

**Town of Boone
Public Hearing
6:00 PM, Jan. 23, 2023
WebEx**

This meeting will be held via WebEx. Individuals who wish to watch the meeting or speak during public comment can do so through WebEx either online or by phone. Please email jane.shook@townofboone.net or call 828-268-6200 and you will be provided with an invite to the meeting. All requests for participation must be completed by 5:00 PM on the day of the meeting. Staff will moderate the WebEx session to ensure all participants have an opportunity to speak. Individuals who require user assistance registering or joining the WebEx meeting can call 828-268-6960 for support.

I. Call to Order - Town Council

II. Call to Order - Planning Commission

III. Moment of Silence

IV. Approval of Public Hearing Minutes by Town Council and Planning Commission

November 28, 2022 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 Case is Closed*

V. Case PL05781-061322 Signs - UDO Text Amendment

Case PL05781-061322 Application

Case PL05781-061322 Staff Report

VI. Adjournment of Town Council

VII. PLANNING COMMISSION MEETING

VIII. Public Comment

IX. Approval of Planning Commission Meeting Minutes

November 28, 2022 Planning Commission Meeting Minutes

X. Planning Commission Consideration of Cases Heard at Public Hearing

XI. Other Matters

XII. Adjournment of Planning Commission

**TOWN COUNCIL AND PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 28, 2022, 6:00 PM
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Mayor Pro Tem Edie Tugman, Dalton George, Becca Nenow, and Virginia Roseman

PLANNING COMMISSION MEMBERS: Eric Plaag-Vice-Chair, Scott Boyd, John Tippet, and Frank Veno

HISTORIC PRESERVATION COMMISSION MEMBERS: Eric Plaag-Chair, Bettie Bond-Vice-Chair, James Sharp and Chuck Watkins

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Christy Turner-Senior Planner, and Jessica Mitchell-Long Range/Special Projects Planner

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: Amy Davis-Town Manager, Allison Meade-Town Attorney, Rick Miller-Public Works Director, and Shane Robbins-Police Major

Call to Order

Mayor Pro Tem Tugman called the Town Council to order at 6:03 p.m. Chair Plaag called the Planning Commission to order at 6:04 p.m. Brief discussion ensued regarding quorum for the Planning Commission, which was established with four members.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member Roseman made a motion to approve the September 26, 2022, Public Hearing minutes as written. Council Member Nenow seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Commission Member Tippet made a motion to approve the September 26, 2022, Public Hearing minutes as written. Commission Member Veno seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

PUBLIC HEARING

Ms. Jane Shook, Director of Town of Boone Planning & Inspections, reviewed the guidelines for each case presented at the public hearing. She asked participants to be patient and stated that participants would be called to speak during public comment at the appropriate time for each case.

Case PL05918-072222 Watauga County Jail – Local Historic Landmark

Vice-Chair Plaag explained that he would be recusing himself from participating in the local landmark case because of his involvement with the designation of the property as the Chair of the Historic Preservation Commission (HPC). He indicated that he had discussed this issue with the Town Attorney and noted though he was recused from formal discussion in the substance of the case, that he would still fill in for

Chair Shay, who was absent, as the Vice-Chair of the Planning Commission, as well as Chair of the Historic Preservation Commission.

Chair Plaag then called the Historic Preservation Commission (HPC) to order at 6:13 pm after an explanation that the HPC was present for the public hearing in order to meet statutory requirements for the landmark designation.

Ms. Jessica Mitchell, Long-Range/Special Projects Planner with Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet. The Town of Boone, with permission from property owners, Sam and Peggy Furgiuele, has filed a Local Historic Landmark Application to designate the property at 142 Burrell Street, (Watauga County PIN: 2900-79-5419-000) as a local historic landmark. The property is in use currently as Proper Restaurant.

Council Member George complimented Ms. Mitchell and the HPC for their work on the designation and asked if Ms. Mitchell could clarify the remarks made by the State Historic Preservation Office (SHPO). Ms. Mitchell noted that the SHPO comments on the local designation, though required, were nonbinding and were not included in the final recommendation made of the HPC. She added that if a National Register Preservationist was needed that the contact would be SHPO for obtaining a preservationist.

Brief discussion ensued as to the participation of the property owner at the hearing as it was discovered that Mr. Furgiuele, was having difficulties connecting into the meeting. This issue was resolved by Mr. Furgiuele coming over the Planning Department to join Staff for the meeting. During the brief time the boards were waiting on Mr. Furgiuele, Mayor Pro-Tem asked if there was any other questions or public comment. At this time, no public comment was offered.

Commission Member Veno asked if the designation would preclude any future alterations to the structure as mentioned in the comments from SHPO. Chair Plaag [HPC] responded that the main concern expressed by SHPO was about the enclosure of the porch, as it was originally a craftsman style porch that has window panels that are between the posts now. He explained that change is what is called a reversible change, it would be relatively easy to put that back to a craftsman style porch. He further stated with that in mind, if at some point in time the owner wanted to modify the porch, the existing district standards would encourage the owner to adopt a design for the porch that replicates what it looked like during its period of significance. Chair Plaag concluded that there's not anything that would preclude the owner from doing that.

Mr. Sam Furgiuele, property owner, joined the meeting and noted that both he and his wife fully support the landmark designation. He noted that he thought the designation was important because it was important to protect the remaining history of the town. Mr. Furgiuele provided a brief history on how he acquired the property in order to keep the building from being torn down. Mr. Furgiuele complimented Chair Plaag, author of the designation report as a member of the HPC, for the detailed report documenting the history of the building. Mr. Furgiuele described the circumstances that led to the renovation to the porch for a restaurant use. He noted that the costs of maintaining the historic property were high compared to the income that could be bought in as a residential property, and that it was necessary to modify the porch as part of the restaurant renovation to ensure that overall, the building was able to be maintained and saved. Mr. Furgiuele indicated he had been dismayed to read SHPO's comments, as he felt that he and his wife had done the least renovations necessary in order for the building to be profitable enough to help support the costs of such maintenance associated with the historic structure. Mr. Furgiuele thanked everyone for their consideration.

Council Member Roseman asked either Staff or Chair Plaag [HPC] to clarify the importance of the local designation being proposed. Chair Plaag [HPC], noted that the local designation did offer some local property tax deferral but did not have any related state issues. Council Member Roseman then asked

Chair Plaag [HPC] to clarify how the designation would protect the property. He responded by noting the proposed ordinance contains the same standards that apply to the downtown historic district would apply to this building, along with the National Park Service (NPS) guidelines for treatment of historic properties. Brief discussion ensued regarding how the standards can delay but not prohibit the demolition of the local landmark. Council Member Roseman, indicated to those present, that she was the Council liaison to the HPC and wanted to ensure that participants understood the process and thanked the property owner for participating in the designation.

There being no other comments, Mayor Pro-tem closed the public hearing and Chair Plaag adjourned the HPC at 6:43 pm.

Vice-Chair Plaag rejoined the meeting.

PL06130-100422 and PL06131-100422 Dinh – General Use Zoning Map Amendment

Ms. Christy Turner, Senior Planner with Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet. Tim Trong Dinh has submitted a General Use Zoning Map Amendment application to rezone 2 parcels off of Homespun Hills as follows:

1. Tract 1: 173 Homespun Hills from B3 General Business to R1 Single-Family Residential
2. Tract 2: Watauga County PIN: 2900-45-2302-000 (vacant) from B3 General Business/R3 Multiple-Family to R1 Single Family Residential

Mr. Dinh thanked the boards for their consideration and noted that he and his family would like to be able to build a garage in the future.

Council Member George thanked Mr. Dinh for considering R1 zoning and noted the Town was sorely in need of residential zoning in general. He also thanked Mr. Dinh for going through what must feel like a daunting process to rezone the property.

Vice-Chair Plaag asked Ms. Turner if the rezoning would create any nonconformities. Ms. Turner responded that no nonconformities would be created and that the rezoning would actually bring the current residential nonconforming use to conforming.

Brief discussion ensued as to what could be done with the two parcels. Ms. Meade reminded the boards that the case was for a general use rezoning and discussion of the future plans should be irrelevant to the consideration. She encouraged the boards to review the case as to the R1 zone and the limitations of that district.

With no public comment, Mayor Pro Tem Tugman closed the public hearing.

Case PL06142-101122 Junaluska Neighborhood Conservation District (NCD) – General Use Zoning Map Amendment

Vice-Chair Plaag then indicated that he would recuse himself from the NCD case as well since he owned property in the area being considered. Ms. Meade noted that Vice-Chair Plaag's interests in a property that happens to be in the proposed overlay district is not necessarily sufficient to require recusal. She noted that "recusal" strictly speaking under state law, requires clear and identifiable financial interest in the matter. Ms. Meade continued to explain that she did not believe that anybody would think the NCD overlay is going to change property value one way or the other, which would mean that Vice-Chair Plaag does not have an interest that requires recusal. However, she further noted from the perspective of just perception, she thought it was reasonable and fair for Vice-Chair Plaag to request to be recused if that is his choice. She concluded by noting that it would be appropriate for Vice-Chair Plaag to continue to act as a neutral chair for the Planning Commission, and its consideration of the case. Brief discussion ensued as

to the recusal of Vice-Chair Plaag, with a final consensus by both boards and Vice-Chair Plaag for him to continue to participate in the case.

Ms. Jane Shook, Director of Planning & Inspections, presented the case as it was outlined in the meeting packet. The Town of Boone has initiated a General Use Zoning Map Amendment to apply a Neighborhood Conservation District (NCD) zoning overlay district to 161 properties located in the “Junaluska” area. This includes properties in the Alexander Dr., Carolina Ave., Church St, Eastview Dr., Gragg St., North St., N. Depot St., N. Water St., Ridgewood Dr., Summit St., Sun Haven Ln., Tremont St., Queen St., and Wyn Way areas.

Ms. Shook noted two items of clarification. First, she noted that the first map in the Staff Report, located on packet page 115, presented the proposed overlay in a light green shade bordered by a darker green outline. She noted that the area in question extended up to the corporate limits line outlined in gray. She explained that the darker green line outlining the border of the proposed NCD was aligned under the gray corporate limits line.

Ms. Shook explained that the second point of clarification was that the Staff Report did not include the RR zoning description, which she noted was in UDO Section 14.08, from which she read an excerpt.

Ms. Shook then further detailed the items within the Staff Report including explanation of the exhibits and the requirements set forth for the NCD in UDO Section 14.41.

Council Member Nenow asked Ms. Shook how the boundaries for the district were created. Ms. Shook referred to the zoning map located in the Staff Report and noted that the new district was adjacent to the existing Grand Boulevard NCD and included all the residential properties from the existing NCD to the R4 zoned properties on the other end. She noted that once the area was selected Staff reviewed the boundaries with the residents who had originally requested the NCD designation from Council, which led to the addition of one additional R1 zoned property, and then finally the boundaries were presented to Council for approval.

Brief discussion ensued on the inclusion of one parcel along Queen Street that bordered the existing Grand Boulevard NCD. Ms. Shook explained that upon review, it was noticed that this was the only R1 zoned property in the neighborhood not included in a NCD. She noted that this was an error that Staff was attempting to correct.

Council Member George noted that he was looking forward to public comment, and that he strongly believes in protecting neighborhoods with history and emphasized that the request came from folks living in the neighborhood.

There being no other questions or comments from the board, Mayor Pro Tem Tugman invited public comment. She reminded the public in attendance to be respectful and noted that though time will not be limited, each participant’s comments should be pertinent to the case.

Roberta Jackson, a resident of the Junaluska community, thanked the boards for accepting her community petition signed by about 20 people interested in the NCD [attached]. She noted she was proud of the community she lived in her whole life. Ms. Jackson described vehicular parking concerns from numerous rentals who end up parking on the narrow streets making it dangerous to walk. She noted her concerns that the Junaluska community had worked hard to help build the town and that though they were older and smaller than it used to be, she would like to see her community maintained and safe. She concluded with telling the boards that too much infringement will occur if we don't work to keep our community a decent and a safe place to live. She noted they would like to have the neighborhood designated as a neighborhood conservation district overlay to maintain their way of life and preserve their dignity as citizens.

Carolyn Mack, a resident of the Junaluska community, noted that she was a return resident after her retirement and had sought out a family neighborhood, walkable to the downtown area. Ms. Mack described the changes to the neighborhood since she moved in 2015, which include the transition to many of the homes from owner occupied to rentals, additional cars, and other nuisances related to those two items. She noted a particular incident with a neighboring property where someone was allowed to live in a vehicle and tents on the property for long periods of time. She noted she had called various Town departments for assistance where little was done to resolve the situation.

Angela Vitale, a property owner in the area, expressed her concern about the proposed neighborhood conservation district overlay. She noted that the proposed changes were not the most effective way to protect property values or stabilize and maintain a low density living environment suitable for family life. Instead, she noted the proposed changes impact a select group of property owners who have made significant improvements to the neighborhoods. She noted that the NCD may not be legal based on a decision, Schroeder versus the city of Wilmington, which she has submitted for the Town attorney to review. She also noted that the proposed changes place an unequal financial burden on a select group of property owners by requiring them to hire a local property manager and pay for parking stickers, and that these same property owners have invested a significant amount of money on updating and maintaining properties, increasing property values for all owners and added curb appeal to the neighborhood. She noted there are other ways to more effectively address the state of protecting property values and stabilizing and maintaining low density living, suitable for family life. Ms. Vitale agreed that it was important for all property owners to share the responsibility to have town codes and ordinances adopted to protect property values and to stabilize and maintain a low density living environment suitable for family life, however, the proposed changes do not address these issues. She asked the boards to reject the proposal and reach out to all affected property owners for suggestions prior to making decisions about zoning.

Sam Furgiuele, of 169 Gragg Street, noted that over the years that he and his wife had observed violations of occupancy, parking and noise, and indicated anything that can be done to help protect neighborhoods and forestall the decrease in quality of life, which has been occurring fairly rapidly would be a good thing. He indicated that he and his wife support the neighborhood conservation district overlay.

Jacob Crabtree, of Carolina Avenue, concurred with the comments said earlier in the meeting by Ms. Mack. Mr. Crabtree noted there has been an increase of student renters, in the houses in the area that have continued to throw loud parties. He described an incident where a party bus blocked the street. He also indicated that there is a house that has at least six occupants. He noted that they experience issues with everyday life, including being woken up in the middle of the night because tenants come home drunk from the bars. Mr. Crabtree indicated his support of the NCD and hope that it helps limit the increased traffic.

John-Taylor Hixson noted his belief that people are constitutionally blessed with the right to privacy in this country. He noted that this was fact that we are protected from unreasonable searches and seizures, especially on our own property where we're living, our homes or houses or castles. He indicated his main concern was the implementation of parking passes for private property and how law enforcement was planning on enforcing this ordinance. Mr. Hixson noted that he there was not a local law enforcement representative in the room and that he wanted everyone to consider that.

Lindsey Middlesworth indicated that she was in support of protecting the neighborhood. She explained that her home in the area is currently used by her daughter who is a junior and explained that their other children also wished to come to school in the area. She indicated that they loved the area and are willing to work with the Town and be good stewards of the property.

Bill Dixon indicated that he and his wife own the large three-acre tract of land right in the middle of the proposed district off of Austin Lane. Mr. Dixon briefly identified the history of the three dwellings on the property, and noted that the cabin and garage apartments had been used as long-term rentals since 1993 and that the units have been recently converted to short term rentals in which they are making application for. He indicated that his question mainly pertains to how the district parking regulations would affect short term rentals noting it would be very difficult to enforce parking regulations for two and three night stays and in his case monitoring a 270-foot-long driveway not visible from any public street. He indicated that he was not against the NCD, but had concerns on the implementation of some of the standards and how they worked with short-term rental properties.

Brief discussion ensued whether public comment questions would be addressed. There was consensus to conclude public comment first and then see if there were any questions from Council or the Planning Commission.

Diane Blanks, age 76, a member of the Junaluska Heritage Association, and resident of the Green Street NCD, adjacent to the proposed area, noted that as long as she can remember, the Junaluska neighborhood has been there and the residents enjoyed a rich community life within the boundaries of their neighborhood, and they still do today. She continued that so many of the towns old, historic neighborhoods have been eaten up by a few professional landlords, and it would be a shame to see the Junaluska neighborhood go the same way. She indicated the Town should do all it can to prevent that both for the good of the people in Junaluska and for the good of the town. She concluded by indicating her support for the proposed NCD.

Ed Midgett, resident of Water Street for 35 years, indicated that he also owned a duplex across the street and laments the gentrification of the area. Mr. Midgett indicated he had similar questions to those of Mr. Hixson, including: who is going to enforce the regulations, why are certain people being singled out and charged a fee, and where is the fee going? He indicated he was offended that people would make money off his property. Mr. Midgett noted that though they had never had an issue with student rentals or short-term rentals, he did not want to marginalize the people who have been wronged by student housing or students that are getting out of control. He concluded that he wondered if there's some way to do a neighborhood conservation district without the parking passes and rely on zoning as there are already laws in place for noise and things like that.

Heather Gurkin, indicated she was a property manager in Boone and noted that she agreed with what Mr. Midgett had said.

Jim Bates, resident of Ridgewood Drive since 2004, indicated he also owned a duplex in the same area as his home and noted his concerns that the NCD regulations seemed like a "gotcha" for their tenants. He voiced his concern regarding how tenants enter a lease mid-year may be fined and the costs of those fines if they don't have a sticker; how guests were handled and asked if they would need stickers? Mr. Bates expressed his concerns about the inequality of the regulations only applying to rental properties and suggested that perhaps the Town should look at other ways to relieve the burden of housing shortage by reviewing the occupancy limitations. He noted that the increase in regulations would make

property values go up and make rental prices and home prices also go up, and that the regulations do not seem to help make things better for anyone and urged the boards to come up with a better solution.

Maggie Farrington, a resident from the adjoining Grand Boulevard area, indicated that she wanted to take the opportunity and share some concerns about the parking issues, the noise, and the parties. She noted that unfortunately, even with the new overlay, it won't mean that any of those student rentals with six, eight, people is going to change as they are grandfathered in and that is going to continue until the home is sold and turned back to a single-family home. She noted that one of the other issues she heard during the meeting is about parking, traffic, and the overburdening of properties, and that the parking stickers are just an extra requirement, that doesn't serve the purpose they were originally intended to have. Ms. Farrington described the issue she has with a neighboring property that has more than four units and eight tenants, each with a car and the issues they have being on such small lots. She noted that she agreed that the residents should be able to have guests, but when you try to fit that many vehicles onto a property you cause danger and harm. Ms. Farrington indicated that she hoped the Town would look into ways that can actually have some enforcement, so that it's not necessarily going to change occupancy, but it's going to change the access of vehicles and maybe those dangerous situations that have been described during the meeting.

Quint David, owner of a house on Ridgewood Drive, indicated his concern with treating renters as second class citizens by giving them special stickers, and noted that families with large families who owned a home wouldn't be required to get stickers but renters would. Mr. David noted that the new Watauga County housing survey notes an extreme need for housing across the county, and that the ordinance being discussed doesn't meet any need for housing, and that it might actually decrease the number of rental houses available. He indicates his support of anything that makes neighborhoods safer, especially with the driving issues, and more brochures about how to be a better neighbor, how to be respectful, how to drive safely could be implemented. He indicated that this was band aid on a much larger issue that needs to be addressed on a larger scale. He concluded that from his years of being a renter that he, sort of, takes a little offense to being treated as a second class citizen when there are plenty of owners that drive faster and run stop signs, but they're not required to have a sticker on their car.

Mayor Pro Tem Tugman asked if there was anyone in attendance who wished to speak.

Meredith Maiken, spoke under public comment, that she was a student renter who is renting a home that borders the proposed NCD, and clarified her home is not in the proposed area. She stated that she supports the NCD. She explained her education background as she is studying for a minor in Planning. She stated economic concerns of renting and how it can be necessary to rent among multiple parties and it is hard to find individuals to share the rent.

There being no other public comment, Mayor Pro Tem Tugman asked Staff and the Town Attorney if they wanted to address any of the questions or comments asked during public comment before the Council and Commission asked additional questions.

In response to the public comment, Ms. Shook shared her screen and showed using the Town's online GIS and the locations of the other seven neighborhood conservation districts through town and explained that many of the districts have been around since the mid-2000s with essentially the same language. She indicated that the Town did have some experiences with these districts. She noted that it was hard to determine from a drive-by what is a rental property and what is not, and due to how often properties can change hands, is one of the reasons the Town sends out an annual notice. She also noted

that no fees were charged for the parking stickers, and that the Town subsidizes the cost of the Department enforcing the NCD regulations. She further explained that the Planning Department's Code Enforcement officers, not Police Officers, are the ones who handle enforcement of the regulations. Ms. Shook then outlined the method used for enforcement, which includes an investigation and opportunity to come into compliance. She also explained that residents are allowed to have guests and if the Department received a complaint or if Staff notices what they think are too many cars, Staff would conduct an investigation. She also wanted to clarify that there is a difference between grandfathered uses and occupancy. She noted that while the number of units may be grandfathered the number of occupants cannot.

Ms. Meade, further in response to public comment, clarified that the parking stickers were a measure to enforce occupancy controls and confirmed that guests are allowed, and if there is a compliant made then Staff will go out to investigate and may determine that a visitor's car is at the residence as often as you would expect the resident's car to be there. She noted that a vehicle there that is there for a few hours is different than a car that is there day after day and that is what the investigation would determine. She also clarified that only civil remedies would be permitted under state law as criminal penalties are prohibited for development ordinances unless they involve significant health or safety issues.

Ms. Meade noted that there were two overarching issues being discussed. She stated the first is whether the Junaluska neighborhood was a good candidate for the neighborhood conservation district protection. She continued the second separate issue is whether the NCD regulations do what they are intended to do and are they enforceable. Ms. Meade then noted that it had been questioned whether these regulations were lawful due to the legality of rental registrations, and that she did not believe the regulations were unlawful, since the state law prohibits a requirement that owners register rental property in order for it to be rental property under one of the statutes that involve minimum housing. She noted the NCD requirements require tenants to register their vehicles related to where they live. She also noted that Mr. Dixon had made a valid comment of short term rentals and noted the language in the UDO should be revised to resolve the apparent conflict. She also noted that Mr. Dixon made a fair point about why should tenants have to get a sticker if the driveway was over 200 feet long and not visible from the public road. She added that in this instance it is to consider what is the ill being addressed at that point and perhaps the regulations should be reviewed to see if they are addressing what is intended.

Ms. Meade shared that other jurisdictions, such as Chapel Hill, have different ways to regulate over parking, over occupancy and noise, which have been upheld in court of appeals. She explained that they limit the number of cars that can be parked at any one residence and use the number of cars as a proxy to keep occupancy and other issues down. They also impose limitations on the parking areas that may impact neighboring properties. She noted that parking seems to be one of the largest issues and that the regulations may need to drill down more into what the real issues that the Town is trying to address.

Ms. Shook noted that Ms. Meade had brought up several good points and reminded Council that review of the NCD regulations was on the department's work plan.

Brad Farrington, resident of the adjacent Grand Boulevard area, noted his support for investigating other mechanisms to help with parking and traffic issues. He further noted that a point not mentioned was

the stickers were a way to advocate for the renters who pay to park at their rental, especially when a visitor is parking in a spot, they are paying for leaving the tenant with no option other than to park on the street. He noted that the parking issue was a huge safety concern as well as the enjoyment of a low-density neighborhood encroached upon by high-density uses.

Upon conclusion of public comment, Mayor Pro Tem Tugman asked if there were any comments or questions from the boards.

Council Member George agreed that the NCD is not perfect but wanted to center the conversation back to the Junaluska request. He noted that he did not see this as an issue of tenants versus residents, but rather an issue of citizens versus people who are buying up properties and renting them out at rates that no regular family can afford. He also noted that most leases already limit the number of guests allowed. He also noted that NCD's already exist in this town and that Junaluska is one of the oldest historically black communities in the Appalachian Mountains, and the fact that it is not already a NCD is an embarrassment to the Town, and that the implication that either the Police or the Planning Staff did not know how to interact was confusing to him. He noted he did appreciate those who came out to speak.

Vice-Chair Plaag indicated that he agreed with Council Member George, and further indicated that he lived in the Junaluska community, and that every day he sees evidence of the issues that the Junaluska resident had described. He indicated that several of those who spoke out against the amendment were landlords that did not live in the district and some of them own the very properties which cause some of the consternation in the neighborhood. Vice-Chair Plaag continued that the NCD was a mechanism to control occupancy and that landlords who wanted to be a good neighbor needed to ensure that their tenants completed the registration form. He concluded that he also felt that there was something off that there was this much opposition to granting NCD status to the historically black community in Boone when he does not remember hearing this much opposition to a NCD that has been approved since he has lived here.

Council Member Roseman noted that she wanted to protect the history of the Junaluska community, to honor what this community has done for the area, and that some of the people who have built and live in these homes and love the neighborhood are still there. She noted it was the Town's responsibility to figure out if the request was a good fit for the neighborhood, and while there were flaws, it was important to move forward as it was a good fit.

Council Member Nenow noted that while not trying to be off topic, but that one of the recurring themes discussed was parking and traffic, and thinks that some of the solutions were not about how to fit more cars into the area but how the space could be navigated without cars. Vice-Chair Plaag agreed with Council Member Nenow and noted that the Junaluska area did not have sidewalks and that would go a long way to making the neighborhood walkable and attractive to those who did not have cars.

With no further comments, Mayor Pro Tem Tugman closed the public hearing for this case.

Case PL05781-061322 Signs – UDO Text Amendment

After a brief discussion, it was decided that Case PL05781-061322 Signs – UDO Text Amendment, would be tabled, and to be fair to those who had waited to speak the opportunity to share their public comment.

Mr. Graydon Eggers, with First Baptist Church, shared that the church was interested in installing a freestanding sign with changeable copy, and that the height and area regulations proposed made it hard to install a sign with any type of base to raise it from the ground. He shared with Council five different

photos that showed the Church's previously installed sign that was removed due to the widening of King Street, and noted that current regulations, after the rezoning, did not allow for a replacement freestanding sign. One of the photos he noted was the sign at the Town's Jones House which featured a freestanding sign with changeable copy. He requested that the Town consider these points as the consider the changes to the ordinance.

Mr. Skip Green, with First Baptist Church, provided history that he had built the original signs and the Jones House sign and that he also was interested in the Town evaluating the sign ordinance based upon Mr. Eggers concerns.

Ms. Shook indicated that when the case was brought back up that the concerns brought forward by the Mr. Eggers and Mr. Green would be discussed.

There being no other comment, Mayor Pro Tem Tugman tabled the case to the next public hearing on January 23, 2022 at 6 p.m.

Case PL06245-110922 Single- and Two-Family Nonconformities – UDO Text Amendment

Ms. Shook presented the case as presented in the board packet. The Town proposes an amendment to the Town of Boone Unified Development Ordinance (UDO) to modify UDO Section 7.03 regarding nonconforming uses to create exceptions for certain single- and two-family uses.

Council Member George indicated that he appreciative of Staff identifying the issue and bringing forward the amendment.

Mayor Pro Tem Tugman opened public comment.

Maria Owens indicated that she was an owner of a property that had originally been residential which had been converted to an office with the intent to always turn it back into the original residence. She indicated that she had missed the change in 2014, and did not realize until recently that she would not be able to convert the office back to a residence that she could live in. She noted that she thought the ability to do so could help in areas where the Town wanted the reestablishment of residences.

Ms. Shook clarified that this work had been part of the department's work plan.

Commission Member Boyd asked if a property was going back to a residential use if it was up to the property owner or Planning and Inspections staff to decide. Ms. Shook responded that the zoning remains the same for the property, and that it would involve a change of use to revert back to a residential use. She stated this would be allowed upon issuing a permit.

With no public comment, Mayor Pro Tem Tugman closed the public hearing for this case.

Adjournment of Town Council

Council Member George made a motion to adjourn the Town Council at 9:19 p.m. Council Member Nenow seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Edie Tugman, Mayor Pro Tem

Jane Shook, Planning Director

Eric Plaag, Planning Commission Vice-Chair

Continuation of Planning Commission Meeting

Brief discussion ensued on how to continue the meeting. By consensus, the Planning Commission agreed to take a short break and then reconvene and hear the Junaluska case last in case discussion took too long.

Vice-Chair Plaag announced a ten-minute break.

Vice-Chair Plaag reconvened the meeting.

Public Comment

There was no additional public comment made.

Approval of Planning Commission Meeting Minutes

Vice-Chair Plaag noted changes including on packet page 210 (minutes page 4), second paragraph under the Yates Family Case, “the” should be changed to “they,” and on packet page 211 (minutes page 5), second paragraph from the bottom, the “and Vice-Chair” should be changed to “as Vice-Chair”.

Commission Member Veno made a motion to approve the September 28, 2022, special Planning Commission meeting minutes as amended. Commission Member Tippettt seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Case PL05918-072222 Watauga County Jail – Local Historic Landmark

The Town of Boone, with permission from property owners, Sam and Peggy Furguele, has filed a Local Historic Landmark Application to designate the property at 142 Burrell Street, (Watauga County PIN: 2900-79-5419-000) as a local historic landmark. The property is in use currently as Proper Restaurant.

Vice-Chair Plaag noted he would be recused from participating in the discussion for the case.

Commission Member Tippettt stated he appreciated the background materials and that it was supported by the Town and property owners. Commission Member Veno noted he supported the amendment to continue to protecting building. He discussed how the discussion regarding the property’s porch indicated that it could be removed at some point in time. He stated that the Downtown Boone Post Office was altered with no changes to the architectural integrity, and the alterations fit hand-in-glove and are an example of how it can be done. He further stated that the building was almost lost once, and the outside of the property is still reminiscent of the jail. Commission Member Boyd agreed that it was completely in reason to support the landmark designation.

First Motion and Vote: Commission Member Tippettt 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:

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 2.1 The Economy

2.1.5. Downtown

- A. A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.
- F. The maintenance and revitalization of downtown Boone, as well as planning for its future development, will reflect the realities and qualities befitting its geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services.

Comprehensive Plan Policy 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.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

The motion was seconded by Commission Member Boyd.

Vote: Aye – 3.
Nay – None.
Recusal – 1 (Plaag).

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because of the historic significance of the property, and that the property is located within the historic district is a plus; and the property represents a unique historic tradition that has evolved and will continue to evolve; and as the property owners are supportive as is the Town.

The motion was seconded by Commission Member Venio.

Vote: Aye – 3.
Nay – None.
Recusal – 1 (Plaag).

The motion passed.

Vice-Chair Plaag rejoined the meeting.

PL06130-100422 and PL06131-100422 Dinh – General Use Zoning Map Amendment

Tim Trong Dinh has submitted a General Use Zoning Map Amendment application to rezone 2 parcels off of Homespun Hills as follows:

1. Tract 1: 173 Homespun Hills from B3 General Business to R1 Single-Family Residential
2. Tract 2: Watauga County PIN: 2900-45-2302-000 (vacant) from B3 General Business/R3 Multiple-Family to R1 Single Family Residential

Brief discussion ensued as to the boundaries of the properties. Vice-Chair Plaag noted that he appreciated the applicant's request to rezone as it would add more housing stock to the jurisdiction. Commission Member Veno asked if the owners wanted to combine the lots for the garage use would they have to go through another hearing process. Ms. Turner replied that it would be staff-level approval to combine the lots.

First Motion and Vote: Vice-Chair Plaag 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:

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 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.

B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.

Comprehensive Plan Policy 2.3 The Community

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.

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.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Plaag made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because rezoning will align the parcels with the current single-family use and may increase the single-family stock

in the Town of Boone limits by encouraging single-family development of the vacant parcel. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Case PL06245-110922 Single- and Two-Family Nonconformities – UDO Text Amendment

The Town proposes an amendment to the Town of Boone Unified Development Ordinance (UDO) to modify UDO Section 7.03 regarding nonconforming uses to create exceptions for certain single- and two-family uses.

Commission Member Veno asked Ms. Shook to clarification if what the change would mean for a rental property that had been abandoned for 180 days. Ms. Shook stated that it would not impact whether or not a property was a rental as the Town could not regulate ownership. However, she added it would allow the use of former dwelling unit that had been converted to a conforming use to be allowed to convert back to the residential use at any point even though those uses are not permissible uses within a commercial zoning district.

First Motion and Vote: Commission Member Veno made a motion that the proposed amendment to the Town's zoning ordinance 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:

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 2.3 The Community

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.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Veno made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because as discussed streamlines the problem of certain residential nonconforming uses in UDO Section 7.03. The motion was seconded by Commission Member Tippet. Vice-Chair Plaag asked

Commission Member Veno if he would accept a friendly amendment to add that the net effect creates low density residential stock in areas where it is not currently possible and should be encouraged. Both Commission Member Veno and Commission Member Tippet accepted the friendly amendment.

Vote: Aye – All
Nay – None

The motion passed.

Case PL06142-101122 Junaluska NCD – General Use Zoning Map Amendment

The Town of Boone has initiated a General Use Zoning Map Amendment to apply a Neighborhood Conservation District (NCD) zoning overlay district to 161 properties located in the “Junaluska” area. This includes properties in the Alexander Dr., Carolina Ave., Church St, Eastview Dr., Gragg St., North St., N. Depot St., N. Water St., Ridgewood Dr., Summit St., Sun Haven Ln., Tremont St., Queen St., and Wyn Way areas.

Vice-Chair Plaag asked the Planning Commission if they wanted to continue with the current case or if they wanted to reschedule a special meeting to further consider the case. Ms. Shook, Director of Planning & Inspections noted that she understood that the Planning Commission had heard discussion about both the NCD as a construct and the application of the NCD to the Junaluska area. She recommended the Planning Commission separate the discussion of the NCD from the core request which was the consideration of the NCD and the Junaluska area noting that an opportunity to discuss the merits of the NCD would come later as it was on the department’s work plan. Vice-Chair Plaag agreed and felt like the items mentioned by Ms. Meade are worth exploring for all neighborhood conservation districts and noted that while he understood that there were problems with the regulations, he did not want to lose sight of the request. He noted his concern that he didn’t remember there being anywhere near the level of opposition on any of the seven NCD’s, and that the opposition came from people who own multiple properties and don’t live in the area. He also recommended focusing on the actual request and not getting lost in a discussion of changes to the regulations and let that future conversation happen in its own time.

Commission Member Veno noted that the most salient point of the evening was the request and the discussion on other issues, such as parking, were separate and that much of the opposition seemed to be based upon misinformation. He agreed the parking issues had to be addressed.

Ms. Shook added that in the past, the Town did request a charge for the stickers, but there was a decline in assigning stickers, that a charge was not necessary. She explained that she felt the concept of a NCD had extended from its original intent, and that it was a tool to regulate occupancy and not necessarily parking.

Vice-Chair Plaag told Ms. Shook that when the discussion on the NCD happens that it would be nice if it included a refresher on nonconforming uses. Ms. Shook explained that Planning Staff was working on resources that would assist with that discussion.

Commission Member Tippet, as a resident of the Blanwood NCD, noted that he understood the though the need for a larger conversation was needed, he supported the request for the Junaluska area and feels that it is a step forward. He noted that he felt positive about moving forward that evening with the request. Commission Member Boyd agreed that the neighborhood was just as deserving as the surrounding of areas of the designation.

Vice-Chair Plaag stated that it was a compliant driven process. Ms. Shook replied Staff operates by drive-by’s, or if on a recurring basis visit the property in proactive enforcement.

First Motion and Vote: Commission Member Tippet made a motion that the proposed amendment to the Town's zoning ordinance 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:

Comprehensive Plan Policy 2.3 The Community
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.

The motion was seconded by Commission Member Boyd.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because the Junaluska neighborhood was extremely worthy of the neighborhood conservation district designation and the designation provides addition town monitoring mechanisms as it relates to occupancy. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Ms. Shook announced that the December Planning Commission meeting would be canceled due to the holidays and the lack of agenda items.

Adjournment of Planning Commission

Commission Member Tippet made a motion to adjourn the meeting at 10:35 p.m. Commission Member Veno seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Eric Plaa, Planning Commission Vice-Chair

Jane Shook, Planning Director

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:
PL05781-061322
Case Name:
Signs

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____

Address: 567 West King Street

Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): 26, 34

Section(s): _____

Brief Description of Amendment (Attach Proposed Text):

The Town of Boone has proposed amendments to UDO Article 26 Signs and Article 34 Definitions to revise and modernize sign regulations. Amendments may also be made to other Articles to conform them to changes made in this case

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

June 13, 2022
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: 09/26/2022

PC Meeting Date: _____

TC Meeting Date: _____

Text Approved: ☐ Yes ☐ No

Notes: _____

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Communication: Case PL05781-061322 Application (Case PL05781-061322 Signs - UDO Text Amendment)



STAFF REPORT
PUBLIC HEARING
SEPTEMBER 26, 2022
Case PL05781-061322 Signs - UDO Text Amendment

Request

The Town of Boone has proposed amendments to UDO Article 26 Signs and Article 34 Definitions to revise and modernize sign regulations. Numerous changes have been made to the regulations in order to be compliant with statutory requirements, case law and the need to modernize the language. Staff and the Town Attorney will provide additional details during the presentation of the case at the public hearing.

Please note, amendments may also be made to other Articles to conform them to changes made in this case.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.
 - A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
 - A.2 Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.
 - A.3 Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.
 - A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.

...

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:

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL05558-030922 within in Exhibit A and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

TOWN COUNCIL ACTION – Adoption of Ordinance

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

ORDINANCE # PL05781-061322

**AN ORDINANCE TO REVISE ARTICLES 23 AND 34 OF THE TOWN OF BOONE UNIFIED DEVELOPMENT
ORDINANCE RELATING TO SIGNS**

WHEREAS, the Boone Town Council desires to revise and modernize the requirements for signs;
and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on March 26, 2022 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 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 26 and 34 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 12th day of October, 2022.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

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

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance # PL05558-030922 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

Communication: Case PL05781-061322 Staff Report (Case PL05781-061322 Signs - UDO Text Amendment)

EXHIBIT A**Article 7 Nonconformities**

...

7.05 Nonconforming Situation**7.05.01 Alteration of a Nonconforming Situation:**

- A. Subject to Subsection 7.05.06, a nonconforming structure may be altered so long as no new nonconformity is created nor existing nonconformity increased.

7.05.02 Development ~~requiring~~ ~~which requires~~ compliance with UDO:

- A. Cost of development as referenced herein shall be measured by adding together the costs ~~which~~ ~~that~~ will be incurred in all development activity as proposed, together with the development activity other than normal maintenance and repair that has been permitted within the prior thirty-six (36) months.
- B. All new structures or portions of structures must comply with all Ordinance requirements. However, when a nonconforming structure is destroyed or damaged by fire, flood, wind, other act of God, the structure may be repaired or restored to its original dimensions and conditions as long as the structure is not located in a Floodway or Special Flood Hazard Area, a building permit for the repair or restoration is issued within one (1) year and the structure is occupied within two (2) years of the date the building permit is issued.
 - 1. A nonconforming structure damaged by other cause to such extent that repair, reconstruction or restoration is expected to cost more than fifty percent (50%) of the total value of the structure, must be removed.
- C. Compliance of existing development with the requirements of the Ordinance shall be triggered by the costs of proposed new development (excluding any costs associated with improvements made due to compliance with this Section) in accordance with the following tiers. The Administrator may require certification of the new development by a competent professional. The following tiers are cumulative in effect:
 - 1. **Tier 1:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed ten percent (10%) of the value of the development shall comply with the following, to the extent practicable:
 - a. Bicycle parking in accordance with Section 24.09.
 - b. Landscape improvements pursuant to Section 31.09 Screening Along Streets with a priority given to large deciduous trees.

2. **Tier 2:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed twenty-five percent (25%) of the value of the development shall comply with the following, to the extent practicable:
 - a. Solid waste and recycling containers pursuant to Section 22.13.
 - b. Signs pursuant to Article 26.
 - c. Color requirements in accordance with Subsection 25.02.05.
 - d. Lighting in accordance with Section 25.05.
 - e. Landscape improvements pursuant to Section 31.06 Buffer and Screen Requirements with a priority given to large deciduous trees.
3. **Tier 3:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed fifty percent (50%) of the value of the development shall require compliance with the following, to the extent practicable:
 - a. Drainage and stormwater requirements pursuant to Article 21.
 - b. Pedestrian circulation and sidewalk requirements pursuant to Section 23.08.
 - c. Parking requirements pursuant to Article 24.
 - d. All other requirements of Article 25 Community Appearance Standards.
 - e. All other requirements of Article 31 Landscape Standards.
 - f. Corridor District requirements pursuant to Article 14.
4. **Tier 4:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed seventy-five (75%) of the value of the development shall require compliance with all requirements of the UDO unless compliance is impossible, provided this section shall not require replacement of or substantial change to a façade that is in good condition.

(Ord. PL04727-050721, 07-01-2021)

...

Article 26 Signs

~~26.01 General Regulation of Signs~~

~~26.01.01 Location Requirements: No signs shall be located in or overhang any right-of-way, including alleys and sidewalks, except for government signs. All signs shall be set back a minimum of one (1) foot from the right of way in all zoning districts except the "B1" Central Business District.~~

~~26.01.02 Vision Obstructions: No signs shall create any vision obstructions onto a public right of way, alley, sidewalk, adjacent drive or private drive entering onto a street. Signs or floodlights~~

~~erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property as defined in N.C. Gen. Stat. § 136-32.2 are also prohibited.~~

26.01.03 — Landscaping Requirements: ~~Freestanding signs must be placed in a landscaped area which is at least three feet (3') in width and at least the length of the greatest dimension of the sign. Curbing, railroad ties, bricks, fencing and/or other suitable vehicular barrier shall enclose the landscaped area.~~

26.01.04 — Construction Signs: ~~Signs may be two-sided, non-illuminated and shall not exceed thirty-two square feet (32 ft²) and may be placed on premise. They shall be removed no later than seven (7) days after completion of the project.~~

26.01.05 — Attached Sign Limitations: ~~Attached signs shall not project higher than the building soffit or eave height and shall not extend beyond the edge of any wall or other surface to which they are mounted (this does not refer to projecting signs).~~

26.01.06 — Copy Area: ~~The area of a sign shall be measured according to the following rules as applicable:~~

~~**A.** In the case of freestanding, projecting, canopy or marquee signs, area consists of the entire surface area on which copy could be placed. The supporting structure or bracing of a sign shall not be counted as a part of the sign area unless such structure or bracing is made part of the signs message. Where a sign has two (2) display faces back to back, the area of only one face shall be considered as the sign area. When a sign has more than one display face, all areas which can be viewed simultaneously shall be considered the sign area. All signs are limited to two (2) faces.~~

~~**B.** In the case of a sign (other than freestanding, projecting, canopy or marquee) whose message is fabricated together with the background which borders or frames the message, sign area shall be the total area of the entire background.~~

~~**C.** In the case of a sign (other than freestanding, projecting, canopy or marquee) whose message is applied to a background which provides no border or frame, sign area shall be computed by continuous rectilinear lines, or a circle or an ellipse enclosing the extreme limits of the letters, writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display used to differentiate the sign from the backdrop or structure against which it is placed.~~

26.01.07 — Freestanding Signs: ~~All freestanding signs shall follow the following criteria:~~

~~**A.** No freestanding sign shall be placed less than forty feet (40') from another freestanding sign.~~

~~**B.** Freestanding signs shall be located on the same lot as the business being advertised.~~

~~**C.** All freestanding signs, support structures and required landscaping areas shall be at least one foot (1') from any right-of-way or easement.~~

~~26.01.08 — **Lighting:** Interior lighting for signs, where permitted, shall not exceed eleven (11) watts per bulb (the standard industry size). In the case of the use of exterior lighting by floodlights, such lights must comply with N.C. Gen. Stat. § 136-32.2.~~

~~26.01.09 — **Changeable Copy:** Signs in the B2, B3 zones and projecting theater marquees in the B1 zones may contain changeable copy; however, in no case shall the changeable copy portion of the sign exceed fifty percent (50%) of the total sign area. Copy which changes through mechanical, digital, electronic, or manual means may change or alternate no more than once every sixty (60) minutes.~~

~~26.01.10 — **Awning, Canopy, Projecting and Suspended Signs:** Awning, canopy projecting and suspended signs may be no less than eight feet (8') at their lowest point above any sidewalk.~~

~~26.01.11 — All signs must be placed in accordance with Section 98 of the Boone Town Code.~~

~~26.02 Signs Which Do Not Require a Permit~~

~~26.02.01 — No zoning permit is necessary for these signs, provided they are not prohibited in this Article and provided that they comply with the conditions described herein.~~

~~A. — Informational signs displayed for the direction or convenience of the public. Such signs shall not exceed four square feet (4 ft²) in area and may be illuminated.~~

~~B. — Directional signs are permitted provided that they do not exceed four square feet (4 ft²) in area and three feet (3') in height.~~

~~C. — Gasoline pump signs that are non-illuminated giving information such as self-service instructions, price, type of fuel, etc., shall be permitted on gasoline pumps. These may contain the trade name or emblem, but they shall not exceed beyond the side of the gasoline pump and not more than one foot (1') above it. In addition, establishments that sell gasoline shall be allowed one (1) price sign (or two (2)) if the station is located on corner property which displays price only, and does not exceed four square feet (4 ft²) in area. This sign shall be in addition to the signs permissible in the district in which said gas station is located.~~

~~D. — Time and temperature signs are limited to one sign with alternating cycles. This sign may be in addition to other permitted signs. It may not contain any advertising other than the name or logo of the business and it must comply with all requirements of the district in which it is located.~~

~~E. — Drive through window signs are permitted as either a freestanding sign or attached wall sign. Such signs may not exceed twenty-eight square feet (28 ft²) and should not generally be visible from the front of the restaurant. If a freestanding menu sign is used, such sign may not exceed eight feet (8') in height. No more than two (2) drive through signs are permitted for each business.~~

~~F. — Little League sponsorship signs are permitted at the Optimist Club fields for the Little League Season (April through October). The signs may not exceed twenty-four square~~

feet (24 ft²) and must be uniform in dimension. The copy on the temporary sign is limited to the name of the sponsoring business and its logo.

~~G. Business Directory Signs: Signs, other than signs permitted under 26.12.01, that are not illuminated may be placed on buildings to identify the tenants within. Such signs shall contain no advertising other than business name and/or logo and shall not exceed one (1) square foot per sign, per business.~~

~~H. Temporary Signs, other than Agricultural Signs, Community Event Signs, inflatable signs and Farmer's Market Signs.~~

~~I. Political Signs~~

~~J. Subdivisions, multi-family residential developments, and mobile home parks may display one sign announcing the name of the development at each entrance. The sign copy is limited to the name of the development only and may be freestanding or placed on the entrance wall of the development. The sign may be illuminated and the size may not exceed thirty square feet (30 ft²) in area, or eight feet (8') in height.~~

(Ord. 20140385, 08-21-2014)

~~26.03 Signs Excluded from Regulation~~

~~26.03.01~~ The following signs and/or displays shall be exempt from the regulations of this Article. These exemptions do not relieve an applicant from obtaining a building permit pursuant to the North Carolina Building Code:

~~A. A government sign, when approved or duly authorized by the governmental entity's governing body.~~

~~B. Trade names and graphics customarily painted on newspaper and soft drink dispensers, as well as delivery trucks.~~

~~C. Publicly owned memorial/historical tablets or signs.~~

~~D. Living Sign~~

~~E. Bench Signs located on private property~~

~~26.04 Prohibited Signs~~

~~26.04.01~~ The following signs are prohibited:

~~A. Abandoned Signs~~

~~B. Flashing, blinking, or scrolling signs or signs with intermittent lights~~

~~C. Portable Signs~~

~~D. Roof Signs~~

~~E. Rotating Signs~~

~~F. Sidewalk Signs~~

~~G. Snipe Signs~~~~H. Inflatable Signs, other than those permitted under the Temporary Sign Regulations of Section 26.16.10.~~~~I. Signs imitating or resembling official traffic or government signs or signals~~~~J. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign(s). Vehicles or trailers which display signs must move to perform only business-related activities at least every forty-eight (48) hours to obtain exemption from this requirement.~~~~K. Temporary Signs except those in Section 26.16.~~~~L. Trademarks, emblems, pictures, etc. displayed in a three (3) dimensional nature.~~~~M. Pavement marking of any kind, except for traffic control.~~~~N. Offensive Signs as defined by N.C. Gen. Stat. § 19-1.1.~~~~O. Signs which obstruct views of other signs, other property, or sight into public rights of way.~~~~P. Billboards or off premise advertising, except off-premise community event signs.~~~~Q. Signs placed in public right-of-way~~~~R. Signs placed which obstruct public safety~~~~S. Fence wraps displaying signage when affixed to perimeter fencing at a construction site until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. No fence wrap may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.~~~~T. Any sign(s) which does not comply with regulations of this Ordinance.~~~~(Ord. PL04727-050721, 07-01-2021)~~~~**26.05 Signs Permitted in the R1, R1S, RA, RR, R1A, R2, R4 and MH Districts**~~~~**26.05.01** The residential districts provide for a quiet environment and sound neighborhoods. While some service-oriented businesses are allowed, the general usage is for family life. The intent of this Section is therefore to provide for a limited use of signs which are generally not illuminated and which will preserve the family-oriented character of neighborhoods.~~~~**26.05.02** One sign at each entrance announcing the name of a subdivision, residential development or mobile home park is allowed.~~~~**A.** The sign copy is limited to the name of the development only.~~~~**B.** The sign may be freestanding or placed on the entrance wall of the development.~~

~~C. The sign may not exceed thirty square feet (30 ft²) in area, or eight feet (8') in height.~~

~~D. The sign may be illuminated.~~

~~**26.05.03** Any Use 5.2 Churches, Synagogues and Temples is permitted two signs from the following categories: attached or freestanding.~~

~~A. Freestanding signs may not exceed thirty square feet (30 ft²) in area, or eight feet (8') in height.~~

~~B. Attached signs may not exceed an area equal to one square foot (1 ft²) of sign area per linear foot of the building frontage. The maximum square footage for an attached sign is thirty square feet (30 ft²).~~

~~C. Signs may be illuminated.~~

(Ord. PL03171-000319, 12-16-2019)

~~**26.06 Signs Permitted in the R3 District**~~

~~**26.06.01** The R3 District is established to provide a medium density area consisting of three or more family dwelling units plus limited service use.~~

~~**26.06.02 Advertising Signs**~~

~~A. Two signs allowed per premise that may be chosen from the following categories: attached, freestanding, canopy, or projecting. In no case may both signs be from the same category. Painted wall signs are prohibited.~~

~~B. Attached and freestanding signs may not exceed sixteen square feet (16 ft²) in area per sign.~~

~~C. Freestanding signs may not exceed ten feet (10') in height.~~

~~D. Projecting signs may not exceed eight square feet (8 ft²) in area per sign.~~

~~E. Awning signs may not exceed twenty five percent (25%) of the area of the awning. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of the size of the awning.~~

~~F. Signs which are attached to the face or side of an awning may not exceed twelve inches (12") in height and no support structures shall be visible.~~

~~**26.07 Signs Permitted in the B1 District**~~

~~**26.07.01** The B1 district has diverse shops in close proximity to one another, and is oriented primarily to daytime pedestrian use. Flower boxes, benches, shake shingle roofs and natural plantings lend the area a distinctive mountain village appearance. Leisurely shopping is encouraged. The intent of this Section is therefore, to promote the downtown as a shopping and gathering place and to enhance the village atmosphere. The use of wooden signs is encouraged, so as to contribute to the warmth, friendliness and natural beauty of the area.~~

~~**26.07.02** — Each business is permitted two (2) signs chosen from the following categories: attached, canopy, or projecting. In no case may both signs be in the same category. Painted wall signs are prohibited in the B1 zone. Signs may be illuminated. Businesses are also allowed one sign from the following:~~

~~**A.** — A projecting sign which may contain the name of the business and any logo which the business chooses to adopt. The sign may not exceed four square feet (4 ft²) in size. It shall display only the name of the business and/or buildings which it is attached to and the building and/or business logo or logos and no more than one (1) per building.~~

~~**B.** — A freestanding sign which may be a maximum size of two feet (2') by two feet (2'), and the bottom of said sign shall display only the name of the business and/or building which it is located in front of, and the building and/or business logo or logos and no more than one (1) sign per building.~~

~~**26.07.03** — Attached signs shall not exceed an area equal to the greater of sixteen square feet (16 ft²) or one-half square foot (½ ft²) of sign area per linear foot of building frontage. For example, buildings which are thirty-two feet (32') across the front or less may have a sixteen (16) square feet attached sign. If the building is larger than thirty-two feet (32') across the front the permitted size would be determined by the formula, one-half square feet (½ ft²) per linear foot of building. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of building size.~~

~~**26.07.04** — Projecting signs may not exceed sixteen square feet (16 ft²) in area.~~

~~**26.07.05** — Awning signs shall not exceed twenty-five percent (25%) of the area of the awning. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of the size of the awning. Signs which are attached to the face or side of an awning may not exceed twelve inches (12") in height and no support structures shall be visible.~~

~~**26.07.06** — Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 27.15.~~

~~**26.07.07** — Projecting Theater Marquees: Theaters which choose to use a projecting theater marquee are only allowed to have the signage as permitted in Section 27.13.~~

~~**26.08 Signs Permitted in the B2 District**~~

~~**26.08.01** — The neighborhood business district provides a variety of commercial services. It is oriented to vehicular traffic as well as pedestrian traffic. The signs allowed in this area permit an efficient means of information transfer consistent with the size of the streets and speed of the traffic.~~

~~**26.08.02** — Advertising Signs~~

~~**A.** — Signs may be illuminated.~~

- ~~B.~~ Each business is permitted two signs. They may be chosen from the following categories: attached, freestanding, canopy, projecting. In no case may the signs be of the same category except that a business may have two (2) attached signs.
- ~~C.~~ Attached signs shall not exceed an area equal to one square foot (1 ft²) of sign area per linear foot of building frontage. For example, a building which is fifty feet (50') across the front may have a fifty square foot (50 ft²) attached sign. The maximum allowable square footage of attached sign is eighty square feet (80 ft²) regardless of building size.
- ~~D.~~ Freestanding signs shall not exceed thirty square feet (30 ft²) in area and twenty feet (20') in height.
- ~~E.~~ Projecting signs may not exceed sixteen square feet (16 ft²) in area.
- ~~F.~~ Awning signs shall not exceed twenty-five percent (25%) of the area of the awning. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of the size of the awning. Awning signs may be attached at the face of, side of, or under the awning. Signs which are attached to the face or side of awning may not exceed twelve inches (12") in height.
- ~~G.~~ Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 26.15.

~~26.09 Signs Permitted in the B3 District~~

~~26.09.01~~ The B3 districts are located on all major access roads to Boone. It is on these roads that the visitor receives a first impression of the Town. It is the intent of this Ordinance to allow the visitor to locate business establishments easily and quickly and yet not to allow signs which might interfere with views of the scenic mountains. The B3 districts provide a variety of services primarily oriented toward vehicular traffic. Because vehicles in this area travel at speeds up to 45 m.p.h., it is important to ensure that signs are clear, distinct and readable in a brief space of time. The requirements identify establishments quickly and easily.

~~26.09.02 Advertising Signs~~

- ~~A.~~ Signs may be illuminated.
- ~~B.~~ Each business is permitted two (2) signs which may be of any type, however, no more than one canopy sign per business.
- ~~C.~~ Freestanding signs shall not exceed fifty square feet (50 ft²) in area and twenty feet (20') in height.
- ~~D.~~ No freestanding sign shall be placed less than forty feet (40') from another freestanding sign.
- ~~E.~~ Projecting signs may not exceed sixteen square feet (16 ft²).

~~F. Awning signs shall not exceed twenty five percent (25%) of the area of the awning. The maximum allowable square footage is forty eight square feet (48 ft²) regardless of the size of the awning. Awning signs may be attached to the awning at the face of, side of, or under the awning. Signs which are attached to the face or side of the awning may not exceed twelve inches (12") in height and no support structures shall be visible.~~

~~G. Attached signs and painted wall signs may not exceed an area equal to one square foot (1 ft²) of sign area per linear foot of the building frontage. For example, a building which is fifty feet (50') across the front may have a fifty square foot (50 ft²) attached or painted wall sign. The maximum square footage of attached or painted wall sign is 120 square feet, regardless of building size.~~

~~H. Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 26.15.~~

~~26.10 Signs Permitted in the M1 District~~

~~26.10.01 The manufacturing district in Boone is limited to currently existing industrial uses. Each use shall be permitted one advertising sign.~~

~~26.10.02 Advertising Signs~~

~~A. The sign may be attached or freestanding.~~

~~B. The sign may be illuminated.~~

~~C. Attached signs may not exceed an area equal to one square foot (1 ft²) per linear foot of building frontage and not exceed 120 square feet.~~

~~D. Freestanding signs may not exceed fifty square feet in size and twenty feet (20') in height.~~

~~26.10.03 In addition to signage permitted by Section 26.10.02 A, the industrial district shall be permitted a directory sign which announces the name of the industrial park and all businesses located within the park. Directory Signs may be freestanding and shall conform to the following requirements:~~

~~A. Directory Sign.~~

~~1. The freestanding directory sign shall not exceed fifty square feet (50 ft²) in area.~~

~~2. The height of the directory sign shall not exceed twenty feet (20').~~

~~26.10.04 Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 26.15.~~

~~26.11 Signs Permitted in the OI District~~

~~26.11.01 The Office Institutional zoning district provides a variety of office, institutional and commercial services. The signs allowed in this area permit an efficient means of information transfer consistent with the size of the streets and speed of the traffic.~~

26.11.02 — Advertising Signs

- ~~A. Signs may be illuminated.~~
- ~~B. Each office/institution/business is permitted two signs. They may be chosen from the following categories: attached, freestanding, canopy, or projecting. In no case may the signs be of the same category except that an office/institution/business may have two (2) attached signs. Painted wall signs are not permitted in the OI district.~~
- ~~C. Attached signs shall not exceed an area equal to one square foot (1) of sign area per linear foot of building frontage. For example, a building which is fifty feet (50') across the front may have a fifty square foot (50 ft²) attached sign. The maximum allowable square footage of an attached sign is sixty-four square feet (64 ft²), regardless of building size.~~
- ~~D. Freestanding signs shall not exceed thirty square feet (30 ft²) in area and ten feet (10') in height.~~
- ~~E. Projecting signs may not exceed sixteen square feet (16 ft²) in area.~~
- ~~F. Awning signs shall not exceed twenty-five percent (25%) of the area of the awning. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of the size of the awning of the awning. No signs may be attached to the awning support structures. Signs which are attached to the face or side of an awning may not exceed twelve inches (12") in height.~~
- ~~G. Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 26.15.~~

26.12 Shopping Centers and Malls

26.12.01 — Directory Signs: A shopping center or mall shall be permitted a directory sign. Directory signs may be attached or freestanding and shall conform to the area requirements as follows:

- ~~A. In the B1 district, the permitted area of an attached directory sign shall not exceed the greater of twenty square feet (20 ft²) or one-half square foot (½ ft²) per linear foot of total frontage of the building to a maximum of forty-eight square feet (48 ft²). Freestanding directory signs shall not exceed twenty square feet (20 ft²) in area and ten feet (10') in height.~~
- ~~B. In the B2 district, the permitted area of an attached directory sign shall not exceed one square foot (1 ft²) per linear foot of frontage of the building to a maximum of eighty square feet (80 ft²). A freestanding directory sign shall not exceed forty-eight square feet (48 ft²) in area, and twenty feet (20') in height.~~
- ~~C. In the B3 district, an attached directory sign shall not exceed one square foot (1 ft²) per linear foot of building frontage to a maximum of 120 square feet. A freestanding directory sign shall not exceed the greater of fifty square feet (50 ft²) in area or ten square~~

feet (10 ft²) in area for each 150 linear feet of arterial road frontage of the lot in which it is located. The height of the directory sign shall not exceed twenty feet (20').

~~D. In the R3 district, directory signs shall conform to the requirements set forth in Section 26.06.~~

~~E. When a shopping center or mall has in excess of 400 feet on an arterial road(s) and consists of more than five (5) acres, one (1) directory sign per arterial road upon which it fronts is permitted.~~

~~F. When a development utilizes parking control devices as regulated by Boone Town Code Chapter 73 Towing, the name of the building or business shall be prominently visible from the entrance of the controlled parking area.~~

~~**26.12.02** Entrances to interior malls may be identified by an attached sign in addition to the other sign permitted to the business establishment. Such signs shall be attached to the building over the entrances or beside the entrances only. The signs shall not exceed four square feet (4 ft²) in the B1 district, eight square feet (8 ft²) in the B2 district and sixteen square feet (16 ft²) in the B3 district.~~

~~**26.12.03** Signs for tenants within shopping centers, malls and unified business establishments shall meet the following requirements:~~

~~A. Businesses within shopping centers, malls and unified business establishments are permitted two (2) signs from the following categories: attached, canopy, and projecting. In the B3 district, painted wall signs are also permitted.~~

~~B. If the business has an exterior frontage in the commercial development of eighty linear feet (80 lf) or more, the business may be permitted a freestanding sign as one (1) of its two (2) permitted signs. All signs permitted by this Section must meet all regulations contained in Section 26.01 as they pertain to the district in which they are located. Area of attached and painted wall signs shall be computed by the linear building frontage feet of each individual establishment.~~

(Ord. 20140385, 08-21-2014)

~~**26.13 Marquee Sign Regulations**~~

~~**26.13.01** The following regulations shall apply solely to marquee signs other than a historical reconstruction of a projecting theater marquee.~~

~~A. Except where a projecting theater marquee is utilized pursuant to this Section, theaters, museums, auditoriums and other entertainment facilities are permitted one (1) changeable copy marquee in addition to their two (2) permitted signs.~~

~~B. Marquee signs shall conform to the applicable sign requirements for the district in which they are located, however the area of the marquee sign shall be permitted an increase in size up to an additional 100% provided that one of the other signs to which the~~

~~business is entitled is reduced in size. The percentage of increase in area shall be equal to the reduction in area of the other permitted sign.~~

~~C. If the marquee is a freestanding sign, the height of the marquee may not be increased over that permitted in the zone in which it is located.~~

26.13.02 ~~The following regulations shall apply solely to a historical reconstruction of a projecting theater marquee:~~

~~A. A projecting theater marquee shall be allowed only in the B1 Central Business District.~~

~~B. No portion of a projecting theater marquee shall be less than eight feet (8') above grade nor higher than sixteen feet (16').~~

~~C. A projecting theater marquee and supporting structures shall not extend over the edge of any sidewalk or into any street right-of-way absent an encroachment agreement authorizing such incursion by the Town.~~

~~D. The projecting theater marquee shall only be attached to the building in which the theater is located and must be above an entrance to the theater. No projecting theater marquee sign shall be wider than the building to which it is attached.~~

~~E. Signage may be installed directly upon the vertical face or faces of a projecting theater marquee with the following conditions:~~

~~1. Channel letters may extend above such vertical face or faces provided that the letter height is restricted to twelve inches (12") in height.~~

~~2. No sign may extend below such vertical face or faces with the exception of lighting elements. All lighting elements shall meet the requirements of Subsection 26.13.02(B) above.~~

~~3. The changeable copy portions of a projecting theater marquee shall not exceed fifty percent (50%) of the total area of all faces and comply with Section 27.01.~~

~~4. All other signage attached to a projecting theater marquee may not exceed 20 percent (20%) of the total area of all faces.~~

~~F. A projecting theater marquee may include the use of flashing, scrolling, or intermittent lights subject to the following conditions:~~

~~1. The flashing, scrolling, blinking, or intermittent lights may only be in operation during the time the theater is open to the public and prohibited between the hours of 11 p.m. to 7 a.m.~~

~~2. Light fixtures on the projecting theater marquee do not have to meet the requirement for full cut-off fixtures as required in Subsection 25.05.02.~~

~~G. Encroachment: Where a projecting theater marquee extends over a public sidewalk or other public property, an executed encroachment agreement approved by the Boone~~

~~Council shall be required prior to issuance of any sign permit for a projecting theater marquee.~~

~~H. A projecting theater marquee may be constructed either as part of a new structure or as an addition to an existing structure as follows:~~

- ~~1. Site-specific plans and specifications must be submitted from a registered North Carolina licensed structural engineer demonstrating that the projecting theater marquee complies in all ways with appropriate code provisions of the Town and the State of North Carolina, including but not limited to, materials, drainage, roof strength, bracing and anchorage.~~
- ~~2. A final certification from the registered North Carolina licensed structural engineer shall be required stating that the projecting theater marquee complies with all appropriate code provisions of the Town and the State of North Carolina and that the projecting theater marquee has been constructed according to their submitted design.~~

~~(Ord. 20160501, 09-15-2016)~~

~~26.14 Home Occupation Signs~~

~~26.14.01 The following regulations shall apply solely to home occupation signs.~~

- ~~A. Home occupation signs are permitted in the R1, R1A, RA, R2, R3, R4, MH, B1, B2, and B3 districts.~~
- ~~B. The sign may not be illuminated.~~
- ~~C. The sign must be an attached sign mounted flat on the building.~~
- ~~D. The sign may not exceed four square feet (4 ft²) in size.~~

~~26.15 Exceptions and Modifications~~

~~26.15.01 Where a business establishment elects to erect only one (1) sign on premises, and that sign is to be an attached sign, the permitted area of this sign may be increased as follows:~~

- ~~A. The permitted area of an attached sign may be increased by fifty percent (50%).~~
- ~~B. The attached sign permitted by this Section shall meet all other applicable requirements regarding placement, lighting, permit procedures, etc., of this Ordinance.~~
- ~~C. In the event that the business should desire a second sign after the attached sign allowed by this Section is erected, no permit for the additional sign shall be issued until the attached sign meets the size requirements of the district in which it is located as specified in Section 26.01.~~

~~26.15.02 Where a business establishment is set back from its major road by 200 feet or more, the permitted size of the attached signs may be increased by ten percent (10%) plus an additional~~

ten percent (10%) for each fifty feet (50') of distance in excess of 200 feet to a maximum of 100% increase provided that:

- ~~A. This increase shall apply to attached signs only.~~
- ~~B. This increase shall apply to only one of the two permitted signs.~~
- ~~C. The attached sign must meet all other applicable requirements regarding placement, lighting, permit procedures, etc. as it pertains to the district in which it is located.~~
- ~~D. If the business has a freestanding sign this increase shall not apply.~~
- ~~E. If a business is set back from its major access road by 200 feet or more and has only one sign, the business may choose the modifications of size permitted by this Subsection 26.15.01 or 26.15.02, but may not combine the allowances provided by the two Subsections.~~

26.15.03 ~~Businesses may erect more than the two (2) allowed signs upon obtaining Staff approval provided that:~~

- ~~A. The additional signs must be attached or projecting signs.~~
- ~~B. The combined area of all signs must be less than or equal to the permitted area by type of sign. For example, if a ninety square foot (90 ft²) attached sign is permitted, then the business may have two (2) forty five square feet (45 ft²) attached signs or three (3) thirty square feet (30 ft²) signs.~~
- ~~C. The maximum number of additional signs allowed is three (3).~~
- ~~D. The additional signs are not illuminated.~~
- ~~E. The applicant shall submit a drawing of the proposed locations of the additional signs and meet all applicable requirements.~~

26.15.04 ~~Businesses in the B2, B3, M1, and OI districts who chose to use a ground sign instead of a freestanding sign may increase the maximum square footage of that sign by thirty five percent (35%).~~

26.15.05 ~~Businesses located in the B1 district may erect a ground/monument sign provided that:~~

- ~~A. All applicable requirements of Section 26.01 are met, and;~~
- ~~B. A minimum of forty feet (40') (setback) is provided between any building and a ground/monument sign, and;~~
- ~~C. No ground/monument sign shall exceed sixteen square feet (16 ft²) in area with no horizontal or vertical dimension exceeding six feet (6'), and except as allowed Subsection 26.15.05 below, and;~~
- ~~D. A business located 100 feet or more from King Street may erect a freestanding sign with a maximum area of twenty five square feet (25 ft²) and a maximum height of six feet (6').~~
- ~~E. No sign shall be placed in a public right of way.~~

~~26.15.06~~ Corner Lots: Businesses located on a corner lot may be permitted one additional attached sign to those otherwise permitted herein.

~~26.15.07~~ Signs for developments subject to Boone Town Code Chapter 73 Towing.

~~A.~~ Parking control warning signs shall comply with the requirements of Boone Town Code Chapter 73 Towing.

~~B.~~ Parking control warning signs do not require sign permits.

~~C.~~ All developments subject to this subsection shall comply with one of the following requirements, as applicable:

~~1.~~ A building(s) with a single business shall prominently display the name of the business.

~~2.~~ Shopping Center/Mall developments shall follow the regulations set forth in 26.12.01(F).

~~D.~~ All signs shall be clearly visible from the controlled parking spaces.

(Ord. 20140385, 08-18-2014)

~~26.16 Temporary Sign Regulations~~

~~26.16.01~~ Temporary signs must conform to all regulations of this Section not otherwise superseded by this Article. No type of temporary sign, other than an agricultural sign whose placement is approved by the North Carolina Department of Transportation, may be placed in the public right of way. Temporary signs, other than agricultural signs, inflatable signs and community event signs, shall not be required to obtain a sign permit.

~~26.16.02~~ **Community Event Signs:** Community event signs are permitted for public agencies, schools, churches, civic fraternal organizations or similar non-commercial organizations, or for commercial events when approved by the Boone Town Council.

~~A.~~ Signs for non-commercial community events may be erected provided that:

~~1.~~ Such groups shall be non-profit corporations or associations organized and operated for charitable purposes that are licensed as non-profit groups with the North Carolina Secretary of State.

~~2.~~ Any fund being raised by the community event must be used for charitable or non-profit purposes.

~~3.~~ All community events must occur within Watauga County. A community event that does not occur within Watauga County may receive permission to display signs with the approval of the Boone Town Council.

~~4.~~ A Community Event Sign Permit Application must be completed by the sponsor of the event and approved by the Administrator. The sponsor must organize all aspects of a community event. A representative of the organization must sign the permit

application and will be jointly responsible with the organization for ensuring that the regulations are followed.

~~B. Signs for commercial community events may be erected, provided that:~~

- ~~1. An application is properly completed and delivered to the Town of Boone Planning and Inspections Department at least forty-five days before the event.~~
- ~~2. The event is approved by the Boone Town Council as a “community event”.~~
- ~~3. As determined by the Boone Town Council, the event provides a significant economic benefit to the Town as a whole, and portrays or places the Town of Boone in a positive light.~~
- ~~4. The event is open to all citizenry of the Town of Boone and its planning jurisdiction.~~
- ~~5. The event has received the written endorsement of a non-profit group whose mission includes promoting the economic vitality of Boone, such as, but not limited to, the Downtown Business Development Association, the Boone Chamber of Commerce, or the High Country Host.~~
- ~~6. The sponsor of the event has completed a Community Event Sign Permit Application and paid the appropriate fee, and the application is approved by the Planning and Inspections Department. A representative of the organization must sign the permit application and will be jointly responsible with the organization for ensuring that these regulations are followed.~~

~~C. All community events, whether non-commercial or commercial are subject to the following requirements:~~

- ~~1. Each community event is allowed to display no more than twelve (12) off-premise signs that do not exceed four square feet (4 ft²) in an area and four feet (4') in height. Only one (1) sign per lot is allowed with the permission of the landowner or registered agent. One (1) off-premise banner and one (1) banner at the event site are allowed. Each banner may not exceed twenty-four square feet (24 ft²).~~
- ~~2. A community event may display allowable signage annually.~~
- ~~3. The signs are not illuminated.~~
- ~~4. The signs may not be displayed earlier than seven (7) days prior to the event and must be removed within forty-eight (48) hours after the event.~~

~~D. An event which does not take place in Watauga County may still be designated a “community event” when the event is approved by the Boone Town Council based upon a determination that the event nevertheless significantly contributes to the economic vitality and heritage of Boone.~~

~~E. The Boone Town Council recognizes the following as community events:~~

~~The Highland Games~~

~~The Blowing Rock Celtic Festival~~

~~Trade Days~~

~~Watauga High School Project Graduation~~

~~Boone Bluegrass Festival~~

~~Gospel Singing Jubilee~~

~~Sugar Grove Music Festival~~

~~Wooly Worm Festival~~

26.16.03 — Political Sign: ~~Political signs are permitted in accordance with Section 26.17.~~

26.16.04 — Real Estate Sign: ~~A real estate sign is a temporary sign advertising the real estate upon which the sign is located as being for rent, lease, open house or sale. Real estate signs are permissible subject to the following regulations:~~

~~A. Real estate signs advertising property for sale, lease or rent shall adhere to the following regulations:~~

~~1. Only one (1) sign per lot is allowed.~~

~~2. The sign shall not be illuminated.~~

~~3. Area and Height Requirements:~~

Zoning District	Maximum Area	Maximum Height
Residential Zoning Districts	4 ft²	5 ft.
B1 Central Business	4 ft²	
Remaining Zoning Districts	20 ft²	8 ft.

~~4. The real estate sign shall be removed within forty-eight (48) hours after the property closing.~~

~~B. Open House Residential Real Estate Sign: Open house residential real estate signs shall be subject to the following requirements:~~

~~1. There shall be no more than one on-premise and two (2) total off-premise open house residential real estate signs for any open house event. These signs must include the realtor's phone number or the homeowner's address and the street address where the event is taking place.~~

~~2. Off-premise signs may be in place only from 8 a.m. on Saturday to 8 p.m. on Sunday.~~

~~3. Off-premise signs shall not exceed three square feet (3 ft²) in area and two feet (2') in height.~~

~~4. Such signs shall not be illuminated.~~

5. ~~Only one on-site sign per lot is allowed with the permission of the landowner, registered agent or tenant.~~

26.16.05 ~~Yard Sale Sign:~~ ~~Yard sale signs are permitted as temporary signs provided that the signs adhere to the following criteria:~~

- ~~A. No more than three (3) signs per event are allowed.~~
- ~~B. Two (2) signs may be placed off premise from the location of the event on private property with the landowner or registered agent's consent.~~
- ~~C. The signs may remain in place for forty-eight (48) hours only.~~
- ~~D. Such signs shall serve as directional aids and text on such signs shall be limited to Yard Sale or Garage Sale and an arrow.~~
- ~~E. Signs shall be placed out of the street right-of-way and no signs will be placed on utility poles.~~
- ~~F. The signs shall not be illuminated.~~
- ~~G. Signs are limited in size to four square feet (4 ft²) in area and must list the phone number of the event organizer on the back.~~

26.16.06 ~~Newly Established Business:~~ ~~Businesses which are newly established or have changed locations may display a temporary sign provided that:~~

- ~~A. The size of any such sign is not in excess of twenty-four square feet (24 ft²) in area.~~
- ~~B. The sign may be displayed for a period of thirty (30) days. This thirty-day period may begin no earlier than fifteen (15) days prior to the opening date of the business and not later than thirty (30) days after the certificate of occupancy is issued by the building inspector.~~
- ~~C. Only one (1) such sign is allowed per premise; however, this one sign may be used in addition to other permitted signs.~~

26.16.07 ~~Special Sales and Promotions:~~ ~~Temporary signs as defined by advertising special sales and promotions by merchants and other profit-making concerns may be erected in addition to other permitted signs provided:~~

- ~~A. The size of such sign shall not exceed twenty-four square feet (24 ft²).~~
- ~~B. The signs are not illuminated.~~
- ~~C. The signs are displayed for a period of ten (10) days only.~~
- ~~D. Only one (1) sign per premise is allowed.~~
- ~~E. An interval of thirty (30) days shall separate each event.~~

26.16.08 ~~Agricultural Signs:~~ ~~Agricultural signs are subject to the following criteria:~~

- ~~A.~~ A permit must be applied for by delivery of a completed application and payment of such fee as established by the Boone Town Council, no less than forty five (45) days prior to the first day of display. The application for a permit must state the dates of the exposition, festival or event in question. Only one (1) fee shall be due for each separate exposition, festival or event in question;
- ~~B.~~ Signs must comply with all North Carolina Department of Transportation requirements, including those requirements as to location and placement, and the applicant is responsible for compliance with DOT requirements and with the requirements of this Ordinance;
- ~~C.~~ Off-premises signs may only be placed with the permission of the person with the legal authority to grant such permission. There may be no more than fifteen (15) off-premises agricultural signs within the planning jurisdiction of the Town for each exposition, festival or event;
- ~~D.~~ Signs may be permitted for a maximum of six (6) weeks, must be fixed in place for the duration of the exposition, festival or event, and must be removed by the applicant within forty eight (48) hours of the conclusion of the exposition, festival or event;
- ~~E.~~ All signs relating to a particular agricultural exposition, festival or event must be uniform in shape and color. Any designs must be complementary. Each sign must be stable and must be properly secured to its location;
- ~~F.~~ Signs may not exceed twenty eight square feet (28 ft²), but may be comprised of a large sign with smaller signs attached, which smaller signs direct the public to particular locations participating in the exposition, festival or event;
- ~~G.~~ Agricultural signs may not be illuminated.

26.16.09 — Farmer's Market Sign Regulations

- ~~A.~~ A permit must be applied for by delivery of a completed application and payment of such fee as established by the Boone Town Council, no less than ten days prior to the first day of operation. The application for a permit must state all dates the farmer's market will operate during the calendar year in question, and must disclose the name and address of the sponsoring non-profit organization. The person signing the application is jointly responsible with the sponsoring organization for compliance with this Article. Only one fee shall be due for each calendar year of operation of a farmer's market.
- ~~B.~~ A farmer's market may display no more than eight (8) off-premise signs that do not exceed four square feet (4 ft²) in area and four feet in height (4'). Only one (1) sign is permitted per lot, and off-premises signs may be posted only with the permission of the person with the legal authority to grant such permission.
- ~~C.~~ Farmer's market signs may not be illuminated.

~~D. Farmer's market signs may be displayed only during daylight hours on each day of operation.~~

~~E. Signs must comply with all relevant North Carolina Department of Transportation requirements as to location and placement, and the applicant is responsible for compliance with DOT requirements.~~

26.16.10 Inflation Signs: ~~Inflation signs may be temporarily displayed in a B3 zoning district subject to the following conditions:~~

~~A. Only one (1) inflation sign may be displayed per tax parcel, and no more than one (1) inflation sign per business or event, even if the business or event is located on multiple tax parcels.~~

~~B. An inflation sign may be displayed for a period of seven (7) continuous days, an interval of thirty (30) days shall separate each event for which the sign is displayed. In addition, the inflation sign may be displayed for no more than three (3) separate events in any calendar year.~~

~~C. Any inflation sign must be set back and away from any pedestrian or vehicular right of way, any utility poles, above ground utility lines and any other hazardous structure, at least the vertical distance from the ground to the top of the sign when it is displayed at its maximum height, plus ten feet (10').~~

~~D. An inflation sign may not obstruct visibility for vehicular traffic.~~

~~E. Any inflation sign must be secured to the ground in conformity with the manufacturer's specifications.~~

~~F. No inflation sign may be displayed in such a way that the top of the sign is more than twenty five feet (25') above the ground level.~~

~~G. Inflation signs shall not be illuminated.~~

~~H. No inflation sign may exceed 400 cubic feet when fully inflated.~~

~~I. The applicant shall submit a certification that the inflation sign will be erected and displayed in conformance with this Section and the manufacturer's specifications.~~

{Ord. 20140384, 08-18-2014; Ord. PL04727-050721, 07-01-2021}

~~26.17 Political Sign Regulations~~

26.17.01 ~~The following regulations shall apply solely to political signs, posters, etc.:~~

~~A. No signs shall be placed in a public right of way.~~

~~B. No signs shall be placed on public utility poles, telephone poles, parking meter poles or any other sign or sign support structure erected by a duly constituted governmental body.~~

~~C. No signs shall be placed on roofs nor painted on roofs.~~

- ~~D. Any political sign which is determined to be a hazard or infringement to the public health, safety and welfare is prohibited.~~
- ~~E. Portable signs shall not be allowed for political uses.~~
- ~~F. Political Signs may be placed on private property with the consent of the landowner or their authorized agent.~~
- ~~G. Except for legal billboards, no political sign shall be larger than sixteen square feet (16 ft²).~~
- ~~H. Political signs may be displayed no sooner than sixty (60) days before any election. All political signs must be removed within forty eight (48) hours after each election.~~

~~(Ord. PL04727-050721, 07-01-2021)~~

~~26.18 Maintenance and Relocation of Signs~~

~~26.18.01 All sign supports, braces, poles, wires, and anchors thereof shall be kept in good repair. They shall be maintained in safe condition, free from deterioration, missing parts, and peeling paint. Any sign not in compliance with these standards shall be deemed a nuisance and the following action may be taken.~~

- ~~A. The Administrator shall give written notice to the owner specifying the sign indicated and telling what needs to be done to bring the sign into compliance.~~
- ~~B. The owner of the sign shall respond to the notice within two (2) weeks and shall have sixty (60) days to complete said repairs. Additional time shall be granted by the Administrator only upon delay of parts when it has been clearly shown that the parts have been ordered.~~
- ~~C. Failure to complete repairs in the specified time shall result in the Administrator causing the sign to be repaired, removed or altered at the expense of the owner(s). Costs of removal or repair, court costs and attorney fees incurred by the Town shall be assessed against the owner(s), to be collected by the Town in an action in the nature of a debt.~~
- ~~D. In the event a sign is damaged in excess of fifty percent (50%) of its reproduction value, such sign shall be restored or repaired only in compliance with the provisions of this Ordinance.~~

~~26.18.02 Signs for which a sign permit has been issued may be relocated in conformance with the regulations of this Article upon notification of the Administrator. Signs which are nonconforming may not be relocated except upon removal of all non-conforming features of the sign.~~

~~26.19 Obsolete and Abandoned Sign Regulations~~

~~26.19.01 Signs or parts of signs which advertise or pertain to a business, product, service, commodity, event, activity, or purpose which no longer exists or that has not been in use for ninety (90) days or more shall be deemed to be an abandoned sign. Signs which are associated with~~

~~seasonal business such as ski shops, Horn in the West, etc., shall not be considered obsolete or abandoned provided there is clear intent to continue in the coming season.~~

- ~~A. Obsolete or abandoned signs are prohibited and shall be removed by the owner or his agent within thirty (30) days of termination of the business, activity, event, etc.~~
- ~~B. Failure to remove such signs or parts of signs shall result in written notice from the Administrator. Failure to comply with these terms shall result in the sign being removed at the owner(s) expense. Costs of removal or repair, court costs and attorney fees incurred by the Town shall be assessed against the owner(s), to be collected by the Town in an action on the nature of the debt.~~

~~26.20 Permanent Off-Premise Signs in Easements~~

~~26.20.01~~ ~~Permanent off-premise signs in access easements shall be permissible subject to the following requirements and limitations:~~

- ~~A. Application required: No permanent off-premise sign may be placed or displayed in an access easement area until a permit authorizing its display is issued.~~
 - ~~1. The applicant must submit a certified copy of the instrument creating the easement with the application. The access easement area must be the only available and planned access for the development requesting the permanent off premise sign. The Administrator may require that the applicant provide a signed statement from an attorney that such easement confers upon the applicant the right to display a sign within the easement if the Administrator is unsure of the scope of the rights created by the easement. Unless the easement affords rights to display a sign for the full potential life of the development, it will be considered legally insufficient.~~
- ~~B. No permit for a sign which will be displayed or located within an access easement may be issued unless there are no roads contiguous with the lot upon which the development is located, or the access easement in which the sign is to be located is the only available and planned vehicular access to the aforementioned lot.~~
- ~~C. The only sign which may be permitted for display in an off-premise easement is a ground mounted/monument sign which must meet all dimensional, separation, location, and lighting requirements of this Article for a ground mounted/monument sign in the zoning district in which it will be placed or the development is located, whichever is more restrictive, unless any such requirement is explicitly superseded by this Section.~~
 - ~~1. For residential developments, including multi-family developments, all signs subject to this Section shall be limited to no more than thirty square feet (30 ft²) of sign face.~~
- ~~D. Limitations on the number of signs allowed: Only one (1) permanent off-premise sign will be allowed on a lot which is subject to an access easement which also allows a permanent off-premise sign (further known as the hosting lot). The permanent off-premise sign shall count as one of the free-standing signs (not including directory signs) allowed for the hosting lot. Furthermore, if at the time of application, existing signs on the hosting lot have either a~~

~~combined square footage that meets/exceeds the maximum square footage allowed, or meet/exceed the maximum number of freestanding signs allowed, the applicant must provide a written declaration from the owner or occupant of the hosting lot indicating which sign(s) will be removed. If any signs are required to be removed, this shall be done prior to the issuance of the permit for the permanent off-premise sign.~~

26.01 Applicability

26.01.01 All signs constructed, installed, modified, moved, painted or replaced shall comply with the standards of this Article, whether such signs do or do not require a sign permit.

26.01.02 Signs shall only be placed on private property with the permission of the owner, whether such signs do or do not require a sign permit.

26.01.03 Any sign permitted by these regulations may display or publish a noncommercial message, whether such signs do or do not require a sign permit.

26.01.04 No sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure. The regulations of this Article are not intended to favor commercial speech over constitutionally-protected political or noncommercial speech. A sign containing a noncommercial message may be substituted for any sign containing a commercial message that is allowed by the regulations of this article.

26.01.05 Transitional Provisions

- A.** Subject to Subsection 7.05.02(C)(2), all permanent signs legally erected prior to **October 12, 2022** may remain in place and in use, subject to the requirements set forth in Subsection 7.05.02(C)(2).
- B.** All violations of this Article in effect prior to **October 12, 2022** shall remain violations of the Ordinances of the Town and all penalties and enforcement remedies set forth hereunder shall be available to the Town as though the violation were a violation of this Article. However, if the effect of this Article is to make a sign that was formerly nonconforming become conforming, then enforcement action shall cease.

26.02 Permit and Inspections Required

26.02.01 Unless otherwise specified, the construction, installation, modification, movement, or replacement of any sign requires a sign permit.

26.02.02 All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building and Electrical Codes.

26.02.03 Except for temporary signs, upon notification of completion by the applicant, the Planning and Inspections Department shall make a final inspection of the sign to verify compliance with the permit and all applicable codes.

26.03 Maintenance

26.03.01 All permanent signs shall be maintained in good structural condition, firmly affixed to the ground, a building, or other support structure by direct attachment, and in compliance with all building and electrical codes.

26.03.02 The following maintenance activities do not require a sign permit:

- A.** Normal maintenance and repair of a sign, including such activity as painting, cleaning, and similar activities.
 - 1. Exception: The following activities are not considered normal maintenance or repair: structural changes, changes in the electrical components of the sign, an increase in any sign dimension, or changes in the location of a sign.
- B.** Changing or replacing the sign face within an existing sign structure so long as no electrical or structural changes are made to the sign structure and the size of the sign face is not increased.
- C.** Changing the copy of a changeable message component of a sign.

26.04 Enforcement; Removal of Certain Signs

26.04.01 Enforcement of this Article is addressed in Article 12 Enforcement.

26.04.02 Any temporary sign deemed to create a traffic hazard or otherwise pose a threat to public safety shall be removed at the direction of the Administrator.

26.04.03 Any temporary sign placed in the public right-of-way in violation of this Article shall be deemed a public nuisance and may be seized by the enforcement official or other representative of the Town, and the person owning or placing the sign may be charged both with a violation of this chapter and with the cost of removing and disposing of the sign.

26.04.04 Within ninety (90) days after a permanent sign becomes an abandoned sign, it shall be the responsibility of the property owner to remove the discontinued sign and any associated sign structure and to patch and conceal any and all damage to any property resulting from the removal of the discontinued sign and associated sign structure, if any. The removal of a discontinued sign shall include all sign support components, angle irons, poles, and other remnants of the discontinued sign, which are not currently in use, or proposed for immediate reuse as evidenced by a sign permit application for a permitted sign.

Staff Note: Consider revising to either allow the sign structure longer or not required to be removed. In many instances, the new tenant will either replace all signage or utilize the sign structure and its components.

26.04.05 Materials

- A. Unless otherwise specified, permanent signs shall be constructed of brick, wood or simulated wood, stone, concrete, metal, plastic, or high-density urethane (HDU) foam board or similar durable foam construction.
- B. Unless otherwise specified awning signs may also be constructed of durable weather resistant material such as canvas, nylon, or vinyl-coated fabric held taut between sign framework.
- C. Unless otherwise specified, temporary signs shall be made of canvas, nylon, vinyl-coated fabric or similar weatherproof materials

26.05 Prohibited

26.05.01 Signs that are not expressly allowed under these regulations are prohibited. Without limiting the foregoing, the following sign and sign structures are specifically prohibited:

- A. Abandoned signs
- B. Balloons, pennants, streamers
- C. Animated, flashing, blinking, or scrolling signs or signs with intermittent lights
- D. Portable signs
- E. Roof signs
- F. Rotating signs
- G. Snipe signs
- H. Inflatable signs

Staff Note: Previously inflatable signs were allowed due to a local business who used to annually put up an inflatable hot air balloon in support of project graduation. Staff feels like this is a good time to assess this type of signage and if it should be allowed.

- I. Signs imitating or resembling official traffic or government signs or signals
- J. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign(s). Vehicles or trailers that display signs must be operated for bona fide business purposes at least every forty-eight (48) hours during weekdays to be exempted from this provision.
- K. Temporary signs except those allowed per Section 26.06
- L. Trademarks, emblems, pictures, etc. displayed in a three (3) dimensional nature
- M. Pavement marking of any kind, except for traffic control
- N. Offensive Signs as defined by N.C. Gen. Stat. § 19-1.1
- O. Billboards or off-premise advertising
- P. Signs placed in the public right-of-way (whether Town- or state-maintained)

Q. Signs that threaten public safety (for example, by blocking egress to the public way)

R. Any sign(s) that does not comply with regulations of this Ordinance

26.06 Signs Not Requiring a Permit

26.06.01 Notwithstanding any other provisions of this ordinance, no sign permit is required for the following signs; provided, that any such sign shall conform to any applicable standards set forth in this article:

A. A-Frame Signs: A-frame signs provided they meet the following requirements:

1. Allowed for all uses within all zoning districts.

Staff Note: Staff was previously directed by a prior Council to allow A-frame signage. Since that time the new Historic District standards were adopted and A-frame signs or sidewalks signs are not allowed in the Downtown Boone Local Historic District as evidence by the Section on Design Standards for Historic Streetscapes, Landscapes, Monuments, and Other Resources in the District, specially, Section 8.1 under Signage, found on page 111 which states “Sandwich boards, other temporary street signage, seating, and/or merchandise shall not be placed upon the public ways of the District or otherwise impede the pedestrian or traffic flow on those public ways.”

Additionally, this section regulates seating which the Town has worked to install in the downtown area and sidewalk sales which the Town Code permits.

§ 96.002 OBSTRUCTIONS PROHIBITED.

(A) Except as otherwise authorized by statute, ordinance (including this chapter), and/or in writing by the Town Council, or as required by the performance of some function authorized or mandated by a statute or ordinance, no person(s) may congregate, stand, sit or lie on a public way in a manner that would intentionally obstruct or cause to be obstructed pedestrian traffic or prevent the free ingress and egress by members of the public to and from private or public buildings, memorials, parks or parking lots adjacent to or accessed by public way within the town. Also, no person may intentionally obstruct a public way within the town by placing or leaving any object(s) within the traveled portion of the public way, except as authorized by this chapter. A situation maintained in violation of this section is hereby declared to be a public nuisance and is subject to the provisions of § [96.010](#) herein.

(B) *Exceptions.*

(1) *Construction.* The foregoing prohibitions shall not apply to temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in accordance with § 96.005.

(2) *Limited exception for temporary sidewalk sales.* Partial obstruction of a public sidewalk for a sidewalk sale is permissible only under the following conditions:

(a) The obstruction takes place only during daylight hours.

(b) The sidewalk is only partially obstructed in a manner that does not seriously inconvenience the public or threaten the public safety; in any event, a minimum four-foot width of sidewalk must be left clear and unimpeded for pedestrians. For purposes of this section, an obstruction shall be understood to include any employee(s) who occupy the sidewalk in connection with the sale.

(c) The person or entity conducting the sidewalk sale is authorized to do so by the fee owner(s) of the property on which the sale is being held.

(3) Temporary sidewalk sales may be prohibited on specific days by proclamation issued by the Mayor according to law or by resolution adopted by the Town Council.

2. One (1) A-frame sign is permitted per building entrance regardless of the number of tenants.
 3. The A-frame sign shall be placed within ten feet (10') of the building entrance.
 4. In accordance with Town Code § 96.002, a minimum unobstructed sidewalk clearance of four-foot (4') in width must be left clear and unimpeded for pedestrians.
 5. A-frames signs shall not interfere with pedestrians (including egress paths to public way) or vehicular surface areas.
 6. The A-frame sign is limited to six square feet (6 sq. ft.) in area per side and four feet (4') in height.
 7. Illumination of such signs is prohibited and the sign is prohibited from having any type of electronic component.
 8. A-frame signs shall be used while the establishment is open to the public only and shall be stored indoors at any other time.
- B. ATM Signs:** ATM signs provided total signage may not exceed fifteen square feet (15 sq. ft.) in area per machine.
- C. Bench Signs:** Bench Signs provided they meet the following requirements:
1. Shall be located on private property zoned R3, B1, B2, B3, OI, WD, M1, U1, E1, E2, or E2.
 2. The size of the sign may not exceed fifteen square feet (15 sq. ft.).
 3. Signage shall not extend beyond any dimension of the bench.

- D. Building Identification Signs:** Signs that identify buildings and that are permanently integrated in a building's facade with etching, embossing and/or engraving and provided that they do not exceed 5% of the total façade on which they are placed.
- E. Construction Signs:** Temporary construction signs provided they meet the following requirements:
1. The sign is posted on a lot currently under construction pursuant to a valid zoning or building permit.
 2. Only one non-illuminated sign with a maximum of two (2) sides per lot is permissible.
 3. The sign must be removed upon issuance of a certificate of occupancy for all construction at that site.
- F. Fence Wraps:** Fence wraps displaying signage when affixed to perimeter fencing at a construction site provided they meet the following requirements:
1. Such fence wraps are allowed until a certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever time period is shorter. After such period has elapsed, the signage must be removed or covered.
 2. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.
- G. Government Sign:** A duly authorized temporary or permanent government sign.
- H. Historical plaques or markers** approved by a governmental entity or the National Registry of Historic Places or similar bona fide authority empowered to recognize historic places or structures
- I. Home Occupation Signs:** A permanent non-illuminated wall sign that may not exceed four square feet (4 sq. ft.).
- J. Living Sign:** A non-illuminated sign constructed of living materials such as shrubs, trees, and/or flowers.
- K. Logos:** Logos, labels, and trademarks located on mechanical equipment, solid waste or recycling containers, newspaper and soft drink dispensers, gas station pumps, and similar equipment are not regulated by this Article.
- L. Parking-control Warning Signs:** Parking Parking-control warning signs shall comply with the requirements of Boone Town Code § 73 Towing.
1. A building(s) with a single-establishment shall prominently display the name of the establishment.
 2. Shopping Center/Mall developments shall follow the regulations set forth in 26.12.01(F).

3. All signs shall be clearly visible from the controlled parking spaces.

M. Political Signs In the Public Right of Way: Political signs are permitted in the public right of way only to the extent such signs comply with the requirements as to size and time of posting set forth at N.C. General Statute § 136-32, as such may be re-codified or amended from time to time. For the definition of political signs as used herein, see N.C. General Statute § 136-32(c).

1. Such signs may not exceed 864 square inches in area per display face and two faces per sign and may not be higher than 42" above the edge of the pavement of the road.
2. Such signs may only be placed with the permission of the property owner fronting the right of way where the sign is to be placed.
3. In all cases, the property owner and the political candidate shall be equally responsible for the removal of the signs within 48 hours after the election.
4. Any political sign that remains in a right-of-way maintained by the town more than 30 days after the election is to be deemed unlawfully placed and abandoned property, and any person may remove and dispose of such political sign without penalty.

N. Pushcart Signs: Signs contained on vendor push carts that do not exceed fifteen square feet (15 sq. ft.) in area per push cart.

O. Real Estate Signs: A real estate sign advertising the real estate upon which the sign is located as being for rent, lease, open house or sale. Real estate signs are permissible subject to the following regulations:

1. Only one (1) sign per lot is allowed.
2. The sign shall not be illuminated.
3. Area and Height Requirements:

Zoning District	Maximum Area	Maximum Height
Residential Zoning Districts	4 ft ²	5 ft.
B1 Zoning Districts	4 ft ²	
Remaining Zoning Districts	20 ft ²	8 ft.

4. The real estate sign shall be removed within forty-eight (48) hours after the property closing.
5. Open House Residential Real Estate Sign: Open house residential real estate signs shall be subject to the following requirements:
 - a. There shall be no more than one on-premise and two (2) total off-premise open house residential real estate signs for any open house event. These signs must

include the realtor's phone number or the homeowner's address and the street address where the event is taking place.

- b. Off-premise signs may be in place only from 8 a.m. on Saturday to 8 p.m. on Sunday.
- c. Off-premise signs shall not exceed three square feet (3 sq. ft.) in area and two feet (2') in height.
- d. Such signs shall not be illuminated.

P. Temporary Decorations: Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday/celebration.

Q. Temporary Signs:

1. General Regulations:

- a. Temporary signs shall either attach securely to a structure or shall be securely ground-mounted.
- b. Temporary signs shall not be illuminated.
- c. Temporary signs are not permitted in public rights of way except as provided at subsection 26.06.01(M).
- d. Temporary signs are not permitted within 11 feet of the edge of pavement of any roadway or alley.
- e. Temporary signs may not be or mounted upon trees, utility poles, traffic control signs, lights, or devices in any place or manner prohibited by the provisions herein, or upon a portable sign structure.

2. On-Premises Advertising Temporary Signs

- a. Each parcel or each tenant, in a multi-tenant commercial development is allowed to display one on-premise advertising temporary sign, subject to the following conditions:
 - i. Each tenant in a multi-tenant development is only allowed to display a freestanding temporary sign in compliance with this section if their building fronts the street the sign is located on^[AM1].
 - ii. Maximum size per sign is twenty-four square feet (24 sq. ft.).
 - iii. Temporary signs are limited to a display period of fourteen (14) consecutive days and there shall be a thirty (30) days between display periods^[AM2].

3. Off-Premises Advertising Temporary Signs.

[Alternative 1]

- a. Off-premises advertising temporary signs are prohibited.

[Alternative 2]

- a. Each parcel or each tenant of a multi-tenant development may display one off-premises commercial message temporary signs, subject to the following conditions:
 - i. The sign is limited to four square feet in area and no more than three feet in height.
 - ii. The sign may be posted for display no earlier than 3:00 p.m. of a Friday, or before 3:00 p.m. of the day before a designated holiday, and displayed until 6:00 p.m. on that immediately following Sunday or on that designated holiday.

4. Noncommercial Message Temporary Signs.

- a. Noncommercial message temporary signs are allowed without limitation, provided that any such sign (i) may not exceed 16 square feet in area and (ii) may not be located within any public right of way, closer than 11 feet from the edge of the pavement of any roadway or alley, or within the site triangle at street intersections as set forth at Chapter 96 of the Town Code.
- b. Noncommercial messages are messages and emblems that do not function to direct attention to or promote a business, product, service, event, or activity, either on-site or off-site. Examples of noncommercial messages include, but are not limited to, signs advocating a public issue, recommending a candidate for office, and personal messages.

R. Temporary Use Signs: Temporary signs shall be allowed in conjunction with lawfully established temporary uses in all districts. Such signs must be located on the parcel on which the temporary use is occurring and may be attached or freestanding subject to the following:

- 1. Temporary uses may be permitted up to two signs.
- 2. These signs shall not exceed a cumulative total of XX square feet (xx sq. ft.) in area.
- 3. Signs for temporary uses are allowed for the duration of the temporary use.

S. Umbrella Signs: Umbrella signs used in connection with outdoor seating provide they meet the following requirements:

- 1. The signs shall be painted or printed on the umbrella.
- 2. Umbrellas shall not be erected at an acute angle for the purpose of serving as signage.
- 3. Umbrella signs shall be located on the umbrella itself and shall not be suspended from or otherwise hang from an umbrella.

4. Signage shall not be illuminated.

T. Vehicle Signs: Vehicle signs, unless such signs are used in a manner prohibited hereinafter, provided they meet the following requirements;

1. Vehicles must be operated in the normal course of business and may include the name of the owner or business;
2. Signage when affixed or painted onto vehicles and equipment and the like, are exempt from regulation, provided that, when not being so operated, such vehicles are parked or stored in areas appropriate to their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent feasible.
3. All such vehicles must have current and valid registration and inspection.
4. Vehicles or equipment that display signs must move to perform only business-related activities at least every forty-eight (48) hours.

26.07 General Requirements for Signs

26.07.01 Sign Area

- A.** The sign area includes the area within a single, continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustration, or ornamentations, together with any material or color forming an integral part of the display or differentiating the sign from the background to which it is placed. Structural supports with no sign copy shall not be included in the sign area. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence onto which the sign face or letters are placed shall be calculated in the sign area.
- B.** Where a sign has two (2) sign areas back to back, the area of only one side shall be considered as the sign area. The maximum angle of a double-faced sign is 45 degrees, except for signs located on corner lots in which case the angle may be 90 degrees.
- C.** All signs are limited to two (2) sides.
- D.** Option for Window Signage Calculation: For calculating maximum area of window signs, the window area is calculated as a continuous surface until divided by an architectural or structural element. Mullions are not considered an element that divides window area.

Staff Note: The Town has not regulated any signage placed on the interior of windows. Staff has noticed an increase of both “window signage” and the use of neon colored lights. Staff asks for direction on whether or not additional regulation on this type of signage should occur.

26.07.02 Sign Height

- A. Freestanding: Sign height is measured from the base of the sign at the ground to the highest point of the sign, including any attachments.

Staff Note, Option #2 : The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases where the normal grade is below grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street.

- B. Attached: Attached signs shall not project higher than the building soffit or eave height.

26.07.03 Vertical Clearance

- A. For attached signs, vertical clearance is measured as the vertical distance measured from the ground directly below the sign to the lowest point of the sign. Any sign encroaching onto a sidewalk may be no less than eight feet (8') at the lowest point from the lowest point of the sign as measured to the sidewalk underneath.

26.07.04 Sign Setback

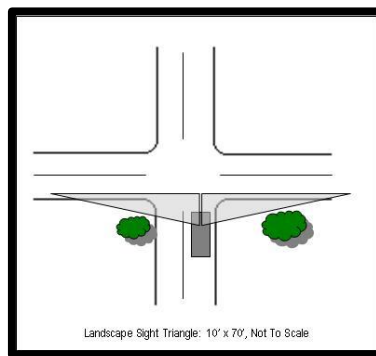
- A. A sign setback of at least one foot (1') is required from any easement, property line, or right-of-way. This setback is measured from the applicable easement, property line, or right-of-way to the closest component of the sign or sign structure.

26.07.05 Location

- A. Signs shall be located on the same lot/building as the use being advertised unless a permanent off-premise sign in an access easement is permitted subject to the following requirements:
1. Application required: No permanent off-premise sign may be placed or displayed in an access easement area until a permit authorizing its display is issued.
 2. No permit for a sign that will be displayed or located within an access easement may be issued unless there are no roads contiguous with the lot upon which the development is located, or the access easement in which the sign is to be located is the only available and planned vehicular access to the aforementioned lot.
 3. The applicant must submit a certified copy of the instrument creating the easement with the application. The access easement area must be the only available and planned access for the development requesting the permanent off-premise sign. The Administrator may require that the applicant provide a signed statement from an attorney that such easement confers upon the applicant the right to display a sign within the easement if the Administrator is unsure of the scope of the rights created

by the easement. Unless the easement affords rights to display a sign for the full potential life of the development, it will be considered legally insufficient.

4. The only sign that may be permitted for display in an off-premise easement is a ground mounted/monument sign which must meet all dimensional, separation, location, and lighting requirements of this Article for a ground mounted/monument sign in the zoning district in which it will be placed or the development is located, whichever is more restrictive, unless any such requirement is explicitly superseded by this Section.
 5. Limitations on the number of signs allowed: Only one (1) permanent off-premise sign will be allowed on a lot which is subject to an access easement which also allows a permanent off-premise sign (further known as the hosting lot). The permanent off-premise sign shall count as one of the free-standing signs (not including directory signs) allowed for the hosting lot. Furthermore, if at the time of application, existing signs on the hosting lot have either a combined square footage that meets/exceeds the maximum square footage allowed, or meet/exceed the maximum number of freestanding signs allowed, the applicant must provide a written declaration from the owner or occupant of the hosting lot indicating which sign(s) will be removed. If any signs are required to be removed, this shall be done prior to the issuance of the permit for the permanent off-premise sign.
- B.** Signs may be located in a required building setback or landscaped streetyard or buffer. If a sign is located in a required setback it shall not be otherwise located so as to obstruct pedestrian or vehicular traffic.
- C.** To ensure that signs do not constitute a traffic hazard, a sight triangle ten feet (10') by seventy feet (70') will be observed at all intersections of driveways/streets with adjacent streets (see diagram below).



- D.** No sign shall be located in or overhang any easement or right-of-way for public use, including alleys and sidewalks.

1. Exempted from this requirement are any signs within a B1 zoning district. These signs shall first obtain an encroachment agreement authorizing such incursion in accordance with Chapter 96 of the Boone Town Code.
 - a. An encroachment agreement shall be required for any replacement of signs that do not have an encroachment agreement.

26.07.06 Audio Components

- A. Audio components are prohibited as part of any sign, except for drive-through signs where the audio component is designed, located, shielded, and directed to prevent detection from surrounding properties.

26.07.07 Changeable/Digital Copy

- A. Up to 50% of a permissible principal sign permitted in Section 26.08 may contain changeable/digital copy subject to the regulations herein.
- B. Only one of the two allowable signs may contain changeable/digital copy.
- C. No such sign can be placed within 100 feet of a residential zoned property except for non-residential uses along a major traffic corridor, collector, or arterial street as defined in Article 34.
- D. A sign with a changeable/digital copy shall contain additional information so the sign is not completely blank if the changeable message area is removed.
- E. For electronic message signs, the maximum brightness is limited to 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunset and sunrise. The sign shall have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise. No sign may display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver or result in a nuisance to a driver.
 1. Applicants shall submit a certification from the sign manufacturing confirming compliance with the standards set forth above.
- F. Images and messages displayed in changeable/digital copy area must be complete in themselves, without continuation in content to the next image or message or to any other sign. The image shall be static with all animation, streaming video, flashing, scrolling, fading, and other illusions of motion otherwise prohibited.
- G. Any sign containing changeable/digital copy located on a local historic landmark or within a local historic district must obtain a Certificate of Appropriateness from the Historic

Preservation Commission as outline in UDO Article 8 prior to the issuance of a new sign permit.

- H. Changeable copy messages hours may change or alternate every sixty (60) seconds.

26.07.09 Illumination

- A. Where permitted, permanent signs may be internally or externally illuminated. In no case shall a temporary sign be illuminated.
- B. Lighting for permanent signs shall be consistent throughout a project, unless otherwise permitted within a Master Sign Plan, in which there is a variety of façade design and building types.
- C. All external illumination of a sign shall concentrate the illumination upon the printed area of the sign face.
- D. The use of blinding, flashing, moving, rotating, intermittent, or otherwise distracting lighting is prohibited.
- E. All sign illumination, both external and internal, shall be designed, located, shielded, and directed to prevent the casting of glare or direct light upon rights-of-way and surrounding properties, and prevent the distraction of motor vehicle operators or pedestrians in the rights-of-way.
- F. Internal illumination shall be allowed for certain types of permanent signs within the following zoning districts: B1 Downtown, B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, WD Wellness District, and Education districts.
 - 1. Cabinets may be utilized, provided all electrical wiring is contained within the cabinet or support structure. Sign copy must be translucent and all background materials must be opaque.
 - 2. Channel letters may be utilized, provided all electrical wiring is contained within the building wall or within/on a raceway.

26.08 Signs Requiring a Permit

26.08.01 All principal signs shall require a permit, and are divided into three subcategories: attached, freestanding, and accessory.

- A. Accessory signs shall require a permit, unless otherwise noted. Accessory sign copy is not included in principal sign calculations.

26.08.02 Number of Signs Allowed

- A. Each establishment is permitted two (2) principal signs. In no case may both signs be of the same type, except for wall signs in compliance with Subsection 26.08.04(D)(3).
 - 1. Exception 1:

2. Exception 2: Tenants within a multi-tenant development are permitted two (2) attached signs. Please see Subsection Though the development overall will be allowed a tenant directory sign in compliance with Subsection 26.08.04(E.),

- B.** Each development is permitted the use of accessory signs in accordance with the guidelines set forth herein.

Table of Permanent Signs										
Principal										
Zoning Districts:	Residential	R3	B1	B2	B3	O/I	M1	WD	Educational	Reference
ATTACHED										
Awning/Canopy	L	L	L	L	L	L	L	L	L	26.08.04(A)
Marquee			L		L				L	26.08.04(B)
Projecting	L	L	L	L	L	L	L	L	L	26.08.04(C)
Wall	L	L	L	L	L	L	L	L	L	26.08.04(D)
Painted Wall					L		L			26.08.04(E)
FREESTANDING										
Monument	L	L	L	L	L	L	L	L	L	26.08.05(C)
Pole		L		L	L	L	L	L	L	26.08.05(D)
Accessory										
Directional	L	L	L	L	L	L	L	L	L	26.08.06(A)
Incidental	L	L	L	L	L	L	L	L	L	26.08.06(B)
Menu Board		L	L	L	L	L	L	L	L	26.08.06(C)
Suspended	L	L	L	L	L	L	L	L	L	26.08.06(D)
Tenant Directory	L	L	L	L	L	L	L	L	L	26.08.06(E)
Window	L	L	L	L	L	L	L	L	L	26.08.06(F)

26.08.03 Master Sign Plans

- A.** A Master Sign Plan is required for all residential subdivisions, multi-family and townhouse developments, non-residential subdivisions, and all multi-building and multi-tenant commercial developments before any permanent signs and their components may be erected.
1. All owners, tenants, subtenants and purchasers of individual units within the development shall comply with the approved Master Sign Plan.
 2. Residential developments that have only one (1) entrance sign, and have no other signs, shall not be required to submit a Master Sign Plan.
- B.** A Master Sign Plan Application shall include all of the following:
1. The location of each principal and accessory sign.
 2. Sign type, size, height, materials, color, illumination, and landscaping (if applicable) for each principal or accessory sign.

3. Computations of the total sign areas demonstrating compliance with all other sections of this Article.
 4. Allocation of permitted wall sign area among tenants in proportion to the overall building frontage as set forth in Subsection 26.08.04(D).
- C. All lighting and landscaping elements of signs within a Master Sign Plan shall be consistent throughout the development, unless explicitly specified within the plan.
 - D. Amendments to approved plans. A Master Sign Plan may be amended via application submitted by the owner of the property, or an agent, tenant, or contract purchaser specifically authorized by the owner. The application must include written authorization from all owners affected by the proposed amendment(s). If an association for the property exists, then the association shall provide written authorization for all owners within the development.
 - E. After approval of, or amendment to, a Master Sign Plan, no permanent sign shall be erected except in accordance with such plan.
 - F. Master Sign Plans shall be enforced in the same way as any other provision in this Article.
 - G. In the case of any conflict between a provision of an approved Master Sign Plan and one (1) or more provisions of this Article, the Master Sign Plan shall control.

26.08.04 Attached Permanent Sign Types.

A. Awning/canopy signs.

1. On a single-tenant property one (1) awning or canopy sign is allowed only in lieu of all other attached signage permitted on the wall the awning is attached that abuts a public or private street or right-of-way. Tenants occupying spaces with facades abutting multiple streets are permitted one awning or canopy sign per façade.
2. Sign copy on any awning or canopy sign surface is limited to 25% of the total surface area including any valances, not to exceed forty-eight square feet (48 sq. ft.).
3. A canopy is permitted a sign face attached to and located above the top of the canopy with a maximum height of twenty-four inches (24").
4. Signs may be externally illuminated only.

B. Marquee signs.

1. A marquee sign shall be allowed for theaters, museums, auditoriums, and other entertainment facilities in addition to the two allowable principal signs, subject to the following requirements:
 - a. Marquee signs shall conform to the applicable sign requirements for the district in which they are located, however the area of the marquee sign shall be permitted an increase in size up to an additional 100% provided that one of the

other signs to which the establishment is entitled is reduced in size. The percentage of increase in area shall be equal to the reduction in area of the other permitted sign.

2. The following regulations shall apply solely to a historical reconstruction of a projecting theater marquee:
 - a. A projecting theater marquee shall be allowed only in the B1 Downtown Core.
 - b. No portion of a projecting theater marquee shall be less than eight feet (8') above grade nor higher than sixteen feet (16').
 - c. A projecting theater marquee and supporting structures shall not extend over the edge of any sidewalk or into any street right-of-way absent an encroachment agreement authorizing such incursion by the Town.
 - d. The projecting theater marquee shall only be attached to the building in which the theater is located and must be above an entrance to the theater. No projecting theater marquee sign shall be wider than the building to which it is attached.
 - e. Signage may be installed directly upon the vertical face or faces of a projecting theater marquee with the following conditions:
 - i. Channel letters may extend above such vertical face or faces provided that the letter height is restricted to twelve inches (12") in height.
 - ii. No sign may extend below such vertical face or faces with the exception of lighting elements. All lighting elements shall meet the requirements of Subsection 26.13.02(B) above.
 - iii. The changeable copy portions of a projecting theater marquee shall not exceed fifty percent (50%) of the total area of all faces and comply with Section 27.01.
 - iv. All other signage attached to a projecting theater marquee may not exceed 20 percent (20%) of the total area of all faces.
 - f. A projecting theater marquee may include the use of flashing, scrolling, or intermittent lights subject to the following conditions:
 - i. The flashing, scrolling, blinking, or intermittent lights may only be in operation during the time the theater is open to the public and prohibited between the hours of 11 p.m. to 7 a.m.
 - ii. Light fixtures on the projecting theater marquee do not have to meet the requirement for full cut-off fixtures as required in Subsection 25.05.02.
 - g. Encroachment: Where a projecting theater marquee extends over a public sidewalk or other public property, an executed encroachment agreement

approved by the Boone Council shall be required prior to issuance of any sign permit for a projecting theater marquee.

- h. A projecting theater marquee may be constructed either as part of a new structure or as an addition to an existing structure as follows:
 - i. Site-specific plans and specifications must be submitted from a registered North Carolina licensed structural engineer demonstrating that the projecting theater marquee complies in all ways with appropriate code provisions of the Town and the State of North Carolina, including but not limited to, materials, drainage, roof strength, bracing and anchorage.
 - ii. A final certification from the registered North Carolina licensed structural engineer shall be required stating that the projecting theater marquee complies with all appropriate code provisions of the Town and the State of North Carolina and that the projecting theater marquee has been constructed according to their submitted design.

C. Projecting signs.

1. Projecting signs shall be erected so that the sign is perpendicular to the building wall on which they are attached. In cases where a projecting sign has two sign faces that are not perpendicular, the interior angle formed between faces shall be sixty (60) degrees or less.
2. The maximum area for a projecting sign is eight square feet (8 sq. ft.) in the R3 Multi-family residential zoning district, and sixteen square feet (16 sq. ft.) in all other zoning districts.
3. Projecting signs shall not project more than four foot (4") from any building on which they are attached.
4. Projecting signs shall be centered over, or located near, the principal doorway.
5. Projecting signs may be externally or internally illuminated.

D. Wall signs.

1. Wall signs shall be erected so that the sign is attached flush against and parallel to the exterior wall or surface of a building. Where a wall sign utilizes channel letters for interior lighting, a raceway may separate the sign from the wall provided that all electrical components of the sign are housed within the raceway, and the raceway does not extend more than six (6) inches from the face of the wall or surface of the building.
2. The maximum area for wall signs shall be determined by a ratio of allowable square feet of sign area per linear foot of building frontage, as measured by 26.01.04(C). In no case may a wall sign in any district exceed the maximum, as listed in the table below:

Zoning District	Ratio	Maximum Area (square feet)
Residential districts (residential uses)		4 sq. ft.
Residential districts (non-residential uses)		16 sq. ft.
Residential districts (non-residential uses on major traffic corridors, arterial or collector streets)	0.5:1	48 sq. ft.
R3 Multi-family residential		16 sq. ft.
B1 Downtown Core	0.5:1	48 sq. ft.
B1 Downtown Interface	1:1	80 sq. ft.
B2 Neighborhood Business	1:1	80 sq. ft.
B3 General Business	1:1	120 sq. ft.
O/I Office/Institutional	1:1	64 sq. ft.
M1 Manufacturing	1:1	120 sq. ft.
WD Wellness district	1:1	80 sq. ft.
Education districts	1:1	64 sq. ft.

3. Wall signs may be placed on either the primary or secondary façade, but allowable size calculations shall be measured along the primary façade. Where a establishment elects to have two (2) wall signs, one shall be placed on the primary façade and the other on a secondary façade. The two (2) signs may be equal in size, but in no case may the secondary façade sign be larger than the primary façade sign. The sum of the area of the two (2) wall signs shall not exceed the allowable square footage defined in 26.02.04(F)2.
4. No portion of a wall sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.
5. Wall signs may be externally or internally illuminated.

E. Painted wall signs.

1. Painted wall signs shall be allowed on secondary façades in the B3 General Business zoning district, provided they meet the requirements of 26.02.04(F)3.

2. Painted wall signs may be externally illuminated.

26.08.05 Freestanding Permanent Signs.

- A.** Maximum area and height of freestanding signs can be found in Table 26.08.05 below.
- B.** No freestanding sign shall be placed less than forty feet (40') from another freestanding sign unless no other option is available.
- C.** Freestanding signs must be placed in either:
 1. A landscaped streetyard or buffer that meets current standards; or
 2. A landscaped area that is at least three feet (3') in width and the least the length of the greatest dimension of the sign.
- D. Multi-Tenant Developments**
 1. In lieu of a separate freestanding sign per individual tenant, multi-tenant developments are allowed a freestanding multi-tenant directory monument sign that is approximately fifty percent (50%) larger than the size of a monument sign for a single establishment (for most zoning districts). See Table 26.08.04 for more detail.
 - a. Exception: Tenants in a multi-tenant development will be allowed to have a freestanding sign if the establishment has an exterior building frontage in the development of eighty linear feet (80 lf) or more. In the instance the exterior frontage requirement has been met, then the establishment may be permitted a freestanding sign as one (1) of its two (2) permitted signs along the street that the building frontage is located along.
- E. Monument Signs.**
 1. The maximum size of a monument sign is approximately thirty-five percent (35%) larger than it's allowed (if applicable) pole/pylon sign to incentivize the use of monument signs.
 2. Developments shall be allowed additional monument signs at secondary entrances for the general public provided that:
 - a. The height of the monument sign located at the secondary entrance shall not exceed four feet (4') in height.
 - b. The maximum area of the monument sign located at the secondary entrance shall not exceed 50% of the maximum area of the freestanding sign located at the primary entrance.
 - c. The monument sign located at the secondary entrance does not front the same linear public or private street as the freestanding sign located at the primary entrance.
 - d. All other requirements for monument signs are met.

Table 26.08.05

Zoning District	Pole/Pylon Signs Maximums		Monument Signs ¹ Maximum Area/Height Maximums		Multi-Tenant Directory Monument Signs ² Maximums	
	Area (Square Feet)	Height (Feet)	Area (Square Feet)	Height (Feet)	Area (Square Feet)	Height (Feet)
Residential districts (residential uses)			30	6	30	6
Residential districts (non- residential uses)			30	6	30	6
Residential districts (non- residential uses on major traffic corridors, arterial or collector streets)			41	6	62	6
B1 Downtown Core			16	4	16	4
B1 Downtown Interface			41	4	41	4
B2 Neighborhood Business	30	20	41	6	62	6
B3 General Business	50	20	68	6	102	8
O/I Office/Institutional	30	20	41	6	62	8
M1 Manufacturing	50	20	68	6	102	8
WD Wellness district	30	20	41	6	62	8
Education districts	50	20	68	6	102	8

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') 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 are limited to the ground floor only in the R3 Multi-Family, B1 Downtown, and B2 Neighborhood Business zoning districts. All other commercial uses in all other zoning districts are permitted for window signs up to and including the second story.
2. The total window sign area, whether temporary or permanent, is limited to no more than 25% of the surface of each window area, including transparent areas of doors and entryways.
3. Window signs may be internally or naturally illuminated. No external illumination is permitted.

Article 34 Definitions

34.01 Definition of Terms

...

A-Frame Sign

A temporary sign ordinarily in the shape of the letter “A” or some variation thereof, which is displayed on the ground, not permanently attached to the ground, and usually two-sided, generally connected at the top and separated at the bottom.

...

Abandoned Sign

Sign or parts of signs ~~which~~that advertise or pertain to a business, product, service, commodity, event, activity, or purpose which no longer exists, is not maintained or that has not been in use for ninety (90) days or more. Signs ~~which~~that are associated with seasonal ~~business~~establishment such as ski shops, Horn in the West, etc. shall not be considered abandoned or obsolete provided there is clear intent to continue in the coming season.

...

~~Agricultural Sign~~

~~A temporary sign posted to direct the public to an agricultural exposition, festival or event, as those terms are described, when such exposition, festival or event is taking place within the corporate or planning limits of the Town, or within Watauga County. An agricultural exposition, festival or event is an event which involves at least ten separate participants involved in the cultivation of land, who for a period of time not exceeding six weeks per year, provide tours and/or on-site sales or samples of agricultural products resulting from that cultivation to area tourists.~~

...

Animated Sign.

A sign that uses moving or changing lights to depict action, movement, or the optical illusion of movement of part of the sign structure, sign, or pictorial segment, or including the movement of any illumination or the flashing or varying of light intensity to create a special effect or scene.

...

Attached Sign

Any sign attached to, applied on, or supported by any part of a building, including, but not limited to, a wall, window, or projecting sign, or a sign on a canopy, awning or marquee.

~~A sign which is mounted flush to a building wall.~~

...

Awning

A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

Awning/Canopy Sign

Sign that is part of, or attached to, an awning, canopy or other fabric, plastic or structural protective cover over a door, window, entrance or outdoor service area.

...

Banner

A temporary sign made of fabric or any non-rigid material with or without no enclosing framework.

...

Bench Sign

A sign located on the surface of a bench. ~~The size of the bench is limited to seventy inches (70") in length and thirty-six inches (36") in height.~~

...

Billboard

A sign identifying advertising and/or directing the public to an business establishment, merchandise, service, entertainment or product ~~which~~that is located at a place other than the property on which such sign is located. These signs are also known as off-premise outdoor advertising signs.

...

~~**Canopy Sign**~~

~~Sign that is part of, or attached to, an awning, canopy or other fabric, plastic or structural protective cover over a door, window, entrance or outdoor service area.~~

...

Changeable/Digital Copy Sign

Sign on which copy~~The portion of a sign that allows for~~ changes through mechanical, electronic, digital or manual means ~~and reader boards with changeable letters.~~

...

Community Event Signs

An annual temporary sign, other than a commercial sign, posted to direct patrons to community events for public agencies, schools, churches, civic fraternal organizations or similar non-commercial organizations, or an annual temporary sign posted to direct patrons to a commercial event, when that event, as determined by the Boone Town Council, provides a significant economic benefit to the Town as a whole, is open to all citizenry of the Town of Boone and its planning jurisdiction, portrays the Town of Boone in a positive light, and which has received the written endorsement of a non-profit group whose mission includes promoting the economic vitality of Boone such as, but not limited to, the Downtown Business Development Association, the Boone Chamber of Commerce, or the High Country Host.

...

Construction Sign

A ~~sign~~ whose message is limited to (i) identification of architects, engineers, contractors, and/or other persons involved with the construction project and/or (ii) or to the name of the building being constructed, the intended purpose of the building and/or the expected completion date ~~sign identifying an architect, engineer, contractor, subcontractor, financial institution, material supplier, etc., participating in construction on the property where the sign is located.~~

...

Directional Sign

A sign giving directions, instructions, or facility information. ~~The sign(s) may contain the name or logo of an establishment, but no advertising copy.~~ Examples include “parking”, “exit”, “enter” or “parking-control warning” signs.

Directory Sign

A sign listing the names of more than one business, activity or professional office conducted within a building, group of buildings or commercial center.

...

Double-Faced Sign

A sign with two copy faces.

...

Drive-Through Window Sign

An attached or freestanding sign listing choices and prices. The sign also allows communication between the consumer and business.—

...

Farmer’s Market Sign

~~A temporary sign posted to direct the public to a farmer's market when such farmer's market is taking place within the corporate or planning limits of the Town. A "farmer's market" is a one-day event which can take place from week to week, but in the aggregate no more than two days each week, which involves individual participants selling retail products, at least fifteen of whom sell products which derive from the cultivation of land, and which takes place under the sponsorship of a non-profit organization.~~

...

Freestanding Sign

A sign supported by a sign structure placed in the ground ~~which is~~ and wholly independent of any building, fence, vehicle, or object other than the sign structure for support.

...

Gasoline Pump Sign

Signs ~~which are~~ normally associated with the sale of gasoline including the price, self-service, etc. information contained on the pump.

...

Governmental Entity

The Town and its departments, the Watauga County Board of Education, Watauga County, the State of North Carolina and its departments, and the United States of America and its departments.

...

Government Sign

Any temporary or permanent sign erected and maintained by a governmental entity.

...

Ground Mounted Sign/Monument Sign

A freestanding sign that is less than six feet (6') in height.

...

~~Height (of a sign)~~

~~The vertical distance measured from the highest point of the sign to the lowest point of surface grade beneath the sign.~~

...

Home Occupation Sign

A sign permitted in association with a legitimate home occupation conducted on the premises of the dwelling unit occupied by the operator of the ~~business~~ establishment.

...

~~Identification Sign~~

~~A sign whose copy is limited to the name and address of a building, institution, person and/or activity or occupation being identified.~~

Illegal Sign

A sign ~~which~~that does not meet the requirements of this Ordinance.

Illuminated Sign

A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

...

Inflatable Sign

A sign or figure filled with air or gas to enlarge said sign or figure.

Informational Sign

A sign that informs the public of goods, facilities or services available on the premises, e.g., credit card sign or sign indicating hours of ~~business~~operation.

...

Little League Sign

Sponsorship signs placed at the Optimist Club field.

...

Living Sign

A non-illuminated sign constructed of living materials such as shrubs, trees, and/or flowers.

...

Marquee

A sign of a theater, auditorium, fairground or museum or similar venue which advertises ~~present-current~~ and/or scheduled events with the ~~th~~Sign structure. Any structure which supports, has supported or is capable of supporting a sign, including any decorative cover for said sign structure. ~~e~~-use of changeable text.

...

Menu Board Sign

An attached or freestanding sign listing choices and prices.

...

Monument Sign

A freestanding sign supported permanently upon the ground by a continuous base flush to the ground.

...

Noncommercial Message

Messages and emblems that do not function to direct attention to or promote a business, product, service, event, or activity, either on-site or off-site. Examples of noncommercial messages include, but are not limited to, signs advocating a public issue, recommending a candidate for office, and personal messages.

...

Nonconforming Sign

A sign that was lawfully constructed but does not conform to current size, height, location, design, construction, or other requirements of this Ordinance.

...

Off-Premise Advertising/Sign

~~A sign which~~that does not pertain to the use of the premises on which it is located. A sign directing attention to or promoting a business, product, service, event, or activity that is not sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located.

...

On-Premise Advertising/Sign

~~A sign which~~that pertains to the use of the premises on which it is located. A sign directing attention to or promoting a business, product, service, event, or activity that is sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located.

...

Painted Wall Sign

A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas.

...

Parking-Control Warning Sign

A sign that informs the public that the parking lot or parking structure is subject to parking-control.

...

Permanent Sign

Any sign ~~which~~that, when installed, is intended for permanent use. Any sign with an intended use in excess of twelve (12) months from the date of installation, unless otherwise stated, shall be deemed a permanent sign.

...

Pole/Pylon Sign

A sign ~~which~~that is permanently affixed to the ground by a pole or other structure and which is not part of the building.

...

Political Sign

A temporary sign used in connection with a local, state, national election or referendum.

Portable Sign

A sign mounted on a frame or chassis, designed to be easily relocated, and not meant to be ~~permanently~~ affixed to buildings, poles, or the ground.

...

Projecting Sign

A sign ~~which is~~ attached to a building wall with the face of the sign perpendicular to the building wall.

...

Pushcart Sign

...

Real Estate/for Sale/Open House/or Lease Sign

A ~~temporary~~ sign advertising the real estate upon which the sign is located as being for rent, lease, open house or sale.

...

Roof Sign

Any sign erected or constructed wholly upon and over the roof of any building and supported solely on the roof structure.

...

Rotating Sign

A sign ~~which~~ that turns ~~around~~ on an axis.

...

~~Sidewalk Sign~~

~~A temporary sign placed on the sidewalk during regular business hours.~~

Sign

Any object, device, display, structure, or part thereof, situated outdoors, which is used ~~solely~~ to advertise, identify, display, direct, or visually attract attention to an object, person, establishment, institution, organization, business, product, service, event or location by any means, including but not limited to words, letters, figures, designs, symbols, fixtures, streamers, balloons, pennants, air driven devices, colors, illuminated or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields.

Sign Copy

The wording and/or symbols on a sign surface in either permanent or changeable form.

Sign Face

The area of a sign on which copy is placed.

Sign Structure

Any structure ~~which~~ that supports, has supported or is capable of supporting a sign, including any decorative cover for said sign structure.

Sign Maintenance

~~The cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.~~

...

Snipe Sign

A temporary sign or poster affixed to a tree, public utility pole, fence, etc.

...

Suspended Sign

A sign ~~which is~~ suspended from the underside of a horizontal plane surface, such as a canopy or marquee, and which is supported by such surface.

...

Tenant Directory Sign

A sign listing the names of more than one establishment, activity or professional office conducted within a building, group of buildings or commercial center.

...

Temporary Decoration

Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday/celebration.

...

Temporary Sign

~~A sign or advertising display constructed of cloth, canvas, fabric, plastic, paper, plywood or other light material that is used only temporarily and is not permanently mounted.~~

...

~~Time and Temperature Sign~~

~~Signs which display only time and temperature in alternate light cycles.~~

...

~~Yard Sale Sign~~

~~A sign directing the public to the occasional non-business sale of secondhand household and other goods incidental to household uses.~~

Wall Sign

A sign ~~which is~~ mounted flush to a building wall.

...

Window Sign

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

**TOWN COUNCIL AND PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 28, 2022, 6:00 PM
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Mayor Pro Tem Edie Tugman, Dalton George, Becca Nenow, and Virginia Roseman

PLANNING COMMISSION MEMBERS: Eric Plaag-Vice-Chair, Scott Boyd, John Tippet, and Frank Veno

HISTORIC PRESERVATION COMMISSION MEMBERS: Eric Plaag-Chair, Bettie Bond-Vice-Chair, James Sharp and Chuck Watkins

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Christy Turner-Senior Planner, and Jessica Mitchell-Long Range/Special Projects Planner

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: Amy Davis-Town Manager, Allison Meade-Town Attorney, Rick Miller-Public Works Director, and Shane Robbins-Police Major

Call to Order

Mayor Pro Tem Tugman called the Town Council to order at 6:03 p.m. Chair Plaag called the Planning Commission to order at 6:04 p.m. Brief discussion ensued regarding quorum for the Planning Commission, which was established with four members.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member Roseman made a motion to approve the September 26, 2022, Public Hearing minutes as written. Council Member Nenow seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Commission Member Tippet made a motion to approve the September 26, 2022, Public Hearing minutes as written. Commission Member Veno seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

PUBLIC HEARING

Ms. Jane Shook, Director of Town of Boone Planning & Inspections, reviewed the guidelines for each case presented at the public hearing. She asked participants to be patient and stated that participants would be called to speak during public comment at the appropriate time for each case.

Case PL05918-072222 Watauga County Jail – Local Historic Landmark

Vice-Chair Plaag explained that he would be recusing himself from participating in the local landmark case because of his involvement with the designation of the property as the Chair of the Historic Preservation Commission (HPC). He indicated that he had discussed this issue with the Town Attorney and noted though he was recused from formal discussion in the substance of the case, that he would still fill in for

Chair Shay, who was absent, as the Vice-Chair of the Planning Commission, as well as Chair of the Historic Preservation Commission.

Chair Plaag then called the Historic Preservation Commission (HPC) to order at 6:13 pm after an explanation that the HPC was present for the public hearing in order to meet statutory requirements for the landmark designation.

Ms. Jessica Mitchell, Long-Range/Special Projects Planner with Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet. The Town of Boone, with permission from property owners, Sam and Peggy Furguele, has filed a Local Historic Landmark Application to designate the property at 142 Burrell Street, (Watauga County PIN: 2900-79-5419-000) as a local historic landmark. The property is in use currently as Proper Restaurant.

Council Member George complimented Ms. Mitchell and the HPC for their work on the designation and asked if Ms. Mitchell could clarify the remarks made by the State Historic Preservation Office (SHPO). Ms. Mitchell noted that the SHPO comments on the local designation, though required, were nonbinding and were not included in the final recommendation made of the HPC. She added that if a National Register Preservationist was needed that the contact would be SHPO for obtaining a preservationist.

Brief discussion ensued as to the participation of the property owner at the hearing as it was discovered that Mr. Furguele, was having difficulties connecting into the meeting. This issue was resolved by Mr. Furguele coming over the Planning Department to join Staff for the meeting. During the brief time the boards were waiting on Mr. Furguele, Mayor Pro-Tem asked if there was any other questions or public comment. At this time, no public comment was offered.

Commission Member Veno asked if the designation would preclude any future alterations to the structure as mentioned in the comments from SHPO. Chair Plaag [HPC] responded that the main concern expressed by SHPO was about the enclosure of the porch, as it was originally a craftsman style porch that has window panels that are between the posts now. He explained that change is what is called a reversible change, it would be relatively easy to put that back to a craftsman style porch. He further stated with that in mind, if at some point in time the owner wanted to modify the porch, the existing district standards would encourage the owner to adopt a design for the porch that replicates what it looked like during its period of significance. Chair Plaag concluded that there's not anything that would preclude the owner from doing that.

Mr. Sam Furguele, property owner, joined the meeting and noted that both he and his wife fully support the landmark designation. He noted that he thought the designation was important because it was important to protect the remaining history of the town. Mr. Furguele provided a brief history on how he acquired the property in order to keep the building from being torn down. Mr. Furguele complimented Chair Plaag, author of the designation report as a member of the HPC, for the detailed report documenting the history of the building. Mr. Furguele described the circumstances that led to the renovation to the porch for a restaurant use. He noted that the costs of maintaining the historic property were high compared to the income that could be bought in as a residential property, and that it was necessary to modify the porch as part of the restaurant renovation to ensure that overall, the building was able to be maintained and saved. Mr. Furguele indicated he had been dismayed to read SHPO's comments, as he felt that he and his wife had done the least renovations necessary in order for the building to be profitable enough to help support the costs of such maintenance associated with the historic structure. Mr. Furguele thanked everyone for their consideration.

Council Member Roseman asked either Staff or Chair Plaag [HPC] to clarify the importance of the local designation being proposed. Chair Plaag [HPC], noted that the local designation did offer some local property tax deferral but did not have any related state issues. Council Member Roseman then asked

Chair Plaag [HPC] to clarify how the designation would protect the property. He responded by noting the proposed ordinance contains the same standards that apply to the downtown historic district would apply to this building, along with the National Park Service (NPS) guidelines for treatment of historic properties. Brief discussion ensued regarding how the standards can delay but not prohibit the demolition of the local landmark. Council Member Roseman, indicated to those present, that she was the Council liaison to the HPC and wanted to ensure that participants understood the process and thanked the property owner for participating in the designation.

There being no other comments, Mayor Pro-tem closed the public hearing and Chair Plaag adjourned the HPC at 6:43 pm.

Vice-Chair Plaag rejoined the meeting.

PL06130-100422 and PL06131-100422 Dinh – General Use Zoning Map Amendment

Ms. Christy Turner, Senior Planner with Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet. Tim Trong Dinh has submitted a General Use Zoning Map Amendment application to rezone 2 parcels off of Homespun Hills as follows:

1. Tract 1: 173 Homespun Hills from B3 General Business to R1 Single-Family Residential
2. Tract 2: Watauga County PIN: 2900-45-2302-000 (vacant) from B3 General Business/R3 Multiple-Family to R1 Single Family Residential

Mr. Dinh thanked the boards for their consideration and noted that he and his family would like to be able to build a garage in the future.

Council Member George thanked Mr. Dinh for considering R1 zoning and noted the Town was sorely in need of residential zoning in general. He also thanked Mr. Dinh for going through what must feel like a daunting process to rezone the property.

Vice-Chair Plaag asked Ms. Turner if the rezoning would create any nonconformities. Ms. Turner responded that no nonconformities would be created and that the rezoning would actually bring the current residential nonconforming use to conforming.

Brief discussion ensued as to what could be done with the two parcels. Ms. Meade reminded the boards that the case was for a general use rezoning and discussion of the future plans should be irrelevant to the consideration. She encouraged the boards to review the case as to the R1 zone and the limitations of that district.

With no public comment, Mayor Pro Tem Tugman closed the public hearing.

Case PL06142-101122 Junaluska Neighborhood Conservation District (NCD) – General Use Zoning Map Amendment

Vice-Chair Plaag then indicated that he would recuse himself from the NCD case as well since he owned property in the area being considered. Ms. Meade noted that Vice-Chair Plaag's interests in a property that happens to be in the proposed overlay district is not necessarily sufficient to require recusal. She noted that "recusal" strictly speaking under state law, requires clear and identifiable financial interest in the matter. Ms. Meade continued to explain that she did not believe that anybody would think the NCD overlay is going to change property value one way or the other, which would mean that Vice-Chair Plaag does not have an interest that requires recusal. However, she further noted from the perspective of just perception, she thought it was reasonable and fair for Vice-Chair Plaag to request to be recused if that is his choice. She concluded by noting that it would be appropriate for Vice-Chair Plaag to continue to act as a neutral chair for the Planning Commission, and its consideration of the case. Brief discussion ensued as

to the recusal of Vice-Chair Plaag, with a final consensus by both boards and Vice-Chair Plaag for him to continue to participate in the case.

Ms. Jane Shook, Director of Planning & Inspections, presented the case as it was outlined in the meeting packet. The Town of Boone has initiated a General Use Zoning Map Amendment to apply a Neighborhood Conservation District (NCD) zoning overlay district to 161 properties located in the “Junaluska” area. This includes properties in the Alexander Dr., Carolina Ave., Church St, Eastview Dr., Gragg St., North St., N. Depot St., N. Water St., Ridgewood Dr., Summit St., Sun Haven Ln., Tremont St., Queen St., and Wyn Way areas.

Ms. Shook noted two items of clarification. First, she noted that the first map in the Staff Report, located on packet page 115, presented the proposed overlay in a light green shade bordered by a darker green outline. She noted that the area in question extended up to the corporate limits line outlined in gray. She explained that the darker green line outlining the border of the proposed NCD was aligned under the gray corporate limits line.

Ms. Shook explained that the second point of clarification was that the Staff Report did not include the RR zoning description, which she noted was in UDO Section 14.08, from which she read an excerpt.

Ms. Shook then further detailed the items within the Staff Report including explanation of the exhibits and the requirements set forth for the NCD in UDO Section 14.41.

Council Member Nenow asked Ms. Shook how the boundaries for the district were created. Ms. Shook referred to the zoning map located in the Staff Report and noted that the new district was adjacent to the existing Grand Boulevard NCD and included all the residential properties from the existing NCD to the R4 zoned properties on the other end. She noted that once the area was selected Staff reviewed the boundaries with the residents who had originally requested the NCD designation from Council, which led to the addition of one additional R1 zoned property, and then finally the boundaries were presented to Council for approval.

Brief discussion ensued on the inclusion of one parcel along Queen Street that bordered the existing Grand Boulevard NCD. Ms. Shook explained that upon review, it was noticed that this was the only R1 zoned property in the neighborhood not included in a NCD. She noted that this was an error that Staff was attempting to correct.

Council Member George noted that he was looking forward to public comment, and that he strongly believes in protecting neighborhoods with history and emphasized that the request came from folks living in the neighborhood.

There being no other questions or comments from the board, Mayor Pro Tem Tugman invited public comment. She reminded the public in attendance to be respectful and noted that though time will not be limited, each participant’s comments should be pertinent to the case.

Roberta Jackson, a resident of the Junaluska community, thanked the boards for accepting her community petition signed by about 20 people interested in the NCD [attached]. She noted she was proud of the community she lived in her whole life. Ms. Jackson described vehicular parking concerns from numerous rentals who end up parking on the narrow streets making it dangerous to walk. She noted her concerns that the Junaluska community had worked hard to help build the town and that though they were older and smaller than it used to be, she would like to see her community maintained and safe. She concluded with telling the boards that too much infringement will occur if we don't work to keep our community a decent and a safe place to live. She noted they would like to have the neighborhood designated as a neighborhood conservation district overlay to maintain their way of life and preserve their dignity as citizens.

Carolyn Mack, a resident of the Junaluska community, noted that she was a return resident after her retirement and had sought out a family neighborhood, walkable to the downtown area. Ms. Mack described the changes to the neighborhood since she moved in 2015, which include the transition to many of the homes from owner occupied to rentals, additional cars, and other nuisances related to those two items. She noted a particular incident with a neighboring property where someone was allowed to live in a vehicle and tents on the property for long periods of time. She noted she had called various Town departments for assistance where little was done to resolve the situation.

Angela Vitale, a property owner in the area, expressed her concern about the proposed neighborhood conservation district overlay. She noted that the proposed changes were not the most effective way to protect property values or stabilize and maintain a low density living environment suitable for family life. Instead, she noted the proposed changes impact a select group of property owners who have made significant improvements to the neighborhoods. She noted that the NCD may not be legal based on a decision, Schroeder versus the city of Wilmington, which she has submitted for the Town attorney to review. She also noted that the proposed changes place an unequal financial burden on a select group of property owners by requiring them to hire a local property manager and pay for parking stickers, and that these same property owners have invested a significant amount of money on updating and maintaining properties, increasing property values for all owners and added curb appeal to the neighborhood. She noted there are other ways to more effectively address the state of protecting property values and stabilizing and maintaining low density living, suitable for family life. Ms. Vitale agreed that it was important for all property owners to share the responsibility to have town codes and ordinances adopted to protect property values and to stabilize and maintain a low density living environment suitable for family life, however, the proposed changes do not address these issues. She asked the boards to reject the proposal and reach out to all affected property owners for suggestions prior to making decisions about zoning.

Sam Furgiuele, of 169 Gragg Street, noted that over the years that he and his wife had observed violations of occupancy, parking and noise, and indicated anything that can be done to help protect neighborhoods and forestall the decrease in quality of life, which has been occurring fairly rapidly would be a good thing. He indicated that he and his wife support the neighborhood conservation district overlay.

Jacob Crabtree, of Carolina Avenue, concurred with the comments said earlier in the meeting by Ms. Mack. Mr. Crabtree noted there has been an increase of student renters, in the houses in the area that have continued to throw loud parties. He described an incident where a party bus blocked the street. He also indicated that there is a house that has at least six occupants. He noted that they experience issues with everyday life, including being woken up in the middle of the night because tenants come home drunk from the bars. Mr. Crabtree indicated his support of the NCD and hope that it helps limit the increased traffic.

John-Taylor Hixson noted his belief that people are constitutionally blessed with the right to privacy in this country. He noted that this was fact that we are protected from unreasonable searches and seizures, especially on our own property where we're living, our homes or houses or castles. He indicated his main concern was the implementation of parking passes for private property and how law enforcement was planning on enforcing this ordinance. Mr. Hixson noted that he there was not a local law enforcement representative in the room and that he wanted everyone to consider that.

Lindsey Middlesworth indicated that she was in support of protecting the neighborhood. She explained that her home in the area is currently used by her daughter who is a junior and explained that their other children also wished to come to school in the area. She indicated that they loved the area and are willing to work with the Town and be good stewards of the property.

Bill Dixon indicated that he and his wife own the large three-acre tract of land right in the middle of the proposed district off of Austin Lane. Mr. Dixon briefly identified the history of the three dwellings on the property, and noted that the cabin and garage apartments had been used as long-term rentals since 1993 and that the units have been recently converted to short term rentals in which they are making application for. He indicated that his question mainly pertains to how the district parking regulations would affect short term rentals noting it would be very difficult to enforce parking regulations for two and three night stays and in his case monitoring a 270-foot-long driveway not visible from any public street. He indicated that he was not against the NCD, but had concerns on the implementation of some of the standards and how they worked with short-term rental properties.

Brief discussion ensued whether public comment questions would be addressed. There was consensus to conclude public comment first and then see if there were any questions from Council or the Planning Commission.

Diane Blanks, age 76, a member of the Junaluska Heritage Association, and resident of the Green Street NCD, adjacent to the proposed area, noted that as long as she can remember, the Junaluska neighborhood has been there and the residents enjoyed a rich community life within the boundaries of their neighborhood, and they still do today. She continued that so many of the towns old, historic neighborhoods have been eaten up by a few professional landlords, and it would be a shame to see the Junaluska neighborhood go the same way. She indicated the Town should do all it can to prevent that both for the good of the people in Junaluska and for the good of the town. She concluded by indicating her support for the proposed NCD.

Ed Midgett, resident of Water Street for 35 years, indicated that he also owned a duplex across the street and laments the gentrification of the area. Mr. Midgett indicated he had similar questions to those of Mr. Hixson, including: who is going to enforce the regulations, why are certain people being singled out and charged a fee, and where is the fee going? He indicated he was offended that people would make money off his property. Mr. Midgett noted that though they had never had an issue with student rentals or short-term rentals, he did not want to marginalize the people who have been wronged by student housing or students that are getting out of control. He concluded that he wondered if there's some way to do a neighborhood conservation district without the parking passes and rely on zoning as there are already laws in place for noise and things like that.

Heather Gurkin, indicated she was a property manager in Boone and noted that she agreed with what Mr. Midgett had said.

Jim Bates, resident of Ridgewood Drive since 2004, indicated he also owned a duplex in the same area as his home and noted his concerns that the NCD regulations seemed like a "gotcha" for their tenants. He voiced his concern regarding how tenants enter a lease mid-year may be fined and the costs of those fines if they don't have a sticker; how guests were handled and asked if they would need stickers? Mr. Bates expressed his concerns about the inequality of the regulations only applying to rental properties and suggested that perhaps the Town should look at other ways to relieve the burden of housing shortage by reviewing the occupancy limitations. He noted that the increase in regulations would make

property values go up and make rental prices and home prices also go up, and that the regulations do not seem to help make things better for anyone and urged the boards to come up with a better solution.

Maggie Farrington, a resident from the adjoining Grand Boulevard area, indicated that she wanted to take the opportunity and share some concerns about the parking issues, the noise, and the parties. She noted that unfortunately, even with the new overlay, it won't mean that any of those student rentals with six, eight, people is going to change as they are grandfathered in and that is going to continue until the home is sold and turned back to a single-family home. She noted that one of the other issues she heard during the meeting is about parking, traffic, and the overburdening of properties, and that the parking stickers are just an extra requirement, that doesn't serve the purpose they were originally intended to have. Ms. Farrington described the issue she has with a neighboring property that has more than four units and eight tenants, each with a car and the issues they have being on such small lots. She noted that she agreed that the residents should be able to have guests, but when you try to fit that many vehicles onto a property you cause danger and harm. Ms. Farrington indicated that she hoped the Town would look into ways that can actually have some enforcement, so that it it's not necessarily going to change occupancy, but it's going to change the access of vehicles and maybe those dangerous situations that have been described during the meeting.

Quint David, owner of a house on Ridgewood Drive, indicated his concern with treating renters as second class citizens by giving them special stickers, and noted that families with large families who owned a home wouldn't be required to get stickers but renters would. Mr. David noted that the new Watauga County housing survey notes an extreme need for housing across the county, and that the ordinance being discussed doesn't meet any need for housing, and that it might actually decrease the number of rental houses available. He indicates his support of anything that makes neighborhoods safer, especially with the driving issues, and more brochures about how to be a better neighbor, how to be respectful, how to drive safely could be implemented. He indicated that this was band aid on a much larger issue that needs to be addressed on a larger scale. He concluded that from his years of being a renter that he, sort of, takes a little offense to being treated as a second class citizen when there are plenty of owners that drive faster and run stop signs, but they're not required to have a sticker on their car.

Mayor Pro Tem Tugman asked if there was anyone in attendance who wished to speak.

Meredith Maiken, spoke under public comment, that she was a student renter who is renting a home that borders the proposed NCD, and clarified her home is not in the proposed area. She stated that she supports the NCD. She explained her education background as she is studying for a minor in Planning. She stated economic concerns of renting and how it can be necessary to rent among multiple parties and it is hard to find individuals to share the rent.

There being no other public comment, Mayor Pro Tem Tugman asked Staff and the Town Attorney if they wanted to address any of the questions or comments asked during public comment before the Council and Commission asked additional questions.

In response to the public comment, Ms. Shook shared her screen and showed using the Town's online GIS and the locations of the other seven neighborhood conservation districts through town and explained that many of the districts have been around since the mid-2000s with essentially the same language. She indicated that the Town did have some experiences with these districts. She noted that it was hard to determine from a drive-by what is a rental property and what is not, and due to how often properties can change hands, is one of the reasons the Town sends out an annual notice. She also noted

that no fees were charged for the parking stickers, and that the Town subsidizes the cost of the Department enforcing the NCD regulations. She further explained that the Planning Department's Code Enforcement officers, not Police Officers, are the ones who handle enforcement of the regulations. Ms. Shook then outlined the method used for enforcement, which includes an investigation and opportunity to come into compliance. She also explained that residents are allowed to have guests and if the Department received a complaint or if Staff notices what they think are too many cars, Staff would conduct an investigation. She also wanted to clarify that there is a difference between grandfathered uses and occupancy. She noted that while the number of units may be grandfathered the number of occupants cannot.

Ms. Meade, further in response to public comment, clarified that the parking stickers were a measure to enforce occupancy controls and confirmed that guests are allowed, and if there is a compliant made then Staff will go out to investigate and may determine that a visitor's car is at the residence as often as you would expect the resident's car to be there. She noted that a vehicle there that is there for a few hours is different than a car that is there day after day and that is what the investigation would determine. She also clarified that only civil remedies would be permitted under state law as criminal penalties are prohibited for development ordinances unless they involve significant health or safety issues.

Ms. Meade noted that there were two overarching issues being discussed. She stated the first is whether the Junaluska neighborhood was a good candidate for the neighborhood conservation district protection. She continued the second separate issue is whether the NCD regulations do what they are intended to do and are they enforceable. Ms. Meade then noted that it had been questioned whether these regulations were lawful due to the legality of rental registrations, and that she did not believe the regulations were unlawful, since the state law prohibits a requirement that owners register rental property in order for it to be rental property under one of the statutes that involve minimum housing. She noted the NCD requirements require tenants to register their vehicles related to where they live. She also noted that Mr. Dixon had made a valid comment of short term rentals and noted the language in the UDO should be revised to resolve the apparent conflict. She also noted that Mr. Dixon made a fair point about why should tenants have to get a sticker if the driveway was over 200 feet long and not visible from the public road. She added that in this instance it is to consider what is the ill being addressed at that point and perhaps the regulations should be reviewed to see if they are addressing what is intended.

Ms. Meade shared that other jurisdictions, such as Chapel Hill, have different ways to regulate over parking, over occupancy and noise, which have been upheld in court of appeals. She explained that they limit the number of cars that can be parked at any one residence and use the number of cars as a proxy to keep occupancy and other issues down. They also impose limitations on the parking areas that may impact neighboring properties. She noted that parking seems to be one of the largest issues and that the regulations may need to drill down more into what the real issues that the Town is trying to address.

Ms. Shook noted that Ms. Meade had brought up several good points and reminded Council that review of the NCD regulations was on the department's work plan.

Brad Farrington, resident of the adjacent Grand Boulevard area, noted his support for investigating other mechanisms to help with parking and traffic issues. He further noted that a point not mentioned was

the stickers were a way to advocate for the renters who pay to park at their rental, especially when a visitor is parking in a spot, they are paying for leaving the tenant with no option other than to park on the street. He noted that the parking issue was a huge safety concern as well as the enjoyment of a low-density neighborhood encroached upon by high-density uses.

Upon conclusion of public comment, Mayor Pro Tem Tugman asked if there were any comments or questions from the boards.

Council Member George agreed that the NCD is not perfect but wanted to center the conversation back to the Junaluska request. He noted that he did not see this as an issue of tenants versus residents, but rather an issue of citizens versus people who are buying up properties and renting them out at rates that no regular family can afford. He also noted that most leases already limit the number of guests allowed. He also noted that NCD's already exist in this town and that Junaluska is one of the oldest historically black communities in the Appalachian Mountains, and the fact that it is not already a NCD is an embarrassment to the Town, and that the implication that either the Police or the Planning Staff did not know how to interact was confusing to him. He noted he did appreciate those who came out to speak.

Vice-Chair Plaag indicated that he agreed with Council Member George, and further indicated that he lived in the Junaluska community, and that every day he sees evidence of the issues that the Junaluska resident had described. He indicated that several of those who spoke out against the amendment were landlords that did not live in the district and some of them own the very properties which cause some of the consternation in the neighborhood. Vice-Chair Plaag continued that the NCD was a mechanism to control occupancy and that landlords who wanted to be a good neighbor needed to ensure that their tenants completed the registration form. He concluded that he also felt that there was something off that there was this much opposition to granting NCD status to the historically black community in Boone when he does not remember hearing this much opposition to a NCD that has been approved since he has lived here.

Council Member Roseman noted that she wanted to protect the history of the Junaluska community, to honor what this community has done for the area, and that some of the people who have built and live in these homes and love the neighborhood are still there. She noted it was the Town's responsibility to figure out if the request was a good fit for the neighborhood, and while there were flaws, it was important to move forward as it was a good fit.

Council Member Nenow noted that while not trying to be off topic, but that one of the recurring themes discussed was parking and traffic, and thinks that some of the solutions were not about how to fit more cars into the area but how the space could be navigated without cars. Vice-Chair Plaag agreed with Council Member Nenow and noted that the Junaluska area did not have sidewalks and that would go a long way to making the neighborhood walkable and attractive to those who did not have cars.

With no further comments, Mayor Pro Tem Tugman closed the public hearing for this case.

Case PL05781-061322 Signs – UDO Text Amendment

After a brief discussion, it was decided that Case PL05781-061322 Signs – UDO Text Amendment, would be tabled, and to be fair to those who had waited to speak the opportunity to share their public comment.

Mr. Graydon Eggers, with First Baptist Church, shared that the church was interested in installing a freestanding sign with changeable copy, and that the height and area regulations proposed made it hard to install a sign with any type of base to raise it from the ground. He shared with Council five different

photos that showed the Church's previously installed sign that was removed due to the widening of King Street, and noted that current regulations, after the rezoning, did not allow for a replacement freestanding sign. One of the photos he noted was the sign at the Town's Jones House which featured a freestanding sign with changeable copy. He requested that the Town consider these points as the consider the changes to the ordinance.

Mr. Skip Green, with First Baptist Church, provided history that he had built the original signs and the Jones House sign and that he also was interested in the Town evaluating the sign ordinance based upon Mr. Eggers concerns.

Ms. Shook indicated that when the case was brought back up that the concerns brought forward by the Mr. Eggers and Mr. Green would be discussed.

There being no other comment, Mayor Pro Tem Tugman tabled the case to the next public hearing on January 23, 2022 at 6 p.m.

Case PL06245-110922 Single- and Two-Family Nonconformities – UDO Text Amendment

Ms. Shook presented the case as presented in the board packet. The Town proposes an amendment to the Town of Boone Unified Development Ordinance (UDO) to modify UDO Section 7.03 regarding nonconforming uses to create exceptions for certain single- and two-family uses.

Council Member George indicated that he appreciative of Staff identifying the issue and bringing forward the amendment.

Mayor Pro Tem Tugman opened public comment.

Maria Owens indicated that she was an owner of a property that had originally been residential which had been converted to an office with the intent to always turn it back into the original residence. She indicated that she had missed the change in 2014, and did not realize until recently that she would not be able to convert the office back to a residence that she could live in. She noted that she thought the ability to do so could help in areas where the Town wanted the reestablishment of residences.

Ms. Shook clarified that this work had been part of the department's work plan.

Commission Member Boyd asked if a property was going back to a residential use if it was up to the property owner or Planning and Inspections staff to decide. Ms. Shook responded that the zoning remains the same for the property, and that it would involve a change of use to revert back to a residential use. She stated this would be allowed upon issuing a permit.

With no public comment, Mayor Pro Tem Tugman closed the public hearing for this case.

Adjournment of Town Council

Council Member George made a motion to adjourn the Town Council at 9:19 p.m. Council Member Nenow seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Eric Plaag, Planning Commission Vice-Chair**Continuation of Planning Commission Meeting**

Brief discussion ensued on how to continue the meeting. By consensus, the Planning Commission agreed to take a short break and then reconvene and hear the Junaluska case last in case discussion took too long.

Vice-Chair Plaag announced a ten-minute break.

Vice-Chair Plaag reconvened the meeting.

Public Comment

There was no additional public comment made.

Approval of Planning Commission Meeting Minutes

Vice-Chair Plaag noted changes including on packet page 210 (minutes page 4), second paragraph under the Yates Family Case, “the” should be changed to “they,” and on packet page 211 (minutes page 5), second paragraph from the bottom, the “and Vice-Chair” should be changed to “as Vice-Chair”.

Commission Member Veno made a motion to approve the September 28, 2022, special Planning Commission meeting minutes as amended. Commission Member Tippet seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Case PL05918-072222 Watauga County Jail – Local Historic Landmark

The Town of Boone, with permission from property owners, Sam and Peggy Furguele, has filed a Local Historic Landmark Application to designate the property at 142 Burrell Street, (Watauga County PIN: 2900-79-5419-000) as a local historic landmark. The property is in use currently as Proper Restaurant.

Vice-Chair Plaag noted he would be recused from participating in the discussion for the case.

Commission Member Tippet stated he appreciated the background materials and that it was supported by the Town and property owners. Commission Member Veno noted he supported the amendment to continue to protecting building. He discussed how the discussion regarding the property’s porch indicated that it could be removed at some point in time. He stated that the Downtown Boone Post Office was altered with no changes to the architectural integrity, and the alterations fit hand-in-glove and are an example of how it can be done. He further stated that the building was almost lost once, and the outside of the property is still reminiscent of the jail. Commission Member Boyd agreed that it was completely in reason to support the landmark designation.

First Motion and Vote: Commission Member Tippet 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:

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 2.1 The Economy

2.1.5. Downtown

- A. A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.
- F. The maintenance and revitalization of downtown Boone, as well as planning for its future development, will reflect the realities and qualities befitting its geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services.

Comprehensive Plan Policy 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.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

The motion was seconded by Commission Member Boyd.

Vote: Aye – 3.
Nay – None.
Recusal – 1 (Plaag).

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because of the historic significance of the property, and that the property is located within the historic district is a plus; and the property represents a unique historic tradition that has evolved and will continue to evolve; and as the property owners are supportive as is the Town.

The motion was seconded by Commission Member Venio.

Vote: Aye – 3.
Nay – None.
Recusal – 1 (Plaag).

The motion passed.

Vice-Chair Plaag rejoined the meeting.

PL06130-100422 and PL06131-100422 Dinh – General Use Zoning Map Amendment

Tim Trong Dinh has submitted a General Use Zoning Map Amendment application to rezone 2 parcels off of Homespun Hills as follows:

1. Tract 1: 173 Homespun Hills from B3 General Business to R1 Single-Family Residential
2. Tract 2: Watauga County PIN: 2900-45-2302-000 (vacant) from B3 General Business/R3 Multiple-Family to R1 Single Family Residential

Brief discussion ensued as to the boundaries of the properties. Vice-Chair Plaag noted that he appreciated the applicant's request to rezone as it would add more housing stock to the jurisdiction. Commission Member Veno asked if the owners wanted to combine the lots for the garage use would they have to go through another hearing process. Ms. Turner replied that it would be staff-level approval to combine the lots.

First Motion and Vote: Vice-Chair Plaag 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:

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 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.

B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.

Comprehensive Plan Policy 2.3 The Community

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.

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.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Plaag made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because rezoning will align the parcels with the current single-family use and may increase the single-family stock

in the Town of Boone limits by encouraging single-family development of the vacant parcel. The motion was seconded by Commission Member Venio.

Vote: Aye – All
Nay – None

The motion passed.

Case PL06245-110922 Single- and Two-Family Nonconformities – UDO Text Amendment

The Town proposes an amendment to the Town of Boone Unified Development Ordinance (UDO) to modify UDO Section 7.03 regarding nonconforming uses to create exceptions for certain single- and two-family uses.

Commission Member Venio asked Ms. Shook to clarification if what the change would mean for a rental property that had been abandoned for 180 days. Ms. Shook stated that it would not impact whether or not a property was a rental as the Town could not regulate ownership. However, she added it would allow the use of former dwelling unit that had been converted to a conforming use to be allowed to convert back to the residential use at any point even though those uses are not permissible uses within a commercial zoning district.

First Motion and Vote: Commission Member Venio made a motion that the proposed amendment to the Town's zoning ordinance 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:

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 2.3 The Community

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.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Venio made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because as discussed streamlines the problem of certain residential nonconforming uses in UDO Section 7.03. The motion was seconded by Commission Member Tippet. Vice-Chair Plaag asked

Commission Member Veno if he would accept a friendly amendment to add that the net effect creates low density residential stock in areas where it is not currently possible and should be encouraged. Both Commission Member Veno and Commission Member Tippet accepted the friendly amendment.

Vote: Aye – All
Nay – None

The motion passed.

Case PL06142-101122 Junaluska NCD – General Use Zoning Map Amendment

The Town of Boone has initiated a General Use Zoning Map Amendment to apply a Neighborhood Conservation District (NCD) zoning overlay district to 161 properties located in the “Junaluska” area. This includes properties in the Alexander Dr., Carolina Ave., Church St, Eastview Dr., Gragg St., North St., N. Depot St., N. Water St., Ridgewood Dr., Summit St., Sun Haven Ln., Tremont St., Queen St., and Wyn Way areas.

Vice-Chair Plaag asked the Planning Commission if they wanted to continue with the current case or if they wanted to reschedule a special meeting to further consider the case. Ms. Shook, Director of Planning & Inspections noted that she understood that the Planning Commission had heard discussion about both the NCD as a construct and the application of the NCD to the Junaluska area. She recommended the Planning Commission separate the discussion of the NCD from the core request which was the consideration of the NCD and the Junaluska area noting that an opportunity to discuss the merits of the NCD would come later as it was on the department’s work plan. Vice-Chair Plaag agreed and felt like the items mentioned by Ms. Meade are worth exploring for all neighborhood conservation districts and noted that while he understood that there were problems with the regulations, he did not want to lose sight of the request. He noted his concern that he didn’t remember there being anywhere near the level of opposition on any of the seven NCD’s, and that the opposition came from people who own multiple properties and don’t live in the area. He also recommended focusing on the actual request and not getting lost in a discussion of changes to the regulations and let that future conversation happen in its own time.

Commission Member Veno noted that the most salient point of the evening was the request and the discussion on other issues, such as parking, were separate and that much of the opposition seemed to be based upon misinformation. He agreed the parking issues had to be addressed.

Ms. Shook added that in the past, the Town did request a charge for the stickers, but there was a decline in assigning stickers, that a charge was not necessary. She explained that she felt the concept of a NCD had extended from its original intent, and that it was a tool to regulate occupancy and not necessarily parking.

Vice-Chair Plaag told Ms. Shook that when the discussion on the NCD happens that it would be nice if it included a refresher on nonconforming uses. Ms. Shook explained that Planning Staff was working on resources that would assist with that discussion.

Commission Member Tippet, as a resident of the Blanwood NCD, noted that he understood the though the need for a larger conversation was needed, he supported the request for the Junaluska area and feels that it is a step forward. He noted that he felt positive about moving forward that evening with the request. Commission Member Boyd agreed that the neighborhood was just as deserving as the surrounding of areas of the designation.

Vice-Chair Plaag stated that it was a compliant driven process. Ms. Shook replied Staff operates by drive-by’s, or if on a recurring basis visit the property in proactive enforcement.

First Motion and Vote: Commission Member Tippet made a motion that the proposed amendment to the Town's zoning ordinance 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:

Comprehensive Plan Policy 2.3 The Community
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.

The motion was seconded by Commission Member Boyd.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because the Junaluska neighborhood was extremely worthy of the neighborhood conservation district designation and the designation provides addition town monitoring mechanisms as it relates to occupancy. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Ms. Shook announced that the December Planning Commission meeting would be canceled due to the holidays and the lack of agenda items.

Adjournment of Planning Commission

Commission Member Tippet made a motion to adjourn the meeting at 10:35 p.m. Commission Member Veno seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Eric Plaa, Planning Commission Vice-Chair

Jane Shook, Planning Director