

**Town of Boone
Public Hearing
6:00 PM, Jan. 22, 2024
Town Council Chambers
1500 Blowing Rock Road**

The public may attend the meeting in-person or online via WebEx, a video-conferencing software.

To participate using WebEx, either online or by phone, please email Planning and Inspections at planning@townofboone.net or call 828-268-6960, and you will be provided with an email invitation to the meeting. All requests for an invitation must be submitted no later than one hour before the meeting is scheduled to begin.

I. Call to Order

II. Moment of Silence

III. Approval of Meeting Minutes by Town Council and Planning Commission

November 27, 2023 Public Hearing Minutes

Public Hearing Guidelines for Each Case Presented

- A. *Presentation of Case by Staff/Applicant***
- B. *Questions by Town Council and Planning Commission***
- C. *Public Comment***
- D. *Discussion/Questions by Town Council and Planning Commission***
- E. *Public Hearing for the Case is Closed***

IV. Case A23-0646 CAC Dissolution-UDO Text Amendment

Case A23-0646 CAC Dissolution - Application

Case A23-0646 CAC Dissolution - Staff Report

V. Case A24-0010 Vacation Rental Clarification-UDO Text Amendment

Case A24-0010 Vacation Rental Clarification-Application

Case A24-0010 Vacation Rental Clarification-Staff Report

VI. Case A24-0011 Town Utility Facility Modification-UDO Text Amendment

Case A24-0011 Town Utility Facility Modification-Application

Case A24-0011 Town Utility Facility Modification-Staff Report

VII. Case A24-0017 Window Signs Modification-UDO Text Amendment

Case A24-0017 Window Signs Modification-Application

Case A24-0017 Window Signs Modification-Staff Report

VIII. Case A24-0018 Invasive Species-UDO Text Amendment

Case A24-0018 Invasive Species-Application

Case A24-0018 Invasive Species-Staff Report

IX. Town Council Adjournment

X. Public Comment

XI. Planning Commission Approval of Minutes

November 30, 2023 Special Planning Commission Meeting Minutes

XII. Discussion of cases heard at the Public Hearing

XIII. Other Matters

XIV. Adjournment

**TOWN COUNCIL AND PLANNING COMMISSION
PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 27, 2023, 6:00 PM
1500 BLOWING ROCK ROAD AND VIA WEBEX SOFTWARE**

COUNCIL MEMBERS PRESENT: Mayor Tim Futrelle, Mayor Pro Tem Edie Tugman, Todd Carter (joined via WebEx at 7:07 p.m.), Dalton George, Becca Nenow, and Virginia Roseman

PLANNING COMMISSION MEMBERS PRESENT: Eric Plaag-Vice Chair, Adrian Tait, Frank Venno, and Smith Warren (via WebEx)

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Commercial Zoning Administrator, Christy Turner-Residential Zoning Administrator, Brandon Wise-Environmental Specialist, and Brenda Henson-Board Secretary

OTHER TOWN STAFF/REPRESENTATIVES PRESENT: Amy Davis-Town Manager (via WebEx), Allison Meade-Town Attorney, Todd Moody-Public Works Director, and Justin Stines-Deputy Public Works Director

Call to Order

Mayor Futrelle called the Town Council to order at 6:00 p.m. Vice Chair Plaag called the Planning Commission to order at 6:00 p.m. The meeting was held in the Town Council Chambers at 1500 Blowing Rock Road, as well as via WebEx.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member George made a motion to approve the September 25, 2023, Public Hearing minutes as written. The motion was seconded by Council Member Roseman.

Vote: Aye – 5
Nay – None

The motion passed.

Commission Member Venno made a motion to approve the September 25, 2023, Public Hearing minutes as written. The motion was seconded by Commission Member Tait.

Vote: Aye – 4
Nay – None

The motion passed.

PUBLIC HEARING

Ms. Jane Shook, Director of the Town of Boone Planning & Inspections Department, provided a brief explanation of the guidelines for public hearings.

Case A23-0449 and A23-0450 CasaRock, LLC – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of two properties owned by CasaRock, LLC at 112 Paul Critcher Drive to R1 Single-Family Residential (Watauga County PINs: 2920-30-7460-000 and 2920-30-9457-000).

Zoning of the properties coincides with the request from the property owner for annexation of the parcels into the Town of Boone's corporate limits.

Mr. Mike James, Commercial Zoning Administrator with the Town of Boone, presented the case as it was outlined in the meeting packet.

Ms. Allison Meade, Town Attorney, stated that the application listed the requested zoning as B3, not R1. Mr. James explained that staff had prepared the application as part of the annexation, and the B3 shown on the application was a typographical error.

Council Member George asked why the property owner was seeking annexation. Mr. James replied that there were some issues with their well, so they were seeking annexation in order to receive Town water service. He noted that there would be no sewer service at this location. Mr. James stated that there was another property on Paul Critcher Drive that had previously been annexed into the Town that had water service, but no Town sewer service.

Council Member Tugman stated she thought that the Comprehensive Plan did not recommend extending services to rural areas. Council Member Roseman replied that the resource was already there in the area, so she was inclined to accept the property into the Town limits with the R1 zoning.

Mr. Todd Moody, Public Works Director, stated there was a 12" water line on Deerfield Road and a 6" water line on Paul Critcher Drive. However, there was no sewer line in this area.

There was no public comment on this case.

Vice Chair Plaag agreed with Council Member Tugman that the language in the Comprehensive Plan was clear that it was not acceptable to extend Town services to rural areas. He suggested that the updated Comprehensive Plan include language to address this type of situation.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:30 p.m.

Case A23-0451 Catherine Folk – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of 372 Junaluska Road (Watauga County PIN: 2901-81-2705-000) to either R1 Single-Family Residential or R1A Single-Family Residential with Accessory Dwelling and Viewshed Protection overlay. Zoning of the property coincides with the request from the property owner for annexation of the parcel into the Town of Boone's corporate limits.

Mr. James presented the case as it was outlined in the meeting packet. He stated that the subject property was subject to a contiguous annexation and the request was to zone the property either R1 or R1A.

Council Member George stated he would likely lean toward an R1A zoning to be more consistent with the surrounding zoning, so as to avoid any spot zoning.

Council Member Roseman stated she hoped other property owners in the Junaluska neighborhood would want to have their properties annexed into the Town as well.

Ms. Jane Shook, Director of the Town of Boone Planning & Inspections, noted that there were some R1 zoned properties further up Junaluska Road.

Ms. Meade stated she was not really concerned with spot zoning on this property, but it did seem more consistent to apply an R1A zoning.

Vice Chair Plaag noted that he and Commission Member Tait both lived in this neighborhood. He stated that when their properties were annexed into the Town, they were told these properties could not be zoned as R1A and had to be zoned as R1.

There was no public comment on this case.

Council Member Tugman asked if the property owner wanted to build an accessory dwelling, would that be allowed by right under the R1A zoning. Mr. James replied that it would be allowed by right, but would have limitations.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:37 p.m.

Case A23-0462 Warren and Ruby Boyette – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of portions of a property owned by Warren and Ruby Boyette located on Queen Street to R1 Single-Family Residential (Watauga County PIN: 2901-51-8665-000). Zoning of the property coincides with the request from the property owner for annexation of the portion of the parcel that is located outside of the town's corporate limits.

Ms. Christy Turner, Residential Zoning Administrator for the Town of Boone, presented the case as it was outlined in the meeting packet. She noted that the request was to zone the property as R1 with a Viewshed Protection Overlay.

Ms. Meade asked why the property owners wished to annex this property into the Town. Ms. Turner responded that they needed to annex in order to receive Town water and sewer services. Ms. Meade asked if it was correct that a portion of the subject property was located inside the Town limits and a portion was located in Watauga County's jurisdiction. Ms. Turner stated that was correct.

Commission Member Tait asked if services were approximate to the property. Ms. Turner replied that they were already located in the area.

Vice Chair Plaag asked if there would be any water pressure issues to this property. Mr. Moody responded that water pressure should not be a problem because the property was adjacent to a Town water tank. He stated that the property owner would pay to have approximately 100 feet of sewer line installed in order to service the property.

Vice Chair Plaag asked if it was correct that the currently unzoned portion of the property was zoned as RA when it was within the ETJ. Ms. Turner replied that was correct.

There was no public comment on this case.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:41 p.m.

Case A23-0149 Faculty Street Townhomes – Conditional District Zoning Map Amendment

A&R Mountain Properties, LLC has submitted a Conditional District Zoning Map Amendment application to rezone a parcel located on Faculty Street (Watauga County PIN: 2910-14-4592-000) from R3 Multiple-Family Residential to Conditional District R3 Multiple-Family Residential with a site-specific development plan to construct ten (10) townhomes (Use 1.08 Townhouse up to 30 bedrooms).

Mr. James noted this was a continuance of this case for a Conditional District R3 zoning. He stated that the plan had changed from the previously requested twelve (12) townhomes to ten (10) 2 bedroom townhomes on individual lots. Mr. James added that though the grading and landscaping plans were not originally included in the board packet for this meeting the packet had been updated with the plans and had been set out to board members this afternoon.

Mr. Tyler Moffatt, attorney for the applicant, introduced Mr. Todd Rice and Mr. Bill Aceto as members of A&R Mountain Properties, LLC. He also introduced Mr. Brent Davis, the architect for the project, and Mr. Devin Staley, the engineer for the project.

Mr. Moffatt stated that the reduction of units allowed an increase in greenspace of approximately 900 square feet. He explained that the previous plan was for a townhome-style apartment building, while the revised plan was for true townhomes on individual parcels. Mr. Moffatt stated this would be a for-sale product and with a property owners' association. He noted they had added a 10-foot greenway easement along Faculty Street and that had caused some changes to be made with the retaining walls throughout the property. Mr. Moffatt indicated that the other change in the plans was the increase of the rear landscape buffer. He also noted that the townhomes would be accessed solely from Faculty Street and not through the neighborhood streets behind the property. He noted that the real issues here were to address noise, light, and other negative impacts in the transitional zone.

Mr. Devin Staley with Blue Ridge Engineering stated that the reduction of units created one additional parking space; the retaining wall heights had increased in order to accommodate the installation of the proposed multi-use greenway path due to the steepness of the property; that the landscape material had not changed because they had concerns about the additional plant material with the wall. Mr. Staley added that the finished floor elevation now had each building stepping up one foot in elevation.

Mr. Brent Davis with Brent Davis Architecture stated that the building footprint was reduced under the revised plan, but the exterior finishes would remain the same.

Mayor Pro Tem Tugman asked if the parking spaces being stacked would allow for adequate turning on the site. Mr. Staley replied that the 22-foot drive aisle was unchanged from the previous plan and that each unit had some additional space within the driveway.

Council Member Roseman asked if there would be greenspace in the front and back of each unit. Mr. Moffatt stated that the development would be a zero-lot line development with the greenspace designated as common area and each townhome lot would include the patio area. Council Member Roseman stated that if she lived there she would want to have a dedicated yard space. Mr. Bill Aceto, one of the property owners, stated that they had an open mind regarding lot line placement.

Mayor Pro Tem Tugman asked Ms. Meade if the POA could stipulate that the townhomes could not be rented. Ms. Meade replied that the POA could stipulate that no short-term rentals would be allowed, but they could not stipulate that no long-term rentals would be allowed.

Council Member Nenow asked if any of the existing trees could be left on the site. Mr. Staley stated that there might be a few trees that could be saved at the top northern corner, but they would be unsafe from the wind without the surrounding trees. Council Member Nenow asked about the purchase price of each unit. Mr. Moffatt stated that the price would depend on construction costs and market rates. Council Member Nenow asked where the nearest AppalCART stop was located. Mr. Aceto replied that the nearest stop was located on Blowing Rock Road.

Commission Member Veno asked if the units would be joined together structurally. Mr. Aceto stated that they would have shared walls.

Council Member Carter joined the meeting via WebEx at 7:07 p.m.

Vice Chair Plaag asked about the height of the retaining walls. Mr. Staley stated that the first wall would be 8 feet high and the second wall would be 7.5 feet high. Vice Chair Plaag stated he was concerned with vehicles or people going over the retaining wall. He asked if the property owner would accept a condition that some type of safety railing or fencing be installed at the top of the retaining wall. Mr. Staley agreed that a safety barrier would be necessary. Mr. Aceto agreed to the condition, noting he was concerned with safety.

Mayor Pro Tem Tugman asked Mr. Aceto if he would agree not to market the project as student housing. Mr. Aceto replied that the properties would be marketed individually and not as student housing.

Vice Chair Plaag asked Mr. Aceto if he would be willing to place privacy fences at each unit boundaries in order to allow for individual greenspace at each unit. Mr. Aceto agreed to install privacy fences. Mr. Moffatt noted that the restrictive covenants could be written so that the greenspace would be exclusive to each unit as limited common space, but would then be maintained by the property owner's association so that the fences would be maintained.

Vice Chair Plaag asked about handicap accessibility into the units. Mr. Davis replied that there were no steps from the garages into the units.

At 7:16 p.m., Mayor Futrelle invited public comment.

Ms. Susan Owen stated she had lived in this neighborhood for 39 years and she was extremely worried about this development. She pointed out that the redesign changed the number of bedrooms from 18 to 20. Ms. Owen stated that this was a cookie-cutter design and it was not intended to be built on a steep slope. She noted that all of the trees on the subject property would be cut down. Ms. Owen stated that deforestation was addressed in the UDO and required a three-year waiting period before any development of the property. She noted that a 4-foot wide landscape area was proposed between the retaining walls and trees could not be planted in that space because the roots would compromise the retaining walls. Ms. Owen stated that the development was on a steep slope that needed to be evaluated by a geotechnical engineer. She added that no handicap-accessible parking space was provided and she questioned where the trash rollouts and recycling bins would be located when placed for pickup on Faculty Street. Ms. Owen questioned whether the slope of the driveway would be accessible for fire trucks. She noted that, according to the staff report, the greenway path would satisfy the recreation space requirement. Ms. Owen stated that families with small children would not utilize a greenway beside a roadway as a recreation space. She added that it could be years before that greenway was built.

Ms. Emily Stallings stated she had lived on Highland Avenue since 1943 and it had become a cut-through street, which would only worsen with the addition of ten townhouses on Faculty Street. Ms. Stallings noted that she echoed the statements and sentiments of Ms. Owen and she was against the project.

Lynn White stated she came to Boone in 1961 and had lived on Wintergreen Lane since 1972. Since that time, she stated that the character of the area and the quality of life in her neighborhood had changed. Ms. White expressed concern with increased lighting, noise, and traffic from the proposed development. She suggested that the proposed development was more about the money than the people.

Mr. Tim Harris of Highland Avenue noted that Ms. Owens had covered many of his concerns but wanted to add the revised plan caused the building to be about 27 feet shorter, but the depth was essentially the same. He stated that the project was still too big for the lot.

Ms. Shirley Harris asked if the differences in the revised plan really make a difference. She also expressed concern about what would happen to her property once the trees were removed.

Mr. Davis Hankins of Highland Avenue stated he was concerned with the removal of bedrock from the property, property values, and the quality of life in the neighborhood. He stated that the revised plan did not offer any change in the distance of the development from the adjacent R1 properties.

Ms. Stephanie Hankins stated that this development would not provide any affordable housing. She stated that she was concerned about the foundation of her home and was opposed to cutting down all of the trees on the property. She urged Council to deny the request.

Ms. Bertie Bragg stated that she was a lifelong resident of Boone and the project did not look financially friendly. She did not feel that she would be able to afford one of the units.

Ms. Katherine Logan stated she was concerned that the units would be sold to parents of students and it would be naïve to think that the project would not be student-based.

Mayor Futrelle closed the public comment portion of this case.

Council Member George asked if lights on the site would be on all night. Mr. Staley replied that there was generally some type of security lighting that would be on all night. He noted that this property would sit lower than the adjacent R1 property and any lighting would utilize full cut-off fixtures. Council Member George asked about the geotechnical evaluation and bedrock removal. Mr. Staley replied that any retaining walls over 5 feet had to be engineered and quality tested as well as any cut or fill that would have to be addressed in the field.

Council Member George noted both his appreciation for the public that had shown up to speak and to the applicant for reworking the plan. He noted that he had a high-level concern that if the Town was always in fear that every housing development would be student housing then no housing would be able to get constructed.

Council Member Roseman stated that she did not believe the townhomes would be affordable. However, she thought townhomes were a very good way to get more housing in Town. She noted that greenspace was limited in Boone and the Town needed to be thoughtful with development. Council Member Roseman agreed that Highland Avenue was a cut-through street and stated that it needed to be looked at for improvements to make the area safer.

Mayor Pro Tem Tugman asked if it was correct that there would be 27.5 feet of stair-stepped retaining walls on this site. Mr. Staley stated that was correct, with a contributing factor being the greenway. Mayor Pro Tem Tugman asked if the driveway would be steep. Mr. Staley replied that the driveway would not be steep and would be at an 11% grade. Mayor Pro Tem Tugman noted that a townhouse project was significantly less impactful than other types of development that could be located on this site.

Council Member Nenow stated that development could be reduced by providing only one parking space per unit and having two stories of livable space. This would also help cut costs. Council Member Nenow stated that cutting into the slope and removing all of the trees did not seem sustainable.

Council Member Carter stated he was also concerned with the retaining walls and asked when the geotech report would be done. Ms. Shook explained that the geotechnical evaluation and report typically would come after board approval during the zoning compliance phase, which was when the applicant submitted full plans and details for the construction of the development. This would include a site-specific analysis, including slope stability. Ms. Shook stated that if the report concluded that the project could not be built as proposed, then the project could not be built, regardless of board approval.

Mr. Moffatt stated that the trash and recycling would be picked up on-site and would not be placed on the street.

Council Member Roseman asked about deforestation. Ms. Shook explained that deforestation was a forestry activity that had to be permitted by the State. She stated that this site was not a deforestation site and that the deforestation regulations in the UDO would not apply in this case. Ms. Shook added that the UDO did prevent speculative grading, meaning lots could not be cleared without an approved development plan.

Mayor Pro Tem Tugman asked if there was bedrock on the site. From the audience, Mr. Hankins stated there was bedrock on the site and he could send proof to the staff. Mr. Staley stated that, if approved,

borings would be taken to test the soils as part of the geotechnical report. Mayor Pro Tem Tugman noted that, if approved, the Town Council would have no control over who lived at this development.

Ms. Meade noted that North Carolina state law prohibited the Town Council from regulating ownership.

Council Member Roseman noted that, as a comparative example, King Street Flats had retaining walls behind that building with homes built at the top of them.

Vice Chair Plaag stated that the retaining walls were a sticking point for him, citing The Cottages of Boone and the cracks in their very high retaining walls.

Commission Member Veno asked why a greenway would be installed along Faculty Street instead of a sidewalk. Ms. Shook replied that the multi-use greenway path was part of the state adopted Great State Trails plan and that the feasibility study for the path was underway. Ms. Meade added that the applicant was accommodating the greenway by installing the retaining walls with this project that the Town would have to install anyway.

Mayor Pro Tem Tugman stated that she did not feel that the Town should have to bear the burden of housing 12,000-14,000 students without assistance and partnership from the University. Vice Chair Plaag agreed that ASU should be held accountable for its part in the housing crisis.

Discussion ensued as to the solid waste/recycling for the development. Mr. Moffett indicated that the applicant had worked with a company who would be coming up into the site to collect the solid waste and recycling and that the bins would not be set out on Faculty Street or along the multi-use path.

Discussion ensued between Council and the Planning Commission on the possible conditions for the Planning Commission to subsequently consider:

1. The applicant shall place security fencing along the top of each retaining walls system.
2. The applicant will not advertise/market the as investment properties or student housing.
3. The applicant will construct privacy fences in the rear of the buildings to delineate each dwellings backyard/patio space. Each space is to incorporate the area immediately behind each dwelling unit.

With nothing further, Mayor Futrelle closed the public hearing for this case at 8:50 p.m.

Mayor Futrelle called a break in the hearing from 8:51 p.m. until 9:01 p.m.

Case A23-0317 Bryan Pleasants – General Use Zoning Map Amendment

Bryan Pleasants has submitted a General Use Zoning Map Amendment application to rezone a parcel of property located on Delmar Street (Watauga County PIN: 2910-68-9812-000) from R1 Single-Family Residential to R1S Small Home Residential.

Mr. James presented the request as it was outlined in the meeting packet. He pointed out the following errors in the meeting packet:

1. On the third page of the staff report, the property to the east of the subject property should be listed as zoned Conditional District R2 instead of just R2.
2. The second paragraph of the Ordinance contains information copied and pasted from a different case and will be corrected prior to any final action.

There being no objection, Commission Member Tait recused himself from this case stating he had worked with the applicant to prepare visuals for the property and went and joined the audience.

Mr. Bryan Pleasants stated he had general concept plans to present. Ms. Meade explained that this rezoning request was a general use rezoning and conceptual plans could not be considered.

Mr. Pleasants stated that he had met with the neighborhood to apprise them of his plans. Mr. Pleasants noted that he found this property when he worked for New River Surveyors. He stated that he now owned his own electrical contracting company and lived in Raleigh. Mr. Pleasants said his intent was to maintain ownership of the houses to be built on the property and rent them.

Council Member Roseman questioned the maximum number of houses that could be placed on the property if it were zoned R1S. Ms. Meade suggested there could be up to five houses. Mr. James stated that was correct.

Council Member Tugman asked if it was correct that an R1S zoning district required 35 feet of road frontage. Ms. Shook stated that was correct. However, if an architecturally integrated subdivision was created, the required 35-feet of road frontage might not be necessary because an architecturally integrated subdivision would allow more flexibility in the layout.

Council Member Carter stated he rented in this neighborhood and felt the subject property was well suited for R1S zoning because it would increase the housing stock and density.

Vice Chair Plaag noted that the existing house on the property would be non-conforming under an R1S zoning. He asked if there were any other non-conformities. Mr. James replied that there were none known.

At 9:22 p.m., Mayor Futrelle invited public comment. Ms. Shook noted that several public comments had been submitted via email. Mayor Futrelle stated that those comments would be added to the meeting minutes.

Don and Phyllis Thrasher stated they had lived in this neighborhood for 45 years and were concerned about the proposed rezoning changing the character of the existing family-oriented nature of the neighborhood. Ms. Thrasher expressed concerns with the potential for five additional driveways; increased water run-off, noise, traffic, decreased property values, and safety. Ms. Thrasher stated she would not be opposed to one or two more houses, but not five.

Jasmine Shoshanna stated she lived next to the creek and there was flooding in the area. She stated that more impervious surface would create more flooding. Ms. Shoshana noted that there would never be enough housing and emphasized a need for ASU to cut back on enrollment because she thought that was part of the problem.

Dave Dancy stated he was concerned with increased traffic and flooding. He noted that 100 cars went by his house between 2:30 and 5:00 p.m. Mr. Dancy added that the other R1S property on Delmar Street had a gravel driveway that had gravel washing out into the street when it rained.

Ingrid Hayes and John Doherty of Spruce Street stated they had lived there for one year. Mr. Doherty expressed concern with flooding and pollution and asked that the rezoning be denied. Ms. Hayes stated that if the property was rezoned it could create a domino effect, causing others to want to increase density on their property. Ms. Hayes asked for Council to preserve the existing neighborhood.

Katherine Logan of Daniel Boone Drive Extension stated she lived on the upper side of the creek. She stated that more houses would create a major change in the aesthetics of the neighborhood and increase flooding. Ms. Logan noted that traffic had already increased in the neighborhood due to the high school and the brewery. She asked if it was always about the money and did the Town not care about the neighborhoods and asked for the request to be denied.

Mr. Jim Lodin, who was signed up to speak was not present. An audience member said he was no longer present and that he was against the rezoning.

Matt Cain stated he had lived in the neighborhood for 13 years. He noted that it was difficult to find family housing. Mr. Cain stated that one-bedroom, one-bathroom houses were basically the same thing as an apartment. He cited increased traffic and flooding as concerns and felt that the rezoning would change the neighborhood and decrease the value of the existing homes.

Betsy Cain of 307 Delmar Street stated that rezoning the property would create six rental houses in a family-oriented neighborhood. She asked that the property remain zoned R1.

Stewart Bundy of Spruce Street stated he was not in favor of the rezoning.

Kyndy Boyle stated she had lived on Daniel Boone Drive Extension for 11 years and she was not in favor of the rezoning. She agreed that ASU should limit enrollment. Ms. Boyle expressed concern about increased traffic and flooding. She also stated that she was not notified of this rezoning request, except by her neighbors.

Mr. Rob Howard, a board member of the Watauga County Community Housing Trust stated he thought that small, cottage homes were exactly the type of development needed in Boone and it needed to happen in more places in Town. He noted that the R1S designation was highly underutilized within the Town. He noted that while he understood that people didn't want to see it in their backyards, the housing is needed throughout town.

Ms. Lori Resendiz stated she grew up at 264 Delmar Street and her parents still lived there. She noted that it was a safe, family neighborhood and she did not want that environment to change. Ms. Resendiz stated she was also concerned about flooding.

Mr. Alan Crees, indicated he was an engineer working with the applicant. He explained that the property could be redeveloped with three larger-sized homes that would create the same water run-off. He noted that the difference between the existing zoning and the proposed zoning was two houses. He stated that stormwater run-off is required to be released post-development at the same rate of run-off as pre-development. Mr. Crees added that an R1S zoning allowed less uses than an R1 zoning. He noted that a recent housing study indicated that there would be a housing gap in the next five years. Mr. Crees stated he felt this was an appropriate location for smaller homes.

Mr. David Brumfield stated he had lived at 321 Delmar Street for eight years and noted the rezoning would fundamentally change the neighborhood. He noted that Delmar Street was short and narrow and he asserted that the tiny homes would create more traffic with a possible addition of ten cars and be filled with college students. Mr. Brumfield urged the applicant to seek a middle ground, possibly through a Conditional District rezoning.

Ms. Shoshanna added that Mr. George Santucci, the Sustainability and Special Projects Manager for the Town of Boone, had applied for a grant to reroute the creek in that neighborhood, but it was denied.

Mayor Futrelle closed the public comment for this case.

Mayor Pro Tem Tugman asked if the subject property was located within a floodplain. Mr. James replied that it was not in a floodplain. Mr. Wise added that any stormwater run-off from the site would be required to be the same post-development as it was pre-development.

Mr. Pleasants stated that he did not want to increase any flooding issues in the area.

Mayor Pro Tem Tugman asked if the existing house on the property would have to meet the standards of the R1S zoning. Mr. James explained that the R1S standards would have to be met, however, the size of the house would be non-conforming as it currently exceeds the maximum size allowed within a R1S.

Vice Chair Plaag asked if it was correct that vacation rentals were not allowed in an R1S zoning district. Mr. James stated that was correct.

Council Member George asked Mr. Pleasants why he was pursuing an R1S zoning instead of developing under the existing R1 zoning. Mr. Pleasants replied that he had read about R1S zoning and felt it could work for this neighborhood. He added that he wanted to leave the property to his children.

Discussion ensued as to whether placing the housing on stilts would assist with flooding in the area. Mr. Wise noted that the property was not in the special flood hazard area and would not be required to be elevated and that the stilts would not change the amount of impervious surface.

Vice Chair Plaag suggested that the neighborhood consider and speak with staff about the possibility of becoming a Neighborhood Conservation District.

With nothing further, Mayor Futrelle closed the public hearing for this case at 10:33 p.m.

Commission Member Tait rejoined the meeting.

Ms. Shook stated that there was one more case to be heard at the Public Hearing and Planning Commission would still need to make recommendations on the cases. Due to the time, Ms. Shook asked Planning Commission members if they would like to schedule a special meeting sometime this week in order to forward their recommendations for the December 4 Town Council meeting. After some discussion of member availability, it was decided that the Planning Commission would hold a special meeting on Thursday, November 30, 2023, at 7:00 p.m. via WebEx to make recommendations on the cases heard at tonight's Public Hearing.

Case A23-0428 William and George Greene – General Use Zoning Map Amendment

William Greene and George Greene III have submitted a General Use Zoning Map Amendment application to rezone a parcel of property located between US 421 South and Wood Circle (Watauga County PIN: 2910-38-5215-000) from B3 General Business to R2 Two-Family Residential.

Mr. James presented the case as it was outlined in the meeting packet.

Mr. Alan Crees with Municipal Engineering spoke on behalf of Mark and Will Boyce. He noted that the Boyce's were under contract to purchase this property from the Greene's. Mr. Crees stated that the subject property was a remnant piece from the Hwy 421 widening project years ago. He explained that there were single-family, multi-family, and duplex uses near the property. Mr. Crees stated that the size and shape of the property did not lend itself to any commercial or multi-family use so it had sat vacant for years. He noted that Mr. Boyce would like to put a duplex on the property so they were requesting a downzoning from B3 to R2 in order to best utilize the lot. Mr. Crees stated that the property would be accessed from Hwy 421 and there was already a curb cut placed there by NCDOT.

Council Member Carter commended the applicants for their creative thinking and for coming up with a way to create some more housing stock in Town.

Council Member George agreed that this was a good use of the property that was not high density.

Commission Member Veno noted that cars accessing the property could create a safety issue on Hwy 421. Council Member Nenow stated that the access was at the three-lane so it might not be too bad.

Discussion ensued as to the Corridor District overlay requirements. Mr. James explained that if a single-family home was built on the property the access could be on Hwy 421 by right. However, if anything else, including a duplex, was built on the property the applicant would have to prove that they could not access the lot from Wood Circle.

Mayor Futrelle invited public comment for this case.

Mr. Dan Norman of Martin Real Estate stated, regarding the driveway access, that it was much harder to get in and out of Sak's Grill than it would be at this property.

Mayor Futrelle closed the public comment for this case.

With nothing further, Mayor Futrelle closed the public hearing for this case at 11:04 p.m.

Adjournment of Town Council

Council Member George made a motion to adjourn the Town Council at 11:05 p.m. The motion was seconded by Mayor Pro Tem Tugman.

Vote: Aye – 5
Nay – None

The motion passed.

Adjournment of Planning Commission

Vice Chair Plaag announced that there would be a special Planning Commission meeting on Thursday, November 30, 2023, at 7:00 p.m. via WebEx. Vice Chair Plaag adjourned the Planning Commission at 11:06 p.m.

Tim Futrelle, Mayor

Brenda Henson, Board Secretary

Eric Plaag, Planning Commission Vice Chair

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
A23-0646
Case Name:
CAC Dissolution

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 680 W. King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): 2, 25

Section(s): 2.02, 25.07

Brief Description of Amendment (Attach Proposed Text):

Modify language in the UDO to dissolve the Community Appearance Commission (CAC).

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook

Applicant (Print)

/s/ Jane Shook

Applicant Signature

12/22/2023

Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting
Date: 01/22/2024

PC Meeting Date: _____

TC Meeting Date: _____

Text Approved: ☐ Yes ☐ No

Notes: _____

S:\FORMS\Current Forms\Planning\UDOTextAmendment_PlanningApplication_09252017.doc

Communication: Case A23-0646 CAC Dissolution - Application (Case A23-0646 CAC Dissolution-UDO Text Amendment)



Staff Report
January 22, 2024

Case A23-0646 Community Appearance Commission Dissolution -UDO Text Amendment

Request

Modify language in the UDO to dissolve the Community Appearance Commission (CAC). Note: All future appearance related items are already authorized to be discussed by the Planning Commission. See below for more details.

Though North Carolina General Statute 160D-304 authorizes the creation of an “appearance commission” with specific duties set forth in G.S § 160-960, a local government is not mandated to create or maintain such a commission. See below for brief explanation as to the reasons for the dissolution of the commission.

Responsibilities

For many years the Town of Boone maintained a CAC with the duties of the commission evolving as statutory guidance became more available. When first created, the CAC was allowed to participate in the development review process, but after closer examination of statutory authority it was determined that this was not authorized by the general statutes. Thus the UDO was subsequently amended to remove those responsibilities from the CAC. After that, the Commission then functioned primarily to formulate and recommend to the planning and governing board the adoption or amendment of ordinances, including zoning regulations, subdivision regulations, and other local development regulations, that in the opinion of the CAC, served to enhance the appearance of the Town.

CAC Membership

Statutes require that the CAC shall consist of not less than seven members who shall reside in the Town of Boone and where possible, appointments shall be made in such a manner as to maintain on the commission at all times a majority of members who have had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a related field.

Over the last several years, the Town has struggled not only to maintain a full seven-member commission but also struggled to maintain a commission where even a quarter of the membership had special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a related field.

At this point, the Town also maintains the following planning & development related boards authorized by North Carolina General Statutes: Board of Adjustment (BOA) and Planning Commission (PC). For purposes of this report, please continue to read on the powers and duties of the PC.

Planning Commission

The Planning Commission is authorized in G.S. 160D-301 to:

- (1) To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
- (2) To facilitate and coordinate citizen engagement and participation in the planning process.

- (3) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- (4) To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
- (5) To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.
- (6) To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- (7) To perform any other related duties that the governing board may direct.

Additionally, the Planning Commission's duties are further expanded in G.S. 160D-604 requiring the PC to review and comment upon any proposed zoning regulation, including the full text of the regulation and maps showing proposed district boundaries. The PC may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the governing board.

Additionally, any development regulation that is adopted other than a zoning regulation or any other action that is proposed to be taken pursuant to 160D may be referred to the PC for review and comment.

Final Conclusion

The final recommendation is to dissolve the CAC, as the Commission was essentially functioning in the same manner as the Planning Commission. All future discussion on appearance related items are already authorized to be discussed by the Planning Commission, a board that has long maintained a full and active membership.

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.

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

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.

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

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.

...

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.

...

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.
- 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.
- D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.
- E. The Town shall encourage public, private, and utility company efforts to place utility wires underground whenever feasible.

...

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.

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 A23-0646 within Exhibit A and ☐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.

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:

Note 1

Vote 2: The Town Council ☐ **approves** OR ☐ **denies** Ordinance # A23-0646 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

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.

ORDINANCE # A23-0646

**AN ORDINANCE TO REVISE UNIFIED DEVELOPMENT ORDINANCE RELATING TO THE DISSOLUTION OF
THE COMMUNITY APPEARANCE COMMISSION**

WHEREAS, the Boone Town Council desires to eliminate the role of the Community Appearance Commission; and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on January 22, 2024 with respect to this ordinance; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; 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. The Town of Boone Unified 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 14th day of February, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

Communication: Case A23-0646 CAC Dissolution - Staff Report (Case A23-0646 CAC Dissolution-UDO Text Amendment)

Exhibit A**2.02 Planning Commission**

2.02.01 The Planning Commission is an advisory board that makes recommendations to Council on future growth and development issues that affect the Town and advises Town Council concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604. In addition to or as part of its regular meeting schedule, the Planning Commission shall attend public hearings on proposed zoning text and map amendments scheduled by the Town Council.

2.02.02 Membership. The Planning Commission shall consist of seven (7) members.

2.02.03 Planning Commission Chair and Vice-Chair

A. In or about July of each year, the Commission shall accept and review applications from the current membership for Chair and Vice-Chair positions and forward a recommendation on these positions to Council. Upon receipt of the Commission's recommendations, Council shall review the submitted applications and the Planning Commission recommendations before designating the Chair and the Vice-Chair. The members so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only. The Chair and Vice-Chair may take part in all deliberations and vote on all issues.

1. The Commission shall designate the Chair and Vice-Chair of any subcommittee.

B. If neither the Chair nor the Vice-Chair are present, the presiding officer shall be elected by majority vote.

C. The Chair and Vice-Chair may take part in all deliberations and vote on all issues.

2.02.04 Powers and Duties of the Planning Commission

A. The Planning Commission may:

1. Prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
2. Facilitate and coordinate citizen engagement and participation in the planning process.
3. Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

4. Advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604. The Planning Commission shall not, however, have the power to “initiate” changes to this Ordinance, as the term “initiate” is used in, Section 9.02; and
5. Exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.
6. Review and either approve or deny proposed minor subdivision requests when a portion of the land to be subdivided lies within a Designated Water Supply Watershed District, based upon application of Articles 5 and 29 of this Ordinance; and
7. Perform any other related duties that the Council may direct.

2.02.05 Advisory Committees

- A. From time to time the Council may appoint one or more individuals to help the Planning Commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Council may appoint advisory committees to consider the thoroughfare plan, bikeway plans, community appearance plans, housing plans, economic development plans, etc. Such advisory committees shall be created and operate, unless otherwise designated by the Council, according to the procedures established under Municipal Code §§ 30.51, and 35.01, et seq.
- B. Members of such advisory committees shall sit as nonvoting members of the Planning Commission when such issues are being considered, and they shall be invited to lend their talents, energies, and expertise to the Planning Commission. However, all formal recommendations of the Planning Commission to the Council shall be made by the Planning Commission itself.
- C. Nothing in this Section shall prevent the Council from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Council.

2.03 ~~Community Appearance Commission~~ Reserved

~~2.03.01 The Community Appearance Commission is an advisory board that makes recommendations to Council on visual appearance, community beautification, and landscape development that affect the Town.~~

~~2.03.02 **Membership.** There shall be a Community Appearance Commission consisting of seven (7) members. To the extent qualified persons can be found, the majority of members shall have special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely related field.~~

~~2.03.03 **Community Appearance Commission Chair and Vice Chair**~~

~~A. Unless the Town Council designates the Chair and Vice Chair of the Community Appearance Commission, the Commission shall choose its own Chair and Vice Chair. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only.~~

~~1. The Community Appearance Commission shall designate the Chair and Vice Chair of any subcommittees.~~

~~B. The Chair and Vice Chair may take part in all deliberations and vote on all issues.~~

~~C. If neither the Chair nor the Vice Chair are present, the presiding officer shall be elected by majority vote.~~

~~2.03.04 Powers and Duties of the Community Appearance Commission~~

~~A. The Community Appearance Commission may:~~

~~1. Initiate, promote, and assist in the implementation of programs of general community beautification in the Town.~~

~~2. Coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities, and programs bear upon the appearance of the Town.~~

~~3. Provide leadership and guidance in matters of area or community design and appearance to individuals, to public and private organizations.~~

~~4. Make studies of the visual characteristics and problems of the Town, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken.~~

~~5. Prepare both general and specific plans for the improved appearance of the Town. These plans may include the entire area or any part thereof and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the Town or any part thereof within its area of planning and development regulation jurisdiction, including public ways and areas, open spaces, and public and private buildings and projects.~~

~~6. Participate, in any way deemed appropriate by the Town Council and specified in the ordinance establishing the commission, in the implementation of its plans. To this end, the Town may include in the ordinance the following powers:~~

~~a. To request from the proper officials of any public agency or body, including agencies of the State and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the Town's planning and development regulation jurisdiction.~~

- ~~b. To review these plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or to the planning or governing board. All plans shall be reviewed by the commission in a prompt and expeditious manner, and all recommendations of the commission with regard to any public project shall be made in writing. Copies of the recommendations shall be transmitted promptly to the planning or governing board and to the appropriate agency.~~
- ~~c. To formulate and recommend to the appropriate planning or governing board the adoption or amendment of ordinances, including zoning regulations, subdivision regulations, and other local development regulations, that will, in the opinion of the commission, serve to enhance the appearance of the city or county and surrounding areas.~~
- ~~d. To direct the attention of Town officials to needed enforcement of any ordinance that may in any way affect the appearance of the city or county.~~
- ~~e. To seek voluntary adherence to the standards and policies of its plans.~~
- ~~f. To enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations or surveys.~~
- ~~g. To promote public interest in and an understanding of its recommendations, studies, and plans, and, to that end, prepare, publish, and distribute to the public such studies and reports that will, in the opinion of the commission, advance the cause of improved appearance.~~
- ~~h. To conduct public meetings and hearings, giving reasonable notice to the public thereof. Perform any other duty assigned by the Council that is authorized pursuant to N.C. Gen. Stat. § 160D-960.~~

~~2.03.05 The commission shall, no later than April 15 of each year, submit to the governing board a written report of its activities.~~

...

Article 25 Community Appearance Standards

...

25.07 Alternatives

25.07.01 Alternatives to the appearance standards provided herein may be permitted upon written review and approval of the Administrator.

25.07.02 The Administrator may approve an alternative not to exceed +/- 25% of the relevant standard or requirement if they find that the alternative meets the purpose and intent of the provisions contained within this Article. When the Administrator approves an alternative, they specifically identify how the alternative meets the purposes and intent of this Article. ~~The Administrator may, but is not required, to seek the recommendation of the Community~~

~~Appearance Commission with respect to any proposed alternative.~~ An applicant may not seek a variance with respect to any deviation allowed by the Administrator under this section.

(Ord. 20160438, 03-16-2017; Ord. PL04727-050721, 07-01-2021)

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
A24-0010
Case Name:
Vacation Rental Clarification

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 680 W. King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): 15
Section(s): 15.14

Brief Description of Amendment (Attach Proposed Text):

Modify language in UDO Article 15 Limited Use Requirements to clarify inartful language relating to when a single-family or two-family dwelling in certain zoning districts can be used as a Use 3.06 Vacation Rental.

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

1/4/2024
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting
Date: 01/22/2024
PC Meeting Date: _____
TC Meeting Date: _____
Text Approved: ☐ Yes ☐ No
Notes: _____

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Communication: Case A24-0010 Vacation Rental Clarification-Application (Case A24-0010 Vacation Rental Clarification-UDO Text Amendment)



Staff Report
January 22, 2024

Case A24-0010 Vacation Rental Regulation Clarification -UDO Text Amendment

Request

Modify language in UDO Article 15 Limited Use Requirements to clarify inartful language relating to when a single-family or two-family dwelling in certain zoning districts can be used as a Use 3.06 Vacation Rental.

The existing language at 15.14.05 was recently interpreted by one Board of Adjustment member as prohibiting multifamily buildings in R-3, B-1, B-2 and B-3 zoning districts from having any short-term rentals. The actual intent behind 15.14.05 was to allow single and two-family dwellings in those zoning districts to be used for short-term rentals only if the dwelling existed as of January 1, 2014. (In other words, short term rentals are not allowed in recently- or newly-built single and two-family dwellings in those zoning districts, the point being to prohibit construction of such dwellings in those zoning districts for purposes of short term rental.) Staff and the Town Attorney propose to a revision of the existing provision so as to eliminate the claimed ambiguity.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan

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.

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

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.

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

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.

...

- 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.

...

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.

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.

2.3.3 Housing and Neighborhoods

- A.** The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
 - A.1** As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.
 - A.2** Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.
 - A.3** Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.
 - A.4** Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.
 - A.5** Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.
 - A.6** Implement a residential zoning enforcement policy based on the task force analysis above.
- B.** Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
- C.** Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- D.** Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- E.** Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F.** The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- G.** Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H.** The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

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 A24-0010 within Exhibit A and ☐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.

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:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance #A24-0010 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

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.

ORDINANCE # A24-0010

AN ORDINANCE TO REVISE UNIFIED DEVELOPMENT ORDINANCE RELATING TO VACATION RENTALS

WHEREAS, the Boone Town Council has in several meetings over the prior years discussed the desirability of establishing new and clarified regulations for short-term rental uses within the town, and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on January 22, 2024 with respect to this ordinance; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; 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. The Town of Boone Unified 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 14th day of February, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

Exhibit A

Appendix B Excerpt

Use #	Specific Use	Zoning Districts																								Reference
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial								Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
3.0 Transient Living																										
3.01	Home for Survivors of Domestic Violence	L	L	L			L	L				L		L ^{T125}	L											15.11
3.02	Shelter for Homeless, Category 1									L ^{T50}		L ^{T50}		L ^{T50}		L ^{T50}										15.12
3.03	Shelter for Homeless, Category 2									L ^{T300}		L ^{T300}				L ^{T300}										15.12
3.04	Bed and Breakfast, Category 1	L	S ^{T50}	S ^{T50}			L ^{T50}	L ^{T50}						L	L											15.13
3.05	Bed and Breakfast, Category 2						L	L ^{T125}								L ^{T125}										15.13
3.06	Vacation Rental	L ^{T75}								L ^{T75}			L ^{T75}	L ^{T75}	L ^{T75}	L ^{T75}										15.14
3.07	Homestay Rental	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L								15.05

Article 15 Limited Use Requirements

...

15.14 Vacation Rental

A vacation rental is defined as a single-family detached dwelling, a two-family detached dwelling or a multi-family dwelling unit with up to six guest rooms that is used, offered, and/or advertised (through an online platform or any other media) for transient overnight accommodations for any period of less than one month. A vacation rental is considered a "Lodging" use under this UDO. Vacation rentals do not include homestay rentals (as defined herein). A vacation rental includes any residential dwelling or dwelling unit, or portion thereof, provided to renters for any period of less than one month that does not qualify as a homestay rental under this ordinance; provided, that any use that comes within the purview of another use under this ordinance (e.g., motel, hotel, boarding house, etc.) shall be governed by the terms of that use and not as a vacation rental.

Notwithstanding the foregoing, the full-time resident of a dwelling unit (as defined at section 15.05.02 above) may rent out his or her dwelling unit for up to two weeks in any calendar year and such rental shall not be deemed a vacation rental under this section 15.14 but rather shall be considered an incidental use of the dwelling that does not require approval or permitting under this Article.

- 15.14.01** Every vacation rental operator must first apply for and procure a zoning permit from the Town. Zoning permits must be renewed annually. The zoning permit number authorizing the short-term rental shall be conspicuously posted on (i) all advertisements for short-term rentals, and (ii) on the subject property in a location easily viewable from the exterior of the structure provided, that if the permit number cannot be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit.
- 15.14.02** A vacation rental is required to provide at least one (1) parking space per bedroom, which may not be located on any street right of way and must conform to all applicable parking regulations of this ordinance. In the RA Residential Agriculture zoning district, parking should be to the side or rear of the vacation rental dwelling.
- 15.14.03** A vacation rental operator shall ensure that the primary responsible renter of a vacation rental is at least twenty-one (21) years old.
- 15.14.04** Without limiting the applicability of other Ordinance requirements, a vacation rental is subject to Article 31 Landscape Standards.
- 15.14.05** In the R3 Multiple-Family, B1 Central Business, B2 Neighborhood Business, and B3 General Business zoning districts, ~~only a~~ single-family detached dwellings and two-family detached dwellings ~~existing as of January 1, 2014~~ may be converted to vacation rental only if the dwelling existed as of January 1, 2014.

- 15.14.06** Cooking facilities are not permitted in any bedroom. For the purpose of this regulation, cooking facilities include any refrigerator in excess of seven cubic feet; any stovetop range that operates on 220-volt electric service; any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance, which contains more than two cooking surfaces or burners. This shall not prohibit cooking facilities within a one-room studio vacation rental. For the purpose of this regulation, a studio shall be a single-room rental with a sleeping area, living area and kitchen/eating area in one consolidated room.
- 15.14.07** No signs advertising the property as a rental are allowed.
- 15.14.08** In residential zoning districts, renters of vacation rentals shall not utilize the premises for holding special events or large gatherings. The rental operator shall inform renters of this regulation and of the applicability of the town's noise ordinance (Chapter 82 of the Code of Ordinances), which regulates nuisance noises and makes it unlawful to create, cause, or allow the continuance of any unreasonably loud noise, particularly during nighttime, which interferes with neighboring residents' reasonable enjoyment of their properties.
- 15.14.09** The premises shall not be used for a home occupation that allows employees, customers, clients or patrons to visit.
- 15.14.10** For any building that contains multiple dwelling units, no more than 5% of the dwelling units or two dwelling units, whichever is greater, may be operated as a vacation rental in any single building. Permits shall be issued on a first-come, first-served basis based on the initial application date, and thereafter may be renewed. If a permit lapses before renewal, a renewal application shall be treated like an initial application for purposes of this paragraph.
- 15.14.11** Vacation rental operators shall comply with all applicable State and local laws, including those relating to fire and building codes, smoke detecting and carbon monoxide detecting equipment, and housing codes.
- 15.14.12** Vacation rental operators are responsible for and must ensure that any and all occupancy taxes and other applicable taxes due under law as a result of their rental activities are remitted to the proper tax authorities, whether through their online platform service or by personally remitting the required taxes. The town shall require evidence of payment of such taxes as part of the application and permitting process, and may also conduct audits of vacation rental permittees, as it sees fit in its sole discretion, in order to ensure payment of all such applicable taxes.
- 15.14.13** The rental operator or the operator's employee, management company, or other agent must be available to respond to complaints by renters or neighbors and to emergencies within two (2) hours at all times that a rental is occupied. A method will be provided for concerned citizens to make complaints or report emergency situations.

- 15.14.14** If the primary structure on a property qualifies for vacation rental use, a lawful accessory dwelling structure on the same property also may be used for vacation rental. The operators of such a vacation rental may, at any given time, offer for short-term rental either the single-family dwelling unit or the accessory apartment, or both units. The simultaneous rental of both the single-family dwelling unit and the accessory apartment to more than one party under separate contracts is prohibited. The units may, however, be rented out together to one party under a single contract.
- 15.14.15** Vacation rental operators must carry insurance that covers the rental use and renters.
- 15.14.16** Vacation rental permits are not transferrable. Every person wishing to operate a vacation rental must apply for and obtain the required permit prior to beginning operation of the rental.
- 15.14.17** **Revocation of Permit.** The Administrator shall revoke a vacation rental permit following a written determination that an operator of the facility has been:
- A.** Convicted of violating any of the following criminal laws on the short-term rental premises within the prior three-year period: Article 10 (*kidnapping*), Article 10A (*human trafficking*), or Article 27 (*prostitution*) of Chapter 14 of the North Carolina General Statutes;
 - B.** Convicted of committing a violent felony as defined at N.C. Gen. Stat. §14-7.7 on the short-term rental premises within the prior three-year period.
 - C.** Convicted of violating any of the following criminal laws on the rental premises within the prior 365-day period:
 - 1. Article 3 of Chapter 18B of the North Carolina General Statutes (*sale, possession and consumption of alcohol*)
 - 2. N.C. Gen. Stat. §14-71.1 (possession of stolen goods)
 - 3. N.C. Gen. Stat. §14-292 (unlawful gambling)
 - A.** Received within a 365-day period two or more “Verified Violations” of any combination of the following, occurring on the short-term rental premises:
 - 1. Any Town Code zoning regulation.
 - 2. Any noise regulation set forth at Town Code Chapter 82.
 - 3. Any nuisance prohibited by Town Code Chapter 80.
- A Verified Violation means a determination made by a code enforcement official, law enforcement officer, or judge, following notice of violation being issued by the Town Code and opportunity to respond to the noticed alleged offenses and an order or other mandate issued to the owner or any other person imposing a sanction or requiring further actions to comply with the Town Code, including, without any limitation, the

payment of civil penalties or administrative fees, or implementation of corrective measures, or cessation of activities, or conviction of a criminal offense. A verified violation that is appealed continues as a verified violation unless it is overturned on appeal. If the violation is reinstated on a further appeal, it resumes its status as a verified violation.

- B. Once lawfully revoked, a new permit for a short-term rental cannot be issued or re-instated for the premise for a period of 365 days, except that in case of revocation under (A) or (B) above a new permit cannot be issued or re-instated for the premise for three years unless the person convicted of the criminal violation is no longer a resident, manager or operator of the short-term rental.

15.14.17 Compliance period; existing nonconformities

- A. The owner of any un-permitted vacation rental in operation as of June 30, 2022 must apply for a permit as required in this section 15.14 on or before December 31, 2022 and must come into compliance with this section by June 30, 2023.
- B. Any existing, un-permitted vacation rental not conforming under this section 15.14 must be brought into compliance with this ordinance or cease operation by June 30, 2023.
- C. Any person seeking to begin operation of a vacation rental after June 30, 2022 must first apply for and obtain a vacation rental permit as required under this section 15.14.

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
A24-0011
Case Name:
Town Utility Facility Modification

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 680 W. King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): 14, 34
Section(s): 14.02.03, 34.01

Brief Description of Amendment (Attach Proposed Text):

Modify language in UDO Article 14 Zoning District clarifications to provide clarification on the permitting requirements for Use 5.13 Town Utility Facilities.

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

1/4/2024
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting
Date: 01/22/2024
PC Meeting Date: _____
TC Meeting Date: _____
Text Approved: ☐ Yes ☐ No
Notes: _____

S:\FORMS\Current Forms\Planning\UDOTextAmendment_PlanningApplication_09252017.doc

Communication: Case A24-0011 Town Utility Facility Modification-Application (Case A24-0011 Town Utility Facility Modification-UDO Text



Staff Report
January 22, 2024

Case A24-0011 Town Utility Facility Modification -UDO Text Amendment

Request

Modify language in UDO Article 14 Zoning District clarifications to provide clarification on the permitting requirements for Use 5.13 Town Utility Facilities.

This modification would allow that town utility facility related improvements, to be exempt except in specific circumstances from zoning requirements due to the overall public benefit of these improvements. These improvements may include but are not limited to: communication towers, equipment/material storage areas/buildings, pump stations, salt barns, or other similar facilities that are not typically open to the public.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan

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.

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

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.

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

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.

...

- 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.

...

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 A24-0010 within Exhibit A and ☐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.

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:

Note 1

Vote 2: The Town Council ☐ **approves** OR ☐ **denies** Ordinance #A24-0010 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

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.

ORDINANCE # A24-0010

AN ORDINANCE TO REVISE UNIFIED DEVELOPMENT ORDINANCE RELATING TOWN UTILITY FACILITIES

WHEREAS, the Boone Town Council desires to modify the requirements for town utility facilities, and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on January 22, 2024 with respect to this ordinance; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; 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. The Town of Boone Unified 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 14th day of February, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

Exhibit A**Article 14 Districts and Uses**

...

14.02.03 Uses Not Requiring Development Approvals

A. Notwithstanding any other provisions of this ordinance, no zoning-related permit is required for the following uses:

1. Public streets, sidewalks, or greenways.
2. Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way with the permission of the public owner.
3. Town utility facilities located within the Town's right-of-way or on Town property ~~with the permission of the Town~~; *provided*, that if the proposed Town utility facility would materially exceed or contravene any otherwise--applicable development standard relating to setback or, height, ~~size, intensity of use~~, or standards related to a Historic Districts or a Historic Landmarks, or would require issuance of a Certificate of Appropriateness in the absence of this provision, then in any such case (i) the Administrator shall notify the Town Council and Town Council may direct that a hearing be held to solicit public comment with respect to the proposed facility ~~utility facility~~; and (ii) if the parcel at issue is in or adjoins a historic district or historic landmark, the Administrator shall present the proposal to the Historic Preservation Commission so that the HPC may provide such advice or recommendations to the Town Council as the HPC sees fit. For clarification, Town utility facilities remain subject to the requirements of 15.16.
4. Electric vehicle charging stations installed on Town property or the public right-of-way.

...

15.16 Utility Facility

15.16.01 Utility facilities in or adjoining residential zoning districts must maintain district setback, be fenced (unless totally enclosed within a structure), and either be screened from view or designed to have a residential appearance.

15.16.02 Equipment producing noise or sound may not exceed 60 decibels at any adjoining property line.

Use #	Specific Use	Zoning Districts																						Reference
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1D C	B1DI	B2	B3	W D	M1	U1	E1	E2	E3	E4	
5.0 Government Uses																								
5.01	Government Cultural Facility											P	P	P		P								
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	S	S	S	S		S	S				P	P	P	P	P								
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity											P	P	P		P								
5.04	Recreation Facility, Category 1	P								P		P	P	P	P	P		P						
5.05	Recreation Facility, Category 2	P	P	P	P		P	P				P	P	P	P	P		P						
5.06	Recreation Facility, Category 3	P ^{T50}	S	S	S		S	S		P		P ^{T50}	P ^{T50}	P ^{T50}	P ^{T50}	P ^{T50}		P ^{T50}						
5.07	Event Venue, Category 1								P	P		P	P	P	P	P								
5.08	Event Venue, Category 2								S	S		P	P	P	P	P								
5.09	Event Venue, Category 3											P ^{T50}	P ^{T50}	P ^{T50}	P ^{T50}	P ^{T50}								
5.10	Landfill																	S						
5.11	Solid Waste Processing																	S						
5.12	Police Substation	P	P	P	P		P	P				P	P	P	P	P		P						
5.13	Utility Facility, Town	L	L	L	L	L	L	L				L	L	L	L	L		L						15.16
5.14	Utility Facility, Government, Neighborhood	L	L	L	L	L	L	L	P	P		L	L	L	L	L		L						15.16
5.15	Utility Facility, Government, Regional	L ^{T300}							L	L		L ^{T300}				L ^{T300}		L ^{T300}						15.16
5.16	Government Facility	P							L	L		P	P	P	P	P		P						

Article 34 Definitions

...

Event Venue, Category 1

A facility for meetings and gatherings, such as reunions, weddings, conventions, anniversaries, and other similar ceremonies take place within fully enclosed buildings.

Event Venue, Category 2

A facility providing outdoor space for meetings and gatherings, such as reunions, weddings, conventions, anniversaries, and other similar ceremonies which take place between 6 a.m. and 10 p.m.

Event Venue, Category 3

A facility providing outdoor space for meetings and gatherings, such as reunions, weddings, conventions, anniversaries, and other similar ceremonies, in which any portion takes place between 10 p.m. and 6 a.m.

...

Government Cultural Facility

A building owned or operated by a government entity in which objects of interest or performances in the fine arts, humanities, or sciences are displayed, preserved or presented for exhibition or education of the general public.

Government Neighborhood Cultural Facility

A government cultural facility which does not exceed 5,000 square feet.

...

Government Facility

A building, structure, or use of land, excluding the other uses specifically listed in Government Uses 5.0, operated by a governmental entity that is used to provide government services such as administration of a political subdivision of the State, or centralized operations of cultural resources, fire protection, law enforcement, planning and zoning, public utilities or public works.

...

Landfill

A government facility for the disposal of solid waste in or on land authorized by N.C. Gen. Stat. Chapter 130A Article 9 of the North Carolina General Statutes.

...

Recreation Facility, Category 1

A facility in which regularly scheduled recreation activities take place within completely enclosed buildings.

Recreation Facility, Category 2

A facility providing outdoor space in which regularly scheduled recreation activities take place, and which does not utilize outdoor event lighting.

Recreation Facility, Category 3

A facility providing outdoor space in which regularly scheduled recreation activities take place, and which utilizes outdoor event lighting.

...

Solid Waste Processing

A solid waste management facility permitted by the North Carolina Department of Environment and Natural Resources that receives municipal solid waste for processing or treatment.

...

Utility Facility

Any above-ground structures or facilities other than buildings, unless such buildings are incidental to the operation of such structures or facilities operated by a public utility as authorized by North Carolina law and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas oil, or electronic signals (other than use category 7.0 Telecommunication Uses). Excepted from this definition are utility lines and supporting structures such as electric power, telephone, telegraph, cable television, gas, water and sewer lines, and wires or pipes located within public right-of-way authorized by the appropriate government entity pursuant to Section 14.02.03(A)(2).

Utility Facility, Government

A utility facility owned or operated by a government entity other than the Town.

Utility Facility, Neighborhood

Utility facilities that are designed to serve the immediately surrounding neighborhood and for reasons associated with the purpose of the utility in question must be located in or near the neighborhood where such facilities are proposed to be located.

Utility Facility, Regional

All utility facilities other than neighborhood facilities.

Utility Facility, Town

Any ~~above-ground structure, or~~ use of land ~~owned or operated~~ by the Town ~~and used~~ in connection with the town's public enterprise and/or public works operations, including water supply, sewer, stormwater, and street/sidewalk maintenance. ~~the production, generation, transmission, delivery, collection, or storage of water, sewage, stormwater or electronic signals.~~ This includes but is not limited to: communication towers, equipment/material storage areas/buildings, pump stations, salt barns, or other similar facilities that are not typically open to the public. Any uses that comes within the purview of another use in 5.0 Government Use (i.e. government facility, police substation, government facility, etc.) shall be governed by the terms of that use and not as a town utility facility.

...



Staff Report
January 22, 2024
Case A24-0017 Window Sign Modification -UDO Text Amendment

Request

Modify language in UDO Article 26 Signs to revise and clarify regulations related to window signs.

In May 2023, Town Council approved an amendment to UDO Article 26 Signs and Article 34 Definitions in order to revise and modernize sign regulations. Numerous other changes were made to the regulations in order to be compliant with statutory requirements, and case law. Including in the May 2023 was language that regulated window signage, which before that had not been clearly regulated or in some instances enforced. The new regulation allowed window signage but made prohibited illuminated window signs, including by means of any electronic discharge tubing or similar lighting manufactured into shapes that forms letters, parts of letter, skeleton tubing, or other decorative elements or logos. Additionally, in no case could a window or a door be outlined using any type of lighting. Businesses were given till January 1, 2024 to come into compliance.

Subsequent to adoption, Planning and Inspections Staff began the process of notifying business who would need to come into compliance with this standard. During this process, many business owners and the Chamber of Commerce reached out to Council to indicate their concerns with the wholesale prohibition for lighted window signs. In December 2023, Town Council agreed to delay enforcement till this issue could be more fully discussed and agreed to hear solutions that would allow lighted window signage but at a limited scale. The draft text included herein, was created to introduce a possible solution.

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.

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

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.

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

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 ensure aesthetic quality in the area and preserve the natural beauty of the area.

...

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.

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.

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

..

- 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.

2.3.2 Community Character

- 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 A24-0017 within Exhibit A and ☐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.

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:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance #A24-0017 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

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.

ORDINANCE # A24-0017

AN ORDINANCE TO REVISE UNIFIED DEVELOPMENT ORDINANCE RELATING TO WINDOW SIGNS

WHEREAS, the Boone Town Council desires to consider modifications to the existing window signs regulations, and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on January 22, 2024 with respect to this ordinance; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; 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. The Town of Boone Unified 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 14th day of February, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

Communication: Case A24-0017 Window Signs Modification-Staff Report (Case A24-0017 Window Signs Modification-UDO Text Amendment)

Exhibit A**Article 34 Definitions**

...

Window Sign

A sign painted on, attached to or designed to be visible through a window, excluding displays of merchandise.

...

Article 26 Signs

...

26.08.06 Accessory Signs**A. Directional signs.**

1. Directional signs shall be allowed for all uses in association with vehicle and pedestrian entrances, parking areas, and general wayfinding. They may be attached or freestanding, but may not exceed four (4) square feet in area.
2. Attached directional signs are subject to the following requirements:
 - a. Shall be limited to wall signs.
 - b. Shall be attached flush against and parallel to the exterior wall or surface of a building.
 - c. No portion of the sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.
 - d. Attached directional signs may be externally illuminated.
3. Freestanding directional signs are subject to the following requirements:
 - a. May not exceed three feet (3') in height outside of any required site triangle and may not exceed two feet (2') within any required site triangle.
 - b. Freestanding directional signs may be externally or internally illuminated in the B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, M1 Manufacturing; and externally illuminated in all other districts.

B. Incidental signs.

1. Incidental signs shall be allowed in all districts provided they contain no logo or on-premise advertising. They may be attached or freestanding, but may not exceed four (4) square feet in area.
2. Attached incidental signs are subject to the following requirements:
 - a. Shall be limited to wall signs.

- b. Shall be attached flush against and parallel to the exterior wall or surface of a building.
 - c. No portion of the sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.
 - d. Attached incidental signs may be externally or internally illuminated.
3. Freestanding incidental signs are subject to the following requirements:
- a. May not exceed three (3) feet in height outside of any required site triangle and may not exceed two feet (2') in height within any required site triangle.
 - b. Freestanding incidental signs may be externally or internally illuminated in the B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, M1 Manufacturing; and externally illuminated in all other districts.

C. Menu Boards.

- 1. In the B1 zoning districts, each building entrance may have one walk-up menu board, subject to the following requirements:
 - a. The menu board must be located inside a display box, permanently mounted adjacent to the building entrance.
 - b. The display box shall not exceed eight (8) square feet in area.
 - c. The display box shall be appropriate in size, location, and design to the character and architectural detail of the building.
 - d. The display box may be externally illuminated, or internally illuminated utilizing full cut-off fixtures within the display box.
- 2. In the remaining zoning districts, where allowed, uses that utilize a drive-thru or walk-up service may erect one (1) menu board for each drive-thru or walk-up lane or window. Menu boards may be attached or freestanding, subject to the following requirements:
 - a. Attached menu boards shall be limited to wall signs, which shall be attached flush against and parallel to the exterior wall or surface of a building, with no portion of the sign extending above, below, or beyond the edge of the wall or surface on which it is attached and shall not exceed fourteen square feet (14 sq. ft.).
 - b. Freestanding menu boards shall not exceed eight (8) feet in height, must be placed within an approved landscaped area, and shall be set back one (1) foot from interior lot lines and shall not exceed twenty-eight square feet (28 sq. ft.) in area.
 - c. Each drive-thru menu boards shall not exceed twenty-eight (28) square feet.

- d. Menu boards shall not be legible from any public street.
- e. Menu boards may be externally or internally illuminated.

D. Suspended Signs

1. Suspended signs shall be allowed under canopies and along pedestrian arcades provided that they are attached in a secure manner, with brackets and mounting devices maintained and in good repair. Signs shall be mounted so that the method of installation is concealed to the extent practical.
2. The maximum area for a suspended sign shall not exceed four (4) square feet in all districts.
3. Unless specifically authorized by an encroachment agreement approved by the Town Council, no suspended sign may overhang a public street or public sidewalk.
4. Suspended signs may not be illuminated.

E. Tenant directory wall signs.

1. Developments with more than one tenant shall be permitted to install a tenant directory wall signs subject to the requirements herein.
 - a. Each building with multiple tenants is allowed a tenant directory sign at each entrance into the building.
 - b. Tenant directory signs shall be attached flush against and parallel to the exterior wall or surface of a building, with no portion of the sign extending above, below, or beyond the edge of the wall or surface on which it is attached.
 - c. Tenant directory signs may not be illuminated.

F. Window signs.

1. Window signs placed on the interior of a window or door are limited to the ground floor in the R3 Multi-Family and B2 Neighborhood Business zoning districts. All other commercial uses in all other zoning districts are permitted window signs up to and including the third story.
2. ~~With the exception of one open/closed sign, w~~Window signs shall not be illuminated, including by means of any electronic discharge tubing or similar lighting manufactured into shapes that forms letters, parts of letter, skeleton tubing, or other decorative elements or logos. Additionally, in no case may a window or a door be outlined using any type of lighting.

a. Exceptions:

1. ~~Exception 1:~~ Each commercial-use parcel, or each tenant in a multi-tenant commercial developments allowed to have one (1) lighted open/closed sign that may not exceed four (4) square feet in area.

2. In addition, to a lighted open/closed sign allowed in Subsection 26.08.06(F)(1) above, each commercial-use parcel, or each tenant in a multi-tenant commercial development is allowed to have one (1) other lighted window sign that may not exceed X (X) square feet in area.
- ~~1.3.~~ 3. The use of seasonal string lighting for any legitimate merchandise display is exempt provided such lighting is both clearly temporary (not to exceed 60 days) and seasonal in nature.
- ~~2.4. Exception 2:~~ 4. This regulation is not intended to prohibit the internal lighting of a storefront window/merchandise display.

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
A24-0018
Case Name:
Invasive Species

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 680 W. King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): Articles 31 & 34 and Appendix C

Section(s): Sections 31.06.02, 31.13.03, 31.13.10, 31.13.11, & C1.04

Brief Description of Amendment (Attach Proposed Text):

To modify UDO Article 31 Landscape Standards, Article 34 Definitions, and Appendix C to revise language to define and allow for the removal of invasive species.

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Brandon Wise

Applicant (Print)

/s/ Brandon Wise

Applicant Signature

01/05/2024

Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting
Date: 1/22/2024

PC Meeting Date: _____

TC Meeting Date: _____

Text Approved: ☐ Yes ☐ No

Notes: _____

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Communication: Case A24-0018 Invasive Species-Application (Case A24-0018 Invasive Species-UDO Text Amendment)



STAFF REPORT
PUBLIC HEARING
JANUARY 5, 2024

Case A24-0018 Invasive Species - UDO Text Amendment

Request

To modify UDO Article 31 Landscape Standards, Article 34 Definitions, and Appendix C to revise language to define and allow for the removal of invasive species.

History

February 22, 2022 Town Council recommended staff review the landscape ordinance to allow for more removal and replacement of invasive species.

Background

By definition invasive species are species non-native to an area typically introduced by humans that are known to have established negative impacts on biodiversity, local ecosystems, and native species.

In Staff's research for updating the landscape standards, the NC Invasive Plant Council's invasive plant list was reviewed along with information from neighboring states invasive plant organizations. Information was gathered from Tennessee and Virginia due to their close proximity to the Town of Boone. Staff gathered research from <https://www.unep.org/resources/report/invasive-alien-species-report> that showed not only the ecological but also economic impact of invasive species. Research shows there are over 37,000 invasive species around the world. The damage from these invasive species is estimated to cost over \$423 billion dollars globally. Approximately 92% of this cost is damage to human health, livelihoods, water security, and food security.

Through this process Staff has recommended changes to the ordinance to make it easier for removal and replacement of invasive species but also to remove potentially problematic species from the Town of Boone's recommended planting list.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan

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.

...

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.

...

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 ensure aesthetic quality in the area and preserve the natural beauty of the area.

...

A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.

2.2 INFRASTRUCTURE

2.2.5 Environmental Health

E. Development which preserves the natural features of the site, including existing topography, streams and significant trees and vegetation, shall be reflected in the Town's Development Standards.

E.1 Consider the use of innovative zoning techniques such as density bonuses and transfer of development rights in exchange for preservation of significant environmental features.

O. Encourage use of low-impact habitat-friendly practices to achieve and maintain native species, including plants, wildlife and beneficial insects (such as pollinators) within private and public developments.

O.1 Use plans and investments to enhance the diversity, quantity and quality of habitats that are native, rare or declining.

P. Ensure that landscape and pesticide management practices minimize impacts to the environment including impacts to pollinators.

P.1 Create a least toxic pesticide management plan for use by the Town which also can be distributed to the community as an educational tool.

P.2 Create a landscape management plan for the Town using best management practices that preserves, maintains and enhances native plant material selections which are also pollinator friendly.

P.3 Revise standards in the Unified Development Ordinance Appendix B to include pollinator-friendly plant material.

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.

2.3 THE COMMUNITY

2.3.2 Community Character

- 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.
 - 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 # A24-0018 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.

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:

Note 1

Vote 2: The Town Council ☐ **approves** OR ☐ **denies** Ordinance # A24-0018 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

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.

ORDINANCE #A24-0018

AN ORDINANCE TO REVISE ARTICLES 31, 34, AND APPENDIX C OF THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE RELATING TO REMOVAL OF INVASIVE SPECIES

WHEREAS, the Boone Town Council desires to modify, clarify and streamline the requirements for **removal of invasive species**; and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on January 22, 2024 with respect to this ordinance; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; 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. Articles 31 and 34, and Appendix C of the Town of Boone Unified 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 14th day of February, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

Communication: Case A24-0018 Invasive Species-Staff Report (Case A24-0018 Invasive Species-UDO Text Amendment)

EXHIBIT A**Article 34 Definitions**

...

Invasive SpeciesAny species that is listed on the NC Invasive Plant Council's List of Invasive Plant Species.

...

Article 31 Landscape Standards

...

31.06 Buffer and Screen Requirements

....

31.06.02 Planted Vegetation

C. Plant Standards. All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock. Plants must be non-invasive, healthy, well branched, and free of disease and insect infestation.

...

31.13 Preservation of Existing Trees and Vegetation

...

31.13.03 In order to receive credit, preserved vegetation may not include invasive species, and shall be certified in good health, condition, by a Certified Horticulturist, Arborist or Forester, Landscape Architect, North Carolina Landscape Contractor, or N.C. Certified Plant Professional. Trees designated to be preserved must be indicated on the Landscape and Grading Plans. Protective barriers must be shown on the Landscape and Grading Plans in accordance with the requirements of Subsection 31.13.10. If a preserved tree dies after completion of the project, it must be replaced with the total number of trees which were credited to the existing tree.

...

31.13.10 Invasive species may be removed and replaced subject to approval by the Administrator. All replacement vegetation shall be of similar type of species (i.e. evergreen/deciduous shrubs, small/large evergreen/deciduous tree, etc.), unless a different species would make a landscape buffer more compliant. Replacement vegetation must meet the minimum size requirements as detailed herein for type (evergreen tree/shrub, deciduous tree/shrub, etc.) and location (street yard, vehicular surface area, or landscape buffers).

31.13.11 Protection of Existing Vegetation

Appendix C Details and Specifications Manual

...

C1.04 Plant List

LARGE DECIDUOUS TREES (40'+)		SHADE TOLERANT	XERISCAPING COMPATIBLE (DROUGHT TOLERANT)	SALT TOLERANT	STREET TREE	NATIVE	BLOOMING
Trees <25’ mature height can be planted under power lines							
Trees 25’-40’ mature height can be planted at least 20’ from power lines							
Other species may be allowed with staff approval							
Scientific Name	Common Name						
Acer platanoides	Norway Maple				*		
Acer rubrum	Red Maple	x	x		x	x	
Acer saccharum	Sugar Maple	x	x		x	x	
Aesculus glabra	Ohio Buckeye	x				x	x
Aesculus flava	Yellow Buckeye	x				x	x
Betula alleghaniensis	Yellow Birch	x				x	
Betula lenta	Sweet Birch					x	
Betula papyrifera	Canoe Birch	x				x	
Betula nigra	River Birch	x	x		x	x	
Betula pendula	European White Birch				x		
Betula populifolia	Gray Birch			x		x	
Carya cordiformis	Bitternut Hickory	x				x	
Carya glabra	Pignut Hickory	x				x	
Carya illinoensis	Pecan	x				x	x
Carya laciniosa	Shellbark Hickory	x				x	
Carya ovata	Shagbark Hickory	x		x		x	
Celtis occidentalis	Common Hackberry		x			x	x
Cladrastis lutea	Yellowwood					x	x
Fagus grandiflora	American Beech	x				x	
Fraxinus americana	White Ash		x	x		x	x
Fraxinus nigra	Black Ash		x			x	x
Fraxinus pennsylvanica	Green Ash		x	x		x	
Ginkgo biloba	Maidenhair Tree		x		x		
Gleditsia triacanthos	Thornless Honeylocust		x	x	x		x
Gymnocladus dioicus	Kentucky Coffee Tree	x	x	x		x	x
Juglans cinerea	Butternut					x	
Juglans nigra	Black Walnut					x	

Communication: Case A24-0018 Invasive Species-Staff Report (Case A24-0018 Invasive Species-UDO Text Amendment)

LARGE DECIDUOUS TREES (40'+)		SHADE TOLERANT	XERISCAPING COMPATIBLE (DROUGHT TOLERANT)	SALT TOLERANT	STREET TREE	NATIVE	BLOOMING
Trees <25' mature height can be planted under power lines							
Trees 25'-40' mature height can be planted at least 20' from power lines							
Other species may be allowed with staff approval							
Scientific Name	Common Name						
Liriodendron tulipifera	Tulip Poplar	x	x		x	x	x
Magnolia acuminata	Cucumber Tree					x	x
Magnolia macrophylla	Big Leaf Magnolia					x	x
Nyssa sylvatica	Black Gum					x	x
Platanus occidentalis	Sycamore	x				x	x
Populus angustifolia	Balsam Cottonwood					x	x
Populus deltoids	Eastern Cottonwood					x	
Prunus serotina	Black Cherry					x	
Quercus alba	White Oak		x	x	x	x	
Quercus coccinea	Scarlet Oak					x	
Quercus imbricaeria	Shingle Oak					x	
Quercus falcate	Southern Red Oak		x		x	x	
Quercus muehlenbergii	Chinkapin Oak					x	
Quercus michauxii	Swamp Chestnut					x	
Quercus phellos	Willow Oak		x		x	x	
Quercus palustris	Pin Oak		x		x	x	
Quercus rubra	Red Oak		x	x	x	x	
Quercus stellata	Post Oak		x		x	x	
Quercus velutina	Black Oak					x	
Salix babylonica	Weeping Willow	x					
Taxodium distichum	Bald Cypress		x	x	x	x	
Tilia americana	American Linden	x	x		x	x	
Ulmus americana	American Elm	x	x		x	x	
Ulmus parvifolia	Chinese Elm	x	x		x		
Zelkova serrata	Japanese Zelkova		x	x	✖		

SMALL - MEDIUM DECIDUOUS TREES (up to 25')		SHADE TOLERANT	XERISCAPING COMPATIBLE (DROUGHT TOLERANT)	SALT TOLERANT	STREET TREE	NATIVE	BLOOMING
Trees <25' mature height can be planted under power lines							
Trees 25'-40' mature height can be planted at least 20' from power lines							
Other species may be allowed with staff approval							
Scientific Name		Common Name					
Acer buergeranum	Trident Maple	x	x	x	x		
Acer campestre	Hedge Maple	x	x	x			
Acer ginnala	Amur Maple	x	x	x	x		
Acer griseum	Paperbark Maple				x		
Acer leucoderme	Chalk Maple				x		
Acer palmatum	Japanese Maple	x			x		
Acer pensylvanicum	Striped Maple						
Aesculus pavia	Red Buckeye						
Alnus serrulata	Alder						x
Amelanchier arborea <u>spp.</u>	Serviceberry		x	x	x	x	x
Aralia spinosa	Devil's Walking Stick					x	
Asimina triloba	PawPaw					x	
Carpinus caroliniana	Ironwood		x			x	
Celtis tenuifolia	Dwarf Hackberry						x
Cercis canadensis	Redbud	x	x		x	x	x
Chionanthus virginicus	Fringetree	x	x	x	x	x	x
Cornus spp.	Dogwood	x	x		x	x	x
Cotinus obovatus	American Smoke Tree		x	x			x
Crataegus spp.	Hawthorn		x	x	x	x	x
Diospyros virginiana	Persimmon	x	x			x	
Halesia carolina	Carolina Silverbell				x	x	x
Hamamelis virginiana	Witchhazel						
Ilex decidua	Possumhaw						
Magnolia fraseri	Mountain Magnolia		x			x	x
Malus spp.	Crabapple		x		x		x
Ostrya virginiana	Ironwood					x	
Oxydendrum arboretum	Sourwood	x			x	x	x
Prunus cerasifera	Purple-leaf Plum		x	x	x		x
Prunus spp.	Cherry		x		x		x
Rhus copallina <u>copallinum</u>	Winged Sumac						x
Sorbus americana	American Mountain Ash				x		
Vaccinium arboretum	Sparkleberry						x

EVERGREEN TREES		SHADE TOLERANT	XERISCAPING COMPATIBLE (DROUGHT TOLERANT)	SALT TOLERANT	SCREENING	NATIVE
Trees <25’ mature height can be planted under power lines						
Trees 25’-40’ mature height can be planted at least 20’ from power lines						
Other species may be allowed with staff approval						
Scientific Name	Common Name					
Abies balsamea	Balsam Fir	x			x	x
Abies concolor	White Fir	x			x	x
Abies fraseri	Frasier Fir	x			x	x
Cedrus atlantica	Atlas Cedar		x			
Ilex opaca	American Holly	x	x		x	x
Juniperus virginiana	Eastern Red Cedar		x	x	x	x
Picea abies	Norway Spruce	x		x	x	
Picea glauca	White Spruce	x	x	x	x	x
Picea orientalis	Oriental Spruce				x	
Picea pungens	Colorado Spruce		x	x	x	x
Pinus strobus	White Pine		x		x	x
Pinus sylvestris	Scotch Pine			x	x	
Pinus virginiana	Virginia Pine		x		x	x
Pseudotsuga menziesii	Douglas Fir				x	
Thuja occidentalis	Arborvitae (White Cedar)				x	x
Thuja plicata	Arborvitae (Giant)	x			x	x
Tsuga canadensis	Eastern Hemlock		x		x	x
Tsuga caroliniana	Carolina Hemlock		x		x	x

DECIDUOUS SHRUBS		SHADE TOLERANT	XERISCAPING COMPATIBLE (DROUGHT TOLERANT)	SALT TOLERANT	NATIVE	BLOOMING
Other species may be allowed with staff approval						
Scientific Name	Common Name					
Azalea hybrid ‘Exbury”	Exbury Hybrid Azalea				x	x
Callicarpa Callicarpa americana	American Beautyberry		x		x	x
Calycanthus floridus	Sweetshrub	x			x	x
Chaenomeles speciosa	Common Flowering Quince		x			x
Clethra alnifolia	Sweet Pepperbush	x		x	x	x
Euonymus americanus	Hearts-a-burstin				x	
Forsythia x intermedia	Border Forsythia		x	x		x

DECIDUOUS SHRUBS		SHADE TOLERANT	XERISCAPING COMPATIBLE (DROUGHT TOLERANT)	SALT TOLERANT	NATIVE	BLOOMING
Other species may be allowed with staff approval						
Scientific Name	Common Name					
Fothergilla major	Witchalder	x	x		x	x
Gaylussacia dumosa	Dwarf Huckleberry	x			x	x
Hibiscus syriacus	Rose of Sharon	x	x	x		x
Hydrangea arborescens	Wild Hydrangea	x			x	x
Hydrangea quercifolia	Oakleaf Hydrangea	x			x	x
Ilex verticillata	Winterberry			x	x	
Itea virginica	Virginia Sweetspire				x	x
Lindera benzoin	Spicebush	x			x	x
Lonicera fragrantissima	Winter Honeysuckle					
Magnolia stellata	Star Magnolia		x			x
Neviusia alabamensis	Snowwreath					x
Physocarpus opulifolius	Ninebark	x			x	x
Rhododendron arborescens	Sweet Azalea				x	x
Rhododendron austrinum	Yellow Azalea				x	x
Rhododendron calendulaceum	Flame Azalea	x			x	x
Rhododendron canadense	Rhodora	x			x	x
Rhododendron periclymenoides	Pinxter Bloom	x			x	x
Rhododendron viscosum	Swamp Azalea	x			x	x
Rosa palustris	Swamp Rose	x			x	x
Spirea prunifolia	Bridalwreath Spirea	x	x	x	x	x
Spirea x bumalda spp.	Spirea		x	x		x
Spirea x vanhouttei	Vanhoutte Spirea		x	x		x
Syringa vulgaris	Common Lilac		x			x
Styrax americana	American Snowbell	x			x	x
Viburnum spp.	Viburnum	x	x	x	x	x

EVERGREEN SHRUBS		SHADE TOLERANT	XERISCAPING COMPATIBLE (DROUGHT TOLERANT)	SALT TOLERANT	NATIVE	BLOOMING
Other species may be allowed with staff approval						
Scientific Name	Common Name					
Abelia x grandiflora	Glossy Abelia		x	x		x

EVERGREEN SHRUBS		SHADE TOLERANT	XERISCAPING COMPATIBLE (DROUGHT TOLERANT)	SALT TOLERANT	NATIVE	BLOOMING
Other species may be allowed with staff approval						
Scientific Name	Common Name					
Azalea kaempferi	Kaempferi Azalea	x				x
Azalea hybrida	Satsuki Azalea	x				x
Azalea obtusum	Kurume Azalea	x			x	x
Buxus microphylla ‘Koreana’	Korean Boxwood	x		x		
Buxus sempervirens ‘Suffrutocosa	Dwarf Boxwood	x	x			
Chamaecyparis obtuse ‘Nana Gracilis’	Dwarf Hinoki Cypress	x				
Cotoneaster horizontalis	Rockspray Cotoneaster		x	x		
Cotoneaster dammeri	Bearberry Cotoneaster		x	x		
Cotoneaster divaricatus	Spreading Cotoneaster		x	x		
Ilex aquifolium	English Holly	x				
Ilex crenata spp.	Japanese Holly		x			
Ilex glabra	Inkberry	x	x	x	x	
Ilex pernyi	Perny Holly		x			
Juniperus chinensis	Chinese Juniper		x	x		
Juniperus communis	Common Juniper		x	x		
Juniperus conferta	Shore Juniper		x	x		
Juniperus davurica ‘Expansa’	Parsons Juniper		x	x		
Juniperus horizontalis	Creeping Juniper		x	x		
Juniperus procumbens	Japanese Garden Juniper		x	x		
Juniperus Sabina ‘Tamariscifolia’	Tamarix Juniper		x			
Kalmia latifolia	Mountain Laurel	x	x			x
Kalmia polifolia	Bog Laurel	x			x	
Leucothoe axillaries	Doghobble	x	x	x	x	x
Leucothoe populifolia	Florida Leucothoe	x	x		x	x
Magnolia virginiana	Sweetbay	x	x		x	x
Pieris japonica	Pieris	x			x	x
Pinus Mugo ‘Compacta’	Mugo Pine			x		
Rhododendron catawbiense	R. Catawba	x			x	x
Rhododendron maximum	Rosebay Rhododendron	x			x	x
Rhododendron minus	Carolina Rhododendron	x			x	x
Rhododendron spp.	Rhododendron spp.	x			x	x
Taxus x media	Intermediate Yew			x		
Thuja orientalis	Oriental Arborvitae					
Viburnum rhytidophyllum	Leatherleaf Viburnum					x

**SPECIAL PLANNING COMMISSION MEETING MINUTES
THURSDAY, NOVEMBER 30, 2023, 7:00 PM
VIA WEBEX**

PLANNING COMMISSION MEMBERS PRESENT: Eric Plaag-Vice-Chair, Chris Behrend, Scott Boyd, Adrian Tait, and Frank Veno

TOWN STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Christy Turner-Residential Zoning Administrator, Michael James-Commercial Zoning Administrator, Brandon Wise-Environmental Specialist, Todd Moody-Public Works Director, Justin Stines-Deputy Public Works Director, and Brenda Henson-Board Secretary

Call to Order

Vice Chair Plaag called the special Planning Commission meeting, held via WebEx, to order at 7:04 p.m. He noted that Staff accidentally left off the Public Comment section on the agenda. He asked that a motion be made to amend the agenda to add Public Comment after Approval of Meeting Minutes.

Commission Member Behrend made a motion to amend the agenda to add Public Comment to the agenda after Approval of Meeting Minutes. The motion was seconded by Commission Member Tait.

Vote: Aye – 5
Nay – None

The motion passed.

Approval of Planning Commission Meeting Minutes

Vice Chair Plaag referred to page 9 of the September 25, 2023, Planning Commission meeting minutes in the Second Motion and Vote and noted that there was an incomplete sentence. Ms. Shook stated that the motion should read *Vice Chair Plaag made a motion that the Planning Commission recommends approval of Ordinance A23-0183 and believes approval is reasonable and in the public interest because rezoning to R1 conforms with the zoning of other parcels adjacent that are within the Town of Boone already and that type of zoning would maintain the existing residential neighborhood.*

Commission Member Behrend made a motion to approve the September 25, 2023, Planning Commission meeting minutes as amended. Commission Member Tait seconded the motion.

Vote: Aye – 5
Nay – None

The motion passed.

Vice Chair Plaag noted several non-substantive typographical errors in the October 9, 2023 Special Planning Commission meeting minutes and asked that they be amended.

Commission Member Behrend made a motion to approve the October 9, 2023, Special Planning Commission meeting minutes as amended. Commission Member Warren seconded the motion.

Vote: Aye – 5
Nay – None

The motion passed.

Public Comment

Vice Chair Plaag explained that the Public Comment section on the Planning Commission's agenda was for the public to comment on things other than the cases at hand. He noted that the cases on tonight's agenda were scheduled to be heard by Town Council on December 4, 2023., where additional public comment could be taken. Ms. Shook stated that no one had requested to speak under Public Comment.

Case A23-0449 and A23-0450 CasaRock, LLC – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of two properties owned by CasaRock, LLC at 112 Paul Critcher Drive to R1 Single-Family Residential (Watauga County PINs: 2920-30-7460-000 and 2920-30-9457-000). Zoning of the properties coincides with the request from the property owner for annexation of the parcels into the Town of Boone's corporate limits.

Vice Chair Plaag asked Mr. James for a brief summary of the case. Mr. Mike James, Commercial Zoning Administrator for the Town of Boone Planning & Inspections, noted the applicant had requested a voluntary, non-contiguous annexation for connection to Town water and that the property had to be zoned as a result. He noted that R1 and watershed overlay was requested for the zoning on both parcels.

Vice Chair Plaag noted that at the public hearing he had voiced his concerns about extending water and sewer into the rural area as the Comprehensive Plan has strong language against that. He noted that these parcels were outside of the Town's former ETJ. He noted that the discussion at the public hearing had pointed out the development map in Comprehensive Plan dated from 2006 and development patterns had changed since then and that the map would most likely be updated during the current Comprehensive Plan update process. Vice Chair Plaag noted that there was another property nearby on the same road that had recently been annexed for water service.

Commission Member Tait stated he concurred, noting that the most expensive service part of the town's services, water, was already extended and connecting this property would not require further extension of the services. He added the area was open for potential future annexation without a great deal of effort on the Town's part. Commission Member Tait stated that this area could become part of the secondary development zone with the upcoming Comprehensive Plan update.

First Motion and Vote: Commission Member Veno made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

2.2.2 Utilities

- D.** Water and sewer services shall not be extended to properties in the Rural Area (outside the Urban Growth Area). Exceptions to this policy may include the provision of services to other local governments, cooperative agreements on major economic development initiatives, and extensions needed to address imminent public health problems or related environmental hazards.

Vice Chair Plaag wished to amend the motion to include:

2.3.3 Housing & Neighborhoods

- A.** The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- H.** The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

Commission Member Veno accepted the amendment. The amended motion was seconded by Commission Member Chris Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Veno made a motion that the Planning Commission recommends approval of Ordinance A23-0449 and believes approval is reasonable and in the public interest because it seems reasonable to extend water to the property because other nearby properties had been annexed and provided water; and bringing the property into Town' and zoning it R1 would increase housing stock. The Comprehensive Plan discourages the extension of services into the rural areas of the County and this would need to be addressed in the Comprehensive Plan update. The motion was seconded by Commission Member Tait.

Vote: Aye – 5
Nay – None

The motion passed.

Case A23-0451 Catherine Folk – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of 372 Junaluska Road (Watauga County PIN: 2901-81-2705-000) to either R1 Single-Family Residential or R1A Single-Family Residential with Accessory Dwelling and Viewshed Protection overlay. Zoning of the property coincides with the request from the property owner for annexation of the parcel into the Town of Boone's corporate limits.

Vice Chair Plaag requested a brief summary of the case. Mr. James noted that the main issue was whether to zone the property as R1 or R1A. He stated that the applicant was agreeable to either zoning designation and the property did not currently have an accessory unit.

Vice Chair Plaag stated that although this could be considered a rural area, it was on the line of the primary growth area and the area had undergone extensive growth since 2006 and was appropriate for annexation. He added that a small portion of the parcel might be located in the Town limits, based on the GIS overlay lines. Vice Chair Plaag stated that he and Commission Member Tait lived in this neighborhood and their properties were annexed in 2009 and zoned R1 even though they requested an RA zoning.

Commission Member Tait stated that R1A would provide an opportunity for additional housing and should be considered wherever it was appropriate.

Vice Chair Plaag asked if the applicant was requesting water and sewer. Mr. James replied that the applicant already had Town water and sewer but was paying double rates so annexation.

Commission Member Veno asked if further discussion was needed on which zoning classification to choose. Chair Plaag replied that there seemed to be a consensus for the R1A zoning for this property.

First Motion and Vote: Vice Chair Plaag made a motion that the proposed amendment to the Town's zoning map to zone the property R1A is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

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.
- 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.

2.3.3 Housing & Neighborhoods

- A.** The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- H.** The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Commission Member Tait.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Plaag made a motion that the Planning Commission recommends approval of Ordinance A23-0451 with R1A zoning and believes approval is reasonable and in the public interest because the annexation of the parcel helps stabilize the Junaluska community and will help ensure appropriate scale development and redevelopment of another parcels in the vicinity. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Case A23-0462 Warren and Ruby Boyette – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of portions of a property owned by Warren and Ruby Boyette located on Queen Street to R1 Single-Family Residential (Watauga County PIN: 2901-51-8665-000). Zoning of the property coincides with the request from the property owner for annexation of the portion of the parcel that is located outside of the town's corporate limits.

Ms. Christy Turner, Residential Zoning Administrator for the Town of Boone Planning & Inspections, summarized the request and explained that the annexation was to allow the property to receive Town services. Vice Chair Plaag said that the property was on the line of the primary and rural growth areas, but with the update of the Comprehensive Plan, that could change. He added that out of all the zoning cases, this one had the best reasoning for approval.

First Motion and Vote: Commission Member Tait made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

2.2.2 Utilities

- B.** Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.
- C.** The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Commission Member Venó.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tait made a motion that the Planning Commission recommends approval of Ordinance A23-0462 and believes approval is reasonable and in the public interest because the annexation would bring another parcel into the Town and zoning would make the parcel consistent with surrounding parcels. Vice Chair Plaag wished to amend the motion to include that the annexation and zoning of the property would also extend water and sewer services. Commission Member Tait accepted the amendment. The motion, as amended, was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Case A23-0149 Faculty Street Townhomes – Conditional District Zoning Map Amendment

A&R Mountain Properties, LLC has submitted a Conditional District Zoning Map Amendment application to rezone a parcel located on Faculty Street (Watauga County PIN: 2910-14-4592-000) from R3 Multiple-Family Residential to Conditional District R3 Multiple-Family Residential with a site-specific development plan to construct ten (10) townhomes (Use 1.08 Townhouse up to 30 bedrooms).

Mr. James summarized the request, noting that the project had changed from twelve apartments within two buildings containing six one-bedroom and six two-bedroom units to ten two-bedroom townhomes, the footprint had changed slightly, one parking space had been added, and a ten-foot greenway easement would be provided that would create the need for higher retaining walls. Mr. James stated that there would be an eight (8) foot high retaining wall at the street level, then a four-foot landscaped area, then a 7.5-foot high retaining wall.

Vice Chair Plaag added that the following three conditions were agreed to by the applicant at the public hearing:

1. Safety fencing or railing will be added to the top of the retaining walls.
2. The property will not be advertised as student housing.
3. Privacy fencing will be installed at the common walls of the units to create private yard space.

Mr. James suggested another condition that the POA bylaws require the trash and recycling containers to be picked up on-site. He stated that the applicant had been agreeable to this idea during the public hearing.

Commission Member Behrend noted she was not able to attend the public hearing but had reviewed the minutes. She asked if it was correct that there was no public comment in favor of the proposed project.

Vice Chair Plaag replied that he recalled that to be correct. Commission Member Behrend stated she did not like the idea of cutting down all of the trees on the property.

Vice Chair Plaag stated there was an urgent need for additional housing in Boone, but added that not every housing project would be appropriate. Commission Member Behrend agreed that housing was needed for those in the low to middle-income category. Vice Chair Plaag stated that, in doing the math, each unit would likely cost \$450,000 - \$500,000 and they were only two-bedroom units.

Commission Member Veno stated that he did not like the idea of cutting down all of the trees but noted that any type of development on the property would require the cutting of trees. He stated that the retaining walls with the homes at the top should be examined by a geological engineer, but added that they did not pose a problem for him.

Commission Member Tait stated he had mixed feelings about the proposed project. He noted that dense development that was close to downtown provided walkability and this type of project was the type of development that should go between dense multi-family and single-family uses as a transition. Commission Member Tait stated that the applicants had tried to reduce the height and mass of the building and many of the houses above the project would look over the building. He stated that he did not like that all of the trees would be removed, noting that it would create a negative viewshed for the houses above. Commission Member Tait added that the retaining wall heights were within the typical retaining wall height and the landscaping seemed fairly dense. He stated that he was generally in favor of the project.

Commission Member Boyd stated he echoed Commission Member Tait's comments. He noted that he was not inherently opposed to the development because housing was a scarce commodity in Town. Commission Member Boyd stated that sooner or later something would be developed on this property and ten (10) townhomes would be better than some of the alternatives.

Vice Chair Plaag stated that he had looked at the parcel carefully. He noted that the properties to the east were steep but the homeowners had retained the steep part of their properties as a wooded area. The properties to the west were flatter lots and appeared to be single-family homes. Vice Chair Plaag suggested that four homes oriented on the northwest end of the property would preserve some of the trees, present a safer means of entering and exiting the parking spaces and the site, and be a more appropriate scale for the property than ten townhomes. Vice Chair Plaag stated that he was not in favor of the project as it was proposed.

Commission Member Behrend agreed that a smaller number of units would likely address some of the concerns associated with the project. Commission Member Veno agreed that a smaller number of units would be a better scale for the property.

Vice Chair Plaag noted that he was not opposed to developing the property, just not to this scale.

Commission Member Tait asked if the recommendations of the Planning Commission should be based upon their opinion or on the principles in the Comprehensive Plan. Vice Chair Plaag replied that their recommendations should be based upon the principles in the Comprehensive Plan. Ms. Shook reminded everyone that cases before the Planning Commission and Town Council were legislative decisions, not quasi-judicial decisions. Vice Chair Plaag added that Conditional District Zoning Map Amendments required a site-specific plan and the applicant would be bound by that plan and any conditions that were placed on the approval of the Conditional District.

First Motion and Vote: Vice Chair Plaag made a motion that the proposed amendment to the Town's zoning map is not consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because what is proposed conflicts with:

2.3.1 Community Appearance

- 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.

2.3.2 Community Character

- 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.

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Commission Member Tait.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Plaag made a motion that the Planning Commission recommends denial of Ordinance A23-0149 and believes denial is reasonable and in the public interest because the development proposed for this particular site is not in scale either for the parcel itself or for the surrounding R1 neighborhood. In addition, there are significant environmental and stability concerns that will occur as a result of carving into the earth to be able to build as proposed on the site at the scale that is proposed. In addition, there are significant concerns about traffic ingress and egress given the density that is proposed for this particular site and how that might affect traffic on Faculty Street. As a secondary recommendation, the Planning Commission urges reconsideration of the scale that is proposed for the development of this site given that development is likely to occur in the future and a dense type of development for the site may be appropriate depending on what is proposed. In the event that Town Council chooses to approve this development as proposed, Planning Commission recommends that the previously discussed conditions regarding security fencing along the top of the retaining walls, sales marketing that will not advertise the units for sale as either student housing or development opportunities, privacy fencing extending from the rear of each unit to be part of the POA's responsibilities, and requirement on the POA bylaws that garbage collection will be on the property and not at Faculty

Street be included as conditions of the approval. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Vice Chair Plaag called a break in the meeting from 8:44 p.m. until 8:53 p.m.

Case A23-0317 Bryan Pleasants – General Use Zoning Map Amendment

Bryan Pleasants has submitted a General Use Zoning Map Amendment application to rezone a parcel of property located on Delmar Street (Watauga County PIN: 2910-68-9812-000) from R1 Single-Family Residential to R1S Small Home Residential.

Vice Chair Plaag asked for clarification on the supplemental information. Mr. James explained that the supplemental information was written comments submitted by a member of the public.

Commission Member Tait recused himself from this case and turned his screen off.

Mr. James provided a brief overview of the case. He noted that the uses allowed within the R1S were more restrictive than the uses allowed in the R1 zoning district, but allowed smaller lots than the R1 zoning district. Mr. James stated that the R1S was a fairly new zoning district and there was only one other zoning district currently with this zoning designation and it was located at the end of Delmar Street. Mr. James noted that there was substantial public comment during the public hearing, as reflected in the draft minutes in the packet.

Vice Chair Plaag reviewed the concerns expressed at the public hearing. He noted that there were several concerns about flooding and shared his screen to show the Planning Commission the Town's GIS map with the ortho photography and special flood area layers turned on. He identified the parcel in question and the different special flood zone areas. Vice Chair Plaag noted another concern expressed was about cottage homes, or homes with small footprints. He stated noted that the request was a general use zoning map amendment and the Commission did not know what would happen on the property, but noted that there were limitations in the R1S that restricted the size of the homes. He also noted that vacation rentals were not allowed in the R1S, which was also a concern shared at the public hearing. Vice Chair Plaag stated that there was a concern about the architecturally integrated subdivision process that could allow up to four or five homes. He noted that the property owner had the right to divide the property by right and potentially have 3 single-family homes with the R1 Single-Family zoning district.

Mr. James acknowledged that this was correct and noted that the R1 did not have the cap on the house size like the R1S did.

Vice Chair Plaag asked Mr. Brandon Wise, Environmental Specialist with the Town of Boone Planning & Inspections, to comment on the stormwater requirements for the property. Mr. Wise summarized that whenever the property was developed the stormwater runoff after development would not be able to exceed runoff that occurred before the development, no matter if the property was zoned R1 or R1S.

Commission Member Behrend asked about the topography in the area and how it related to the stormwater/flooding concerns expressed. Mr. Wise noted that the property was sloped toward the nearby creek and that the stormwater in the area was carried overland to the creek.

Commission Member Veno noted he was trying to determine how a development like this would have a negative impact on the neighborhood. He stated that a development with smaller houses may be able to provide more affordable housing and felt like affordable housing had to be part of the conversation.

Vice Chair Plaa noted that there was public comment stating that the existing R1S was immediately surround by B2 and B3 zoning while this site was surrounded primarily by R1 and the neighbors had expressed the concern that approval of the request would encourage further encroachment into the neighborhood and over time erode the character of the neighborhood. He noted that he was not necessarily convinced by those concerns but felt it was the job of the Planning Commission and Council to weigh and balance priorities. Vice Chair Plaa stated that there had been efforts in the past to preserve R1 neighborhoods and that this neighborhood, while primarily intact, had pressures all around it.

Commission Member Veno noted the affordable housing issue was often discussed. He stated that zoning was a double-edged sword and had been used in negative ways to enforce segregation in neighborhoods, and was designed to draw lines between classes. Commission Member Veno further noted that he wondered where in Boone that would stop. He stated that the Town needed affordable housing but people did not want it in their backyard. He noted that the University was brought up at the public hearing but couldn't understand the relevance to the case.

Vice Chair Plaa noted that he thought the neighborhood perception was that developers looked at the constant and unrestricted growth of the University and the University's refusal to make any meaningful headway toward providing housing on campus that matched the growth and took advantage of this.

Vice Chair Plaa noted the real question was whether or not R1S was an appropriate zoning designation for this specific parcel in relationship to the surrounding parcels.

Commission Member Boyd noted he understood the concerns of the neighborhood but did not think this proposal was a threat.

Commission Member Behrend noted her support of the request and thought it was an appropriate place to have additional housing that could be more affordable for lower incomes and single people. She noted that it would be good for the neighborhood and would have to follow rules for stormwater runoff.

Commission Member Veno noted he was leaning toward deciding this was an appropriate rezoning. He noted that the danger of parents buying houses for students happened all over and it was part of the housing crisis impacting the entire country. He noted that it also spoke to the income gap that allowed those with cash to make investment purchases. Commission Member Veno stated that the Town needed more housing stock and this seemed the less egregious way to provide housing.

Commission Member Behrend noted that all college students were not bad neighbors and should not always be feared. Commission Member Veno noted he concurred with Commission Member Behrend regarding students as neighbors.

First Motion and Vote: Commission Member Behrend made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

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.
- D.** Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

The motion was seconded by Commission Member Boyd.

Vote: Aye – 4
 Nay – None
 Recused – 1 (Tait)

The motion passed.

Second Motion and Vote: Commission Member Behrend made a motion that the Planning Commission recommends approval of Ordinance A23-0317 and believes approval is reasonable and in the public interest because the rezoning enhances living space for the whole town and makes another area for affordable housing. The motion was seconded by Commission Member Veno.

Vote: Aye – 4
 Nay – None
 Recused – 1 (Tait)

The motion passed.

Commission Member Tait rejoined the meeting.

Case A23-0428 William and George Greene – General Use Zoning Map Amendment

William Greene and George Greene III have submitted a General Use Zoning Map Amendment application to rezone a parcel of property located between US 421 South and Wood Circle (Watauga County PIN: 2910-38-5215-000) from B3 General Business to R2 Two-Family Residential.

Mr. James summarized the request and noted that there was very little public comment at the public hearing.

Commission Member Tait noted that during the public hearing Council Member George was positive towards the option of a residence rather than a business due to the potential traffic impacts.

Discussion ensued regarding the access of the property and what would be required of the applicant in order access the property from US 421 versus accessing the property from Wood Circle.

Commission Member Veno stated that his only concern was traffic problems from access on US 421 but, due to the three lanes on US 421 at that location, there would be limited traffic impacts.

First Motion and Vote: Commission Member Boyd made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

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.
- 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.

2.3.3 Housing & Neighborhoods

- A.** The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- H.** The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Commission Member Behrend.

Vice Chair Plaag wished to amend the motion to include:

2.1.1 Economic Development

- D.** Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.

Commission Members Boyd and Behrend accepted the amendment.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Boyd made a motion that the Planning Commission recommends approval of Ordinance A23-0428 and believes approval is reasonable and in the public interest because the rezoning provides housing in an area that needs it and does not jeopardize the integrity of a neighborhood or the community. The motion was seconded by Commission Member Venio.

Vote: Aye – 5
Nay – None

The motion passed.

Other Matters

Ms. Shook thanked Vice Chair Plaag for his service on the Planning Commission, noting that this would be his last meeting before transitioning to Town Council.

Adjournment of Planning Commission

Commission Member Tait made a motion to adjourn the meeting at 9:57 p.m. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

DRAFT