deputy, by a coroner, or by any person who is not a party and is 18 years of age or older; or they can be served by registered or certified mail addressed to the person, return receipt requested. Service of a subpoena for the attendance of a witness can also be made by telephone communication with the person named in the subpoena, but this type of service is only available if it is done by the sheriff, the sheriff's designee who is 18 years of age or older and not a party, or by the coroner. Alternatively, service can be achieved by any means agreed to by the person being served, including email.

11. What are the procedures for issuance of subpoenas?

A subpoena will only be issued upon submission of a completed "Subpoena Request Form" provided by and returned to the Planning and Inspections Department. Any request for a subpoena by an applicant or the Town must be served on the Commission Chair and all persons who are parties to the case or have moved to intervene as a party at least 10 days prior to the hearing on the case at issue. Persons moving to intervene as a party must serve a subpoena request on the Chair and all persons who are parties to the case at least 24 hours prior to the hearing on the case at issue.

The Commission Chair shall issue requested subpoenas that the Chair determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be immediately appealed to the full Commission. The Commission shall hear any such appeal in a duly-noticed meeting. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Commission or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

The Hearing

1. How long do Commission meetings last?

Because it is hard to predict or control how many matters will be placed on the Commission's agenda at any of its regular monthly meetings, and because the matters that come before the Commission demand its utmost attention and clarity, meetings that last too long interfere with the Commission's

ability to function effectively. The Commission generally will adjourn approximately 3 hours after the start of its meeting and continue to the next meeting any cases which are not completed or heard. However, the Commission may shorten or allow lengthier hearings in its discretion, and in all other respects may adopt such other or additional rules for the length and conduct of its meeting or of a particular meeting as it may see fit, so long as the substantive and procedural due process rights of the parties are reasonably protected.

2. Who may participate in a hearing before the Commission? (Parties and Witnesses)

There are two types of participants in a hearing before the Commission: “Parties” and “Witnesses.”

- A. **Parties.** The applicant and the Town of Boone are always considered parties in a hearing before the Commission. In addition, a person who has properly intervened in the case is considered a party to the case. (See Pre-Hearing Procedures §§ 6-7)
- B. **Witnesses.** At the start of each meeting, the Chair will announce the availability of sign-up sheets for any person wishing to appear as a witness in a case scheduled for that meeting. A person who wishes to testify as a witness must record his or her name on the sign-up sheet for the case in question unless the Chair or Commission allows people who have not signed up to also testify. If people who did not sign up are allowed to testify, every person who wants to be heard but did not sign up must also be allowed to testify. Parties and witnesses who are called by parties to testify are not required to sign the sign-up sheet.

Any interested person, other than a party, may participate in a hearing before the Commission by testifying and is considered a “witness.” (See The Hearing § 3) Witnesses are subject to questioning/cross-examination with respect to their testimony by Commission members and the parties.

3. If I am not the person who filed the application, can I still appear before the Commission?

Yes. All hearings before the Commission are open to the public, and interested members of the public can participate in two different ways. People who wish to give testimony to the Commission about a particular matter can sign up prior to the hearing on the matter on sign-up sheets placed near the entrance of the room in which the Commission is conducting its hearing. (See The Hearing § 2) Since the sign-up sheets are turned into the Commission at the beginning of the hearing on a matter, it is important to arrive on time. Otherwise, you might not be able to speak. Other people can also request that they be allowed to participate in a case as a party, but only a person who has a special and substantial interest in a case before the Commission will be allowed to intervene in the case as a party. (See Pre-Hearing Procedures §§ 6-7.) A person who has intervened can ask questions of other witnesses at the hearing and can argue the facts and law of the matter under consideration, just as any other party to the case is entitled to do.

4. Who can represent a corporation, limited liability company (LCC), or other nonhuman entity before the Commission?

Only an attorney licensed by the State of North Carolina can represent a corporation, LLC, or other non-human entity before the Commission. Attorneys can argue the law and facts of a case, object to materials and evidence offered to the Commission, and question their witnesses and cross-examine

other witnesses. Other types of experts, such as engineers, architects, and appraisers, can testify in the hearing on a matter, but they cannot argue the law and facts of a case, object to materials and evidence offered to the Commission, or question other witnesses at a hearing.

5. Who can represent a natural person before the Commission?

A natural person is the term in the law for a human being who is acting in his or her own name representing his or her own interests. A natural person may be represented by an attorney, or may represent himself or herself. If a natural person who is also a party chooses to represent him- or herself, that person can argue the case to the Commission by summarizing the facts and offering legal argument, can testify, and can ask questions and cross-examine witnesses who appear.

6. What happens if the applicant does not show up for the hearing?

If the party who has filed the application fails to show up for the scheduled hearing, the Commission may by majority vote either dismiss the case or continue it to another time to provide an opportunity for the party to justify the failure to appear.

7. If an application is dismissed due to the failure to show up for the scheduled hearing, can the application be revived?

Yes. Once a case is dismissed, the party may file a new application for a Certificate of Appropriateness to be considered by the Commission. Any new application requires that a party submit all required materials and pay the required fees as if no prior application had been submitted. (See The Historic Preservation Commission § 4.) No credit is given for the fees paid in connection with a case that was dismissed.

Generally, an application is evaluated against the requirements in the UDO at the time the application is filed. If the requirements of the UDO have not changed since the dismissed application, an identical application may be filed. If on the other hand, the requirements of the UDO have changed since the dismissed application was filed, it may no longer be possible to submit an identical application.

8. What is the role of the Town Attorney at hearings?

The Town Attorney attends meetings of the Commission and normally acts as the Commission's attorney. In that role, the Town Attorney can call witnesses, cross-examine witnesses offered by any party, cross-examine witnesses who are appearing as members of the public, answer legal questions from the Commission members, and provide direction and clarification to Commission members when he or she believes it is warranted to do so, including during the Commission's deliberations. Alternatively, independent counsel may be retained to advise the Commission.

9. In what order does the Commission hear cases or other matters scheduled before it?

Cases are placed on the Commission's agenda on a first come-first served basis, based on the order in which they reach a readiness for hearing.

10. How much time does an applicant have to present a case?

There is no time limit placed on the presentation of a case, but the Chair or the Commission may prohibit the presentation of repetitive, irrelevant, unreliable or other evidence deemed to be of no substantial usefulness to the Commission in reaching the legal issues presented. (See The Decision §§ 3-

6.) Although the North Carolina Rules of Evidence do not strictly apply to proceedings before the Commission, the Commission will only consider evidence that meets at least minimal standards for reliability. (See Evidence §§ 1, 3.) As to the length of Commission meetings, see § 1 herein (How long do Commission Meetings last?).

11. What happens if a case is not reached when it is first scheduled?

If a case is not reached when it is first scheduled on the agenda and the Commission does not schedule it for hearing at a special meeting, it will be scheduled for the next regularly-scheduled meeting of the Commission and will hold its place in the line of cases to be heard.

12. What happens if an application is modified between the time the staff report is distributed and the time it comes before the Commission?

In every case that comes before the Commission, Planning staff prepares an analysis of the case for the Commission called the “staff report” that is distributed to the Commission and all parties to the case about a week prior to the meeting. (See Pre-Hearing Procedures § 2.) If an applicant has changed its plans or any other features of its application between the time the staff report is distributed and the meeting, there may be no opportunity for staff to thoroughly evaluate the revised application. Therefore, in every case in which there is a change between the application materials evaluated in the staff report and the Commission meeting, as soon as such a change becomes apparent to the Commission, it will suspend its hearing on the merits of the application and conduct a hearing to determine whether it should continue the case to a future meeting in order to allow staff to evaluate the modified application materials. The Commission may question staff and others at the hearing to help it decide whether it should proceed or continue the case. If the Commission decides it can fairly consider the case without a revised staff analysis, such as in cases in which modifications are obviously minor, it can proceed with its hearing on the case without the benefit of an updated staff report.

13. If multiple issues are involved, can the Commission divide them into separate hearings?

Yes. Upon motion of any party to a case or by motion of a Commission member, second, and majority vote, the Commission may divide a hearing by issue. For example, the Commission may first admit evidence as to whether an application is complete, hearing from each party and witness as to that specific issue, closing the hearing as to that issue, and then voting on that issue. Using this system, in the event a vote is taken which bars the granting of approval, as the case may be, the case will end and no further votes need be taken unless a request for a provisional vote is made and approved by majority vote of the Commission. (See The Decision § 11.)

14. Can the Commission reopen the evidentiary portion of a hearing after it has been closed?

Yes. After the evidentiary portion of a hearing has been closed, should any member of the Commission request that the hearing be reopened, upon majority vote the Chair will reopen the hearing. The Chair can also reopen the hearing on the Chair’s own initiative. When a hearing is reopened, each party to the case shall be given an opportunity for response and rebuttal as to the particular information elicited, but parties may not use the reopening of the hearing to present matters which are beyond the scope of the information elicited or solicited by the Commission.

15. What happens if a case cannot be finished at a single meeting of the Commission?

When a hearing or case is not concluded in one session of the Commission, it will be recessed and continued until a subsequent regular meeting of the Commission or until a special meeting called for the specific purpose of completing the case. Absent a stipulation on the record by all parties to the case to the contrary, the same Commission members who participated in the initial meeting must comprise the Commission that hears the case at the subsequent meeting(s). If circumstances prevent identity among the Commission members at the initial and continued hearings, such as the expiration of the term of a Commission member and the naming of the Commission member's replacement, and the parties are unwilling to waive their objections to this lack of identity, the case shall be presented to the Commission at the resumed hearing from the beginning, and no evidence presented to the Commission in the incomplete hearing shall be considered by the Commission in its decision.

16. Is a recording made of the hearing before the Commission?

Yes. The Commission Secretary records all cases before the Commission. Any person wishing to record a meeting of the Commission may also do so by utilizing a certified court reporter or any recording device so long as it does not disrupt the hearing. Although a party who has filed a petition for judicial review of a decision of the Commission may obtain a copy of the recordings made at the hearing, neither the Commission nor the Planning staff shall have any responsibility to prepare a verbatim transcript of a Commission hearing unless ordered to do so by a Court of competent jurisdiction upon the financial commitment of a party to pay for the transcription in accordance with N.C. Gen. Stat. § 160D-1402(h).

17. May the Commission schedule a special meeting to take up a case or complete one?

Yes. If at a regularly scheduled meeting the Commission concludes that it will be unable to complete all cases upon the agenda, it may schedule a special meeting to complete the agenda or hear a specific case. Notice must be published to the public in accordance with UDO § 6.01.04 unless the time and date of the special meeting is announced prior to the close of the regular meeting. The Commission may not schedule a special meeting for which there is an inadequate time to provide required notice.

Presentation of a Case at the Hearing

1. If I appear before the Commission, what is expected of me?

The Commission expects people who appear before it to prepare in advance and to be truthful and respectful, not only of the Commission itself but of others who might appear on the matter, even if they have a different view. The Commission cannot simply consider whether people who appear before it support or oppose a particular application or decision; rather, Commission members must consider the facts of the case and apply the criteria of the UDO that relate to the matter before the Commission.

The applicant for a Certificate of Appropriateness bears the burden of proof before the Commission and is expected to present sufficient information to allow the Commission to decide all of the issues it must consider in deciding whether to grant the application. The applicant can do this through the applicant's own testimony, documents and exhibits, and the testimony of others.

In every case Planning staff prepares an analysis of the issues that staff deem to be presented by the case and that report may summarize all or some of the facts as staff sees them. This is called the "staff report." Parties should familiarize themselves with the staff report before the hearing so that they may object to any parts of the report with which they disagree. The staff report is not intended to present

everything that the parties might want to have the Commission consider; it may not address each of the issues that the Commission must decide to issue a decision in the applicant's favor; and it may not present the facts or law in the same way that each party sees them. If an applicant relies on the staff report to meet its burden of proof, it does so at its own risk that the staff report may be inadequate to fully prove the applicant's case.

A person who appears before the Commission as a "witness" is expected to testify truthfully and to stick to the subject about which the witness is testifying. The Commission appreciates it if people who testify as witnesses are as concise as possible, but a witness should not leave important information about a matter out of the witness's presentation merely in an attempt to save time.

2. Who has the burden of proof in a case before the Commission?

The burden of presenting sufficient evidence to allow the Commission to decide an issue is always upon the party or parties urging a particular position. At a minimum, the applicant must provide competent evidence which addresses every material issue presented by the application.

3. What are the rules for decorum of participants and observers at hearings?

Whether they are parties, attorneys, representatives, witnesses or simply spectators to a hearing before the Commission, all persons are expected to conduct themselves in an appropriate and respectful manner while in the hearing chambers of the Commission. Profanity, arguments between witnesses, arguments between attorneys and witnesses or other attorneys, arguments among spectators, noise that interferes with the conduct of the hearing, and the like, shall not be tolerated. Any such behavior may result in an order by the Chair for removal from the hearing chamber of the person(s) causing or engaging in such action, interference or disturbance.

4. Determination of preliminary matters; Jurisdiction objections

Objections regarding jurisdictional issues, including but not limited to, the standing of a party, may be made to the Commission. The Commission Chair shall rule on any objections, and the Chair's rulings may be appealed to the full Commission. The Commission should address any other preliminary matters that might moot, shorten, or otherwise change the presentation of the matter, including such matters as a request to intervene, request for a continuance, determination whether a modification to an application requires that the hearing be delayed, and objection to participation by a Commission member.

5. What is the order of a hearing on an application?

Cases generally shall proceed in the following order, although if the parties agree or there is no objection, deviations in this order are permitted and shall not impair the decision in the case:

- A. Applicant is given an opportunity to object to any materials which were provided to the Commission in advance of the hearing;
- B. Applicant is given the opportunity to make an opening statement;
- C. Parties other than the applicant are given an opportunity to make opening statements;
- D. Applicant presents the evidence in support of the application. For an explanation of the types, forms and admission of acceptable evidence, see Evidence §§ 1-3.

- E. Planning staff presents evidence pertinent to the application. However, at any time before, during or after the presentation of evidence by the applicant, a Commission member, with permission from the Chair or full Commission, may request the testimony of Planning staff as to any matter relevant to the case, including their interpretation of provisions in the UDO or Comprehensive Plan or state law.
- F. Other parties present evidence pertinent to the application.
- G. Non-party witnesses testify and offer evidence.
- H. Applicant is given opportunity to present rebuttal evidence.
- I. Applicant is given the option of giving its closing summary and argument or deferring its presentation until all other parties are given the opportunity for closing summary and argument.
- J. In the order they have qualified as intervenors, Parties other than the Town present their closing summary and argument.
- K. Town presents its closing summary and argument.
- L. If applicant has deferred presentation, applicant presents its closing summary and argument.
- M. Commission deliberation begins. (See Weighing the Evidence by the Commission §§ 2-3, The Decision §§ 1-2.)
- N. If, in the course of its deliberations, the Commission entertains additional testimony or other evidence from any party, the Commission shall allow all other parties and witness to address the particular subject area as to which the additional evidence was allowed.
- O. The Commission completes its deliberations and issues its decision.
- P. The Chair closes the case.

Evidence

1. What evidence can the Commission rely on in making a decision?

The Commission is required to base its decisions on competent evidence presented at the hearing. To be considered “competent,” witness testimony requires that (a) the witness has personal knowledge of the subject of the testimony and (b) the subject of the testimony is relevant to an issue involved in the hearing. “Competent” documentary evidence requires that the document be authenticated by one of the following methods:

- a. Certification, by signature, title and seal, of the person who is the custodian of the records; or
- b. Information within the document which establishes its origin and reliability; or
- c. Testimony by a person with personal knowledge of the document’s origin and reliability.

The requirement that the Commission consider only “competent” evidence does not prevent the Commission from relying on evidence that would not be admissible under the Rules of Evidence as applied in North Carolina courtrooms so long as the evidence was admitted without objection or it appears to be sufficiently trustworthy and was admitted under such circumstances that it was

reasonable for the Commission to rely upon it. Evidence may include hearsay evidence, such as an affidavit or letter written by a person who is not present, in certain circumstances. (See Evidence § 5.) Commission members may also rely upon their own knowledge of the property at issue if their knowledge is fully disclosed during the hearing in order to give the parties a fair opportunity to address the knowledge upon which they intend to rely. (See Evidence § 10.)

The Commission may only rely on opinion evidence pertaining to any of the following if such evidence is offered by a person accepted by the Commission as an expert witness:

- A. That the use of property in a particular way would affect the value of other property;
- B. That the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety; and
- C. Matters about which only expert testimony would generally be admissible under the North Carolina Rules of Evidence.

2. Are statements by an attorney appearing as the representative of a party considered evidence?

No. Attorneys representing parties participating in any hearing may not be sworn and their statements are not considered evidence. Statements made by an attorney representing a party shall be considered only as legal argument or a summary of evidence intended to be offered, or which has been offered by parties and witnesses participating in the hearing.

3. How is testimony (or testimonial evidence) presented?

- A. MUST TESTIMONY BE GIVEN UNDER OATH OR AFFIRMATION? Yes. All testimony offered in connection with a case before the Commission must be offered under oath or affirmation administered by the Chair, another member acting as Chair, or the Commission Secretary.
- B. WHAT TESTIMONY ARE WITNESSES COMPETENT TO OFFER? Testimony from non-expert witnesses should generally be comprised of factual information within the personal knowledge of the witness, as opposed to opinions. In general, the Commission cannot rely or base its decision or findings on the opinion testimony of lay witnesses. For example, a witness's testimony that "traffic will be a problem" is entitled to no weight while that same witness's testimony that "I watched and counted the traffic between 9:00 a.m. and 9:30 a.m. on a Friday morning and x number of cars drove past the site" is competent evidence which could be used by the Commission to help determine the facts of a case, to pose questions to a traffic engineer, and even to decide whether the testimony of a traffic engineer is credible.
- C. WHAT OPINIONS CAN BE RELIED UPON BY THE BOARD? Only experts can give competent opinions concerning matters which are within the specialized knowledge of experts. If a witness is not testifying as an expert, testimony in the form of opinions or inferences is limited to those opinions or inferences which are rationally based on the perception of the witness and helpful to a clear understanding of his testimony or the determination of a fact in issue. For example, a lay witness might testify, "He appeared to be drunk." The Commission can never rely on opinion evidence when it is offered by a layperson or non-expert to establish that the use of property in

a particular way would affect the value of other property, including the witness's own property, or that the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.

- D. WHAT OPINIONS MUST COME FROM AN EXPERT?** Competent opinions regarding scientific, technical or other specialized knowledge which will assist the Commission in understanding the evidence or determining a fact in issue must be provided by an "expert." A witness can be qualified as an expert by virtue of knowledge, skill, experience, training, or education. An expert may testify in the form of an opinion if all of the following apply: (1) The opinion is based upon sufficient facts or data; (2) The testimony is the product of reliable principles and methods; and (3) The witness has applied the principles and methods reliably to the facts of the case. The Commission can never rely on opinion evidence offered by a layperson or non-expert to establish that the use of property in a particular way would affect the value of other property, including the witness's own property, or that the increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
- E. HOW DOES A WITNESS QUALIFY AS AN EXPERT?** A person who proposes to appear before the Commission as an expert must first present the credentials which qualify the witness as an expert. Specifically, the person must explain what knowledge, skill, experience, training, or education qualifies the person to give expert opinion testimony by instilling in the witness the superior knowledge of the area to be addressed in the testimony. Once the credentials of a witness are presented, the Commission must invite all parties, should they choose, to ask questions of the witness regarding the witness's credentials and at the conclusion of the questioning, to either agree that the person is an expert or object to the person being considered an expert. If an objection is made, the party offering the objection must explain how the person's credentials do not establish the capacity for the person to give a scientific, technical or other specialized opinion which will assist the Commission in understanding the evidence or in determining a fact in issue must be provided by an "expert." Once all parties have been given the opportunity to be heard as to the witness' qualification as an expert, the Commission Chair shall render a determination as to whether the person has qualified as an expert. The Chair's determination can be overridden by the Commission, by majority vote upon proper motion and second. A person who is offered as an expert to the Commission may not provide opinion evidence until the Commission Chair or the Commission has accepted the witness as an expert.
- F. CAN THE BOARD LIMIT A WITNESS'S TESTIMONY?** Yes. At the start of a hearing or at the beginning of testimony by non-party witnesses, the Commission Chair may request an estimate of the time each party anticipates it will take to present its case, and/or the Chair may review the sign-up sheet of witnesses. At that time, or at the conclusion of the presentation of their cases by parties to the hearing, the Chair or any member of the Commission may propose that the Commission limit the time for each non-party witness to testify and may further limit the number of witnesses offering testimony on any particular point. If time limitations for witnesses are proposed by the Chair, the Commission may overrule the Chair's recommendation by

motion, second and majority vote. If time limits are proposed by a Commission member, such proposal shall be in the form of a motion and second, and shall be adopted by majority vote. The Commission generally will not limit the number of witnesses or length of presentation by witnesses called by a party, except to prevent the presentation of repetitive, irrelevant, unreliable or other evidence deemed to be of little to no usefulness to the Commission in making the findings and decisions regarding the matter before it. (See The Hearing § 10.)

- G. WHO CAN CROSS-EXAMINE A WITNESS?** Each person who testifies before the Commission is subject to cross-examination by every party to the case or appeal other than the party who called the witness, but not to cross-examination by persons only participating in the case as witnesses.
- H. WHEN CAN A WITNESS BE CROSS-EXAMINED?** After a witness testifies, any party to the case can ask the witness questions. The parties take turns asking, with the party who called the witness, if the witness was called by a party, going last. See subsection I below. If the witness was not called by a party, questioning will begin with the Commission itself, followed by the Town, any intervening party, and the applicant. If the witness was called by the applicant, after questioning by the Commission, the Town will be given a chance to ask questions, followed by any intervening parties and then the applicant. If the witness was called by the Town, after questioning by the Commission, intervening parties will be given a chance to ask questions, followed by the applicant. If the witness was called by an intervening party, after questioning by the Commission, the Town will be given a chance to ask questions, followed by the applicant. If requested, the Chair can allow additional rounds of cross-examination, and each round should follow this same order.
- I. AFTER A WITNESS HAS BEEN CROSS-EXAMINED, CAN A PARTY ASK THE WITNESS MORE QUESTIONS?** Yes. Following cross-examination, the party who called the witness is entitled to ask additional questions of the witness (“redirect testimony”), but that triggers the opportunity for further cross-examination of the witness as to matters which first arise during the witness’s redirect testimony, and such further cross-examination shall be conducted in the same order as the original cross-examination, followed by further redirect testimony, the party calling the witness always being afforded the final opportunity to question that party’s own witness. As to witnesses who are interested members of the public, the same opportunities are afforded using the same sequence of questioners, with the Applicant or Appellant always given the final opportunity to question the witness.
- J. WHEN CAN BOARD MEMBERS ASK QUESTIONS OF WITNESSES?** Members of the Commission have the right, when recognized by the Commission Chair, to question any witness or party appearing before the Commission. They may do so at any time after a witness has been sworn, whether during the presentation by a party, after the presentation by a party, during examination or cross-examination of a witness called by a party or who is appearing as an interested member of the public, or even after the witness has returned to his or her seat, until the hearing is closed, and they may inquire into any matter that may assist them in reaching a

decision, whether or not the matter was previously addressed by the witness in the witness's testimony.

4. What documents are acceptable for presentation?

Any evidence that might assist the Commission in deciding an issue or case may be offered into evidence. The North Carolina Rules of Evidence do not strictly apply to proceedings before the Commission, but there must be some indication of a document's reliability for it to be given any weight. Any documentary evidence relied upon by the Commission in making its decision or in deciding an issue must at a minimum be authenticated and relevant to the factual or legal issues under consideration.

5. Can the Commission consider hearsay evidence, such as a letter or affidavit?

Yes. Hearsay evidence, generally understood as a statement made by a person not present at the hearing, may be considered and given weight if the statement is made by a party or witness actually involved in the hearing in a setting that promotes its reliability, or if it contains sufficient indications of authenticity to assure the Commission that it is reliable. For example, information from the Internet should normally only be considered if the date and source of the information is disclosed, and the internet "address" is displayed on the information sought to be submitted. People who make statements against their own interests are generally considered reliable and such statements can be presented to the Commission. In general, the testimony of a person appearing before the Commission, who is thus subject to cross-examination, will be preferred over testimony contained in a sworn statement or affidavit, and testimony contained in a sworn statement or affidavit will be preferred over testimony contained in a non-sworn written statement. However, the Commission itself must ultimately determine how credible and reliable any evidence presented to it is, and it is free to reject evidence which it finds unreliable.

6. How is documentary evidence, including photographs, authenticated?

No document can be admitted into evidence until it has first been identified by the person offering it into evidence and authenticated. Authentication of a document is accomplished if it is either:

- A. Certified as authentic, by signature, title and seal of a person who is the custodian of the record; or
- B. Confirmed through the sworn testimony of a witness who establishes, based upon first-hand knowledge, the date and author of the document, and, if a copy is used in place of an original, that the document is a true and accurate copy of the original document.

A photograph is authenticated by sworn testimony as to the date and place where the photograph was taken and the sworn statement that the photograph fairly and accurately represents the subject depicted at the time the photograph was taken.

7. How are the documents submitted?

Once a document has been identified and authenticated, a witness or party wishing to offer it to the Commission for its consideration must provide a copy to every other party for review, present it to the Commission Secretary to mark the document with an identifying letter or number, and then hand it to the Commission Chair. The Chair may then accept the document into evidence. If a party or Commission member objects to a document being accepted into evidence, the Commission must rule on the objection by either overruling the objection and accepting the document into evidence or by sustaining

the objection and refusing to accept the document into evidence. All documents tendered as evidence by a party or witness (whether or not allowed into evidence) shall be retained by the Commission Secretary as part of the official record of the case.

8. How many copies of a proposed exhibit should be submitted?

Although the Commission may accept a single copy of a proposed exhibit, it is strongly recommended that a person wishing to submit a document into evidence bring enough copies for each of the five Commission members, the Commission Secretary, the Town Attorney, and each party to have their own copy.

9. Can proposed evidence, which has been refused, be preserved in the record?

Yes. If the Commission by its own action, or by sustaining an objection to testimony or a document that is offered to it for consideration refuses to consider evidence that has been offered to it (see Objections to Evidence §§ 1-4), the party or witness offering the evidence can make an “offer of proof.” This requires that the witness or party announce “I wish to make an offer of proof” and then proceed with the testimony that has been excluded or provide the excluded document to the Commission Secretary, who will mark the document for identification purposes. Any such document shall be retained as part of the record, but it shall not be considered by the Commission in its deliberations or decision.

10. When can Commission members rely upon their own knowledge of the subject property?

If a Commission member, while inspecting the property in question, has either noted some matter or feature that may influence the Commission member’s decision in the case, or, while inspecting the full departmental file in the case, has noted some document that is not included in the staff report, the Commission member can utilize such information under the following circumstances: While the evidentiary hearing is still open, the Commission member must note the matter or feature observed or document noted. In the case of a document, the Planning staff shall produce the document for review by all parties and Commission members. The Commission shall allow all parties to reasonably inspect the document before it is inspected by other Commission members, and each party shall be given an opportunity to offer evidence related to the document. When a Commission member has noted a matter or feature relating to an inspection of the property in question, all parties shall be given an opportunity to present evidence that relates to the matter or feature.

Objections to Evidence

1. What objections to evidence are allowed?

The only grounds for an objection to the testimony of a party or witness are that: (1) the testimony has no relevance to the case before the Commission, (2) the answer is not responsive to the question which was asked, (3) the person offering the testimony is not competent to offer the type of information or opinion being offered, or (4) the answer contains hearsay statements that do not meet the requirements of Evidence § 4.

The only grounds for objection to documentary evidence are that: (1) the evidence is not relevant; (2) the document has not been properly identified or authenticated in accordance with Evidence § 4; or (3) the evidence is unacceptable hearsay or contains hearsay statements that do not meet the requirements of Evidence § 4.

A party may also object to the form of a question, such as that it is argumentative, a compound question, improperly leads (puts words in the mouth of) the witness, or calls for information which is not relevant to the case.

2. What evidence is “relevant”?

Relevant evidence is information that relates to a factual or legal issue that the Commission may or must decide in a particular case, including issues of credibility. Documentary evidence that contradicts the witness’s testimony is always relevant since credibility of witnesses is an issue in every case. Relevant evidence should, by itself or in combination with other evidence, help the Commission determine any issue it needs to decide.

3. Who can object to evidence?

Only a party may object to the testimony of a witness, the admissibility of a document, or a question asked by another party.

4. How are objections decided?

The Commission Chair shall rule on any objections, and the Chair's rulings may be appealed to the full Commission. Upon appeal to the Commission, all participating members, including the Chair, shall vote, and any abstention by a member shall be counted as a vote in favor of the motion. In the event of a tie vote by the Commission, the objection will be overruled and the evidence considered by the Commission. If testimony is successfully objected to, a witness may make an “offer of proof” by stating those things which the witness intended to state, but such statements will only be for the purpose of preserving the record of the case and shall not be considered by the Commission. (See Evidence § 9.)

Weighing the Evidence

1. How does the Commission decide what weight to give documents and testimony?

In general, as with any court, the Commission must weigh the evidence that is presented to it. When there is conflicting evidence relating to an issue it must decide, the Commission must explicitly resolve such conflict. It may also, however, refuse to give any weight to evidence that has been presented to it – even when no conflict in the evidence exists – when the Commission determines that the evidence is not credible or relevant. In determining the weight it will give to testimony and documentary evidence, the Commission may consider such things as the credibility of a witness (based on such considerations as the witness’ demeanor, qualifications or expertise, ability to observe the conditions about which testimony is offered) and the reliability and persuasiveness of documents that are offered as evidence. In general, the testimony of a person appearing before the Commission who is thus subject to cross-examination will be preferred over testimony contained in a sworn statement or affidavit, and in general, testimony contained in a sworn statement or affidavit will be preferred over testimony contained in a non-sworn written statement. However, the Commission may conclude that the information in a non-sworn statement is more reliable than the testimony of a person who has appeared and testified before it if it finds sufficient cause to do so.

2. Can the Commission make credibility decisions?

Yes. In making its decision the Commission may explicitly or implicitly make credibility determinations regarding the testimony of any witness or party. Where the Commission has concluded that the testimony of a particular witness is not credible or is otherwise unreliable, it is not bound to accept that

testimony and may not only reject it but, if warranted, may make a contrary finding from the facts which that witness asserted. A credibility decision may be based upon such factors as the demeanor of the witness, the consistency of the witness's testimony, the consistency of the witness's testimony with other evidence of record which the Commission finds more reliable or persuasive, or any other relevant factor.

3. Should Commission members discuss their view of a case while evidence is being presented?

Private discussions among Commission members should never take place regarding a case prior to a decision being rendered. Commission members should also limit open discussion with each other during the presentation of the evidence, and should instead use the evidentiary portion of the hearing to listen to, consider and elicit evidence relating to the issues that must be decided. After the evidentiary portion of the hearing is closed and before a decision is rendered, Commission members are encouraged to publicly discuss their views of the case, including those factors that might lead them to support a particular position or outcome in the case.

The Decision

1. How does the Commission decide a case?

Deliberations may be flexible and involve open discussion of the case among Commission members or a process by which the Commission members identify proposed findings of fact and determine whether a majority of members endorse each such proposal, or a combination of the two. At the suggestion of the Commission Chair or another member of the Commission, the Commission can also conduct "straw polls" about particular issues or facts before formally adopting findings of fact or conclusions of law. The Commission may consider each of the conclusions for the type of case before it and upon motion and second, may vote on each such conclusion, and the Commission may include discussion and the adoption of findings of fact prior to any conclusion of law being adopted, or it may intersperse such discussion and adoption of findings among its actions to adopt conclusions of law. Once a motion has been made and seconded on either a proposed finding of fact or proposed conclusion of law, Commission members can offer proposed modifications to the motion, and if those are accepted by the person who made the motion and the person who seconded the motion, the modified motion will be substituted for the original one. In general, each Commission member is encouraged to explain his or her view of the case and the significant issues involved, particularly if the member intends to vote against a motion that has been offered in favor of an applicant. However, there is no formal requirement that each Commission member explain his or her individual view of the case.

If the evidentiary portion of the case has been closed and, during the discussion of a case, a Commission member raises an issue for which additional testimony is desired, a matter or issue that was not addressed at the hearing, information based upon the member's personal visit to the property in question or the member's review of the file and documents that are not part of the staff report and have not been addressed during the evidentiary hearing, or other good cause, the Chair may reopen the public hearing to allow evidence, argument and rebuttal evidence on that particular issue.

2. Can the Commission recess a hearing after the evidentiary portion of the case has been closed and reconvene the hearing at a later time for the decision to be made?

Yes. Upon majority vote, the Commission may recess a case between the close of the evidentiary hearing and the decision by the Commission until (but not later than) the next scheduled meeting of the Commission, to allow Commission members an opportunity to review, but not discuss, the evidence that has been submitted.

3. Can a case be dismissed before full findings of fact and conclusions of law are adopted?

Yes. If an applicant does not present evidence which at a minimum addresses every conclusion of law that must be decided by the Commission in the particular type of case, at the conclusion of the evidentiary hearing the Commission may adopt a motion dismissing the case. Such a motion must specify in what respect(s) the evidence or presentation was lacking. A dismissal of a case on this basis does not prevent the applicant from submitting a new application for the same approval unless there is some other reason that prevents that, such as a change in the requirements of the UDO.

4. What is a fact?

A fact is a description of a circumstance, event or occurrence as it actually takes place or took place, a description of a physical object or appearance as it actually exists or existed, or an actual and absolute reality, as distinguished from a supposition or opinion not provided by a qualified witness. For example, when talking about traffic, a fact might be that “in the last month there have been ten accidents” at a particular intersection, while a statement that “the intersection is dangerous” would be considered an opinion and not a “fact” unless it were established by a qualified expert, in which case it could be accepted as a “fact.”

5. What is a “finding of fact”?

A finding of fact is a statement of one or more facts that the Commission decides is true and pertinent to the issues it must determine in the case. Findings of fact should be based on evidence presented at a hearing. Generally, the Commission should only adopt findings of fact that relate to the conclusions of law required in a particular case. The Commission must also make a finding of fact to resolve any conflicts in the evidence presented to it if the conflict relates to an issue material to the case. Therefore, if one person testifies, “The road is ten feet wide,” and a second testifies, “The road is twenty feet wide,” the Commission must make a finding as to which is correct.

6. How does the Commission adopt findings of fact?

Upon its deliberation following presentation of the case, the Commission members should discuss the facts presented in the case, discuss the credibility of the witnesses if such has been put at issue by a party or raised as a concern by one or more Commission members, and resolve by majority vote as necessary any contested issues of fact. Facts should be articulated in conclusory form as to what the Commission member believes has been established by the evidence, rather than a recitation of a party’s or witness’ contentions. For example, a finding of fact is “the road is ten feet wide,” whereas a statement that “Mr. Jones testified that the road is ten feet wide” is not a finding of fact. When competent opinion testimony is provided (See Evidence §§ 3(C) and (D)), a finding of fact may be based upon that opinion. For example, the Commission may adopt as a finding of fact, “The intersection is dangerous,” but such a finding must be supported by an expert opinion to that effect. Findings of fact

should generally only relate to the issues before the Board that relate to the type of case before it. They may include findings regarding the credibility of witnesses. (See Weighing the Evidence § 1.) Findings of fact should always address the staff report submitted in the case, and if portions of the report or the report as a whole are not accepted as factually accurate, such should be specifically identified.

7. What is a conclusion of law?

A conclusion of law is a decision about some requirement in the UDO needed to decide the type of case before the Commission. The conclusions of law pertinent to a particular case are generally set forth as potential motions in the staff report. In approving or rejecting any particular such motion, Commission members should articulate the findings of fact upon which each conclusion of law is based.

8. What vote is needed for approval to be granted?

Approval of a Certificate of Appropriateness requires a majority vote of the members of the Commission. For the purposes of this paragraph, vacant positions on the Commission and members who are disqualified from voting on the case shall not be considered members of the Commission for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. See UDO section 6.01.03. In any event, a quorum of at least three members and the affirmative vote of at least two members shall be required for approval of any Certificate of Appropriateness.

10. Can the Commission impose conditions on an approval?

Yes. If the Commission approves a Certificate of Appropriateness, the Commission may do so subject to such reasonable conditions as the Commission concludes are necessary to carry out the purposes of historic preservation as contemplated by the UDO. See G.S. § 160D-947 (a). Conditions that simply reiterate requirements of the UDO are unnecessary and discouraged.

11. If a vote is taken that has the effect of ending the case, can the Commission vote on the other issues which would be decided if an application were approved?

Yes. For the sake of judicial and quasi-judicial efficiency, and at the request of any party, the Commission Chair, or any member of the Commission, the Commission may (upon motion, second and majority vote) issue provisional votes as to any and all preliminary or alternative issues, even though an application or permit has been denied upon some other basis. However, such provisional consideration and votes are not required, and if not made then all parties retain their rights to litigate such issue(s) following any decision on appeal that does not affirm the Commission's decision.

12. What information should be included in a motion?

A motion by a Commission member should usually include at least a brief statement of the reason(s) for the motion and may cite specific, adopted findings of fact as the basis for the motion.

13. Can Commission members discuss a case once the decision has been made?

No. Because decisions by the Commission are subject to review by the courts of North Carolina, which may send a particular case back to the Commission for reconsideration, Commission members must avoid and refrain from discussing a case even after the Commission has made its decision.

Appeal

1. May an applicant appeal a decision by the Commission?

An appeal may be made from the Commission's action granting or denying a Certificate of Appropriateness. The appeal is made to the Boone Board of Adjustment pursuant to the procedures set forth at Articles 4 and 6 of the UDO, and is in the nature of certiorari as set forth at N.C. Gen. Stat. § 160D, Article 4. The filing of an appeal is subject to a strict filing deadline and the payment of a fee in an amount set by the Boone Town Council.

The Town of Boone has forms for appeals available on the website and in the Planning and Inspections Office. Planning and Inspections is located on the basement level of the Boone Downtown Post Office at 680 West King Street, Boone, NC 28607. The appropriate form must be fully filled out and the fees paid for the Department to process it.

Amendment of Rules

1. May these Rules be amended?

These rules may be amended by the Town Council on its own initiative or upon recommendation of the Commission.

Public Art Standards in the Downtown Boone Local Historic District

In the historic district, public art refers to works of art that are placed or created outside and intended for public appreciation. Such artworks include, but are not limited to, sculptures, murals, and mosaics. Functional aspects of streetscapes and landscapes, such as bridges, benches, and fencing may provide opportunities for artistic expressions and in certain situations will be evaluated as public art.

- A. Public art installed in the Downtown Boone Local Historic District is to be reviewed by the Historic Preservation Commission for a Certificate of Appropriateness (COA). The HPC does not consider the content, subject matter, or style of any public art. The COA review is concerned with the mass, height, scale, durability, materials, method of installation, and placement of artwork. Artwork is reviewed with respect to these factors to determine if the artwork is congruous with the character of the historic district and the values of historic preservation served by the historic district.
- B. The HPC will be focused on the following factors:
 - a. The proposed artwork's relationship to character-defining façades or features (such as doors and windows) of a historic building or other structure.
 - b. The proposed artwork's placement within a historic streetscape or landscape
 - c. The proposed artwork's physical impact on historic materials
 - d. The proposed artwork's height, scale and massing as it relates to the historic setting.
- C. The following standards shall generally apply to proposed public artwork:
 1. Artwork should be placed only in locations that do not compromise or detract from the architectural integrity or historic character, design or materials of the building, site, or district.
 2. Artwork should be placed only in locations that do not materially obstruct or otherwise interfere with the view of historic structures or vistas.
 3. Artwork should be placed only in locations that provide safe pedestrian access and considers the safety of the general public.
 4. Wall-mounted artwork, including murals, mosaics, or metal installations, should be placed only in locations that do not compromise or diminish the overall design, architectural features, or pattern of the building, site, or district. Murals may not be placed around windows and doors, but rather are appropriate for expanses of wall surfaces otherwise without significant architectural detail.
 5. It is preferred that wall-mounted artwork be installed on non-historically significant structures. Non-historically significant structures are those that were constructed after the local historic district period of significance from 1918 to 1964.
 6. Wall-mounted artwork is not appropriate for previously unpainted surfaces of structures of historical significance.
 7. Artwork should be installed so that it does not conceal, result in damage to, or remove historical details or features.

8. Artwork should have an appropriate massing in relation to the building, site, or district, and scaled appropriately for the intended space.
9. The colors and color palette of artwork is not regulated, except that neon colors are not allowed.
10. Artwork should consist of traditional materials including wood, stone, masonry, or metal that are durable for exterior installation and compatible with the character of the building, site, or district. It is not appropriate to introduce artwork in contemporary materials including plastic or resin.
11. Installation of artwork should include methods of stabilization or attachment that are fully reversible and do not cause damage to historic buildings, sites, or materials.
12. Installation of artwork that includes additional features such as signage, mounting hardware, or lighting should be of compatible materials and should, as appropriate, be installed to be unobtrusive and screened from view as much as possible.
13. Artwork should be maintained and repaired as required by the nature of the materials to preserve the appropriate appearance and safety of the artwork.
14. Previously-approved and installed artwork may be replaced with another piece of similar artwork (e.g., a statue replacing a statue, or one mural design replacing another) without need for further approval, so long as general features including mass, scale, durability, method of installation, and placement of the art are not significantly altered and the replacement artwork does not include any new feature that is inconsistent with the standards set forth in this section.



STAFF REPORT
PUBLIC HEARING
MAY 23, 2022

Case PL05504-021822 – Minor/Major Work – COA Revision - UDO Text Amendment

Request

Modify language in UDO Article 8 and Appendix D related to "minor work" and "major work" in the downtown historic district to (i) allow certain projects to be approved administratively rather than by hearing before the Historic Preservation Commission, (ii) create a comprehensive list of projects in the historic district to make the project process clearer for applicants. Add language to the Downtown Boone Design Guidelines and Handbook and UDO regarding public art standards.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

Economic Development: Acknowledge the area's natural beauty, university, and medical center presence as the Town's greatest assets for economic development and jobs creation. Treat them accordingly.

Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.

Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

Environmental Quality: Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

Trees: Conserve existing trees and plant new trees, especially hardwoods.

Automobile Transportation: Maximize the efficiency of existing facilities, but not at the expense town and neighborhood character and livability. Build or expand transportation facilities and parking areas as needed, but with care. Work to reduce auto dependency, use, and congestion.

Bikeways: Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

Mass Transit: Enhance and support the mass transit system as an effective alternative to the congestion created by the individual automobile.

Pedestrian Movement: Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

Infrastructure: Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

Energy and Waste: Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

University: Emphasize cooperative planning among the Town, County, and University.

Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

Comprehensive Plan Policies: Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation.

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.
 - A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
 - A.2 Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.
 - A.3 Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.
 - A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
 - D.1 Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.
 - D.2 Urge the resolution of the clean-up process of the 482 State Farm Road site so as to render the building suitable for use as soon as possible.
 - D.3 Pursue annually at least one joint public-private venture that will benefit the community at large.

- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area’s physical and human resources.
 - E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.
 - G.1 Identify suitable property for possible business park development.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
 - H.1 Assist business recruitment and expansion efforts by providing demographic and market data and development information to potential developers and business prospects. Direct such interested parties, by referral through the Economic Development Director, to identified locations in the community.
 - H.2 Include economic development as a specific point of discussion by the recently created Community Council.
 - H.3 Continue to support the Economic Development Commission as the lead economic development agency in the county. Continue to support and work with the Committee of 100, Chamber of Commerce, Tourism Development Authority, High Country Host, Broyhill Institute for Business Development, High Country Council of Governments, Caldwell Community College and Technical Institute, JobLink and others on issues of economic benefit to the whole community.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
 - J.1 Encourage the growth of a student internship program between area businesses, ASU and Caldwell Community College and Technical Institute as a means of providing training for Boone area citizens.
 - J.2 Actively pursue workforce training through ASU and Caldwell Community College and Technical Institute to meet existing needs of current employers and make efforts to develop the skills necessary for higher paying jobs.
 - J.3 Support careers education programs in the public schools.
- K. Boone shall identify and provide services consistent with the needs of the area’s growing retiree population.
 - K.1 Support local agencies and institutions efforts in the development of programs and services providing for the needs of the growing retiree population.

2.1 THE ECONOMY

2.1.5 Downtown

- A. A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.
 - A.1 Prepare an overall landscape strategy for the public right-of-way in coordination with private sector landscape treatments, e.g. street trees, planter boxes, planting beds.
 - A.2 Evaluate the adequacy and appearance of street lighting as it currently exists, making recommendations for further improvements and avoid excessive delays by proceeding to provide and/or correct.
 - A.3 Evaluate the need for additional street amenities such as benches, trash receptacles, and directory signs.
 - A.4 Establish specific architectural and design standards for downtown consistent with its location, setting, and various functions.
- B. The Town, in concert with the downtown property owners and merchants, shall encourage public and private efforts to develop and publicize adequate and appropriately designed off-street parking lots in the downtown area.
 - B.1 Develop a plan and establish a timetable for the construction of off-street public parking facilities including well designed parking decks (decks other than traditional concrete boxes).
- C. A variety of mutually compatible and supportive mixed uses shall be encouraged in the downtown area.
 - C.1 Examine zoning ordinances and revise as necessary to encourage construction of buildings with residences over ground-floor businesses.
 - C.2 Develop strategies that will assist in providing a diversity of commercial and service businesses more reflective of the town's economic and demographic profile.
- D. Public and private developments shall be encouraged to incorporate local artistry into public and semi-public spaces downtown.
 - D.1 Consider the placement of public art (including murals and statuary) at appropriate locations in the downtown area.
 - D.2 Support the development and enhancement of cultural facilities, e.g. art and antique galleries.
- E. Public and private development decisions in the downtown area shall exhibit a special concern for maintaining the intensive, pedestrian oriented character of the district.
 - E.1 Evaluate the need for additional sidewalks and crosswalks and make physical improvements to existing sidewalks and crosswalks in the downtown area.
 - E.2 Evaluate the needs of bicyclists and take appropriate action regarding bicycle travel and storage needs in the downtown area.
 - E.3 Incorporate transit stops into the downtown area for the convenience of the bus riders.
 - E.4 Planned improvements shall emphasize needs of the pedestrian.
- F. The maintenance and revitalization of downtown Boone, as well as planning for its future development, will reflect the realities and qualities befitting its geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services.
 - F.1 Support events throughout the year that promote the downtown area as the cultural center of Boone.

F.2 Continue to support the efforts of the Downtown Boone Development Association, the North Carolina Main Street Program and the Boone Area Chamber of Commerce.

F.3 Encourage private investment and see public funding opportunities for downtown revitalization projects.

F.4 Given the proximity of Appalachian State University to downtown, engage the University in both planning and implementation actions.

2.3 THE COMMUNITY

A. Urban type development within the Urban Growth Area shall meet appropriate Town standards.

A.1 Establish minimum architectural design standards for commercial development throughout the Town.

B. Properly planned, mixed use developments that promote efficient provision of public services shall be encouraged within the Urban Growth Area.

C. Funding for outside agencies and organizations serving the citizens of Boone shall continue to receive support consistent with area service needs and Town budget constraints.

C.1 Funding requests for outside agencies and organizations serving the citizens of Boone shall continue to be evaluated on an annual basis consistent with area service needs and Town budget constraints.

D. Coordinated inter-governmental and university-town planning for urban area land use and development, transportation, utilities, recycling, environmental management, law enforcement, education, recreation, tourism and economic development shall be encouraged.

D.1 Involve appropriate agencies, organizations, and citizens in the preparation of community-wide function plans including, for example, a master parks plan, a small projects transportation committee, water treatment expansion planning, the recycling program, a storm water management plan, anti-litter campaign, and other specific plans.

2.3 THE COMMUNITY

2.3.1 Community Appearance

A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged.

B. The significance of street trees in providing visual relief, summer cooling, improved air quality and livability shall be recognized through public policies and actions to encourage their planting and maintenance.

B.1 Expand scope and effectiveness of the Town's street tree planting program in close cooperation with student and citizen volunteer groups, power companies and other groups.

B.2 Implement Boone's street tree master plan. Prepare an inventory of existing street trees and other significant trees within the urban area. Coordinate with Boone's Walkways Long Range plan.

B.3 Amend the Town's site plan review standards to require new commercial and residential developments to plant trees in accordance with the Street Tree Master Plan and Walkways Long Range Plan.

C. The significance of major roadway entrances into Boone as measures of community image and quality shall be recognized through building placement, landscape, signage and other visual improvements. The Town, along with private property owners and developers, shall work to jointly improve the appearance and design of major street corridors.

- C.1 Prepare a strategic plan that addresses the problems of hazardous buildings, dilapidated buildings and visually unattractive property, beginning with an inventory of such places and establishing an action plan to change their appearance consistent with the High Country.
- C.2 Contact NCDOT and request establishment of central medians along those major roadways in Boone which involve multi-lane facilities. Establish high priorities for locations where pedestrians must cross multi-lane facilities.
- C.3 Prepare a plan for improving the appearance and function of at least one major highway corridor in Boone. Involve property owners, the Boone Area Chamber of Commerce, NCDOT, and appropriate local civic organizations on an advisory committee. The plan should include a review of landscaping and buffering requirements, signage, parking design standards, including parking to the rear, all-around architecture, driveway cuts, build-to lines and setbacks, and other requirements along the entry corridor.
- C.4 All of the items listed under Community Appearance should be part of a single beautification plan for coordination and effectiveness of efforts and for policy consideration by Town Council. The Town Community Appearance Commission should coordinate all plan elements, and actively seek the input of the community at large.
- D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.
 - D.1 Conduct a review of the Town's sign regulations with the goal to have a long term policy consistent with the appearance of the High Country, including greater use of ground signs and directory signs.
- E. The Town shall encourage public, private, and utility company efforts to place utility wires underground whenever feasible.
 - E.1 Prepare a Master Plan for the placement of utilities underground in Boone, establishing priority areas, estimating costs, scheduling the plan's implementation, and assigning responsibilities.
 - E.2 Coordinate with NCDOT and utility companies on the burying of overhead utilities when any roadway widening project is proposed.

2.3 THE COMMUNITY

2.3.2 Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.
 - A.1 Conduct on-going assessments of critical locations in community deserving special attention by the zoning ordinance, in light of their high visibility, traffic impact, strategic location, or other unique features. Continue to encourage significant new public buildings and outdoor spaces to locate in these and other positions of visibility and strategic prominence. Encourage the private sector to do likewise.
 - A.2 Seek out locations of historical merit in the community, and prepare an action plan for their enhancement, rehabilitation, or relocation as may be necessary.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
 - B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.

- C.1 Consider the placement of public art at appropriate locations in downtown, including murals.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
 - D.1 Carefully scrutinize proposed road widening to ensure that such actions do not destroy community and neighborhood character.
 - D.2 Continue to support the Town's tree preservation standards. Evaluate the effectiveness of the tree regulations since their establishment and amend them as necessary.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Vote 1: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL05504-021822 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

TOWN COUNCIL ACTION – Adoption of Ordinance

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.

ORDINANCE # PL05504-021822

**AN ORDINANCE TO REVISE ARTICLE 8 AND APPENDIX D OF THE TOWN OF BOONE UNIFIED
DEVELOPMENT ORDINANCE RELATING TO CERTIFICATE OF APPROPRIATENESS PROCESS AND PUBLIC
ART IN THE DOWNTOWN BOONE LOCAL HISTORIC DISTRICT**

WHEREAS, the Boone Town Council desires to modify, clarify and streamline the requirements for; and

WHEREAS, the Town Council finds that it is in the best interest of the Town and its citizens that Town Council directly consider and, with input from the public as deemed appropriate by Council; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160D, Article 6;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Article 8 and Appendix D of the Town of Boone Uniform Development Ordinance (“UDO”) is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in ~~red~~ and blue respectively:

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the ____th day of _____, 2022.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

Vote 1: The proposed amendment to the Town’s zoning ordinance ☐is OR ☐is not consistent with the Town’s comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance # PL05504-021822 to the Town’s zoning ordinance and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent. Town Council members may reference the comprehensive plan policies in the Planning Commission’s recommendations, or use the other comprehensive plan policies as the Council member see relevant and pertinent to the case.

Note 2: briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

EXHIBIT A**Article 8 Historic Preservation Procedures**

...

8.03 ~~Certificate of Appropriateness~~ Application Required

8.03.01 From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a Statement of Conformity for minor work or a Certificate of Appropriateness (COA) for major work has been approved as detailed herein.

- A.** A Statement of Conformity or COA must be approved prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures.
- B.** A Statement of Conformity or COA may be issued subject to reasonable conditions necessary to carry out the purposes of this Article.
- C.** A Statement of Conformity or COA is required whether or not a building or other permit is required.
- D.** Approval for ordinary or routine maintenance of the exterior features of a building does **not require approval under this Article**. Ordinary or routine maintenance includes only those activities which have no discernable effect on the appearance of or materials constituting the exterior features of a building or other structure as described in the Table herein below. Ordinary or routine maintenance items are required to be permitted under a building or zoning permit. ~~Examples include cleaning or re-painting existing siding with the existing color of paint and replacing a piece of trim with trim of the same material and color.~~

8.04 Statement of Conformity for Minor Work

8.04.01 Upon application, the Administrator may issue a Statement of Conformity approving changes to a structure or a site that are judged not to have significant impact on the historical integrity or character of the property ("minor work").

- A.** The application for a Statement of Conformity approving minor work is reviewed by the Administrator on the basis of the standards adopted for the landmark or district in accordance with the provisions of Article 4.
- B.** When the Administrator determines that an application for approval of a Statement of Conformity does not meet the requirement for such approval, the application will be forwarded to the HPC for review as a COA Application for Major Work. Upon such action by the Administrator, the applicant is required to submit such additional information or documentation as may be required for the COA review process.

8.04.02 Minor work that may be approved pursuant to issuance of a Statement of Conformity may include ~~by way of example, but is not limited to~~ the Types of Work labeled as a Minor Work in the table provided herein. ~~, the following:~~

- ~~A. Installation of mechanical systems, air conditioning units, vents, and related equipment on secondary and tertiary elevations or adjacent land areas that does not involve alteration to the building.~~
- ~~B. Installation of patios and sidewalks in secondary and tertiary elevations or adjacent land areas.~~
- ~~C. Change of roofing materials with like materials on flat or low-slope roofs not visible from the street~~
- ~~D. Fence installation in land areas adjacent to secondary and tertiary elevations~~
- ~~E. Installation of skylights within a tertiary elevation~~
- ~~F. Installation of storm windows and doors where divided mullions of storm windows and doors align with windows and doors behind~~
- ~~G. Temporary signs as permitted herein; and/or approved historic house markers~~
- ~~H. Removal of synthetic siding where original siding exists underneath~~

~~Installation of new doors, door frames, and associated door sills in tertiary AVCs when new materials are compatible with the original in terms of size, design, and material.~~

8.04.03 Applications.

- A. Pre-Application Consultation.** Pursuant to UDO Subsection 4.04, a pre-application consultation to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance, a preapplication consultation between the applicant and Staff is strongly encouraged.
- B.** In addition to the submittal requirements of Appendix A, as may be applicable, applications shall include:
 1. Written Description of the proposed work: Describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).
 2. Design Standards References: Cite the applicable sections of the design standards related to and/or reflected in the proposed request.
 3. Photographs of Existing Conditions: Provide current photographs showing the present conditions of the area where the work will be completed and/or the portions of any existing building that will be affected by the proposed work.

4. Site Plan: For development which includes modifications to the site in addition to the building, the applicant shall provide scaled drawings prepared in accordance with UDO Appendix A, which depict at least the relationship of all buildings, secondary structures, driveways, sidewalks, fences, drains, lighting, and trees to the property line. Clearly identify the location of any and all proposed changes. Caliper of trees should be indicated as measured from four and a half feet (4.5') above the earth's surface.
5. Historical Documentation: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

(Ord. PL05044-083121, 10-21-2021)

8.05 Certificate of Appropriateness for Major Work

8.05.01 Major work includes all other work not considered as either ordinary or routine maintenance or minor work. Major work projects require a COA Application and a quasi-judicial hearing before the Historic Preservation Commission for approval.

A. All public hearings on Certificates of Appropriateness for major work shall be conducted in a quasi-judicial manner as described in Article 6.

8.05.02 Major work may include [the Types of Work labeled as a Major Work in the table provided herein below.](#) ~~, but is not limited to, the following:~~

~~A. New construction or additions to buildings~~

~~B. Reconstruction of buildings once located on the site but demolished or moved at some previous time~~

~~C. Restoration or rehabilitation of an historic property to its historic appearance~~

~~D. Pointing of masonry as well as alteration, repair, or replacement of masonry, siding, roofing materials, architectural trim elements, foundations, windows, doors, and other significant architectural details~~

~~E. Demolition of any part of a building or structure~~

~~F. Work that is likely to disrupt or damage known or discovered archaeological resources on the site~~

~~G. Moving of buildings~~

~~H. Replacement of architectural details when there will be a change in design or materials from the original or existing details~~

~~I. Changes to rooflines~~

~~J. Establishment of exterior fire exits~~

- ~~K.~~ Exterior modification of existing buildings for ADA compliance
- ~~L.~~ Painting or stuccoing of buildings not previously painted or stuccoed
- ~~M.~~ Installation of mechanical systems, air conditioning units, vents, and related equipment in primary elevations that involves alteration to the building facade
- ~~N.~~ Location of satellite dishes, solar panels, and other roof attachments to the primary elevation roof and/or facade of a building if they are not effectively screened or are visible from a public street

<u>Description of Work</u>	<u>Routine Maintenance</u>	<u>Minor Work (SOC)</u>	<u>Major Work (COA)</u>
<u>New Construction and Additions</u>			<u>X</u>
<u>Accessory Building</u>			
<u>In-kind repair of existing accessory building</u>	<u>X</u>		
<u>In-kind replacement of existing accessory building</u>		<u>X</u>	
<u>Demolition of an existing accessory building not historically appropriate to the site</u>		<u>X</u>	
<u>New construction or an addition to an accessory building on a tertiary elevation not visible from a public street</u>		<u>X</u>	
<u>All other new construction or additions to an accessory building</u>			<u>X</u>
<u>Demolition of an existing historic accessory building</u>			<u>X</u>
<u>ADA</u>			
<u>In-kind repair or replacement of existing ADA features</u>	<u>X</u>		
<u>Installation of temporary accessibility ramps that are not intended to be permanent in nature</u>		<u>X</u>	
<u>Installation of residential ADA required features provided that they are consistent with the architecture of the structure</u>		<u>X</u>	
<u>Installation of ADA required features on tertiary elevations not visible from a public street</u>		<u>X</u>	
<u>All other, exterior modification of existing buildings for ADA compliance</u>			<u>X</u>
<u>Architectural Features (not including items listed in other categories)</u>			
<u>In-kind repair/replacement of any existing architectural feature</u>	<u>X</u>		
<u>Addition of any historically appropriate architectural feature</u>		<u>X</u>	
<u>Addition of any architectural feature on tertiary elevation not visible from a public street</u>		<u>X</u>	
<u>Removal/alteration of an architectural feature not historically appropriate to the building on a tertiary elevation not visible from a public street</u>		<u>X</u>	

<u>All other additions of architectural feature not historically appropriate to the building</u>			<u>X</u>
<u>All other removal/alteration of architectural features</u>			<u>X</u>
<u>Awnings, Canopies, or Shutters</u>			
<u>In-kind repair/replacement of an existing awning, canopy or shutters</u>	<u>X</u>		
<u>Addition of historically appropriate awnings, canopies or shutters</u>		<u>X</u>	
<u>Addition of awnings, canopies or shutters that are not historically appropriate to the building on tertiary elevations</u>		<u>X</u>	
<u>Removal of an awning, canopy or shutters that is not historically appropriate to the building</u>		<u>X</u>	
<u>All other additions of awnings, canopies, or shutters</u>			<u>X</u>
<u>All other removal of historically appropriate awnings, canopies or shutters</u>			<u>X</u>
<u>Decks, Patios, and Sidewalks</u>			
<u>In-kind repair/replacement of an existing deck, patio, or sidewalk, addition of public sidewalks</u>	<u>X</u>		
<u>Addition of historically appropriate decks, patios, and sidewalks</u>		<u>X</u>	
<u>Additions of decks, patios, and sidewalks on secondary and tertiary elevations</u>		<u>X</u>	
<u>Removal of decks, patios, and private that are not historically appropriate to the building or site</u>		<u>X</u>	
<u>All other additions of decks, patios, and sidewalks</u>			<u>X</u>
<u>All other removal of historically appropriate decks, patios, or sidewalks</u>			<u>X</u>
<u>Demolition and Relocation</u>			
<u>Any demolition of any building, structure, or part thereof</u>			<u>X</u>
<u>Removal/alteration of archaeologically significant features</u>			<u>X</u>
<u>Any work that is likely to disrupt or damage known or discover archaeological resources on the site</u>			<u>X</u>
<u>Moving or relocation of any buildings or structures</u>			<u>X</u>
<u>Doors & Windows</u>			
<u>In-kind repair/replacement of any door or window, including casing, frames, and trim</u>	<u>X</u>		
<u>Installation of storm windows where divided mullions of storm windows and doors align with windows and doors behind</u>	<u>X</u>		
<u>Addition of any historically appropriate door or window within existing openings</u>		<u>X</u>	

<u>Addition of a door or window on a tertiary elevation with historically appropriate materials that are compatible in terms of size, design and material</u>		<u>X</u>	
<u>Installation of skylights within a tertiary elevation or where the skylight is not publicly visible</u>		<u>X</u>	
<u>Removal of any door or window on a tertiary elevation not visible from a public street</u>		<u>X</u>	
<u>Installation of all other doors or windows</u>			<u>X</u>
<u>Removal of any door or window opening</u>			<u>X</u>
<u>Driveways</u>			
<u>In-kind repair/replacement of an existing driveways</u>	<u>X</u>		
<u>Addition/alterations of historically appropriate driveways</u>		<u>X</u>	
<u>Additions/alterations of driveways on secondary and tertiary elevations</u>		<u>X</u>	
<u>Removal of driveways that are not historically appropriate to site</u>		<u>X</u>	
<u>All other installation/additions of driveways</u>			<u>X</u>
<u>All other removal of driveways</u>			<u>X</u>
<u>Fences</u>			
<u>In-kind repair/replacement of an existing fences</u>	<u>X</u>		
<u>Addition/alterations of historically appropriate fences</u>		<u>X</u>	
<u>Additions/alterations of fences on secondary and tertiary elevations</u>		<u>X</u>	
<u>Removal of fences that are not historically appropriate to site</u>		<u>X</u>	
<u>All other installation/additions of fences</u>			<u>X</u>
<u>All other removal of fences</u>			<u>X</u>
<u>Exterior Surfaces Materials (Masonry, Siding, etc.)</u>			
<u>In-kind repairs/replacement, including repointing, to existing exterior surfaces when the material, color, composition of the new material matches the existing exterior surface (includes requirement that the composition of the mortar match the original)</u>		<u>X</u>	
<u>All other alterations of exterior surface materials</u>			<u>X</u>
<u>Foundations</u>			
<u>In-kind repair of a foundation</u>	<u>X</u>		
<u>Alteration of a foundation on a tertiary elevation not visible from a public street</u>		<u>X</u>	
<u>All other repairs/alterations of a foundation</u>			<u>X</u>
<u>Gutters and Downspouts</u>			
<u>In-kind repair/replacement of gutters and downspouts</u>	<u>X</u>		

<u>Installation of gutters and downspouts which match the house or trim color as long as not historically appropriate features are damaged or removed.</u>		<u>X</u>	
<u>Removal of gutters or downspouts that are not historic to the building</u>		<u>X</u>	
<u>All other installation of gutters and downspouts</u>			<u>X</u>
<u>All other removals of gutters and downspouts</u>			<u>X</u>
<u>Landscaping</u>			
<u>Insignificant landscaping including vegetable and flower gardens and shrubbery</u>	<u>X</u>		
<u>Pruning of trees and/or shrubbery</u>	<u>X</u>		
<u>Removal of trees less than 25 inches in diameter</u>	<u>X</u>		
<u>Removal of trees that are dead, dangerous per adequate documentation from licensed arborist</u>	<u>X</u>		
<u>Removal of any invasive species (landscape material) as listed on the Invasive Plants Found in the Mountains of North Carolina list published by the NC Invasive Plant Council</u>	<u>X</u>		
<u>Any other removal of any tree 25 inches or greater</u>			<u>X</u>
<u>Mechanical Systems/Equipment</u>			
<u>In-kind repair/replacement of any existing mechanical systems, vents, and related equipment</u>	<u>X</u>		
<u>Removal of any existing mechanical systems, vents and related equipment</u>	<u>X</u>		
<u>Installation of mechanical systems, vents, and related equipment on secondary and tertiary elevations or adjacent land areas that does not involve alteration to the building.</u>		<u>X</u>	
<u>Installation of window air conditioners</u>		<u>X</u>	
<u>All other installations of mechanical systems, vents, and related equipment</u>			<u>X</u>
<u>Painting</u>			
<u>In-kind repair/re-painting of any painted surface</u>	<u>X</u>		
<u>Painting exterior surfaces not previously painted</u>			<u>X</u>
<u>All other painting</u>			<u>X</u>
<u>Parking Lots</u>			
<u>In-kind repair/replacement of existing parking lots</u>	<u>X</u>		
<u>Alteration/addition to existing parking lots</u>		<u>X</u>	<u>X</u>
<u>Removal of parking lots not historic to the site</u>		<u>X</u>	<u>X</u>
<u>Installation of a new parking lot</u>			<u>X</u>
<u>All other parking lot removals</u>			<u>X</u>
<u>Public Art</u>			

In-kind repair/maintenance of previously-approved and installed public art	<u>X</u>		
Replacement of previously-approved and installed public art with similar artwork (e.g., a statue replacing a statue, or one mural design replacing another)		<u>X</u>	
New installation of public art in the local historic district			<u>X</u>
Roofs			
In-kind repair/replacement of roof coverings	<u>X</u>		
Repair/replacement of roof coverings not publicly visible		<u>X</u>	
Modification of roof line			<u>X</u>
All other roof covering replacements			<u>X</u>
Satellites			
In-kind repair/replacement of existing satellite dishes	<u>X</u>		
Addition of satellite dishes on secondary and tertiary elevations		<u>X</u>	
Removal of satellite dishes		<u>X</u>	
All other installation/additions of satellite dishes			<u>X</u>
Signs			
In-kind repair/replacement of an existing permanent sign	<u>X</u>		
Addition/alteration of temporary sign or approved historic house marker		<u>X</u>	
Addition/alteration of historically appropriate permanent sign on a non-contributing building (determined by historic significance)		<u>X</u>	
Addition/alteration of historically appropriate permanent sign on a contributing building (determined by historic significance)		<u>X</u>	
Removal of permanent signs that are not historically appropriate to site		<u>X</u>	
All other installation/additions of permanent signs			<u>X</u>
All other removal of permanent signs			<u>X</u>
Solar			
In-kind repair/replacement of an existing solar energy system	<u>X</u>		
Addition/alterations of solar panels on secondary and tertiary elevations		<u>X</u>	
Removal of solar panels		<u>X</u>	
All other installation/additions of solar panels			<u>X</u>
Miscellaneous			
In-kind repair/replacement of roof attachments	<u>X</u>		
Addition/alteration of historically appropriate roof attachments		<u>X</u>	
All other installation/additions of roof attachments			<u>X</u>

All other removal of roof attachments			<u>X</u>
Installation of house numbers and mailboxes	<u>X</u>		
Establishment of exterior fire exits		<u>X</u>	<u>X</u>

Notes:

1. [“In-kind” shall be defined to mean having no change in design, materials, or general appearance including color of the existing or original historic feature](#)
2. [If both minor and major columns are marked, the item shall be considered in the first instance by staff, but referred to the HPC in case of doubt as to the appropriateness of the proposed change](#)
3. [“Historically significant” shall be defined to reference the period of significance of the district or landmark.](#)
4. [Permanent signs of a non-contributing building shall be historically appropriate to the period of significance for the district or landmark. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance of the district or landmark.](#)
5. [Permanent signs of a contributing building shall be historically appropriate to the period of significance of the building. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance to the building, and shall not harm, damage, or destroy historic materials or features. In the case there is not photographic evidence of materials appropriate to the historic building, then the materials shall be appropriate to the materials in the historic district.](#)

...

Appendix D Downtown Boone Local Historic District Design Standards and Handbook Commission Procedures

...

Statement of Conformity Application

As set forth herein, Minor Work includes those changes to a structure or a site that are judged not to have significant impact on the historical integrity or character of the property. While Minor Work does not require a review by the HPC, applicants are required to submit an Application for a Statement of Conformity. This application is reviewed administratively by Planning and Inspections Staff in context with the Standards and is generally approved within ____ business days. When an Application for a Statement of Conformity does not meet the limitations of Minor Work, the application will be forwarded to the HPC for review as a COA Application for Major Work.

When work proposed under a Statement of Conformity Application does not meet the limitations of Minor Work, the application will be forwarded to the HPC for review as a COA Application for Major Work.

[Minor work that may be approved pursuant to issuance of a Statement of Conformity may include the Types of Work labeled as a Minor Work in the table provided herein.](#)

Examples of Minor Work include:

- ~~Installation of mechanical systems, air conditioning units, vents, and related equipment in secondary and tertiary AVCs that does not involve alteration to the building~~

- ~~Installation of patios and sidewalks in secondary and tertiary AVCs~~
- ~~Change of roofing materials with like materials on flat or low slope roofs not visible from the street~~
- ~~Fence installation in secondary and tertiary AVCs~~
- ~~Installation of skylights within tertiary AVCs~~
- ~~Installation of storm windows and doors where divided mullions of storm windows and doors align with windows and doors behind~~
- ~~Signs as permitted under Article 26 of the Unified Development Ordinance and adopted design standards for a district:~~
 - ~~Temporary signs and/or approved historic house markers~~
 - ~~Permanent signs on non-contributing buildings shall be historically appropriate to the period of significance of the district. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance of the district.~~
 - ~~Permanent signs on contributing buildings shall be historically appropriate to the historic period of significance of the district. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance of the district and shall not harm, damage, or destroy historic materials or features. In the case there is not evidence of materials appropriate to the historic building, then the materials shall be appropriate to the materials in the historic district.~~
- ~~Removal of synthetic siding where original siding exists underneath~~
- ~~Installation of new doors, door frames, and associated door sills in tertiary AVCs when new materials are compatible with the original in terms of size, design, and material.~~

...

COA Application for Major Work

As set forth herein, Major Work includes all other work not considered as either ordinary or routine maintenance or Minor Work. Major Work projects require both a COA Application and HPC approval.

[Major work may include the Types of Work labeled as a Major Work in the table provided herein below.](#)

Examples of Major Work include:

- ~~New construction or additions to buildings~~
- ~~Reconstruction of buildings once located on the site but demolished or moved at some previous time~~
- ~~Restoration or rehabilitation of an historic property to its historic appearance~~
- ~~Pointing of masonry as well as alteration, repair, or replacement of masonry, siding, roofing materials, architectural trim elements, foundations, windows, doors, and other significant architectural details~~
- ~~Demolition of any part of a building or structure~~
- ~~Work that is likely to disrupt or damage known or discovered archaeological resources on the site~~
- ~~Moving of buildings~~
- ~~Replacement of architectural details when there will be a change in design or materials from the original or existing details~~
- ~~Changes to rooflines~~

- ~~Establishment of exterior fire exits~~
- ~~Exterior modification of existing buildings for ADA compliance~~
- ~~Painting or stuccoing of buildings not previously painted or stuccoed~~
- ~~Installation of mechanical systems, air conditioning units, vents, and related equipment in primary elevations that involves alteration to the building facade~~
- ~~Location of satellite dishes, solar panels, and other roof attachments to the primary elevation roof and/or facade of a building if they are not effectively screened or are visible from a public street~~

Staff Note: For Appendix D, the Minor Work and Major Works table will be included following the Appendix D sections of Statement of Conformity Application and COA Application for Major Work.



Town of Boone Planning and Inspections Department

Memorandum

To: Historic Preservation Commission
From: Jessica Mitchell
Date: 4/29/2022
Subject: Certified Local Government (CLG) Application Update

Staff another document for the HPC to review as a part of the submission for a draft Certified Local Government (CLG) application to the State Historic Preservation Office (SHPO) in mid-May.

The following documents were created that are for your information and review.

1. Addendum Letters regarding HPC Training, HPC Public Measures for Historic Preservation, and Evidence of Seeking Preservation Professionals

The HPC Activities List was presented to the HPC at the April 12, 2022 meeting. All materials will be combined in a final submission to SHPO as Staff works with a SHPO representative.

Additionally, the following documents are reports previously created by the HPC or previous documents the HPC is aware of. These documents are not included in this packet due to their length. If there are any questions, please contact Jessica regarding the material - (jessica.mitchell@townofboone.net or 828-268-6960).

1. Comprehensive Architectural Survey of Downtown Boone, North Carolina (2021)
2. Downtown Boone Design Guidelines and Handbook (Unified Development Ordinance, Appendix D, 2021)
3. Approved Proposed Guidelines for Cemetery Designation (2021)
4. General Design Principles and Guidelines for Historic Landmarks and Districts Designated by the Town of Boone, North Carolina (2016)
5. Secretary of the Interior Standards for Rehabilitation (2011)
6. Secretary of the Interior's Standards for the Treatment of Historic Properties (2017)
7. Downtown Local Historic District Designation Report (2021) and maps from the redistricting process

-
8. Historic Landmark Reports for the 1940 Boone Flood, Blue Ridge Tourist Court, Downtown Boone Post Office, The Junaluska Community, Frank A. Linney House and Former Linney Law Office, and corresponding property maps from the Town of Boone GIS
 9. Ordinance for the HPC
 10. HPC Rules of Procedure
 11. Resumes of HPC Members
 12. Application to be completed by Staff and signed by the Mayor

Town of Boone



MONTH DAY, 2022

North Carolina State Historic Preservation Office
109 E. Jones St.
Raleigh NC 27601

RE: Certified Local Government Application for Town of Boone, NC Historic Preservation Commission

Dear Certified Local Government Review Team:

Please accept this letter as an addendum to our application detailing the Town of Boone, North Carolina Historic Preservation Commission training sessions. Our records indicate the following training sessions since 2018. Although the Historic Preservation Commission is not part of a Certified Local Government, the members and the Town of Boone Planning and Inspections staff liaisons have attended training sessions and have encouraged and required our HPC members to attend training. Please view the training subjects, dates, and attended members in the chart below.

TRAINING SUBJECT	HOSTED BY	INDIVIDUALS IN ATTENDANCE	AFFILIATION	DATE OF TRAINING
Quasi-Judicial Board Training (Boone, NC)	UNC School of Government, WCU Local Government Training Program	1. Bettie Bond 2. Eric Plaag 3. Christy Turner 4. Marlene Crosby	1. HPC Member 2. HPC Member/Chairman 3. Senior Planner 4. Admin. Support Specialist	July 10, 2018
Historic Preservation Training (Hendersonville, NC)		1. Christy Turner 2. Bettie Bond 3. Rennie Brantz 4. Eric Plaag 5. Charles Watkins	1. Senior Planner 2. HPC Member 3. Town Council Liaison 4. HPC Member/Chairman 5. HPC Member	August 17, 2018
Quasi-Judicial Board Workshop (Virtual)	UNC School of Government	1. Marlene Crosby 2. Jane Shook 3. Allison Meade 4. Eric Plaag 5. Virginia Roseman 6. Charles Watkins	1. Admin. Support Specialist 2. Director of Planning & Inspections 3. Town Attorney 4. HPC Member/Chair 5. Town Council Liaison	September 13, 2021

Communication: CLG Status Update (Project Updates by Planning Staff)

Town of Boone



			6. HPC Member	
Town of Boone Quasi-Judicial Training (Virtual)	Town of Boone Staff, UNC School of Government Online Modules	1. Bettie Bond 2. Rennie Brantz 3. Izabela Willis 4. Jessica Mitchell 5. Jane Shook	1. HPC Member, Vice-Chair 2. HPC Member 3. HPC Member (Student) 4. Long-Range/Special Projects Planner, Staff Liaison 5. Director of Planning & Inspections	January 26, 2022

Thank you for your consideration. Please contact me if you have any questions by email at jessica.mitchell@townofboone.net or by phone at (828) 268-6960.

Respectfully,

/s/ Jessica Mitchell

Jessica Mitchell

Long-Range/Special Projects Planner

Town of Boone



MONTH DAY, 2022

North Carolina State Historic Preservation Office
109 E. Jones St.
Raleigh NC 27601

RE: Certified Local Government Application for Town of Boone, NC Historic Preservation Commission

Dear Certified Local Government Review Team:

Please accept this letter as an addendum to our application detailing the Town of Boone, North Carolina Historic Preservation Commission public measures taken to identify, protect, and promote the preservation of historic districts and properties. Additionally, this letter discusses the Town of Boone's plan and schedule for designation of any additional district(s) and/or additional landmarks.

The Town of Boone Historic Preservation Commission (HPC) has identified a local historic district for Downtown Boone. In October 2021, the Town of Boone Town Council approved the designation, initiated by the HPC, for the Downtown Boone Local Historic District. The HPC is actively involved with protecting this area, as the commission is a quasi-judicial board that hears Certificates of Appropriateness (COA) cases nearly monthly. The COA cases are to review projects of major work within the historic district, preserving the historic nature of the Downtown area. While the Town of Boone has recently adopted the Downtown Boone Local Historic District, the HPC and Town of Boone Planning and Inspections staff see areas of improvement for applicants and the process for work within the local historic district. These changes will affect the Unified Development Ordinance (UDO), including the Downtown Boone Local Historic District Design Guidelines and Handbook (used as Appendix D in the UDO), as text amendments in 2022. Planning staff and the HPC will be actively involved in modifications of the guiding text.

In March 2022, the HPC set its work plan for the coming year and detailing projects to come. For the year 2022, the HPC sets out to assist with the Town of Boone's sesquicentennial celebrations, referred to as "Boone 150", as the Town has its 150th anniversary. The HPC discussed working on three local landmark designations: Hayes-Bryan-Greene Cemetery, Councill's Store, and the Watauga County Jail. While the HPC works on Boone 150 events, there is not a specified schedule of work for ongoing future projects. However, the HPC will continue to work on landmarks and associated markers, interpretative panels, and possibly Civil War Trails markers.

Thank you for your consideration. Please contact me if you have any questions by email at jessica.mitchell@townofboone.net or by phone at (828) 268-6960.

Respectfully,

/s/ Jessica Mitchell

Jessica Mitchell

Long-Range/Special Projects Planner

Communication: CLG Status Update (Project Updates by Planning Staff)

Town of Boone



MONTH DAY, 2022

North Carolina State Historic Preservation Office
109 E. Jones St.
Raleigh NC 27601

RE: Certified Local Government Application for Town of Boone, NC Historic Preservation Commission

Dear Certified Local Government Review Team:

Please accept this letter as an addendum to our application detailing the Town of Boone, North Carolina Historic Preservation Commission seeking professionals in preservation-related fields as members of the Commission.

The Town of Boone Historic Preservation Commission (HPC) has specific qualifications and requirements for membership. As the HPC has the mission to maintain inventories of historical, architectural, and culturally-significant properties, it also has the responsibility of informing the Town of Boone Town Council of methods for Boone to retain the character and historic landmarks and districts in the Town's planning jurisdiction. Therefore, membership qualifications include the following:

- Members must be Town of Boone residents.
- To the extent qualified persons can be found, the majority of the Commission shall have demonstrated special interest, experience, or education in the fields of history, architecture, archaeology, or related fields.
 - To the extent such persons may be found with the stated qualifications, the Town Council shall seek to appoint: two (2) persons with significant experience or knowledge in historic preservation, one (1) person with significant knowledge in building construction, and one (1) person with significant experience or knowledge in architecture.

These qualifications are stated in the Town of Boone Unified Development Ordinance in Article 2, Section 4, titled Historic Preservation Commission. This article section is included as an attachment for reference.

As a local government commission, the membership qualifications for the Town of Boone HPC do seek professionals in preservation-related fields for commission members. Potential members are to list their skills, education, training, experience, and area(s) of expertise in their application for membership. The HPC currently hosts members with a varied and rich background of experience and knowledge in the required fields; additionally, many members are well-known in the community, adding value to preserving the character of Boone.

Thank you for your consideration. Please contact me if you have any questions by email at jessica.mitchell@townofboone.net or by phone at (828) 268-6960.

Respectfully,

/s/ Jessica Mitchell

Jessica Mitchell, Long-Range/Special Projects Planner

Communication: CLG Status Update (Project Updates by Planning Staff)

BOONE HISTORIC PRESERVATION COMMISSION
Local Landmark Designation Report, Initial Draft

WATAUGA COUNTY JAIL

**142 BURRELL STREET
BOONE, NC**



Prepared by
Dr. Eric Plaag, Carolina Historical Consulting, LLC
April 29, 2022

**Cover Image: Watauga County Jail as a restaurant, October 2021,
image courtesy of Eric Plaag**

**Local Historic Landmark Designation Report
Watauga County Jail
Boone, Watauga County, North Carolina**

I. General information

1. Common and Historical Property Names

Watauga County Jail

2. Physical Address or Location

142 Burrell St., Boone, NC 28607

*3. Tax Parcel Identification Number (PIN)**

2900-79-5419-000 (Jail Building)

4. Current Owner(s) Name(s)

Samuel F. Furgieue, Jr., and Peggy Mendel Furgieue

5. Current Owner(s) Mailing Address(es)

169 Gragg St., Boone, NC 28607

6. Appraised Value of the Property (a copy of the most recent tax card will suffice)

\$347,500 combined; \$128,800 (Building) and \$218,700 (Land)

7. Date of Construction

1889

8. Historical Significance

Areas of Significance: Criterion A: Politics/Government, Law, and Social History

Period of Significance: 1889-1927

II. Brief Statement of Significance

The Watauga County Jail is significant at the local level under Criterion A in the areas of Politics/Government, Law, and Social History for its association with the early correctional institution history of Watauga County from 1889 to 1927. The fourth of Watauga County's early jails, it is the only extant, nineteenth-century, governmental building within the county's boundaries. The Watauga County Jail was in use at a key transition point in Boone's history during the early 1920s, when Boone rapidly and radically transformed from a sleepy, backcountry, county seat to a vibrant commercial and tourist hub in northwestern North Carolina. Indeed, it was the success of Boone's booming economy and the area's rapid growth that ushered in the end of the building's use as the local jail.

The Watauga County Jail retains an impressive degree of exterior integrity, given its changes in ownership and function since the 1920s. The jail retains its general original form and appearance, and in those few cases where newer exterior materials have been applied, the original materials are known to survive underneath. While there are also important interior elements that are reflective of the Watauga County Jail's period of significance, these elements tend to be mere vestiges of the original interior layout and design, and modern alterations of and damage to some of these elements have had an adverse impact on their integrity. While these interior elements are noted here for their historical importance, the proposed local landmark designation applies only to the exterior elements of the building.

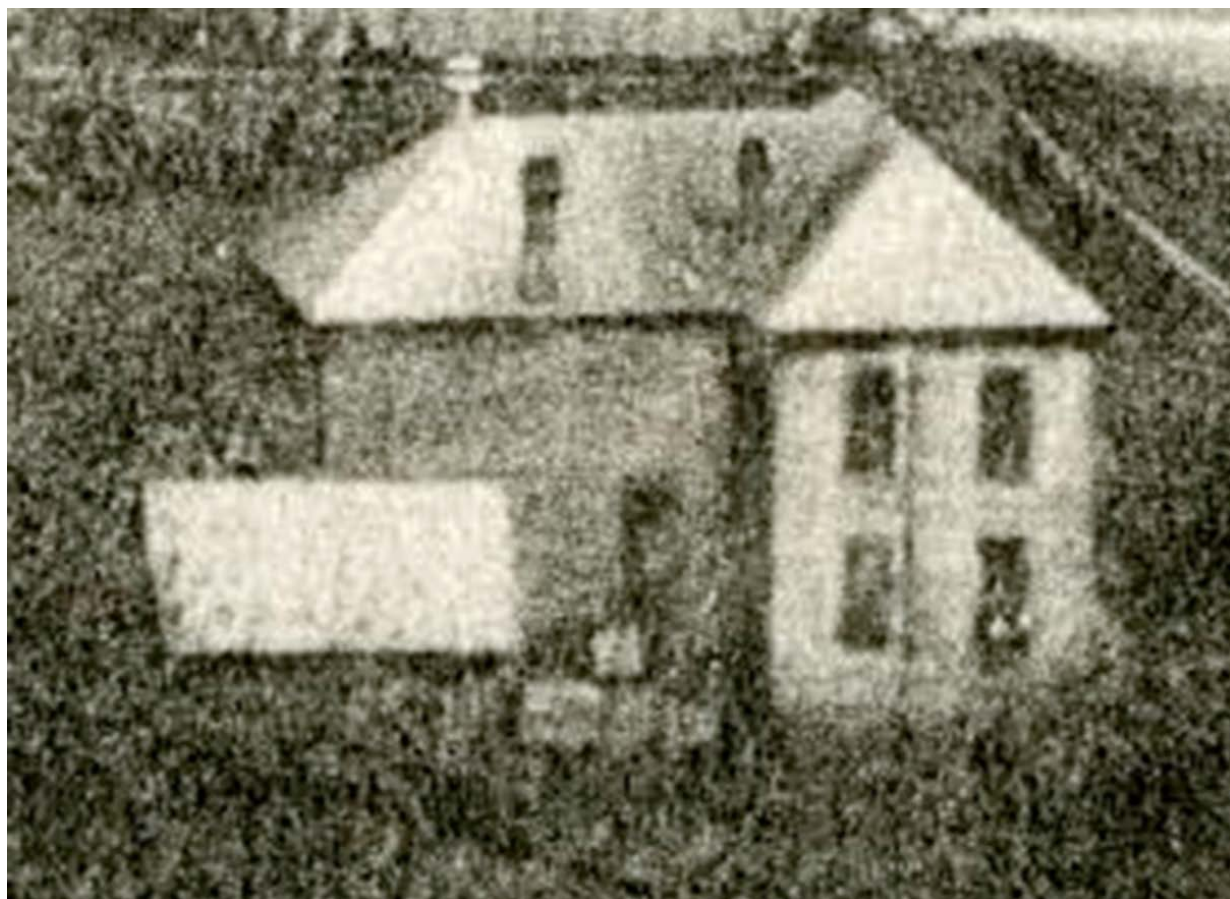
The property to be designated includes the entire current parcel containing the Watauga County Jail, including the stone retaining wall along the sidewalk at Burrell Street, the pathway leading from the sidewalk to the front porch, the driveway access located to the southwest of the building, and the two small parking areas to the southwest and northwest of the building.

III. Architectural Description¹

The former Watauga County Jail is a classic example of a Folk Victorian-style home adapted to rural institutional needs. Originally "T" shaped in design, with a hipped roof on its two-story main block that resembles an I-house and a hipped roof, two-story, rear (west) extension, the building is constructed of six-course, common bond, red brick that was kilned by builder William Stephens of Mayfield, Kentucky, on site. Sturdy brick pilasters separate the three main bays of the front (east) façade and are present at the corners, with the east elevation terminating in a quadruple-tier, English bond, corbelled cornice that is interrupted at irregular intervals by brick brackets. Stunted brackets are centered on the pilasters, while a pair of elongated brackets frames each window opening of the second floor. A second, alternating corbel line separates the first and second floors but is mostly

¹ This architectural description is taken largely from Eric W. Plaa, "Comprehensive Architectural Survey of Downtown Boone, North Carolina, Final Report," February 2021, Revised September 2021, (Boone, NC: Carolina Historical Consulting, LLC, 2021), 93-96, with some minor revisions to architectural descriptions reflecting present conditions and new information.

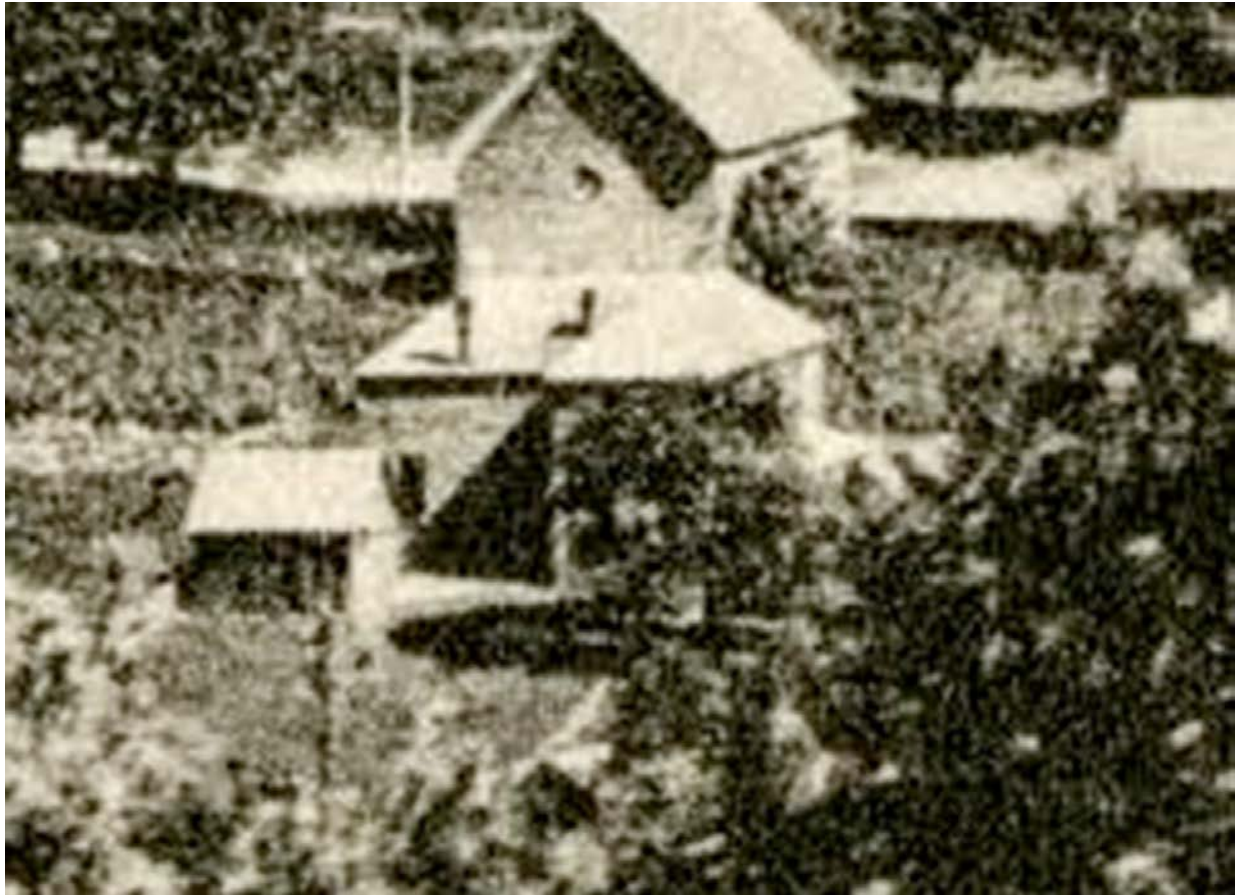
obscured by the front porch. The roof is clad in small, metal shingles that may be original to the building.



Detail crop from a 1905 postcard showing the south elevation of the Watauga County Jail from the southwest. A shed-style, angled bracket appears to be visible projecting from the east elevation of the jail, suggesting the presence of a front porch as early as 1905. Image courtesy of the Bobby Brendell Postcard Collection, Digital Watauga Project.

A large, one-story porch runs three-quarters of the width of the first floor of the east elevation. Some past accounts of this house have suggested that the house did not originally have a front porch, but images from circa 1905 (Bob-Bre-02-117) and 1915 (Bob-Bre-02-114) clearly show a porch of this approximate massing was present relatively early in the building's history. A wooden, one-story porch is also visible on this building on the 1928 Sanborn map of Boone. By 1940, this porch was supported by four tapered, wooden posts rising from square, brick piers with cement caps (Dav-Wyk-01-007). At that time, the roof of this porch was a stunted hip of metal shingles with a flat top, capped by a wooden balustrade on three sides. The area underneath the porch appears to have also been a wooden floor resting on a brick foundation with a centered, three-step, concrete stoop with low brick cheek walls. It's possible that this Craftsman-influenced version of the porch was an updated form completed as part of renovations known to have taken place in 1926.

By the late 1980s, the wooden balustrade was removed, and by the early 2000s the flat portion of the porch roof had been built up and clad in standing seam metal. The area



Detail crop from a 1915 postcard showing the south and east elevations of the Watauga County Jail from the southeast. A hipped-roof porch clearly appears to be visible projecting from the east elevation of the jail, confirming the presence of a front porch as early as 1915. Image courtesy of the Bobby Brendell Postcard Collection, Digital Watauga Project.

underneath the porch, meanwhile, was enclosed several years ago using salvaged material from a 1920s Blowing Rock home to create a three-season porch; as part of this change, the brick piers and wooden posts disappeared as supports for the porch roof, although the brick porch foundation, steps, and cheek walls remain. A cut-stone pathway trimmed by a cut-stone, low cheek wall extends to a small set of concrete stairs with concrete cheek walls and iron banisters that descend to the sidewalk on Water Street; this walkway and cheek wall feature dates at least to 1940. Meanwhile, a native stone retaining wall in a random rubble pattern used to descend along the Burrell Street sidewalk and wrap into the driveway area at the southeast corner of the property. This stone retaining wall also dated to at least 1940, and a portion of it survives at the upper end of the driveway. The remainder was either covered or removed and replaced with a poured concrete retaining wall. A wrought iron fence—possibly salvaged from elsewhere and not installed until sometime between 1988 and the 2002 resurvey—forms a perimeter around much of the



Detail crop showing Louise Wyke Russell (L) and an unidentified man sitting on the stone wall in front of the Watauga County Jail building during the 1930s. Image courtesy of the David Wyke Collection, Digital Watauga Project.

front yard of the Jail. Just to the northwest of the retaining wall, on the lawn southeast of the house, is a patio composed of concrete block pavers with a brick perimeter line.² The center bay of the first floor of the east elevation contains an entrance with a single, eight-light, wooden door with a transom above; this transom was originally divided into two horizontal lights but now is a single light. The north and south bays each contain a tall, narrow, four-over-four, wooden window with a brick rowlock sill. This general configuration is repeated on the second floor of the south elevation. The north and center bays each contain a tall, narrow, four-over-four, double-hung sash, wooden window identical to the ones found on the first floor, each with a brick, rowlock lintel. The south bay, however, has a four-over-four, double-hung sash, wooden window that is substantially shorter than the other two on the second floor for reasons that are unclear. It possesses a brick header lintel and has been this size since at least 1940, but irregular brickwork in the area above the window suggests that this opening may have been changed at some point between 1889 and 1940.



The Watauga County Jail underwent significant renovations in 1985 and 1986 following its acquisition by Don and Mary Dunlap. This image, taken near the completion of renovations, shows the building circa March 1986. Image from the *Watauga Democrat*, courtesy of the Historic Boone Collection, Digital Watauga Project.

² For all past survey documentation in a single folder, see WT0067 Watauga County Jail, Architectural Survey File, North Carolina State Historic Preservation Office, Asheville (“Western”) Office.



Circa 1982 image showing the south porch prior to its enclosure. Image courtesy of the NC SHPO.

The south elevation of the main block repeats many of the details of the east elevation, including the quadruple-tier, English bond, corbelled cornice and the six-course, common bond brick for the main masonry, and stunted brick brackets are found near each corner below the roofline. Window openings contain long and narrow, four-over-four, double-hung sash, wooden windows with aluminum storms and are arranged symmetrically with two openings on each floor. Here, though, lintels are an intriguing double-tier comprised of angled sailors capped by a band of brick rowlocks, while sills are brick rowlocks. A coal

chute is visible at the lower end of the elevation. The corbelled cornice treatment wraps from the south elevation of the main block onto the south portion of the west elevation of the main block, but this wall is otherwise featureless.

The south elevation of the west extension, meanwhile, reveals two symmetrically spaced, four-over-four, double-hung sash, wooden windows with aluminum storms and brick rowlock lintels and sills on the second floor. The image from circa 1905, when this part of the building was still being used as a jail, shows no window openings on the second floor of the west extension, suggesting that these were added when the building was converted to a residence in the 1920s. The first floor of the south elevation of the west extension, meanwhile, has been almost entirely obscured by a wooden, enclosed porch addition clad in weatherboard and covered with a hipped, asphalt shingle roof. A large kitchen exhaust vent occupies a portion of the roof. This porch area was a relatively early addition to the building, as it is visible on the 1928 Sanborn map illustration of the property, but the present owner indicates that a restaurant tenant enclosed the once-open south porch several years ago, probably in 2002, when the resurvey images showed that the open porch was just beginning to be enclosed. Two large door openings along the original brick wall of the south elevation of the west extension (one of which was originally a double window opening, based on 2002 survey images) are still visible from the interior and provide access to this enclosed porch area. Meanwhile, a tall but narrow, brick boiler stack rises from the joint between the west face of the main block roof and the south face of the west extension roof. A third chimney visible in the 1905 photograph along the south face of the west extension roof—probably in service to the former kitchen—is no longer extant.

The west elevation of the west extension includes a single, modern, storm door entry to the enclosed wooden porch on the south elevation. The remainder of the west elevation of the west extension, however, is almost entirely featureless, consisting purely of the six-course, common bond brick with the same corbelled cornice treatment and thus preserving the original, completely windowless design of this west extension that served as jail space. Reports from past surveys suggest these walls range in thickness from twelve to eighteen inches, no doubt because this area served as the enclosure for prisoners of the jail. The north elevation of the west extension continues the English bond and corbelled cornice treatments found elsewhere. At the north end of the west extension is a large, steel staircase rising to the north entrance to the second floor apartment. This north elevation entrance is intriguing, as it appears to contain an iron, cased opening within which sits a modern doorframe and door. It's possible that this iron casing may have been salvaged from one of the jail spaces inside, given that the 1986 survey images clearly show this opening as a four-over-four, double-hung sash window. A defect in His-Boo-1-19-001 (1907), which offers the best pre-1927 view of this side of the building, obscures this part of the building, so it cannot be confirmed, but it appears that this opening may have been an early access point to the upper story of the jail area. To the east of this doorway is a tall, narrow, four-over-four, double-hung sash, wooden window with an aluminum storm and header lintel. The east end of the first floor of the west extension, meanwhile, features a tall, narrow, four-over-four, double-hung sash, wooden window with an odd, Adams-style, brick rowlock lintel and brick rowlock sill. The brick above this window has clearly been altered, as the original sailor lintel for the original opening here is still hanging out of place

about two feet above the Adams-style lintel over the window. To the west of this is a former opening, even larger than the window but now bricked in, suggesting that it may have been a doorway at one time. This doorway is visible in the 2002 survey images, at which time the exterior steel balcony was self-contained, with no staircase descending to the rear. Meanwhile, the 1986 survey images show this now-sealed opening as a four-over-four, double-hung sash window with the same odd lintel issues as the window immediately to the east.



Circa 1982 survey image showing the north elevation prior to the addition of the steel balcony and staircase, with both northwest corner windows intact. Image courtesy of the NC SHPO.

The north end of the west elevation of the main block, meanwhile, is featureless aside from the corbelled cornice, English bond, and brick stunted bracket treatments found elsewhere. The north elevation of the main block continues these features and includes one tall, narrow, four-over-four, double-hung sash, wooden window with brick rowlock sills and angled sailor lintels on both the first and second floor at the west end of the elevation. A rectangular, interior chimney stack with concrete cap rises above the center of this north elevation.

While the interior of the former Watauga County Jail has been much altered since its use as a jail ceased in 1927, a number of important design elements remain in the interior. Many of the original interior brick walls associated with the rear jail space are up to 18 inches

thick, purportedly to make escape much more difficult, and these walls survive to this day. In addition, the steel doorjamb and lintel of the doorway leading into the jail area on the first floor is still intact. During renovations in 1986, a new buyer removed stucco from the walls in the first-floor jail cell area and uncovered decades of graffiti from former inmates; while much of this original graffiti survives, uncovering these historic artifacts allowed the various college students and fraternity members who lived in the building over the next fifteen years to add their own graffiti to the mix.

Other notable changes to the interior include the repeated reconfiguration of what was the original interior staircase. Now no longer extant, this staircase descended from the second floor, south to north, in undated survey images (1988?) taken during the building's use as a fraternity house. This stair configuration was still intact at the time of the 2002 survey, suggesting that it was removed for the building's renovation into a restaurant shortly thereafter. Prior to 1988, however, as indicated in a floor plan displayed in the 1982 (?) survey, the staircase originally rose from east to west at the center of the house, then turn to the south for a short rise to the second floor. At that time, the second floor apartment offered an interior arrangement that was completely different from what is found today, and it has been altered on at least two occasions since then.

The former Watauga County Jail was added to the North Carolina State Historic Preservation Office's Study List in 1984. It is currently under evaluation for nomination to the National Register of Historic Places. The property is at significant risk from planned, large-scale developments immediately to the south and east.

III. Historical Background

The Watauga County Jail in a Politics/Government, Law, and Social History Context

The North Carolina legislature first created Watauga County in 1849. The county's first jail, built for \$400 by a Mr. Dammons, was located on the lot at the northwest corner of Howard and Depot Streets. According to early county historian John Preston Arthur, this first building was of brick with a steel cage built inside, but the locally kilned brick was so poor in quality that inmates quickly figured out how to erode the brick around the windows and doorways to escape. A few years later, a second jail was built, this time using white pine logs erected by Elisha Green, with the original cage moved to the interior of this new jail. Union troops burned that jail building during Stoneman's Raid in March 1865. Following the American Civil War, Jack Horton—who had built the original Watauga County Courthouse that would burn in 1873—received the contract to construct a third jail on the same site as the first two. Two stories in height, this new jail was also of heavy logs.³ It stood for many years past its use as a jail, until it was finally demolished in 1908.⁴

³ John Preston Arthur, *A History of Watauga County, North Carolina*, (Richmond: Everett Waddey Co., 1915), 126-27.

⁴ "Local News," *Watauga Democrat*, June 11, 1908: 3.

The county's fourth jail was built in 1889 on land acquired by the Watauga County Commissioners for \$200 from Thomas J. Coffey and his wife Mollie E. Coffey, and William C. Coffey and his wife Carrie L. Coffey. Described as being on Lot 6 from the original, 1849 plat of the Town of Boone, this parcel faced on what was then called Burnsville Street (present-day Burrell Street), totaled "one half acre, more or less," and ran from King Street all the way to the then-unnamed street we now know as Poplar Grove Road, sometimes called Burnsville Road.⁵ Completed in December 1889 by William Stephens (1870-1945) of Mayfield, Kentucky (*Watauga Democrat*, May 22, 1889, sometimes reported in error as William Stephenson of Mayesville, Kentucky), for \$5,000, the Watauga County Jail is Boone's only surviving local government building from the nineteenth century.⁶ Like many small-town jails of the period, this building was actually a mixed-use space, with both floors of the rear half of the building being used for jail purposes and the front half set aside for the residence of the jailer and his family. Sources disagree on how the jail spaces were divided. Survey records from the early 1980s indicate that the women's quarters were on the first floor, while men's quarters were on the second floor, but a later survey narrative suggests that "the men's cell was downstairs" and "the women and the jailer were housed upstairs."⁷

By 1925, local disdain for the condition of the 1889 jail reached a fever pitch, heightened in part by local racist sentiment and a focus on segregation during this period in Boone, following a report from the local court's grand jury that viciously critiqued the existing jail:

We have visited the jail and find it inadequate to meet the present needs of the county, being entirely too small, badly arranged, being no provision to keep the whites and colored separate, they having to use the same toilet. The water works are out of commission, having to flood the stool by hand, and the sanitary conditions it does not appear could be worse, being dark, sunlight excluded, with very little ventilation, appearing to us more like an ancient dungeon than like a modern prison. The female department we find a little more sanitary, but being heated only by an oil stove and lighted only by an oil lamp, and being shut off from ventilation and having no water system. We find the only way for a bath in either department is no better than an ordinary wash basin.

We recommend that the jail and lot upon which it stands be sold at the discretion of the county commissioners and the proceeds be applied on the building of a new and modern jail, the new site to be back of the court house,

⁵ T. J. Coffey and wife Mollie E., and W. C. Coffey and wife Carrie L., to J. E. Finley, W. W. Presnell, and Joseph Mast, County Commissioners, May 22, 1889, Deed Book N, Page 47, Watauga County Register of Deeds. All subsequent deed records are from this source unless otherwise noted. On Burnsville Road, see Arthur, *Watauga County*, 147.

⁶ *Watauga Democrat*, May 22, 1889: 3; "Actions of the Board of Co. Commissioners," *Watauga Democrat*, December 5, 1889: 2; Arthur, *Watauga County*, 127.

⁷ WT0067 Watauga County Jail.

on the county's property, and we further recommend that the old jail be given immediate attention.⁸

In response, the Watauga County Commissioners voted to sell bonds totaling \$60,000 for the construction of a new jail. Noting that the old "jail has long been a disgrace to the county," the *Watauga Democrat* announced that "the present jail property, which is valuable, will be sold as a whole, not even the building is to be torn down."⁹ In December 1926, county officials moved forward with the sale of the 1889 jail building, conveying a roughly 78' X 229' lot—presumably the remainder of the original jail lot, which had been subdivided in 1895—to T. S. Watson for \$6,000.¹⁰ The long edge of this land ran along what was then known as Jail Street (present-day Burrell Street) from the rear (southwest) boundary of the E. F. Lovill Law Office parcel at the west corner of King and Jail Streets to approximately the south corner of the present property. That same month, Sheriff L. M. Farthing appointed Poly Wyke as a deputy sheriff for Boone township and announced the Wyke would be moving into the old jail, "the new one not being ready for occupancy by quite a good deal," apparently as a result of bad weather hampering W. H. Gragg's efforts to complete the new jail.¹¹

Additional Historic Context

As noted above, W. H. Gragg was contracted to complete the new jail. Once the 1889 jail closed two years later, many of the interior jail-related elements were disassembled and sent elsewhere. In March 1927, for example, an article in the *Watauga Democrat* proclaimed that "the cage and equipment of the old Watauga County jail will be moved to Blowing Rock and installed as the town jail." Mayor G. F. Sudderth of Blowing Rock explained that his town purchased the equipment "to save the expense of taking minor offenders to the county seat."¹² All that was left behind was the aforementioned door casing of the northeast jail room on the first floor and the graffiti that adorned the walls of that cell.

Other changes appear to have been made to the interior as well. Following T. S. (Thomas Sherman) Watson's purchase of the property in 1926, Watson apparently renovated the

⁸ "Grand Jury Asks for New Prison," *Watauga Democrat*, April 2, 1925: 1. As a testament to heightened race conflict during the mid-1920s in Boone, it should be noted that the Ku Klux Klan ran advertisements in the *Watauga Democrat* in late 1924, offering a reward for the capture of an individual; hired a Linville River Railway excursion train from Boone to accommodate Boone citizens flocking to Johnson City for a Klan rally in November 1924; and held a "grand parade and march in full regalia" in the streets of Boone on July 23, 1925. By 1926, the former courtroom in the 1875 courthouse had been renamed "Ku Klux Klan Hall." See "\$50—Reward--\$50," *Watauga Democrat*, November 13, 1924: 1; "Local Happenings," *Watauga Democrat*, November 27, 1924: 5; "Local Klansmen Will Stage Celebration," *Watauga Democrat*, July 9, 1925: 1; and "Notice," *Watauga Democrat*, April 8, 1926: 5.

⁹ "\$60,000.00 Prison Will Be Erected," *Watauga Democrat*, May 21, 1925: 1.

¹⁰ S. C. Eggers, et al, County Commissioners, to T. S. Watson, December 4, 1926, Deed Book 36, Page 263. For the subdivision of the jail lot and sale of the northernmost portion along King Street, see W. F. Coffey, Chairman of the Board of Commissioners, to J. C. Fletcher and E. F. Lovill, September 16, 1895, Deed Book S, Page 349.

¹¹ "Local Affairs," *Watauga Democrat*, December 2, 1926: 5.

¹² Quotations from "Happenings in and about Blowing Rock," *Watauga Democrat*, March 31, 1927: 1.

building for use as a boarding house, which was operated under the management of a Mrs. Hall of Ashe County.¹³ Watson fell ill in early 1928 and was hospitalized at Lenoir.¹⁴ Following his death on February 10, 1928, his wife Susan V. Watson, was named as administratrix of his estate.¹⁵ Forced by the local probate court to sell the jail property to raise funds for outstanding debts, Susan Watson relied on S. C. Eggers, the local county commissioner, to auction the property, which occurred on August 18, 1928. The auction included not only the jail house but also eight lots located around the jail. The jail house was described as “rebuilt so as to make one of the most modern homes in the city. The house is of brick construction and is in excellent repair and is modern.”¹⁶ M. C. Cook was the winning bidder at \$3,865, acquiring the jail and four of the eight lots—Lots 7, 8, 9, and 10—as part of his bid.¹⁷ Curiously, the jail lot in this instance was described as just 129 feet in length along Jail Street, the northern portion (Lots 3, 4, 5, and 6) having been sold separately to A. W. Hodgson on the same date.¹⁸

Like Watson’s, Cook’s ownership of the building was startlingly brief. In August 1929, M. C. Cook and his wife Geneva sold Lots 7, 8, 9, and 10 to G. W. Sebastian (sometimes spelled “Sebastin”), a local minister, and his wife.¹⁹ Just two months later, the Sebastians sold Lot 7—“the lot upon which is located the brick building known as the old Jail Building”—to George N. Cook.²⁰ The Cooks (George, who also apparently went by “Niley G.,” and his wife Maude) apparently also operated the building as a boarding house, as evinced by several local articles noting that various new residents in Boone were staying there temporarily.²¹ The Cooks held onto the property until 1937, when they sold Lot 7 to nineteen-year-old Louise Wyke, daughter of David Pinkney Wyke and Ethel Agnes (Aldridge) Wyke.²² Several months later, Louise Wyke also acquired Lots 8 and 9 of the old jail tract from D. L. Wilcox and his wife Florence.²³ A short time later, a blurb appeared in the *Watauga Democrat* announcing that “David Wyke, local grocery merchant, has purchased the old jail property and is thoroughly remodeling the building, which will be, when completed, one of the

¹³ “Local Affairs,” *Watauga Democrat*, May 19, 1927: 4.

¹⁴ “Local Affairs,” *Watauga Democrat*, February 9, 1928: 4.

¹⁵ “Thomas S. Watson,” Caldwell, February 1928, Ancestry.com, *North Carolina, US, Death Certificates, 1909-1976*, database online, (Provo, UT: Ancestry.com Operations, Inc., 2007); “Notice of Administration,” *Watauga Democrat*, March 8, 1928: 8.

¹⁶ “Auction Sale of Lands,” *Watauga Democrat*, August 9, 1928: 5.

¹⁷ S. C. Eggers, Commissioner, to M. C. Cook, September 1, 1928, Deed Book 37, Page 188. This parcel was described as consisting of “Lot numbers 7, 8, 9, and 10 in the old Watauga County Jail tract, which is of record in the office of the Register of Deeds for Watauga County, North Carolina.” This plat has not yet been located.

¹⁸ S. C. Eggers, Commissioner, to A. W. Hodgson, September 1, 1928, Deed Book 37, Page 471. This parcel was described as consisting of “Lot numbers 3, 4, 5, and 6, in the plat of the old Watauga County Jail property.”

¹⁹ M. C. Cook and Geneva Cook to G. W. Sebastin and M. E. Sebastin, August 9, 1929, Deed Book 38, Page 527

²⁰ Rev. G. W. Sebastin and M. E. Sebastin to George N. Cook, October 7, 1929, Deed Book 39, Page 12.

²¹ For examples, see “Local Affairs,” *Watauga Democrat*, January 23, 1930: 6; and “Palmer Increases Population by 13,” *Watauga Democrat*, April 19, 1934: 1.

²² Niley G. Cook and Maude Cook to Louise Wyke, January 1, 1937, Deed Book 46, Page 432. David Pinkney Wyke’s mother, named Louisa (Hodges) Wyke, died in 1894.

²³ D. L. Wilcox and Florence Wilcox to Louise Wyke, September 13, 1937, Deed Book 47, Page 393.

modern homes of the town.”²⁴ In December 1940, Louise Wyke sold the property (Lots 7, 8, and 9) to her parents, who continued to live in the house until Ethel Wyke sold the property back to her daughter, by that time known as Louise (Wyke) Russell, in 1981.²⁵



This October 2021 image shows various graffiti applied to the east wall of the first floor jail area by a combination of early twentieth-century prisoners and late twentieth-century fraternity brothers, among others. Image by Eric Plaag.

Louise Wyke Russell held the property for a relatively short period of time, selling it to a local developer, Donald B. Dunlap, and his wife Mary M. Dunlap, in December 1985.²⁶ Shortly thereafter, the Dunlaps completed some renovations to the building—primarily updating of electricity and similar infrastructure—before renting it out as a fraternity house. As part of the renovations, the Dunlaps removed stucco from the walls of the first floor jail cell area, thus exposing graffiti left by various prisoners on the exposed brick during the building’s use as a jail. As a result, the subsequent fraternity tenants added their

²⁴ “Local Affairs,” *Watauga Democrat*, January 21, 1937: 5.

²⁵ See Louise Wyke (Single) to D. P. Wyke and Ethel Wyke, December 17, 1940, Deed Book 56, Page 378; and Ethel Wyke to Louise Wyke Russell, July 22, 1981, Deed Book 211, Page 1142.

²⁶ Louise W. Russell to Donald B. Dunlap and Mary M. Dunlap, December 6, 1985, Book of Record 28, Page 59.

own graffiti to the same walls, essentially obliterating the integrity of the walls as a chronicle of its jailhouse residents.²⁷

In 1989, the Dunlaps officially transferred the Jail property to Don Dunlap Construction, Inc., including the Jail lot (0.22) and approximately 1.08 acres of land located to the northwest, as depicted on Dunlap's subdivision plat for the property created in August 2000.²⁸ By that point, the Jail was in serious danger of being demolished as Dunlap pursued plans to erect a large student housing building on the lot to the northwest of the Jail. Fortunately, local residents Samuel F. Furgiuele, Jr., and his wife Peggy Mendel-Furgiuele convinced Dunlap to sell them the Jail property in August 2000 in the interest of preserving local history.²⁹ Thereafter, the Jail building was renovated once again to house a restaurant (the Old Jail Restaurant). The building is presently home to Proper Southern Dining, another restaurant.

IV. Historical Significance

The Watauga County Jail is significant at the local level under Criterion A in the area of in the areas of Politics/Government, Law, and Social History for its association with the early correctional institution history of Watauga County from 1889 to 1927. The fourth of Watauga County's early jails, it is the only extant, nineteenth-century, governmental building within the county's boundaries, and it remains a popular local symbol of Boone's early history as a sleepy county seat prior to Boone's rapid commercial development in the 1920s shortly after the arrival of the Linville River Railway connection in 1918.³⁰ The pressures of that commercial development, coupled with ongoing concerns about the safety and suitability of the Watauga County Jail for a modernizing county seat, prompted local officials to secure funding and community support for construction of a new jail behind the 1905 Watauga County Courthouse about a block away on King Street. In many respects, the old jail was a victim of Watauga County's success as a commercial hub in the mountains of northwest North Carolina.

The jail's transformation into a boarding house first, then a permanent family residence, following its decommissioning as a jail in 1927 also fits the prevailing pattern in Boone during this period to encourage the adaptive reuse of historic structures. Other examples

²⁷ For information on the Dunlaps' renovations, see Jeni Gray, "Old Watauga Jail Soon to Have New Life, Look, and 'Guests,'" [Watauga Democrat], undated clipping [March 19, 1986, 6A] in WT0067 Watauga County Jail, Architectural Survey File, North Carolina State Historic Preservation Office, Asheville ("Western") Office. For a description of the damage caused by fraternity residents, see Betsy Lawson, "Abandoned, Abused, and Adapted: Old Buildings of Watauga County," paper for History 4575 course at Appalachian State University, included in WT0067 Watauga County Jail.

²⁸ Donald B. Dunlap and Mary M. Dunlap to Don Dunlap Construction, Inc., March 15, 1989, Book of Record 118, Page 41. For the subdivision plat, see Municipal Engineering Services, Inc., Subdivision Plat prepared for Don Dunlap Construction, Inc., August 15, 2000, Plat Book 15, Page 117.

²⁹ Don Dunlap Construction, Inc., to Samuel F. Furgiuele and Peggy Mendel-Furgiuele, August 15, 2000, Book of Record 582, Page 156.

³⁰ For a discussion of the impact of the Linville River Railway's arrival on the development of Boone, as well as the Watch Boone Grow campaign of the early 1920s, see Plaag, "Comprehensive Architectural Survey," 33-51.

included the conversion of the former Boone Methodist Church, located opposite the 1905 courthouse, into a retail establishment in the early 1920s; adaptive reuse of the 1875 courthouse, located at the northwest corner of King and Water Streets, into the home of the Watauga County Bank and later into a meeting hall; and the repurposing of the original tack and harness operation and stables of the Coffey brothers, located on the south side of King opposite the J. Walter Jones Building (presently Mast General Store), into a cheap annex for the Critcher Hotel in the early twentieth century. By 1950, most of these repurposed nineteenth-century buildings of old Boone were gone. Today, other than a few residences on the north side of King, the Watauga County Jail is the lone survivor of Boone's old, pre-1920s downtown, and it is the only known governmental resource from nineteenth-century Watauga County that still stands.

The Watauga County Jail retains an impressive degree of exterior integrity, given its changes in ownership and function since the 1920s. The jail retains its general original form and exterior appearance, and in those few cases where newer exterior materials have been applied, the original materials are known to survive underneath. While there are also important interior elements that are reflective of the Watauga County Jail's period of significance, these elements tend to be mere vestiges of the original interior layout and design, and modern alterations of and damage to some of these elements have had an adverse impact on their integrity. While these interior elements are noted here for their historical importance, the proposed local landmark designation applies only to the exterior elements of the building. In short, the Watauga County Jail, taken as a whole, retains a startlingly high degree of integrity in terms of design, setting, workmanship, materials, feeling, and association.

V. Property Included in the Local Landmark Designation

The property to be designated includes the parcel containing the original Watauga County Jail, which essentially consists of the land that for many decades was referred to as "the jail lot" in deed references. The Watauga County Jail remains at its original site and has undergone minimal exterior alterations in the years since it ceased functioning as the county jail.

VI. Bibliography/Source Citations

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Plaag, Eric W. *Comprehensive Architectural Survey of Downtown Boone, North Carolina, FINAL REPORT*. Boone, NC: Boone Historic Preservation Commission, February 2021.

Revised September 2021.

Watauga County Register of Deeds.

Watauga Democrat.

WT0067 Watauga County Jail. Architectural Survey File. North Carolina State Historic Preservation Office, Asheville (“Western”) Office.

VII. Photographs

Eric Plaag took the attached images during a resurvey of the property on October 4, 2021.

HISTORIC DOWNTOWN BOONE WALKING TOUR



SPECIAL THANKS TO THE DIGITAL WATAUGA
PROJECT FOR PROVIDING PHOTOS FOR THE TOUR



WELCOME TO BOONE



We hope you enjoy your time here and appreciate the natural beauty of the area, along with the rich history, culture, and traditions of this unique mountain community.

The Town of Boone started with a grant from King George III to Jordan Council. It developed as a small mountain community around a store that later generations built. The community grew as a place to sell cattle and it was called Council's Store.

Following the formation of the United States, Boone became part of Wilkes County, then part of Ashe County in 1799. Postal service began in 1809 and a post office was built in 1823. In 1849, the legislature created Watauga County, and the community was renamed Boone in 1850, after Daniel Boone. Boone was incorporated as a town in 1872.

THE JONES HOUSE



Built in 1908 by Dr. John Walter Jones, this Queen Anne style home sits prominently in the heart of Boone. The house served as the Jones family home and Dr. Jones' medical office until his untimely death in 1925. After the loss of her husband, Mattie Blackburn Jones rented rooms in the house as a means to support herself and her children, John Walter Jr. and Mazie Jean. Mazie was an advocate of conservation and public green spaces.

The demolition of the Daniel Boone Hotel prompted her to sell the Jones House to the Town of Boone in 1983 with the stipulation that the house be used as a cultural and community center and the property remain a green space. While this stipulation expired in 2008, the Town of Boone continues to honor her wishes. Today, in addition to a community art gallery and offices for the Cultural Resources Department, the Jones House is the center of activity for downtown Boone offering concerts, music lessons, holiday events, and a wonderful outdoor gathering space.

The Jones House was added to the National Register of Historic Places in 1987.

MAST GENERAL STORE



Currently known as the Mast General Store, these two buildings (west building constructed in 1922, east building in 1927) have held various storefronts throughout the years including a bank, a telephone exchange, numerous retail stores and five and dimes, a café, a radio station, a beauty salon, and Belk Department Store. It is most associated with Hunt's Department Store, which opened in 1943. Mast General Store moved into the building in 1988.

The Mast General Store is sometimes referred to as the Old Boone Mercantile.

DOC WATSON STATUE BENCH



Arthel "Doc" Watson (1923-2012) was born down the road in Deep Gap and always remained "Just One of The People," as this sculpture states. Blind since infancy, Doc started his career in his 20s busking in front of Boone Drug, and playing his guitar at local spots like the Appalachian Theatre. In the early 1960s he was discovered and made his appearance at the Newport Folk Festival. He became part of the Folk Revival and is known worldwide for his flat-picking style of guitar playing.

The Town of Boone celebrates Doc Watson Day every year with a concert at the Jones House. This bronze statue of Doc Watson was dedicated on June 24, 2011, and sculpted by Alexander M. Hallmark.

Doc Watson was an 8-time Grammy winner.

4 DOWNTOWN POST OFFICE



The downtown Boone Post Office was dedicated on April 10, 1940, with a crowd of 3,000+ people. This was originally the site of JD "Crack" Council's house, whose ancestors operated the first post office in Boone, beginning in 1828. Construction of the Post Office was completed in 1939 through the Works Progress Administration and was designed by Louis A. Simon.

Its colonial revival style and prominent downtown position have helped make it a part of the fabric of Boone. The interior features original mailboxes, windows, brass ceiling fixtures, and a mural of Daniel Boone, painted by Alan Tompkins. The Town of Boone purchased the historic building in 2008 and renovated the lower level to provide offices for the town's planning and inspections offices. It was listed on the National Register of Historic Places in 1996, restored in 2012, and received local landmark status from the town in 2016.

Step inside to view Alan Tompkins's "Daniel Boone on a Hunting Trip in Watauga County." This mural is the second one completed by Alan Tompkins for the Boone Post Office. The first showed tobacco growers in a lowland field, and prompted the Watauga Democrat to opine, "As far as artistic imagination goes, the thing stinks."

5 LINNEY HOUSE AND LAW OFFICE



The house sits on the site of the first courthouse in Watauga County, which burned down in 1873. The original well for the courthouse is still on the property as well as the washhouse, the interior of which features graffiti from famous Boone residents such as Romulus Linney, award-winning author and playwright. This house is most affiliated with Frank A. Linney, a prominent attorney and politician in the early 20th century.

Linney was an attorney for the Town of Boone from 1920-1930 and served as District Attorney for Western NC from 1921-1927, and for Middle NC from 1927-1928. Linney later helped to establish the university in town. Richard Lenoir Council built the original portion of the house in 1894 so that it faced Queen Street. Linney purchased the house in 1902 and added on to it multiple times, including a massive reworking of the main block of the house into its present configuration in 1915, with the main entrance facing King Street.

Playwright Romulus Linney IV, spent summers in Boone staying at the Linney House with his uncle, Frank. Romulus IV took his first college course at Appalachian State from Cratis Williams who was influential in developing his style and tone of writing.

THE CHOCOLATE BAR & THE JUNALUSKA COMMUNITY



6

A café and gathering place for members of the Junaluska community once occupied the building that is today home to the Austin and Barnes Funeral Home's storage facility. In the 1940s and 50s, the Chocolate Bar was a thriving business and popular neighborhood social club, serving the African American community located to the north. Although there are few surviving records of the early Junaluska community, its earliest residents initially lived scattered across the Rich Mountain and Howard's Knob hillside. In 1898, residents built the Boone Chapel, a small, African-American church located adjacent to the present site of the lower water tower on the hillside.

The Junaluska Turnpike, from which the community later took its name, was built in 1905 and passed directly by the church. About 1917, the community's residents began to settle around today's Church Street, which was known as African Street in the early 20th century. Despite the barriers of racial segregation that affected community members until the 1960s, Junaluska's black residents nevertheless worked in many homes and businesses in downtown Boone throughout the nineteenth and twentieth centuries and owned several businesses within the community. The Chocolate Bar property has been used by the funeral home since 1987 in varying capacities, although it has never been returned to a social use.

WATAUGA COUNTY LIBRARY



While the current library building was built in 1997, libraries in Boone date back to the end of the nineteenth century. In 1889 an editorial in the Watauga Democrat urged the creation of a circulating library for the use of the county's residents. The "public library at Boone" appears to have been bolstered, if not started, in 1903 when the Reverend William Rutherford Savage donated 122 volumes for that cause.

The Watauga County Library was officially opened in 1938 in the former Watauga Democrat building, which now houses a local restaurant. Other locations have included the Qualls Library Building on King Street and the Watauga County Office Building on North Water Street.

The Watauga County Library's mascot is Arly the Gray Fox, which is the only fox species native to North Carolina.

FARMERS HARDWARE



Designed by Clarence B. Kearfott of Bristol, Tennessee, and completed in 1923 (despite its 1922 cartouche), this building with its prominent neoclassical elements, once housed the Watauga County Bank. The night deposit box is still visible to the left of what used to be the main entrance. The long, commercial block building to the west was also built as part of this project and included a hardware store immediately adjacent to the bank and other stores to the west.

Farmers Hardware, which occupied the hardware store space of the commercial block in 1931, was a quintessential part of downtown Boone since its original opening as a hardware retailer in 1924. Farmers Hardware expanded into the building in the early 1980s.

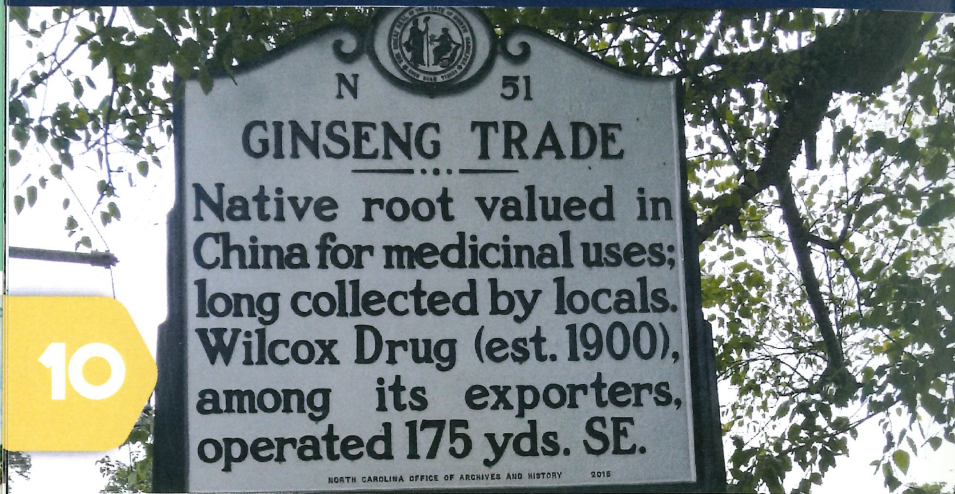
RANSOM / RIVERS PRINTING



The Rivers Printing Company building, built in 1937 with a nod to the Georgian Revival style, originally housed the offices and print shop of the Watauga Democrat, a local newspaper that had operated on or near the site since 1888. R.C. "Bob" Rivers ran the newspaper from 1889 until his death in 1933. Rivers' advocacy of civic improvement projects such as highways, electricity, and schools helped transform Boone from a remote hamlet into a bustling town.

His son, Rob Rivers, Jr., ran the paper following his father's death and his daughter, Rachel Rivers-Coffey, succeeded her father as editor after his death in 1975. Rachel and her husband Paul Armfield Coffey sold the paper in October 1994.

GINSENG MARKER



American ginseng, which grows wild in North Carolina's Appalachian Mountains, is a highly prized root in Asia. The root of the ginseng plant was valuable in China for its medicinal uses that it was harvested in Asia almost to extinction. When American ginseng was discovered, the ginseng trade between Appalachia and China began. Watauga County had many citizens who were ginseng hunters in the nineteenth century. In 1900 Grant Wilcox opened Wilcox Drug Company in Boone. He acted as a middleman in the ginseng trade until he opened his shop in Boone. Then he began to buy from families and country stores in Watauga and surrounding counties, often trading merchandise for the herbs and roots.

By 1976, Wilcox Drug was the largest purchaser of botanical goods in the United States. Wilcox Drug merged with a similar company and became Wilcox Natural Products, which closed in 1982. While ginseng is still immensely popular, it has diminished in the wild due to over-collection. Its popularity is especially great in Asia, where buyers can spend close to \$1,000 for a pound. The North Carolina mountains remain a significant source for the root, but its collection is strictly regulated by the U.S. Fish and Wildlife Service.

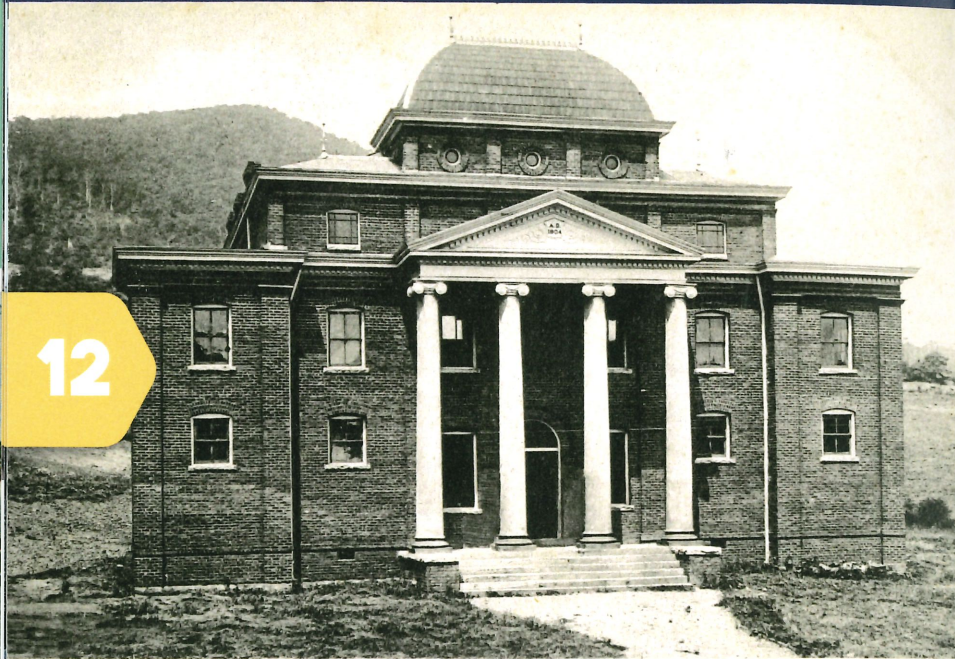
DANIEL BOONE TRAIL MARKER



This marker was originally placed at the 1905 Courthouse by the Daughters of the American Revolution in 1935 to mark the alleged 1769 route of the Daniel Boone Trail from Statesville, NC to Kentucky, a distance of 400 miles.

This trail marker is one of fifty placed by the DAR. An additional monument and a statue dedicated to Daniel Boone are positioned along Rivers Street

WATAUGA COUNTY COURTHOUSE

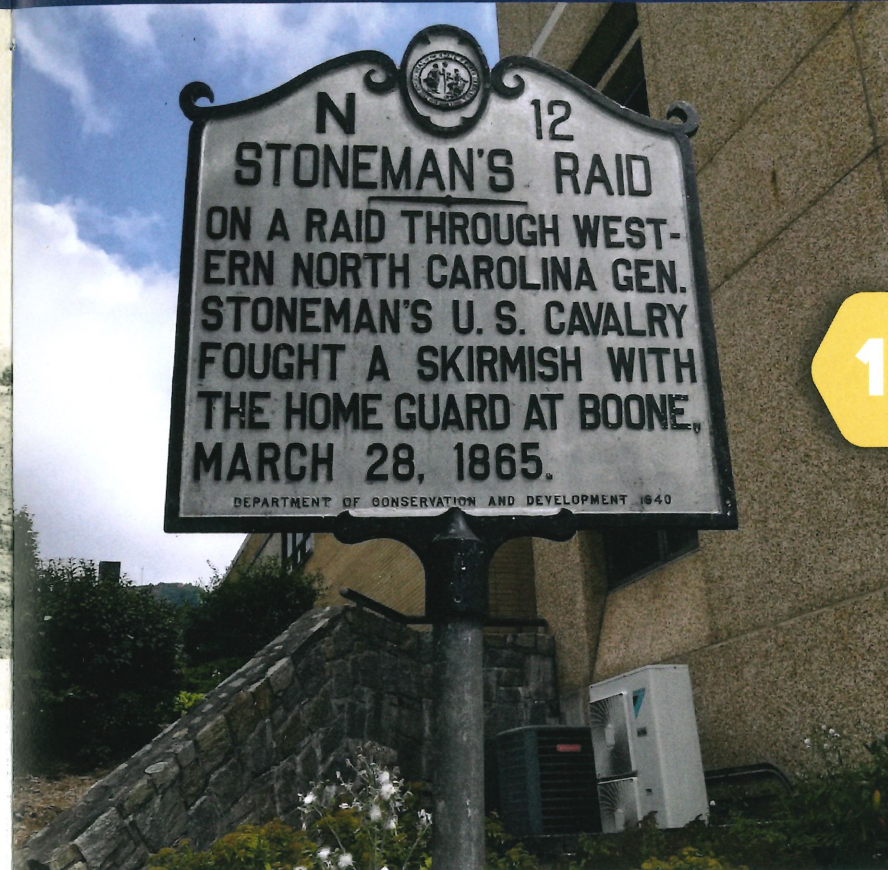


WATAUGA COUNTY COURT HOUSE, BOONE, N.C.
ALTITUDE 3332 FEET, HIGHEST EAST OF THE ROCKIES.

The current courthouse is the fourth courthouse building for Watauga County. Completed in 1968, the building was originally set back from the street, but the front addition was completed in 1982. The original courthouse, which burned down in 1873, was located at the site where the Linney House is now located. The second courthouse was constructed in 1875 at the northwest corner of King and Water Streets, roughly where the parking lot for the Administration Building is.

The third courthouse was constructed in 1905 at the site of the current courthouse. It was demolished and replaced with the current courthouse. The current courthouse complex also includes a WPA-funded building as part of its annex. The WPA building was completed in 1939 and housed the Watauga County Library from 1946 through 1997.

STONEMAN'S RAID MARKER



On a raid through western North Carolina in late March 1865, General George Stoneman's forces successfully fought a skirmish against the Home Guard in Boone near the site of the present Boone Post Office. Col. George W. Kirk's trailing forces then occupied Boone and Watauga County through mid-April 1865.

Coinciding with the historic raids of General Sherman, the overall purpose of this march was to hasten the close of the Civil War.

PROPER / FORMER JAIL

14



The Watauga County Jail was designed by William Stephens of Kentucky and constructed in 1889 using locally kilned brick at a cost of \$5,000, and it served as a jail until 1927. It is the oldest surviving governmental building in Watauga County. While the jail cage and most of the interior jail infrastructure were sent to Blowing Rock for use in their jail in 1927, a few architectural relics of the jail remain in the interior, including a steel-case doorframe and graffiti carved into the interior brick walls by prisoners held at the jail.

The county sold the jail property, and various owners used the building as a boarding house in the 1920s and 1930s. Niley and Maud Cook in turn sold the old jail in 1937 to Louis Wyke, who converted it with David Wyke into a residence. The building later served as a fraternity house well into the 1980s, after which it was converted into a restaurant. It was placed on the National Register Study List in 1984, but has not yet been added to the Register itself.

DANIEL BOONE MONUMENT



The Town of Boone is named for Daniel Boone, and the original version of this monument was erected in October 1912 with funds raised by Mr. W.L. Bryan. It was built to mark the location of a cabin where it was thought that Boone stayed during his hunting expeditions in the area. The monument was originally erected just west of Rivers Street and Stadium Drive.

It was moved from its original location in 1969 to the east side of this intersection when Rivers Street was widened, then disassembled in 1999 when the University expanded. The engraved tablets were saved by a local dentist, Dr. Gene Reese, and after much deliberation, it was redesigned and rebuilt in 2005 at Rivers Park.

RIVERS HOUSE PROPERTY



John L. Hickerson, a local, stonemason, completed the stonework for this two-story, stone house in 1933 for RL Clay. In 1945 Robert Campbell Rivers, Jr., publisher of the Watauga Democrat, purchased the property. His daughter, Rachel Rivers-Coffey, and her husband, Paul Armfield Coffey, continued to publish the newspaper until 1994 when they sold it.

The family donated the 13-acre property to the Town of Boone in 1998 with the stipulation that it be used for recreational space, green space, installation of underground utility provided they have minimal impact on the natural environment, flood mitigation, a wildlife sanctuary or historical purposes.

Behind the house, a trail leads up the hill to "Baby," a sugar maple that is a North Carolina Champion Tree and thought to be the largest in the state.

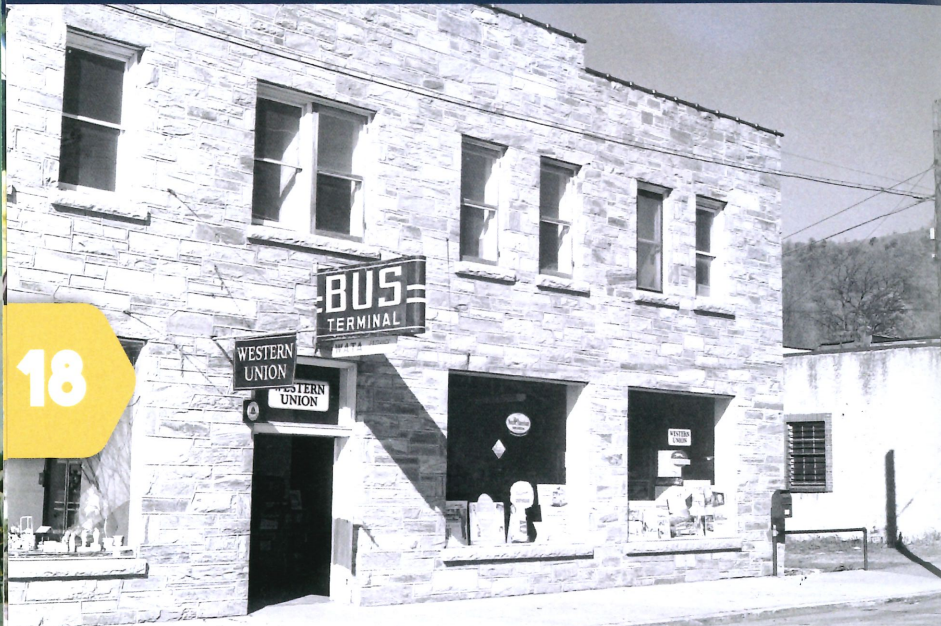
LINVILLE RIVER RAILWAY DEPOT



The Linville River Railroad ran from Boone to Cranberry, where it hooked up with the rest of the East Tennessee & Western North Carolina Railroad, affectionately known as "Tweetsie." Rail service in Boone lasted from 1918 through 1940. The tracks ran along what is now Rivers Street and out to present-day NC 105, eventually leading to Shulls Mill, a large lumber town seven miles southwest of Boone.

The depot was completed in 1919 and stood close to the intersection with Depot Street and in the middle of the present roadway. Following the closure of the rail line after the devastating August 1940 flood, the depot building was eventually cut in half and moved to the rear of the nearby bus station. Demolition of its last surviving vestiges commenced in 1976.

BEASLEY MEDIA COMPLEX



Built partially on the site of the 1946 Boone Bus Station, this new building is now home to Appalachian State University's George G. Beasley Media Complex. The original bus station stood at the northwest corner of Depot Street and present-day Rivers Street. It held a radio station as well as a roller rink on the second floor. ASU purchased the bus station in 2000 and demolished the building in 2011.

The stone façade of the courtyard is designed to replicate the 1945 building, and its window and door piercings are representations of the building's original appearance.

The media complex is home to 90.5 WASU-FM, Appalachian State University's student-operated radio broadcast.

JIMMY SMITH PARK



Dedicated in 2005, Jimmy Smith Park honors the work and legacy of Boone Town Council member and Appalachian State University professor Jimmy Smith. He was well known in the community and across the state for his work in higher education.

As a Town Council member, Jimmy was an integral part of creating the Town of Boone's state-of-the-art wastewater treatment plant, formally known as the Jimmy Smith Wastewater Treatment Plant, which has won engineering excellence awards from the American Council of Engineering Companies of North Carolina.

1940 FLOOD MAKER



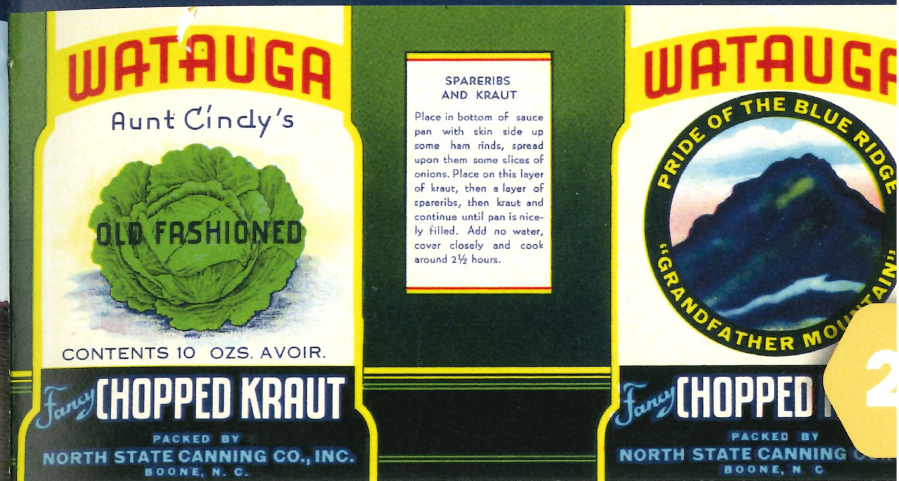
20

On August 13, 1940, as much as 14 inches of rain fell in Watauga County, triggering more than 2,000 landslides in the county and heavy flooding in downtown Boone.

Throughout the area, massive flooding washed out large portions of the Linville River Railway tracks. The railroad had been losing money for years by that point, and the company decided that it was not economically feasible to rebuild the railroad.



BOONE CREEK (KRAUT CREEK)



Boone Creek, also known as Kraut Creek, is a designated trout stream that flows through downtown Boone and into the South Fork of the New River. Opened in 1923 by H. Neal Blair as the Watauga Kraut Factory and operated from 1926 by the North State Canning Company under the direction of Dr. H.B. Perry and W.F. Miller, Boone's canning facility was the leading producer of sauerkraut in the state from the 1920s through the 1980s, but also canned other produce, including green beans and blackberries.

Operations there, including draining sauerkraut waste directly into Boone Creek, led locals to informally rename the stream as Kraut Creek, on account of the persistent smell from the factory runoff.

Since 1995, Appalachian State University and the community have pioneered stream restoration practices.

BOONE'S AUTO EMPIRE



22

Footsloggers: The building originally located on this site was constructed in 1940 as the Cook-Nichols Motor Company Building and housed auto dealerships for more than 45 years. The curved building was a 1950 addition to the complex. The complex housed Ram's Rack Thrift Shop in the late 1980s and the Depot Street Musical Hall in the early 1990s. A large fire razed a Mexican restaurant in the central building in the 1980s, where the climbing wall courtyard is now located. The original north and south walls of the Cook-Nichols building stand as the outer walls of the buildings flanking the courtyard.

Magic Cycles: This building, completed in 1920, was originally the Watauga Motor Company Building, a Ford dealership owned by Ed Shipley. Construction began in December 1918 using bricks brought in on one of the first freight shipments for the Linville River Railway. From about 1935 through 1967 it functioned as the Town of Boone's Town Hall. Cecil Greene, of Farmer's Hardware, purchased the building for \$18,000 at auction in 1967. In 1976 Farmer's Ski Shop moved into the building and remained on the second floor until 2018.

DOWNTOWN BUSINESS BLOCK



23

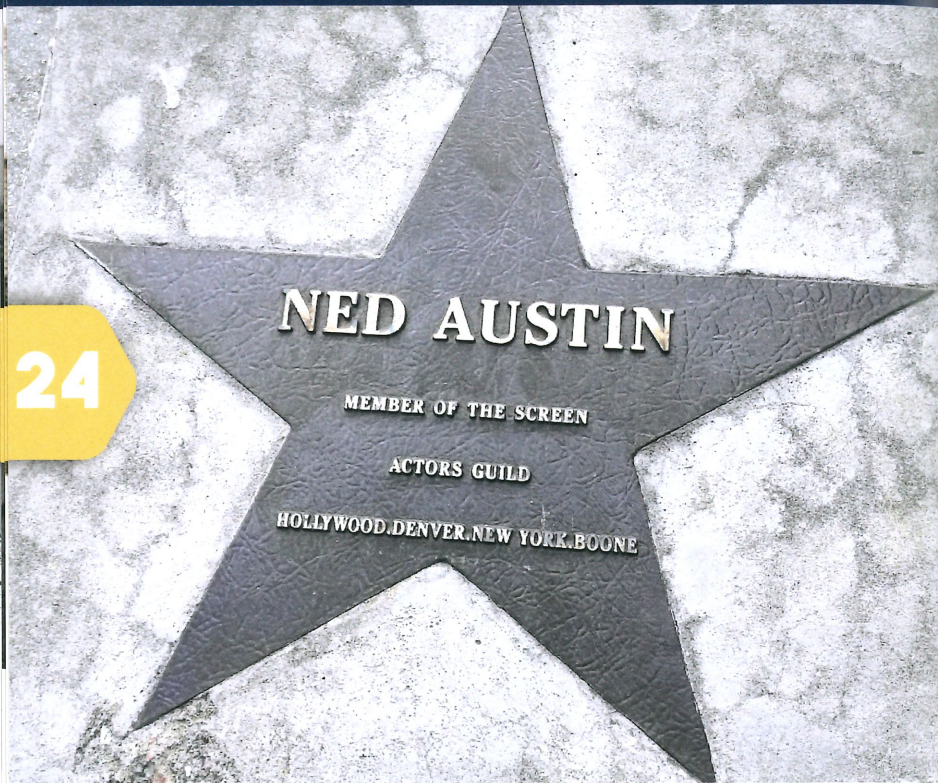
This block of buildings has held a number of important Boone businesses over the years. At the corner of King and Depot, the site of the Boone Mini-Mall, was the Crest five and dime store. Prior to this building's construction in 1940, this was the site of the Shell Café and Filling Station and the outline of that gas station can be seen along the west side of this building, as it was built around the gas station. The Antique Mall building was the site of Belk's department store. The building to the east of Belk's was built in 1935 and originally held an A&P grocery store on the ground floor and the offices of Dr. Hagaman above.

The FARM Café and Boone Belles building was the site of Boone Drug Company, which moved there after outgrowing the east portion of the M General Store building. Prior to Boone Drug, it held the A&P before it moved. The Horton Hotel building was constructed in 1919 by H.W. Horton. The narrow building to the east of the Horton was the McGuire's Beauty Salon, also built in 1919, and originally held a dress shop owned by Louise Hodge.

The block to the east of this, the Qualls Block, is named for Lee Qualls, the owner of the Carolina Hotel. It was built around 1920.

NED P. AUSTIN MARKER

24



Ned Payne Austin (April 29, 1925 – February 10, 2007) was an American film actor and native of Watauga County, North Carolina. From 1952-1954 he portrayed Daniel Boone in the Horn in the West production.

His acting credits include appearances on the television show Movin' On and roles in the movies The Happy Ending, Hot Summer in Barefoot County, and Annie Hall. In Stephen King's Maximum Overdrive, Austin first uttered the now-popular phrase, "Can't you see we've got a situation here?" Later in life, Austin returned to Boone where he continued to produce films and act in local theatre productions.

WATAUGA VETERANS MEMORIAL

25



Entitled "Time and Honor," and completed in 2018, the Watauga County Veterans Memorial was the dream of the High Country Chapter of Military Officers Association. Created by artist Suzie Hallier, the monument honors local veterans of all eras, from the Revolutionary War up to present-day conflicts.

In the dedication ceremony on July 4, 2018, Boone Mayor Rennie Brantz stated, "This monument honors all those in our community who served and sacrificed in the defense of our country and its freedoms, and we need to honor them with this and keep this as a permanent reminder. As we visit Boone each day, we need to think of those that sacrificed and served this country."

APPALACHIAN THEATRE

26



Built in 1938, the Appalachian Theatre was Boone's only example of Art Deco architecture and the High Country's cultural hub. The theatre showed movies and hosted live performances such as the Foggy Mountain Boys, Minnie Pearl, and Doc Watson.

A massive fire started by a popcorn machine severely damaged the building in 1950. By the 2000s, the theatre had fallen into disrepair and closed in 2007. The theatre was abandoned until 2011 when it was purchased by the Town of Boone who then sold the building to the Appalachian Theatre of the High Country, a nonprofit that has restored the theater to its former glory.

The theatre reopened in 2019.



DANIEL BOONE HOTEL



Located on the original site of town found Jordan Councill Jr.'s home, the Daniel Boone Hotel was a popular destination for tourists and locals. In the early 1920s, local leaders saw the need for a hotel to accommodate tourists and visitors to downtown and Appalachian Normal School. Sooner after, the Daniel Boone Hotel Company was incorporated, selling shares to fund construction. Completed in 1925, the hotel boasted a grand entry with a sprawling staircase and large fireplaces on either side.

Though it struggled through the Depression era and changed hands during that time, the war-time economy gave the hotel new life in the 1940s when the hotel began hosting extravagant Sunday dinners. After years of declining patronage, the hotel ultimately closed in the late 1970s.

The Daniel Boone Hotel was used briefly by Appalachian State as dormitory space, but was deemed too expensive to maintain even for the university, which only hastened its demise. Only two years after it was placed on the National Register of Historic Places, the Daniel Boone Hotel was demolished in 1984 for construction of the condominium complex that now stands here. Many locals consider the demolition of the hotel one of the greatest losses in Boone's architectural history.



ADDITIONAL INFORMATION

Town of Boone

www.townofboone.net

Explore Boone – Boone TDA:

www.exploreboone.com

Jones House Cultural Center:

www.joneshouse.org

Downtown Boone:

www.downtownboonenc.com

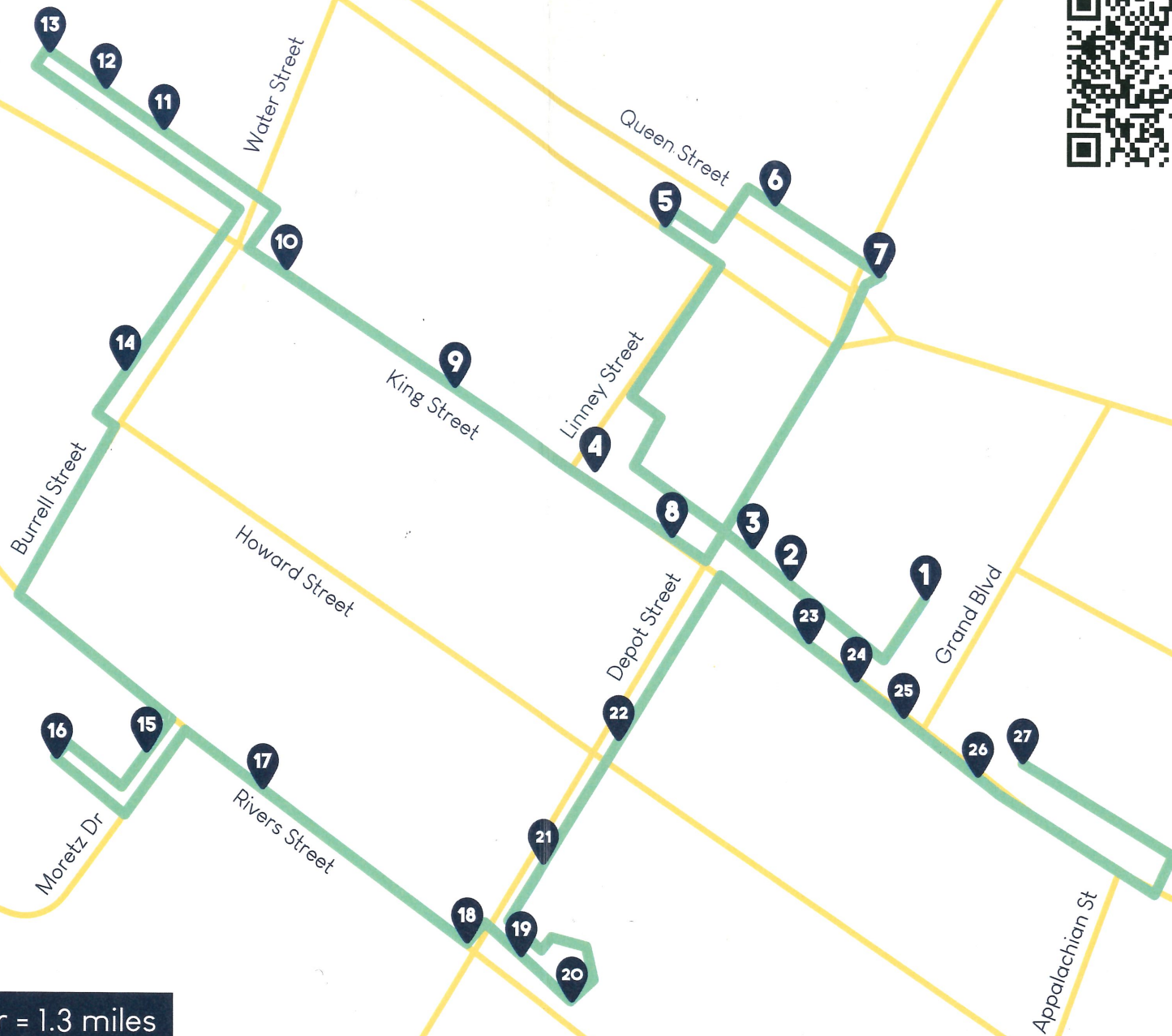
WALKING TOUR MOBILE APP

Download the PocketSights mobile app on the app store. Search for Boone, NC and then select the Historic Downtown Boone Walking Tour. The app features an interactive map, as well as additional images, audio, and video. You can also scan the QR Code for the web-based walking tour.





Walking Tour = 1.3 miles





*Application Information for Filing for a Certificate of Appropriateness
for Local Historic Districts & Landmarks*

PLEASE READ THE ENTIRE APPLICATION PACKAGE

The Town of Boone strives to review applications as efficiently as possible. The policies outlined below enable Planning Staff and the Historic Preservation Commission to give each application the attention it deserves. Complete applications will be scheduled to appear before the Historic Preservation Commission; incomplete applications, however, will be returned to the applicant pursuant to Article 4 of the Town of Boone Unified Development Ordinance (UDO).

Approval of a Certificate of Appropriateness is required before any "major work" may be carried out with respect to improvement of a property located in Boone's local downtown historic district. Major work may include, but is not limited to, the following:

- A. New construction or additions to buildings
- B. Reconstruction of buildings once located on the site but demolished or moved at some previous time
- C. Restoration or rehabilitation of an historic property to its historic appearance
- D. Pointing of masonry as well as alteration, repair, or replacement of masonry, siding, roofing materials, architectural trim elements, foundations, windows, doors, and other significant architectural details
- E. Demolition of any part of a building or structure
- F. Work that is likely to disrupt or damage known or discovered archaeological resources on the site
- G. Moving of buildings
- H. Replacement of architectural details when there will be a change in design or materials from the original or existing details
- I. Changes to rooflines
- J. Establishment of exterior fire exits
- K. Exterior modification of existing buildings for ADA compliance
- L. Painting or stuccoing of buildings not previously painted or stuccoed
- M. Installation of mechanical systems, air conditioning units, vents, and related equipment in primary elevations that involves alteration to the building facade
- N. Location of satellite dishes, solar panels, and other roof attachments to the primary elevation roof and/or facade of a building if they are not effectively screened or are visible from a public street

Historic Preservation Commission Information

- Meetings: 1st Tuesday of each month at 6 p.m.
- Meetings are to be held at Council Chambers located at 1500 Blowing Rock Road.

See the published Town of Boone Planning & Inspections Meeting Schedule for more details.

Certificate of Appropriateness for Major Work

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C • Boone, North Carolina 28607

Phone (828) 268-6960 • Fax (828) 268-6961 • Email: planning@townofboone.net • www.townofboone.net



A. Required to be Submitted at Time of Application

Note: A pre-application meeting is required prior to application submittal.

Failure to provide the required information will delay the review and scheduling of the requested hearing.

- ☒ Digital copies of all paper submittal documents (may be emailed to planning@townofboone.net)
- ☒ Four paper copies of complete site plans meeting the requirements of Town of Boone Unified Development Ordinance (UDO), including UDO Appendix A (max. size 30" x 42")
- ☒ Information in compliance with the Supplemental Checklist on Page 4
- ☒ Property Owner Authorization. If you are not the property owner, you will need to provide documentation of property owner authorization to apply for this permit. You may have the property owner sign this application (Section L), or the property owner can provide a written and signed authorization that clearly states they are authorizing the applicant to submit this application. Permit Fee (See Planning & Inspections Fee Schedule). Each application is allowed two (2) reviews. The 1st review of the submitted information and a 2nd review if revisions or supplemental information is required based upon the 1st review. Each subsequent review after the 2nd review will be charged at 50% of the original fees charged for the application. These fees shall be paid at the time of resubmittal.

B. Requested Hearing – See latest published Meeting Schedule for dates

Date of requested hearing: 5/10/22

C. Property Information

Street Address:

970 River Street

Watauga County Parcel Identification Number:

2900-78-7965-000

Existing Zoning District(s):

B-1

Total Land Area:

.807 ACRES

Are there any existing variances or other site-specific approvals granted to the property? Yes ☒ No ☐ Unknown

If yes, describe:

D. Applicant Information

Name:

RIVERS STREET VENTURES LLC

Complete Mailing Address (Street, City, Zip):

PO Box 2675 Boone, NC 28607

Phone Number:

828-262-3431

Email Address:

winkheelsfan@yahoo.com

Preferred Method of Contact for Written/Response Documents (select one): ☐ Mail or ☒ Email

E. Property Owner Information

Name:

RIVERS STREET VENTURES LLC

Complete Mailing Address (Street, City, Zip):

PO Box 2675 Boone, NC 28607

Phone Number:

828-262-3431

Email Address:

winkheelsfan@yahoo.com

F. Landmark/District Information

District/Landmark Name:

DOWNTOWN CORE - WATAUGA LUMBER CO

Period of Significance:

(1936) AUSTIN TOBACCO CO. PRIZE ROOM

G. Project Details

Project Cost: \$ 3,500,000.00 \$

Project Type:

☒ New Construction ☐ Renovation ☐ Landscaping
☐ Moving Structure ☐ Demolition

H. Design Professional Information

Designer is an: ☒ Architect ☒ Engineer ☐ Owner ☐ Other: _____

Name: BRENT DAVIS ARCHITECTURE, VALERIE (CIV.) Company: VALERIE ENGINEERING (CIV.)

Complete Mailing Address (Street, City, Zip):

189 Sally St. Boone, NC 28607

Phone Number:

828-265-4848

Email Address:

bda.arch@yahoo.com

Additional Designer Information: If additional designers are involved beyond the one listed, please provide additional info on a separate sheet

I. Applicant Signature and Property Owner Authorization

I hereby certify that I am authorized to submit this application, that all information is correct and complete, and all work will comply with all applicable State and local laws, ordinances, and regulations.

I acknowledge and agree that the Historic Preservation Commission members, Town employees, and Town agents may enter, solely in performance of their official duties and only at mutually agreeable times, upon the applicant's property for examination or survey thereof pursuant to North Carolina General Statute 160A-400.8.

I understand and agree that an approved Certificate of Appropriateness is valid only for the particular application, plans, specifications, and related project details presented to, and approved by, the Historic Preservation Commission. Any proposed modification or addition must be submitted to the Planning and Inspections Department for review.

By signing below, the applicant agrees to notify the Planning and Inspections Department of any changes or alterations in the data contained in this application, the approved plans, or the approved specifications related to the project that is the subject of this application.

Hearings on Certificate of Appropriateness applications before the Commission are quasi-judicial proceedings. Therefore, Historic Preservation Commission members cannot discuss a pending application with the applicant or other party. By signing below, the applicant agrees to refrain from speaking with or contacting any member of the Historic Preservation Commission about an application outside of the formal evidentiary hearing on the application.

John Winkler

Applicant (Print)

[Signature]

Applicant (Signature)

3-22-22

Date

RIVERS STREET VENTURES LLC

Property Owner (Print)

[Signature]

Property Owner (Signature)

3-22-22

Date

Official Use Only

Permit Name:

Rivers Street Ventures - COA

Permit Number: <u>205606-032422</u>				
Date: <u>3-24-22</u>	Fee: <u>\$100.00</u>	Receipt Number: <u>522730</u>	Method of Payment: ☐ Cash ☒ Check Number: <u>30365</u>	Paid By: <u>King Construction of Boone</u>

Public Hearing Meeting Date: 5/10/22

Date of APO Mailed Notification: _____

Date of Posted Notification: _____

Request Approved: ☐ Yes ☐ No

S:\FORMS\PI_Forms_Current\Planning Forms\LocalHistoricLandmark_07012021.docx

COA for Major Work Supplemental Checklist

Note: The following is a checklist for the presentation materials needed for your application. It is the applicant's responsibility to provide adequate photographs, architectural plans, and other material to enable the HPC to understand the proposal and its impact on the historic district/landmark. The consideration of the application may be delayed if preservation materials are not sufficient to evaluate the proposal.

- ☒ Written Description of the proposed work: Describe in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).
- ☒ Design Standards References: Cite the applicable sections of the design standards related to and/or reflected in the proposed request.
- ☒ Photographs of Existing Conditions: Provide current photographs showing the present conditions of the area where the work will be completed and/or the portions of any existing building that will be affected by the proposed work. Photographs must be clearly labeled and keyed to a site plan.
- ☒ Site Plan: For development which includes modifications to the site in addition to the building, the applicant shall provide scaled drawings prepared in accordance with UDO Appendix A, which depict at least the relationship of all buildings, secondary structures, driveways, sidewalks, fences, drains, lighting, and trees to the property line. Clearly identify the location of any and all proposed changes. Caliper of trees should be indicated as measured from four and a half feet (4.5') above the earth's surface.
- ☒ Historical Documentation: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

Application: Certificate of Appropriateness for

Date April 28, 2022

Project: Portofino Hotel

Address: River Street, Boone, North Carolina

RE: COA application for Major Work – New ConstructionWritten Description of Proposed Work

Portofino Hotel is a single-story building consisting of (17) guest rooms and miscellaneous ancillary spaces for support of hotel operations. The top of the parapet wall is 16'-6" above the average sidewalk elevation on River Street and the total heated area of the building is 7353 square feet. The structure will be type III construction consisting of concrete slab on grade, wood wall and roof framing. Exterior walls will have a (2) hour fire rating using FRT studs. Low slope roof trusses will be utilized along with a TPO membrane roof. 30" high parapet walls will be installed around the building perimeter to screen roof top equipment.

Exterior finish materials consist of wire cut brick with a gray/tan color range. Two types of wood siding are proposed: 1) wood lap siding (8" exposure) along the front elevation; 2) vertical wood board and batten siding along the side and rear elevations. Wood siding will be painted. Trim construction for cornices and window/door trim will consist of 1½" thick Fire Retardant Treated (FRT) wood painted to match siding color. Storefront will be used for all guest room windows and will consist of clear anodized aluminum frames with clear insulated glass. Note that the owner and architect prefer to use a tinted glass to reduce glare and prevent carpet/furnishings deterioration due to ultra-violet rays. Entry doors will be clear anodized aluminum with clear tempered glass. Each of the two front entry doors will have a protective awning consisting of metal framing with a fire-retardant fabric covering. Brick veneer will be used along all concrete foundation walls and concrete piers. Elevated concrete beams will have painted wood siding over pressure treated wood furring.

The existing 19' tall building on the site which will be demolished. Since a replacement building cannot exceed the height of the existing building, a one-story building is planned with a height of 16'-6". The rear portion of the new structure extending into the flood way will be supported by an 8" reinforced concrete floor slab, 16" diameter concrete piers and concrete beams.

Two decorative pergola features are proposed at the front elevation along River Street which consist of stained Douglas Fir beams and joist. Due to the existing topography of the site, concrete stairs will be necessary at the eastern entry door along River Street.

Photographs of existing building were taken along Depot and Howard Streets and are submitted for comparison to address the proposed buildings' height, length and proportions.

The proposed buildings' proposed height of 16'-6" and 132'-6" length appears consistent with the scale and proportions of the single-story buildings located on Depot Street (#'s 160-184) and Howard Street (#'s 260, 268, 274). For the Depot Street building, the stone columns are utilized to break up the mass stone area thereby creating pleasing proportions for storefront panels. Likewise, the proposed hotel building utilizes brick columns to break up large areas of wood siding to provide pleasing proportions for the siding panels and storefront windows. The pergola features on the proposed building are consistent with similar design elements on the single-story building at 208 Howard Street. See attached photos.

Exterior Finishes:

Material	Color
Brick equal to Taylor Brick 370 AB	Gray/tan color range
Wood lap siding with 8" exposure:	Black Fox (SW7020)
Wood vertical board and batten:	Black Fox (SW7020)
Cornice, window/door trim, (FRT wood):	Black Fox (SW7020)
Exposed foundations: Brick 370 AB	Gray/tan color range
Aluminum storefront framing:	Clear Anodized frame/clear glass
Pergolas – Douglas Fir beams and joist	Cabot Honey Teak stain
Awning at entry doors – fire retardant fabric	Gray or Tan (to be determined)
Parapet coping cap	Copper sheet metal



970 Rivers St (existing property proposed for redevelopment)





178 Howard St



182 Howard St



179, 191, 115 Howard St



208 Howard St



216 Howard St



260, 268, 274 Howard St



164 Depot St



160 – 184 Depot St



186 Depot St

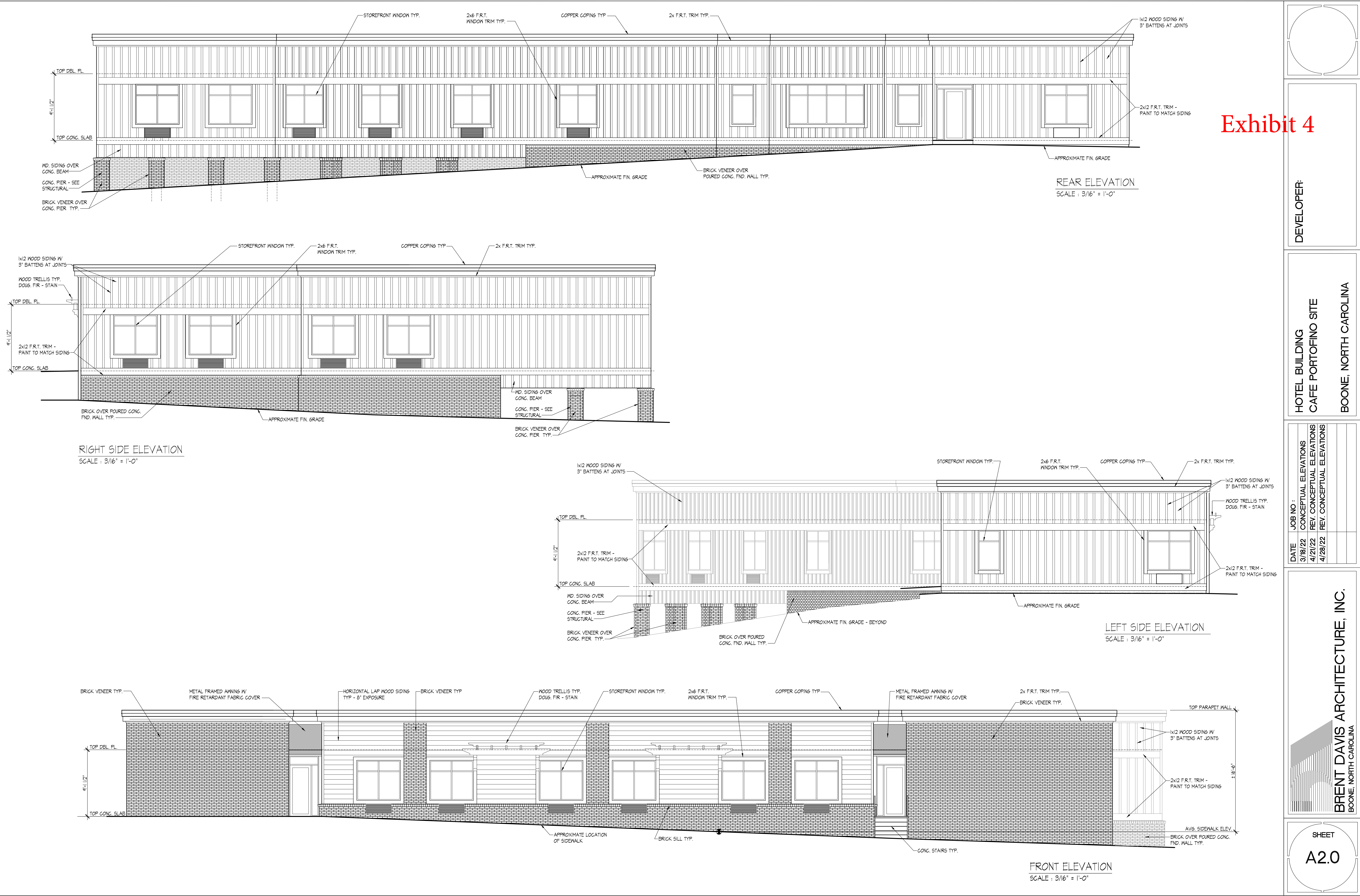


Exhibit 4

DEVELOPER:

HOTEL BUILDING
CAFE PORTOFINO SITE
BOONE, NORTH CAROLINA

DATE	JOB NO :	CONCEPTUAL ELEVATIONS
3/18/22	318	3/18/22
4/21/22	421	4/21/22
4/28/22	428	4/28/22

BRENT DAVIS ARCHITECTURE, INC.
BOONE, NORTH CAROLINA

SHEET

A2.0

Packet Pg. 122



PROJECT:
Cafe Portofino Hotel
A Commercial Development

ADDRESS:
970 Rivers Street
Boone, NC

DEVELOPER:
Winkler organization
RESIDENTIAL & COMMERCIAL PROPERTY MANAGEMENT
215 Boone Heights Drive, Ste. 100
Boone, NC 28607
828-262-3431

CONTACT: MR. JOHN WINKLER

ENGINEER:
VALOR ENGINEERING
215 Boone Heights Drive, Ste. 107
Boone, NC 28607
828-262-9807
www.valorengineering.com

SEAL:
**PRELIMINARY
NOT FOR CONSTRUCTION**

REVISIONS	DATE

PROJECT MANAGER: JEG
DRAWING BY: JEG
JURISDICTION: TOWN OF BOONE
DATE: 03/24/22
SHEET TITLE:

EXISTING CONDITIONS
SHEET NUMBER: C-0
SCALE: 1" = 20'
20 10 0 20 40
SCALE IN FEET
FILE NUMBER: 001-051

GENERAL NOTES:

- 1.) ALL PROPOSED DIMENSIONS USED TO SHOW THE GEOMETRIC LAYOUT OF THE PROPOSED PARKING LOT ARE SHOWN AT THE FACE OF CURB. ALL PROPOSED DIMENSIONS USED TO SHOW THE GEOMETRIC LAYOUT OF THE PROPOSED BUILDING LOCATION ARE GIVEN AT THE OUTSIDE FACE OF THE BUILDING CORNERS. ALL CURB RADI ARE GIVEN AT THE FACE OF CURB.
- 2.) CONTRACTOR SHALL NOTIFY ENGINEER OF ANY DISCREPANCIES BETWEEN THE EXISTING CONDITIONS IN THE FIELD AND THE SURVEY SHOWN ON THE PLANS BEFORE PROCEEDING WITH ANY NEW CONSTRUCTION.
- 3.) CONTRACTOR IS RESPONSIBLE FOR CORRECT HORIZONTAL AND VERTICAL ALIGNMENT OF ALL TIES BETWEEN PROPOSED AND EXISTING PAVEMENTS, CURB AND GUTTER, SIDEWALKS, WALLS, AND UTILITIES.

SITE NOTES:

- 1.) TRACTS ARE ZONED B-1.
- 2.) SEE ARCHITECTURAL PLANS FOR BUILDING FLOOR PLAN DIMENSIONS, DOOR LOCATIONS, SITE LIGHTING PLAN, AND OTHER ARCHITECTURAL DETAILS.
- 3.) NO CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNTIL ALL SITE IMPROVEMENTS HAVE BEEN COMPLETED ON THE SITE.
- 4.) HIGH INTENSITY LIGHTING FACILITIES SHALL BE SO ARRANGED THAT THE SOURCE OF ANY LIGHT IS CONCEALED FROM THE PUBLIC VIEW AND DOES NOT INTERFERE WITH TRAFFIC. (SEE PHOTOMETRICS PLAN IN ARCH. PLANS).
- 5.) ALL BUFFERS, TREE SAVE AREAS, AND UNDISTURBED AREAS SHALL BE CLEARLY IDENTIFIED BY FLAGGING AND/OR FENCING PRIOR TO COMMENCEMENT OF ANY LAND DISTURBANCE.
- 6.) NO OUTSIDE STORAGE IS PROPOSED. THIS INCLUDES SUPPLIES, VEHICLE, EQUIPMENT, PRODUCTS, ETC.
- 7.) SIGNS (LOCATION, NUMBER, AND SIZE) ARE NOT APPROVED UNDER THIS DEVELOPMENT PERMIT. A SEPARATE PERMIT IS REQUIRED FOR ON-SITE SIGNAGE.
- 8.) ALL PAVEMENT MARKING WITHIN NCDOT R/W SHALL BE CONSTRUCTED ACCORDING TO NCDOT SPECIFICATIONS. ALL PAVEMENT MARKINGS ON TOWN MAINTAINED ROADS SHALL BE 3M STAMARK PAVEMENT MARKING TAPE SERIES 270 AND BE INSTALLED PER MANUFACTURER SPECIFICATIONS.
- 9.) ALL CONSTRUCTION RELATED PERMITS DURING THE CONSTRUCTION PHASE OF THIS PROJECT ARE THE RESPONSIBILITY OF THE OWNER, HOWEVER A CONTRACTOR/DEVELOPER CAN DO PERMITTING WITH AGENT AUTHORIZATION.
- 10.) CONSTRUCTION TRAILERS ARE TO BE PERMITTED THROUGH THE ZONING DIVISION OF DEVELOPMENT SERVICES.
- 11.) ALL EROSION, SEDIMENT CONTROL AND TREE PROTECTION MEASURES SHALL BE INSTALLED PRIOR TO ANY GRADING.
- 12.) THE JURISDICTION ACCEPTS NO RESPONSIBILITY FOR THE AMERICANS WITH DISABILITIES ACT (ADA), EXCEPT FOR NOTIFICATION REQUIREMENT. THE OWNER/DEVELOPER IS SOLELY RESPONSIBLE FOR COMPLIANCE FOR SAID ACT.
- 13.) DUMPSTER AND RECYCLING ENCLOSURES SHALL BE ARCHITECTURALLY COMPATIBLE WITH THE BUILDING BY PAINTING THE ENCLOSURE THE SAME COLOR AS THE BUILDING SIDING.
- 14.) 24 HOUR CONTACT: JASON GASTON, P.E., 770-722-9178

LEGEND	
	PROPOSED CONCRETE
	PARKING COUNT
	PROPOSED TRAFFIC SIGN
	PAINTED TRAFFIC ARROWS
	PROPERTY LINE
	PROPOSED SCREENING WALL

PARKING CALCULATIONS	
MIN. HOTEL PARKING (3.09)	
TOTAL NUMBER OF RENTALBLE ROOMS:	17
REQUIRED PARKING:	1.25 SPACES / ROOM
MINIMUM REQUIRED HOTEL PARKING:	21 SPACES
MAXIMUM ALLOWABLE HOTEL PARKING (120% OF MINIMUM):	25 SPACES
PROVIDED HOTEL STANDARD PARKING SPACES:	12 SPACES
PROVIDED HOTEL ACCESSIBLE PARKING SPACES:	2 SPACES
PROVIDED HOTEL COMPACT PARKING SPACES: (MAX 35%)	7 SPACES
TOTAL HOTEL PARKING PROVIDED:	21 SPACES
% COMPACT PARKING PROVIDED:	33%
ADDITIONAL PARKING LOT SPACES (USE 15.01)	
PROVIDED STANDARD PARKING SPACES	14 SPACES
PROVIDED COMPACT PARKING SPACES	7 SPACES
TOTAL PARKING LOT PARKING PROVIDED:	21 SPACES
% COMPACT PARKING PROVIDED:	33%
ADDITIONAL COMPACT SPACES:	5
TOTAL STANDARD PARKING SPACES	26
TOTAL COMPACT PARKING SPACES	19
TOTAL ACCESSIBLE PARKING SPACES	2
TOTAL PARKING SPACES:	47
MOTORCYCLE PARKING CALCULATIONS	
** EXEMPT PER 24.10.01 **	
COMMERCIAL/RETAIL LOADING SPACE CALCULATIONS	
** EXEMPT PER 24.01.05.11 **	
Bicycle Parking Calculations	
Min. required hotel short term spaces (2 Spaces) =	2 spaces
Min required hotel long term spaces (2 Spaces) =	2 spaces
Total provided short term spaces =	2 spaces
Total Provided Long Term Spaces =	2 spaces
TOTAL BICYCLE PARKING PROVIDED:	4 SPACES

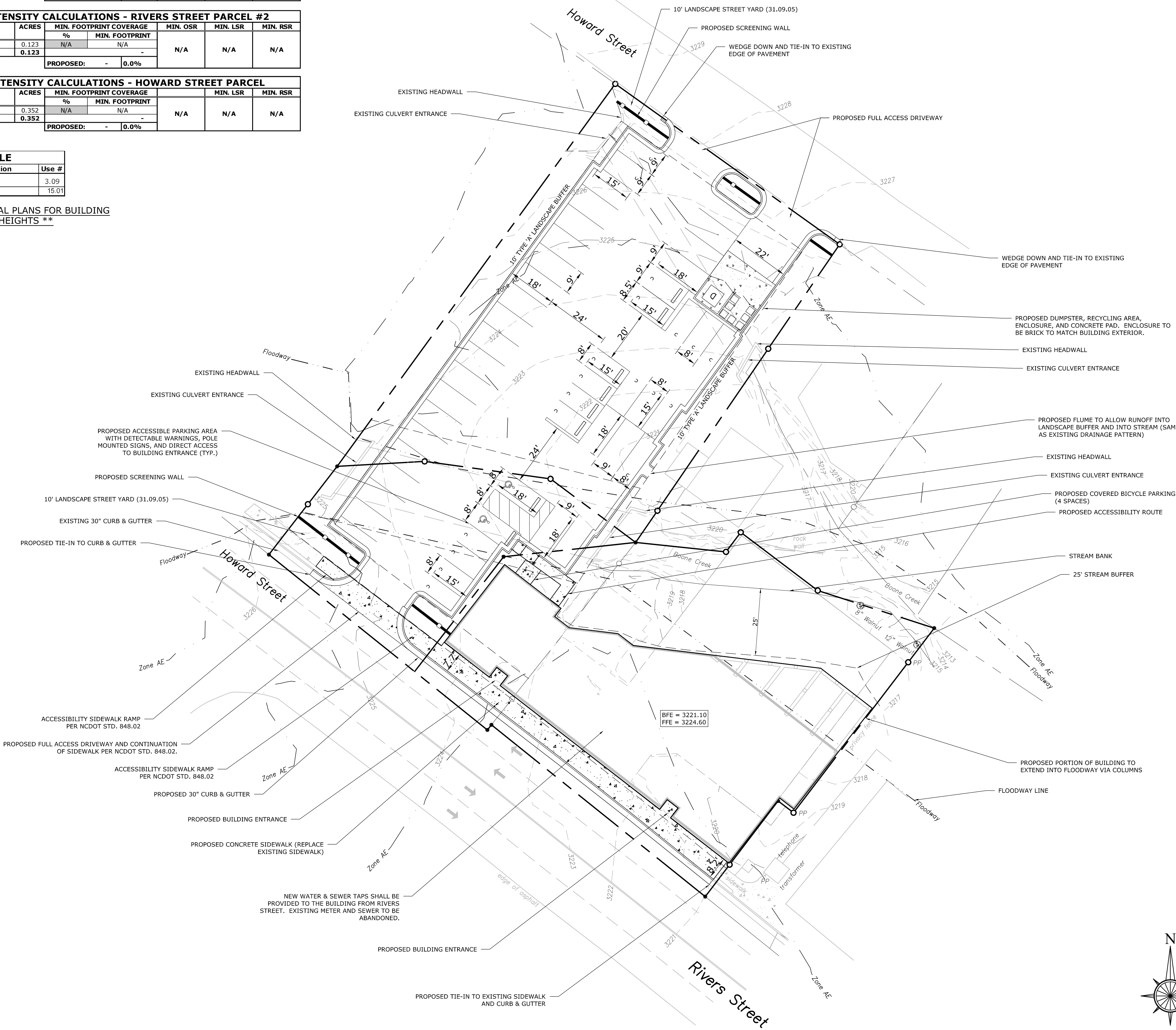
LAND USE INTENSITY CALCULATIONS - RIVERS STREET PARCEL #1						
	ACRES	MIN. FOOTPRINT COVERAGE		MIN. OSR	MIN. LSR	MIN. RSR
		%	MIN. FOOTPRINT			
ZONED B-1	0.332	50%	7,237	N/A	N/A	N/A
TOTAL:	0.332		7,237			
		PROPOSED:		7,353	50.8%	

LAND USE INTENSITY CALCULATIONS - RIVERS STREET PARCEL #2						
	ACRES	MIN. FOOTPRINT COVERAGE		MIN. OSR	MIN. LSR	MIN. RSR
		%	MIN. FOOTPRINT			
ZONED B-1	0.123	N/A	N/A	N/A	N/A	N/A
TOTAL:	0.123		-			
		PROPOSED:		-	0.0%	

LAND USE INTENSITY CALCULATIONS - HOWARD STREET PARCEL						
	ACRES	MIN. FOOTPRINT COVERAGE		MIN. OSR	MIN. LSR	MIN. RSR
		%	MIN. FOOTPRINT			
ZONED B-1	0.352	N/A	N/A	N/A	N/A	N/A
TOTAL:	0.352		-			
		PROPOSED:		-	0.0%	

USE TABLE		
Quantity	Description	Use #
17	HOTEL ROOMS	3.09
N/A	PARKING LOT	15.01

** SEE ARCHITECTURAL PLANS FOR BUILDING ELEVATIONS AND HEIGHTS **



PROJECT:

Cafe
Portofino
Hotel
A Commercial Development

ADDRESS:

970 Rivers Street
Boone, NC

DEVELOPER:

Winkler
organization
RESIDENTIAL & COMMERCIAL PROPERTY MANAGEMENT
215 Boone Heights Drive, Ste. 100
Boone, NC 28607
828-262-3431

CONTACT: MR. JOHN WINKLER

ENGINEER:

VALOR
ENGINEERING
215 Boone Heights Drive, Ste. 107
Boone, NC 28607
828-262-9807
www.valorengineering.com

SEAL:

PRELIMINARY
NOT FOR CONSTRUCTION

REVISIONS DATE

PROJECT MANAGER: JEG

DRAWING BY: JEG

JURISDICTION: TOWN OF BOONE

DATE: 03/24/22

SHEET TITLE:

PRELIMINARY SITE PLAN

SHEET NUMBER: C-1

SCALE: 1" = 20'
20 10 0 20 40
SCALE IN FEET

FILE NUMBER: 001-051



STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

AFFIDAVIT

I, LAURENCE F. LINDSEY, after first being duly sworn do state the following:

1. That I am a structural engineer licensed in the State of North Carolina.
2. That I observed conditions of the existing building known as Café Portofino Restaurant on Rivers Street, Boone, NC.
3. That after observing the conditions, I prepared a letter regarding the conditions of the building that is attached to this affidavit.
4. That all of the statements contained within my letter dated January 24, 2022, attached to this affidavit, are true and correct based upon my professional experience as an engineer.

This the 1st day of February, 2022.


LAURENCE F. LINDSEY

NORTH CAROLINA

WATAUGA COUNTY

On this 1st day of February, 2022, personally appeared before me, the said named LAURENCE F. LINDSEY, to me known and known to me to be the person described in and who executed the foregoing affidavit and he acknowledged that he executed the same and being duly sworn by me, made oath that the statements in the foregoing affidavit are true.

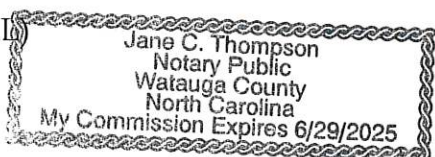


, Notary Public

My commission expires:

6/29/2025

(SEAL)



L²

L SQUARED ENGINEERING

PO Box 174

Lake Lure, North Carolina

336-977-5212

January 24, 2022

John Winkler

215 Boone Heights Drive, Suite 100

Boone, NC 28607

Re: Existing Conditions

Café Portofino Restaurant

970 Rivers St

Boone, NC

Dear Mr. Winkler:

In accordance with your request and authorization the undersigned engineer from L Squared Engineering (LSE) has observed conditions of the existing building known as Cafe Portofino Restaurant at the referenced address. It is important to note that this facility has been at this location for over 30 years.

Exterior conditions of the building were evaluated. This includes the wood pilings that provide support to a portion of the building that extends over Boone Creek (aka Kraut Creek) and flood plane.

The exterior of the building is dilapidated, crumbling at some locations and exterior finishes and quality of materials are poor. Of particular note is the condition of the supports to the building that are visible. Some are not vertical to a significant degree. It appears that the wood connectors between the supports and building framing are cracked, split or have been shimmed several times.

It is the opinion of the undersigned that the building should not be considered structurally sound, especially as it pertains to the vertical supports with the exterior being unsightly and not to current standards.

If you have any questions or comments regarding this report, or require any additional engineering services, it is recommended that you contact me at your earliest opportunity.

Sincerely,

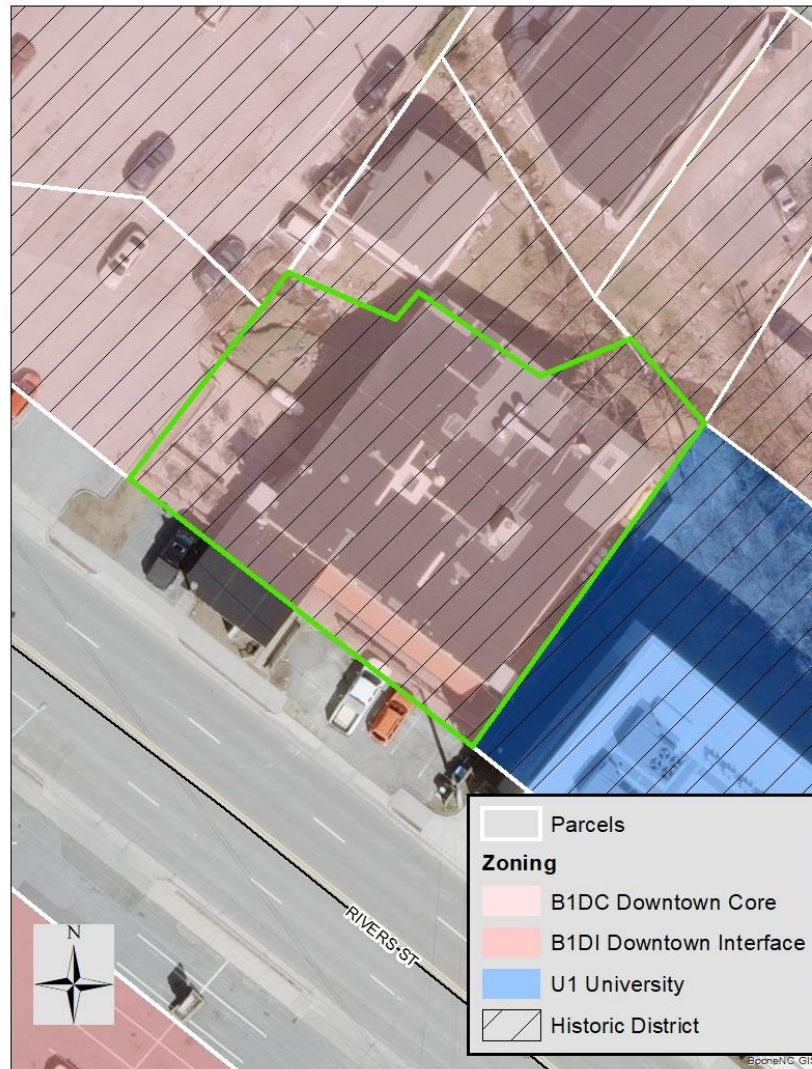
L Squared Engineering

Laurence F. Lindsey, P.E.



Staff Report
Historic Preservation Commission
May 10, 2022

Case Z05606-03242022 River Street Ventures – Certificate of Appropriateness for Major Work



Request

John Winkler, on behalf of Rivers Street Ventures, LLC, is requesting a Certificate of Appropriateness (COA) for Major Work for demolition of the existing building (currently Café Portofino) at 970 Rivers Street (Watauga County PIN: 2900-78-7965-000) in the Downtown Boone Local Historic District and proposed new construction of a one-story hotel.

Pursuant to the Town of Boone Unified Development Ordinance (UDO), Appendix D, Downtown Boone Local Historic District, specifically the section on COA Application for Major Work, a COA is required for demolition of a building and new construction of a building in the Downtown Boone Local Historic District.

Parcel Information

Address: 970 Rivers Street
Property Owner: Rivers Street Ventures, LLC
Watauga County PIN: 2900-78-7965-000
Lot size (total): .25 Acres
Jurisdiction: Town of Boone
Access: Rivers Street (State maintained)
SFHA: Yes
Watershed District: No
Corridor District: No
NCD: No
Viewshed: No
Steep Slope: No
Transitional Zone: No
Current Zoning: B1 Downtown Core, Downtown Boone Local Historic District Overlay

Zoning & Use of Adjacent Properties		
	Adjacent Zoning	Adjacent Land Use
North	B1, Downtown Core, Downtown Boone Local Historic District	Single Family Dwelling Unit, Other Business or Professional Office
East	U1, University	Public College and University
South	B1, Downtown Interface	Restaurant, Retail
West	B1, Downtown Core, Downtown Boone Local Historic District	Parking Lot

History

- 02-03-2022 Board of Adjustment granted a variance to UDO Subsection 20.04.03(B) to allow more than 10% disturbance within the stream buffer zone and, specifically, for 129.5 linear feet of temporary disturbance within the 129.5 linear feet of stream buffer zone (100%). The variance was granted subject to specific conditions as set forth below.
1. Where there is a conflict between the application information and the plans (site plan received December, 14 2021), the plans control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
 2. Any commitments and representations concerning the proposed development made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
 3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other

applicable codes for review and approval necessary to issue Zoning and Building Permits.

4. The applicant cannot proceed with any land disturbance on the property in absence of a final approved development plan authorizing demolition of the building and new development.
5. The variance shall expire following completion of demolition, remediation of the stream buffer, and construction activities undertaken consistent with an approved redevelopment project, should all required zoning and building permit(s) for the demolition of the existing building and re-development of the property be approved.

Zoning Analysis (B1 Downtown Core)

Hotel, Small Definition: A commercial lodging establishment containing up to twenty (20) guest rooms offered to the general public for transient overnight accommodations. The establishment also may contain ancillary facilities or services such as restaurants, bars, coffee shops, exercise rooms, swimming pools, spas and meeting rooms. This definition shall not include extended stay hotels.

Intensity Standards:

Required	Proposed	Compliance
Minimum Gross Land Area: 2,500 sq. ft.	14,461.92 sq. ft. (.332 acres)	Yes
Minimum Building Footprint: 50% of the lot	7,353 square feet (50.8%)	Yes

Building Height:

Required	Proposed	Compliance
Maximum Height is limited to 33' (Existing building: 19')	16'-6"	Yes

Staff Comments:

1. Pursuant to UDO Subsection 14.14.04(F)(7)(a), flat roofs shall be capped by parapets of sufficient height to screen rooftop equipment and penthouses from view when standing at ground level twenty feet (20') from the structure.
2. Pursuant to UDO Subsection 14.14.04(F)(7)(a)(ii), the building height limitations for this building shall not include parapet walls so long as the parapet walls do not exceed 4' above the maximum building height of thirty-three feet (33'). The height of parapet walls above 4' shall be counted toward the building height. The proposed parapet is 30".
3. Pursuant to UDO Subsection 14.19.04(F)(7)(b), the height of a building existing as of April 26, 2018 may not be increased, whether by demolition and rebuilding or reconstruction, renovation, or

improvement, unless approved under the Conditional District Zoning Map Amendment process set forth in Article 9 herein. Applicant has indicated that the height of the new building does not exceed the height of the existing building.

Building Setbacks:

Required	Proposed	Compliance
Street Setback is to build-to-line Pursuant to UDO Subsection 14.19.04(E)(1)(a), the build-to line is the back of the required public sidewalk or the back of the street right-of-way along the primary public way. The building may be set back farther if the area created by an additional setback is designated as plaza space and/or landscaped greenspace that retains the intended connection between the publicly accessible pedestrian realm and ground-level internal portions of the building.	0'	Yes
0', except whenever a lot in a B1 Downtown District has a common boundary line with a lot in an adjacent zoning district, the interior setback requirement applicable to the B1 lot shall be the minimum set forth for the adjacent lot. Note: the applicant is allowed to observe a 0' setback against the adjacent U1 zoned property.	0'	Yes

Parking:

Required	Proposed	Compliance
Automobile Space – 1.25 per room	21 spaces	Yes
Bicycle, Short-Term – 2 spaces	2 spaces	Yes
Bicycle, Long-Term – 2 spaces	2 spaces	Yes
Motorcycle – Exempt	None	Yes

Historic District Analysis

The following three documents are central to the Downtown Boone Local Historic District:

1. [Comprehensive Architectural Survey of Downtown Boone, NC – Final Report](#)
2. [Report and Recommendation for the Designation of the Downtown Boone Local Historic District, Boone, NC](#)
3. [Downtown Boone Local Historic District Standards](#)

The designation report (#2 above), was created using the architectural survey of the downtown area (#1 above) and recommended the Downtown Boone Local Historic District area be designated as a historic overlay district; and the Downtown Boone Local Historic District Design Standards, which are outlined in a separate document (#3 above), are to be applied by the HPC when it considers applications for Certificates of Appropriateness for proposed development within the historic district.

INVENTORY CLASSIFICATION

The following information has been taken from the designation report starting on page 69. The property inventory found within the report was specifically written to assess the contributing significance and integrity of the district's resources. Integrity, as determined was based upon the following:

1. design integrity, meaning the building's relationship to its original appearance or altered appearance during the period of significance;
2. material integrity, meaning the building's relationship to original materials during the period of significance or replacement materials that mimic the appearance of original materials during the period of significance;
3. locational integrity, meaning the building's relationship to its original location during the period of significance;
4. integrity of association, meaning the building's relationship to its original or adapted use, function, and purpose during the period of significance; and
5. integrity of relationship to the district as a whole, meaning the building's historical importance to the development of downtown Boone's commercial district during the district's four periods of growth within the period of significance (1918-1964).

This ratio of parcels with contributing resources to the overall number of parcels in the district represents an unusually dense and rich collection of commercial, institutional, and residential buildings and/or structures with excellent to outstanding integrity as defined by the above criteria, thus illustrating the special significance of the district to the town of Boone in terms of its history and architecture. Taken together, these resources help to tell the story of the development of downtown Boone's commercial district through its four periods of growth within the period of significance. For these reasons, the district possesses outstanding integrity as a whole, which can only be improved as owners of individual resources continue to rehabilitate their properties and storefront configurations to their historic appearance.

Inventory Classifications:

CA: Contributes to the character of the district based on architectural significance

CH: Contributes to the character of the district based on historical significance related to events or individuals associated with the property

NC: Non-contributing property

VL: Vacant lot

DESIGNATION REPORT/ARCHITECTURAL SURVEY PROPERTY**SUMMARY**

The Designation Report summary is included on the right, and the full Architectural Survey summary is included below. The subject property is classified as “CH” meaning the property contributes to the district based on historical significance related to events or individuals associated with the property.

WT0877 Austin Tobacco Company Prize Room (1939)**970 Rivers Street**

This two-story, wood-clad, warehouse building with a concrete block foundation has long been rumored to be a surviving building of the operations of the East Tennessee and Western North Carolina Railroad (“Tweetsie”), and a sign on the building attributes it as the “original maintenance building for the railroad line which ran from Johnson City, Tennessee, to Boone, North Carolina, circa 1911.” Put plainly, neither of these claims is even remotely true.

The 1928 Sanborn Fire Insurance Company map of Boone shows two one-story, frame buildings at this site, both associated at the time with the Watauga Lumber Company. The west building of that complex, located in the same spot as the current building, had a somewhat flattened, rectangular footprint that was less deep on the lot than the east building. A circa 1939 photo of Boone taken from the southwest (Cy Crumley Scrapbook) shows the west building as having a front-facing gable at the east end of its south elevation. In 1935, the Watauga Building and Loan Association acquired this property (Deed Book 44, Page 279) after Blanche and E. N. Hahn defaulted on it. By early 1936, C. M. Critcher occupied the east Watauga Lumber Company/Boone Ice Plant building (Watauga Democrat, February 13, 1936), remaining there well into the 1940s, but W. H. Gragg, secretary of the Watauga Building and Loan, had different plans for the old west building of Watauga Lumber. Finally, in November 1939, Gragg demolished the west building—which Hahn had used to store fertilizers during the early 1930s—and erected a new, 70’ by 70’ warehouse to be used as a prize room by the

WT0877 Austin Tobacco Company Prize Room (1939)—CH**970 Rivers Street (2900-78-7965-000)**

This two-story, wood-clad warehouse building with a partial concrete block foundation is one of the oldest surviving buildings from the warehouse area along Howard and Depot Streets, dating to the end of the period when wooden warehouses were common in this part of the district. Like many similar buildings of the period, it extends partially over Boone Creek, where concrete columns that were likely wooden piers when the building was first constructed support the structure above. Built in 1939 as the Austin Tobacco Company Prize Room, it is also the only surviving building in the district that was ever associated with Boone’s once vigorous tobacco trade. After the August 1940 flood ended train service to Boone, various entities used the building for decades for fertilizer and pesticide storage and other similar purposes. It housed a country store in the late 1990s, then a restaurant beginning in 2000. Although the building is mostly unchanged from its original form, a rectangular, wooden addition was affixed to the southwest corner of the building in relatively recent years. Exterior wooden treatments have also been replaced in some cases by parging over an unknown material arranged in panels. Nevertheless, the building remains an excellent example of transitional construction between the pre-Depression era and the 1940s and 1950s Howard Street boom.

Austin Tobacco Company during market season (Watauga Democrat, November 23, 1939). Like the other tobacco warehouses in town, Gragg's new building also served as a venue for dances from time to time (Watauga Democrat, February 1, 1940). This new building is visible on the September 27, 1940, high aerial image of Boone (Agr-Ext-1940-9B-76), well after the Tweetsie line to Boone had shut down permanently following the mid-August 1940 floods. This new building, which clearly displayed skylights in its roof, was deeper than the old east building of the Watauga Lumber Company and had an unusual addition at its northeast corner that wrapped behind the old east building of Watauga Lumber. Meanwhile, by February 1941, it became clear that Austin Tobacco was no longer using the building as a prize room. That month, W. H. Gragg began advertising the availability of a "large and strong" building specifically described as a "good warehouse, suitable for fertilizer or storage" (Watauga Democrat, February 6, 1941).

Ultimately, Southern Agricultural Insecticides purchased the warehouse from the Building and Loan in August 1944 (Deed Book 59, Page 54, and Watauga Democrat, June 14, 1945), and a few months later in 1945, Southern Agricultural Insecticides had to secure a corrective deed because the Watauga Building and Loan had constructed WT0877 partially encroaching on a neighbor's land (Deed Book 60, Page 298). Indeed, when the 1947 Sanborn map of Boone was published, it showed WT0877 as a concrete block and wood structure, labeled as an insecticide warehouse, with an odd hook of an addition at its northeast corner behind the old east building of Watauga Lumber (at that point also used as a fertilizer warehouse). The building footprint remained essentially unchanged until recent years, when an addition was located at the southwest corner. Some locals have speculated that this addition is part of the old train depot, but detailed analysis of historic images and other sources has determined that the Tweetsie-related building (perhaps part

4 In addition to the information that follows about the building itself, the Linville River Railway—the correct name for the line that came to Boone—did not reach Boone until very late 1918.

of the depot) that sat for a time in front of the C. M. Critcher warehouse to the east was demolished in the mid-1960s, while the known half of the depot that sat behind the Boone Bus Station for many years was demolished in 1976. Southern Agricultural Insecticides sold the warehouse building in 1977 (Deed Book 172, Page 430), and it was briefly home to the Greeneville Sign Company in the late 1970s. The Whistle Stop Country Store occupied the space briefly in the late 1990s, which may be the origin of the myth that the building was related to Tweetsie, since this claim was made in their promotional materials (Watauga Democrat, July 31, 1998). Café Portofino has occupied the site since 2000.

Today, the building appears from the exterior to be two stories in height, built partially over Boone Creek, which flows under the north edge of the building. The south elevation is clad in board and batten lumber with a large, shed-style awning supported by posts with Y brackets that rest on a narrow, wooden deck that provides outdoor seating. This awning is clad in raised seam metal. The first floor of the original, south face of the building, reading west to east, has a single, nine-light, vinyl replacement door located at the junction between the southwest addition and the main block. To the east of this entrance is a single, one-over-one, double-hung sash, vinyl window, followed by the inaccurate historical sign, followed again to the east by a double bay of one-over-one, double-hung sash, vinyl replacement windows. A double set of fifteen-light, vinyl replacement doors is located at

the east end of the first floor. The second floor of the south elevation has six irregularly spaced, one-over-one, double-hung sash, vinyl replacement windows. The southwest corner of the first floor of the south elevation is obscured by a one-story, shed-roofed addition clad in board and batten finish that juts out toward Rivers Street. This addition has a low, cultured stone wall at its base. The east wall of this addition, which is apparently used as a bar area, has a single piercing with sliding, divided sashes that open to either side.

The east elevation appears to be parging over an unknown material—possibly large, wooden panels like those on the west elevation—and has a metal staircase rising from the middle of the elevation to the southeast corner, where a shed-style porch covering shields the landing outside a single, wooden, second floor door. A smaller, wooden staircase rises from the base of the first staircase to a mid-level landing and a vinyl replacement door at the center of the elevation. Two symmetrically spaced, one-over-one, double-hung sash windows with screens are visible at the northeast corner of the second floor. None of these piercings was visible in the 1963 aerial image of the building (Appalachian Collection). The roofline, meanwhile, descends in height from the south elevation to the north, and most of the skylights originally evident on the sloping but otherwise flat, rubber roof appear to have been filled in. The odd, northeast corner addition from early images of the building also appears to have been removed.

The north elevation, meanwhile, is clad in the same parged material as the east elevation, with the western two thirds of the first floor open below to allow for the passage of the Boone Creek under the building. At the east end is a single, one-over-one, double-hung sash, wooden window with a metal storm window and a surrounding wood frame. Most of the posts supporting the north wall of the building appear to be wooden. The second floor, reading from east to west, has a small, one-over-one, double-hung sash, wooden window with storms and a wooden frame, followed by a large, one-over-one, double-hung sash, vinyl replacement window and a repeated small window like the first one. A bit west of this is a single, one-over-one, double-hung sash, wooden window with a storm window and wooden frame. Well to the west of this is a four-light, fixed, vinyl replacement window with a wooden frame. As on the east elevation, trim elements are used to suggest a division between floors.

The west elevation appears to be clad in large panels like those found on the east and north elevations, although the applied treatment/parging appears to be substantially thinner here. A large, side-by-side, fixed, double-light window with a wooden frame is located at the center of the elevation, with much of the northern two-thirds undercut by the passage of Boone Creek under the building. Here, concrete columns support the building, with wood latticework screening part of the lower section of this elevation. A large, metal staircase rises to a porch shielding a doorway at the second floor level of the southwest corner, mimicking the feature at the southeast corner. Another door at the first floor level is visible under the second floor door. The sloped roof of the southwest corner addition, meanwhile, extends as an awning over the west elevation of the addition, resting on posts with Y brackets. A double, nine-light entrance is visible under the awning, as well as a large, single-light window with a seating bar under it. A large, wooden deck located to the west of the building serves as an outdoor seating area.

DESIGN STANDARDS

Applicable design standards from the Downtown Boone Local Historic District Design Standards and Handbook, UDO Appendix D, are included below.

Commercial Properties Within the District, Standards for Commercial Properties within the District***Design Standards for Demolition, [Design Standards p. 116-117]***

- 2.1** In reviewing a request to demolish a building in the district, the HPC also considers whether the proposed demolition will adversely affect other buildings in the district or the overall character of the district.
- 2.2** When considering demolition of a historic building, the property owner is encouraged to work closely with the HPC in reviewing all alternatives prior to this course of action.
- 2.3** The effective date of such a certificate for relocation, demolition, or destruction of a resource within the District may be delayed up to 365 days from the date of approval. This period shall be reduced by the HPC where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay.

Windows, Doors, and Awnings, [Design Standards p. 74-83]

The arrangement of doors and windows on an historic property is one of the most important elements of building design. It is imperative that these arrangements be preserved in order to maintain the integrity of individual historic properties and the integrity of the District. Because older windows and doors were not always designed with heating and cooling efficiency in mind, it is often tempting to property owners to replace these features with modern doors and windows. Despite the apparent advantages of doing so, replacement with modern doors and windows is often far more expensive than repairing existing historic doors and windows, and their use often completely destroys the integrity of the historic property in question. Furthermore, many companies are now producing “modern” wood replacement windows that replicate the appearance of their historic antecedents with fixed muntins but feature double-pane glass to assist with heating and cooling efficiency. The HPC reviews proposals for the use of modern wood replacement windows carefully to insure that muntin thickness aligns with the muntin dimensions of historic windows.

- 6.12** Awnings installed on properties in the District should always be historically appropriate based on available photographic and historical documentation demonstrating the historic presence of such an awning on the property in question. Awning styles with no documented historical precedent should never be added to properties in the District. For example, properties that historically possessed flat awnings anchored by cables or steel rods should retain these kinds of awnings. In cases where they have been removed, and particularly in cases where they have been replaced with modern, clamshell, half-round, or vinyl awnings or awnings that are historically inappropriate to the building, property owners should endeavor to remove the modern feature and restore the original awning configuration with appropriate materials based on historical documentation for that particular building. Another common, historic awning type in the District was the metal-frame, sloped, fabric awning that was sometimes retractable. New sloped awnings should be composed of canvas or acrylic, and never of vinyl. Metal and shed roof awnings are never appropriate, except for historic properties erected after World War II that historically had metal or shed roof awnings at the time of their construction. Awnings should never obscure vital architectural components of the original building. Awnings on new construction or additions should also be historically appropriate to

the District and not feature configurations that distract from the historical integrity and continuity of the District.

- 6.16** New construction, additions, and renovations to existing historic buildings or properties within historic districts should maintain established proportions and spacing of window and door openings.

Roofs, [Design Standards p. 83-88]

Among the most significant and important of the distinguishing characteristics of historic properties are the roof form and pitch, which are often essential to identifying the architectural style of a building. For this reason, it is imperative that every effort be made to preserve and maintain the original roof configuration and materials on historic properties, including dormers, turrets, balustrades, parapets, etc. While historic roofing materials should always be preserved whenever possible—especially if they consist of specialty roofing materials such as slate or tile—many roofing elements will require replacement due to deterioration and age. Many of the commercial buildings in the District originally featured flat or gently sloping roofs behind a parapet wall along the primary elevation and sometimes the secondary elevations.

- 7.3** Dormers and gables should never be added to the primary and secondary elevations visible from the street (unless replacing an historic element that Downtown Boone Local Historic District Design Standards--84 had been previously removed) and should be added to tertiary elevations only when it can be shown that they are appropriate for the building style. The addition of dormers to commercial block buildings is especially inappropriate and should be avoided on all occasions and reversed in cases where this change has already been made. Skylights, solar panels, power ventilators, and mechanical equipment should always be restricted to the tertiary portions of the roof or areas behind parapet walls and hidden from the street. Screening materials should never be erected on top of a roof to obscure such elements.
- 7.9** Roof coping on commercial buildings with original flat roofs was typically made of terracotta tile. Modern coping systems that are often used in conjunction with rubber membrane roofs, especially if they employ metal Downtown Boone Local Historic District Design Standards--88 coping in a color that contrasts with the masonry walls they cover, are inappropriate.

Paint and Paint Color, [Design Standards p. 90-92]

For most of the District's historic commercial properties, which typically were made of masonry and rarely painted, determining historic paint colors, except on trim, ornamentation, windows, original stucco walls, or other architectural details, is usually not a problem. While color chronology tests can help to determine original paint colors (contact the State Historic Preservation Office for assistance), this process is difficult, sometimes inconclusive, and often expensive. While the HPC does not regulate paint colors in the District per se, property owners are required to submit proposed paint samples as part of any COA application and seek guidance from the HPC and/or the State Historic Preservation Office when considering paint schemes for historic properties. Nevertheless, paint colors and applications must comply with all other general requirements outlined in the Town of Boone UDO. Beyond this, some general standards are applied by the HPC when considering paint in relation to historic properties.

- 9.3** Select paint colors that are appropriate for the building's architectural style and that are complementary to neighboring buildings. In general, color should function as a method of contrasting among different materials and architectural elements that make up the building. Contrasting colors that accent architectural details and entrances are discouraged, however,

except in those cases where this design element was common to the historic architectural style of an existing historic property and there is historic precedent for such accenting.

Staff Comment: The Applicant is proposing to paint the wood siding in Sherwin Williams, Black Fox which meets UDO, Subsection 25.02.05, Color requirements and stain the pergolas in a Cabot Honey Teak Color.

New Construction of Commercial Buildings within the District, [Design Standards p. 97-99]

It is inevitable that new commercial buildings will be constructed within the District. The intention of these design standards is not to prevent such changes but to ensure that new construction is compatible with and complementary to the integrity and architectural character of the District. While new commercial buildings should not attempt to replicate existing historic properties, they should mesh with and support the historic design principles of the other commercial properties in the District. These standards are intended to preserve the integrity of the District while also encouraging sensitive and appropriate new construction.

- 14.1** New commercial construction within the District should not seek to duplicate historic buildings in the District or mimic their appearance. That said, new construction should strive to be sensitive to and compatible with the character-defining features of the commercial properties in the District. Thus, new construction should employ architectural design that reflects its current time, place, use, and culture, provided that this design is compatible with the character of the District.
- 14.2** New construction should incorporate the predominant historic materials typical in surrounding historic buildings when possible—usually brick, native stone, structural glass, wooden trim, and similar historic materials. Synthetic, non-traditional materials, such as vinyl, synthetic stone, fiber cement board, aluminum, plywood, parging, and pre-formed concrete panels, are not permitted in new construction. It is NOT appropriate in new construction to use contemporary substitute materials in place of traditional materials. The use of the highest-quality, historically appropriate, exterior facing materials is encouraged.
- 14.3** Design, height, massing, and proportions of new buildings should complement and be compatible with the dimensions of neighboring buildings with similar character and style. New buildings should not overpower adjacent buildings or the District as a whole as a result of out of-scale massing, footprint, height, or overhang. Roofs, fenestration, and materials should be compatible with surrounding buildings. Traditional separations between storefronts and upper facades should be maintained and consistent with those existing in adjacent or nearby buildings. Vertical divisions maintain the feeling of traditional building widths and should be maintained. New buildings generally should align with adjacent buildings facing on the same street and conform to existing setbacks from the street. The primary façade and main building entry shall face the primary public way.
- 14.4** Combining lots for the purpose of building a single building across multiple lots is not permitted in the District, as it disrupts the historical town planning system and does not align with the massing and scale of the District’s historic building patterns.
- 14.5** The appropriateness of the site for a new commercial construction project will be evaluated based upon its compatibility with the district context in terms of setback, spacing, orientation, topography, height, and landscaping. New buildings should have setbacks, orientation, lot coverage, and spacing that align with existing historic properties and comply with the provisions of the Town UDO.

Staff Comment: The applicant has met the UDO standards for the project which is included in the Zoning Analysis above.

- 14.6** New construction should respect the existing topography and vegetation on the site. Large-scale grading to level or otherwise dramatically alter the natural slope of a lot is destructive to the historic landscape and is not appropriate. Whenever possible, existing trees and historic landscape features should be incorporated into the design for a new property. If large trees must be removed, they should be replaced with trees similar in type and species. During construction, any mature tree that will not be removed should be protected with appropriate fencing around the tree's canopy area that will eliminate construction parking, material storage, and concrete washout that could harm the mature tree.

Staff Comment: There are no mature trees existing on this site; only saplings are on the property at this time.

- 14.7** The appropriateness of a proposed new commercial building will be evaluated based on compatibility in terms of scale, height, form, massing, materials, openings, roof pitch, roof type, and other details with the District context.
- 14.8** New commercial construction should incorporate architectural elements and details into new construction that provide human scale. Do not add fanciful decorative elements and colors that are out of place or not in keeping with the historic context of the District and/or adjacent historic properties.
- 14.9** Oversized and monumental scale architecture is not appropriate, and the overall height and width of the new buildings should be compatible with neighboring structures and Town UDO requirements.

Staff Comment: The applicant is meeting all UDO, Subsection 14.19.04(5) requirements in relation to height and setback requirements for the district.

- 14.10** Historically, most of Boone's downtown commercial buildings had flat roofs. Residential roof types are not permitted in new commercial buildings. Roof planes should be hidden from view on the façade, and rooflines should be decorated using historic decorative details, using historic photographs and/or neighboring buildings as a guide. Walls should not appear to terminate at flat roofs, except along the tertiary elevation. Instead, flat roofs should be concealed from view by using historically appropriate pitched roof features, parapets, or a mixture thereof. Where only one elevation has this condition, the parapet or other feature will continue four feet along the adjacent elevation. The minimum slope for pitched roofs is four feet vertically to every twelve feet horizontally. Where a parapet intersects with a pitched roof element, there shall be no apparent breaks in the parapet wall.

Staff Comment: The applicant is proposing a flat TPO Membrane roof for the proposed small hotel with 30" high parapet walls around the building perimeter.

Design Standards for Historic Streetscapes, Landscapes, Monuments, and Other Resources in the District

Landscapes and Ecologically Sensitive Areas, [Design Standards p. [103-106]

- 3.6** Maintain the relationship between building mass and open space that exists on the block or streetscape. Property owners should preserve the historic spatial arrangements and land-use patterns within the District as they have changed over time, and they should strive to protect character defining elements of both constructed and natural landforms, including the topography and open spaces surrounding historic buildings and landscape features.

Staff Comment: The applicant is meeting UDO requirements for setback as found in the Zoning Analysis section of this report.

- 3.9** Development of new and existing developed parcels should be regulated to minimize impacts on ecologically sensitive areas.

Staff Comment: The applicant intends to restore the streambank and has obtained a variance to do so (see History section of this report).

- 3.10** The Town of Boone and its residents should prioritize the uncovering and restoration of natural stream corridors throughout the District. New development that impedes, obscures, or covers these stream corridors is not appropriate.

Staff Comment: The applicant intends to restore the streambank and has obtained a variance to do so (see History section of this report).

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

Economic Development: Acknowledge the area's natural beauty, university, and medical center presence as the Town's greatest assets for economic development and jobs creation. Treat them accordingly.

Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.

Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

Environmental Quality: Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

Trees: Conserve existing trees and plant new trees, especially hardwoods.

Automobile Transportation: Maximize the efficiency of existing facilities, but not at the expense town and neighborhood character and livability. Build or expand transportation facilities and parking areas as needed, but with care. Work to reduce auto dependency, use, and congestion.

Bikeways: Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

Mass Transit: Enhance and support the mass transit system as an effective alternative to the congestion created by the individual automobile.

Pedestrian

Movement: Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

Infrastructure: Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

Energy and Waste: Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

University: Emphasize cooperative planning among the Town, County, and University.

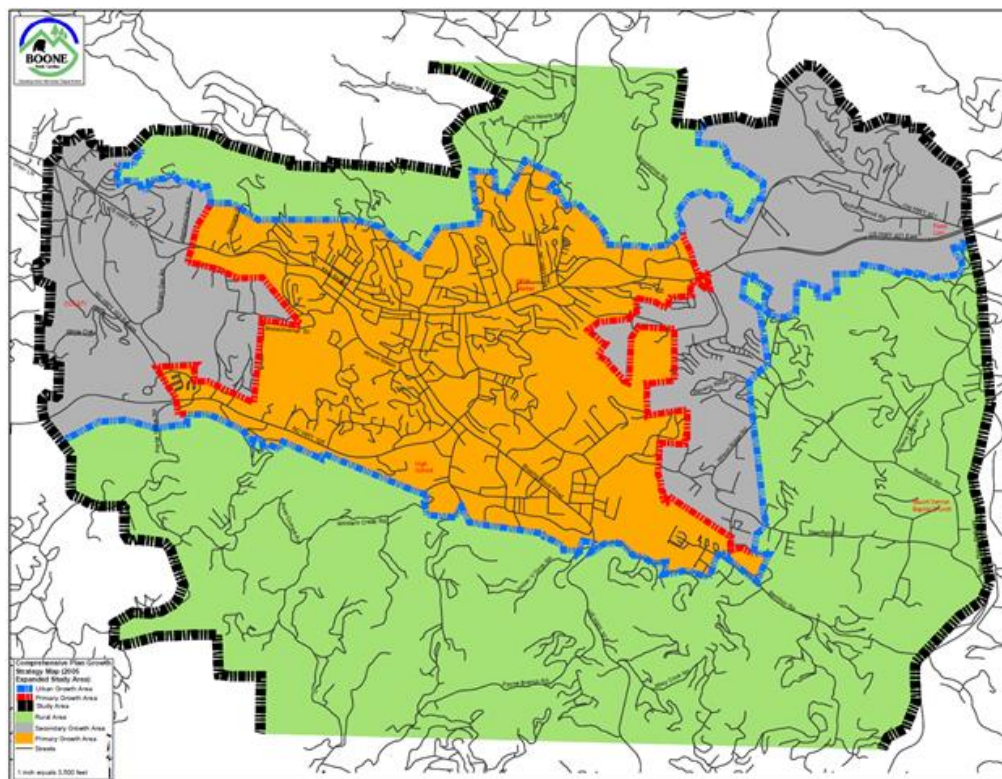
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

1.2 Growth Strategy Map (p. 17): This development is located within the Primary Growth Area as shown on the Growth Strategy Map. The Primary Growth Area is that portion of the urban growth area where urban levels of facilities are already in place or can be provided most cost effectively. This is the area where near term growth and development is to be especially encouraged. See Growth Strategy Map below:



2.0 Policies for Growth and Development (P. 18-77)

Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Board should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation.

2.1 THE ECONOMY (p. 19)

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long-term component of an economic development strategy.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.

2.1.5 Downtown

- A. A compatible design character for the downtown area, drawing upon the locality's original High-Country small-town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.
- B. The Town, in concert with the downtown property owners and merchants, shall encourage public and private efforts to develop and publicize adequate and appropriately designed off-street parking lots in the downtown area.

- C. A variety of mutually compatible and supportive mixed uses shall be encouraged in the downtown area.
- D. Public and private developments shall be encouraged to incorporate local artistry into public and semi-public spaces downtown.
- E. Public and private development decisions in the downtown area shall exhibit a special concern for maintaining the intensive, pedestrian oriented character of the district.
- F. The maintenance and revitalization of downtown Boone, as well as planning for its future development, will reflect the realities and qualities befitting its geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services.

2.3 THE COMMUNITY (p. 60).

- A. Urban type development within the Urban Growth Area shall meet appropriate Town standards.
- B. Properly planned, mixed use developments that promote efficient provision of public services shall be encouraged within the Urban Growth Area.
- C. Funding for outside agencies and organizations serving the citizens of Boone shall continue to receive support consistent with area service needs and Town budget constraints.
- D. Coordinated inter-governmental and university-town planning for urban area land use and development, transportation, utilities, recycling, environmental management, law enforcement, education, recreation, tourism and economic development shall be encouraged.

2.3.2 Community Character (p. 67)

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High-Country small town.

2.3.4 Public Involvement

- A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public. ****

- B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.
- C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.
- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.

Conditions of Approval

The following conditions are automatically included and a part of any approval.

- Where there is a conflict between the application information (March 24, 2022), and the plans (April 28, 2022), the plans control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
- Any commitments and representations concerning the proposed exterior modification made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
- The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.

The Commission may issue approval subject to reasonable conditions necessary to carry out the purposes served by the historic district (see G.S. 160D-940, 160D-947(a)):

1. Condition (as warranted) ...

Historic Preservation Commission Procedure

Congruity with the historic district

The question before the Historic Preservation Commission is whether or not the proposed exterior modification is incongruous (i.e., not in agreement, not in harmony) with the special character of the historic district. If the proposed exterior modification is not incongruous, the Commission shall issue the requested COA. If the proposed exterior modification is incongruous with the special character of the historic district, the Commission shall deny the requested COA. The Commission shall approve or the deny the COA by majority vote.

The Commission may issue a COA subject to reasonable conditions necessary to carry out the purposes of the historic district. In this connection, the purposes of the historic district are to (i) safeguard the heritage of the town insofar as the Historic District embodies important elements of the town's culture, history, architectural history, and/or prehistory, and (ii) to promote the use and conservation of the district for the education, pleasure, and enrichment of the residents of the town and/or the State as a whole, See G.S. §160D-940, 944, 947(a).

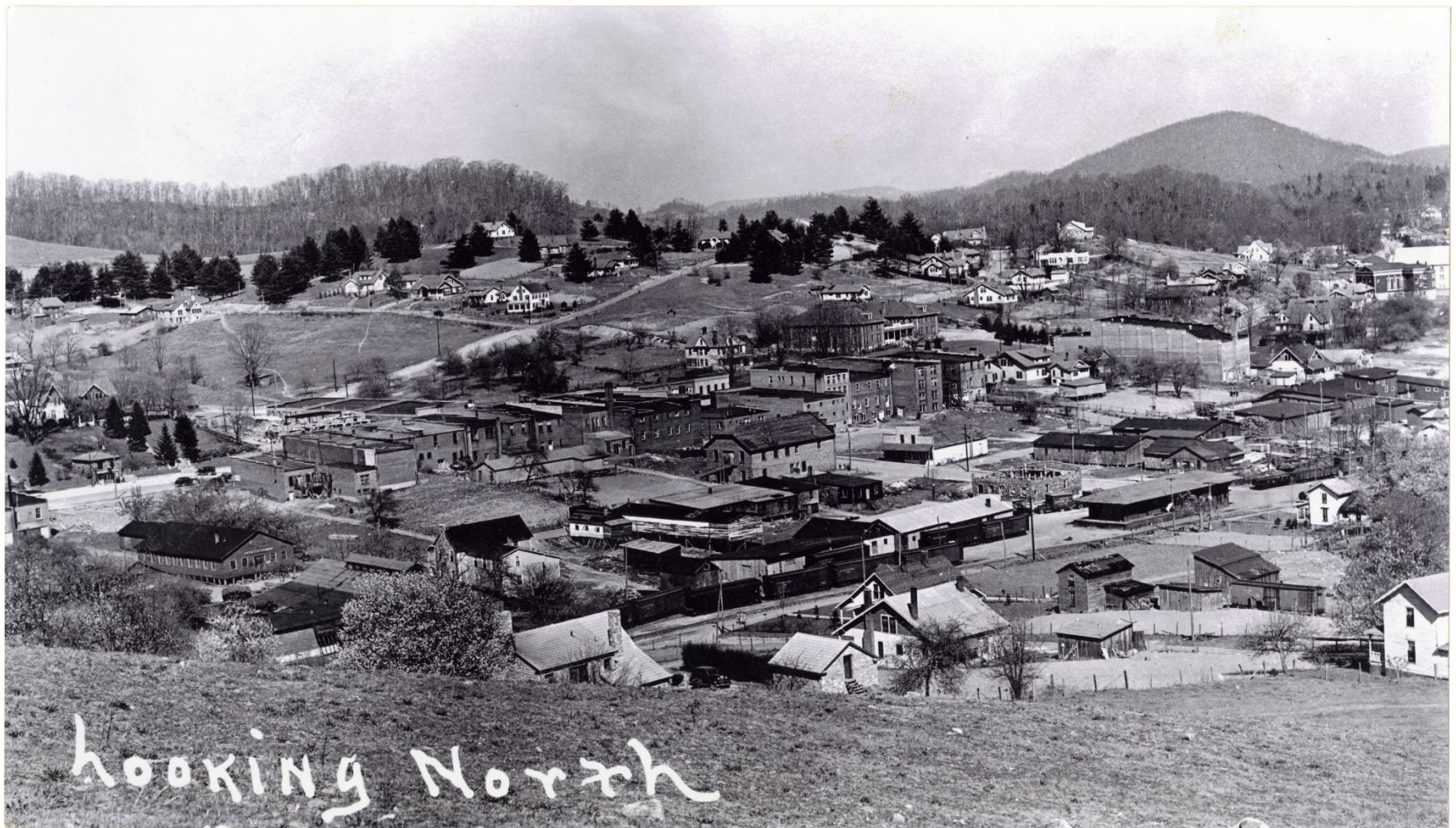


Figure 1. Unknown, "Town of Boone from the Southwest, April 1939," Digital Watauga, accessed April 29, 2022, <https://digitalwatauga.org/items/show/7973>.



Figure 2. Palmer Blair, "The Town of Boone in 1950," Digital Watauga, accessed April 29, 2022, <http://digitalwatauga.org/items/show/3566>.