

**Town of Boone
Public Hearing
6:00 PM, Jan. 28, 2019
Council Chambers, 1500 Blowing Rock Road**

The appearance times contained within this agenda are approximate and are subject to change at any time. No agenda item will be started after 10:30 p.m. Remaining items will be addressed at a continuation meeting or will be tabled until the next available meeting.

I. Call to Order - Town Council

II. Call to Order - Planning Commission

III. Approval of Public Hearing Minutes by Town Council & Planning Commission

November 26, 2018 Public Hearing Minutes

IV. Case PL02128-112918 University Overlook - Conditional District Zoning Map Amendment Modification

Case PL02128-112918 Application Information

Case PL02128-112918 Site Plans

Case PL02128-112918 Staff Report

Case PL02128-112918 Staff Report Exhibit 1

V. Case PL02133-113018 Appalachian Mountain Brewery - General Use Zoning Map Amendment

Case PL02133-113018 Application Information

Case PL02133-113018 Staff Report

Case PL02133-113018 Staff Report Exhibit 1

Case PL02133-113018 Staff Report Exhibit 2

Case PL02133-113018 Staff Report Exhibit 3

VI. Case PL02156-121718 Charles Perry - General Use Zoning Map Amendment

Case PL02156-121718 Application Information

Case PL02156-121718 Staff Report

VII. Case PL02177-010318 Plaag/Tait - General Use Zoning Map Amendment

Case PL02177-010319 Application Information

Case PL02177-010319 Staff Report

VIII. Case PL01817-082318 UDO Section 15.11 - UDO Text Amendment

Case PL01817-082319 Application Information

Case PL01817-082318 Staff Report

IX. Other Matters

X. Adjournment of Town Council

XI. Approval of Planning Commission Meeting Minutes

November 26, 2018 Planning Commission Meeting Minutes (See Packet
Page 8-11)

XII. Consideration of Cases Heard at the Public Hearing

XIII. Other Matters

XIV. Adjournment of Planning Commission

**PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 26, 2018, 6:00 P.M.
TOWN COUNCIL CHAMBERS**

COUNCIL MEMBERS: Rennie Brantz-Mayor, Loretta Clawson-Mayor Pro-Tem, Marshall Ashcraft, Sam Furgiuele, Connie Ulmer, and Lynne Mason

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chairperson (arrived at 6:03 p.m.), Eric Plaag-Vice Chairman, Chris Behrend, James Hedrick, and Frank Venio

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections and Brenda Henson-Board Secretary

OTHERS PRESENT: John Ward-Town Manager and Allison Meade-Town Attorney

CALL TO ORDER

Mayor Brantz called the Town Council to order at 6:00 p.m.

Vice Chairman Plaag called the Planning Commission to order at 6:00 p.m.

APPROVAL OF MINUTES

Council Member Mason made a motion, seconded by Mayor Pro-Tem Clawson for Town Council to approve the September 24, 2018 Public Hearing minutes as written. Council Member Furgiuele wished to amend page 2, 4th paragraph, last sentence to read *Council Member Furgiuele said this topic might need to be further discussed because if the tax relief should only be for the contaminated lot by creating larger tracts of land might be counterproductive to the interest of the Town.* Council Member Mason and Mayor Pro-Tem Clawson accepted the amendment.

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

Vice Chairman Plaag made a motion, seconded by Commission Member Hedrick to approve the September 24, 2018 Public Hearing minutes as amended by Town Council.

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

Chairperson Shay arrived at the meeting at 6:03 p.m.

CASE PL02068-110118 COLLEGE OR UNIVERSITY-OPERATED COMMUNITY ENTERPRISE – UDO TEXT AMENDMENT

Ms. Shook presented this case as outlined in the meeting packet.

Council Member Furgiuele suggested some changes to the proposed text. He felt that Section 15.70 A.1. should read *The activities involved in the use must be the same or closely similar to, and clearly compatible*

with, those uses allowed as of right in the zoning district. Ms. Meade pointed out that the text pertained to activities within a use and not the use itself. Council Member Furgiuele stated the word activities should then be included in the latter part of the sentence to read *the activities in uses allowed as of right in the zoning district.*

Council Member Furgiuele suggested removing the words *zoning district* from 15.70(A)(5).

Council Member Furgiuele referred to Article 34 containing the proposed definition of Community Enterprise and felt the wording was problematic if there was no definition of community in the UDO. He suggested adding wording to say *“For purposes of this section, community shall mean and refer to residents of the Town of Boone at large”*. Ms. Meade stated she did try to define community but found it very difficult because all activities would not be geared toward just the residents of the Town and they could end up excluding some subsets of people, including tourists, if a narrower definition was provided. Therefore, Ms. Meade stated she did not include a definition for community at all. Council Member Furgiuele noted that he was not suggesting the enterprise serve residents of the Town only but felt if the enterprise did not meet the civic, cultural, or informational needs of the residents, the text should not be allowed as a special exception. Council Member Furgiuele stated he thought the idea of this text was to provide a benefit to the residents of Boone and if it provided benefits to others as well then that was okay. Ms. Meade suggested the revised definition of Community Enterprise could read *“An enterprise meeting the civic, cultural, or informational needs of residents of Boone”*. Council Member Furgiuele stated he was okay with that language.

Council Member Furgiuele then noted that 15.70(A)(3). was missing a word and suggested adding the word *–operated* after university near the end of the sentence.

Mayor Brantz asked if the mention of a private owner in 15.70(A)(4). would prevent the Town from leasing property to a private individual. Ms. Meade replied that it did not.

Vice Chairman Plaag expressed concern about the requirement that the lot cannot be located within 1,000 feet of another lot containing a college- or university-operated community enterprise as stated in 15.70(A)(3). He noted that the entire length of Howard Street from Water Street to Appalachian Street is only 1,600 feet and this creates a scenario with existing lots that could be problematic. Vice Chairman Plaag noted that the Turchin Center is located in the B-1 and would meet the definition of a community enterprise run by the University so there would be a 1,000’ limit from that location. Vice Chairman Plaag stated that the Town was proposing to build a parking garage on property located within the B-1 and that, to him, would meet a civic need. However, the 1,000’ limit could possibly set the Town up to not be able to meet the limits of the proposed text. Vice Chairman Plaag mentioned a parking lot on Howard Street that is owned by ASU that serves a civic need and would be too close to the HOW Space to meet these ordinance requirements. Vice Chairman Plaag stated he did not know how this would affect the arrangement the Appalachian Theatre is proposing to make where they would be allowing the use of their space by the University for classes during the day and questioned if this would count as a college- or university-operated enterprise if they are renting space from the theater. Vice Chairman Plaag noted he is on the Board of the Theater but had no financial interest in the theater. Council Member Furgiuele felt that holding classes inside the Theater would be a violation of the UDO and would be well beyond the scope of this proposed text. Ms. Shook responded that the Town has had conversation with the new director of the Theater and there will be further conversations about the use of the theater. She noted that the director had been made aware that allowing ASU to hold classes in the Theater was not a permissible use.

Ms. Meade addressed Vice Chairman Plaag's concerns about the 1,000' separation requirement and stated that the Turchin Center was not privately owned and was an existing use meeting other use requirement of the UDO and would not fall under this proposed text.

Council Member Mason noted that the Turchin Center predated the text that prohibited University uses in the B-1 and was grandfathered in. She explained that University uses were no longer allowed in the B-1 in an effort to maintain the integrity of a viable downtown.

Vice Chairman Plaag wished to clarify that he was supportive of this idea and felt it was very necessary and a good thing.

Ms. Meade referred to Vice Chairman Plaag's comments that parking lots would meet the definition of a community enterprise. She felt that parking needs were very different from civic, cultural, or informational needs.

Vice Chairman Plaag asked if it was correct that because some of these properties were owned by ASU they would not meet the definition of a community enterprise. Ms. Meade replied that, as far as she knew, the HOW Space on Howard Street is the only community enterprise that would exist and noted that the 1,000' separation requirement left few areas in the B-1 where a community enterprise would even be possible. Ms. Meade explained that Council wanted this to be a very limited type of use with the understanding that it could always return to the issue if they decided it was a wonderful idea and wanted to modify the separation limit.

Council Member Furgiuele noted that the Community Appearance Commission was looking at expanding the B-1 and if that happens there could be other opportunities for community enterprises. Vice Chairman Plaag replied that his concern was that the Town did not set itself up for a problem with things that are already afoot.

Vice Chairman Plaag felt that the public could perceive a parking structure as a civic need and did not want to allow that perception if that was not the intent.

Commission Member Veno asked for the definition of enterprise and noted that he felt parking structures could be a civic need. Ms. Meade replied that the word enterprise was a broad term for an organized human effort and noted that a parking structure was not considered a civic need when it was really infrastructure.

Commission Member Veno asked for an example of what a community enterprise would look like. Ms. Shook replied that this text generally referred to the HOW Space on Howard Street. Mr. Ward added that the HOW Space was an event center that was staffed through a grant from the University. He explained that they did upgrades to a privately owned area and were hosting things such as art presentations and public meetings. Mr. Ward stated the idea behind this proposed text was to allow a University use that would also remain on the tax rolls. He added that the project fit the Howard Street concept because you could roll up the doors and have an inside and outside venue.

Mayor Brantz questioned the length of the lease and thought it was going to be 6 years. Ms. Shook explained that the proposed use was no longer going to be a temporary use but a permanent use and would therefore have no lease limit. Mr. Ward felt this would help with monitoring because lease limits were hard to track.

Council Member Furgiuele asked if there should be something included in the definition that excludes parking. Ms. Meade replied that she was uncomfortable with starting to name things that would be excluded. She noted that it was not the legislative intent for parking lots/structures to be considered as community enterprises and felt they had a good record of that legislative intent. Council Member Mason stated that parking was covered by another ordinance in the UDO.

Ms. Meade asked why 15.70(A)(5). referencing signage was needed when all other requirements of the UDO would still apply. Ms. Shook felt this language was left over from when they were going to propose this text as a temporary use and noted the language could be struck.

Council Member Furgiuele referred to 15.70(A)(1). and asked for examples of activities that would be closely similar to activities already allowed in the B-1. Ms. Meade replied that none readily came to mind. Ms. Shook stated that the University could likely have some activities that did not fit into any current use but would be closely related. Ms. Meade added that the UDO was not so comprehensive in its uses that a use couldn't come along that was very similar and clearly compatible and desirable with the Council that was not within the UDO and in that circumstance she felt it made no sense for an applicant to have to come back to Council to request an amendment. Council Member Furgiuele disagreed stating if there was such a use that was so wholly compatible with the Downtown and the B-1 then Council should be amending the UDO to change and add that use to the B-1 instead of allowing a use for colleges only. Ms. Meade replied that it did not make sense to come back to Council and go through the 90 day amendment process. Council Member Furgiuele stated that a private business owner could want to do the same thing on his property that the University is being allowed to do as a community enterprise but would not be allowed to do so unless they petitioned the Council for a text amendment so the only ones not having to go through the 90 day amendment process is the University. Council Member Furgiuele stated he would rather go through the amendment process one time at the beginning and make another use category for the B-1 instead of authorizing uses that couldn't be named because no one knew what they were.

Council Member Mason asked Council Member Furgiuele if he was suggesting the activity must be within an allowed use. Council Member Furgiuele stated that was correct, noting that it would then be compatible, and then if someone came up with something that was not allowed but would be compatible Council could look at that to see if it could be a use that could be allowed for anyone in the B-1, not just colleges and universities.

Vice Chairman Plaag suggested adding language to 15.70(A)(4). that the private property owner must not be affiliated with a college or university.

Vice Chairman Plaag asked why there was a definition of community enterprise when it seemed redundant to the text contained in 15.70(A)(2). Ms. Meade explained this was in keeping with the structure of the UDO. Vice Chairman Plaag suggested having the same language in (A)(2) as in the definition. After some discussion, the general consensus seemed to be to use the term *community as a whole* in both (A)(2) and in the definition.

Ms. Shook outlined the following suggested revised text:

1. The activities involved in the use must be the same as activities of uses allowed as of right in the zoning district.

2. The organization operating the community enterprise shall clearly demonstrate that the enterprise is dedicated to meeting the civic, cultural, or informational needs of the community as a whole as opposed to the needs of the college or university alone.
3. No lot containing a college- or university-operated community enterprise shall be located within 1,000 feet of another lot containing a college- or university-operated community enterprise.
4. The use must be conducted pursuant to a lease between the applicant and a private owner not affiliated with a college or university.
5. Remove this text.

Community Enterprise definition: An enterprise meeting the civic, cultural, or informational needs of the community as a whole.

There was general agreement with these revisions.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:09 p.m.

TRANSITIONAL ZONE DISCUSSION

Ms. Shook stated this was supposed to be a joint discussion with Council and requested by Planning Commission regarding multi-family and mixed-use projects that trigger transitional zones and the possibility of removing the need for a Special Use Permit if particular standards are met by the developer. Ms. Shook noted that Planning Commission struggled to understand the direction Council wanted them to take.

Council Member Furguele stated he was the one to propose the idea because he was approached by a developer who told him they were spending a lot of money to go to the Board of Adjustment for transitional zones and were ending up with the same mitigating factors like enhanced landscaping and no outside balconies facing neighborhoods. Council Member Furguele noted that he at first questioned whether incentivizing smaller developments or less density might be things a developer could agree to that might exempt them from going through the Special Use Permit process.

Council Member Furguele stated that mitigating factors for one project may not be the best mitigating factors for another project and, upon further consideration, felt it might be best to stick with the transitional zone process they have.

Council Member Mason stated that developers do have the option to not develop in the transitional zone. She also noted that cottage housing has been discussed as a possible use for transitions.

Ms. Shook stated that the current transitional zone language is a site specific process and it would be difficult to craft requirements in the transitional zone language that the applicant can utilize to obtain a zoning permit by right. Ms. Shook felt there were some process issues that could improve, such as the requirement for neighborhood meetings. Council Member Furguele stated he thought Council Member Ashcraft had requested Planning & Inspections pursue the idea of neighborhood meetings. Ms. Shook replied that the issue had been discussed though specific direction had not been given to her department.

Ms. Shook explained to Planning Commission members that Town Council asked the Planning Department to identify all R-3 and R-4 properties under certain parameters. She noted they have identified the properties with building values less than \$100,000, those currently undeveloped and those not developed with multi-family uses and Town Council will be going through each of those properties one by one to

evaluate whether or not those properties need to be rezoned. Council Member Mason added that part of the discussion will be to decide if more multi-family residential zones are needed to allow for less dense R-3 uses that also might be more compatible as you transition to an R-1, so there may be a community of townhomes rather than a 3 or 4 story apartment complex.

Mayor Brantz thanked Ms. Shook for all the work she did to pull together all the history contained in the packet regarding transitional zone cases and noted that it was very enlightening and he had learned a great deal.

Ms. Shook asked if there was consensus that Planning Commission no longer continue looking into the transitional zone matter. Council Member Furgiuele felt the transitional zones had been successful in almost every instance. Council members were in agreement.

OTHER MATTERS

There were no other matters discussed at this hearing.

ADJOURNMENT OF TOWN COUNCIL

Council Member Mason made a motion, seconded by Council Member Furgiuele to adjourn the Council at 7:22 p.m.

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

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chairperson

Chair Shay called a break in the Planning Commission meeting from 7:22 p.m. until 7:29 p.m.

APPROVAL OF PLANNING COMMISSION MEETING MINUTES

Vice Chairman Plaag made a motion, seconded by Commission Member Behrend to approve the October 22, 2018 Planning Commission meeting minutes as written. Chairperson Shay wished to amend page 2, paragraph 4, in the first sentence to say that she did not *necessarily* feel she was qualified. Vice Chairman Plaag suggested adding the word *strictly* after the word based. All parties agreed to the amendments.

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

CASE PL02068-110118 COLLEGE OR UNIVERSITY-OPERATED COMMUNITY ENTERPRISE – UDO TEXT AMENDMENT

Ms. Shook explained to Commission members that they could make recommendations on the text at this meeting, postpone making recommendations until another date-specific meeting, or make

recommendations at their next regularly scheduled meeting, which would currently be on December 24, 2018.

Mr. Ward stated that if Planning Commission made recommendations at this meeting, Town Council would take those recommendations and vote on the issue at their December 18, 2018 meeting.

Vice Chairman Plaag stated his intent regarding this text was not to imply he wanted more ASU incursion in the Downtown but wanted to make sure the Town did not hamstring itself regarding their future development.

Vice Chairman Plaag asked if it was inappropriate for Commission members to ask questions during the Public Hearing without the Council asking for their input first. Ms. Shook and Mr. Ward both assured Commission members that their input was encouraged and necessary and they did not have to be silent until Council asked for their input.

Brief discussion ensued on Staff enforcement when applicants undertook activities not allowed under the approved use.

Commission Member Veno asked what the letters PT200 meant in the Table of Uses. Ms. Shook explained that the P meant the use was permitted in that zoning district and the T200 meant that the use would be subject to a 200' transitional zone.

Vice Chairman Plaag suggested the group discuss the Comprehensive Plan Policies they would like to cite in their recommendations prior to making any votes in an effort to make the motions go smoother.

Chairperson Shay suggested 1.1 Overall Objectives – Economic Development and University.

Chairman Plaag suggested 2.1.1 Economic Development A., D., and I. Chairperson Shay wished to add 2.1.1 H.

Chairman Plaag suggested 2.1.5 Downtown C., D., and F.

Chairman Plaag and Chairperson Shay both suggested 2.3.2 Community Character A.

First Motion and Vote:

Commission Member Hedrick made a motion, seconded by Vice Chairman Plaag, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because the proposed amendment is in alignment with:

Comprehensive Plan Update 1.1 Overall Objectives, 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.

Comprehensive Plan Update 1.1 University: Emphasize cooperative planning among the Town, County, and University.

Comprehensive Plan Policy 2.1.1 Economic Development:

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.

Comprehensive Plan Policy 2.1.5 Downtown:

- C. A variety of mutually compatible and supportive mixed uses shall be encouraged in the downtown area,
- D. Public and private developments shall be encouraged to incorporate local artistry into public and semi-public spaces downtown.
- 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; and

Comprehensive Plan Policy 2.3.2 Community Character:

- A. The identifications, restoration and active use of structures, building, 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.

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

Second Motion and Vote:

Chairperson Shay made a motion, seconded by Commission Member Behrend, that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning ordinance and believes approval is reasonable and in the public interest because of the Comprehensive Plan Policies listed in the first motion and vote and because the proposed text will promote growth and development that enhances the Town's identity and assets and is consistent with the Comprehensive Plan.

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

OTHER MATTERS

Ms. Shook stated that Town Council withdrew their request to change the board appointment process for the Planning Commission and Board of Adjustment and has asked Staff to come back with a draft text that follows the recommendations made by the Planning Commission. Ms. Shook anticipated the text would go to Council in January. Commission Member Veno asked what would happen now. Ms. Shook replied that the process would remain the same until the new ordinance language went into place and Chair and Vice Chair elections could take place after that.

Ms. Shook handed out complete, updated copies of the UDO to all Commission members.

Ms. Shook reminded everyone of the Volunteer Breakfast planned for December 7, 2018 at 9 a.m. at the Dan'l Boone Inn and asked those who had not already done so to RSVP to the Town Clerk, Nicole Worley.

Ms. Shook noted that, because there were no agenda items, there would be no December Planning Commission meeting.

ADJOURNMENT OF PLANNING COMMISSION

Vice Chairman Plaag made a motion, seconded by Commission Member Behrend to adjourn the meeting at 8:03 p.m.

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

Elizabeth Shay, Planning Commission Chairperson

Brenda Henson, Board Secretary

Zoning/Planning Permit Application

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

PERMITS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
- ☐ Commercial
- ☐ Board of Adjustment Hearing (other than Appeals)
- ☐ Planning/Other

A. CONTACT INFORMATION

Applicant: MET Holdings, LLC Company: MET Holdings, LLC
Address: c/o Moffatt & Moffatt, PLLC, Attn: Tyler R. Moffatt, P.O. Box 233-DTS, Boone, NC 28607
Phone Number: 828-278-9123 Email Address: tyler@moffattandmoffatt.com
Property Owner: MET Holdings, LLC Company: MET Holdings, LLC
Address: 475 Blowing Rock Road, Boone, NC 28607
Phone Number: 828-773-1874 Email Address: MartyRice47@gmail.com

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): 2910069325000 & 2910069403000
Address/Location: 475 & 485 Blowing Rock Road, Boone, NC 28607

Project Name: University Overlook

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- ☐ Accessory Building
- ☐ Addition/Expansion including decks and patios
- ☐ Change of Use
- ☐ Land Disturbance (not associated with the construction of a bldg.)
- ☐ Manufactured Home Set-up in Park
- ☐ New Building Construction
- ☐ Renovation/Remodel
- ☐ Accessory Use (as listed in UDO Subsection 15.07.01)
- ☐ Temporary Use (as listed in UDO Subsection 15.07.02)
- ☐ Sign
- ☐ Pavement Sealant
- ☐ Major Subdivision Zoning Permit

- *Zoning Project Data Form (Residential or Commercial)
- *Zoning Project Data Form (Residential or Commercial)
- *Commercial Project Data Form
- *Zoning Project Data Form (Residential or Commercial)
- *Manufactured Home in Park Form
- *Zoning Project Data Form (Residential or Commercial)
- *Zoning Project Data Form (Residential or Commercial)
- *Zoning Project Data Form (Residential or Commercial)
- *Zoning Project Data Form (Residential or Commercial)
- *Sign Project Data Form (Zoning)
- *Pavement Sealant Project Data Form
- *Commercial Project Data Form

Board of Adjustment Hearings

- ☐ Special Use Permit/Modification
- ☐ Variance
- ☐ Major Subdivision Preliminary Plat Approval

- *Special Use Permit Form
- *Variance Form
- *Major Subdivision Preliminary Plat Approval Form

Planning/Other

- ☐ Exempt Division of Land
- ☐ Minor Subdivision (Preliminary and Final Plat)
- ☐ Major Subdivision (Final Plat)
- ☐ UDO Text Amendment
- ☐ General Use Zoning Map Amendment
- ☒ Conditional District Zoning Map Amendment
- ☐ Voluntary Annexation
- ☐ UDO Text Interpretation

- *Subdivision Exemption Project Data Form
- *Minor Subdivision Project Data Form
- *Major Subdivision Final Plat Project Data Form
- *Text Amendment Project Data Form
- *General Use Map Zoning Map Amendment Project Data Form
- *Conditional District Zoning Map Amendment Project Data Form
- *Annexation Petition (Satellite or Contiguous)
- *UDO Interpretation Data Form



D. DETAILED DESCRIPTION OF PROJECT

Site specific development approved by conditional district zoning map amendment order (case no.: 20150697) consisting of 24 efficiency apartments (use 1.14 multi-family dwelling in mixed use (up to 30 bedrooms) and 2,658 square feet of retail (use 11.14 retail store up to 5,000 square feet))

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: N/A Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer:**

Name: Jason Gaston Company: Valor Engineering PLLC
 Address: 215 Boone Heights Drive, Boone, NC 28607 License #: 035233
 Phone Number: 828-262-9807 Email Address: jason@valorengineering.com

Architect:

Name: Brent Davis Company: DAVIS & TAFT ARCHITECTURE, PA
 Address: 189 Sally Street, Boone, NC 28607 License #: 4921
 Phone Number: 828-265-4848 Email Address: bda.arch@yahoo.com

G. BROWNFIELDS AGREEMENT NOTIFICATION

- Does the applicant have or is the applicant planning to enter into a Brownfields Agreement with the NC Brownfields Program? ☐ Yes ☒ No (If yes, please answer question #2 below.)
- Anticipated date for the first year of partial exclusion of property taxes: N/A

H. 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.

MET Holdings, LLC	By: <u>Martina R. Rice</u>	<u>11.28.18</u>
Applicant¹ (Print)	Name: Marty Rice Applicant Signature	Date
	Title: Manager	
MET Holdings, LLC	By: <u>Martina R. Rice</u>	<u>11.28.18</u>
Property Owner (Print)	Name: Marty Rice Property Owner Signature	Date
	Title: Manager	

Official Use Only

Project File Name: University Overlook - Conditional District Map Amendment Modification

Permit Number: PL02128-112918

Date: <u>11-29-18</u>	Fee: <u>\$500.00</u>	Receipt Number: <u>220046</u>	Method of Payment: <u>ck # 3059</u>	Paid By: <u>Moffatt + Moffatt</u>
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S:\FORMS\Current Forms\Zoning\ZoningPlanningPermitApplication_07062018.doc

¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

Conditional District Map Amendment Project Data Form

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
Project Name/Number: University Overlook/20150697
Permit Name/Number:

It is recommended that applicants schedule a meeting with Planning & Inspections Staff prior to application submittal.

A. ADDITIONAL APPLICATION INFORMATION

Application is For: ☐ Conditional District Map Amendment ☒ Conditional District Map Amendment Modification

Hearing Date Requested¹: 1-28-2019

B. DEVELOPMENT INFORMATION

Project Name: University Overlook

Project Description: Site specific development approved by conditional district zoning map amendment order (case no.: 20150697) consisting of 24 efficiency apartments (use 1.14 multi-family dwelling in mixed use (up to 30 bedrooms) and 2,658 square feet of retail (use 11.14 retail store up to 5,000 square feet))

Existing Zoning District(s): B3 General Business (site specific) Proposed Zoning District(s): B3 General Business (site specific)

Existing Land Use(s): mixed use development (see project description) Proposed Land Use(s)²: uses: 1.14 (existing), 11.14 (existing), 11.15 (personal service), and 11.21 (office)

Adjacent Land Use(s): N: commercial E: multifamily

W: Blowing Rock Road S: multifamily

Are there any existing variances granted to the property? ☐ Yes ☐ No ☒ Unknown

If yes, describe: _____

Are any variances being requested with this project?³ ☐ Yes ☒ No

If yes, describe: _____

Total Land Area: _____ Total Disturbed Area: _____

Number of Proposed Phases: _____

Describe Phasing (if proposed): _____

If requesting vesting greater than 2 years (per UDO Section 4.14), list amount requested (up to 3 additional years). _____

For modifications, list original case # and date granted: 20150697; 1-21-2016

¹ Each applicant must provide the meeting date for which they wish their request to appear. Each completed application must have met published meeting deadlines.

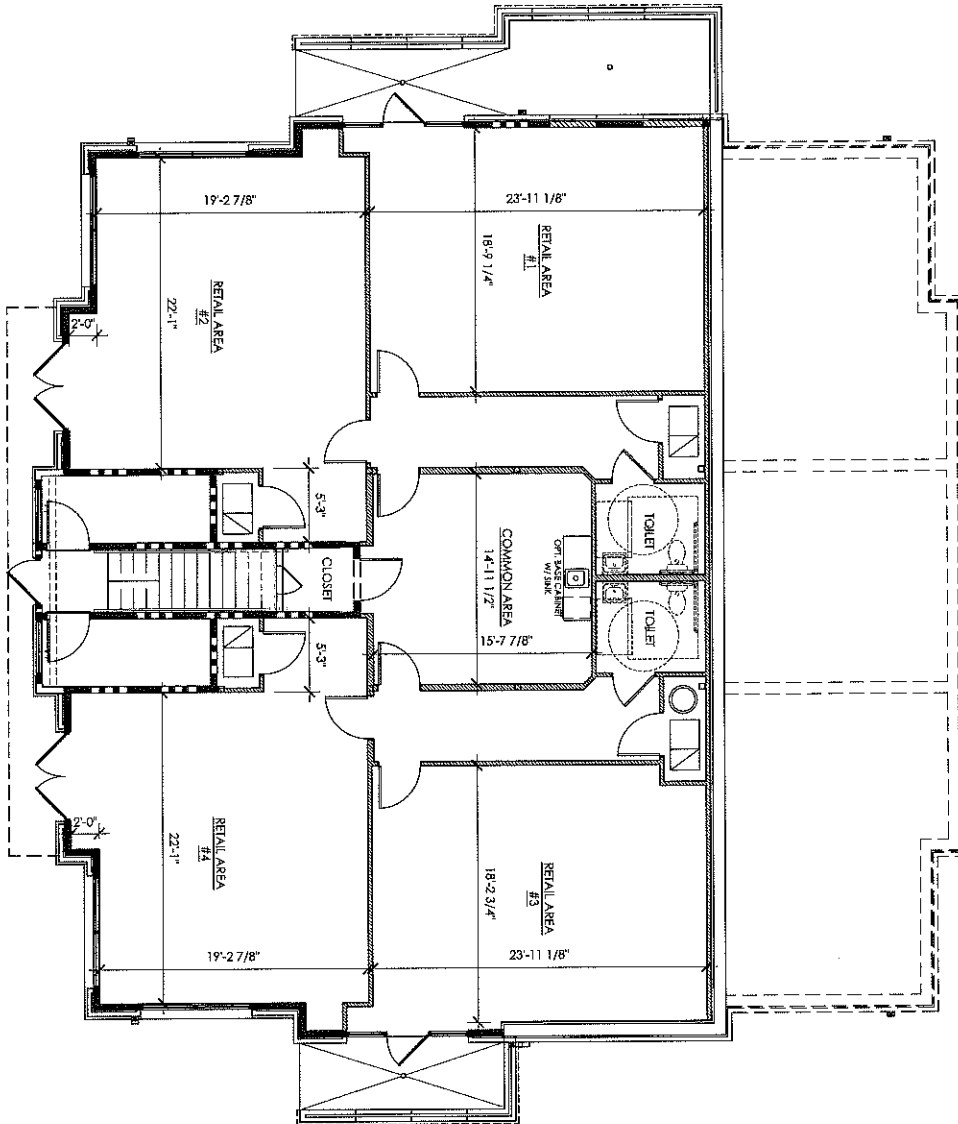
² Please see UDO Article 15 for specific details on permissible uses

³ Each request for a Variance must be submitted on a separate Zoning Permit Application along with the appropriate fee.





1 BUILDING FLOOR PLAN
1/2" = 1'-0"



OPTION #1
AREA CALCS:
RETAIL AREA #1 = 501 SF
RETAIL AREA #2 = 546 SF
RETAIL AREA #3 = 501 SF
RETAIL AREA #4 = 546 SF
COMMON AREA = 617 SF
TOTAL = 2711 SF

UNIVERSITY OVERLOOK - RETAIL AREA
BOONE, NC

DAVIS & BRYANT ARCHITECT
1000 W. MAIN ST.
BOONE, NC 28604
(828) 262-4433

A1.1

RETAIL AREA PLANS

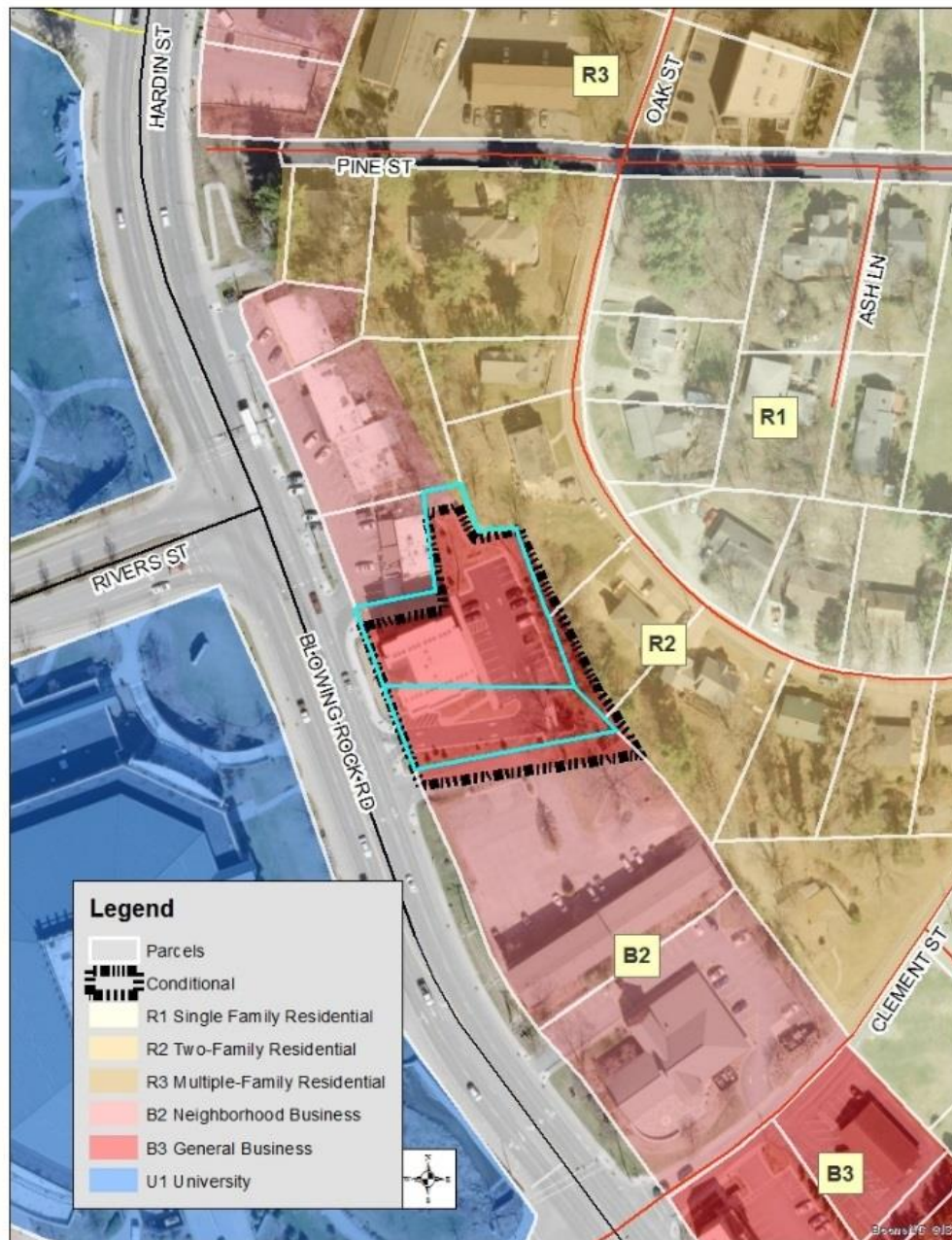
Project No.:
Date: 11.18.2018
Issued for: CONCEPT





STAFF REPORT
JANUARY PUBLIC HEARING
JANUARY 28, 2019

CASE PL02128-112918 UNIVERSITY OVERLOOK CONDITIONAL DISTRICT ZONING MAP AMENDMENT MODIFICATION



Request

Martha R. Rice has filed a Zoning Application for a Conditional District Zoning Map Modification for the property located at 475/485 Blowing Rock Road. The original approval allowed the rezoning of the properties from B2 Neighborhood Business to B3 General Business with a site-specific development plan for a mixed-use building consisting of 24 efficiency apartments (Use 1.14 Multi-Family Dwelling in Mixed Use up to 30 bedrooms) and 2,711 ft² of retail (Use 11.16 Retail Store up to 5,000 ft²). At this time MET Holdings, LLC is requesting to modify the original approval to also allow the following uses within the commercial portion of the development: Use 11.15, Other Personal Service Establishment and Use 11.21, Other Business or Professional Office.

History

01-21-2016 Town Council approved a conditional district zoning map amendment for Todd Rice, owned by MET Holdings. LLC to rezone two properties at 475 Blowing Rock Road from B2 Neighborhood Business to B3 General Business with a site-specific development plan for a mixed-use building consisting of 24 efficiency apartments (Use 1.14 Multi-family Dwelling in Mixed Use (up to 30 bedrooms) and 2,658 square feet of retail (Use 11.14 Retail Store up to 5,000 ft²). See Exhibit 1 for meeting minutes excerpt.

Approved subject to the following conditions of approval:

1. Where there is a conflict between the application information and the plans (dated received December 11, 2015), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications. Plans, details and specification which meet the requirements of the Town Code, UDO, Building Code and any other applicable plans for review and approval necessary to issue Zoning and Building Permits.
4. The applicant is required to work with the Public Works Department to reconfigure the meter system needed for the development.
5. A minimum of six commercial parking spaces is required and no minimum is set for the residential parking spaces.
6. Courtyard as designed and presented to the Planning Commission on January 11, 2016 contingent on NCDOT approval.
7. The applicant will provide the black powdered coated fence as proposed by the applicant to the Planning Commission on January 11, 2016, because the proposed project will result in safer traffic patterns and the redevelopment of the currently outdated unattractive site.
8. The applicant will provide additional lighting to the side near the Parthenon and other commercial properties.

Analysis

Applicant must obtain approval for the new proposed uses because the original site-specific approval did not authorize Use 11.15 or Use 11.21 and since a site-specific development plan is a plan which has been submitted to the Town by a landowner that describes with certainty the type and intensity of a use for a specific parcel. The project as originally approved met UDO requirements in 2016.

The only regulation that changes, other than transitional zone mitigation, based on the proposed uses would be parking, which in this case, all the uses have the same parking requirements which is 5 spaces per 1,000 gross floor area.

As approved, the applicant provided 6 parking spaces for the retail and has not indicated that the number of parking spaces for the commercial portion would change.

As approved, the applicant has provided 22 parking spaces for the multi-family portion of the development.

Please note: Since this project triggered transitional zones, the applicant would still be required to mitigate any potential negative effects for the development including any new uses. See transitional zone discussion below.

Address: 475/485 Blowing Rock Road

Watauga County PINs: 2910069403000, 2910069325000

Lot size: 4,799 square feet

Jurisdiction: Corporate limits

Access: Blowing Rock Road; a right-in and right-out driveway.

SFHA: No

Watershed District: No

Corridor District: Yes

NCD: No

Viewshed: No

Existing Zoning: Conditional District B3 General Business

Zoning & Use of Adjacent Properties		
	Adjacent Zoning	Adjacent Land Use
North	B2 Neighborhood Business; R2 Two-Family Residential	Restaurant; Single-Family Dwelling
East	R2 Two-Family Residential	Single-Family Dwelling, Multi-Family Dwelling, Single-Family Dwelling with Accessory Apartment
South	B2 Neighborhood Business	Multi-Family Dwelling (Apartment Complex)
West	U1 University	University uses (Convocation Center)

Current Uses: Use 1.14 Multi-Family Dwelling in Mixed Use (up to 30 bedrooms) and Use 11.16 (Retail up to 5,000 ft²).

Proposed Uses: Use 1.14 Multi-Family Dwelling in Mixed Use (up to 30 bedrooms) Use 11.14 Retail Store up to 5,000 ft², Use 11.15, Other Personal Service Establishment and Use 11.21, Other Business or Professional Office.

Zoning District Descriptions:

Conditional District: A Conditional District (CD) is a zoning district in which the use and development of a property pursuant to a site-specific development plan is approved through the legislative process pursuant to Article 9 of this Ordinance. A CD utilizes the existing zoning district, is limited to the authorized uses and the development standards mandated within that district, and may be subjected to conditions that make the development plan more desirable.

A site specific development plan is defined as “A plan which has been submitted to the Town by a landowner that describes with certainty the type and intensity of a use for a specific parcel or parcels of property, and includes the boundaries of the site; significant topographical and other natural features effecting development of the site; the location on the site of the proposed buildings, structures, and other improvements; the dimensions, including height, of the proposed buildings and other structures; and the location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.”

B3: The B3 General Business District is established to provide a wide range of consumer goods, convenience goods and personal services for the community and surrounding region. Appropriate residential uses are allowed in this district, normally as part of mixed-use developments. The regulations for this district are designed and intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

Transitional Zone: Pursuant to UDO Subsection 6.02.02, transitional zones are established for the purpose of creating special protections for residents of protected districts from the potential adverse impacts of certain potentially incompatible nearby development, based upon the legislative finding that the general requirements of this ordinance have not been sufficient to protect the residents of such protected districts from the adverse consequences of such developments and that the variety of circumstances which may need to be ameliorated in the face of such development are not amenable to a “one size fits all” approach.

Because this development is within 125’ of a protected R1 zoning district, the applicant will need to show the permit issuing authority (Board of Adjustment) that the planned development will effectively and to the greatest degree reasonably possible, mitigate the impacts of the proposed development upon the protected district, including but not limited to:

- a. Noise impacts;
- b. Light impacts; and
- c. Any other predictable negative effect, including but not limited to:
 - i. Negative visual effects;
 - ii. Negative traffic effects; and
 - iii. Negative health effects.

Because of the variable topography and characteristics of particular tracts of land within the town’s zoning jurisdiction, the solutions incorporated into the development plan by the applicant must be tailored to specifically address the characteristics of the particular location in relation to the protected district. Only if an applicant can demonstrate by clear and convincing evidence that the normal requirements of the ordinance are themselves sufficient to protect the protected district may the application be approved without additional measures being incorporated into the site specific development plan.

Note: The Council may deny the application if the requirements of this section are not met, or it may place reasonable conditions on the development, in addition to such conditions as may otherwise be reasonably imposed, specifically designed to mitigate the potential impacts identified herein.

Other Review Comments

Public Works:

Services Division (Justin Stines, Facilities Maintenance Superintendent)

1. The Public Services Department has reviewed the proposed modification and has no comment.

Utilities Division (Mike Trivette, Utility Services Technician)

The Public Services Department has reviewed the proposed modification and submitted the following comment:

1. Approved

Fire Department (Amy Flieg, Fire Marshall)

The Fire Department has reviewed the proposed modification and submitted the following comment:

1. Each occupancy on the first level will have to have the sprinkler system and fire alarm updated for the specific occupancy.

NCDOT (Brandon Greer, District Engineer)

1. NCDOT has reviewed the proposed modification and has no comment.

CONFORMITY TO ADOPTED PLANS**COMPREHENSIVE PLAN UPDATE****1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

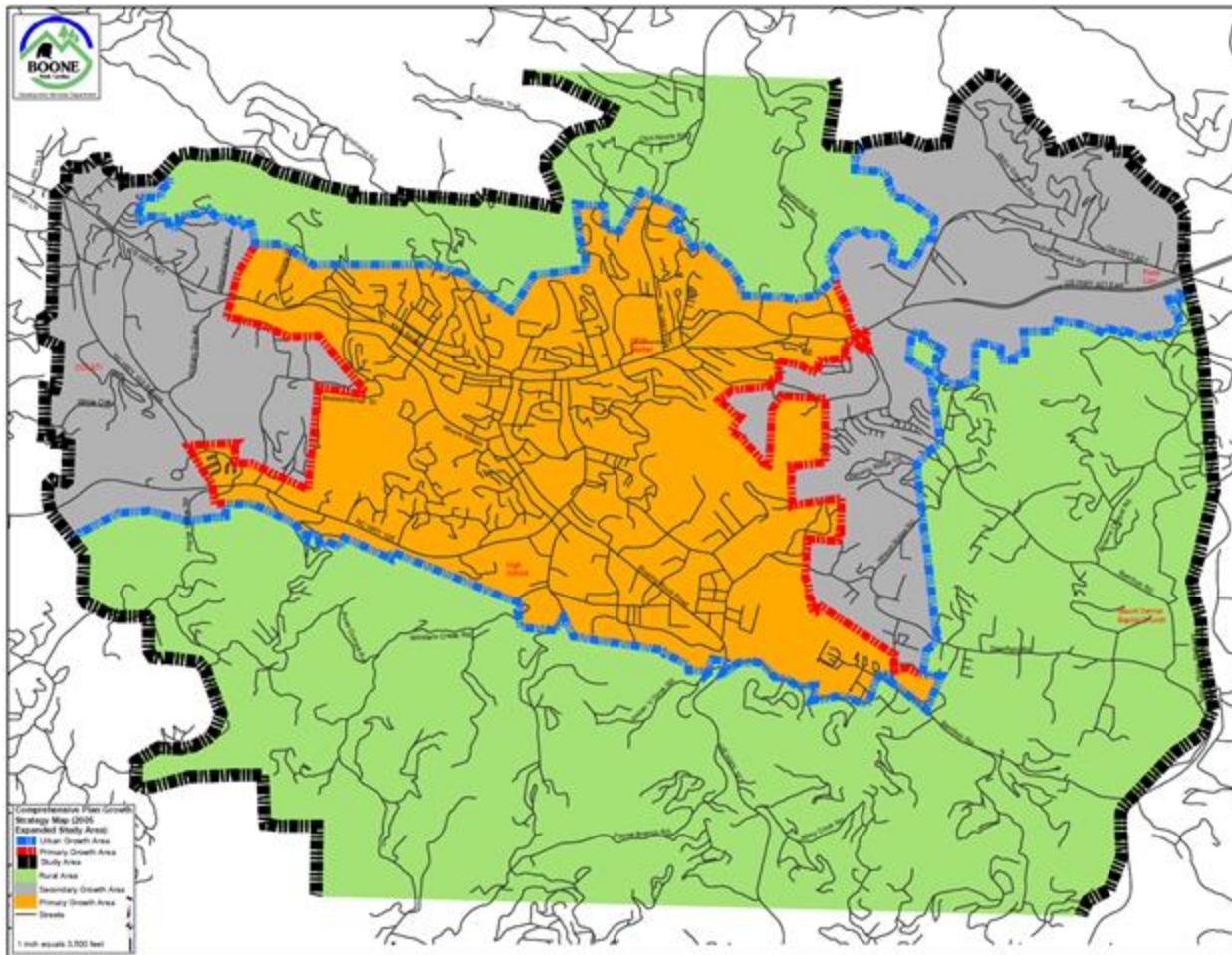
Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

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

1.2

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

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. See below:



2.1 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.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.

- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.
- ...

2.1.2 Commercial Development

- A. Uncontrolled strip development along the areas through streets shall be prohibited. The undesirable effects of existing strip development shall be reduced and/or reconfigured when redevelopment opportunities permit. New strip development on isolated single lots along through streets shall be discouraged.
 - A.1 Review and revise the Town's driveway and parking standards to minimize driveway cuts and require that adjacent parking lots be connected.
- B. Commercial and Office Development shall be encouraged to locate in planned shopping centers, office parks and mixed use developments to stop the proliferation of strip development.
 - B.1 Review the Town's zoning text and map with the objective of reducing the negative impacts of typical commercial strip development.
- C. Community/Commercial Centers shall be located adjacent to a major street and contain or be adjacent to other appropriate community facilities.
- D. Automobile Orientated Neighborhood and Convenience Commercial Centers shall be encouraged to locate on a collector street or secondary street at its intersection with a major street.
- E. Residentially scaled and designed neighborhood businesses may be a planned element of newly developed or redeveloped neighborhoods. They should be near other compatible facilities such as elementary schools and neighborhood parks.
- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- G. Effective buffering and/or landscaping shall be provided where a large scale or automobile-orientated commercial or office use adjoins an existing or planned residential use.

H. Encroachment of incompatibly scaled and designed commercial or office uses into viable existing or planned residential areas shall be prohibited.

H.1 Amend the zoning map to provide appropriate commercial zoning in transitional areas that do not encroach upon established residential neighborhoods.

I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.

J. Highway Oriented Commercial uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movement, and consistent sign standards.

J.1 Beyond the major corridor area consider the development of architectural design standards for commercial development throughout the Town's planning area.

J.2 Consider supplementing the highway corridor overlay district in the zoning ordinance to encourage commercial development to include: 1) attractive signage, and 2) build-to lines with parking in the rear.

...

2.2 Infrastructure

2.2.2 Utilities

A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited. *****

B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.

C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.

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

E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.

F. Area-wide cooperation and support shall be sought in bringing in alternative utility services to the Boone Area.

G. Long range planning for a possible stormwater collection and treatment system shall be supported, including the development of financial and regulatory strategies.

...

2.3 THE COMMUNITY

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

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

- C. Funding for outside agencies and organizations serving the citizens of Boone shall continue to receive support consistent with area service needs and Town budget constraints.
- D. Coordinated inter-governmental and university-town planning for urban area land use and development, transportation, utilities, recycling, environmental management, law enforcement, education, recreation, tourism and economic development shall be encouraged.

2.3.1 Community Appearance

- A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged.
- B. The significance of street trees in providing visual relief, summer cooling, improved air quality and livability shall be recognized through public policies and actions to encourage their planting and maintenance.
- C. The significance of major roadway entrances into Boone as measures of community image and quality shall be recognized through building placement, landscape, signage and other visual improvements. The Town, along with private property owners and developers, shall work to jointly improve the appearance and design of major street corridors.
- D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.
- E. The Town shall encourage public, private, and utility company efforts to place utility wires underground whenever feasible.

2.3.2 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.

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents,

shall be recognized in Town policies and actions regarding residential development.

- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

...

Conclusion

Please see the applicant's attached exhibits. Staff has reviewed the application as presented for compliance with UDO standards. If approved, Staff recommends the following conditions:

1. Where there is a conflict between the application information and the plans (dated received November 29, 2018, the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.

Certificate of Mailing

I, Brenda Henson, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on January 4, 2019.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, KC Banner, certify that the subject property was posted as required in Article 9, Subsection 9.03.03(B)(2) of the Town of Boone UDO on January 4, 2019.

/s/ KC Banner

KC Banner, Building Inspector Trainee

PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because *[describe elements of controlling land use plans and how the amendment is or is not consistent]*:

Second Motion and Vote: The Planning Commission recommends ☐approval OR ☐denial of the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and in the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the Commission recommends approval despite inconsistency with the comprehensive plan and/or any other applicable plan: The Planning Commission recommends approval of the amendment despite inconsistency with the comprehensive plan and/or other applicable adopted plans because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

TOWN COUNCIL ACTION

Per NCGS 160A-383, zoning regulations shall be made in accordance with a comprehensive plan. Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that is applicable because *[describe elements of controlling land use plan(s) and how the amendment is or is not consistent]*:

Second Motion and Vote: The Town Council ☐approves OR ☐denies the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the proposed amendment is approved despite inconsistency with the comprehensive plan and/or any other applicable adopted plan(s): The Town Council approves the amendment and declares that this approval also amends the Comprehensive Plan (and/or other approved and applicable plan) because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

**SPECIAL PUBLIC HEARING
MEETING MINUTES
WEDNESDAY, JANUARY 6, 2016
5:30 P.M. **Excerpt****

COUNCIL MEMBERS: Mayor Pro-Tem-Lynne Mason, Loretta Clawson, Jeannine Underdown, Jennifer Teague and Charlotte Mizelle

PLANNING COMMISSION MEMBERS: Chairperson-Eric Woolridge, Vice-Chairperson Greg Simmons, Matthew Long, Jeff Templeton, Connor Boyle, Susan McCracken, Charlie Myers, Caroline Catoe and Michelle Dineen

STAFF PRESENT: Bill Bailey-Director of Planning & Inspections, Jane Shook-Planning Supervisor, and Marlene Crosby-Board Secretary

OTHERS PRESENT: John Ward-Town Manager and Allison Meade-Town Attorney

CALL TO ORDER

Mayor Pro-Tem Lynne Mason called the meeting to order at 5:31 p.m.

...

CASE 20150697 – TODD RICE HAS FILED A CONDITIONAL DISTRICT ZONING MAP AMENDMENT PETITION

for property owned by MET Holdings, LLC to rezone two properties at 475 Blowing Rock Road from B2 Neighborhood Business to B3 General Business with a site specific development plan for a mixed -use building consisting of 24 efficiency apartments (Use 1.14 Multi-Family Dwelling in Mixed Use (up to 30 bedrooms) and 2,658 square feet of retail (Use 11.14 Retail Store up to 5,000 ft²).

Ms. Jane Shook, Planning Supervisor presented this case as outlined in the meeting packet. Ms. Shook noted that on page three of the staff report that this use in the B-3 is not subject to a transitional zone. She noted that the applicant was present at this meeting to answer any questions.

Mr. Tyler Moffatt, Attorney at Law came to the podium to present this case and he introduced the applicant, Mr. Todd Rice, Mr. Brent Davis, Architect from Brent Davis Architecture, Inc., and Mr. Jason Gaston, Civil Engineer from Valor Engineering, PLLC.

Mr. Moffatt noted that Ms. Marty Rice, owner of MET Holdings, LLC has owned this property since the 1990's. Mr. Moffatt talked about the surrounding property owners and total project investment.

Mr. Moffatt talked about how the proposed project being in compliance with the 2006 Comprehensive Plan, Smart Growth Plan and the 2030 Boone Master Plan. He said the property is within the G-2 and G-3 sectors of the master plan. He noted that this proposed project promotes walkability and livability. Mr. Moffatt talked about the landscaping, community appearance, bicycle storage, crosswalk and sidewalk requirements and he said any other zoning requirements will be addressed during the zoning review process.

Mr. Moffatt noted that the applicant has met the conditions listed on page eight of the staff report.

Mr. Moffatt talked about the 2030 ASU Master Campus Plan providing a pedestrian friendly environment.

Mr. Moffatt contacted every surrounding property owner and gave Ms. Marty Rice's contact information.

Mr. Jason Gaston, Valor Engineering, PLLC came to the podium and pointed out the specifics of the request of this case on the proposed site plan. Mr. Gaston talked about the North Carolina Department of Transportation requirements. Mr. Gaston said the applicant is proposing to provide the infrastructure needed, as it applies to the grade change, curb and gutter and motorcycle parking. Mr. Gaston said the applicant will upgrade the sewer main with new materials. Mr. Gaston talked about the proposed commercial retail space.

Planning Commission Member Boyle asked about the sidewalk and the NCDOT right-of-way and how they are going to tie in together. Mr. Gaston said they will dead end the sidewalk and there will be a tie in on the other side of the property. Planning Commission Member Boyle asked about the interior stairwell and Mr. Gaston pointed it out on proposed site map.

Planning Commission Chairperson Eric Woolridge asked about the location of the curb from the entrance of the building and the sidewalk. Mr. Gaston said there has been communication with NCDOT on the sidewalks. Mr. Gaston pointed out the immediate access to the sidewalk connection.

Planning Commission Member McCracken asked if there was adequate storm retention. Mr. Gaston explained that it will be more than efficient with three barrels and further explained the flow rates.

Planning Commission Member McCracken asked about the entry to the retail space, if using the sidewalk. Mr. Gaston explained that there is a sidewalk all the way around the building.

Planning Commission Member McCracken asked about the bicycle parking. Mr. Gaston explained the locations of the long and short term bicycle parking.

Council Member Mizelle asked about the location of the retail parking spaces. Mr. Gaston said that he would leave this up to the management of the retail business.

Council Member Teague asked the location of the proposed building, picnic table and green space area. Mr. Gaston showed the location of these things on the proposed site plan map.

Council Member Mizelle asked if there is adequate lighting on the left side of the building. Mr. Gaston said there is lighting for pedestrian access.

Mr. Moffatt asked Mr. Brent Davis of Brent Davis Architecture to review the proposed elevation plans for this project. Mr. Davis pointed out the location of the apartments and retail space which included the store front and he went over the square footage of the proposed building.

Planning Commission Member Boyle asked if there would be roof access to the solar roof top units. Mr. Davis said that there would need to be engineering done for the solar units.

Council Member Teague asked for more information on the efficiency apartments. Mr. Davis explained the floor plan of the apartments.

Council Member Clawson asked if the apartments were designed for more than one student. Mr. Davis said the apartment management would handle the leasing of the units.

Mr. Moffat asked Ms. Marty Rice the owner of the property to come to the podium. Ms. Rice said she has owned the property since the 1980's through MET Holdings, LLC. She gave a brief history of the property. She noted that this property needs a make-over. She gave the details of the proposed project. She feels the proposed project would enhance the university area. She commented on the architect and engineer costs that have been spent to bring the proposed project thus far. She said the proposed project was created with the current market in mind. She said

the Boone High Country Rentals will be managing the leasing of the property and they are located close to the property with 24 hour availability.

Ms. Rice noted that the proposed project will have 24-hour Security lighting and it is pet friendly based on the size of the pet. Ms. Rice noted that it is a popular thing for single tenants to have a pet.

Ms. Rice talked about green energy and the installation of solar panels on the roof of the proposed building which would benefit the tenants of the building.

Ms. Rice talked about her offer of a two by two which means for the first two years, she will offer two percent of her net proceeds from the development to the Town of Boone, specifically, for the Greenway extension into Downtown Boone.

Planning Commission Member Templeton asked Ms. Rice if she would have put commercial space on the bottom floor of this building, if it was not a code requirement. Ms. Rice said yes because she feels that there is a need for it.

Council Member Teague asked Ms. Rice if she had any ideas for the rental cost of the commercial space in the proposed building. Mr. Moffat said that he would ask Mr. Todd Rice a licensed real estate broker at Blue Ridge Investments to answer that question.

Mr. Rice talked about the conditional shell of the building and the completed finished retail space having different costs. Mr. Rice talked about the advantages of having a rental leasing company managing the property which is location, experience and competitively priced units. Mr. Rice said rental his leasing company manages around 200 rental properties in the area. Mr. Rice talked about the assigned parking spaces per residential unit and the number of people per unit. Mr. Rice said the leases will be set-up with one person per unit.

Council Member Mizelle asked about the renting out of the parking spaces and if they would be rented out separately like the Winkler property. Mr. Rice said there will be assigned parking spaces per residential unit. Mr. Gaston explained further the proposed plan for parking. Mr. Rice said the price of the parking has not been determined and the retail parking spaces will be designated with signage.

Planning Commission Member Dineen asked about the parking spaces. Mr. Gaston referred to page C-1 of the proposed site plan and said the applicant is proposing 22 residential parking spaces and six retail parking spaces for a total of 28 spaces which does not include bicycle and motorcycle parking.

Planning Commission Chairperson Woolridge said that he thinks the parking is sufficient. Planning Commission Member Dineen thought they should charge the tenants for parking to discourage on-site parking.

Planning Commission Member Myers said he did not think that one space per unit is necessary.

Council Member Teague talked about the reduction of parking spaces and asked about the towing and booting of cars. Mr. Rice said he is open to either towing or booting. Mr. Rice said that not every student has a car and they prefer to walk or bike to class or work.

Mr. Moffat talked about the minimum and maximum requirements for parking.

Mr. Gaston further talked about the ways to achieve parking reductions. He noted that there are no longer minimum and maximum parking requirements in the UDO.

Planning Commission Vice-Chairperson Simmons asked about the as built primary and secondary setbacks. Mr. Davis explained the reason for the secondary set back and the proposed building height.

Planning Commission Member Dineen talked about the size of the closets noting they are two feet by six feet. Mr. Davis explained the reason for the closet sizes.

Mayor Pro-tem Mason asked about the transitional zones. Ms. Shook and Mr. Bill Bailey, Director of Planning and Inspections explained that there was no transitional zones triggered in the proposed project.

First speaker on this case was Mr. Mickey Schweitzer, owner of property at 455 Blowing Rock Road. Mr. Schweitzer wanted to know why the proposed project had to be zoned B-3 General Business instead of B-2 Neighborhood Business. He asked for clarification on the zoning districts. He was concerned about the location of one of his properties that it is near the proposed green space area. He was concerned that the disturbing of the ground will affect his older building and cause water run-off problems. He asked if there will be a fence or petition between his property and the proposed project during construction. He was concerned with parking issues. He is concerned with a potential construction problem that might cause his tenant to have to close down his business and suffer a monetary loss and he was concerned about adequate lighting.

Mr. Bailey reminded Council that this area is a high growth area and Council had asked staff to look at this area as another overlay district.

Mr. Moffatt said that the applicant agrees to add a fence as a condition.

Planning Commission Chairperson Woolridge said from the Planning Commission's standpoint, he would like to see as many details as possible about the fence on the proposed plan. He also said that he would like to see these details on the proposed plan. He also said the front street yard is the most important part of this proposed project. He said he would he like to see a design that would compliment this area.

Planning Commission Member Myers talked about the existing confusion on the street front of the proposed project with regard to the bike lanes.

Planning Commission Member McCracken talked about the proposed project from an ascetic view point. She said she would really appreciate someone setting their standard very high in the Boone area.

Discussion ensued on the need for more parking and more greenspace in the Town.

Mayor Pro-Tem Mason closed this public hearing.

...

**PLANNING COMMISSION
MEETING MINUTES
MONDAY, JANUARY 11, 2016
6:00 P.M. Excerpt**

PLANNING COMMISSION MEMBERS: Chair Eric Woolridge, Vice-Chair Greg Simmons, Connor Boyle, Carolina Catoe, Michelle Dineen, Susan McCracken, Matthew Long, Charlie Myers, Jon Tate, Jeff Templeton

PLANNING STAFF: Bill Bailey, Planning Director and Jane Shook, Planning Supervisor

Chair Woolridge called the meeting to order at 6:04 p.m.

ADOPTION OF AGENDA

Commission Member Tate made a motion, seconded by Commission Member McCracken to accept the agenda as presented.

VOTE:

Aye-All

Nay-None

The motion passes.

APPROVAL OF MINUTES

Commission Member Boyle made a motion, seconded by Commission Member Tate, to approve the November 2, 2015 Quarterly Public Hearing minutes.

VOTE:

Aye-All

Nay-None

The motion passes.

Commission Member McCracken made a motion, seconded by Commission Member Boyle, to approve the November 9, 2015 Planning Commission meeting minutes.

VOTE:

Aye-All

Nay-None

The motion passes.

...

CASE 20150697 UNIVERSITY OVERLOOK CONDITIONAL DISTRICT ZONING MAP AMENDMENT

Commission Chair Woolridge asked Planning Staff if they had any additional information to provide.

Bill Bailey, Planning Director, indicated that Staff had no new information to present and noted that the request was reuse of an existing property with a mixed-use development and noted that from the planning side this is the type of development that the Town is looking for.

Tyler Moffatt, attorney for the applicant, noted that the applicant would like to address the issues brought up by Commission Chair Woolridge and Commission Member McCracken at the public hearing. He noted that he would address the exterior materials and look and that Jason Gaston would address some of the other issues including the courtyard/front of the building and the fence at the recreation area. Mr. Moffatt, provided a colored elevation to the Planning Commission, and noted that the applicant had gone back and added color to the elevations to show the contrast between the building materials and that the building would be in keeping with the look of ASU and other projects that had been built in the Town (copy permanently attached). He noted that the

final colors had not been chosen. Mr. Moffatt also noted that other adjustments had been made to the plan including the conversion of the entryway area into a plaza. Mr. Moffatt asked Mr. Gaston to address the other changes made.

Jason Gaston handed out a plan along with photograph, for plaza area/courtyard at the front of the building (copy on file). The first sheet of the handout is a detail of the revised entryway into a courtyard and the second page contains a photograph of what the center planter will look like. Mr. Gaston noted that the idea of the courtyard came out of the public hearing. He noted that the original plan called for two sidewalks, one at the street and one at the building separated with landscaping. He noted that the plan had been revised to be brick paver courtyard 10-15' in width. Mr. Gaston specified that it would be brick pavers and not stamped concrete. He noted that the courtyard contained some yard drains for stormwater which would be protects by planting. He further explained that the center planter is the focal point in the courtyard with seating around it (as shown on the picture on the 2nd page of the handout). Mr. Gaston noted that the courtyard would adjoin a 5' concrete sidewalk along the street within in NCDOT's right-of-way.

Commission Chair Woolridge asked if Brandon Greer with NCDOT had reviewed the changes. Mr. Gaston indicated that the revisions had been submitted late in the prior week but that the local office had not had an opportunity to review the changes. He noted that he would ask that any approval of the courtyard would be contingent on NCDOT approval since some of the landscape plantings along the courtyard would be in the NCDOT right-of-way.

Commission Member McCracken noted that there had been discussion regarding a round-about for the intersection and asked if this property would be impacted if it went through.

Mr. Gaston noted that he believed that the development was far enough away from the intersection so that it would not be impacted.

Brief discussion occurred about reopening the public hearing. Commission Member Templeton made a motion, seconded by Commission Member McCracken to reopen the public hearing.

VOTE:

Aye-All

Nay-None

The motion passes.

Mr. Gaston continued his discussion of the revised courtyard area.

Commission Member Templeton asked him about the location of the trees within the courtyard. Mr. Gaston noted that trees were set back because they generally were not allowed within the right-of-way and if they were allowed then they would be under the power lines in the area.

Commission Member Boyle asked Mr. Gaston if the brick paver area would be flat and if so the applicant would consider a wall to delineate the courtyard from the public sidewalk due to the close proximity of the major road?

Vice-Chair Simmons asked if the sidewalk location changed due to the revisions including the addition of the bicycle lane. Mr. Gaston noted that the applicant is now providing room for bike lane, and that the sidewalk has been pushed back to accommodate the 4' bike lane, and 2' gutter pan, therefore the applicant had to move the sidewalk back 1.5' feet to accommodate the change. He noted that there was not a bike lane on either side of the development but the applicant was going ahead and proposing to put one in.

A brief discussion ensued on the overhead power lines.

Mr. Gaston noted that the other item discussed at the public hearing was the fence at the recreation area. He noted that the plans in the packet already show a fence and noted that there are two options for a fence. He noted that the applicant could provide a black powdered fence as shown on the picture (permanently attached) or with a wood privacy fence.

Commission Member Boyle asked Mr. Gaston if the applicant had spoken with the owner of the adjacent building. Mr. Gaston indicated that the property owner had contacted at the public hearing and told him that he would contact him to set up a meeting for this week but that he had not heard from the gentleman yet.

Vice-Chair Simmons noted that the goal is to keep people off of the roof.

Mr. Gaston noted that the applicant felt that while the privacy fence is practical it is not aesthetically pleasing and would like to use the black powdered fence.

Commission Member McCracken asked if the recreation area was there because of the requirements for open space. Mr. Gaston replied the recreation area is required for the residential tenants.

Brief discussion ensued on the location of the recreation space. Mr. Gaston noted that the location is set by the distance and size requirements in the UDO. Commission Member McCracken noted from a practical standpoint that the area looks like a little tiny green space and noted that she was worried about the stability and the feasibility of constructing the space and asked if the recreation space could be relocated to another area?

Commission Chair asked Planning Staff if the requirements for recreation space were negotiable. Mr. Bailey noted that the applicant could not deviate from the standards without a variance. Brief discussion ensued regarding the differences between the Planned Development and Conditional District processes.

Commission Member Boyle asked Mr. Gaston if they had received the geotechnical report and if it had noted if the wall was feasible? Mr. Gaston noted that they did have the report and that the retaining wall was not a concern and that the wall is feasible. He noted that the specific construction details for the wall had not been decided.

Commission Member Long noted that based upon his observation of the site, that the applicant was putting the green space in location where there is currently a level gravel parking lot and that the wall is going in the area to the back of the greenspace where there is already a steep slope and that there doesn't appear to be major grading occurring in the area.

Mr. Gaston noted that Commission Member Long was correct. Mr. Gaston went out to discuss the height of the wall which will range from 3' to 8' at its highest point. He also noted that if recreation space wasn't required then the wall would not be needed.

Commission Members Myers noted that a solid privacy fence would be more appealing to graffiti artists due to type and location of the fence and is support of the black powdered fence.

Brief discussion ensued on customers of adjacent properties crossing over to the proposed development.

Commission Chair Woolridge asked Mr. Gaston to describe the landscaping used at the rear of the property. Mr. Gaston noted on the landscape plan, that a majority of the plants were evergreen trees, he noted the preservation of several existing trees and then noted the remainder of the trees were deciduous.

Commission Chair Woolridge asked Mr. Gaston to describe the lighting in the parking and recreation area. Mr. Gaston noted that the lighting was designed to meet the UDO requirements and that all fixtures were full cut-off and provided the minimum lighting requirements for those areas. He noted that no lighting was specifically proposed for the recreation area.

Commission Chair Woolridge asked Mr. Gaston to describe the entrance to the development. Mr. Gaston noted that the driveway was designed as a right-in and right-out only. He noted that no sign would be posted in the middle of the barrier based upon comments from the Fire Department but that there would be a heft concrete barrier.

With there be no other questions and no other member of the public wishing to speak, Commission Member Tate made a motion, seconded by Commission Member Boyle to close the public hearing.

Commission Vice-Chair Simmons asked if Commission wanted to discuss parking. It was be consensus that the Commission wanted to discuss parking in their deliberations.

VOTE:

Aye-All

Nay-None

The motion passes.

The public hearing was closed at 6:43 p.m.

Vice-Chair Simmons asked how everyone felt about the parking. Commission Chair Woolridge noted that he didn't have a concern with the parking and asked Vice-Chair Simmons if he had any concerns about the parking. Vice-Chair Simmons noted that his concern was that maybe applicants are putting in token commercial space because Council did not want to see 100% residential in commercial corridors and that the commercial spaces may not have the parking spaces to support them. Vice-Chair noted the answer might be that this proposal is for a walkable development but noted that the commercial area only had 6 spaces.

Chair Woolridge asked if Vice-Chair Simmons wanted to see more parking spaces. Vice-Chair Simmons noted that he just wanted to have the discussion.

Commission Member McCracken asked how the development next to Hob Nob and Winkler Square worked. Commission Member Tate noted that he handles the parking for those two locations and that it seems to work great for the residential tenants but that his concern is that there may not be enough parking for the commercial business which is why they are vacant at Winkler Square.

Commission Member Dineen noted that she thought the parking is problematic; that the existing parking in the area is congested and that this area was not like King Street where on-street parking is provided for the commercial customers and that regardless of whether the development is walkable people will still own cars and will need a place to park them.

Commission Member Catoe asked if private meters would work for the lot.

Commission Member McCracken noted that she felt that the residential units would be rented within 12 hours after being advertised due to their location for \$900 a month regardless of whether a parking space was provided or not.

Mr. Bailey noted that studies from other Universities indicate that that only 60% of students have vehicles and that number keeps decreasing.

Vice-Chair Simmons noted that if he worries about parking as a separate income stream because then the incentive is to provide more residential spaces than commercial.

Chair Woolridge noted that he felt that the applicant should be required to provide a minimum of 6 spaces for the commercial and have no minimums for the residential so that the applicant could have the flexibility to have more commercial spaces if needed.

Commission Member Myers noted that if every space was metered then it would be accessible to both residential and commercial tenants and often people have different locations to keep their vehicles. He noted that it would be helpful to ignore the minimum for the residential and focus on

the commercial as residential tenants would not need to keep their cars permanently on site due to the transit system.

Commission Member Boyle noted that he agrees with Vice-Chair Simmons that a lot of these projects are meeting the letter of the ordinance and are only providing token commercial but noted that he feels that this proposal is different because they are so close to the university hub that with the right business he noted that he felt it would be successful.

Commission Member Templeton noted that though he had stated his concerns with the commercial space at the public hearing that due to the changes creating the courtyard, he felt that it would be a great location for a restaurant. He noted that he felt like they were placing the applicant in an impossible position by asking for parking, open space, recreation space, etc.

Vice-Chair Simmons asked Planning Staff if the applicant could change their parking. Mr. Bailey noted that they could if the Planning Commission recommended a condition which would grant them flexibility.

Brief discussion ensued on a condition for parking. Chair Woolridge asked the applicant if they would accept a condition which would require a minimum of 6 parking spaces for the commercial development and no minimum for the residential parking.

Mr. Moffatt noted that the applicant would agree to the condition.

Chair Woolridge noted that as Commission Member Templeton said, we can't have it all, we want more density and more walkability; and that this board has been working toward ways to force a more walkable environment. He noted that the Town was working towards parking decks and thought that this proposal fits with a lot of things that the Planning Commission has been working on for a long time.

Chair Woolridge indicated that he wanted to point out that the adjacent neighborhood is behind the development is zoned R2 and that he lives further down the street and also owns rental properties in the R3 portion of Oak Street and noted that at 11:00 p.m. within the R2 area that the parties start and that it is a noisy area. He also noted that no one from the neighborhood spoke at the public hearing. He noted that in regard to the lighting, noise, and landscape buffers that the site plan presented by the applicant is completely sufficient provided that it meets the requirements of the UDO.

Vice-Chair Simmons noted that the Planning Commission had previously discussed the B2 Neighborhood Business district, specifically how little of it there was and if the Town is really served well by the current districts. Vice-Chair Simmons noted that the planning documents support B3 and then asked Mr. Bailey if he could tell the Commission what he would say would be long-range for the corridor. Mr. Bailey noted that he felt that he felt that the area would be more of a B3 area due to its location next to a major corridor, the area was adjacent to the

University. Mr. Bailey noted that Staff would look at the planning documents and what is happening in reality. Mr. Bailey noted that there is no real neighborhood being served by this area. Mr. Bailey concluded that if this district was one street over into the neighborhood then it would be a different discussion.

First Motion:

Commission Member Simmons made a motion seconded by Commission Member Templeton , that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because: the proposal is in line with Comprehensive Plan Update 1.1 Auto transportation in that it has the potential to reduce auto dependency, use and congestion; Comprehensive Plan Update 1.2- it is located in the primary growth area where infrastructure is already in place and near-term growth is to be especially encouraged; Comprehensive Plan Update 2.1.1 this project encourages the revitalization of a currently underutilized site in appropriately located areas; Comprehensive Plan Update 2.3.3 high density housing located close to the university; access to major thoroughfares, public services and facilities and compatible with adjacent uses; and in relation to the 2030 Land – located in the G2 sector urban neighborhood which calls for denser mixed-use development at the scale of neighborhood centers-close to thoroughfares and at key cross-road locations; in addition this parcel is located in a business corridor district.

VOTE:

Aye-All

Nay-None

The motion passes.

Second Motion:

Commission Member Boyle made a motion, seconded by Commission Member Tate that the Planning Commission recommends approval for this project with the following conditions:

1. Where there is a conflict between the application information and the plans (dated received December 11, 2015), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The application shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable plans for review and approval necessary to issue Zoning and Building Permits.

4. The applicant is required to work with the Public Works Department to reconfigure the meter system needed for the development.
5. A minimum of 6 commercial parking spaces is required and no minimum is set for the residential parking spaces.
6. Courtyard as designed and presented to the Planning Commission on January 11, 2016, contingent on NCDOT approval.
7. Black powdered coated fence as proposed by the applicant to the Planning Commission on January 11, 2016. Because the proposed project will result in safer traffic patterns and the redevelopment of the currently outdated unattractive site.

Chair Woolridge asked Commission Member Boyle if he would accept a friendly amendment to add no minimum for the residential spaces [see underlined text above]. The friendly amendment was accepted by both Commission Member Boyle and Commission Member Tate.

Chair Woolridge asked the applicant if they accepted the conditions as presented. Mr. Moffatt indicated that the applicant accepted the conditions.

VOTE:

Aye-All

Nay-None

The motion passes.

Excerpt

... MINUTES – REGULAR MEETING BOONE TOWN COUNCIL January 21, 2016

COUNCIL MATTERS CONSIDERATION OF CASES HEARD AT THE JAN. 6 SPECIAL PUBLIC HEARING Case 20150697 University Outlook Todd Rice has filed a Conditional District Zoning Map Amendment Petition for property owned by MET Holdings, LLC to rezone two properties at 475 Blowing Rock Road from B2 Neighborhood Business to B3 General Business with a site specific development plan for a mixed-use building consisting of 24 efficiency apartments (Use 1.14 Multi-Family Dwelling in Mixed Use (up to 30 bedrooms) and 2,658 square feet of retail (Use 11.14 Retail Store up to 5,000 sq. ft.)).

Planning Director Bill Bailey advised Council that following concerns discussed at the public hearing, the applicant brought changes to the Planning Commission meeting for review to address those areas. Jason Gaston of Valor Engineering presented Council with the renderings that were taken to the Planning Commission (renderings included in the January 2016 meeting packet). Lengthy discussion ensued

regarding the number of parking spaces available as part of the development. Council Member Clawson stated she would not vote to support this development, indicating she felt there was too much going into this space.

Council Member Mizelle stated she would like to see lighting down the left side of the building, voicing worry with the bars being next door and students walking home late. Mr. Bailey stated the Council could make that a condition of approval if they so choose. Tyler Moffatt, representing the applicant, stated they would be willing to consent to the condition for additional lighting.

VOTE #1 Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, Council moved that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because: the proposal is in line with Comprehensive Plan Update 1.1 - Auto transportation in that it has the potential to reduce auto dependency, use and congestion; Comprehensive Plan Update 1.2 - it is located in the primary growth area where infrastructure is already in place and near-term growth is to be especially encouraged; Comprehensive Plan Update 2.1.1 - this project encourages the revitalization of a currently underutilized site in appropriately located areas; Comprehensive Plan Update 2.3.3 - high density housing located close to the university, access to major thoroughfares, public services and facilities, and compatible with adjacent uses; and, in relation to the 2030 Plan - located in the G2 sector urban neighborhood which calls for denser mixed-use development at the scale of neighborhood centers - close to thoroughfares and at key cross-road locations. In addition, this parcel is located in a business corridor district.

RESULT: APPROVED [4 TO 1] MOVER: Lynne Mason, Mayor Pro Tem SECONDER: Jeannine Underdown Collins, Council Member AYES: Mason, Mizelle, Teague, Collins NAYS: Clawson

VOTE #2 Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, Council moved to approve the proposed amendment to the Town's zoning map with the seven conditions specified, and with the addition of an eighth condition for lighting to the side near the Parthenon and other commercial properties, and believe approval is reasonable and in the public interest because it is consistent with all applicable, officially adopted plans that locate denser use closer to ASU and is on a major business corridor. Minutes Town Council January 21, 2016 Town of Boone Page 13 The conditions include the following:

1. Where there is a conflict between the application information and the plans (dated received December 11, 2015), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.

3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable plans for review and approval necessary to issue Zoning and Building Permits.
4. The applicant is required to work with the Public Works Department to reconfigure the meter system needed for the development.
5. A minimum of six commercial parking spaces is required and no minimum is set for the residential parking spaces.
6. Courtyard as designed and presented to the Planning Commission on January 11, 2016, contingent on NCDOT approval.
7. Black powdered coated fence as proposed by the applicant to the Planning Commission on January 11, 2016, because the proposed project will result in safer traffic patterns and the redevelopment of the currently outdated unattractive site.
8. Additional lighting to the side near the Parthenon and other commercial properties.

RESULT: APPROVED [4 TO 1] MOVER: Lynne Mason, Mayor Pro Tem SECONDER: Jeannine Underdown Collins, Council Member AYES: Mason, Mizelle, Teague, Collins NAYS: Clawson

Zoning/Planning Permit Application

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

PL02133-113018

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
- ☐ Commercial
- ☐ Board of Adjustment Hearing (other than Appeals)
- ☒ Planning/Other

A. CONTACT INFORMATION

Applicant: Nathan Kelishek Company: Appalachian Mountain Brewery (CBA)
Address: 163 Boone Creek Dr., Boone NC, 28607
Phone Number: 828-263-1111 Email Address: nathan@amb.beer
Property Owner: Marcus Reed, Secretary Company: Craft Brew Alliance
Address: 929 N. Russell St. Portland, OR 97227
Phone Number: 971-200-7130 Email Address: marcus.reed@craftbrew.com

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): 2910236493000
Address/Location: 163 Boone Creek Dr., Boone NC 28607
Project Name: Appalachian Mountain Brewery

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- ☐ Accessory Building
 - ☐ Addition/Expansion including decks and patios
 - ☐ Change of Use
 - ☐ Land Disturbance (not associated with the construction of a bldg.)
 - ☐ Manufactured Home Set-up in Park
 - ☐ New Building Construction
 - ☐ Renovation/Remodel
 - ☐ Accessory Use (as listed in UDO Subsection 15.07.01)
 - ☐ Temporary Use (as listed in UDO Subsection 15.07.02)
 - ☐ Sign
 - ☐ Pavement Sealant
 - ☐ Major Subdivision Zoning Permit
- *Zoning Project Data Form (Residential or Commercial)
 - *Zoning Project Data Form (Residential or Commercial)
 - *Commercial Project Data Form
 - *Zoning Project Data Form (Residential or Commercial)
 - *Manufactured Home in Park Form
 - *Zoning Project Data Form (Residential or Commercial)
 - *Zoning Project Data Form (Residential or Commercial)
 - *Zoning Project Data Form (Residential or Commercial)
 - *Zoning Project Data Form (Residential or Commercial)
 - *Sign Project Data Form (Zoning)
 - *Pavement Sealant Project Data Form
 - *Commercial Project Data Form

Board of Adjustment Hearings

- ☐ Special Use Permit/Modification
 - ☐ Variance
 - ☐ Major Subdivision Preliminary Plat Approval
- *Special Use Permit Form
 - *Variance Form
 - *Major Subdivision Preliminary Plat Approval Form

Planning/Other

- ☐ Exempt Division of Land
 - ☐ Minor Subdivision (Preliminary and Final Plat)
 - ☐ Major Subdivision (Final Plat)
 - ☐ UDO Text Amendment
 - ☒ General Use Zoning Map Amendment
 - ☐ Conditional District Zoning Map Amendment
 - ☐ Voluntary Annexation
 - ☐ UDO Text Interpretation
- *Subdivision Exemption Project Data Form
 - *Minor Subdivision Project Data Form
 - *Major Subdivision Final Plat Project Data Form
 - *Text Amendment Project Data Form
 - *General Use Map Zoning Map Amendment Project Data Form
 - *Conditional District Zoning Map Amendment Project Data Form
 - *Annexation Petition (Satellite or Contiguous)
 - *UDO Interpretation Data Form

D. DETAILED DESCRIPTION OF PROJECT

Request re-zoning from conditional district zoning to
B3 - General Business

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: _____ Company: _____
Address: _____ License #: _____
Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer:**

Name: _____ Company: _____
Address: _____ License #: _____
Phone Number: _____ Email Address: _____

Architect:

Name: _____ Company: _____
Address: _____ License #: _____
Phone Number: _____ Email Address: _____

G. BROWNFIELDS AGREEMENT NOTIFICATION

- Does the applicant have or is the applicant planning to enter into a Brownfields Agreement with the NC Brownfields Program? ☐ Yes ☒ No (If yes, please answer question #2 below.)
- Anticipated date for the first year of partial exclusion of property taxes: _____

H. 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.

Nathan Kelschuk _____ 11/30/18
Applicant¹ (Print) Applicant Signature Date
Marcos Reed, Secretary _____ 11/29/18
Craft Brew Alliance _____
Property Owner (Print) Property Owner Signature Date

Official Use Only

Project File Name: Appalachian Mountain Brewery - General Use Map Amendment

Permit Number: PL02133-113018

Date: 11-30-2018	Fee: \$300.00	Receipt Number: 220051	Method of Payment: Cash	Paid By: Appalachian Mountain Brewery
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S:\FORMS\Current Forms\Zoning\ZoningPlanningPermitApplication_07062018.doc

¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

**General Use Zoning Map Amendment
Project Data Form**

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

Project Name/Number:

Permit Name/Number:

It is recommended that applicants schedule a meeting with Planning & Inspections Staff prior to application submittal.

A. ADDITIONAL APPLICATION INFORMATION

Hearing Date Requested¹: January 28, 2019

B. DEVELOPMENT INFORMATION

Existing Zoning District(s): Conditional District Re-zoning Proposed Zoning District(s): B3
Existing Land Use(s): Brewery / Taproom Brewery / Taproom
Adjacent Land Use(s): N: Retail / Commercial E: Retail
W: Residential Apartments S: Residential Apartments

Are there any existing variances granted to the property? ☐ Yes ☐ No ☐ Unknown

If yes, describe: _____

Total Land Area: 27,705 square feet

C. DOCUMENTS REQUIRED FOR SUBMITTAL

- ☐ Application Fee
☐ Deed(s) of all property included in the request
☐ A written metes & bounds legal description with accompanying survey map is required for a request that would rezone only a portion of a tax parcel or requests for multiple zoning districts

D. PROPERTY OWNER SIGNATURE:

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

Marcus Reed, Secretary
Craft Brew Alliance

Property Owner (Print)



Property Owner Signature

11/29/18

Date

¹ Each applicant must provide the meeting date for which they wish their request to appear. Each completed application must have met published meeting deadlines.

Official Use Only

Public Hearing Meeting Date: January 28, 2018

PC Meeting Date: January 28, 2018

TC Meeting Date: _____

Date of APO Mailed Notification: _____

Date of Posted Notification: _____

Project Approved: ☐ Yes ☐ No

Date Order Recorded: _____

Order Recordation Information: Book: _____ Page: _____
S:\FORMS\Forms_2015\GeneralUseZoningMapAmendmentProjectDataForm_062015.doc

Watauga County, North Carolina
Amy J. Shook, REGISTER OF DEEDS

Excise Tax	Recording Time, Book and Page

Parcel Identifier No.
Verified by Watauga County on the ____ day of _____, 2018.
by _____

After recording return to:
Craft Brew Alliance, Inc.
929 N. Russell Street
Portland, OR 97227

This instrument was prepared by: Andrew J. Wamsley, Esq., c/o Akerman LLP, 350 East Las
Olas Boulevard, Suite 1600, Fort Lauderdale, Florida 33301

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made this 20 day of November, 2018, by and between

GRANTOR	GRANTEE
AMB Holding Company, LLC, a North Carolina limited liability company, whose address is 163 Boone Creek Dr., Boone, NC 28607.	Craft Brew Alliance, Inc., a Washington corporation, whose address is 929 N. Russell St., Portland, OR 97227

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Boone, New River Township, Watauga County, North Carolina and more particularly described as follows (the "Property"):

FIRST AMERICAN NCS-918556-DR1

Communication: Case PL02133-113018 Application Information (Case PL02133-113018 Appalachian Mountain Brewery - General Use Zoning

BEING ALL OF LOT NUMBERS THIRTY-ONE (31), THIRTY-TWO (32), THIRTY-THREE (33), THIRTY-FOUR (34), THIRTY-FIVE (35) AND THIRTY-SIX (36) OF BOONE CREEK SUBDIVISION, ALL ACCORDING TO A PLAT OF BOONE CREEK SUBDIVISION AS SHOWN ON A PLAT OF SAME BY APPALACHIAN LAND SERVICES, FRANK LEE HAYES, R.L.S. DATED SEPTEMBER 22, 1975, AND RECORDED IN PLAT BOOK 7, AT PAGE 244, WATAUGA COUNTY REGISTRY, TO WHICH REFERENCE IS MADE FOR FULL AND COMPLETE DESCRIPTION OF SAID LOTS.

THIS PROPERTY DOES NOT INCLUDE THE GRANTOR'S PRINCIPAL RESIDENCE.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1630, Page 334 on April 30, 2012.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, an Grantor will warrant and defend the title against the lawful claims of all persons claiming by under or through Grantor except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

- 1. Utility, rights of way and other easement of public record.
- 2. Riparian rights of others in and to any streams or creeks which cross or bound the property.

(Signature on following page)

Communication: Case PL02133-113018 Application Information (Case PL02133-113018 Appalachian Mountain Brewery - General Use Zoning

AMB HOLDING COMPANY, LLC,
a North Carolina limited liability company

By _____

(

SS:

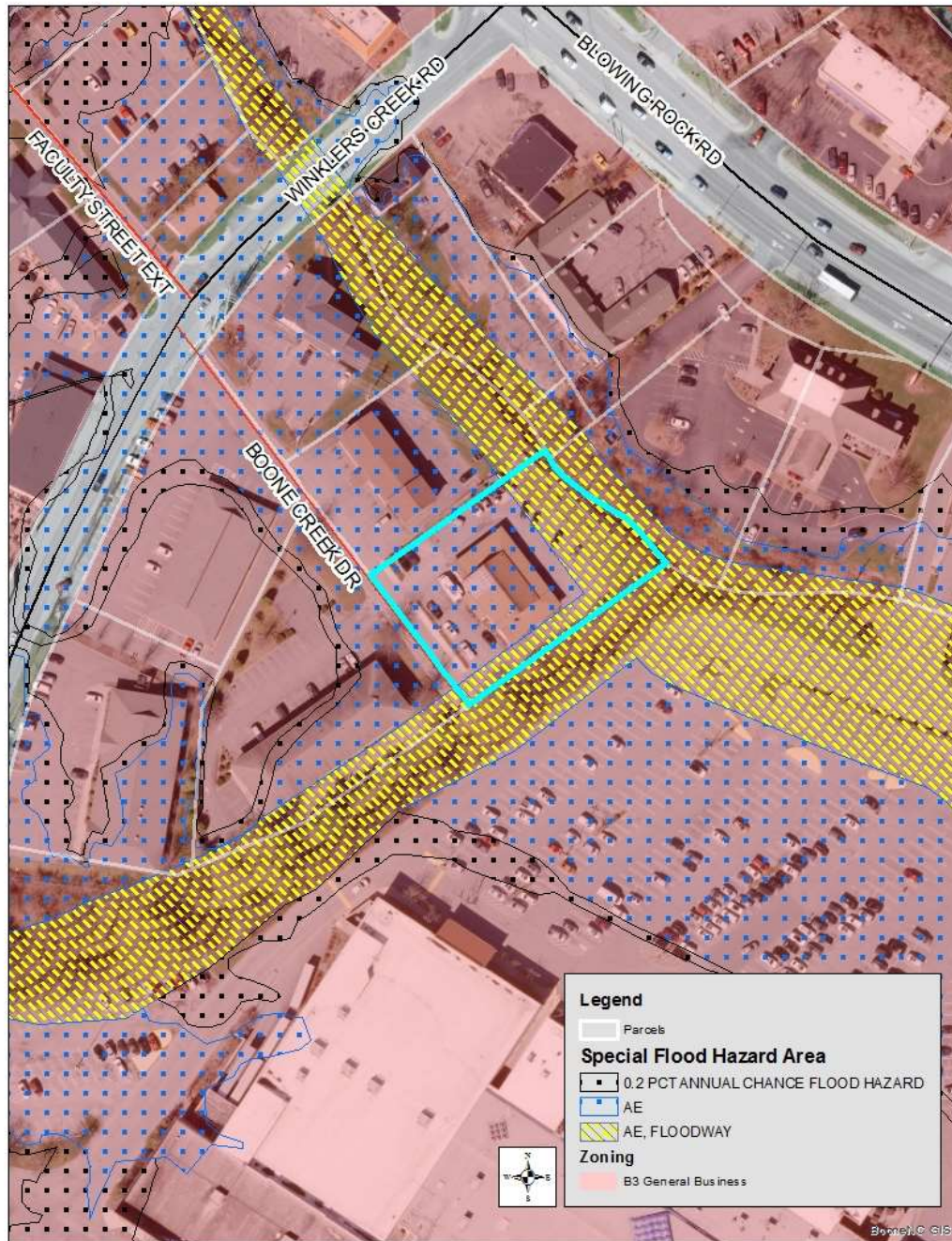
)

1

 **MADALYN REPACI**
MY COMMISSION # GG109081
EXPIRES May 30, 2021

~~NOTARY PUBLIC, STATE OF FLORIDA~~

STAFF REPORT
PUBLIC HEARING
JANUARY 28, 2019
CASE PL02133-113018 AMB – GENERAL USE ZONING MAP AMENDMENT



Request

Nathan Kelischek with Appalachian Mountain Brewery has submitted a Planning Permit Application for a General Use Zoning Map Amendment to rezone 163 Boone Creek Drive from Conditional District B3 to B3 General Business.

History

- 12-13-2011 Town Council approved a request from Sean Spiegleman to rezone 163 Boone Creek Drive from B3 General Business to Conditional District B3 General Business for a two phase site specific development plan for a brewery (Use 4.120 Light Industrial), with a tasting room (Use 8.30 Restaurant, Bar, and Night Club), Commercial Wholesale (Use 2.220) and Commercial Retail (Use 2.120) (See Exhibit 1 for minutes related to this case). Approval was subject to the following conditions:
1. The four staff recommendations:
 - a. Where there is a conflict between the application information and the plans and supplemental information (site plan bearing a received date of December 1, 2011, narrative bearing a received date of December 2, 2011) (See Exhibit 3), the plans and supplemental information shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
 - b. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
 - c. That the applicant work with the Planning and Inspections Department in reestablishing as much of the buffers for Boone and Hodges Creek that can be done without impeding traffic circulation for the development.
 - d. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
 2. The applicant's addendums submitted on December 12, 2011.
 3. Provide no outdoor storage but outdoor display be allowed as part of an operational plan that is to be submitted and approved by Staff.
 4. Applicant will agree to a parking assessment if required by the Planning Staff and agrees to follow any recommendations of such an assessment.
 5. Applicant must submit the "Long Form Industrial Waste Survey/Permit Application."
- 05-21-2013 Town Council approved a request from Sean Spiegelman with AMB Holding Co. to modify the original approval to allow for an outdoor observation area to the rear of the lot and to allow independent food trucks to operate within the development (See Exhibit 2 to see minutes related to this case). The following conditions were placed on the approval:
1. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
 2. The AMB operational plan shall be modified to include provisions for the "outdoor observation area" and "food trucks."
 3. A detailed plan, including traffic circulation and parking, shall be submitted for approval by the Planning and Inspections Staff and Fire Marshal.

4. Applicant must demonstrate compliance with UDO, Article XVII, Section 303 [f] prior to the use of the “outdoor observation area.”
5. The applicant shall have adequate parking with a formal agreement with the Employment Security Commission.
6. The applicant will provide sufficient evidence from a competent source that the bar top will not impede the floodway.

01-01-2014: Revised Unified Development Ordinance became effective (adopted December 16, 2013). The revised UDO contained new uses pertaining to microbreweries, brewpubs, and brewery/distilleries. At this time Use 14.01 Microbrewery became a permissible by right in the B3 General Business District subject to the 125’ transitional zone and subject to the requirements in UDO Section 15.39. A microbrewery is defined as “A manufacturing operation engaged in the production of malt and distilled beverages, with an annual production less than 15,000 US beer barrels (1,800,000 L); which has all operations contained within a fully enclosed building.” The standards in UDO Section 15.39 are as follows:

- | | |
|-----------------|---|
| 15.39.01 | Outdoor storage is not allowed. |
| 15.39.02 | Shipping for distribution of the malt or distilled beverage and receiving of stock and supplies for the production of the malt or distilled beverage is prohibited between the hours of 9 p.m. and 6 a.m. |
| 15.39.03 | All visible emission, odor (related to the production of the malt or distilled beverage), air pollution, noise and dust standards set forth for Manufacturing in Section 15.45 must be met. |

Note: These standards are in effect as adopted as of January 18, 2019.

Parcel Information

Address:	163 Boone Creek Drive
Watauga County PINs:	2910-23-6493-000
Property Owner:	Craft Brew Alliance Inc.
Total Lot size:	Approximately .6 acre
Jurisdiction:	Town of Boone Corporate Limits
Access:	Boone Creek Drive
SFHA:	Yes
Watershed District:	No
Corridor District:	Yes
NCD:	No
Viewshed:	No
Utilities:	Town water and sewer available
Current Zoning:	Conditional District B3 General Business (see history for info)
Proposed Zoning:	B3 General Business

Current Uses: brewery (Use 4.120 Light Industrial), with a tasting room (Use 8.30 Restaurant, Bar, and Night Club), Commercial Wholesale (Use 2.220) and Commercial Retail (Use 2.120)

Zoning District Descriptions:

Conditional District: A Conditional District (CD) is a zoning district in which the use and development of a property pursuant to a site-specific development plan is approved through the legislative process pursuant to Article 9 of this Ordinance. A CD utilizes the existing zoning district, is limited to the authorized uses and the development standards mandated within that district, and may be subjected to conditions that make the development plan more desirable.

A site specific development plan is defined as “A plan which has been submitted to the Town by a landowner that describes with certainty the type and intensity of a use for a specific parcel or parcels of property, and includes the boundaries of the site; significant topographical and other natural features effecting development of the site; the location on the site of the proposed buildings, structures, and other improvements; the dimensions, including height, of the proposed buildings and other structures; and the location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.”

B3: The B3 General Business District is established to provide a wide range of consumer goods, convenience goods and personal services for the community and surrounding region. Appropriate residential uses are allowed in this district, normally as part of mixed-use developments. The regulations for this district are designed and intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

Zoning & Use of Adjacent Properties		
	Zoning	Land Use (according to tax records)
North	B3 General Business	Office/Retail/Financial Institution
East	B3 General Business	Boone Mall (variety of retail, restaurant, personal service establishments)
South	B3 General Business	Multi-family
West	B3 General Business	Multi-family

Permissible Uses

UDO Article 15, Section 15.07 contains the Table of Principal Uses which should be read in conjunction with the definition of terms set forth in UDO Article 34.

15.07 Table of Principal Uses

Use #	Specific Use	B3	Reference
1.0 Household Living			
1.01	Single-Family Dwelling		
1.02	Manufactured Home “Class A”		15.08
1.03	Manufactured Home “Class B”		15.08
1.04	Manufactured Home “Class C”		
1.05	Manufactured Home Park		15.09
1.06	Duplex (one duplex building per lot)		
1.07	Duplex (more than one duplex building per lot)		15.10
1.08	Townhouse (up to 30 bedrooms)		15.10

Use #	Specific Use	B3	Reference
1.09	Townhouse (31-100 bedrooms)		15.10
1.10	Townhouse (> 100 bedrooms)		15.10
1.11	Multi-Family Dwelling (up to 30 bedrooms)		15.10
1.12	Multi-Family Dwelling (31-100 bedrooms)		15.10
1.13	Multi-Family Dwelling (> 100 bedrooms)		15.10
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)	L	15.11
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)	L ^{T125}	15.11
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)	L ^{T200}	15.11
2.0 Group Living			
2.01	Family Care Home		15.13
2.02	Family Care Institutions		15.14
2.03	Halfway House, Category 1		15.14
2.04	Halfway House, Category 2		15.14
2.05	Nursing Care Home	L	15.14
2.06	Nursing Care Institution	L ^{T125}	15.14
2.07	Skilled Nursing Facility	L ^{T300}	15.14
2.08	Retirement Community, Category 1		15.15
2.09	Retirement Community, Category 2		15.15
2.13	Fraternity or Sorority Dwelling		15.16
2.14	Boarding House	L	15.17
3.0 Transient Living			
3.01	Home for Survivors of Domestic Violence		15.18
3.02	Shelter for Homeless, Category 1	L ^{T50}	15.19
3.03	Shelter for Homeless, Category 2	L ^{T300}	15.19
3.04	Bed and Breakfast, Category 1		15.20
3.05	Bed and Breakfast, Category 2	L ^{T125}	15.20
3.06	Vacation Rental	L ^{T75}	15.21
3.07	Motel	P ^{T300}	
3.08	Hotel	P ^{T200}	
4.0 Institutional Uses			
4.01	Airport/Landing Strip		15.22
4.02	Heliport		15.22
4.03	Funeral Home Establishment	P	
4.04	Cemetery	P	
4.05	Post Office	P	
4.06	Post Office, Distribution		
4.07	Animal Sanctuary		
5.0 Government Uses			
5.01	Government Cultural Facility	P	
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	P	
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity	P	
5.04	Recreation Facility, Category 1	P	

Use #	Specific Use	B3	Reference
5.05	Recreation Facility, Category 2	P	
5.06	Recreation Facility, Category 3	pT50	
5.07	Event Venue, Category 1	P	
5.08	Event Venue, Category 2	P	
5.09	Event Venue, Category 3	pT50	
5.10	Landfill		
5.11	Solid Waste Processing		
5.12	Police Substation	P	
5.13	Utility Facility, Town	L	15.23
5.14	Utility Facility, Government, Neighborhood	L	15.23
5.15	Utility Facility, Government, Regional	L ^{T300}	15.23
5.16	Government Facility	P	
6.0 Non-Government Utility Facility			
6.01	Utility Facility, Neighborhood	L	15.23
6.02	Utility Facility, Regional	L ^{T300}	15.23
7.0 Telecommunications			
7.01	Antenna Collocation on Existing Wireless Support Structure not requiring additional accessory equipment	P	
7.02	Antenna Collocation on Existing Wireless Support Structure requiring additional accessory equipment	L	15.24
7.03	Building Mounted Antenna not requiring additional accessory equipment	L	15.24
7.04	Building Mounted Antenna requiring additional accessory equipment	L	15.24
7.05	Antenna Collocation on Electrical Transmission Towers		15.24
7.06	Other Antenna	L	15.24
7.07	Wireless Support Structure which meets district height requirements	L	15.24
7.08	Stealth Wireless Facility which exceeds district height requirements	L	15.24
7.09	Wireless Support Structure which does not meet district height requirements up to and including 120'		15.24
7.10	Other Tower that exceeds 120' in height		15.24
7.11	Emergency Response Communication Antenna	P	
8.0 Assembly			
8.01	Religious Assembly, Category 1	P	
8.02	Religious Assembly, Category 2	P	
8.03	Religious Assembly, Category 3	pT200	
8.04	Club/Lodge, Category 1	p ^{T75}	
8.05	Club/Lodge Which Does Not Serve Alcohol	P	
9.0 Education			
9.01	Public colleges and universities		
9.02	Private colleges and universities		
9.03	Trade school		
9.04	High school		
9.05	Elementary school		
9.06	Boarding school		
10.0 Daycare			

Use #	Specific Use	B3	Reference
10.01	Child Daycare, Large	L	15.25
10.02	Child Daycare Center	L	15.25
10.03	Adult Daycare, Large	L	15.25
10.04	Adult Daycare Center	L	15.25
10.05	All Other Daycare		
11.0 General Sales and Service			
11.01	Kennel	L ^{T125}	15.26
11.02	Veterinary Office/Hospital with Outdoor Kennels	L ^{T125}	15.26
11.03	Veterinary Office/Hospital without Outdoor Kennels	P	
11.04	Financial Institution ≤ 5,000 ft ²	P	
11.05	Financial Institution > 5,000 ft ²	P	
11.06	Restaurant ≤ 2,500 ft ² open to the public during 10 pm – 6 am	P ^{T75}	
11.07	Other Restaurants ≤ 2,500 ft ²	P	
11.08	Restaurant > 2,500 ft ² open to the public during 10 pm – 6 am	P ^{T200}	
11.09	Other Restaurants > 2,500 ft ²	P ^{T125}	
11.10	Restaurant ≤ 3,500 ft ² open to the public during 10 pm-6 am		
11.11	Other Restaurants ≤ 3,500 ft ²		
11.12	Bar		
11.13	ABC Store	P	
11.14	Personal Service Establishment open to the public during 10 pm – 6 am	P ^{T75}	
11.15	Other Personal Service Establishments	P	
11.16	Retail Store up to 5,000 ft ²	P	
11.17	Retail Store more than 5,000 but less than 25,000 ft ²	P ^{T200}	
11.18	Retail Store 25,000 ft ² and greater	L ^{T300}	15.27
11.19	Reserved		
11.20	Business or Professional Office open to the public during 10 pm–6 am	P ^{T75}	
11.21	Other Business or Professional Office	P	
11.22	Medical Office, Category 1	P ^{T300}	
11.23	Medical Office, Category 2	P ^{T125}	
11.24	Medical Office, Category 3	P ^{T125}	
11.25	Medical Office, Category 4	P	
11.26	Hospital		
11.27	Medical Emergency Response	P ^{T300}	
11.28	Open Air Market, Recurring	L ^{T75}	15.29
11.29	Vehicle Sales and Service	L ^{T75}	15.30
11.30	Equipment Sales and Service	L ^{T125}	15.31
11.31	Moped Sales and Service	P	
11.32	Boat or Marine Craft Sales and Service	L ^{T75}	15.32
11.33	Impound Lot/Towing Service	L ^{T125}	15.33
11.34	Gas Station	P ^{T125}	
11.35	Car Wash	P ^{T125}	
11.36	Seasonal Retail Activities and Amusements	P	

Use #	Specific Use	B3	Reference
12.0 Recreation and Entertainment Uses			
12.01	Indoor Shooting Range	L ^{T75}	15.34
12.02	Outdoor Shooting Range		
12.03	Indoor Theater	P	
12.04	Outdoor Theater	p ^{T125}	
12.05	Event Venue, Category 1	P	
12.06	Event Venue, Category 2	p ^{T125}	
12.07	Event Venue, Category 3	p ^{T200}	
12.08	Campground and Recreational Vehicle Park	L ^{T200}	15.35
12.09	Coliseum	S ^{T300}	
12.10	Recreation Facility, Category 1	P	
12.11	Recreation Facility, Category 2	p ^{T50}	
12.12	Recreation Facility, Category 3	p ^{T200}	
12.13	Racetrack		
13.0 Agriculture			
13.01	Garden, Community	L	15.36
13.02	Garden, Residential	L	15.37
13.03	Agricultural Operation Excluding Livestock		
13.04	Agricultural Operation Including Livestock		
13.05	Swine Farm		
13.06	Confined Animal Feeding Operation (CAFO)		
13.07	Custom Slaughterhouse		
13.08	Other Slaughterhouse		
13.09	Forestry	L	15.38
14.0 Manufacturing			
14.01	Microbrewery	L ^{T125}	15.39
14.02	Brewpub	L ^{T125}	15.39
14.03	Brewery/Distillery	L ^{T125}	15.40
14.04	Brewery/Distillery, Other		15.41
14.05	Winery Associated with a Vineyard		15.42
14.06	Winery	L ^{T125}	15.42
14.07	Winery, Other		
14.08	Extraction of Earth Materials		
14.09	Machine/Welding Shop	L ^{T200}	15.44
14.10	Manufacturing, Other		15.45
15.0 Parking			
15.01	Parking Lot	L	15.46
15.02	Parking Structure	L	15.47
15.03	Park and Ride Lots	L	15.46
16.0 Storage			
16.01	Self-Storage Facilities	L ^{T75}	15.48
16.02	Outdoor Storage		15.49

Use #	Specific Use	B3	Reference
16.03	Warehouse		
16.04	Fuel Storage Facility	pT300	
16.05	Chemical Storage Facility		
17.0 Transportation			
17.01	Passenger Terminals	pT200	
17.02	Trucking or freight terminal ≤ 10,000 ft ²	pT125	
17.03	Trucking or freight terminal > 10,000 ft ²		
18.0 Waste Related Uses			
18.01	Recycling Drop-off Station		15.49
18.02	Recycling and Salvage		15.49
18.03	Junkyard		
18.04	Private Landfill		
19.0 Particular Activities Which Pose Particular Concerns About Public Health			
19.01	Electronic and Internet Gaming	S	15.50
19.02	Adult Establishments	S	15.51

Intensity/Density Regulations:**16.01.02 Intensity Table**

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
Commercial/Industrial Zoning Districts						
B3	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.

Building Height

Excerpt from UDO Article 16, Subsection 16.08.02.

Zone	Height Limitation (Feet)
B3, E1, E2, E3	3 stories/45' (primary) – 5 stories/67' (secondary)

- 16.08.03** In the R3, B2, B3, E1, E2 and E3 districts the height limitation may range between the primary height limitation in the table to the secondary height (which is the maximum for the district), subject to the provision that for each foot the height of the structure exceeds the primary height limitation, the boundary lot setback applicable to the entire structure shall increase by one (1) foot. In no case shall the height of a structure exceed the secondary height limitation established in the table.

General Use Zoning Map Amendment Guidance

Pursuant to UDO Subsection 9.07.01, in deciding whether to adopt a proposed amendment to the UDO, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments, the Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible

range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. The Council shall only consider the impact of the proposed change on the public at large.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

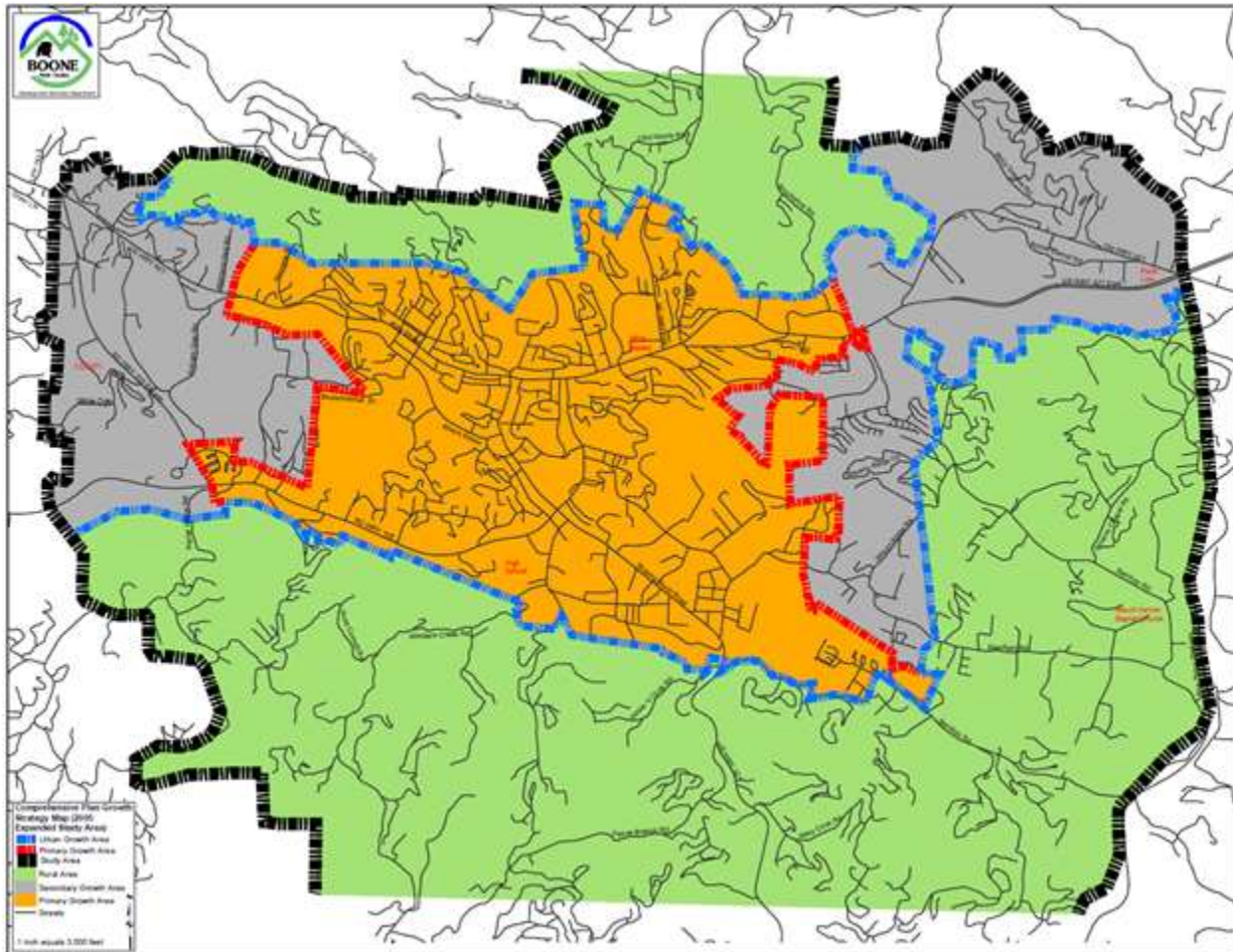
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

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

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

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

1.2 Growth Strategy Map (p. 17): This property is located within the **Primary Growth Area**. The Primary Growth Area is that portion of the urban growth area where urban level or facilities are already in place



or can be provided most cost effectively. This is the area where near term growth and development is to be especially encouraged. See map below.

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.

2.1 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.

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

...

2.1.2 Commercial Development

- A. Uncontrolled strip development along the areas through streets shall be prohibited. The undesirable effects of existing strip development shall be reduced and/or reconfigured when redevelopment opportunities permit. New strip development on isolated single lots along through streets shall be discouraged.
 - A.1 Review and revise the Town's driveway and parking standards to minimize driveway cuts and require that adjacent parking lots be connected.
- B. Commercial and Office Development shall be encouraged to locate in planned shopping centers, office parks and mixed use developments to stop the proliferation of strip development.
 - B.1 Review the Town's zoning text and map with the objective of reducing the negative impacts of typical commercial strip development.
- C. Community/Commercial Centers shall be located adjacent to a major street and contain or be adjacent to other appropriate community facilities.

- D. Automobile Orientated Neighborhood and Convenience Commercial Centers shall be encouraged to locate on a collector street or secondary street at its intersection with a major street.
- E. Residentially scaled and designed neighborhood businesses may be a planned element of newly developed or redeveloped neighborhoods. They should be near other compatible facilities such as elementary schools and neighborhood parks.
- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- G. Effective buffering and/or landscaping shall be provided where a large scale or automobile-orientated commercial or office use adjoins an existing or planned residential use.
- H. Encroachment of incompatibly scaled and designed commercial or office uses into viable existing or planned residential areas shall be prohibited.
 - H.1 Amend the zoning map to provide appropriate commercial zoning in transitional areas that do not encroach upon established residential neighborhoods.
- I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.
- J. Highway Oriented Commercial uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movement, and consistent sign standards.
 - J.1 Beyond the major corridor area consider the development of architectural design standards for commercial development throughout the Town's planning area.
 - J.2 Consider supplementing the highway corridor overlay district in the zoning ordinance to encourage commercial development to include: 1) attractive signage, and 2) build-to lines with parking in the rear.

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2.2 Infrastructure

2.2.2 Utilities

- A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited. *****
- B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.
- C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.
- D. Water and sewer services shall not be extended to properties in the Rural Area (outside the Urban Growth Area). Exceptions to this policy may include the provision of services to other local

governments, cooperative agreements on major economic development initiatives, and extensions needed to address imminent public health problems or related environmental hazards.

- E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.
- F. Area-wide cooperation and support shall be sought in bringing in alternative utility services to the Boone Area.
- G. Long range planning for a possible stormwater collection and treatment system shall be supported, including the development of financial and regulatory strategies.

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2.3 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.

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Certificate of Mailing

I, Brenda Henson, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on January 4, 2019.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, KC Banner, certify that the subject property was posted as required in Article 9, Subsection 9.03.03(B)(2) of the Town of Boone UDO on January 4, 2019.

/s/ KC Banner

KC Banner, Building Inspector Trainee

PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because *[describe elements of controlling land use plans and how the amendment is or is not consistent]*:

Second Motion and Vote: The Planning Commission recommends ☐approval OR ☐denial of the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and in the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the Commission recommends approval despite inconsistency with the comprehensive plan and/or any other applicable plan: The Planning Commission recommends approval of the amendment despite inconsistency with the comprehensive plan and/or other applicable adopted plans because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

TOWN COUNCIL ACTION

Per NCGS 160A-383, zoning regulations shall be made in accordance with a comprehensive plan. Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that is applicable because *[describe elements of controlling land use plan(s) and how the amendment is or is not consistent]*:

Second Motion and Vote: The Town Council ☐approves OR ☐denies the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the proposed amendment is approved despite inconsistency with the comprehensive plan and/or any other applicable adopted plan(s): The Town Council approves the amendment and declares that this approval also amends the Comprehensive Plan (and/or other approved and applicable plan) because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

**TOWN OF BOONE
SPECIAL PUBLIC HEARING
DECEMBER 12, 2011 AT 5 PM
Meeting Minutes - Excerpt**

Town Council Members Present:

Mayor Pro Tem Lynne Mason, Andrew Ball, Stephen Phillips, Jamie Leigh and Rennie Brantz

Planning Commission Members Present:

Chairperson Milton “Bunk” Spann, Vice-Chairperson Eric Woolridge, Brett Scantlin, Robert Cherry, Jay Vincent, Tom Purpur, Donald Dotson, Cameron Lippard and Greg Simmons

Planning and Inspections Staff Present:

Jane Shook – Planner, Brian Johnson-Urban Design Specialist, Chris Grubb-Code Enforcement Officer/Environmental Planner and Marlene Crosby – Board Secretary

Others Present:

Greg Young – Town Manager and Sam Furgiuele – Town Attorney

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CASE 20110638 APPALACHIAN MOUNTAIN BREWERY

Sean Spiegleman has initiated a Zoning Map Amendment Petition for Conditional District Zoning for 163 Boones Creek Drive, property owned by Johnny C. Hampton and Cherie H. Smith (Watauga County PIN: 2910236493000). The request is to rezone the property to Conditional District B-3 General Business with a phased site specific development plan for a Brewery (Use 4.10 Light Industrial) with a Tasting Room (Private Club, 8.0 Restaurant, Bar, and Night Club). A five year vesting is being requested for this project.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Ms. Shook noted that this is a phased project with five-year vesting with a phased site specific development plan for a Brewery. Ms. Shook also pointed out that there was information regarding outdoor storage and display not in the staff report found in the meeting packet. Ms. Shook handed out a copy of an Addendum to the Conditional Re-Zoning Submittal prepared by Appalachian Architecture and an updated site plan for Phase I and II. This Addendum was received by Ms. Shook in the late afternoon of December 12, 2011 and the Staff was not able to review it prior to this meeting. The Addendum contained eight revisions on an updated survey, dumpster, stream buffers, bicycle parking, parking requirements, Phase II Seasonal Outdoor Tasting Area and Department Review Comments

Mr. Sean Spiegelman of the Appalachian Mountain Brewery located at 163 Boone Creek Drive in Boone was present to speak on this case. Mr. Spiegelman said that he is requesting the rezoning because there is no current zoning at this location for a Brewery.

Mr. Spiegelman said that his goal is to have a net-zero Brewery. He wants to buy land to have a Hops Farm, he wants to partner with local farmers for grain. He wants to use local sourcing to put the

business capital back into the Boone area. He wants to hire his employees locally and create new jobs in Boone.

Mr. Spiegelman brought two empty beer kegs to help everyone understand the size and shape of the containers. He said that two kegs equal one barrel of beer. He talked about the New Belgium Brewing Company from Fort Collins, Colorado owners and how they have started a \$1.00 per barrel program. He read their slogan from their coaster that says *"Snow Days and Philanthropic Ways"*. On the back of the coaster that says *"Get Philanthropic!"* Drink New Belgium and we'll donate to good causes. It's part of our \$1 Per Barrel Brewed Program and to date they've donated more than \$4 million. Give glassware and you get to choose the cause at newbelgium.com.

Mr. Spiegelman talked about community support and how every brewed beer type will host a local charity. There will be a monthly brewed beer on a pilot system. He talked about involving the university's Ivory Tower Brewery to do the yeast cultivation for the Appalachian Mountain Brewery. He talked about Venture Capital and keeping students in the area to work after graduation from the university.

Mr. Spiegelman talked about the larger goals for his Brewery which is to put other breweries throughout the Appalachian Mountain chain and to put a lot of dollars into the business plan for redevelopment. He said that they will have craft beers and not domestic beers. He noted that in Asheville, North Carolina that the craft beer has increased the economy.

Council Member Ball asked Mr. Spiegelman to give some detailed information regarding the outdoor storage. Mr. Spiegelman said he plans to increase on the inside and not to have outdoor storage. If storage is needed, he can rent a storage space. He repeated that he plans to keep the grain inside and have the yeast cultivated at the university's Ivory Tower Brewery.

Council Member Ball asked Mr. Spiegelman to outline his production goals for five and ten years. Mr. Spiegelman said that it is difficult to say and be honest. He said an estimated goal would be to reach creating 500 barrels in five years and 1,500 to 1,700 barrels in ten years. He said, if the Brewery grows, he will have to buy another building.

Mr. Spiegelman talked about using a small table for the canning line. He talked about letting student interns come in and review the process for an educational experience.

Council Member Ball reminded Mr. Spiegelman that the rezoning stays with the property. Council Member Stephens asked if the Brewery was a low impact to the area and if light and noise pollution had been addressed. Mr. Spiegelman said that the Staff has reviewed these items which include Section 173. Mayor Pro-Tem Mason asked about the need for a pre-treatment. Mr. Spiegelman said that for a Brewery they use low level acid cleaners, therefore, no need for a treatment plant according to his research. Mayor Pro-Tem Mason asked about the waste beer or tank residual. Mr. Spiegelman said that he will have to fill out a long-form survey and he will have to do whatever the municipal service says to do for waste.

Council Member Stephens asked how essential is the "Tasting Room?" Mr. Spiegelman said that if Appalachian Mountain Brewery becomes a large distributor, it can only sell its crafted beer wholesale. Mr. Spiegelman said that House Bill 98 allows for on-site sales. Mr. Spiegelman said that House Bill 796

was signed on December 8, 2011 which allows Sierra Nevada to come to the East Coast to brew its craft beers.

Council Member Leigh asked Mr. Spiegelman to describe the "Tasting Room". Mr. Spiegelman the size and shape and the ability for the customers to view the brewing process from the "Tasting Room". Council Member Stephens asked if there will be a bartender. Mr. Spiegelman said it would be a private club.

Planning Commission Member Lippard asked about the disposal of raw materials. Mr. Spiegelman said that he would like to do a grain exchange or compost. Planning Commission Member Lippard asked about the water usage. Mr. Spiegelman said that the proposed usage has been signed off by the Town of Boone Water Department.

Planning Commission Chairperson Spann asked about the increase of jobs and types of jobs the Brewery would create. Mr. Spiegelman said the short-term goal is to try to employ ten people at first for non-minimum wage type jobs. He said he would like to reserve 10 percent of the income for employee ownership. The long-term goal is to have an employee owned company to motivate and inspire the employees. Mr. Spiegelman said that the Sierra Nevada Brewing Company has 40 Millionaires. Chairperson Spann asked about the educational focus and the layout of the building. Mr. Spiegelman said that the goal is for the website and faculty to have information on the solar thermal.

Planning Commission Member Cherry asked about the street buffers. Mr. Spiegelman said that Staff asked him to re-establish the buffers and he addressed the stream buffers with Staff as well. Planning Commissioner Member Simmons asked about the storm water. Ms. Shook said it is not an issue. Planning Commission Member Vincent showed a concern historically speaking for flooding on the Northwest side of this property. Mr. Brian Johnson, Urban Design Specialist said that the existing on the property can remain and the Staff has encouraged the applicant to move the chain-link fence. Mr. Johnson said that the Staff would go by the new FEMA maps to locate the Special Flood Hazard area. Mr. Johnson said the applicant is meeting the current ordinance regulations and the current FEMA flood maps. Ms. Shook said a new building will have to meet the requirements of the ordinance. Mr. Johnson also said that they would have to flood proof the existing building by bringing it up to two feet above base flood elevation.

Planning Commission Chairperson Spann talked about the staff concerns on page four through eight of the staff report. Ms. Shook said that the loading and unloading has been addressed with Staff. The bike parking in the front of the building has not been reviewed for additional parking allocation. Ms. Shook said they must acquire satellite parking and the applicant is aware of it. Planning Commission Vice-Chairperson Woolridge said there will be no outdoor storage and the applicant will have to provide an outdoor display plan for the Staff to review. And the applicant will have to make sure that the display will not be able to wash into the creek. Ms. Shook said that there are no comments from the Public Works Department at this time other than they need 57 feet for a turn around. Planning Commission Member Simmons said that Use 4.120 allows for Outdoor Storage. Ms. Shook said that the Staff needs a site specific development plan. Member Simmons suggested that there be a condition for Outdoor Storage. Ms. Shook talked about the Floodway in the Corridor District and having a clear view from Hwy 321, there is not enough room for an additional buffer. Ms. Shook said that the applicant has no intent of Outdoor Storage of this type.

Mayor Pro-Tem Mason asked the first speaker to come to the podium. She outlined that each speaker will be allowed two-minutes to speak on this case.

The first speaker was Mr. Patrick Sullivan and he lives at 112 Dotson Drive. He said that he support this request and he hopes that others will follow him.

The second speaker was Mr. Eric Allain and he lives at 873 Fairway Drive. He is a Chemistry Professor at Appalachian State University and he supports this request.

The third speaker was Mr. Daniel Safley and he lives at 314 Meadowview Drive. He supports this request because of the sustainability development. He said that he is looking for friendly relationships and building the economy. He also said that Yeast will not pollute our area.

The fourth speaker was Mr. William Breeding and he lives at 207 Cecil Miller Road. He supports this request and he knows the Spegielman family.

The fifth speaker was Mr. Brett Taubman and he lives at 141 Cardinal Lane. He is a Chemistry Professor at Appalachian State University. He supports this request and he knows the Spegielman family.

The sixth speaker was Ms. Lauren Boone and she lives at 326 Howard Street. She is a Senior Graphics Arts Student at Appalachian State University. She supports this request because it has caused her to become involved in more programs, etc. She is also employed by the Appalachian Mountain Brewery.

The seventh speaker was Ms. Julie Steelman and she lives at 326 Howard Street. She fully supports this request and she feels it is a great asset to the community.

The eighth speaker was Mr. Ben Loomis and he lives at 135 Boone Creek. He is a student at Appalachian State University. He said he supports anything that we can do to help this property.

The ninth speaker was Mr. David Lewitt. He supports this request because it uses locally grown hops and allows the community to help them.

The tenth speaker was Mr. Jed Hewitt and he lives at 214 Park Street. He fully supports this request because it will create local jobs and bring economic growth.

The eleventh speaker was Mr. Nathan Kelischek and he lives at 326 Howards Street. He supports this request.

The twelfth speaker was Mr. Seth Hewitt and he lives at 214 Park Street. He fully supports this request because it creates local jobs. He is a 2011 Appalachian State University graduate and he is employed by the Ivory Tower Brewery.

The thirteenth speaker was Mr. Thomas Cooper and he lives at 214 Park Street. He encouraged the passing of this conditional re-zoning request to further continue to rezone for industry. He wants our agriculture brought back to this area.

The fourteenth speaker was Jake Chaney and he lives at 125 Bella Drive in Blowing Rock, North Carolina. He was present as the son of a small business owner for the WJ Office Supplies Business. He was also present as the Co-Founder of the Young Professionals Organization. He encouraged the passing of this conditional re-zoning request.

The fifteenth speaker was Mr. Michael Button and he lives at 375 Glendale Drive. He is the owner of the building across from the proposed location of the Appalachian Mountain Brewery. He raised a concern for parking. He said that this is a dead-end street and the parking in the road needs to be addressed. Mr. Button said that he has met a couple of times with Mr. Blake Brown, Director of Public Works for the Town of Boone. Mr. Button and Mr. Brown discussed curb and gutter and asphalt issues. Mr. Button said he is concerned about the Tasting Room causing after hours parking and having to use the Employment Security Commission parking lot. Mr. Button is concerned with the tractor and trailers not being able to turn around. Mr. Button said he does not want to have to police the parking of cars.

The sixteenth speaker was Mr. Kevin Caskey and he lives at 219 Green Street. He supports the request.

The seventeenth speaker was Mr. Chase Luddeke and he lives at 205 Sunburst Lane. He supports this request.

Mayor Pro-Tem Mason closed this public hearing for this case.

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**TOWN OF BOONE
PLANNING COMMISSION
DECEMBER 12, 2011 at 7 PM
Meeting Minutes - Excerpt**

Members Present: Chairperson Milton “Bunk” Spann, Vice-Chairperson Eric Woolridge, Cameron Lippard, Tom Purpur, Brett Scantlin, Greg Simmons, Robert Cherry, Donald Dotson and Jay Vincent

Staff Present: Jane Shook – Planner, Brian Johnson-Urban Design Specialist, Chris Grubb-Code Enforcement Officer/Environmental Planner and Marlene Crosby-Board Secretary

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Case 20110638 Appalachian Mountain Brewery: Sean Spiegelman has initiated a Zoning Map Amendment Petition for Conditional District Zoning for 163 Boones Creek Drive, property owned by Johnny C. Hampton and Cherie H. Smith (Watauga County PIN: 2910236493000). The request is to rezone the property to Conditional District B-3 General Business with a phased site specific development plan for a Brewery (Use 4.10 Light Industrial) with a Tasting Room (Private Club, 8.0 Restaurant, Bar, and Night Club). A five year vesting is being requested for this project.

Chairperson Spann asked the applicant, Mr. Sean Speigelman, if there were additional information on the satellite parking that he would like to present for this case. Discussion ensued on opening a public hearing to discuss all topics regarding this case and not just to address the issue of parking.

Member Simmons pointed out that this case goes before the Town Council on Tuesday, December 13, 2011 and he asked the Planning Commission to try as much as possible not to go into another full-blown public hearing on this topic.

Member Lippard made a motion to open the public hearing to discuss all topics regarding this case, seconded by Member Dotson.

Vote: Aye-All
Nay-None
The vote was unanimous.

Chairperson Spann asked Mr. Speigelman to come to the podium to speak on anything he thinks is pertinent to this case that was not mentioned before in the Special Public Hearing meeting.

Mr. Sean Speigelman from the Appalachian Mountain Brewery came to the podium to discuss his intent to obtain additional satellite parking and to address the issue of parking brought up by the concerned adjacent property owner, Mr. Michael Button who lives at 375 Glendale Drive in Boone, North Carolina. Mr. Speigelman said that he has all ready been in conversation about additional parking with the owners of the Employment Security Commission building which has ample parking always. He cannot speak further on where that conversation is.

Chairperson Spann asked if anyone else would like to speak regarding this case.

Mr. Michael Button came to the podium; he said he is the property owner across the street. He said that what Mr. Speigelman is proposing seems to be a shotgun way to approach it. Mr. Button voiced his confusion on the process making a conditional zoning request at the same time that the Table of Permissible Uses is being revised. Member Simmons noted that the decisions made on this case would be based on the current Unified Development Ordinance. Mr. Button said that potential parking is not parking. The zoning goes with the land and it opens up a lot of other uses for this property. The future owners may not be able to work out parking with the Employment Security Commission. Mr. Button said that wants to make sure that in one year or two years from now, he is not out there every Friday and Saturday night watching vehicles. Mr. Button said in light of the Town of Boone being a college town and what he read in the paper is that the Appalachian Mountain Brewery will be a tourist attraction, a private club and a light industrial brewery. He said there are several uses involved and he is concerned about the shotgun approach on it. He wants to make sure that he understands everything with the state laws and regulations changing and the noise ordinance still under review. He said there are still a lot of things up in the air. He wants to proceed cautiously and he knows that the Planning Commissions wants to as well.

Vice-Chairperson Woolridge asked Ms. Shook to clarify the conditional use process for the brewery and the impact on the future owners of the property. Member Simmons clarified that this is not a general district rezoning; it is a conditional district rezoning case. Ms. Shook said that is correct. Ms. Shook said the applicant is required to go through the current process. Ms. Shook said that as far as the process changing, this is a permissible use in the B-3 zoning district with a Special Use Permit for the industrial portion. All other uses are permitted by right based on the size. Ms. Shook said that the conditional use process takes it out of the arena of a special use permit and puts it in the legislative process of this public hearing with the Planning Commission's recommendation to Town Council for approval. The conditional use map amendment is a site specific development plan. It is true that the zoning stays with the property. If the applicant sells this business the new owners would have to comply with everything that was presented at the town meetings. This includes no significant deviations as far as structure would allowed

with it. Ms. Shook said that insignificant changes can be allowed if not changing the essential character of the project. Also, any conditions that the applicant agrees to would be transferred even satellite parking. If proposed, the owner has to keep the satellite parking in perpetuity, they would not be able to keep the property for a couple of years and let it go. Chairperson Spann clarified that the conditions made now with the Employment Security Commission will follow with the new property owners. Ms. Shook noted that the developer will have to sign an agreement about the parking.

Ms. Shook said that ample parking is not exactly true. There is parking to meet the ordinance requirements and that the applicant is not exceeding the maximum parking spaces that he can have on site. It was noted in the staff report that there was a concern for parking. This is why the staff met with the applicant on December 12, 2011 to discuss the possibility of acquiring satellite parking. Ms. Shook said there are requirements in Section 352 for satellite parking.

Ms. Shook read the current parking regulations from the ordinance for all present at this meeting. Ms. Shook said the zoning designation stays with the property. Member Dotson asked if the availability of parking could be a condition. Ms. Shook said the Planning Commission members would have to ask the applicant. The applicant would have to agree to any conditions placed on the request. If the Planning Commission would like to place a condition on the request, you would need to make it as specific as possible rather than just obtain satellite parking.

Member Simmons said apparently Mr. Button is involved with the multi-family use across the street which is a B-3 zoning district.

Chairperson Spann asked Mr. Bill Dixon, Architect from Appalachian Architecture, P.A. if he wanted to speak on this case. Mr. Dixon came to the podium. He said that in Phase I and Phase II of this case they do meet the requirements of the ordinance and he does not necessarily agree with the Unified Development Ordinance. He talked about asking the Planning Commission or Staff about defining the satellite parking. He is open for suggestions on how to provide more parking. Ms. Shook said they fall below the maximum threshold. Chairperson Spann clarified that in the technical sense, they meet the requirements of the UDO. Ms. Shook said that is correct.

Chairperson Spann said with the applicant permission and the commissioner's interest there could be some conversation about whether any additional conditions could be considered and both parties have to agree to it. If that would happen, the additional conditions would be sent forth as recommendations to Town Council for their consideration. Mr. Dixon said that he is curious how that language would be written so it defines something that may or may not happen.

Mr. Button came back to the podium to say where he was getting his information. He said he could be wrong and that it would not be the first time. He said he has the September 5, 2011 Town Council meeting minutes. He said the Town Council moved to continue discussion of this matter to the November meeting for more information on the alcohol permitting process by other communities the size of Boone with college campuses. Also, the topic was tabled to allow for more time to study whether or not to allow in B-1, B-2 and B-3. He said he could not find any other minutes that showed this has been approved. He said that Town Council directed staff to further discussion of micro-breweries and wineries category for

review for inclusion of the staff and the Table of Permissible Uses and to examine such related issues such as site limitations to storage. Ms. Shook said this discussion came from a person interested in micro-breweries that came to the Town Council to ask about it. Ms. Shook said as they are going through the Table of Permissible Uses many of the categories are just grouped together and are not broken out. Ms. Shook said that the staff has proposed to break these out and this is recorded in past meeting minutes. Ms. Shook said this is the difference in what we are looking at today and what would be in the future. Today we look at the use of this request for a brewery as light industrial.

Vice-Chairperson Woolridge said that he thinks that the Town Council wants this to be created as a separate use and permitted by right in the B-3 zoning districts to make it easier. Ms. Shook said that the theory is to break out the uses in the table.

Vice Chairperson Woolridge asked about the square footage of the seating area of the Tasting Room. Discussion talked about the number of people touring the building or tasting the beer. Mr. Dixon said the building is around 2,000 square feet all interior and the tasting area is around 500 square feet. Mr. Dixon said it is a learning environment with a way to see the brewing process inside the building. Member Simmons gave a comparison of the fraternity's living space being 250 square feet.

Vice-Chairperson Woolridge made a motion to close the public hearing, seconded by Member Lippard.

VOTE: Aye-All

Nay-None

The vote was unanimous.

Member Vincent had talked earlier in the meeting about flooding in this area. He learned after the meeting break that a dumpster had blocked the creek and that was the reason for the most recent flooding. He said normally the flooding does not get this bad in this area. Member Vincent said that this venture would be exciting established in the right place. Mr. Brian Johnson, Urban Design Specialist talked about the fence it is not an issue at this time and that everything existing in the floodway will have to be removed. Mr. Johnson said that he cannot predict the flooding of this area. It is in the Special Flood Hazard area. Mr. Johnson said the applicant will have to provide a drainage plan for review. Because the project is proposing more pervious area and reducing impervious area they are not required to provide detention. Member Simmons said that the new plan shows a reduction of impervious area. Member Simmons said that the applicant will have to complete a FEMA FLOOD FORM 81 Elevation Certificate that shows they are two feet above flood level. Mr. Johnson indicated that is correct. They will also have to provide a Flood Proofing Certificate for the existing structure. One option they have discussed is to fill the floor of the building with concrete to get two feet above base flood level.

Member Simmons noted that it would be problematic to use any other document outside the current UDO for making recommendations on this case.

Vice-Chairperson Woolridge said there are good reasons to approve this request except for maybe a potential parking issue. He said in terms of redevelopment of the site the improvement of this site environmentally, aesthetically and putting a new business in place are all good reasons. He talked about

the current use surrounding the proposed request and future uses. He talked about the uses from the Boone 2030 Plan which is a mixed-use, activity center with commercial employment development and high density housing. He feels that the Planning Commission should approve this request as presented and as amended by the applicant based on the document received by Staff on December 12, 2011. Also considering there will not be outdoor storage and the outdoor display areas will be approved as part of an operational plan by Staff.

First motion and vote:

Planning Commission Vice-Chair Woolridge made a motion, seconded by Planning Commission Member Simmons, that the proposed amendment to the Town's zoning map is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because of the Town's effort to promote responsible business redevelopment and to encourage the establishment of a regional center as outlined in the Boone 2030 Land Use Plan.

**VOTE: Aye-All
Nay-None
The vote was unanimous.**

Second Motion and Vote:

Planning Commission Vice-Chair Woolridge made a motion, seconded by Planning Commission Member Simmons, to recommend approval as outlined the proposed amendment including the following:

1. The four staff recommendations:
 - a. Where there is a conflict between the application information and the plans and supplemental information (site plan bearing a received date of December 1, 2011, narrative bearing a received date of December 2, 2011), the plans and supplemental information shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
 - b. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
 - c. That the applicant work with the Planning and Inspections Department in reestablishing as much of the buffers for Boone and Hodges Creek that can be done without impeding traffic circulation for the development.
 - d. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
2. The applicant's addendums submitted on December 12, 2011
3. Provide no outdoor storage but outdoor display be allowed as part of a operational plan that is to be submitted and approved by Staff because the amendment promotes revitalization of a currently distressed site, improves environmental conditions surrounding the property and moves the Town further toward the goals of the Boone 2030 Land Use Plan.

**VOTE: Aye-All
Nay-None
The vote was unanimous.**

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MINUTES - REGULAR MEETING -Excerpt
BOONE TOWN COUNCIL
DECEMBER 13, 2011

An organizational meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, December 13, 2011, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Andy Ball, Rennie Brantz, and Allan Scherlen. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Town Clerk Freida Van Allen, Deputy Town Clerk Kimberly Brown, Assistant to the Town Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, Planning Director Bill Bailey, Planner Jane Shook, and Development Coordinator Pilar Fotta.

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APPROVAL OF ZONING TEXT AMENDMENT - CASE 20110638 APPALACHIAN MOUNTAIN BREWERY

Case 20110638 Appalachian Mountain Brewery - Sean Spiegelman has initiated a Zoning Map Amendment Petition for Conditional District Zoning for 163 Boones Creek Drive, property owned by Johnny C. Hampton and Cherie H. Smith and further identified as Watauga County PIN 2910-23-6493-000. The request is to rezone the property to Conditional District B-3

General Business with a phased site specific development plan for a Brewery (Use 4.10 Light Industrial) with a Tasting Room (Private Club, 8.0 Restaurant, Bar, and Night Club.) A five-year vesting is being requested for this project. Planner Jane Shook informed the Council that the Planning Commission recommended approval with conditions. In order to help address a concern about the parking situation for this project, Council member Ball moved to reopen the public hearing at 7:24 p.m. Council member Brantz seconded the motion.

VOTE: Aye - All
Nay - None

Applicant Sean Spiegelman stated that he has considered the possibility of more parking needed once the second phase of his project is underway which includes a tasting room. He stated that he will accept the following additional condition regarding parking: Applicant will agree to a parking assessment if required by the Planning Staff and agrees to follow any recommendations of such an assessment. Regarding a pre-treatment plan for the project, Mr. Spiegelman stated that he has discussed the matter with staff from the Town's Wastewater Treatment Plant and that he will complete and return the necessary form which is entitled "Long Form Industrial Waste Survey/Permit Application." With no other discussion, the public hearing was closed at 7:38 p.m.

Vote #1

Upon a motion by Council member Ball, seconded by Council member Leigh, Council moved that proposed amendment to the Town's zoning map is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because of the Town's effort to

promote responsible business redevelopment and to encourage the establishment of a regional center as outlined in the Boone 2030 Land Use Plan and with the following conditions:

1. The four staff recommendations:
 - a. Where there is a conflict between the application information and the plans and supplemental information (site plan bearing a received date of December 1, 2011, narrative bearing a received date of December 2, 2011), the plans and supplemental information shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
 - b. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
 - c. That the applicant work with the Planning and Inspections Department in reestablishing as much of the buffers for Boone and Hodges Creek that can be done without impeding traffic circulation for the development.
 - d. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
2. The applicant's addendums submitted on December 12, 2011.
3. Provide no outdoor storage but outdoor display be allowed as part of an operational plan that is to be submitted and approved by Staff.
4. Applicant will agree to a parking assessment if required by the Planning Staff and agrees to follow any recommendations of such an assessment.
5. Applicant must submit the "Long Form Industrial Waste Survey/Permit Application."

VOTE: Aye - All
Nay - None

Vote # 2

Upon a motion by Council member Ball, seconded by Council member Brantz, Council moved to approve the proposed amendment to the Town's zoning map and believe approval is reasonable and in the public interest and with the following conditions:

6. 1. The four staff recommendations:
 - e. Where there is a conflict between the application information and the plans and supplemental information (site plan bearing a received date of December 1, 2011, narrative bearing a received date of December 2, 2011), the plans and supplemental information shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
 - f. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
 - g. That the applicant work with the Planning and Inspections Department in reestablishing as much of the buffers for Boone and Hodges Creek that can be done without impeding traffic circulation for the development.

- h. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
- 7. The applicant's addendums submitted on December 12, 2011.
- 8. Provide no outdoor storage but outdoor display be allowed as part of an operational plan that is to be submitted and approved by Staff.
- 9. Applicant will agree to a parking assessment if required by the Planning Staff and agrees to follow any recommendations of such an assessment.
- 10. Applicant must submit the "Long Form Industrial Waste Survey/Permit Application."

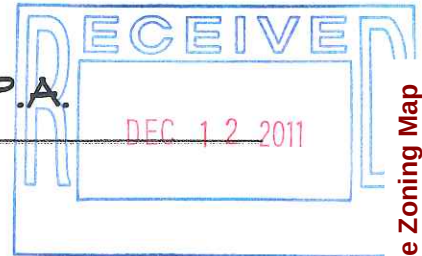
VOTE: Aye - All
Nay - None

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APPALACHIAN ARCHITECTURE, P.A.

WILLIAM (BILL) MAX DIXON, JR., AIA, NCARB



Appalachian Mountain Brewery
Prepared for Quarterly Public Hearing

Addendum to Conditional Re-Zoning Submittal
December 12, 2011

Members of the Boone Town Council and Planning Commission:

Please note the following changes, which have been made to the Conditional Re-Zoning submittal, as a result of Staff comments and recommendations. With these revisions, the Applicant believes that the proposed plans address staff comments from their original review, which you are considering tonight. The applicant apologizes for the late changes, but believes the revised plans, submitted with this 'Addendum,' results in a clearer submittal request and a better over-all project. Thank you for your time and consideration of these matters this evening.

- 1) **UPDATED SURVEY**-All proposed improvements to the property are subject to information provided by a new updated topographic survey which the applicant will obtain, upon receiving a Conditional Re-Zoning approval. The updated survey will establish all information required and pertinent to permit and construct the proposed project.
- 2) **DUMPSTER**-Proposed plans show the Dumpster relocated to improve Dumpster access and vehicle circulation. This relocation added additional parking spaces to both Phase I and Phase II.
- 3) **STREAM BUFFERS**-Applicant and Staff have agreed on the following improvements to the 25' stream buffer areas, once the new survey has established the location of the buffers along Hodges and Boone Creeks. The existing paved area at the front of the property outside of the enclosed fence area, along Hodges Creek can remain paved for vehicular circulation in/out of property. Buffer area within the enclosed fenced area will be cleaned of surface rock, minimal topsoil will be added and the buffer areas seeded and grassed, resulting in NO net change to the current existing and final grade elevations. A Special Use Permit is not required to complete these proposed improvements to the stream buffers.
- 4) **BICYCLE PARKING**- Applicant proposes to re-configure the existing Chain Link fence at the left front corner of the Building so that the Bicycle Parking and Electrical Service and Meter are accessible outside the fenced area. Applicant has added 4 uncovered bicycle parking spaces to the right front of the building to meet the required twelve (12) bicycle parking spaces that the current UDO requires.
- 5) **LOADING AREAS**- Loading Areas shown as required by UDO. Even at full build-out and production, Applicant does not anticipate the need for large trucks (aka 'Eighteen Wheelers') to serve the facility. We anticipate Loading Areas to be occupied for minimal amounts of time for deliveries and distribution.

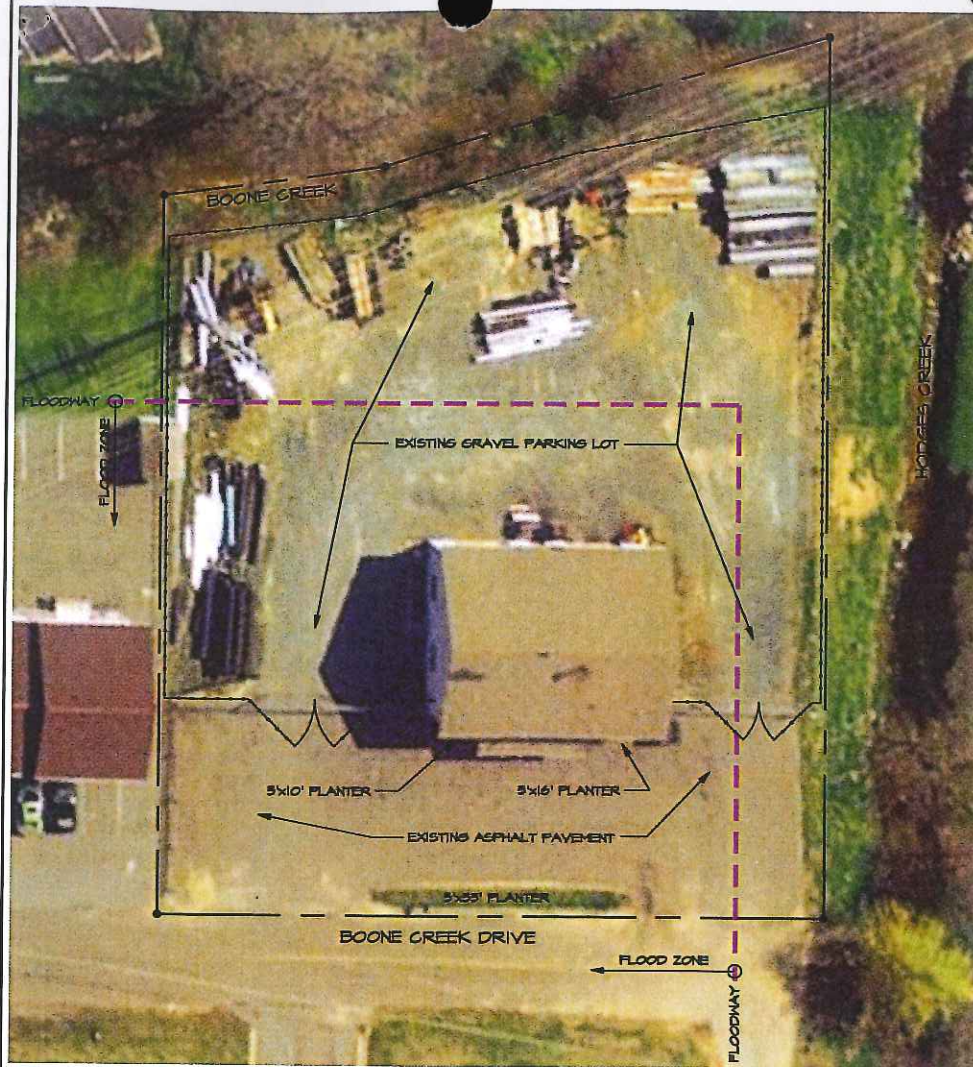
- 6) PARKING REQUIREMENTS-Parking Spaces shown reflect the maximum number of spaces the existing property can accommodate considering:
 - a] UDO requirements and the improvements proposed to for the Adaptive Re-Use of the vacant property,
 - b] The constraints that the combined floodways of Hodges and Boone Creeks impose on the full use of the property.The parking spaces provided meet the current requirements of the UDO, which are based on a maximum allowed, rather than a minimum required.
- 7) PHASE II SEASONAL OUTDOOR TASTING AREA-A Seasonal Outdoor Tasting Area has been indicated on the Phase II plans. The BREMCO power line easement will limit the degree to which this area could be covered in Phase II.
- 8) DEPARTMENT REVIEW COMMENTS-
 - Public Utilities- All water/Sewer requirements will be addressed during the Zoning and Building Permitting process.
 - Public Works- Dumpster location and access issues will be addressed during the Zoning and Building permitting process.
 - Fire Department- Applicant/Owner will provide the Fire Department with continual 24/7/365 access to the fenced area.

Again, we appreciate your personal time dedicated to this process, and your consideration of these important matters this evening.

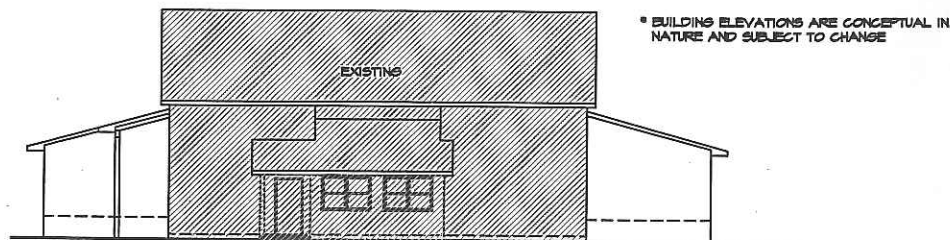
Respectfully,



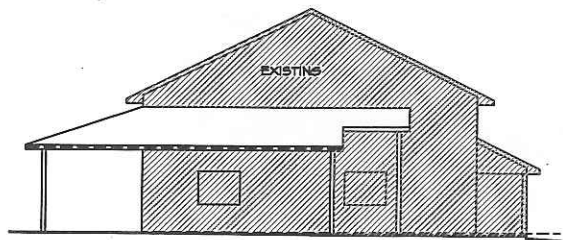
Bill Dixon, Architect, on behalf of
Appalachian Mountain Brewery and Sean Spiegelman
December 12, 2011



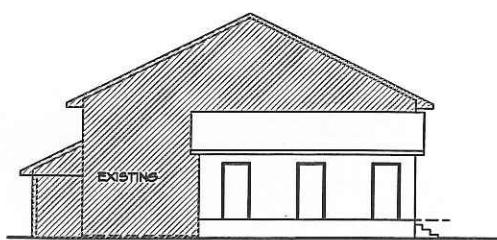
1 EXIST. SITE PLAN PHOTO
C-1 N.T.S.



3 PHASE I FRONT ELEVATION
C-1 N.T.S.



5 PHASE I LEFT SIDE ELEVATION
C-1 N.T.S.

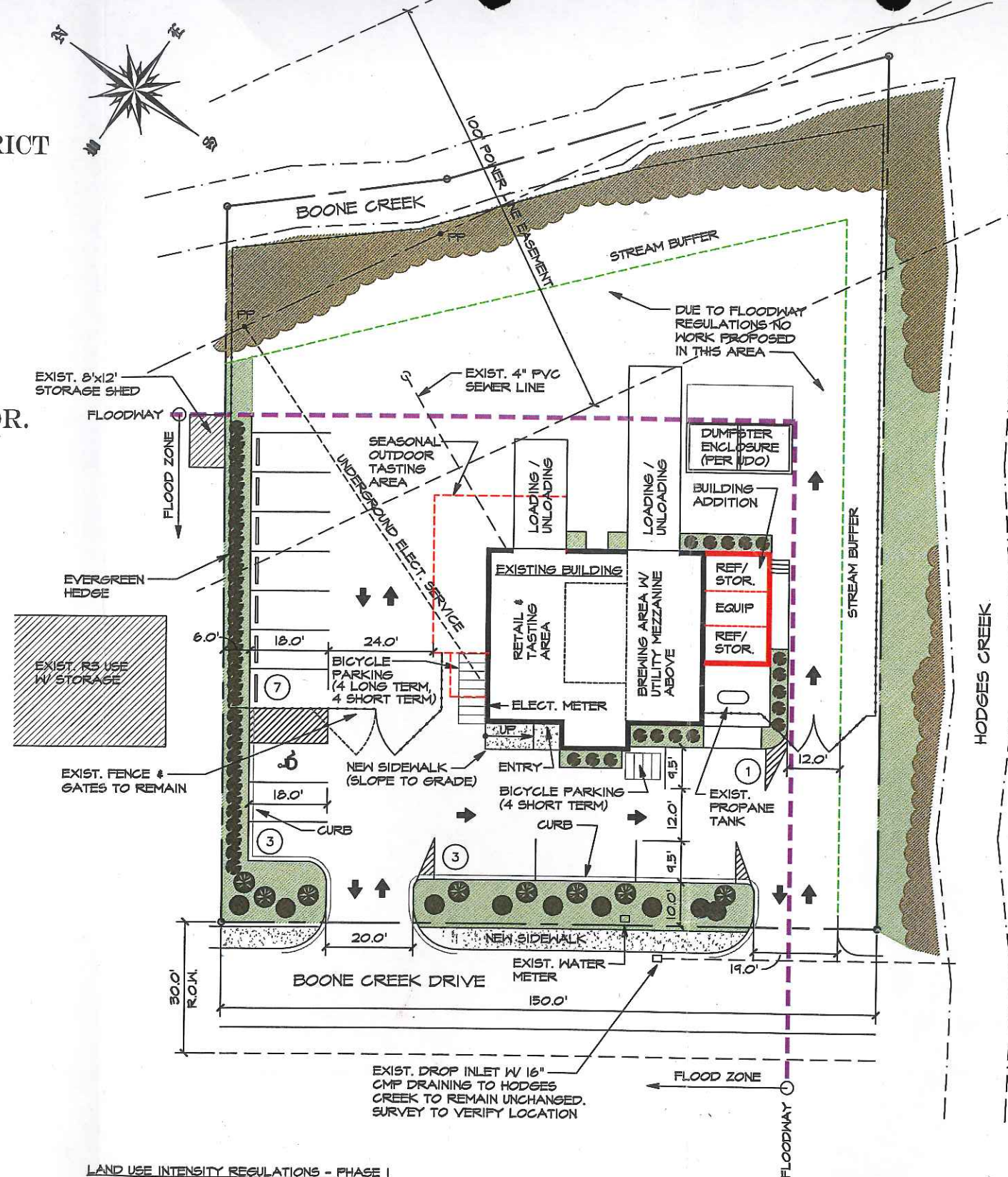


4 PHASE I RIGHT SIDE ELEVATION
C-1 N.T.S.

CONDITIONAL DISTRICT RE-ZONING FOR



163 BOONE CREEK DR.
BOONE, N.C.

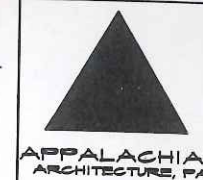


LAND USE INTENSITY REGULATIONS - PHASE I

	MIN. GROSS LAND AREA	MIN. LOT WIDTH	MAX. FLOOR AREA RATIO (FAR)	MIN. OPEN SPACE RATIO (OSR)	MIN. LIVABILITY SPACE RATIO (LSR)	MIN. RECREATION SPACE RATIO (RSR)	MIN. STREET SETBACK	MIN. INTERIOR SETBACK
REQUIRED (B3)	5,000 S.F.	50 FT.	.429	.71	.21	NA	20 FT.	17 FT.
PROVIDED	26,837 S.F.	150 FT.	.171	.897	.388	NA	20 FT.	17 FT.

* EXISTING IMPERVIOUS AREA = 23,128 S.F.
* PHASE I PROPOSED IMPERVIOUS AREA = 18,231 S.F.

2 PROPOSED SITE PLAN - PHASE I
C-1 N.T.S.



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DATE: 12/12/11

APPROVING:
DATE: AREA: BY:

SITE / ZONING INFORMATION
APPALACHIAN MOUNTAIN BREWERY
CONDITIONAL DISTRICT RE-ZONING

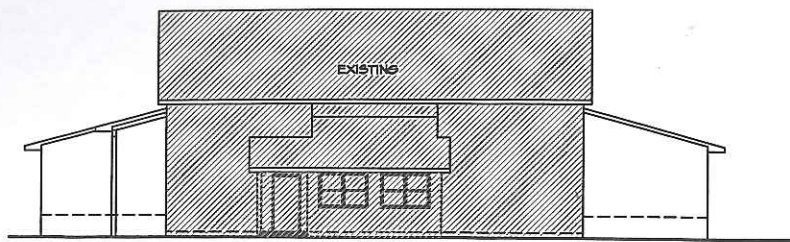
BOONE
NORTH CAROLINA

DRAWN BY: LG
CHECKED BY: BD

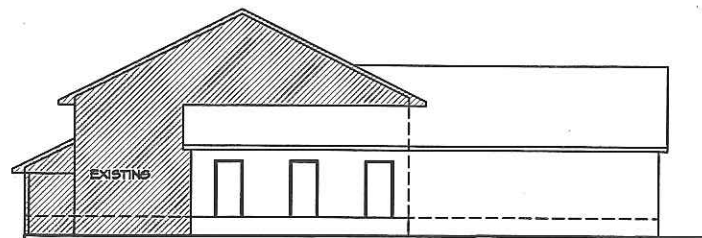
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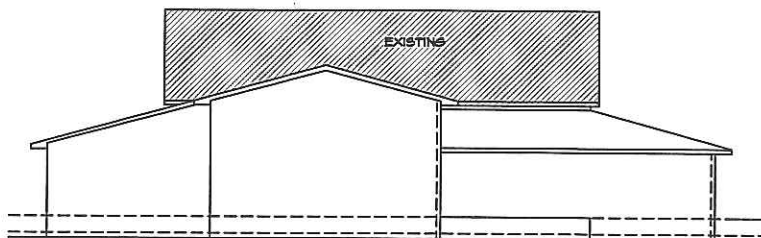
* BUILDING ELEVATIONS ARE CONCEPTUAL IN NATURE AND SUBJECT TO CHANGE



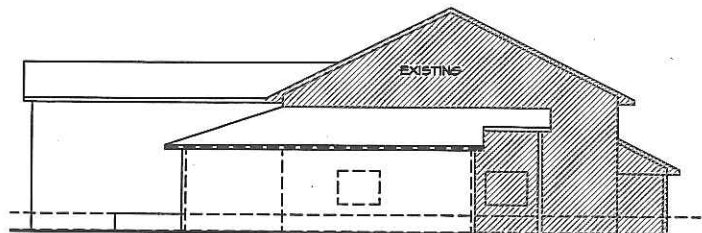
2 PHASE II FRONT ELEVATION
C-2 N.T.S.



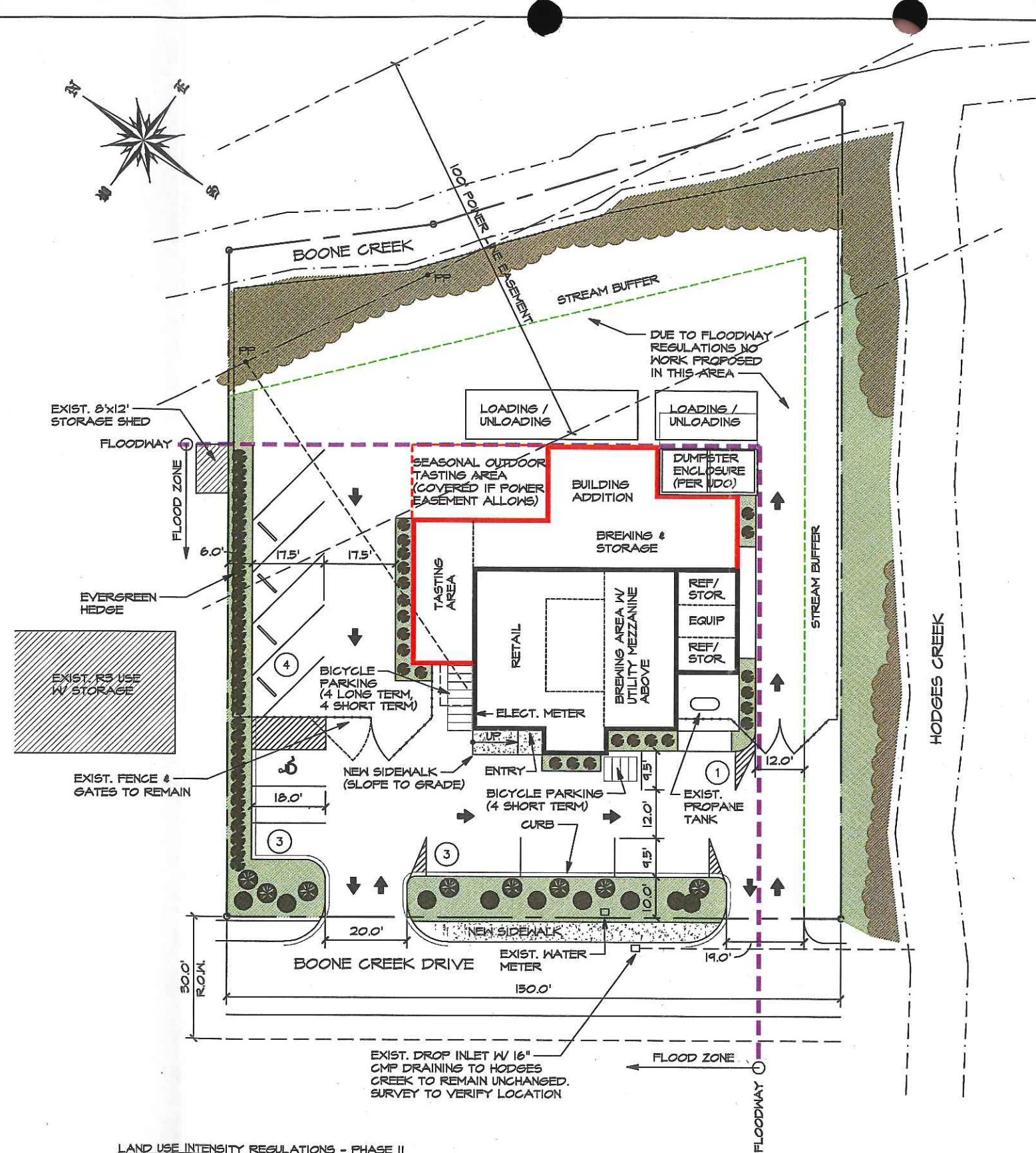
3 PHASE II RIGHT SIDE ELEVATION
C-2 N.T.S.



4 PHASE II REAR ELEVATION
C-2 N.T.S.



5 PHASE II LEFT SIDE ELEVATION
C-2 N.T.S.



LAND USE INTENSITY REGULATIONS - PHASE II

	MIN. GROSS LAND AREA	MIN. LOT WIDTH	MAX. FLOOR AREA RATIO (FAR)	MIN. OPEN SPACE RATIO (OSR)	MIN. LIVABILITY SPACE RATIO (LSR)	MIN. RECREATION SPACE RATIO (RSR)	MIN. STREET SETBACK	MIN. INTERIOR SETBACK
REQUIRED (B3)	5,000 S.F.	50 FT.	.429	.71	.27	NA	20 FT.	17 FT.
PROVIDED	26,831 S.F.	150 FT.	.270	.825	.424	NA	20 FT.	17 FT.

* EXISTING IMPERVIOUS AREA = 23,128 S.F.
* PHASE II PROPOSED IMPERVIOUS AREA = 18,231 S.F.

1 PHASE II PROPOSED SITE PLAN
C-2 N.T.S.
* ALL INFORMATION SHALL BE VERIFIED WITH UPDATED SURVEY



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DATE: 12/12/11

REVISIONS	DATE	BY

SITE / ZONING INFORMATION
APPALACHIAN MOUNTAIN BREWERY
CONDITIONAL DISTRICT RE-ZONING
BOONE
NORTH CAROLINA

DRAWN BY: LB
CHECKED BY: BO
SHEET TITLE

C2A



APPALACHIAN MOUNTAIN BREWERY, LLC
Adaptive Re-Use of Existing Building and Property

PROPERTY ADDRESS: 163 Boone Creek Drive
PIN # 2910-23-6493-000
PROPERTY SIZE: .616 acre (26,837 square feet)

PROPERTY OWNER: Johnny Hampton and Cherie Hampton Smith
3632 Old Highway 421 South
Boone, NC 28607

APPLICANT: Sean Spiegelman
dba Appalachian Mountain Brewery, LLC
Spiegelman Development and Holdings, LLC
182 Kalmia Lane
Boone, NC 28607

AUTHORITY HAVING JURISDICTION (AHJ): Town of Boone is the 'Authority having Jurisdiction' over the project. Planning and Inspections Department is the Zoning and Building permitting 'authority.' Applicant requests that the approval of the Conditional Rezoning of the property by Town Council will address all pertinent issues (in effect on the date of application) such that the additional burden of obtaining a Special Use Permit to occupy the subject property for the proposed use(s) will not be required.

OTHER PERMITS: Applicant is responsible for obtaining all necessary Permits and Licensures from the appropriate permitting authority, required to conduct a business to manufacture, bottle, sell (retail and wholesale), distribute, and serve micro-brewed beer from the subject property including Watauga County Health Department, and other Local, State, and Federal agencies. Applicant indicated that the Company received the required Federal Licensure allowing the Company to produce alcoholic beverages on Friday, November 18, 2011.

CURRENT ZONING: B3 (All adjacent properties are zoned B3)
PROPOSED ZONING: CB3

CORRIDOR OVERLAY DISTRICT: Subject property is in the Corridor Overlay District for Highway 321 South.

CURRENT USE: Vacant/For Sale
MOST RECENT USE: Welding Fabrication Shop/Grading Contractor
PROPOSED USE(S): Mixed

- 2.120 - Commercial Retail-Outdoor Display allowed.
- 2.220 - Commercial Wholesale- Outdoor display allowed.
- 4.120 - Light Industrial-No walk-in traffic anticipated.
- 8.300 - Private Club (Applicant requests the flexibility to sell beer by the glass without private club membership, should Town Council approve such activity in the future)

NON-CONFORMING SITUATIONS: If approved by Town Council, the proposed use(s) of the subject property as a micro-brewery will be in conformance with permissible uses. Per UDO Section 143 (c) (2), applicant will make all reasonable efforts to comply with the intent of the UDO. The proposed improvements to the property significantly reduce the non-conforming situations currently present on the property. The proposed improvements do not extend or enlarge any existing non-conforming situations on subject property.

Applicant is requesting a Conditional Re-Zoning of the property for the proposed Site-specific Use in order to Manufacture, bottle (can), sell (wholesale and retail), and serve Micro-brewed specialty beers.

PROPERTY DESCRIPTION: The existing property was developed as a Shop/Garage in the late 1970's and is accessed by Boone Creek Drive, a Town of Boone (TOB) maintained street, which dead-ends at the eastern end of subject property at Hodges Creek.

Subject property is bordered by Boone Creek (Centura Bank) to the North, Hodges Creek (Boone Mall) to the East, Boone Creek Drive to the South (apartments across the street), and a student apartment and storage building to the West. The two creeks merge at the subject property's NE corner. As such, the property is located in a Flood Hazard Area and is subject to routine flood events.

SURVEY INFORMATION and BASE MAP - A current topographic survey of the property is not available. Appalachian Architecture, PA created the Base Map information from public information from the Watauga County Register of Deeds office and existing GIS information, as well as, limited survey information from a previous 'No-Rise Certificate' Diagram from Atlantic Plan Company dated 1984 and information from the original Boone Creek Subdivision plat. As such, these plans should be considered conceptual in nature, and subject to change; once the actual survey work is completed.

NEW SURVEY - A current survey of the property locating all specific features, utilities and legal encumbrances on (and adjacent) to the property will be provided during the Zoning and Building Permitting submittals.

PHASING - Applicant is requesting that the proposed improvements to the property include phased construction of the project up to the build-out of Phase II.

FIVE YEAR VESTING PERIOD - Applicant requests a Vesting period of five years to complete the Construction and Build-out of the project.

TRAFFIC IMPACT ANALYSIS - The proposed project will not generate enough traffic to impact or trigger the five conditions required to necessitate a Traffic Impact Analysis. See attached Narrative for more detailed information.

MANUFACTURING PERFORMANCE STANDARDS - The 'emissions' from the Micro-brewing process will not exceed those limits established in Section 193 of the UDO. See the attached Narrative for more detailed information.

STREET - The existing property is accessed by Boone Creek Drive, which is a town maintained street. By existing pavement lines and assumed property corners, Boone Creek Drive measures to be 22' to 24' wide and is considered a tertiary street with limited traffic by the Town. The two existing driveways currently accessing the subject property will be maintained, though improved with curb and gutter and smaller entrances. Floodway restrictions will prevent driveway improvements at the Hodges Creek (East) entrance onto the property.

SIDEWALK - Assuming the proposed improvements to the existing building exceed 50% of the current appraised value of the BUILDING, the Applicant will install a sidewalk along the front of the property, along Boone Creek Drive, as required, (up to the established Floodway area along Hodges Creek), or pay the Sidewalk Fund, in lieu of construction of the sidewalk itself. Applicant will coordinate sidewalk location with Public Utilities Department and provide easements if applicable.

TRANSITIONAL ZONES - Not Applicable (NA)

GRADING, SOIL EROSION, and SEDIMENT CONTROL - The subject property was developed 25 (+) years ago. Based on the information available, approximately 86% (23,128 sf) of the 26,837 sf subject property is considered impervious, whether building, pavement, or compacted gravel. The proposed improvements to the property will add approximately 4,897 sf of new pervious area to the subject property. As such, no storm water controls are proposed for the subject property.

FLOOD HAZARD AREA - The entire property is located in a 'Flood Hazard Area' and is located in the 100 year Flood Zone. The rear and right sides of the properties are located in the Floodway. A new survey will determine the topographic data, reaffirm the current Base Flood Elevation (3126.0) and existing Finished Floor Elevation (3126.0), and locate the Flood Ways.

NO NEW CONSTRUCTION is allowed in the designated Floodway. All existing improvements are allowed to remain. As such, it is the Applicant's intent to leave the area within the designated Floodways unchanged. There is an existing six-foot high chain link fence in very good condition that is located in the Floodways, beginning within 3' of the front of the existing building and enclosing the rear and partial sides of the property. For security, Licensure and Insurance concerns, the Applicant intends to keep this fence in place and in good condition.

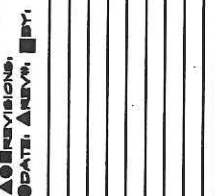
NEW CONSTRUCTION - All proposed new construction and improvements made to the existing structure (assuming improvements exceed 50% of the appraised value of the existing structure) will meet the requirements of Article XVII (17) - Floodplains, Drainage, and Storm Water Management. Article XVII will be reviewed, and addressed in detail in the Zoning and Building Permitting process.

FLOOD PLAIN CERTIFICATION - Applicant will provide an updated Flood Plain Certificate (FEMA Form 81) for the property and building as required for Zoning and Building permitting.



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DATE: 12/12/11



SITE / ZONING INFORMATION
APPALACHIAN MOUNTAIN BREWERY
CONDITIONAL DISTRICT RE-ZONING
BOONE
NORTH CAROLINA

DRAWN BY: LS
CHECKED BY: SD

SHEET TITLE
C2B

UTILITIES -WATER SERVICE - Property is currently being served by a water line from Boone Creek Drive from the Town's municipal water system. Applicant has applied for use of 54 gallons per day, which requires only staff approval. The subject property is credited for 100 gpd.

SEWER SERVICE - Property is currently being served by a septic line gravity flowing into the Town's municipal system at the rear of the property. Applicant will coordinate all waste system requirements in the brewing process with Public Utilities - Water and Sewer Department, and the Town's Sewer Treatment Operator.

ELECTRICAL SERVICE - Property is currently being served by underground electrical service running from a pole located near Boone Creek near the Northern property line. The subject Property is encumbered by a 100' power line easement along the Boone Creek Boundary Line (North) from overhead electrical power transmission lines. New River Light and Power Company is the electric service provider.

COMMUNICATIONS - Communication service to the property can be provided locally, from several national service providers.

DUMPSTERS - Proposed improvements to the property include the construction of a Dumpster Enclosed area for Garbage and recycling, per the Town's new recycling program.

SIGNAGE - Applicant will submit for signage permitting as required during the Building permitting process. See also Appendix D- Off-Premise Directional Signage request.

AUTOMOBILE PARKING - Proposed improvements to the property include delineating (14) parking spaces for Phase I of the project and (11) parking spaces for Phase II.

BICYCLE PARKING - Long term and Short term Bicycle parking will be provided per the UDO near the main public entry.

LANDSCAPING - Proposed improvements to the property include the following:

Boone and Hodges Creek Stream Buffer- Remain unchanged due to Floodway restrictions which prevent any land disturbing activities within Boone and Hodges Creek Floodways.

Sidyard Buffer- Due to existing conditions, applicant requests approval to reduce the western sideyard buffer from the required 10' buffer to 6'. Proposed improvements to the western sideyard include the creation of an opaque buffer to the Floodway line, established by FEMA mapping. All buffers will be landscaped per Town of Boone standards.

COMMUNITY APPEARANCE STANDARDS - Proposed improvements to the property and building meet the intent of the Community Appearance standards. Due to existing conditions, applicant may need to request consideration from the C.A.C. to reduce the roof pitch requirements from 4:12 slope to 3:12 slope in Phase II construction.

SITE LIGHTING - Site lighting information will be submitted for approval during the zoning permitting process.

APPENDIX 'D' - Off-premise Directional Sign - Applicant requests approval to locate Off-premises directional signage at the corner of Winkler's Creek Road and Boone Creek Drive, per Article XVIII - Signage.



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DATE: 12/12/11

REVISIONS:
DATE: REV: BY:

SITE / ZONING INFORMATION
APPALACHIAN MOUNTAIN BREWERY
CONDITIONAL DISTRICT RE-ZONING
BOONE
NORTH CAROLINA

DRAWN BY: LB

CHECKED BY: BD

SHEET TITLE

C2C

OF

QUARTERLY PUBLIC HEARING
MEETING MINUTES-Excerpt
MONDAY, MAY 6, 2013
7:00 P.M.

Boone Town Council: Mayor Loretta Clawson, Mayor Pro-Tem Jamie Leigh, Lynne Mason, Andy Ball and Rennie Brantz

Boone Area Planning Commission: Chairperson Eric Woolridge, Vice-Chairperson Greg Simmons, Phoenix Buathier, Donald Dotson, Jeff Templeton, Web Alexander, Robert Cherry and Matthew Long

Planning Staff: Bill Bailey – Director of Planning and Inspections, Jane Shook-Planner and Marlene Crosby-Board Secretary

Others: Greg Young-Town Manager

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CASE 20130064 AMB Holding Co., LLC has filed a petition for a Conditional District Map Amendment modification for Appalachian Mountain Brewery at 163 Boone Creek Drive (Watauga County Pin: 2910236493000) to allow an outdoor observation area to the rear of the lot and to allow independent food trucks to operate within the development.

As originally submitted, the applicant did not provide information or seek approval for the use of the outdoor observation area or for independent food trucks to service the lot. Since this is a site specific approval, the applicant has applied for a modification to allow both the outdoor observation area and for independent food trucks to service this lot.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Ms. Shook gave a brief history of the December 2011 approval by the Town Council for a Conditional District Map Amendment petition for the Appalachian Mountain Brewery with the conditions of approval found in the meeting packet. Ms. Shook said since this is a site specific approval any modifications would need to come back before the Town Council members for further review. Ms. Shook noted that Mr. Sean Spiegelman the manager of the Appalachian Mountain Brewery and a representative of AMB Holding Company, LLC was present at this meeting to answer questions on this case.

Mr. Sean Spiegelman came to the podium to present and answer questions on this case. He explained the modification request and expounded on the things he has done to make this site meet the approval of the conditions that were placed upon it. He talked about the buffers and special flood hazard area. Mr. Spiegelman said a brewery and a food truck combined together is the essence of small business being able to succeed. He said food trucks have to be licensed, insured and inspected before they are allowed to operate anywhere in the town limits or the county.

Mr. Spiegelman talked about the outdoor observation area meeting the floodplain requirements. He said that during the worse rains that they have seen; the fence posts from the removed fence may have taken on an inch of water. He said he did not remove the fence posts because of erosion proposes. He said when the Boone Mall was flooded; there was no problem with water at the outdoor observation

area. He said from his standpoint all the obstruction has been removed, when he removed the fences. He talked about Article XVII, Section 303[f] and that he does not want to increase the potential for a flood.

Mr. Spiegelman talked about the Feastie Boys independent food truck at the brewery. He noted that this is not a restaurant at the brewery. He said that since the food truck has been coming to the brewery, their business has grown by five to seven employees and possibly expanding to another food truck. He said no matter what happens with the outdoor observation, the town needs to support the small types of businesses like independent food trucks.

Mr. Spiegelman talked about the brewery with the independent food trucks and how they will attract people and be a place where people can come to enjoy the mountains and what the Town of Boone has to offer.

Mr. Spiegelman talked about the review comments from Mr. Josh Eller, Utility Service Technician which included the sewer lateral that connects into the existing main line. He said, if something needs to be replaced with the sewer, the brewery would pay the cost of it. He said that the brewery cares about the creek more than anyone because the brewery building is situated on the creek.

At 7:19 p.m. Planning Commission Member Tom Purpur joined the meeting.

Mr. Spiegelman talked about the traffic and graveled parking area around the brewery building.

Planning Commission Member Templeton asked Mr. Spiegelman how many seats are in the tasting room at the brewery. Mr. Spiegelman said there are 80 seats. Planning Commission Member Templeton asked Mr. Spiegelman what arrangements has he made to handle the overflow parking, if he turns the brewery into a restaurant? Mr. Spiegelman said that Planning Commission Member Templeton's concern is warranted. Mr. Spiegelman said that the owner of the building is present and he can speak on his experience with the parking including the feedback from the tenants of their building. Planning Commission Member Templeton asked how many cars can park in the gravel area behind the brewery. Mr. Spiegelman said that it depends on how the cars are parked in the gravel lot. Planning Commission Member Templeton asked about the overflow parking area and how it is working with the 80 seats and 37 parking spots on site. Mr. Spiegelman said that the tap room does not open until 4 p.m. daily. Mr. Spiegelman said by the time there is a need for overflow parking most of the daytime working people are gone for the day. Mr. Spiegelman said he has not had problems with the overflowing parking. Mr. Spiegelman said that he has a verbal agreement with the property owner where the overflow parking is located. Planning Commission Member Templeton said that in the original approval there was no stipulation for business hours and they could open the business at 12 noon. Mr. Bailey said that is correct.

Planning Commission Chairperson Woolridge asked Mr. Bailey in regards to Section 303, he said the bar top that is on top of the posts is not inside the floodway because it is so high up. He asked Mr. Bailey if the staff is requesting a letter of no impact from an engineer. Mr. Bailey said that Section 303 says there will be no obstruction in the floodway of a permanent nature. Mr. Bailey said the permit issuing authority which is ultimately the Town Council will decide based on the evidence that is entered. Mr. Bailey read the section of the UDO regarding encroachment in the occurrence of a base flood. Mr. Bailey said that evidence is probably all ready there because the posts are there. Mr. Bailey said that

this is a change of use and the brewery has to get permission for it. Mr. Bailey said there has to be a finding in fact that meets especially Section 303[f][1][a]. Mr. Bailey said this will not create a significant flood risk.

Planning Commission Vice-Chairperson Simmons asked if there was a complete existing fence. Mr. Bailey said yes it was a chain-link fence. He asked Mr. Bailey, if he puts a 2" x 12" top on the posts will it be necessary to have a letter from a hydrologist. He asked Mr. Bailey is adding a top on the posts considered new construction per the UDO. Mr. Bailey said yes it would be considered new construction. Mr. Bailey said the next question would be is in the floodway or is it above the base flood elevation. Mr. Bailey said that he does not know the answer to this question.

Mr. Spiegelman said that the existing building slab sits at base flood level. Mr. Spiegelman added that it is not FEMA that requires the base flood level; it is the Town of Boone that requires the building slab to be flood proofed to two-feet above base flood level.

Mr. Spiegelman talked about the buffer requirement of 25 feet. He said he made the buffer 35 feet and if there is a problem with the parking, he can use the additional space of the buffer to correct the problem.

Mr. Spiegelman said that he does not see a problem with the traffic flow, outdoor observation area, the independent food truck or the parking. He asked the Town Council and Planning Commission members to consider all of these things, when they are making recommendations and decisions on this request.

Mr. Spiegelman said from an environmental standpoint, the brewery has installed solar panels and created a waste recycling program. He said they have donated money to non-profits for different causes. He said they have plans to donate more money.

Planning Commission Chairperson Woolridge said he sees three issues with this request. They are the actual use of the outdoor observation area, the removed fence posts and the location of the bar top on the fence posts in regards to the floodway. He asked Mr. Bailey if the staff has a problem with the fence posts. Mr. Bailey said yes to a degree because they are still an obstruction in the floodway. Mr. Bailey said the question is, are the fence posts a significant obstruction in the floodway. Mr. Bailey said probably not. Mr. Bailey said the staff used the model ordinance which uses the base flood of two feet elevation and this information came from FEMA.

Planning Commission Member Cherry asked Mr. Bailey to explain the history of the fence. Mr. Bailey said the brewery was asked by staff to remove the fence as part of the approval process. Mr. Bailey said regarding the change of use, they had to come into compliance and with the removal of the fence; the obstruction is no longer there. Mr. Bailey talked about the removal of the posts would further cause damage so only the chain link fence was removed. Mr. Bailey said that the staff allowed the posts to stay in. Mr. Bailey said that Mr. Spiegelman has complied with the spirit of the flood ordinance to the best of his ability concerning the posts.

Discussion ensued on rain events at the location of the Appalachian Mountain Brewery. Mr. Spiegelman talked about checking the culverts after rain events to improve floodway areas.

Planning Commission Vice-Chairperson Simmons asked Mr. Spiegelman if he gets from 20 to 30 cars in the gravel lot and how many parking spaces does it take to bring in the independent food truck. Mr.

Spiegelman said it does not take up spaces because they are parking away from where the food truck would park. Mr. Spiegelman said the existing approval gave the brewery 20 feet beyond the building.

Planning Commission Vice-Chairperson Simmons asked Mr. Spiegelman if he is at the final footprint with this building. Mr. Spiegelman said that he could potentially expand the building. Planning Commission Vice-Chairperson Simmons said if the CDR is amended now, once the brewery reaches the final footprint including the food truck, it would need to be revisited. Planning Commission Vice-Chairperson Simmons asked will the food truck always work there. Mr. Spiegelman said yes because he will always figure some way for it to be there. Mr. Spiegelman said that he would remove the food truck in a rain event. Mr. Spiegelman said it is the goal of the community and of the Appalachian Mountain Brewery to meet the outline of the 2030 Land Use Master Plan and the Appalachian Mountain Brewery is meeting the outline of it.

Mr. Spiegelman reiterated to the Town Council and Planning Commission members to please look at this request as a whole, when making decisions and recommendations for this request.

The first speaker was Mr. Jeremy Bertrand who lives at 120 View Point Lane. He supports this request.

The second speaker was Mr. Nathan Kelizchek who lives at 135 Boone Creek Drive. He supports this request.

The third speaker was Mr. Chris Zieber who lives at 135 Boone Creek Drive. He supports this request.

The fourth speaker was Mr. Kevin Snook who lives at 250 Cecil Street. He supports this request.

The fifth speaker was Mr. Stephen Phillips who lives at 264 Ivy Drive. He said that he is one of the owners of the overflow parking area. He said he has seen no problems with the overflow parking; it is working out well.

The sixth speaker was Ms. Susan Owen who lives at 195 Wintergreen Lane. She supports this request.

The seventh speaker was Mr. Patrick Brown. He said that he supports this request.

Mayor Clawson closed the public hearing for this case.

...

**TOWN OF BOONE
PLANNING COMMISSION
MAY 13, 2013 at 6 PM
Meeting Minutes- Excerpt**

Members Present: Chairperson Eric Woolridge, Vice-Chairperson Greg Simmons, Donald Dotson, Susan McCracken, Jeff Templeton, Web Alexander, Phoenix Buathier and Matthew Long

Staff Present: Mr. Bill Bailey-Director of Planning and Inspections and Marlene Crosby-Board Secretary

CASE 20130064 AMB HOLDING CO., LLC AMB Holding Co, LLC has filed a petition for a Conditional District Map Amendment modification for Appalachian Mountain Brewery at 163 Boone Creek Drive (Watauga

County PIN: 2910236493000) to allow an outdoor observation area to the rear of the lot and to allow independent food trucks to operate within the development.

As originally submitted, the applicant did not provide information or seek approval for the use of the outdoor observation area or for independent food trucks to service the lot. Since this is a site specific approval, the applicant has applied for a modification to allow both the outdoor observation area and for independent food trucks to service the lot.

Mr. Bailey presented this case as outlined in the meeting packet. Mr. Bailey said that the applicant is requesting two modifications to the original approval. The requests are to add a food service and to allow a bar that is sitting on the actual fence posts along Boone Creek and the rear of the property. Mr. Bailey gave more detail on what the applicant has done to comply with the conditions of the prior approval. Mr. Bailey asked the Planning Commission members if they felt the posts were impeding the floodway. Mr. Bailey said that the staff did receive a letter dated May 13, 2013 to Mr. Sean Spiegelman at Appalachian Mountain Brewery from Mr. Patrick A. Beville, PE, LEED AP from Ioncon, PLLC regarding the existing fence posts (permanently attached). Mr. Bailey read an excerpt of this letter to the Planning Commission members. Mr. Bailey said the letter stated that the bar platform on top of the existing metal fence post, as it has been modified from the standard chain link fence, will reduce the localized flood waters and help prevent further property damage.

Discussion ensued about the posts and chain link fence and the property being above base flood elevation. Member McCracken asked if the posts are still in the floodway. Mr. Bailey said the posts are in the floodway. Member McCracken asked if the status of the posts was known at the May 6, 2013 Quarterly Public Hearing. Vice-Chairperson Simmons and Mr. Bailey said yes, they were at this property. Mr. Bailey said he was there during the January 20, 2013 rain event. Mr. Bailey said the bottom of the posts was in the water and the parking lot on the side of the posts from where he was standing was barely under water. Mr. Bailey said that the January 20, 2013 flooding was much worse than the more recent flash flooding in this area and the posts were not in the water at that time. Chairperson Woolridge said the Planning Commission members were satisfied with the information in the letter from Mr. Patrick Beville regarding the fence and posts.

Discussion ensued on the food truck and the parking at the brewery. Member Templeton asked Mr. Bailey if the staff had received any complaints about the parking from the brewery customers. Mr. Bailey said that he had received one complaint from Mr. Button across the street. Member Templeton asked about the parking regulations. Mr. Bailey said as a rule, parking is not allowed in the right of way; there are some exceptions in the town. Member Templeton asked when the staff would need to enforce the parking at the brewery. Mr. Bailey said if there were multiple complaints, the staff would ask for a formal parking study. Member Templeton said that he was aware of another ongoing complaint from the same party. Mr. Bailey said he is not aware of a second complaint. Member Templeton noted that he has seen parking in the street and in the overflow parking area at the Employment Security Commission. Member Templeton said that he has a concern for the long-term parking for the brewery customers with no off-site parking regulations in place. Member Templeton asked what happens if the shared parking property is sold to a new owner?

Member Templeton said by allowing the food truck at the brewery, it is becoming a restaurant and there is no way around it. Mr. Bailey said that the Planning Commission can ask for certain conditions for the food truck and parking. Member Templeton said there are 88 seats in the dining room and the bar which

in effect would be a restaurant. Member Templeton asked what provisions are being made for this restaurant. Mr. Bailey said the request is in the application and the Planning Commission can make specific conditions for the parking. The applicant has to agree to the conditions. Member Templeton asked when the staff asks for a parking study that the applicant agreed to in their approval. Mr. Bailey said if there is a demonstration that there is inadequate parking, the staff would ask the applicant for a parking study because this is part of the demonstration of compliance. Mr. Bailey reiterated if there were multiple complaints, the staff would require for a parking study and require the applicant to follow the parking study recommendation.

Member Templeton said that Mr. Stephen Phillips one of the owners of the Employment Security Commission overflow parking area said at the Quarterly Public Hearing on May 6, 2013 that there is a verbal agreement for the parking. Member McCracken asked if there was a town requirement on how much parking a food truck should have. Mr. Bailey said the town does not regulate food trucks at all other than requiring a business license.

Member McCracken asked what hours is the food truck at the brewery. Chairperson Woolridge said the brewery opens at 4 p.m. and only open in the evening. Member McCracken asked if the food truck was listed as a permissible use. Mr. Bailey said it is listed as a temporary accessory use in the table. Member Templeton said there is no language in the CDR approval that says they cannot open at 12 noon for lunch.

Member Templeton showed a picture of the current signage at the brewery and said the signage should be addressed along with the parking.

Chairperson Woolridge asked the opinions of the Planning Commission members regarding conditions. Member Templeton said the things that should be considered as conditions are the parking, signage and hours of operation. Member Buathier said not every customer eats at the brewery, some of them just enjoy a beer and leave. Vice-Chairperson Simmons asked Mr. Bailey about number two of the Findings and Conclusions in the staff report regarding the provisions of the operational plan. Mr. Bailey explained the operational plan would have to include such things as the moving of cars during rain events and bottles and glasses that would cause debris. Mr. Bailey said that the operational plan would have to be modified to include anything that is associated with the bar and food truck.

Discussion ensued on how larger cities like Raleigh, North Carolina handle food trucks. Mr. Bailey explained that local governments have some regulations for traffic or safety issues.

Member McCracken asked if the food truck has caused any traffic or safety issues. Mr. Bailey said no and explained there are fire code requirements to be met. Chairperson Woolridge agreed there are no safety issues.

Chairperson Woolridge talked about the parking, formal agreement for parking and the signage and that the staff will enforce the signage and parking. Chairperson Woolridge said that there is a parking agreement in place whether it be verbal or written. Member Templeton continued to talk about the parking issues, the parking agreement and the hours of operation. Mr. Bailey read UDO Section 346-A Parking regarding the enforcement of parking. Member McCracken said that the staff will enforce the parking issues whether or not there is a condition placed on them.

Member Long gave his opinion of the parking and the signage. He thinks the street parking is beyond the Planning Commission control. He thinks the signage should direct customers to the overflow parking area since there is a parking agreement in place. He thinks that the applicant is willing to be a good neighbor to the surrounding property owners. Member Long said he thinks the food truck is a convenience for the brewery.

Chairperson Woolridge asked Member Long if he thinks there should be any conditions placed on the things he is concerned about and Member Long said that he thinks there should be signage to protect the surrounding neighbors.

Member Buathier said that most apartment buildings have towing enforcement signs.

Discussion ensued on the one complaint received by staff. Mr. Bailey said that he has been on site several times day and night and he has not observed parking issues.

Member Dotson asked if the applicant has a monetary interest in the food truck. Mr. Bailey said the applicant's request is for the use.

Mr. Bailey said there was a formal parking agreement signed on May 13, 2013 in the applicant's case file.

Member Templeton asked Mr. Bailey if the Planning Commission could table this case until a parking study could be completed. Mr. Bailey said the Planning Commission would have to make a recommendation of approval or denial on this case. It was the consensus of the Planning Commission members to make the following additional conditions five, six and seven on this case.

FIRST MOTION:

Member McCracken made the first motion to the proposed amendment to the town's zoning map is consistent with the town's comprehensive plan and other applicable adopted plans of the town which relate to this application because it supports economic development through new and expanding industries and businesses to encourage and to diversify the local economy and train a skilled labor force and also supports small business start-ups, expansions and spinoffs, seconded by Member Alexander.

VOTE: Aye – 7 (Alexander, Buathier, Dotson, Long, McCracken, Simmons, Woolridge)

Nay – 1 (Opposed – Templeton)

The motion passed.

SECOND MOTION:

Chairperson Woolridge made a motion to the proposed amendment to the town's zoning map and believes approval is reasonable and in the public interest because of the existing staff conditions that have been agreed to by the applicant, and the original approval for this particular use for the following reasons, seconded by Member McCracken.

The first four are Staff recommendations:

1. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.

2. The AMB operational plan shall be modified to include provisions for the “outdoor observation area” and “food trucks”.
3. A detailed plan, including traffic circulation and parking, shall be submitted for approval by the Planning and Inspections Staff and Fire Marshal.
4. Applicant must demonstrate compliance with UDO, Article XVII, Section 303 [f] prior to the use of the “outdoor observation area”.

These are new conditions:

5. Will have adequate parking with a formal agreement with the Employment Security Commission.
6. The applicant will provide sufficient evidence from a competent source that the bar top will not impede the floodway.
7. This plan will allow for further economic development in the town in reference to Section 303 [f].

Mr. Bailey asked Chairperson Woolridge, if on the first additional condition did he assert that there is adequate parking. Chairperson Woolridge said yes and he based his recommendation on the written parking agreement from the property owner of the Employment Security Commission.

VOTE: Aye – 7 (Alexander, Buathier, Dotson, Long, McCracken, Simmons, Woolridge)

Nay – 1 (Opposed – Templeton)

The motion passed.

Vice-Chairperson Simmons offered a friendly amendment to reference Section 303 [f] to the third recommended condition.

Member Alexander asked about the signage being part of the recommendation for conditions. Mr. Bailey said that the staff would pursue the signage anyway because it is a UDO requirement and covered under Condition four and Articles seven and 18.

Member Templeton asked Chairperson Woolridge based on your motion you feel there is adequate parking without a parking study or any formal calculation. Chairperson Woolridge said that the staff can pursue it, if they feel it is necessary. Chairperson Woolridge said in his opinion, he feels there is sufficient parking until a parking study shows him otherwise. Mr. Bailey further explained that there has not been a parking study done because it was assumed that there was adequate parking with the anticipation of needing a parking study because of the growth of the business. Mr. Bailey said if there had been more multiple complaints, he would inform the applicant that he needs to demonstrate that he has adequate parking. Mr. Bailey said he did not see the need for a demonstration of adequate parking based on one complaint. Vice-Chairperson Simmons said that in the original approval the applicant agreed to pay for a parking study and to adhere to the recommendations of the assessment, if necessary. Mr. Bailey said, if a parking study is needed, it is a two-step process. Mr. Bailey said the applicant has to tell the staff how many parking spaces he needs and where the spaces are to be located. Member Templeton said there has been a second parking complaint. Mr. Bailey said that he did not know about it at this time.

Member Templeton said that this was originally a brewery with a tasting room and was approved and now this request is a restaurant that brews its own beer. Member Alexander and Member Dotson said that they think they are two separate venues. Member Dotson said regardless the parking issues have already been covered in the original approval of conditions.

MINUTES – REGULAR MEETING – Excerpt
BOONE TOWN COUNCIL
MAY 21, 2013

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, May 21, 2013, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Andy Ball, and Allan Scherlen. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Finance Director Amy Davis, Assistant to the Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Planning Director Bill Bailey, Human Resources Director Peri Moretz, and Cultural Resources Director Pilar Fotta.

CONSIDERATION OF ZONING MAP AMENDMENTS

- Case 20130064 – AMB Holding Co., LLC has filed a petition for a Conditional District Map Amendment modification for Appalachian Mountain Brewery at 163 Boone Creek Drive (Watauga County PIN 2910-23-6493-000) to allow an outdoor observation area to the rear of the lot and to allow independent food trucks to operate within the development.

Planning Director Bill Bailey presented the request and noted that the Planning Commission recommended approval with conditions.

Vote #1

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved that the proposed amendment to the Town's zoning map is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it supports economic development through new and expanding industries and businesses to encourage and to diversify the local economy and train a skilled labor force and also supports small business start-ups, expansions, and spinoffs.

VOTE: Aye – All
Nay – None
Absent – 1 (Brantz)

Vote #2

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to approve the proposed amendment to the Town's zoning map with the following conditions and believe approval is reasonable and in the public interest because of the existing staff conditions that have been agreed to by the applicant:

1. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if

2. The AMB operational plan shall be modified to include provisions for the “outdoor observation area” and “food trucks.”
3. A detailed plan, including traffic circulation and parking, shall be submitted for approval by the Planning and Inspections Staff and Fire Marshal.
4. Applicant must demonstrate compliance with UDO, Article XVII, Section 303 [f] prior to the use of the “outdoor observation area.”
5. The applicant shall have adequate parking with a formal agreement with the Employment
1. Security Commission.
6. The applicant will provide sufficient evidence from a competent source that the bar top will not impede the floodway.
7. This plan will allow for further economic development in the town in reference to Section 303 [f].

VOTE: Aye – All

Nay – None

Absent – 1 (Brantz)

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
- ☐ Commercial
- ☐ Board of Adjustment Hearing (other than Appeals)
- ☒ Planning/Other

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, North Carolina 28607
Phone Number: 828-268-6200 Email Address: planning@townofboone.net
Property Owner: Charles Wayne Perry Jr. Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): 2901-82-4202-000
Address/Location: 168 Sun Haven Lane
Project Name: Perry, Charles – General Use Zoning Map Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- ☐ Accessory Building *Zoning Project Data Form (Residential or Commercial)
- ☐ Addition/Expansion including decks and patios *Zoning Project Data Form (Residential or Commercial)
- ☐ Change of Use *Commercial Project Data Form
- ☐ Land Disturbance (not associated with the construction of a bldg.) *Zoning Project Data Form (Residential or Commercial)
- ☐ Manufactured Home Set-up in Park *Manufactured Home in Park Form
- ☐ New Building Construction *Zoning Project Data Form (Residential or Commercial)
- ☐ Renovation/Remodel *Zoning Project Data Form (Residential or Commercial)
- ☐ Accessory Use (as listed in UDO Subsection 15.07.01) *Zoning Project Data Form (Residential or Commercial)
- ☐ Temporary Use (as listed in UDO Subsection 15.07.02) *Zoning Project Data Form (Residential or Commercial)
- ☐ Sign *Sign Project Data Form (Zoning)
- ☐ Pavement Sealant *Pavement Sealant Project Data Form
- ☐ Major Subdivision Zoning Permit *Commercial Project Data Form

Board of Adjustment Hearings

- ☐ Special Use Permit/Modification *Special Use Permit Form
- ☐ Variance *Variance Form
- ☐ Major Subdivision Preliminary Plat Approval *Major Subdivision Preliminary Plat Approval Form

Planning/Other

- ☐ Exempt Division of Land *Subdivision Exemption Project Data Form
- ☐ Minor Subdivision (Preliminary and Final Plat) *Minor Subdivision Project Data Form
- ☐ Major Subdivision (Final Plat) *Major Subdivision Final Plat Project Data Form
- ☐ UDO Text Amendment *Text Amendment Project Data Form
- ☒ General Use Zoning Map Amendment *General Use Map Zoning Map Amendment Project Data Form
- ☐ Conditional District Zoning Map Amendment *Conditional District Zoning Map Amendment Project Data Form
- ☐ Voluntary Annexation *Annexation Petition (Satellite or Contiguous)
- ☐ UDO Text Interpretation *UDO Interpretation Data Form

D. DETAILED DESCRIPTION OF PROJECT

The Town of Boone has initiated the zoning of property (Watauga County PIN: 2901-82-4202-000) owned by Charles Wayne Perry Jr. to either R1 Single-Family Residential or RA Residential Agriculture along with Viewshed Protection overlay district. Zoning is to coincide with the property owner's voluntary annexation of the property. The property is located off Sun Haven Lane (formerly 168 Sun Haven Lane).

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer:**

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

Architect:

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

G. BROWNFIELDS AGREEMENT NOTIFICATION

- Does the applicant have or is the applicant planning to enter into a Brownfields Agreement with the NC Brownfields Program? ☐ Yes ☒ No (If yes, please answer question #2 below.)
- Anticipated date for the first year of partial exclusion of property taxes: _____

H. 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
Applicant¹ (Print)

/s/ Jane Shook
Applicant Signature

December 17, 2018
Date

Process initiated by the Town of Boone in response to the property owner's petition for annexation. The process to annex this property is currently in progress (PL01935-092418).

Property Owner (Print)

Property Owner Signature

Date

Official Use Only

Permit Number/Project File Name:

PL02156-121718; Perry, Charles – General Use Zoning Map Amendment

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
12/17/2018	NA	NA	NA	NA

S:\FORMS\Current Forms\Zoning\ZoningPlanningPermitApplication_07062018.doc

¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

General Use Zoning Map Amendment Project Data Form

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	
Project Name/Number:	PL02156-121718
Permit Name/Number:	Perry, Charles – General Use Zoning Map Amendment

It is recommended that applicants schedule a meeting with Planning & Inspections Staff prior to application submittal.

A. ADDITIONAL APPLICATION INFORMATION

Hearing Date Requested¹: January 28, 2019

B. DEVELOPMENT INFORMATION

Existing Zoning District(s): Not Zoned Proposed Zoning District(s): R1 or RA, Viewshed

Existing Land Use(s): Vacant

Adjacent Land Use(s): N: Vacant E: Vacant

W: Single-Family Dwelling S: Single-Family Dwellings, Vacant

Are there are any existing variances granted to the property? ☒ Yes ☐ No ☐ Unknown

If yes, describe: Property owner received a variance in to encroach into stream buffer in 2013.

Total Land Area: .323 acre

C. DOCUMENTS REQUIRED FOR SUBMITTAL

- ☐ Application Fee
- ☐ Deed(s) of all property included in the request*
- ☐ ~~A written metes & bounds legal description with accompanying survey map is required for a request that would rezone only a portion of a tax parcel or requests for multiple zoning districts~~

D. PROPERTY OWNER SIGNATURE:

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

*Process initiated by the Town of Boone in response to the property owner's petition for annexation. The process to annex this property is currently in progress and all deeds may be found in the annexation project file (PL01935-092418).

Property Owner (Print)

Property Owner Signature

Date

¹ Each applicant must provide the meeting date for which they wish their request to appear. Each completed application must have met published meeting deadlines.

Official Use Only

Public Hearing Meeting Date: January 28, 2019

PC Meeting Date: _____

TC Meeting Date: _____

Date of APO Mailed Notification: January 4, 2018

Date of Posted Notification: January 4, 2018

Project Approved: ☐ Yes ☐ No

Date Order Recorded: NA

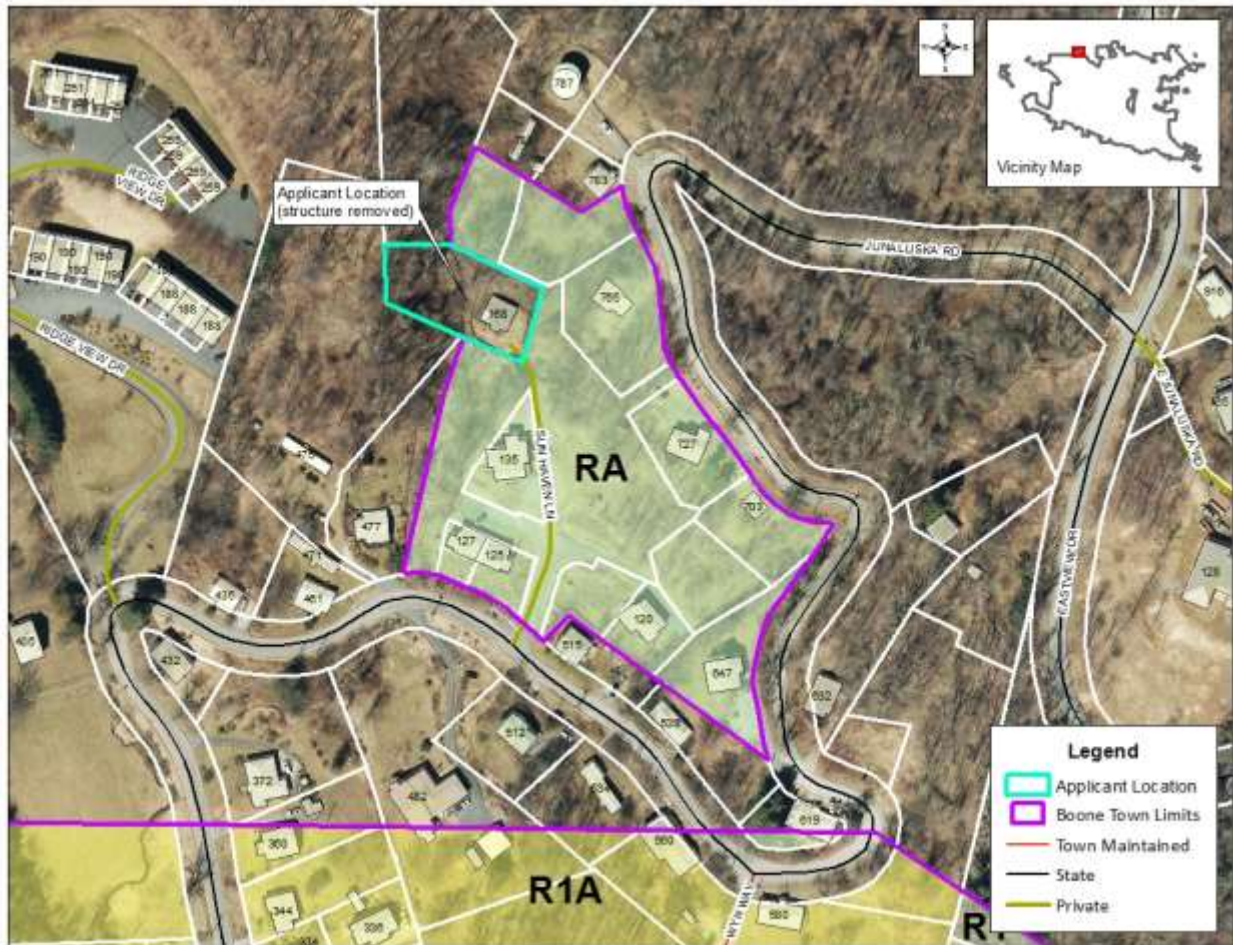
Order Recordation Information: Book: NA Page: NA

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Communication: Case PL02156-121718 Application Information (Case PL02156-121718 Charles Perry - General Use Zoning Map Amendment)

STAFF REPORT
PUBLIC HEARING
JANUARY 28, 2019

CASE PL02156-121718 PERRY, CHARLES- GENERAL USE ZONING MAP AMENDMENT



Request

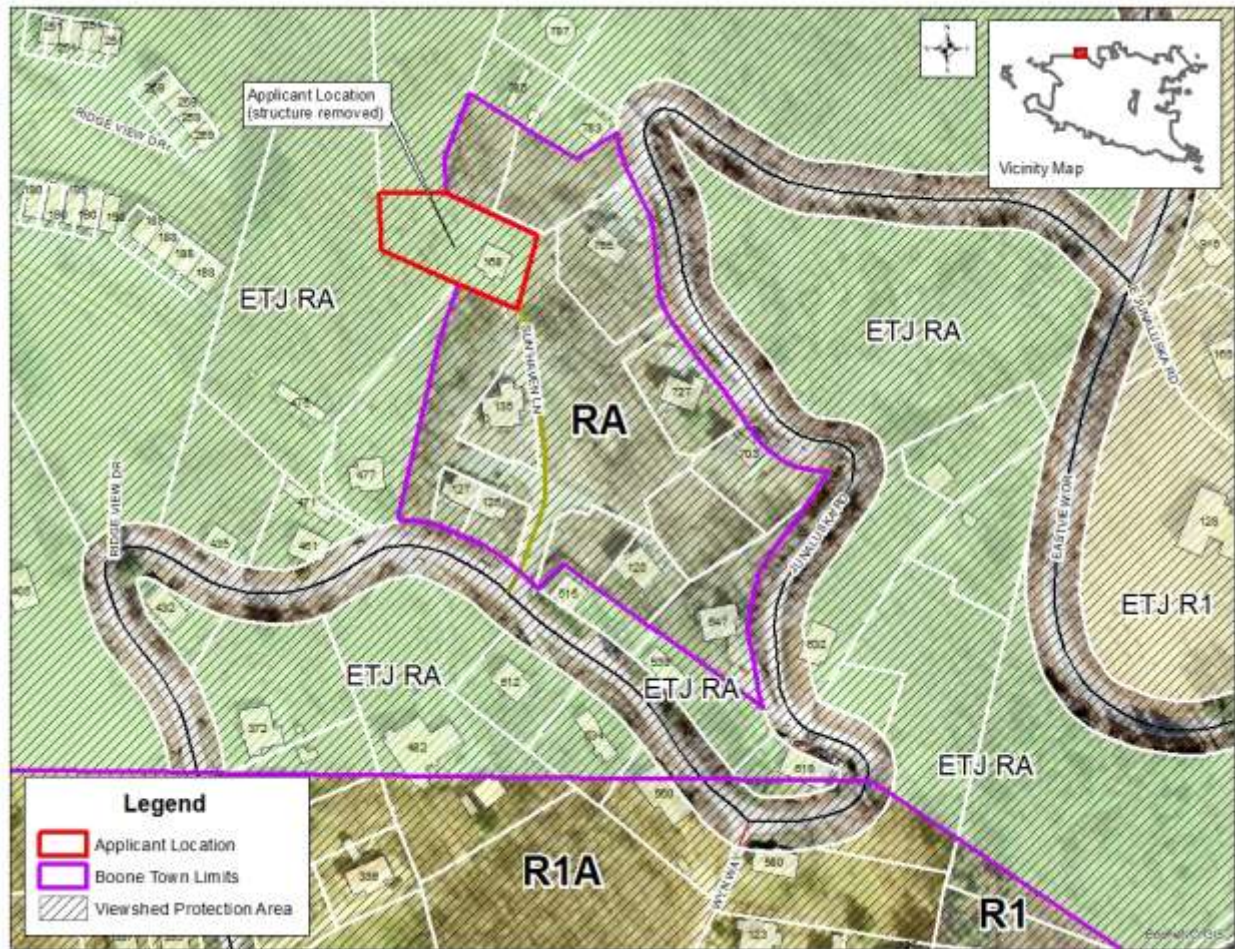
The Town of Boone has initiated the zoning of property (Watauga County PIN: 2901-82-4202-000) owned by Charles Wayne Perry Jr. to either R1 Single-Family Residential or RA Residential Agriculture along with Viewshed Protection overlay district. Zoning is to coincide with the property owner's voluntary annexation of the property. The property is located off Sun Haven Lane (formerly 168 Sun Haven Lane).

History

09-5-2013: Board of Adjustment issued a variance to Chuck Perry to allow a temporary disturbance of approximately 50 linear feet of stream buffer to correct the grade on the property (20130318).

01-10-2017: Town of Boone lost authority to exercise powers of extraterritorial jurisdiction.

Note: Prior to January 2017, the property was located in the Town of Boone's extra-territorial jurisdiction (ETJ) and was zoned RA Residential/Agricultural. See map below.



- 06-21-2018: Town Council approved a water and sewer service request for a new single-family dwelling with the following conditions:
1. The property owner would address any potential pressure issues by providing a pump in order to avoid a fire hazard, and;
 2. The property owner would move forward with voluntary annexation and cooperate with Planning and Inspections to build the new building per the requirements of the Town UDO with the understanding that there may be conflict with the County's building requirements, and;
 3. No other connections will be allowed through this property for other homes, and;
 4. The property owner will build in accordance with what has been presented with this service request except for minor changes.
- 11-15-2018 Town Council was presented with an Annexation Petition, deeds for the properties to be annexed, a metes and bounds description for the properties to be annexed and an annexation survey. Council approved the first step of the annexation process authorizing the Town Clerk to certify the sufficiency of the annexation petition. Council also requested that a case to rezone these properties to either R1 Single-family residential and RA Residential/Agricultural and Viewshed Protection overlay be sent to the January 28, 2019 Public Hearing.

- 12-18-2018 The Town Clerk presented a Certificate of Sufficiency and Town Council adopted a resolution fixing a date for a public hearing on the question of annexation, scheduled for January 17, 2019 at the regular Town Council meeting.
- 01-17-2019 After a public hearing on the matter of annexation, Town Council adopted an annexation ordinance bringing this parcel into the Town of Boone's corporate limits effective January 17, 2019.

Parcel Information

Address:	None, vacant parcel, formerly 168 Sun Haven Lane
Watauga County PINs:	2901-82-4202-000
Property Owner:	Charles W. Perry
Total Lot size:	Approximately .323 acre
Jurisdiction:	In process to be annexed into Town of Boone Corporate Limits
Access:	Sun Haven Lane (private)
SFHA:	No
Watershed District:	No
Corridor District:	No
NCD:	No
Viewshed:	Yes
Utilities:	Town water and sewer available
Current Zoning:	None
Previous Zoning:	RA Residential Agricultural/Viewshed
Proposed Zoning:	R1 Single Family or RA Residential Agricultural
Current Uses:	Vacant – Single-Family dwelling currently under construction

Zoning District Descriptions:

- R1:** The R1 Single Family Residential District is established to provide a low-density living area consisting only of single-family dwelling units and other related uses necessary for a sound neighborhood. The regulations for this district are designed to stabilize and encourage a comfortable, healthy, safe, aesthetically pleasing and pleasant living environment for family life that promotes peaceful quiet enjoyment sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.
- RA:** The RA Residential/Agricultural District is established as a district in which the principal use of the land is for low density residential and agricultural purposes. Low-density commercial and service uses which serve the day to day convenience needs of the surrounding area are permissible so long as the uses are of such nature as to minimize conflicts with the area they serve. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment. The regulations for this district are designed and intended to

create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

Viewshed: The Viewshed Protection District is established as an overlay district intended to protect the scenic beauty and natural environment of Boone's hillside areas vital to preservation of a high quality of life and continued economic development by minimizing the visual impact of building construction and land disturbing activities.

Zoning & Use of Adjacent Properties		
Zoning	Land Use (according to tax records)	
North	RA Residential/Agricultural	Vacant, common area
East	RA Residential/Agricultural	Single-family dwelling, common area
South	RA Residential/Agricultural	Single-family dwelling, common area
West	Not zoned (Watauga County Jurisdiction)	Manufactured home

Permissible Uses

UDO Article 15, Section 15.07 contains the Table of Principal Uses which should be read in conjunction with the definition of terms set forth in UDO Article 34.

15.07 Table of Principal Uses

Use #	Specific Use	RA	R1	Reference
1.0 Household Living				
1.01	Single-Family Dwelling	P	P	
1.02	Manufactured Home "Class A"	L		15.08
1.03	Manufactured Home "Class B"	L		15.08
1.04	Manufactured Home "Class C"			
1.05	Manufactured Home Park			15.09
1.06	Duplex (one duplex building per lot)	P		
1.07	Duplex (more than one duplex building per lot)			15.10
1.08	Townhouse (up to 30 bedrooms)			15.10
1.09	Townhouse (31-100 bedrooms)			15.10
1.10	Townhouse (> 100 bedrooms)			15.10
1.11	Multi-Family Dwelling (up to 30 bedrooms)			15.10
1.12	Multi-Family Dwelling (31-100 bedrooms)			15.10
1.13	Multi-Family Dwelling (> 100 bedrooms)			15.10
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)			15.11
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)			15.11
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)			15.11
2.0 Group Living				
2.01	Family Care Home	L	L	15.13
2.02	Family Care Institutions			15.14
2.03	Halfway House, Category 1			15.14
2.04	Halfway House, Category 2			15.14
2.05	Nursing Care Home	L	L	15.14
2.06	Nursing Care Institution			15.14

Use #	Specific Use	RA	R1	Reference
2.07	Skilled Nursing Facility			15.14
2.08	Retirement Community, Category 1	L		15.15
2.09	Retirement Community, Category 2			15.15
2.13	Fraternity or Sorority Dwelling			15.16
2.14	Boarding House			15.17
3.0 Transient Living				
3.01	Home for Survivors of Domestic Violence	L	L	15.18
3.02	Shelter for Homeless, Category 1			15.19
3.03	Shelter for Homeless, Category 2			15.19
3.04	Bed and Breakfast, Category 1	L	ST ⁵⁰	15.20
3.05	Bed and Breakfast, Category 2			15.20
3.06	Vacation Rental	L ^{T75}		15.21
3.07	Motel			
3.08	Hotel			
4.0 Institutional Living				
4.01	Airport/Landing Strip	ST ³⁰⁰		15.22
4.02	Heliport	ST ³⁰⁰		15.22
4.03	Funeral Home Establishment			
4.04	Cemetery	P	P	
4.05	Post Office			
4.06	Post Office, Distribution			
4.07	Animal Sanctuary	ST ³⁰⁰		
5.0 Government Uses				
5.01	Government Cultural Facility			
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	S	S	
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity			
5.04	Recreation Facility, Category 1	P		
5.05	Recreation Facility, Category 2	P	P	
5.06	Recreation Facility, Category 3	P ^{T50}	S	
5.07	Event Venue, Category 1			
5.08	Event Venue, Category 2			
5.09	Event Venue, Category 3			
5.10	Landfill			
5.11	Solid Waste Processing			
5.12	Police Substation	P	P	
5.13	Utility Facility, Town	L	L	15.23
5.14	Utility Facility, Government, Neighborhood	L	L	15.23
5.15	Utility Facility, Government, Regional	L ^{T300}		15.23
5.16	Government Facility	P		
6.0 Non-Government Utility Facility				
6.01	Utility Facility, Neighborhood	L	L	15.23

Use #	Specific Use	RA	R1	Reference
6.02	Utility Facility, Regional	L ^{T300}		15.23
7.0 Telecommunications				
7.01	Antenna Collocation on Existing Wireless Support Structure not requiring additional accessory equipment	P	P	
7.02	Antenna Collocation on Existing Wireless Support Structure requiring additional accessory equipment	L	L	15.24
7.03	Building Mounted Antenna not requiring additional accessory equipment	L	L	15.24
7.04	Building Mounted Antenna requiring additional accessory equipment	L		15.24
7.05	Antenna Collocation on Electrical Transmission Towers			15.24
7.06	Other Antenna	L		15.24
7.07	Wireless Support Structure which meets district height requirements	S	S	15.24
7.08	Stealth Wireless Facility which exceeds district height requirements	L	S	15.24
7.09	Wireless Support Structure which does not meet district height requirements up to and including 120'	S		15.24
7.10	Other Tower that exceeds 120' in height			15.24
7.11	Emergency Response Communication Antenna	P	P	
8.0 Assembly				
8.01	Religious Assembly, Category 1	P	P	
8.02	Religious Assembly, Category 2	p ^{T125}	p ^{T125}	
8.03	Religious Assembly, Category 3	p ^{T200}		
8.04	Club/Lodge, Category 1			
8.05	Club/Lodge Which Does Not Serve Alcohol	P		
9.0 Education				
9.01	Public colleges and universities			
9.02	Private colleges and universities			
9.03	Trade school			
9.04	High school			
9.05	Elementary school			
9.06	Boarding school			
10.0 Daycare				
10.01	Child Daycare, Large	L		15.25
10.02	Child Daycare Center			15.25
10.03	Adult Daycare, Large	L		15.25
10.04	Adult Daycare Center			15.25
10.05	All Other Daycare			
11.0 General Sales and Service				
11.01	Kennel	L ^{T125}		15.26
11.02	Veterinary Office/Hospital with Outdoor Kennels	L ^{T125}		15.26
11.03	Veterinary Office/Hospital without Outdoor Kennels	P		
11.04	Financial Institution ≤ 5,000 ft ²			
11.05	Financial Institution > 5,000 ft ²			
11.06	Restaurant ≤ 2,500 ft ² open to the public during 10 pm – 6 am			
11.07	Other Restaurants ≤ 2,500 ft ²			

Use #	Specific Use	RA	R1	Reference
11.08	Restaurant > 2,500 ft² open to the public during 10 pm – 6 am			
11.09	Other Restaurants > 2,500 ft²			
11.10	Restaurant ≤ 3,500 ft² open to the public during 10 pm-6 am			
11.11	Other Restaurants ≤ 3,500 ft²			
11.12	Bar			
11.13	ABC Store			
11.14	Personal Service Establishment open to the public during 10 pm – 6 am			
11.15	Other Personal Service Establishments			
11.16	Retail Store up to 5,000 ft²			
11.17	Retail Store more than 5,000 but less than 25,000 ft²			
11.18	Retail Store 25,000 ft² and greater			15.27
11.19	Reserved			
11.20	Business or Professional Office open to the public during 10 pm–6 am			
11.21	Other Business or Professional Office			
11.22	Medical Office, Category 1			
11.23	Medical Office, Category 2			
11.24	Medical Office, Category 3			
11.25	Medical Office, Category 4			
11.26	Hospital			
11.27	Medical Emergency Response			
11.28	Open Air Market, Recurring	L ^{T75}		15.29
11.29	Vehicle Sales and Service			15.30
11.30	Equipment Sales and Service			15.31
11.31	Moped Sales and Service			
11.32	Boat or Marine Craft Sales and Service			15.32
11.33	Impound Lot/Towing Service			15.33
11.34	Gas Station	p ^{T125}		
11.35	Car Wash			
11.36	Seasonal Retail Activities and Amusements	P		
12.0 Recreation and Entertainment Uses				
12.01	Indoor Shooting Range	L ^{T75}		15.34
12.02	Outdoor Shooting Range			
12.03	Indoor Theater			
12.04	Outdoor Theater	p ^{T200}		
12.05	Event Venue, Category 1			
12.06	Event Venue, Category 2			
12.07	Event Venue, Category 3			
12.08	Campground and Recreational Vehicle Park	L ^{T200}		15.35
12.09	Coliseum			
12.10	Recreation Facility, Category 1	p ^{T125}		
12.11	Recreation Facility, Category 2	p ^{T125}		

Use #	Specific Use	RA	R1	Reference
12.12	Recreation Facility, Category 3	pT200		
12.13	Racetrack			
13.0 Agriculture				
13.01	Garden, Community	L	L	15.36
13.02	Garden, Residential	L	L	15.37
13.03	Agricultural Operation Excluding Livestock	P		
13.04	Agricultural Operation Including Livestock	P		
13.05	Swine Farm			
13.06	Confined Animal Feeding Operation (CAFO)			
13.07	Custom Slaughterhouse	P		
13.08	Other Slaughterhouse			
13.09	Forestry	L	L	15.38
14.0 Manufacturing				
14.01	Microbrewery			15.39
14.02	Brewpub			15.39
14.03	Brewery/Distillery			15.40
14.04	Brewery/Distillery, Other			15.41
14.05	Winery Associated with a Vineyard	L T125		15.42
14.06	Winery			15.42
14.07	Winery, Other			
14.08	Extraction of Earth Materials			
14.09	Machine/Welding Shop			15.44
14.10	Manufacturing, Other			15.45
15.0 Parking				
15.01	Parking Lot			15.46
15.02	Parking Structure			15.47
15.03	Park and Ride Lots	L		15.46
16.0 Storage				
16.01	Self-Storage Facilities	L T125		15.48
16.02	Outdoor Storage			15.49
16.03	Warehouse			
16.04	Fuel Storage Facility			
16.05	Chemical Storage Facility			
17.0 Transportation				
17.01	Passenger Terminals			
17.02	Trucking or freight terminal ≤ 10,000 ft ²			
17.03	Trucking or freight terminal > 10,000 ft ²			
18.0 Waste Related Uses				
18.01	Recycling Drop-off Station	L T300		15.49
18.02	Recycling and Salvage			15.49
18.03	Junkyard			
18.04	Private Landfill			

Use #	Specific Use	RA	R1	Reference
19.0 Particular Activities Which Pose Particular Concerns About Public Health				
19.01	Electronic and Internet Gaming			15.50
19.02	Adult Establishments			15.51

Intensity/Density Regulations:**16.01.02 Intensity Table**

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
Residential Zoning Districts						
RA Public Water & Sewer Available	10,000 sq. ft.	65 ft.	52 ft.	.65	20 ft.	14 ft.
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.

Building Height

Excerpt from UDO Article 16, Subsection 16.08.02.

Zone	Height Limitation (Feet)
R1, R1A, RR, R2, R4, RA	3 stories/40'; accessory structures may not exceed 25'

General Use Zoning Map Amendment Guidance

Pursuant to UDO Subsection 9.07.01, in deciding whether to adopt a proposed amendment to the UDO, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments, the Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. The Council shall only consider the impact of the proposed change on the public at large.

CONFORMITY TO ADOPTED PLANS**COMPREHENSIVE PLAN UPDATE****1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

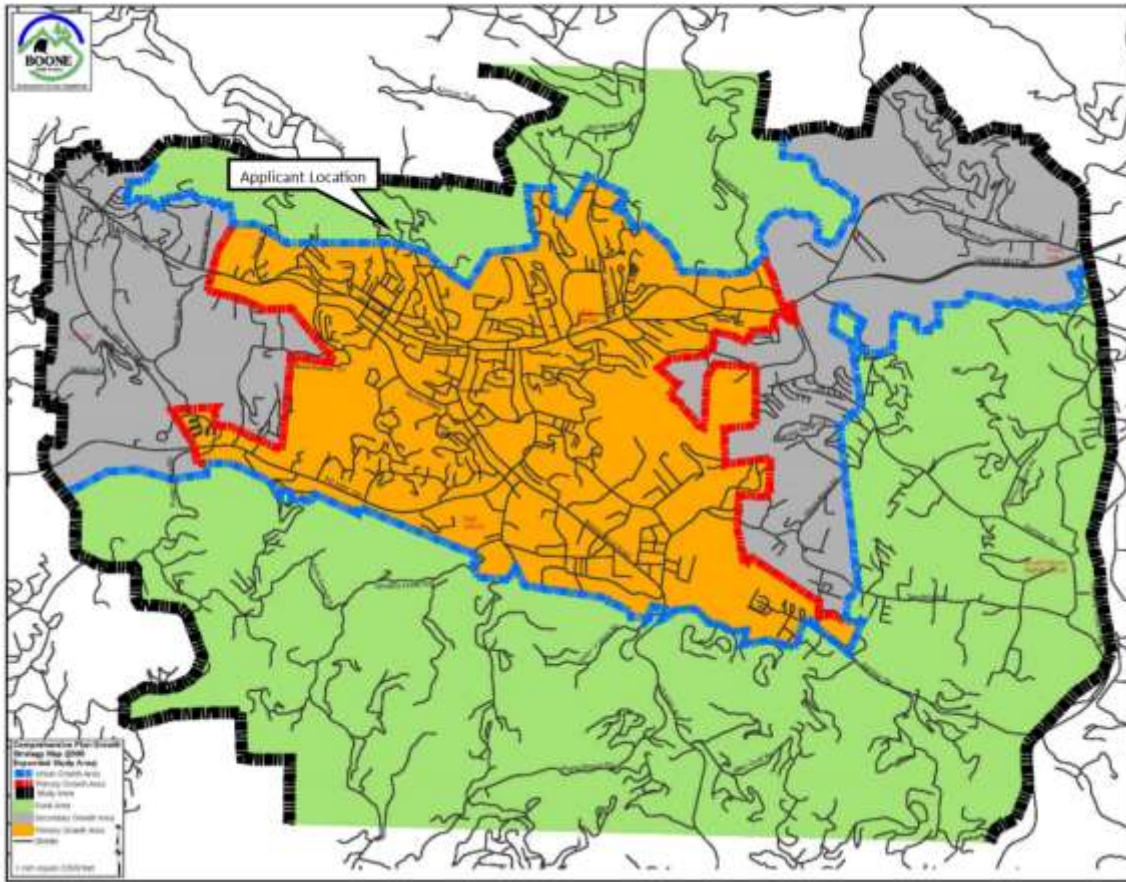
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

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

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

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

1.2 Growth Strategy Map (p. 17): The property is located within the **Rural Area**. The Rural Area is that portion of the planning study area that is influenced by urban area growth forces, but within which urban level development should be strongly discouraged. Urban level services and associated development densities should not be planned to this area, except in case by case evaluations of major economic development projects. See Growth Strategy Map below.



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.

2.1 Economy (page 19)

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.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.

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2.2 Infrastructure

2.2.2 Utilities (page 45)

- A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited. *****
- B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.
- C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.
- D. Water and sewer services shall not be extended to properties in the Rural Area (outside the Urban Growth Area). Exceptions to this policy may include the provision of services to other local governments, cooperative agreements on major economic development initiatives, and extensions needed to address imminent public health problems or related environmental hazards.
- E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.
- F. Area-wide cooperation and support shall be sought in bringing in alternative utility services to the Boone Area.
- G. Long range planning for a possible stormwater collection and treatment system shall be supported, including the development of financial and regulatory strategies.

...

2.3 Community

2.3.2 Community Character (page 67)

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

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

...

Certificate of Mailing

I, Brenda Henson, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on January 4, 2019.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, KC Banner, certify that the subject property was posted as required in Article 9, Subsection 9.03.03(B)(2) of the Town of Boone UDO on January 4, 2019.

/s/ KC Banner

KC Banner, Building Inspector Trainee

PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because *[describe elements of controlling land use plans and how the amendment is or is not consistent]*:

Second Motion and Vote: The Planning Commission recommends ☐approval OR ☐denial of the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and in the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the Commission recommends approval despite inconsistency with the comprehensive plan and/or any other applicable plan: The Planning Commission recommends approval of the amendment despite inconsistency with the comprehensive plan and/or other applicable adopted plans because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

TOWN COUNCIL ACTION

Per NCGS 160A-383, zoning regulations shall be made in accordance with a comprehensive plan. Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that is applicable because *[describe elements of controlling land use plan(s) and how the amendment is or is not consistent]*:

Second Motion and Vote: The Town Council ☐approves OR ☐denies the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the proposed amendment is approved despite inconsistency with the comprehensive plan and/or any other applicable adopted plan(s): The Town Council approves the amendment and declares that this approval also amends the Comprehensive Plan (and/or other approved and applicable plan) because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
☐ Commercial
☐ Board of Adjustment Hearing (other than Appeals)
☒ Planning/Other

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, North Carolina 28607
Phone Number: 828-268-6200 Email Address: planning@townofboone.net
Property Owner: Plaag Properties, LLC and Adrian and Heidi Tait Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): 2901-81-9730-000, 2901-81-8754-000, 2901-81-8825-000, 2901-82-9082-000 and 2901-81-9889-000
Address/Location: Junaluska Road
Project Name: Plaag/Tait- General Use Zoning Map Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- | | |
|---|---|
| ☐ Accessory Building | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Addition/Expansion including decks and patios | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Change of Use | *Commercial Project Data Form |
| ☐ Land Disturbance (not associated with the construction of a bldg.) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Manufactured Home Set-up in Park | *Manufactured Home in Park Form |
| ☐ New Building Construction | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Renovation/Remodel | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Accessory Use (as listed in UDO Subsection 15.07.01) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Temporary Use (as listed in UDO Subsection 15.07.02) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Sign | *Sign Project Data Form (Zoning) |
| ☐ Pavement Sealant | *Pavement Sealant Project Data Form |
| ☐ Major Subdivision Zoning Permit | *Commercial Project Data Form |

Board of Adjustment Hearings

- | | |
|--|---|
| ☐ Special Use Permit/Modification | *Special Use Permit Form |
| ☐ Variance | *Variance Form |
| ☐ Major Subdivision Preliminary Plat Approval | *Major Subdivision Preliminary Plat Approval Form |

Planning/Other

- | | |
|---|--|
| ☐ Exempt Division of Land | *Subdivision Exemption Project Data Form |
| ☐ Minor Subdivision (Preliminary and Final Plat) | *Minor Subdivision Project Data Form |
| ☐ Major Subdivision (Final Plat) | *Major Subdivision Final Plat Project Data Form |
| ☐ UDO Text Amendment | *Text Amendment Project Data Form |
| ☒ General Use Zoning Map Amendment | *General Use Map Zoning Map Amendment Project Data Form |
| ☐ Conditional District Zoning Map Amendment | *Conditional District Zoning Map Amendment Project Data Form |
| ☐ Voluntary Annexation | *Annexation Petition (Satellite or Contiguous) |
| ☐ UDO Text Interpretation | *UDO Interpretation Data Form |

D. DETAILED DESCRIPTION OF PROJECT

The Town of Boone has initiated the zoning of properties (Watauga County PINs: 2901-81-9730-000, 2901-81-8754-000, and 2901-81-8825-000) owned by Plaag Properties, LLC and properties (Watauga County PINs: 2901-82-9082-000 and 2901-81-9889-000) owned by Adrian and Heidi Tait to either R1 Single-Family Residential or RA Residential Agriculture along with Viewshed Protection overlay district. Zoning is to coincide with the property owner's voluntary annexation of the property. These properties are located off of Junaluska Road.

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer:**

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

Architect:

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

G. BROWNFIELDS AGREEMENT NOTIFICATION

- Does the applicant have or is the applicant planning to enter into a Brownfields Agreement with the NC Brownfields Program? ☐ Yes ☒ No (If yes, please answer question #2 below.)
- Anticipated date for the first year of partial exclusion of property taxes: _____

H. 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
Applicant¹ (Print)

/s/ Jane Shook
Applicant Signature

December 17, 2018
Date

Process initiated by the Town of Boone in response to the property owner's petition for annexation. The process to annex this property is currently in progress (PL02061-103118).

Property Owner (Print)

Property Owner Signature

Date

Official Use Only

Permit Number/Project File Name:

PL02177-010319, Plaag/Tait – General Use Zoning Map Amendment (Parent Case Number)

(Child Case Numbers: PL02178-010319, PL02179-010319, PL02180-010319, and PL02181-010319)

Date: 01/03/2019	Fee: NA	Receipt Number: NA	Method of Payment: NA	Paid By: NA
---------------------	------------	-----------------------	--------------------------	----------------

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¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

General Use Zoning Map Amendment Project Data Form

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	
Project Name/Number:	PL02177-010319 (Parent Case)
Permit Name/Number:	Plaag/Tait – General Use Zoning Map Amendment

It is recommended that applicants schedule a meeting with Planning & Inspections Staff prior to application submittal.

A. ADDITIONAL APPLICATION INFORMATION

Hearing Date Requested¹: January 28, 2019

B. DEVELOPMENT INFORMATION

Existing Zoning District(s):	Portion of 2901-81-9730 is zoned R1A, rest of property and other properties are not zoned	Proposed Zoning District(s):	R1 or RA, Viewshed
Existing Land Use(s):	Vacant/SF Dwelling		
Adjacent Land Use(s):	N: Vacant	E: Vacant, Single-Family Dwelling (across Eastview Dr.)	
	W: Single-Family Dwellings	S: Single-Family Dwellings, Vacant	

Are there are any existing variances granted to the property? ☐ Yes ☒ No ☐ Unknown

If yes, describe: _____

Total Land Area: .323 acre

C. DOCUMENTS REQUIRED FOR SUBMITTAL

- ☐ Application Fee
- ☐ Deed(s) of all property included in the request*
- ☐ A written metes & bounds legal description with accompanying survey map is required for a request that would rezone only a portion of a tax parcel or requests for multiple zoning districts

D. PROPERTY OWNER SIGNATURE:

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

*Process initiated by the Town of Boone in response to the property owner's petition for annexation. The process to annex this property is currently in progress and all deeds may be found in the annexation project file (PL02061-103118).

Property Owner (Print)

Property Owner Signature

Date

¹ Each applicant must provide the meeting date for which they wish their request to appear. Each completed application must have met published meeting deadlines.

Official Use Only

Public Hearing Meeting Date: January 28, 2019

PC Meeting Date: _____

TC Meeting Date: _____

Date of APO Mailed Notification: January 4, 2018

Date of Posted Notification: January 4, 2018

Project Approved: ☐ Yes ☐ No

Date Order Recorded: NA

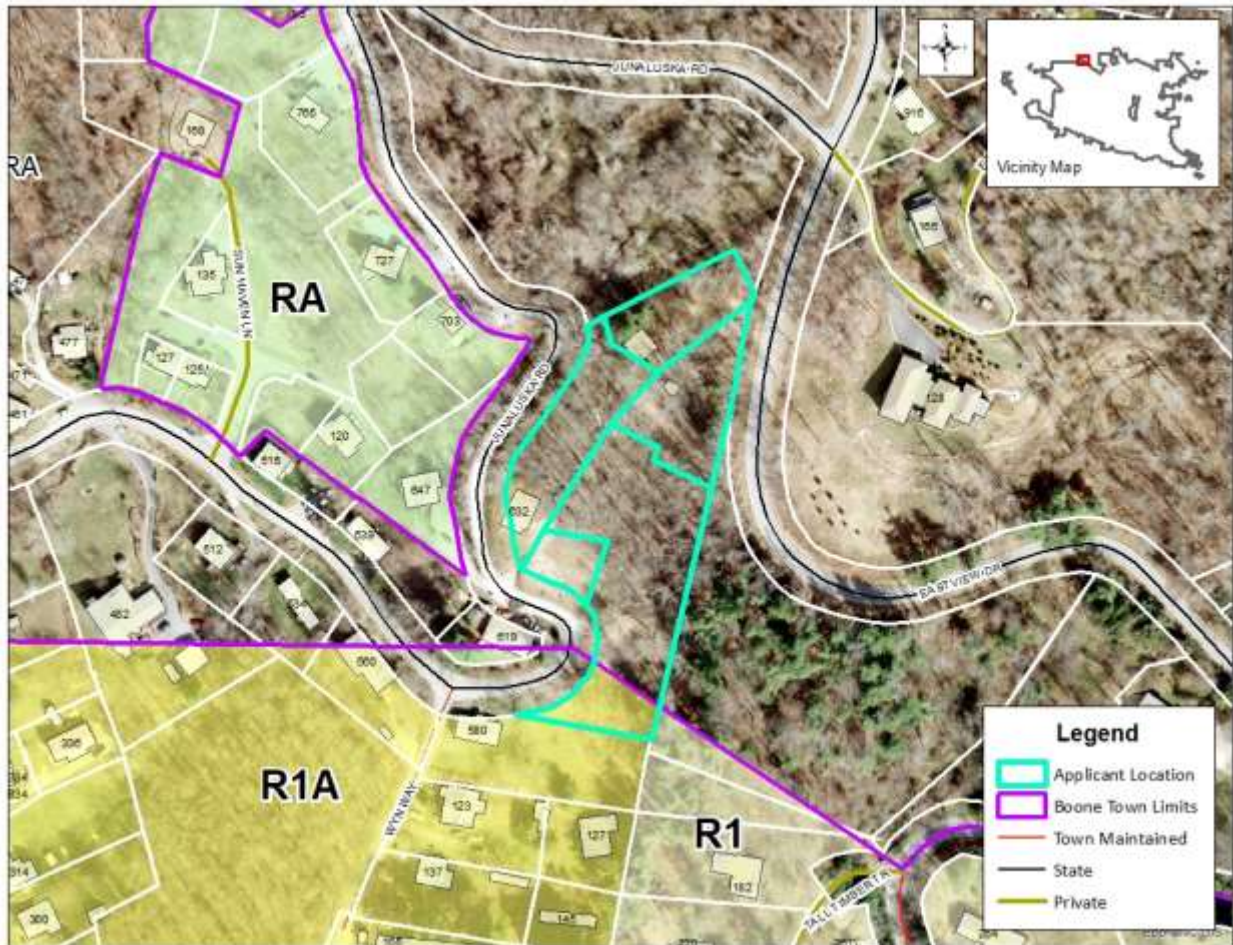
Order Recordation Information: Book: NA Page: NA

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Communication: Case PL02177-010319 Application Information (Case PL02177-010318 Plaag/Tait - General Use Zoning Map Amendment)

STAFF REPORT
PUBLIC HEARING
JANUARY 28, 2019

CASE PL02177-010319 PLAAG/TAIT- GENERAL USE ZONING MAP AMENDMENT



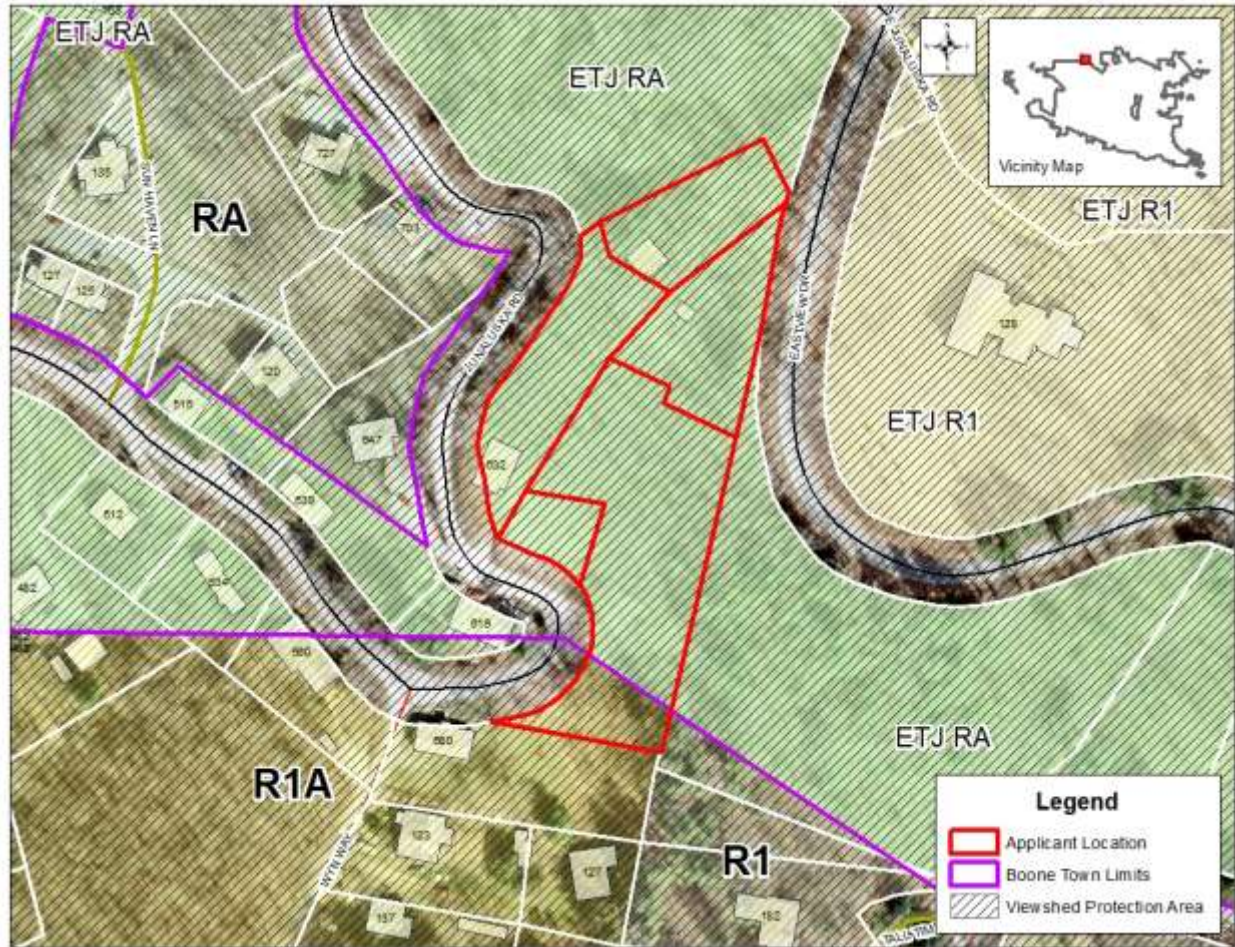
Request

The Town of Boone has initiated the zoning of properties (Watauga County PINs: 2901-81-9730-000, 2901-81-8754-000, and 2901-81-8825-000) owned by Plaag Properties, LLC and properties (Watauga County PINs: 2901-82-9082-000 and 2901-81-9889-000) owned by Adrian and Heidi Tait to either R1 Single-Family Residential or RA Residential Agriculture along with Viewshed Protection overlay district. Zoning is to coincide with the property owner's voluntary annexation of the property. These properties are located off of Junaluska Road.

History

01-10-2017: Town of Boone lost authority to exercise powers of extraterritorial jurisdiction.

Note: Prior to January 2017, the property was located in the Town of Boone's extra-territorial jurisdiction (ETJ) and was zoned RA Residential/Agricultural. See map below.



- 10-18-2018 Town Council approved a water and sewer service request for a nine (9) lot, single-family architecturally integrated subdivision subject to the following conditions:
1. The property owners proceed with voluntary annexation, and;
 2. Any construction prior to annexation is done in accordance with the Town of Boone Unified Development Ordinance (UDO).
- 11-15-2018 Town Council was presented with an Annexation Petition, deeds for the properties to be annexed, a metes and bounds description for the properties to be annexed and an annexation survey. Council approved the first step of the annexation process authorizing the Town Clerk to certify the sufficiency of the annexation petition. Council also requested that a case to rezone these properties to either R1 Single-family residential and RA Residential/Agricultural and Viewshed Protection overlay be sent to the January 28, 2019 Public Hearing.
- 12-18-2018 The Town Clerk presented a Certificate of Sufficiency and Town Council adopted a resolution fixing a date for a public hearing on the question of annexation, scheduled for January 17, 2019 at the regular Town Council meeting.
- 01-17-2019 After a public hearing on the matter of annexation, Town Council adopted an annexation ordinance bringing this parcel into the Town of Boone's corporate limits effective January 17, 2019.

Parcel Information

Address:	632 Junaluska Road, 601 Eastview Drive
Watauga County PINs:	2901-81-9730-000, 2901-82-9082-000, 2901-81-9889-000, 2901-81-8754-000, & 2901-81-8825-000
Property Owner:	Plaag Properties, LLC and Adrian & Heidi Tait
Total Lot size:	2.199 acres (approximately .323 acre inside corporate limits)
Jurisdiction:	.323 acre within Town of Boone corporate limits with the remainder in process to be annexed
Access:	Junaluska Road & Eastview Drive
SFHA:	No
Watershed District:	No
Corridor District:	No
NCD:	No
Viewshed:	Yes
Utilities:	Town water and sewer available
Current Zoning:	Portion in Town limits currently zoned R1A; area outside of Town limits is not zoned
Previous Zoning:	The portion outside of the Town limits was previously zoned RA Residential Agricultural/Viewshed
Proposed Zoning:	R1 Single Family or RA Residential Agricultural and Viewshed
Current Uses:	Vacant; Single-family dwelling

Zoning District Descriptions:

- R1:** The R1 Single Family Residential District is established to provide a low-density living area consisting only of single-family dwelling units and other related uses necessary for a sound neighborhood. The regulations for this district are designed to stabilize and encourage a comfortable, healthy, safe, aesthetically pleasing and pleasant living environment for family life that promotes peaceful quiet enjoyment sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.
- RA:** The RA Residential/Agricultural District is established as a district in which the principal use of the land is for low density residential and agricultural purposes. Low-density commercial and service uses which serve the day to day convenience needs of the surrounding area are permissible so long as the uses are of such nature as to minimize conflicts with the area they serve. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment. The regulations for this district are designed and intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

Viewshed: The Viewshed Protection District is established as an overlay district intended to protect the scenic beauty and natural environment of Boone's hillside areas vital to preservation of a high quality of life and continued economic development by minimizing the visual impact of building construction and land disturbing activities.

Zoning & Use of Adjacent Properties		
Zoning		Land Use (according to tax records)
North	Not zoned (Watauga County jurisdiction)	Vacant
East	Not zoned (Watauga County jurisdiction)	Vacant, Single-family dwelling
South	R1A Single-family residential w/ Accessory Apartment, R1 Single-family residential	Single-family dwelling
West	RA Residential/Agricultural	Single-family dwelling

Permissible Uses

UDO Article 15, Section 15.07 contains the Table of Principal Uses which should be read in conjunction with the definition of terms set forth in UDO Article 34.

15.07 Table of Principal Uses

Use #	Specific Use	RA	R1	Reference
1.0 Household Living				
1.01	Single-Family Dwelling	P	P	
1.02	Manufactured Home "Class A"	L		15.08
1.03	Manufactured Home "Class B"	L		15.08
1.04	Manufactured Home "Class C"			
1.05	Manufactured Home Park			15.09
1.06	Duplex (one duplex building per lot)	P		
1.07	Duplex (more than one duplex building per lot)			15.10
1.08	Townhouse (up to 30 bedrooms)			15.10
1.09	Townhouse (31-100 bedrooms)			15.10
1.10	Townhouse (> 100 bedrooms)			15.10
1.11	Multi-Family Dwelling (up to 30 bedrooms)			15.10
1.12	Multi-Family Dwelling (31-100 bedrooms)			15.10
1.13	Multi-Family Dwelling (> 100 bedrooms)			15.10
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)			15.11
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)			15.11
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)			15.11
2.0 Group Living				
2.01	Family Care Home	L	L	15.13
2.02	Family Care Institutions			15.14
2.03	Halfway House, Category 1			15.14
2.04	Halfway House, Category 2			15.14
2.05	Nursing Care Home	L	L	15.14
2.06	Nursing Care Institution			15.14

Use #	Specific Use	RA	R1	Reference
2.07	Skilled Nursing Facility			15.14
2.08	Retirement Community, Category 1	L		15.15
2.09	Retirement Community, Category 2			15.15
2.13	Fraternity or Sorority Dwelling			15.16
2.14	Boarding House			15.17
3.0 Transient Living				
3.01	Home for Survivors of Domestic Violence	L	L	15.18
3.02	Shelter for Homeless, Category 1			15.19
3.03	Shelter for Homeless, Category 2			15.19
3.04	Bed and Breakfast, Category 1	L	ST ⁵⁰	15.20
3.05	Bed and Breakfast, Category 2			15.20
3.06	Vacation Rental	L ^{T75}		15.21
3.07	Motel			
3.08	Hotel			
4.0 Institutional Living				
4.01	Airport/Landing Strip	ST ³⁰⁰		15.22
4.02	Heliport	ST ³⁰⁰		15.22
4.03	Funeral Home Establishment			
4.04	Cemetery	P	P	
4.05	Post Office			
4.06	Post Office, Distribution			
4.07	Animal Sanctuary	ST ³⁰⁰		
5.0 Government Uses				
5.01	Government Cultural Facility			
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	S	S	
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity			
5.04	Recreation Facility, Category 1	P		
5.05	Recreation Facility, Category 2	P	P	
5.06	Recreation Facility, Category 3	P ^{T50}	S	
5.07	Event Venue, Category 1			
5.08	Event Venue, Category 2			
5.09	Event Venue, Category 3			
5.10	Landfill			
5.11	Solid Waste Processing			
5.12	Police Substation	P	P	
5.13	Utility Facility, Town	L	L	15.23
5.14	Utility Facility, Government, Neighborhood	L	L	15.23
5.15	Utility Facility, Government, Regional	L ^{T300}		15.23
5.16	Government Facility	P		
6.0 Non-Government Utility Facility				
6.01	Utility Facility, Neighborhood	L	L	15.23

Use #	Specific Use	RA	R1	Reference
6.02	Utility Facility, Regional	L T300		15.23
7.0 Telecommunications				
7.01	Antenna Collocation on Existing Wireless Support Structure not requiring additional accessory equipment	P	P	
7.02	Antenna Collocation on Existing Wireless Support Structure requiring additional accessory equipment	L	L	15.24
7.03	Building Mounted Antenna not requiring additional accessory equipment	L	L	15.24
7.04	Building Mounted Antenna requiring additional accessory equipment	L		15.24
7.05	Antenna Collocation on Electrical Transmission Towers			15.24
7.06	Other Antenna	L		15.24
7.07	Wireless Support Structure which meets district height requirements	S	S	15.24
7.08	Stealth Wireless Facility which exceeds district height requirements	L	S	15.24
7.09	Wireless Support Structure which does not meet district height requirements up to and including 120'	S		15.24
7.10	Other Tower that exceeds 120' in height			15.24
7.11	Emergency Response Communication Antenna	P	P	
8.0 Assembly				
8.01	Religious Assembly, Category 1	P	P	
8.02	Religious Assembly, Category 2	pT125	pT125	
8.03	Religious Assembly, Category 3	pT200		
8.04	Club/Lodge, Category 1			
8.05	Club/Lodge Which Does Not Serve Alcohol	P		
9.0 Education				
9.01	Public colleges and universities			
9.02	Private colleges and universities			
9.03	Trade school			
9.04	High school			
9.05	Elementary school			
9.06	Boarding school			
10.0 Daycare				
10.01	Child Daycare, Large	L		15.25
10.02	Child Daycare Center			15.25
10.03	Adult Daycare, Large	L		15.25
10.04	Adult Daycare Center			15.25
10.05	All Other Daycare			
11.0 General Sales and Service				
11.01	Kennel	L T125		15.26
11.02	Veterinary Office/Hospital with Outdoor Kennels	L T125		15.26
11.03	Veterinary Office/Hospital without Outdoor Kennels	P		
11.04	Financial Institution ≤ 5,000 ft ²			
11.05	Financial Institution > 5,000 ft ²			
11.06	Restaurant ≤ 2,500 ft ² open to the public during 10 pm – 6 am			
11.07	Other Restaurants ≤ 2,500 ft ²			

Use #	Specific Use	RA	R1	Reference
11.08	Restaurant > 2,500 ft² open to the public during 10 pm – 6 am			
11.09	Other Restaurants > 2,500 ft²			
11.10	Restaurant ≤ 3,500 ft² open to the public during 10 pm-6 am			
11.11	Other Restaurants ≤ 3,500 ft²			
11.12	Bar			
11.13	ABC Store			
11.14	Personal Service Establishment open to the public during 10 pm – 6 am			
11.15	Other Personal Service Establishments			
11.16	Retail Store up to 5,000 ft²			
11.17	Retail Store more than 5,000 but less than 25,000 ft²			
11.18	Retail Store 25,000 ft² and greater			15.27
11.19	Reserved			
11.20	Business or Professional Office open to the public during 10 pm–6 am			
11.21	Other Business or Professional Office			
11.22	Medical Office, Category 1			
11.23	Medical Office, Category 2			
11.24	Medical Office, Category 3			
11.25	Medical Office, Category 4			
11.26	Hospital			
11.27	Medical Emergency Response			
11.28	Open Air Market, Recurring	L ^{T75}		15.29
11.29	Vehicle Sales and Service			15.30
11.30	Equipment Sales and Service			15.31
11.31	Moped Sales and Service			
11.32	Boat or Marine Craft Sales and Service			15.32
11.33	Impound Lot/Towing Service			15.33
11.34	Gas Station	p ^{T125}		
11.35	Car Wash			
11.36	Seasonal Retail Activities and Amusements	P		
12.0 Recreation and Entertainment Uses				
12.01	Indoor Shooting Range	L ^{T75}		15.34
12.02	Outdoor Shooting Range			
12.03	Indoor Theater			
12.04	Outdoor Theater	p ^{T200}		
12.05	Event Venue, Category 1			
12.06	Event Venue, Category 2			
12.07	Event Venue, Category 3			
12.08	Campground and Recreational Vehicle Park	L ^{T200}		15.35
12.09	Coliseum			
12.10	Recreation Facility, Category 1	p ^{T125}		
12.11	Recreation Facility, Category 2	p ^{T125}		

Use #	Specific Use	RA	R1	Reference
12.12	Recreation Facility, Category 3	pT200		
12.13	Racetrack			
13.0 Agriculture				
13.01	Garden, Community	L	L	15.36
13.02	Garden, Residential	L	L	15.37
13.03	Agricultural Operation Excluding Livestock	P		
13.04	Agricultural Operation Including Livestock	P		
13.05	Swine Farm			
13.06	Confined Animal Feeding Operation (CAFO)			
13.07	Custom Slaughterhouse	P		
13.08	Other Slaughterhouse			
13.09	Forestry	L	L	15.38
14.0 Manufacturing				
14.01	Microbrewery			15.39
14.02	Brewpub			15.39
14.03	Brewery/Distillery			15.40
14.04	Brewery/Distillery, Other			15.41
14.05	Winery Associated with a Vineyard	L T125		15.42
14.06	Winery			15.42
14.07	Winery, Other			
14.08	Extraction of Earth Materials			
14.09	Machine/Welding Shop			15.44
14.10	Manufacturing, Other			15.45
15.0 Parking				
15.01	Parking Lot			15.46
15.02	Parking Structure			15.47
15.03	Park and Ride Lots	L		15.46
16.0 Storage				
16.01	Self-Storage Facilities	L T125		15.48
16.02	Outdoor Storage			15.49
16.03	Warehouse			
16.04	Fuel Storage Facility			
16.05	Chemical Storage Facility			
17.0 Transportation				
17.01	Passenger Terminals			
17.02	Trucking or freight terminal ≤ 10,000 ft ²			
17.03	Trucking or freight terminal > 10,000 ft ²			
18.0 Waste Related Uses				
18.01	Recycling Drop-off Station	L T300		15.49
18.02	Recycling and Salvage			15.49
18.03	Junkyard			
18.04	Private Landfill			

Use #	Specific Use	RA	R1	Reference
19.0 Particular Activities Which Pose Particular Concerns About Public Health				
19.01	Electronic and Internet Gaming			15.50
19.02	Adult Establishments			15.51

Intensity/Density Regulations:**16.01.02 Intensity Table**

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
Residential Zoning Districts						
RA Public Water & Sewer Available	10,000 sq. ft.	65 ft.	52 ft.	.65	20 ft.	14 ft.
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.

Building Height

Excerpt from UDO Article 16, Subsection 16.08.02.

Zone	Height Limitation (Feet)
R1, R1A, RR, R2, R4, RA	3 stories/40'; accessory structures may not exceed 25'

General Use Zoning Map Amendment Guidance

Pursuant to UDO Subsection 9.07.01, in deciding whether to adopt a proposed amendment to the UDO, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments, the Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. The Council shall only consider the impact of the proposed change on the public at large.

CONFORMITY TO ADOPTED PLANS**COMPREHENSIVE PLAN UPDATE****1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

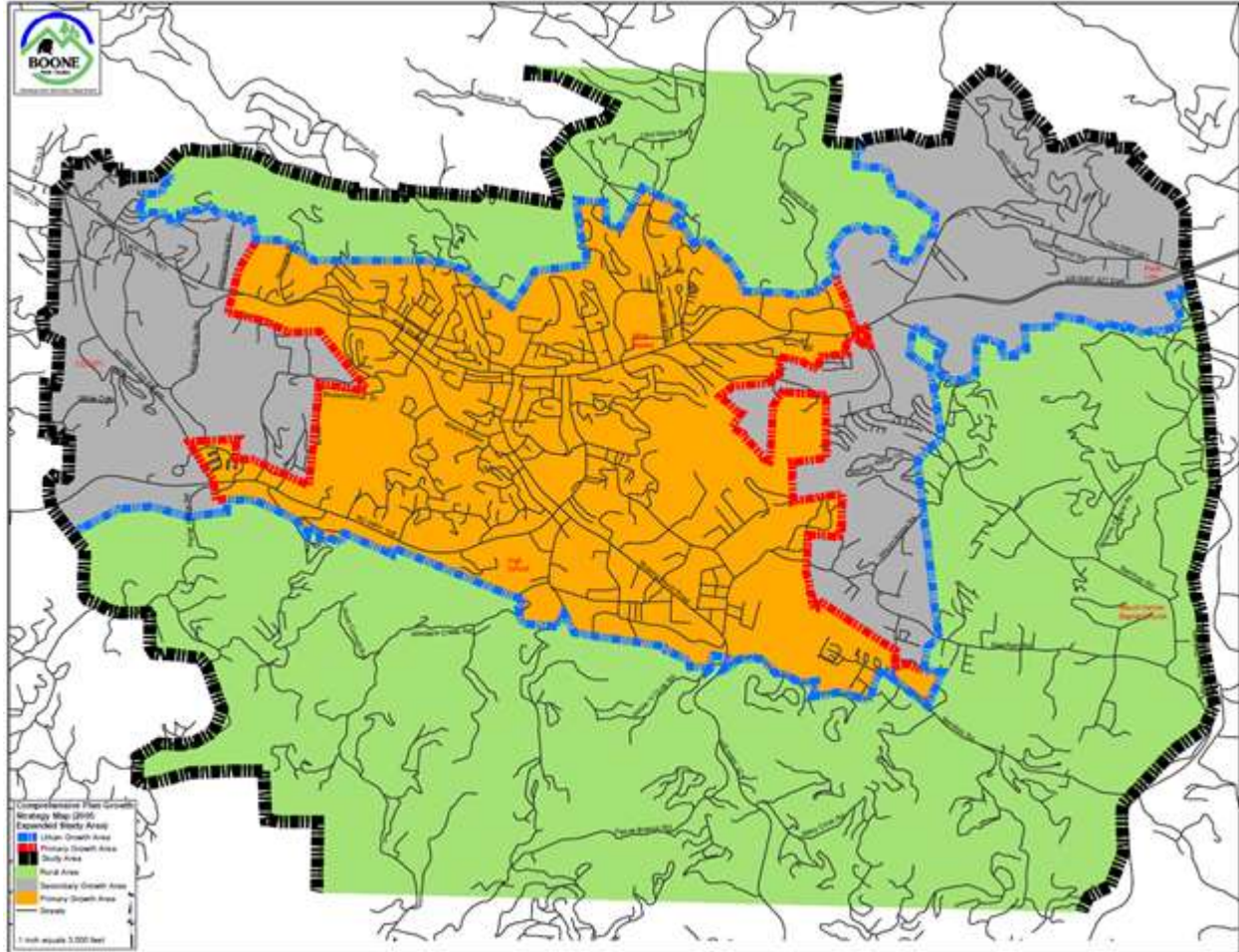
Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

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

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

1.2 Growth Strategy Map (p. 17): The annexation area is located within the **Rural Area**. The Rural Area is that portion of the planning study area that is influenced by urban area growth forces, but within which urban level development should be strongly discouraged. Urban level services and associated development densities should not be planned for this area, except in case by case evaluations of major economic development projects.

The portion of the property located within the corporate limits (2901-81-9730-000) is located within the **Primary Growth Area**. The Primary Growth Area is that portion of the urban growth area where urban level or facilities are already in place or can be provided most cost effectively. This is the area where near term growth and development is to be especially encouraged. See map below.



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.

2.1 Economy (page 19)

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.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.

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

...

2.2 Infrastructure

2.2.2 Utilities (page 45)

- A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited. *****
- B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.
- C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.
- D. Water and sewer services shall not be extended to properties in the Rural Area (outside the Urban Growth Area). Exceptions to this policy may include the provision of services to other local governments, cooperative agreements on major economic development initiatives, and extensions needed to address imminent public health problems or related environmental hazards.
- E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.

- F. Area-wide cooperation and support shall be sought in bringing in alternative utility services to the Boone Area.
- G. Long range planning for a possible stormwater collection and treatment system shall be supported, including the development of financial and regulatory strategies.

...

2.3 Community

2.3.2 Community Character (page 67)

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

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

...

Certificate of Mailing

I, Brenda Henson, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on January 4, 2019.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, KC Banner, certify that the subject property was posted as required in Article 9, Subsection 9.03.03(B)(2) of the Town of Boone UDO on January 4, 2019.

/s/ KC Banner

KC Banner, Building Inspector Trainee

PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because *[describe elements of controlling land use plans and how the amendment is or is not consistent]*:

Second Motion and Vote: The Planning Commission recommends ☐approval OR ☐denial of the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and in the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the Commission recommends approval despite inconsistency with the comprehensive plan and/or any other applicable plan: The Planning Commission recommends approval of the amendment despite inconsistency with the comprehensive plan and/or other applicable adopted plans because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

TOWN COUNCIL ACTION

Per NCGS 160A-383, zoning regulations shall be made in accordance with a comprehensive plan. Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that is applicable because *[describe elements of controlling land use plan(s) and how the amendment is or is not consistent]*:

Second Motion and Vote: The Town Council ☐approves OR ☐denies the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the proposed amendment is approved despite inconsistency with the comprehensive plan and/or any other applicable adopted plan(s): The Town Council approves the amendment and declares that this approval also amends the Comprehensive Plan (and/or other approved and applicable plan) because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

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:
PL01817-082318
Case Name:
Sec. 15.11 MF in Mixed Use Amendments

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): Article 15 District Uses

Section(s): 15.11

Brief Description of Amendment (Attach Proposed Text):

Amend UDO Section 15.11 to require developments to follow the same bedroom/unit requirements as set forth in Section 15.10 and to make revisions as to when parking can be counted as part of the required commercial area.

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

August 23, 2018
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: September 24, 2018

PC Meeting
Date: September 24, 2018

TC Meeting
Date: October 16th or October 18th

Text Approved: ☐ Yes ☐ No

Notes:

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

Communication: Case PL01817-082319 Application Information (Case PL01817-082318 UDO Section 15.11 - UDO Text Amendment)



STAFF REPORT

PUBLIC HEARING-JANUARY 28, 2019

CASE PL01817-082318 SECTION 15.11 MF IN MIXED USES- UDO TEXT AMENDMENT

Request

In August 2018, Town Council directed Staff to draft text to amend UDO Section 15.11 to require multi-family in mixed use developments to follow the same bedroom/unit requirements as set forth in UDO Section 15.10 and to make revisions as to when parking can be counted as part of the required commercial area. Staff presented draft text to Council in December 2018. Council approved the draft text with modification to be sent to the January 28, 2019 Public Hearing.

The draft text below modifies Section 15.11 Multi-family in Mixed-Uses to require the same unit/bedroom requirements as set forth in Section 15.10. In doing so, Staff has relocated text that applies to all three zoning districts (B1, B2, and B3) in order to provide more orderly structure to the existing text (remove redundancies). Staff has also attempted to draft text that allows parking to be counted as commercial requirements when in a stand-alone parking structure (meaning there are no residential units above and/or below).

ANALYSIS

The text in [blue underline](#) on the next page is the new text for consideration.

Article 15 District Uses

...

15.11 MULTI-FAMILY IN MIXED USES.

15.11.01 Multi-family residential uses (use 1.114, 1.115 and 1.116) are allowed in the B1, B2 and B3 zoning districts when the criteria in this section are met.

- A.** For purposes of this section, “commercial” shall include the following issues from Section 15.07 Table of Principal Uses: 3.07 Motel, 3.08 Hotel, 4.03 Funeral Home Establishment, 4.05 Post Office, 5.01 Government Cultural Facility, 5.02-5.03 Government Neighborhood Cultural Facility, 5.04-5.06 Recreation Facility, 5.07-5.09 Event Venue, 5.12 Police Substation, 5.16 Government Facility, 8.0 Assembly, 9.0 Education, 10.02 Child Daycare Center, 10.04 Adult Daycare Center, 10.5 All Other Daycare, 11.0 General Sales and Service, 12.0 Recreation, 14.0 Manufacturing, 16.01 Mini-Storage, 17.0 Transportation, and 19.0 Particular Activities which pose Particular Concerns about Public Health.
- B.** To the extent this section conflicts with other articles of this ordinance, this section shall control.
- C.** “Commercial use” and “street level commercial land use” as referred to in this Section 15.11 means only space in a building used or to be used for commercial uses unrelated to the residential use of the building or development. By way of clarification and not as a limitation, the following uses may not be counted as “commercial use”: amenities operated entirely or in the main for residents (including but not limited to swimming pools, gyms, etc.); required recreation space; space used to operate and maintain the

residential portion of the development, including leasing, management, and/or maintenance-related office space; and/or common areas of the residential units.

1. Notwithstanding the foregoing, only parking spaces located in a single-use parking structure (not containing residential units below or above) may be counted as “street level commercial land use” ~~where the parking is located in the interior of the building and all street frontage consists of non-parking commercial uses (e.g., retail, office, restaurant, etc.).”~~

D. A minimum of 60% of the street facing street level building facade shall be comprised of transparent, non-reflective windows.

E. Pedestrian weather protections such as awnings or canopies are encouraged along public streets provided they do not encroach into the roadway. Awnings or canopies which encroach above a public sidewalk shall obtain an encroachment agreement from the Town of Boone.

F. No one type of dwelling units, as defined by the number of bedrooms, shall comprise more than 50% of the total units.

G. The bedroom to bathroom ratio of each unit within the development shall be limited as follows:

1. Efficiency unit and one bedroom unit: one bathroom.

2. Two bedroom unit: one or two bathrooms, with no less than one bathroom with common access.

3. Three bedroom unit: two bathrooms with no less than one bathroom with common access.

4. Four or more bedroom unit: three bathrooms with no less than two bathrooms with common access from a hall.

H. In every unit with two or more bedrooms, a designated master suite must be included and shall be at least 25% larger than every other bedroom and not less than 144 square feet excluding closet space.

15.11.02 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the Central Business District (B1) only if the projects in which they are included meet all the following criteria:

A. Each project shall provide primary street level commercial land uses (i.e. retail, office, restaurant) of at least 50% of the square footage of the footprint of each building on the primary street level. For developments located on lots which abut more than one public street in the Central Business District, each additional street level floor shall provide commercial uses of at least 30% of that level’s square footage. For purposes of this subsection, the “primary street” shall be determined according to the following order: King Street, Howard Street, Depot Street, all other streets. For example, if a project is located on a lot that abuts both King Street and Howard Street, King Street shall be considered the “primary street” while for a project which abuts Howard Street and Depot Street, Howard Street shall be considered the “primary street” and so on.

B. The entire frontage of the primary street level of the building abutting the street shall provide commercial uses. Required entrances for ingress and egress to secondary uses are

permitted along said frontage so long as they are no larger than necessary to meet building code and safety requirements for ingress and egress. Commercial uses on the non-primary street level(s) shall front on the non-primary street.

- C. The entire primary street level floor of the building shall be constructed to commercial standards in accordance with North Carolina Building Code Group A, B, E or M.
- D. New projects on property which was vacant as of February 1, 2018 shall be at least two floors above the primary street level.
- E. Buildings facades shall be oriented to each public street and shall have a primary entrance door facing each abutting public sidewalk.
- F. A minimum of ~~60% of primary public street level facing building facade shall be comprised of transparent, non-reflective windows and~~ 30% of non-primary street level facing building facades shall be comprised of transparent, non-reflective windows.
- G. Surface parking shall be located away from each public street to the extent possible, and if practical, to the rear of the principal building.
- H. Structured parking is permitted to the rear of the building or below the street level floor.
- I. Building facades may be no further than 0'-0" from the established street setback line, except where necessary to provide landscaped courtyards, plazas, pocket parks, other pedestrian oriented amenities, or when there would be interference with public utilities.
- J. The minimum building footprint shall be 50% of the total gross square feet of the lot.
- ~~K. Pedestrian weather protection such as awnings or canopies are encouraged along the public street but may be placed only in accordance with an encroachment agreement authorized by the Town Council.~~

15.11.03 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the Neighborhood Business District (B2) only if the projects in which they are included meet all the following criteria:

- A. Each project shall provide street level commercial land uses (i.e. retail, office, restaurant) of at least 100% of the street-level floor square footage.
- B. Buildings facades shall be oriented to the public street and shall have a primary entrance door facing the public sidewalk.
- ~~C. A minimum of 60% of the street facing street level building facade shall be comprised of transparent, non-reflective windows.~~
- ~~D.~~ C. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.
- D. Structured parking is permitted but shall be located to the rear or below street level commercial uses
- ~~A.~~
- ~~B.~~ E. In the area between the primary façade and the street the applicant is encouraged to preserve existing significant or historic trees, to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities.

~~F.F.~~ Pedestrian weather protection such as awnings or canopies ~~are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.~~ Such awnings or canopies count toward the recreation space requirements found in Section 16.05 of this ordinance.

~~F.G.~~ All development shall comply with the landscape standards set forth in Article 31 except that Type “A” interior landscape buffers may be provided regardless of adjacent land use classifications.

15.11.04 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the General Business District (B3) only if the projects in which they are included meet the following:

A. Multi-family uses wholly or partially on property zoned B3 General Business within the Corridor Districts.

1. Mixed use building(s).

a. Each building shall fully consist of street level commercial uses (i.e. retail, office, and restaurant).

~~b. A minimum of 60% of the street level building façade facing the corridor shall be comprised of transparent, non-reflective windows.~~

~~b.~~ Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line. Structured parking is permitted but shall be located to the rear or in the interior of the building, or under street level commercial uses.

~~c.~~ In the area between the primary façade and the street the applicant is encouraged to preserve existing significant or historic trees, to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks and other pedestrian oriented amenities.

~~e. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.~~

2. Single use building(s).

a. Single use multi-family building(s) are only allowed as part of a mixed use project if approved through the Conditional District B3 General Business rezoning.

b. A mixed use project shall meet the following criteria:

i. Each project shall fully consist of street level commercial uses (i.e. retail, office, and restaurant) of 100% of the street level gross floor area on every building which fronts a corridor protected by the Corridor District. In addition, at least 50% of the total gross floor area of all buildings located within the Corridor District shall fully consist of commercial uses. This requirement may be satisfied if the commercial floor area is distributed among buildings or within one building.

ii. The street level floor of all buildings within the Corridor District shall be built to commercial standards in accordance with North Carolina Building Code Group A, B, E, or M.

~~iii. A minimum of 60% of the street facing street level building façade of a building which fronts a protected corridor shall be comprised of transparent, non-reflective windows.~~

~~iv.iii.~~ Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.

~~v.iv.~~ Structured parking is permitted but shall be located to the rear or in the interior of the building, or below the commercial uses.

~~vi.v.~~ In the area between the primary façade and the street the applicant is encouraged to preserve existing significant or historic trees, to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks and other pedestrian oriented amenities.

~~vii. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.~~

B. Multi-family uses wholly or partially on property zoned B3 General Business outside the Corridor District but proximate to major streets.

1. For the purposes of this section “major street” refers to collector and arterial streets.

2. “Proximate” shall mean any building wholly or partially within 200 feet of the centerline of a major street.

3. Mixed use building(s).

a. Mixed use building(s) shall meet the same requirements as described in Subsection 15.11.04(A)(1).

4. Single use building(s).

a. Single use multi-family building(s) are only allowed as part of a mixed use project.

b. A mixed use project shall meet the following criteria:

i. Each project shall consist of street level commercial uses (i.e. retail, office, and restaurant) of 100% of the street level gross floor area on every building which fronts a major street. In addition, at least 25% of the total gross floor area of all buildings wholly or partially located within 200 feet of the centerline of a major street shall consist of commercial uses. This requirement may be satisfied if the commercial floor area is distributed among buildings or within one building.

ii. For any floor containing a commercial use the entire floor shall be built to commercial standards in accordance with North Carolina Building Code Group A, B, E, or M.

- ~~iii. — A minimum of 60% of the major street facing street level façade of a building containing commercial use(s) shall be comprised of transparent, non-reflective windows.~~
 - ~~iv.iii.~~ iii. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.
 - ~~v.iv.~~ iv. Structured parking is permitted but shall be located to the rear or in the interior of the building, or below the commercial uses.
 - ~~vi.v.~~ v. In the area between the primary façade and the street the applicant is encouraged to preserve existing significant or historic trees, to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks and other pedestrian oriented amenities.
 - ~~vii. — Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.~~
- C. Multi-family uses wholly or partially on property zoned B3 General Business in all other areas.
1. Multi-family uses not part of a mixed use development may be allowed if an applicant demonstrates that within one-fourth of a mile (1,320 feet) of the borders of the lot that is to be developed there exists commercial uses with gross floor area square footage equal to the gross floor area square footage of the proposed multi-family project. If this standard cannot be met then the proposed project must meet the requirements in Subsection 15.11.04(B) above.
- D. Recreation space shall be provided for multi-family developments in the B-3 district as provided at Section 15.10.03(F).

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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. *****
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.

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

2.1.2 Commercial Development

- A. Uncontrolled strip development along the area's through streets shall be prohibited. The undesirable effects of existing strip development shall be reduced and/or reconfigured when redevelopment opportunities permit. New strip development on isolated single lots along through streets shall be discouraged. *****
- B. Commercial and Office Development shall be encouraged to locate in planned shopping centers, office parks and mixed use developments to stop the proliferation of strip development.
- C. Community/Commercial Centers shall be located adjacent to a major street and contain or be adjacent to other appropriate community facilities.
- D. Automobile Orientated Neighborhood and Convenience Commercial Centers shall be encouraged to locate on a collector street or secondary street at its intersection with a major street.
- E. Residentially scaled and designed neighborhood businesses may be a planned element of newly developed or redeveloped neighborhoods. They should be near other compatible facilities such as elementary schools and neighborhood parks.
- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- G. Effective buffering and/or landscaping shall be provided where a large scale or automobile-orientated commercial or office use adjoins an existing or planned residential use.

- H. Encroachment of incompatibly scaled and designed commercial or office uses into viable existing or planned residential areas shall be prohibited.
- I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.
- J. Highway Oriented Commercial uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movement, and consistent sign standards.

...

2.3 THE COMMUNITY

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

2.3.1 Community Appearance

- A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged.
- B. The significance of street trees in providing visual relief, summer cooling, improved air quality and livability shall be recognized through public policies and actions to encourage their planting and maintenance.
- C. The significance of major roadway entrances into Boone as measures of community image and quality shall be recognized through building placement, landscape, signage and other visual improvements. The Town, along with private property owners and developers, shall work to jointly improve the appearance and design of major street corridors.
- D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.
- E. The Town shall encourage public, private, and utility company efforts to place utility wires underground whenever feasible.

2.3.2 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.

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

...

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

First motion and vote: The proposed amendment to the Town’s zoning ordinance ☐is OR ☐is not consistent with the Town’s comprehensive plan and any other adopted plan(s) of the Town that are applicable because *[describe elements of controlling land use plans and how the amendment is or is not consistent]*:

Second Motion and Vote: The Planning Commission recommends ☐approval OR ☐denial of the proposed amendment to the Town’s Zoning ordinance and believes ☐approval OR ☐denial is reasonable and the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the Commission recommends approval despite inconsistency with the comprehensive plan and/or any other applicable plan: The Planning Commission recommends approval of the amendment despite inconsistency with the comprehensive plan and/or other applicable adopted plans because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

TOWN COUNCIL ACTION

Per NCGS 160A-383, zoning regulations shall be made in accordance with a comprehensive plan. Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

First motion and vote: The proposed amendment to the Town’s zoning ordinance ☐is OR ☐is not consistent with the Town’s comprehensive plan and any other adopted plan(s) of the Town that is applicable because *[describe elements of controlling land use plan(s) and how the amendment is or is not consistent]*:

Second Motion and Vote: The Town Council ☐approves OR ☐denies the proposed amendment to the Town’s Zoning ordinance and believes ☐approval OR ☐denial is reasonable and the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the proposed amendment is approved despite inconsistency with the comprehensive plan and/or any other applicable adopted plan(s): The Town Council approves the amendment and declares that this approval also amends the Unified Development Ordinance (and/or other approved and applicable plan) because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:
