**Town of Boone**
**Town Council/Planning Commission**
**Public Hearing**
**6:00 PM, Feb. 26, 2018**
**Council Chambers, 1500 Blowing Rock Road**

## I. Call to Order of Town Council and Planning Commission

## II. Approval of Public Hearing Minutes

November 27, 2017 Public Hearing - Town Council Approval

November 27, 2017 Public Hearing - Planning Commission Approval

## III. Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment

PL01240-122217 Howard St Ventures LLC - Application

PL01240-122217 Howard St Ventures LLC - Staff Report

PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 1, Past Meeting Minutes

PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans

PL01240-122217 Howard St Ventures Staff Report Exhibit 3, Original Neighborhood Meeting Information

PL01240-122217 Howard St Ventures LLC Staff Report Exhibit 4, Original Mitigation Analysis

## IV. Case PL00981-092517 Bee Hive Regulations - UDO Text Amendment

PL00981-092517 Bee Hive Regulations- Application

PL00981-092517 Bee Hive Regulations - Staff Report

## V. Case PL01265-011618 Planned Development Process - UDO Text Amendment

PL01265-011618 Planned Development Repeal - Application

PL01265-011618 Planned Development Repeal - Staff Report

## VI. Case PL01298-020218 Removal of Boone 2030 Land Use Plan References - UDO Text Amendment

PL01298-020218 Removal of Boone 2030 Land Use Plan Referencs - Application

PL01298-020218 Removal of Boone 2030 Land Use Plan References - Staff Report

**VII. Adjournment of Town Council**

**VIII. Approval of Planning Commission Meeting Minutes**

December 18, 2017 Planning Commission Meeting

**IX. Consideration of Items Heard at the Public Hearing**

**X. Election of Officers**

**XI. Other Matters by Board Members or Staff**

**XII. Adjournment of Planning Commission**

**PUBLIC HEARING MINUTES**
**MONDAY, NOVEMBER 27, 2017 AT 5:30 P.M.**

**COUNCIL MEMBERS:** Mayor Rennie Brantz, Mayor Pro-Tem Lynne Mason, Loretta Clawson, Charlotte Mizelle, Quint David and Jeannine Underdown Collins

**PLANNING COMMISSION MEMBERS:** Chairperson Connor Boyle, Elizabeth Shay, Abie Bonevac, and Alan Lee

**PLANNING STAFF PRESENT:** Jane Shook-Director of Planning and Inspections, Marty Little-Planner, and Marlene Crosby-Board Secretary

**OTHERS PRESENT:** John Ward-Town Manager, Allison Meade-Town Attorney

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**CALL TO ORDER**
Mayor Rennie Brantz called the Council to order at 5:44 p.m.

Planning Commission Chairman Connor Boyle called the Planning Commission to order at 5:44 p.m.

**APPROVAL OF MINUTES**
Council Member Collins made a motion, seconded by Council Member David, to approve the September 25, 2017 Public Hearing minutes as written.

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

Planning Commission Member Lee made a motion, seconded by Planning Commission Member Shay, to approve the September 25, 2017 Public Hearing minutes as written. Planning Commission Chairperson Boyle pointed out one misspelled word that needed to be corrected.

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

**CASE PL00800-080917 ROBERT BROWN GENERAL USE ZONING MAP AMENDMENT**
Attorney Tucker Deal has submitted a Planning Permit Application for a General Use Zoning Map Amendment on behalf of Robert Brown to rezone Watauga County PIN: 2910-27-5331-000 from R-1 Single Family to B-3 General Business.

Ms. Jane Shook, Director of Planning and Inspections presented this case as outlined in the meeting packet. Ms. Shook explained that the request is to change the zoning of the property from R-1 to B-3 and the differences between the two zoning districts are defined in the staff report. Ms. Shook noted that the attorney for the applicant was present at this meeting to answer any questions.

Ms. Shook handed out copies of emails from October 2017 that relate to this case (permanently attached). The emails contained concerns from neighbors regarding the need for the Town of Boone to focus on



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preserving R-1 neighborhoods. Ms. Shook noted that some of these concerned citizens were present at this meeting.

Mayor Pro-Tem Mason asked for clarification on the zoning of the property that is adjacent to the property with the proposed zoning change. Ms. Shook said that property is zoned R-1.

Council Member David asked for clarification that the access to the property with the proposed zoning change is off of Hwy 105 Extension. Ms. Shook said currently that is correct.

Mr. Tucker Deal, Attorney from Deal, Moseley and Smith came to the podium, he said he is representing Mr. Robert Brown on this proposed case. Mr. Deal confirmed that there is not a proposed project as a result of the rezoning request. Mr. Deal said this property recently changed ownership and the property has been used previously for commercial use for decades with one business being Wheeler Produce. Mr. Deal noted that this parcel is the only one that is not zoned B-3 and the only one zoned R-1 along the Hwy 105 Extension. Mr. Deal noted that the R-1 zoned property has a steep slope. Mr. Deal said there has been no necessity to rezone this property and given the slope it is largely unusable in any case. Mr. Deal said we need to look at the compatibility of the use of this parcel with the surrounding area. Mr. Deal said the property has no access to Horn in the West Drive and will not impact traffic. Mr. Deal said the request is to bring the property into compatibility with the surrounding area which is general business.

Mr. Deal talked about the neighbors not having the knowledge of the transitional zones. Mr. Deal said the applicant would need to demonstrate how they will mitigate the potential negative impacts such as traffic, light and noise pollution of the surrounding area depending on the type of development to protect the neighborhoods.

Council Member David asked if it is possible to build on the property with the required setbacks and parking requirements. Mr. Deal said there would need to be some cross-easement access across the currently zoned B-3 property. Mr. Deal said the principle impediment to build on the property would be the steep slope due to the 40 percent slope noted in the staff report.

Mr. Deal explained that Mr. Brown is trying to get a commercial tenant back into the existing building with no material change to the building.

Mr. Deal said there is a special use permit application for the general sales and service automotive use for the existing building that will be considered for this property at the next Board of Adjustment hearing either in January or February of 2017.

Council Member Mizelle asked if the transitional zone that is being triggered could be more extreme to protect the neighborhood. Ms. Shook said there is a 14-foot interior setback and the lot size is about 10,000 square feet and the lot size for a R-1 is 8,000 square feet. Ms. Shook said due to the percentage of slope, she was not sure how it could be developed and meet the parking requirements. Ms. Shook said that transitional zones are attached to each individual use.

Ms. Shook noted that development is possible on the property and a site-specific plan would need to be submitted and reviewed to see if a structure could be built safely. Planning Commission Chairperson Boyle noted that it is possible for a large retaining wall to be built on this property for development that would be subject to height and engineering requirements.



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Council Member Mizelle asked how deep is the lot from Hwy 105 Extension to the point where the lot just touches the Horn in the West road.

Council Member David talked about other uses that are allowed in the B-3 zoning district. He noted that the Council and Planning Commission would need to look at the whole area for all potential uses and not just one potential building or use, when considering this rezoning request.

The first speaker was Mr. Richard Randall who was representing his mother, Ms. Lera Randall who lives at 142 Blanwood Dr. Mr. Randall said his immediate concern is the potential for the property to be combined with other lots and a larger residential-type structure be built on it. Mr. Randall showed a concern that no site-specific development plan was being presented for this property and he encouraged the Council to consider a plan.

The second speaker was Ms. Carol Norris who lives at 176 Woodland Drive. Ms. Norris said she has the same concerns as Mr. Randall. She said that she has lived on Woodland Drive for 45 years and a large residential structure being built on this property would be detrimental to their neighborhood.

The third speaker was Mr. Tom Pace who lives with his wife Shirley at 118 Blanwood Dr. Mr. Pace asked if the property is rezoned would there be an access road from the Horn in the West Drive which connects to Hwy 321 and Hwy 421. He said that the Horn in the West Drive has both pedestrian and vehicular traffic now. His other concern is if a structure was built on the property could there be a condition that the building be no higher than Horn in the West Drive. He is concerned about possible noise on top of the traffic noise already coming from the Hwy 105 Extension.

The fourth speaker was Ms. Rosemary Hororitz who lives at 160 Blanwood Dr. Ms. Hororitz was against the rezoning of the property because of the many uses that are allowed in the B-3 zoning district even though it has a steep slope on the property.

The fifth speaker was Mr. Jerry Hyman who lives at 160 Blanwood Dr. Mr. Hyman showed concern for the aesthetics of a potential development of the property, if it is rezoned.

The sixth speaker was Ms. Linda Rigell who lives at 196 Windy Dr. Ms. Rigell was concerned with why Mr. Brown would want to purchase the triangle shaped lot behind the building. She asked if only the triangle shaped parcel could be rezoned and not the steep slope behind it. She was concerned with more trees being cut down and the potential noise pollution that could come from it. She was also concerned with the potential for increased traffic. She felt that there is another motive behind the rezoning of the property by Mr. Brown. Ms. Rigell suggested a sidewalk be put in on Horn in the West Dr. to encourage more pedestrians to walk to the Farmers Market.

The seventh speaker was Mr. Steve Rigell who lives at 196 Windy Dr. Mr. Rigell asked if there was something underhanded going on with the triangle shaped parcel. Ms. Allison Meade, Town Attorney explained that grandfathered uses are allowed because they were in place before the zoning regulations go in. Ms. Meade said that this property is treated as a whole including the front and back of the structure. Ms. Meade further explained that the property behind the structure was used for the Wheeler Produce business and it is a legal non-conforming use. Ms. Meade said that the property zoned R-1 has gone out of use which can happen in six months of non-use. Ms. Meade said when this happens the property has to be properly zoned through a public hearing process. Mr. Rigell showed concern for B-3 allowable uses to potentially occur on this property, if it is rezoned which would change the character of Horn in the West



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Drive. Mr. Rigell also agreed with Ms. Rigell that this area could benefit from a sidewalk which would encourage more pedestrians to take advantage of the Farmers Market.

Planning Commission Chairperson Boyle asked the concerned neighbors and citizens how many would be all right with a commercial development exactly like the existing Carriage Square offices being built on this property assuming the trees are left in place to keep the noise pollution down. It was noted that the question was too broad and it needed more detail in order for it to be answered. It was noted that the neighbors are against the rezoning because they do not want another Carriage Square type development on that property.

A concerned neighbor asked if the property could be rezoned differently than B-3. Ms. Shook said there are split-zoned parcels but it is not something that is normally done because of the applying of the densities. Ms. Shook said that split zoning has been done and it can be done.

Mr. Deal explained the boundary lines of the property, he said there is no record of how the boundary lines were drawn many years ago. He confirmed that there is no frontage or access on Horn in the West Drive from this property.

Ms. Shook noted that there is no record of when properties were first rezoned many years ago.

Mayor Pro-Tem Mason asked if there is any history of other parcels being zoned R-1. Ms. Shook said possibly some of the Boone Point parcels were zoned R-1 or a lower density residential.

Ms. Shook addressed the question of what Mr. Brown wants to use the property for. Ms. Shook said there is a flat space behind the building that has already been used for the Wheeler Produce business that was used to park a vehicle. Ms. Shook said that Staff does not have that information.

Ms. Shook said a notification will go out for the Board of Adjustment hearing on this case for this property.

Council Member David asked if the property can meet the parking requirements for an automotive use, if the proposed rezoned R-1 parcel was left as R-1. Ms. Shook said the parking requirements would be addressed during the Staff's review of this property.

Mayor Pro-Tem Mason asked if there is currently a structure on the parcel zoned R-1. Ms. Shook said no.

Council Member David said the building height for corridors is set at 67 feet. He said in a transitional zone the building height is lowered from five stories to three stories. Ms. Shook explained about the primary height is 45 feet and three stories and the secondary height is 67 feet or five stories. Ms. Shook said every foot you go over the primary height the setback is increased by one foot.

Council Member Collins confirmed the location of the R-1 zoned parcel along Hwy 105 Extension.

Ms. Meade confirmed that if the parcel is rezoned to B-3 there would be no conditions on the rezoning and both parcels would be B-3 because it is a general map amendment.

Planning Commission Chairperson Boyle confirmed that both the R-1 and B-3 properties being discussed were purchased together by Mr. Brown.



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Ms. Shook explained the Public Hearing and Planning Commission recommendation process. She said the Council and Planning Commission hear the cases at the Public Hearing. Then, the Planning Commission can either discuss the cases at the Planning Commission meeting that is held right after the Public Hearing or they may discuss the cases at the next scheduled Planning Commission meeting on Monday, December 18, 2017.

Mayor Brantz closed the public hearing on this case.

**CASE PL00982-092517 STORAGE USES, UDO TEXT AMENDMENT**

In May 2017, Planning Staff received a request (attached) for evaluation of use for a facility using temporary storage containers as a principal use (request). Staff has reviewed the existing uses listed in Section 15.07 Table of Principal Uses (Use Category 16.0 Storage), and in UDO Subsection 15.07.01 Table of Accessory Uses (Temporary Portable Storage Containers) and determined that this type of use has not been explicitly permitted, prohibited or restricted by the UDO, therefore is considered an "unlisted use" which required evaluation in accordance with UDO Section 15.02 Unlisted Uses. Staff determined that this type of use changes the nature and location of storage outside of a principal building and may impact the transportation requirements that were customarily considered for Use 16.01 Mini-Storage. Therefore, pursuant to UDO Section 15.02, Unlisted Uses, the Planning Director has initiated a UDO amendment because this particular use is likely to be common or recur frequently and its omission is likely to lead to public uncertainty and confusion.

Ms. Shook presented this case as outlined in the meeting packet. Ms. Shook noted that these containers are also known as pods. Ms. Shook said that this use is not covered in the Town's ordinance under the Table of Uses. Ms. Shook noted that pods are common across the state. Ms. Shook explained that the Staff took the mini storage part of the ordinance and modified it to fit the self-storage facilities and she reviewed the proposed changes in the Staff report.

Ms. Shook referred to page 32 of the electronic meeting packet and pointed out the proposed changes to the Temporary Uses.

Council Member Mizelle asked if the 14-day storage period for pods is what is being seen across the state. Ms. Shook said some of the periods of time for allowing the pods on a property ranged from 30 days to 60 days. Ms. Shook said that she chose the more conservative approach to allowing pods.

Mr. Ward asked Ms. Shook about the parking requirements when storing a pod. Ms. Shook said one dwelling unit is allowed two parking spaces.

Mayor Brantz asked about the number of pods that can be placed on a property. Ms. Shook read UDO Section 15.69.07(B)1-3 which explained the number of pods for single-family, multi-family and non-residential commercial developments.

Council Member David asked how many pods would be allowed for commercial businesses who may want to have extra stock available for the holiday season. Ms. Shook said five percent of their total vehicular surface. Ms. Shook said this type of pod storage is already being done in local shopping centers but there are no regulations for it. Ms. Shook said this proposed text would require the commercial businesses to get a permit and building and fire department inspections would be required.



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Council Member David asked about the size of the pods. Ms. Shook said that some jurisdictions regulate them by size but the Staff did not include a size.

The first speaker was Mr. Joseph Miller from Cheap Joes Art Stuff. Mr. Miller showed a concern for blanket-type storage regulations for the use of storage containers for businesses that are in distribution and manufacturing. Mr. Miller explained that his business is into logistics and distribution and he needs to make use of storage containers for long periods of time for merchandise he has purchased from overseas.

Mayor Pro-Tem Mason asked if the text could be modified for different zoning districts because an industrial area may have a different need from a commercial or residential area. Ms. Shook said the M-1 zoning district could be exempted from these regulations. Mr. Ward agreed that there might should be more flexibility with the regulations for industrial properties.

Council Member Mizelle asked if the stacking of the containers would be allowed in these regulations.

It was the consensus of the Council to exempt the M-1 zoning district from these regulations and to not allow the stacking of the containers.

Mayor Brantz closed the public hearing on this case.

**CASE PL00991-092617 M1 MANUFACTURING USE EXPANSION, UDO TEXT AMENDMENT**

Discussion regarding "uses" allowed within the M1 Manufacturing zoning district has been a topic at the August and September 2017 joint meetings with the Planning Commission and Town Council. At the September 2017 meeting, Council authorized Staff and the Town Attorney to draft text which would allow additional flexibility to the "uses" allowed with the M1 zoning district by allowing "compatible" commercial uses. Council's instructions included the request for Staff to be cautious with the new "uses" in order to preserve the integrity of the zoning district for manufacturing/warehouse uses.

Ms. Shook presented this case as outlined in the meeting packet. Ms. Shook read through the 12 uses and explained that the Table of Principal Uses had been modified to reflect the proposed changes outlined in the Staff report.

Mayor Brantz asked about the Use 11.18 for Business or professional office open to the public during 10 p.m. – 6 a.m. Ms. Shook said this is where the line was drawn to show the impact between the two categories.

Mayor Pro-Tem Mason asked Ms. Shook why was ABC stores included. Ms. Shook said because the local ABC store is looking to expand and they have a lot of larger trucks that deliver there.

Mayor Pro-Tem Mason expressed her concern for the possibility of there not being space for ABC type businesses that would complement the business parks because the space will be taken up with other office type businesses.

Mayor Pro-Tem Mason said that she supports coffee roasting type businesses being mixed in with office type businesses. She said she would not like to see just any retail business be allowed to be located within the Industrial Park. She does not want to see a shopping center in the Industrial Park because we would lose the space for other more suitable opportunities.



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Ms. Shook noted that Staff has been approached by various people with an interest in the Industrial Park for uses like restaurants, offices and gyms. Ms. Shook said Staff has provided this information for Council's consideration, as well as personal service establishments.

Ms. Shook explained that the thought process of the business world is changing and business owners are wanting to locate their businesses in areas where more different types of uses are available to them in one location.

Ms. Shook said that the Staff mailed out a letter to all of the property owners with M1 zoned properties asking them if they had any questions or concerns on the proposed text change. Ms. Shook said there is one person signed up to speak on this case.

Ms. Meade noted that only the compatibility of the uses is in the existing proposed text and the proposed text would have to be rewritten, if a change needs to be made.

Council Member David reviewed some of the uses of the M1 district and he said he thinks we need to be careful and try to preserve the warehouse and industrial type of feel to the district. He also noted that there will be trucks making deliveries and making noise. Ms. Shook said almost everyone that approached the Staff regarding putting a business in the Industrial Park was accepting of the fact that there would be noise there. Ms. Shook said that Staff did have a concern about businesses moving into the Industrial Park and then complaining about the noise.

Mayor Pro-Tem Mason said that she would like to slowly add uses to the M1 district to see how it works out because there could be future needs for additional infrastructure. She suggested having more discussion on what uses would be appropriate or limiting the number of uses in this district.

Council Member David noted that the ordinance allows a shooting range in the B-3 zoning district but not in the M-1 zoning district. He also pointed out that there are some uses in the Table of Permissible Uses that could possibly be moved to a more appropriate zoning district in the table.

Council Member David said if there are a lot of restrictions on the uses in the Industrial Park, we could end up with vacant buildings. He said it is important to stay up to date on what the current market is looking for. He said he would support more uses being allowed in the M1 district rather than less uses being allowed.

Ms. Shook explained that when the ordinance changed in 2014, the uses that were broadly applied before were pulled back into certain zoning districts. She said before all the uses that were previously allowed in the M1 zoning district were pulled out to make it more focused on manufacturing. Ms. Shook said that Council directed the Staff to limit the uses which is shown in the Staff report.

Discussion ensued on Council's direction for this case. The Council members talked about the dividing of spaces for different businesses. Ms. Shook said some of the issues with dividing the spaces will be site specific and it might depend on the amount of available parking at the site.

Planning Commission Chairperson Boyle asked if there has been a lot of demand for manufacturing space in the Industrial Park. Ms. Shook said there has been some interest shown for the renting of a large warehouse space in the Industrial Park. Ms. Shook said the availability for this type of space is limited.



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Ms. Meade explained to the Council the options of direction for the Staff. She said the Council could modify the proposed text or strike certain language from the text or bring the topic back on another agenda or approve it as written.

Mayor Pro-Tem Mason and Mayor Brantz suggested forwarding this case to next public hearing to hear more public input and discussion on it.

Planning Commission Chairperson Boyle suggested opening up more uses for the Industrial Park than are being proposed for this case. Council Member David wanted to keep the proposed text and have more discussion on it and ask Staff to work with the existing business owners in the Industrial Park to see what uses they would think is appropriate there.

Ms. Shook said that out of the 27 businesses that she notified about the proposed text only Mr. Barber from Charleston Forge responded to the notification.

The first speaker on this case is Mr. Art Barber who lives at 397 Windy Hill Road. Mr. Barber and his wife own Charleston Forge. He said when he started his business; the Industrial Park had not yet been built. He said he helped the Town of Boone get the Industrial Park by working on a Community Block grant. He encouraged the Town to open up spaces for manufacturing uses and encourage local businesses to expand.

The second speaker on this case was Mr. Joseph Miller. Mr. Miller agreed with Mr. Barber on encouraging more manufacturing uses and the expansion of local businesses. He talked about noise pollution. He said that there is more noise coming from Hwy 421 than from the businesses that are already in the Industrial Park. He said that the number of employees in the Industrial Park is less than before and he encouraged the Council to make it easier to increase the number of employees than to make it harder with the proposed changes in the Industrial Park.

Ms. Shook reviewed some of the M1 zoned properties throughout the Town.

Ms. Shook said there was another person that showed an interest in using a part of a building to put their sewing business in.

Mayor Pro-Tem Mason noted that she is struggling with allowing certain types of retail use and taking up space that other M1 type uses may need for larger businesses. Mr. Joseph Miller explained that a retail business is much different than a manufacturing or distribution type business. He talked about the Industrial Park not having the type of business traffic because it is not on a main corridor. He said at times his customers have trouble finding his business. He said it is important to mention that every piece of property in the Industrial Park are privately held. He said unless an outlet mall is located there, it will not be suited for a true retail-type environment.

It was the consensus of the Council to move forward with the recommendations from the Planning Commission on this case.

Mayor Brantz closed the public hearing on this case.



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**CASE PL01019-092917 USE 9.01 TEMPORARY COLLEGE AND UNIVERSITY USE, UDO TEXT AMENDMENT**

At the September 2017 joint meeting with the Planning Commission and Town Council, Council authorized Staff and the Town Attorney to draft text which would allow Use 9.01 Public Colleges and Universities as a temporary use in the M1 Manufacturing, B3 General Business and O/I Office Institutional zoning districts. Appalachian State University has expressed a need for what is referred to as "swing space" – temporary space to house University functions that must be temporarily re-located due to remodeling or construction and cannot be accommodated on campus due to space constraints. The University also experiences the need for temporary space when University faculty receive time-limited grants for programs that cannot be accommodated on campus due to limited space.

Ms. Shook presented this case as outlined in the meeting packet. She reviewed the proposed changes that were outlined in Unified Development Ordinance, Section 15.69.14 and she noted that the University had reviewed this section and made a proposed modification located in the box after number seven in the proposed text which would be in lieu of number six of this section of the UDO. She noted that the Table of Temporary Uses has also been modified accordingly.

Council Member Clawson talked about tabling this case until the January public hearing because of the proposed changes temporary uses in the Town and because of some comments she had heard from the new Council members that will be seated in January. She said by tabling this case until that time it would give the new Council members the opportunity to have input on it. She said she felt like she would not have the support of the other Council members to table this case at this hearing.

Council Member David said that he questions the legality of regulating uses based on who owns the use rather than the use itself. He said he tried to research this topic and he could not find other cities that had educational district regulations for who owns a particular use.

Council Member David said that the proposed change allows the University into the O/I, B3 and M1 zoning districts. He pointed out that the University is currently using space which is located in areas that they are not allowed in and will still be in a location they are not allowed in with the proposed text change.

Council Members David and Clawson agreed that because this case is large issue they would like to see more studies be done on it.

Ms. Meade said when the Staff worked on the educational districts the change was the reverse of what Council Member David was suggesting. She said the text has been changed to reflect any public college or university use, rather than ownership. She noted that the University is the only public university affecting the ordinance in the Town. She said if another University came to Town this proposed text would apply to them. She also noted that Caldwell Community College could also take advantage of this proposed change as well.

Ms. Meade explained that she does not recommend the proposed change added by the University to UDO Section 15.69.14 Temporary Use 9.01 as mentioned earlier. She said the proposed text was included in the Staff report for the Council's consideration. She noted that the blue colored proposed text is what the Staff understood as the Council's direction on this case. She said that Mr. Dayton Cole, Attorney from Appalachian State University could present his reason for their part of the proposed text change.

Ms. Meade said it might be beneficial for the discussion to occur on this case at this hearing whether the Council decided to table the case or not.



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Mayor Pro-Tem Mason noted that she needs more information to review on this case.

Ms. Shook explained that the proposed text would allow the University to use temporary "swing space" while they are planning or constructing or renovating spaces on the University campus. She talked about the University's need to use temporary warehouse space in the M1 district. She said as the current ordinance is written, the University cannot use temporary space in the Industrial Park.

Mayor Pro-Tem Mason asked what triggered this proposed change. Mr. Ward explained that the new construction of the University's recreation facility at the old Watauga High School location cannot be built until the University can find temporary space to relocate the current facility. The University looked at an Industrial Park site to move to temporarily and still remain on the tax rolls.

Ms. Shook reviewed the proposed changes and answered questions.

Mayor Brantz asked if there is a limit to the number of different uses that could be allowed. Ms. Shook said no, not as proposed in this text.

Council Member Mizelle said she envisioned a space being used perpetually. Ms. Meade said the proposed text points out that there has to be a different use each time. Ms. Meade included that the intent written in 15.69.14(A)5 is that three years would be the limit for the use of the temporary space. Ms. Meade pointed out that there could be situations where the University did not get approved on their capital plan and needed the space for a longer period of time.

Council Member Collins pointed out if the University is allowed to lease temporary properties, it keeps that revenue on the tax rolls, but if the University purchases a space, the revenue comes off the tax rolls.

Council Member David talked about the enforcement of the temporary use. Ms. Shook explained the violation process and the ordinance's options for handling the violation, whether it be the renter or the property owner.

Council Member David talked about the building and fire code process being a part of the occupying of the temporary space. Ms. Shook explained the process for the building code requirement for the change of occupancy and the zoning code requirement for the change of use.

Planning Commission Chairperson Boyle asked Ms. Meade if it was because of the educational designation that the University cannot rent a space in the Industrial Park without going through the public hearing process. Ms. Meade said previously the uses that the University could use were broken down in the Table of Temporary Uses.

Mayor Brantz called for a ten-minute break at 7:54 p.m.

Mayor Brantz reconvened the hearing at 8:03 p.m.

Mr. Dayton Cole, Attorney from Appalachian State University came to the podium and noted that Mr. Mike O'Connor from Appalachian State University was also present at this meeting to answer questions.

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Mr. Cole explained that the University undertakes capital projects, and they need a temporary space for the faculty and staff to carry on the educational work of the University while those capital projects are underway.

Mr. Cole explained that part of the challenge is that the University involved in several different businesses. He said they are in the real estate and development business, construction, research and entertainment business.

Mr. Cole explained that when the College of Health Sciences is completed and the faculty and staff are moved into it, it will open up other spaces on the campus. He said these empty spaces will not be vacant very long due to demand for space on the campus. He pointed out that the University is landlocked. He said they need space for construction management courses which constructs modular buildings and is part of their educational curriculum. He said the University currently leases high-bay space for this outside the Town of Boone. He said they are looking for space for these types of practical needs.

Mr. Cole said all of the temporary spaces the University will be needing are compatible with the intended uses in the proposed text.

Mr. Cole talked about the proposed text for the potential seven-year timeframe. He said this length of timeframe is not uncommon.

Council Member Mizelle said she would like to see less time allowed for the leasing of temporary space because she feels that more time is being requested than what might be needed by the University. She suggested four years and two years for the allowable timeframe.

Mr. Cole said the University would be thankful if Council approved the proposed text as Staff has written it. He said it would be better for the University if Council adopted the proposed text that he suggested in lieu of 15.6914(A)6. He noted that he does not have other concerns about the proposed text. He said that Ms. Meade had indicated that she does not recommend this proposed language. He said he would like to hear Ms. Meade's concerns regarding it.

Ms. Meade said her concern is for a possible disconnect in UDO Section 15.69.14(A)5. She said this would be the time to provide this information. She said that Mr. Cole wanted to show good faith efforts. She said that she had in mind that the University would have to show a plan in the first instance that the University needed temporary space. Mr. Cole said he did not intend to not submit the documentation under 15.69.14(A)5. He said that he submitted documentation and put it on the capital request, budget request and to the Board of Governors. He said if there were to be a delay, the University would show documentation on the reason for the delay.

Mayor Brantz asked how much temporary space would the University need over the next decade. Mr. O'Connor said a lot of space would be needed because there will be a lot of redevelopment like I.G. Greer Hall and Sanford Hall, and they would need to displace all of the faculty and staff during the redevelopment process. Mr. O'Connor explained that because the University is landlocked in order for them to build something new, they have to tear something down. Mr. Cole and Mr. O'Connor noted that it can take years to get from the approval to the completion of a project.

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Mr. O'Connor noted that in case of a catastrophic event, the University would need a temporary space for the faculty and staff to conduct academic instruction. Council Member Mizelle said that if the Council were to approve this proposed text, this type of event should be added to the proposed text.

Council Member David said that he sees the "swing" space concept as a way to focus on some of the expansion of the University onto already zoned properties rather than the University having to try to find land to purchase for various projects.

Council Member Collins said there is some merit to considering the proposed text because it would help the University.

The next speaker was Mr. Art Barber. He asked why there is a problem with the University renting space from the Town of Boone. He supported the University renting space from the Town. He said if the University had not rented space from him, he would have been out of business a long time ago. Mayor Brantz said there has been some concern for the loss of tax revenue from land that belongs to the University and is not on the tax digest, and others have expressed concern that the University is dominating the Town excessively. Council Member Clawson explained that there is only so much room and how much can the University use in comparison with the neighborhoods and the rest of the Town.

The next speaker was Mr. Joseph Miller. He said he agrees with Mr. Barber. He noted that the University puts a huge amount of money into the community. He talked about preventing urban sprawl and mentioned that the University has located property outside of Boone for their needs. He said the proposed text change may encourage urban sprawl. He said he would want a five-year lease with three-year renewals. He said allowing the University to rent space would put money back in to the private sector.

Council Member David said that with the new Council Members coming in January 2017, it is important that Council outline its larger picture for Boone, especially for this particular case.

Council Member David said he is concerned with the potential for urban sprawl. He said he feels that by allowing the University to use spaces in the Town, it will decrease traffic and keep properties on the tax rolls and help keep down urban sprawl. He said he is in favor of the three years or the five years from the date of issuance of the permit.

Ms. Meade said Staff will revise the proposed text to correct the typos and modify the language in 15.69.14(A)5 to clarify that documentation will have to be shown that clearly demonstrates a plan to provide permanent space in order for the University to get an extension, and she would also add the language regarding emergency and time-limited situations.

Council Member Clawson asked Mr. Cole and Mr. O'Connor for an update on student growth at the University. Mr. Cole said he could not give specifics, but over the past 20 to 25 years, it has grown steadily in small increments and he feels that this will continue.

Mayor Pro-Tem Mason talked about the ongoing discussion to balance the concerns and needs between the Town and the University, as well as the businesses and residential neighborhoods in Town She noted that we need adequate housing for students, and affordable housing for residents. She noted that the Town is losing its neighborhoods as a result of the residences being purchased for the students to live in while attending the University. She said the UNC system needs to step up and do their part and not put



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the responsibility on the Town of Boone. Mr. Cole said it is the Board of Governors that directs the University. She noted that University housing is a small part of the ongoing discussion.

Council Member Clawson talked about the Town losing its residential neighborhoods. She said she does want to try to protect our neighborhoods.

Council Member Collins noted that we want to try to keep properties in the Town of Boone on the tax rolls. She confirmed that the University Chancellor did indicate that the growth of the University would continue to be slow and steady.

A concerned citizen talked about the Town considering a traffic impact study.

Council Member Mizelle said that Council cannot involuntarily annex a property. She said the annexation has to be a voluntary request from a home owner or business as a result of wanting Town water or sewer, and this limits the number of tax payers that are in the Town of Boone.

Mr. Miller said the private sector is well equipped to handle what is being proposed in the text but this type of regulation will hamstring the ability to get it done. He said by allowing the private sector to do long-term leases with the University, the private sector would be able to help the University with infrastructure needs and would also keep the money on the tax rolls. He said he does not see flexibility in the proposed text that would encourage a joint partnership.

Mr. Ward noted that the proposed text does not apply to residentially zoned areas.

Ms. Shook clarified that Staff would work with the Town Attorney on modifying the proposed text with the changes discussed at this hearing, and the Planning Commission would discuss their recommendations at their next meeting.

Mayor Brantz closed the public hearing on this case.

**CONSISTENCY STATEMENT DISCUSSION**

Ms. Shook explained that the enclosed information is a statutory modification for Plan Consistency Statements. She said she has included this information for the Council and Planning Commission to read so that when making consistency statements, they are being done with the most current regulations.

Ms. Meade asked Ms. Shook about the statement consistency being handled differently at the December 2017 Council meeting. Ms. Shook confirmed that Staff will make sure that the correct information will be provided for Council's consideration.

**ADJOURNMENT**

Upon a motion from Council Member David, seconded by Council Member Collins, the hearing was adjourned at 8:43 p.m.

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

Planning Commission Chairperson Boyle called for a short break at 8:43 p.m.



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At 8:50 p.m. Planning Commission Chairperson Boyle called the Planning Commission meeting to order to announce that the Planning Commission had loss quorum and the agenda topics heard at this hearing would be discussed at the next Planning Commission meeting, scheduled for Monday, December 18, 2017 at 5:30 p.m.

It was the consensus of the Planning Commission members to adjourn the Planning Commission meeting at 8:53 p.m.

_____ _____

**Mayor, Rennie Brantz** **Board Secretary, Marlene Crosby**

_____

**Planning Commission Chairman, Connor Boyle**

DRAFT

# 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: HOWARD STREET VENTURES, LLC Company: - JOHN WINKLER MANAGER

Address: P. O. BOX 2675, BOONE, N.C. 28607

Phone Number: 828-268-1676 Email Address: WINKHEELSFAN@YAHOO.COM

Property Owner: HOWARD STREET VENTURES, LLC Company: N/A

Address: P.O. BOX 2675, BOONE, N.C. 28607

Phone Number: 828-268-1676 Email Address: WINKHEELSFAN@YAHOO.COM

## B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): 2900797562000 + 2900796480000

Address/Location: 783 W. KING ST., BOONE, N.C. 28607

Project Name: HOWARD STREET VENTURES DEVELOPMENT

## 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 | *Commerical 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 |





Communication: PL01240-122217 Howard St Ventures LLC - Application (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General

## D. DETAILED DESCRIPTION OF PROJECT

ZONING MAP AMENDMENT TO CHANGE ZONING FROM PD TO ORIGINAL B-1 ZONE

## 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: JOHN WINKLER Company: HOWARD STREET VENTURES, LLC

Address: P.O.BOX 2675, BOONE, N.C. 28607 License #: N/A

Phone Number: 828-268-1676 Email Address: WINKHEELSFAN@YAHOO.COM

## F. DESIGN PROFESSIONAL INFORMATION

**Engineer:**

Name: N/A Company:

Address: License #:

Phone Number: Email Address:

**Architect:**

Name: N/A Company:

Address: License #:

Phone Number: Email Address:

## G. 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.

HOWARD STREET VENTURES, LLC
BY: JOHN WINKLER - MANAGER — 12/22/17

**Applicant[1] (Print)** **Applicant Signature** **Date**

HOWARD STREET VENTURES, LLC
BY: JOHN WINKLER - MANAGER — 12/22/17

**Property Owner (Print)** **Property Owner Signature** **Date**

## Official Use Only

Project File Name: Howard St. Ventures - General Use Map Amendment

Permit Number: PL01240-122217

Project Name/Number:

| Date: | Fee: | Receipt Number: | Method of Payment: | Paid By: |
|---|---|---|---|---|
| 12-22-17 | $ 300.00 | 855826 | ck # 28782 | King Construction |

S:\FORMS\Forms_2015\Zoning\ZoningPlanningPermitApplication_052016.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.



Communication: PL01240-122217 Howard St Ventures LLC - Application (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General

# 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 Requested[1]: JANUARY 22, 2018

### B. DEVELOPMENT INFORMATION

Existing Zoning District(s): PD Proposed Zoning District(s): B-1

Existing Land Use(s): COMMERCIAL BUILDING

Adjacent Land Use(s): N: B-1 E: B-1

W: B-1 S: B-1

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

If yes, describe:

Total Land Area: 1.02 ACRES

### 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.

HOWARD STREET VENTURES, LLC

BY JOHN WINKLER

| Property Owner (Print) | Property Owner Signature | Date |
|---|---|---|
| | | 12/22/17 |

[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.



Communication: PL01240-122217 Howard St Ventures LLC - Application (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General

BK 0717 PG 567

FILED
WANDA C. SCOTT
REGISTER OF DEEDS

02 MAY -1 AM 8:53

BY: Diane Darcy
DEPUTY
WATAUGA COUNTY, NC

221596

Excise Tax: $ -0-

Mail after recording to: ✓ DEAL & MOSELEY, LLP, P.O. BOX 311, BOONE, NC 28607

PREPARED BY: DEAL & MOSELEY, L.L.P., ATTORNEYS AT LAW, P. O. BOX 311
BOONE, NC 28607 Tel (704) 264-4734

Brief Description for the Index: Tract in Boone Township

# NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED, made this 17th day of APRIL, 2002, by and between,

WILCOX & WRIGHT, LLC, a North Carolina Limited Liability Company, GRANTOR;

and ,

HOWARD STREET VENTURES, LLC, a North Carolina Limited Liability Company

of _____, GRANTEE.

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 TOWNSHIP, WATAUGA COUNTY, NORTH CAROLINA, and more particularly described as follows:

--SEE ATTACHED "SCHEDULE A" FOR DESCRIPTION--

THIS DOCUMENT HAS BEEN PREPARED WITHOUT TITLE EXAMINATION

The preparer of this document is not the disbursing agent and therefore is not required to file IRS Form 1099-S.

The property hereinabove described was acquired by Grantor in Deed Book _____, Page _____, Watauga County Registry.
A map showing the above described property is recorded in Plat Book _____ at Page _____.

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.

TAX INFORMATION RECORDED
May 01-02
Tax Supervisor

Communication: PL01240-122217 Howard St Ventures LLC - Application (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

This conveyance is made subject to any easements, rights of way, restrictions and matters of record.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

WILCOX & WRIGHT, LLC,
A North Carolina Limited Liability Company (SEAL)

BY: _____ (SEAL)
Roger D. Wright, Member-Manager

BY: _____ (SEAL)
Charles Kenneth Wilcox, Member-Manager

BY: _____ (SEAL)
Charles F. Connor, Jr., Member-Manager

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I, a Notary Public of the County and State aforesaid, certify that Roger D. Wright and Charles Kenneth Wilcox, as Member-Managers of WILCOX & WRIGHT, LLC, a North Carolina Limited Liability Company, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the said LLC. Witness my hand and official stamp or seal, this 26 day of April, 2002.

My Commission Expires:
7-26-05

Notary Public

(SEAL - STAMP)

STATE OF NORTH CAROLINA
COUNTY OF ~~WATAUGA~~ Catawba

I, a Notary Public of the County and State aforesaid, certify that CHARLES F. CONNOR, JR., as Member-Manager of WILCOX & WRIGHT, LLC, a North Carolina Limited Liability Company, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the said LLC. Witness my hand and official stamp or seal, this 19th day of April, 2002.

My Commission Expires:
May 5, 2004

Notary Public

(SEAL - STAMP)

Communication: PL01240-122217 Howard St Ventures LLC - Application (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General

BK 0717 PG 569

NORTH CAROLINA
WATAUGA COUNTY

**The foregoing Certificate (s) of** Gail D. Fox, Watauga County, North Carolina and Stacy R. Moose, Catawba County, NC, both Notaries Public,

**is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.**

Wanda C. Scott **REGISTER OF DEEDS FOR** Watauga **COUNTY**

**BY:** Diane Dancy **Deputy ~~Assistant~~ - Register of Deeds**

Gail\Property\Deeds\2040-3 Wilcox & Wright Deed

Communication: PL01240-122217 Howard St Ventures LLC - Application (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General

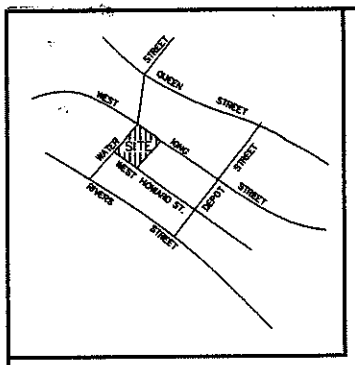
SCHEDULE "A"

BOONE TOWNSHIP WATAUGA COUNTY NORTH CAROLINA

Lying and being in the town of Boone, North Carolina, on the southern side of West King Street, bounded by West King Street on the North, by South Water Street on the west, by West Howard Street on the South, by a ten foot alley and a creek, and the Rivers Printing Company Building on the East, and BEGINNING at a point on the southern edge of the sidewalk on West King Street, corner of the brick building now occupied by Rivers Printing Company, and running with the southern edge of the sidewalk on West King Street North 53 degrees 16 minutes West 159.86 feet to a point on the southern edge of the sidewalk on West King Street and on the eastern edge of South Water Street; thence with the eastern edge of South Water Street South 36 degrees 45 minutes West 181.43 feet to a point in the eastern edge of South Water Street, and then continuing on the same course 81.05 feet to a point in the eastern edge of South Water Street and in the northern edge of West Howard Street; thence with the northern edge of West Howard Street South 53 degrees no minutes East 178.25 feet to a point at the western edge of a ten foot alley; thence with the western edge of the said ten foot alley North 34 degrees 57 minutes East 150.60 feet to the northern terminus of said alley; thence leaving said alley and running about North 53 degrees West fourteen feet, more or less, to a point; thence North 34 degrees 57 minutes East 114 feet to the point of the beginning, together with all rights of way, easements, driveways and pavements, alley ways, curb and street front privileges thereunto belonging; and being a part of the lands conveyed to R.C. Rivers, Jr., by the last will and testament of the late R.C. Rivers, Sr., said will being of record in the office of the Clerk of the Superior Court for Watauga County, at Boone, North Carolina, in Book of Wills B at Page 160; and of the lands conveyed to R.C. Rivers by Frank McGhee and wife Velma R. McGhee by deed dated March 30, 1934, recorded in Book 43 at Page 275; and by Velma R. McGhee by deed dated August 12, 1944, recorded in Book 57 at Page 638; and by James C. Rivers and wife Virginia Rivers, by deed dated May 27, 1935, recorded in Book 44 at Page 219; a plat of the R.C. Rivers property on which the hereinabove-described real property is designated as the "R.C. Rivers Home Lot" is recorded in the office of the Register of Deeds of Watauga County, North Carolina in Plat Book 1, Page 1, Watauga County , North Carolina, Public Registry.

Fox\description\2040

Communication: PL01240-122217 Howard St Ventures LLC - Application (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General




This plat represents a resurvey of property as shown on plat recorded in Plat Book ____ at Page ____ and / or does not require approval of the Town Council of the Town of Boone for the following reasons:
Article I, Section 122 [d]
The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in the Town of Boone Unified Development Ordinance

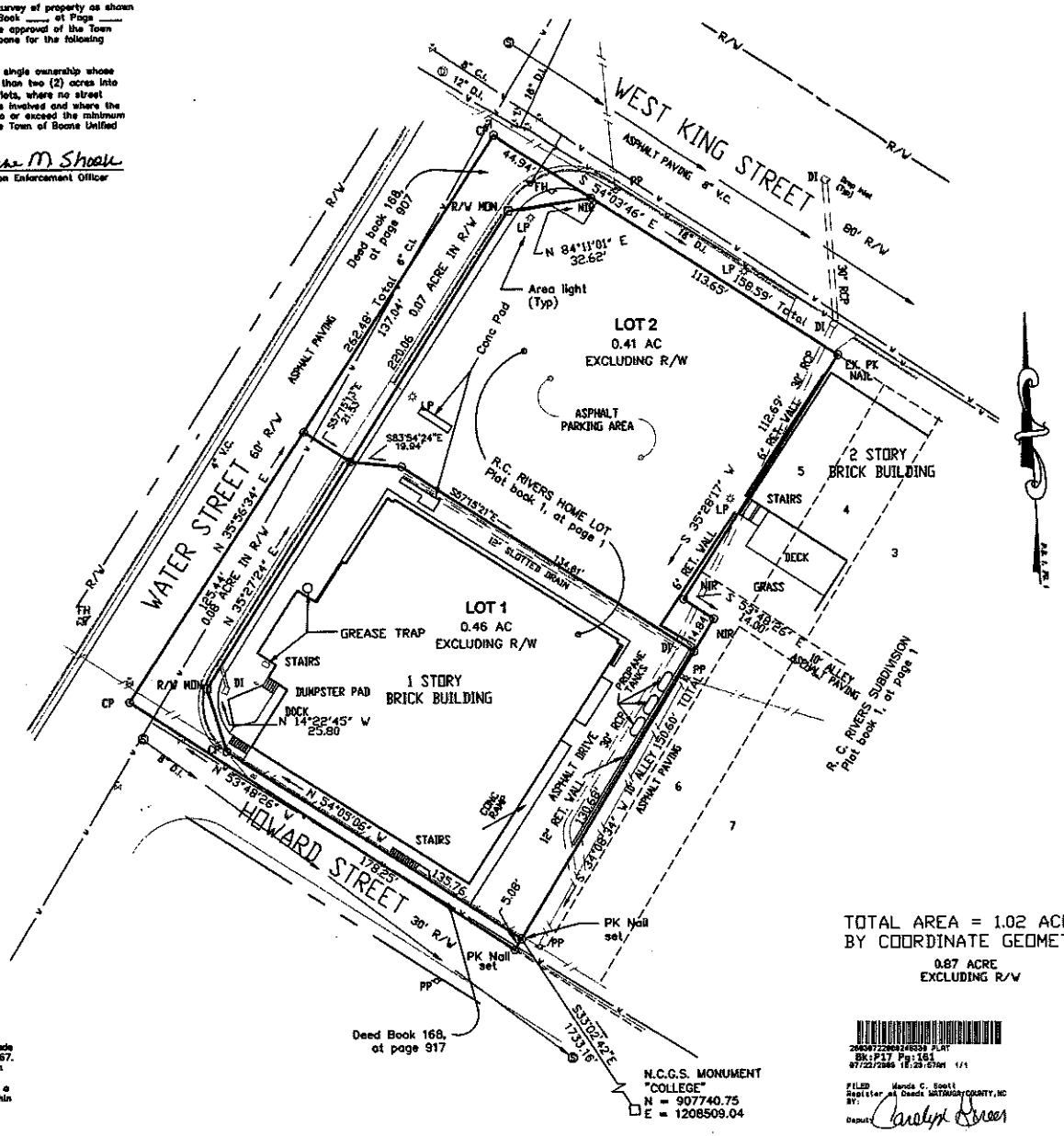
07-18-03 Jane M Shook
Date Subdivision Enforcement Officer

## VICINITY MAP
## LEGEND

- #5 Re-bar set capped
- Monumentation found (described)
- Concrete monument set
- Concrete monument found
- R/W Right-of-way
- D.B. Deed book
- B.R. Book of Records
- Utility pole
- Computed point
- Lines surveyed
- Lines not surveyed
- Sanitary sewer manhole
- Storm sewer manhole
- Water line
- Overhead utility lines
- Sanitary sewer
- Water valve
- Fire hydrant

## NOTES:

1. Area by coordinate computation.
2. All distances are horizontal ground distances.
3. This survey was prepared without the aid of a title search and is subject to any facts which may be revealed by an accurate and up-to-date title search.
4. Intended use is commercial.
5. Building setback in zone B-1 is back of sidewalk along West King Street and Water Street. Right-of-way line along Howard Street and property line on interior lot lines pursuant to the Town of Boone Unified Development Ordinance Article XII Sec. 2030b) and Record Book 239, at pages 132-138.
6. There is provided for Lot 1 a blanket easement for ingress and egress and parking on Lot 2.




State of North Carolina
County of Watauga

I, Thomas O. Pitts, Review Officer of Watauga County, certify that the map or plat to which this certification is offered meets all statutory requirements for recording.

Thomas O. Pitts 7-14-03
Review Officer date

I, W. R. McCracken III, certify that this plat was drawn from an actual survey made under my supervision, deed description recorded in Records Book 717, at page 567. That the boundaries not surveyed are clearly indicated as drawn from information found as noted; that the ratio of precision as calculated is 1:10,000 or greater; that this plan was prepared in accordance with G.S. 47-30 as amended. This is a survey of an existing parcel of land, and the subject property is not located within a special flood hazard area according to Flood Insurance Rate Map Community Panel No. 3718950181 E, Effective date January 17, 1997. Witness my original signature, registration number and seal this 7th day of July, 2003 A.D.

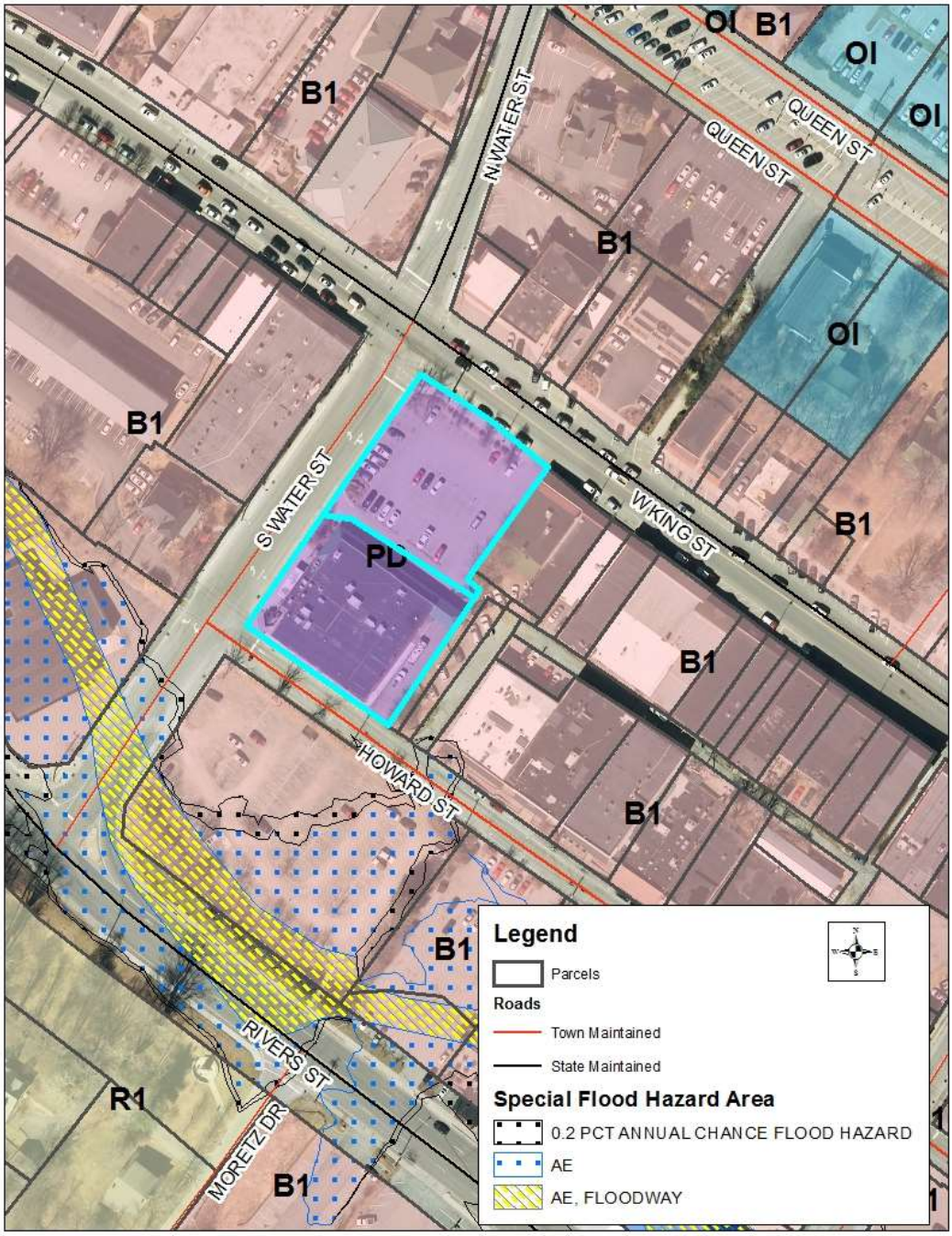
Professional Land Surveyor
L-3832
W. R. McCRACKEN III

2003072200026539 PLAT
Bk:P17 Pg:161
07/22/2003 12:23:57AM 1/1

FILED Wanda C. Scott
Register of Deeds WATAUGA COUNTY, NC
BY:
Deputy Carolyn Green

| REVISIONS | Subdivision Prepared for HOWARD STREET VENTURES, LLC | | Municipal Services Engineering Company, P.A. | | |
|---|---|---|---|---|---|
| | TOWNSHIP: BOONE | COUNTY: WATAUGA | DATE: 07-07-03 | SURVEYED BY: JT, LH | FIELD BOOK |
| 30 15 0 30 SCALE | TOWN: BOONE | STATE: NORTH CAROLINA | SCALE: 1"=30' | DRAWN BY: SRM | DRAWING NO. |
| | ZONE: B-1 TAX MAP: 2900 | PARCEL: 2900-79-6450-000 | CHECKED & CLOSURE BY: WRM | | 903098 |

**STAFF REPORT**
**PUBLIC HEARING – FEBRUARY 26, 2018**
**CASE PL01240-122217 HOWARD STREET VENTURES LLC**
**GENERAL USE ZONING MAP AMENDMENT**




## Request

John Winkler on behalf of Howard Street Ventures LLC has submitted a Planning Permit Application for a General Use Zoning Map Amendment to rezone the properties at 783 West King Street (Watauga County PINs: 2900797562000 & 2900796480000) from Planned Development Marketplace to B1 Central Business.

Note: The applicant currently has approval for a site specific Planned Development project known as "Marketplace" and is requesting that the zoning of the property be returned to the original zoning of B1 Central Business. If approved, this rezoning would then terminate any vested rights the applicant has to the PD Marketplace approval.

Exhibit 1 - Past meeting minutes,
Exhibit 2 – Approved Site Plans
Exhibit 3 - Neighborhood Meeting Minutes and
Exhibit 4 - Applicant's Analysis

## History

06-13-2016: Town Council approved the Marketplace Planned Development Zoning Map Amendment request for a planned development at properties located at or near 783 West King Street (Watauga Co. PINs: 2900-79-7562-000 & 2900-79-6480-000). The proposed development consisted of a mixed-use building containing both residential and commercial uses, including a parking deck. The residential portion proposed 99 dwelling units with 159 bedrooms; with the following uses proposed to be allowed for the commercial portion of the building: 11.06 Restaurant ≤ 2,500 ft2 open to the public during 10pm-6am, 11.07 Other restaurants ≤ 2,500 ft2; 11.08 Restaurant > 2,500 ft2 open to the public during 10pm-6am; 11.09 Other restaurants ≤ 2,500 ft2, 11.12 Personal Service Establishment open to the public during 10 pm – 6 am, 11.13 Other Personal Service Establishments, 11.14 Retail Store up to 5,000 ft2; 11.15 Retail Store more than 5,000 ft2 but less than 25,000 ft2, 11.19 Other business or Professional Office, 14.02 Brewpub and 15.02 Parking Structure. This request was approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (site plans and architectural plans bearing a received date of May 27, 2016, and as amended on June 13, 2016), 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 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. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. All driveway permits shall be obtained prior to the issuance of a zoning permit.
5. The applicant will be required to satisfy all NCDOT requirements prior to issuance of a zoning permit.
6. At least 40 percent of the project's parking will be dedicated for short-term hourly parking.
7. The development is limited to the proposed five, three-bedroom units and is not allowed to have any four-bedroom units.
8. The applicant is granted an exception to allow cast concrete or similar material (such as cast moldings) for accent trim as shown on the building.
9. The applicant's removal of the request for the deviation regarding attached wall signage to be allowed the following:



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a. The applicant is allowed to place a building identification sign (such as "Marketplace") within the sign band or cornice band at each of the 45-degree angles proposed for the building.
b. Each [commercial] tenant will be allowed up to a 16-square-foot projecting sign and an awning sign [meeting the requirements set forth for awning signs in the B1].
c. Each parking entrance will be allowed up to a 24-square-foot projecting sign.
d. The applicant is given approval to have an awning at all other ingress/egress points on the building.

## Parcel Information

| | |
|---|---|
| **Address:** | 783 West King Street |
| **Watauga County PINs:** | 2900797562000 & 2900796480000 |
| **Property Owner:** | Howard Street Ventures LLC |
| **Total Lot size:** | Approximately 1.02 acres |
| **Jurisdiction:** | Corporate limits |
| **Access:** | W. King Street (NCDOT maintained), Water Street (Town maintained, Howard Street (Town maintained) |
| **Topography:** | Approximate 17.25' change in elevation from King Street to Howard Street; Slope from NE to SW |
| **SFHA:** | No. The special flood hazard area is located to the south of this property. |
| **Watershed District:** | No |
| **Corridor District:** | No |
| **NCD:** | No |
| **Viewshed:** | No |
| **Transit Route:** | Yes. (Green Route West, Express, Gold Route -not after 6 pm, Pop 105) |
| **Utilities:** | Town water and sewer available. |
| **Current Zoning:** | **Marketplace Planned Development** |
| **Vesting:** | 2 years (starting June 16, 2016) |
| **Approved Uses:** | 1.16 Multi-Family Dwelling in Mixed Use (> 100 bedrooms)<br>11.06 Restaurant ≤ 2,500 $ft^2$ open to the public during 10pm-6am,<br>11.07 Other restaurants ≤ 2,500 $ft^2$,<br>11.08 Restaurant > 2,500 $ft^2$ open to the public during 10pm-6am,<br>11.09 Other restaurants ≤ 2,500 $ft^2$,<br>11.12 Personal Service Establishment open to the public during 10 pm – 6 am, 11.13 Other Personal Service Establishments,<br>11.14 Retail Store up to 5,000 $ft^2$,<br>11.15 Retail Store more than 5,000 $ft^2$ but less than 25,000 $ft^2$,<br>11.19 Other business or Professional Office,<br>14.02 Brewpub and |



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15.02 Parking Structure.

| Zoning & Use of Adjacent Properties | | |
|---|---|---|
| | **Adjacent Zoning** | **Adjacent Land Use** |
| North | B1 Central Business | Across King St.: Restaurant, Office |
| East | B1 Central Business | Restaurant, Across alley: mixed-use building with restaurant, retail & multi-family |
| South | B1 Central Business | Across Howard St.: Parking |
| West | B1 Central Business | Across Water St: mixed use building with restaurant and multi-Family |

**Zoning District Descriptions:**

**PD:** A PD creates a sui generis (unique) zoning district not limited to the authorized uses and the development standards of a specific existing zoning district and may be subjected to conditions that make the development plan more desirable. A PD is intended to permit the establishment of areas in which diverse uses may be combined and integrated through careful planning to provide a unified and compatible development which is consistent with adopted plans, and which may reasonably be expected to result in a quality of living environment which is more closely in keeping with the purposes of zoning than would otherwise likely be obtained. It is not the intent of the Town Council that the PD district become a "loophole" designed to permit otherwise illegal contract, conditional or spot zoning, or clandestine institution of an unlawful use variance. Rather the PD district is intended to permit further refinement and more detailed expression of adopted plans in situations where the owners of the property present a development plan which is found to be in the public interest and consistent with adopted plans. A PD should only be approved upon the following findings:

a. That the proposed PD will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
b. That the proposed PD will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
c. That the proposed PD will produce a development functioning as a cohesive, unified project; and
d. That the proposed PD will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the town.

**B1:** The B1 Central Business District is intended to provide for the development of the commercial and service center for the town while maintaining its character, and to encourage appropriate residential uses in the central area of town, 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.

**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. Note: The uses permitted in the PD Marketplace approval are highlighted in yellow.



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## 15.07 Table of Principal Uses

| Use # | Specific Use | Zoning Districts | | Reference |
|---|---|---|---|---|
| | | PD Marketplace | B1 | |
| **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 |
| 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) | P | $L^{T125}$ | 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 | | | 15.14 |
| 2.06 | Nursing Care Institution | | | 15.14 |
| 2.07 | Skilled Nursing Facility | | | 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 | | | 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 | | | 15.19 |
| 3.04 | Bed and Breakfast, Category 1 | | L | 15.20 |
| 3.05 | Bed and Breakfast, Category 2 | | $L^{T125}$ | 15.20 |
| 3.06 | Vacation Rental | | $L^{T75}$ | 15.21 |
| 3.07 | Motel | | $P^{T200}$ | |
| 3.08 | Hotel | | | |
| **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 | | | |



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| Use # | Specific Use | Zoning Districts | | Reference |
|---|---|---|---|---|
| | | PD Marketplace | B1 | |
| 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 | |
| 5.05 | Recreation Facility, Category 2 | | P | |
| 5.06 | Recreation Facility, Category 3 | | $P^{T50}$ | |
| 5.07 | Event Venue, Category 1 | | P | |
| 5.08 | Event Venue, Category 2 | | P | |
| 5.09 | Event Venue, Category 3 | | $P^{T50}$ | |
| 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 | | | 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 | | | 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 | | $P^{T200}$ | |
| 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 | | | |



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| Use # | Specific Use | Zoning Districts | | Reference |
|---|---|---|---|---|
| | | PD Marketplace | B1 | |
| 9.05 | Elementary School | | | |
| 9.06 | Boarding School | | | |
| **10.0 Daycare** | | | | |
| 10.01 | Child Daycare, Large | | | 15.25 |
| 10.02 | Child Daycare Center | | | 15.25 |
| 10.03 | Adult Daycare, Large | | | 15.25 |
| 10.04 | Adult Daycare Center | | | 15.25 |
| 10.05 | All Other Daycare | | | |
| **11.0 General Sales and Service** | | | | |
| 11.01 | Kennel | | | 15.26 |
| 11.02 | Veterinary Office/Hospital with Outdoor Kennels | | | 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 | $P^{T75}$ | |
| 11.07 | Other Restaurants ≤ 2,500 $ft^2$ | P | P | |
| 11.08 | Restaurant > 2,500 $ft^2$ open to the public during 10 pm – 6 am | P | $P^{T125}$ | |
| 11.09 | Other Restaurants > 2,500 $ft^2$ | P | $P^{T75}$ | |
| 11.10 | Bar | | | |
| 11.11 | ABC Store | | P | |
| 11.12 | Personal Service Establishment open to the public during 10 pm – 6 am | P | $P^{T50}$ | |
| 11.13 | Other Personal Service Establishments | P | P | |
| 11.14 | Retail Store up to 5,000 $ft^2$ | P | P | |
| 11.15 | Retail Store more than 5,000 but less than 25,000 $ft^2$ | P | $P^{T125}$ | |
| 11.16 | Retail Store 25,000 $ft^2$ and greater | | | 15.27 |
| 11.17 | RESERVED | | | |
| 11.18 | Business or Professional Office open to the public during 10 pm–6 am | | $P^{T50}$ | |
| 11.19 | Other Business or Professional Office | P | P | |
| 11.20 | Medical Office, Category 1 | | $P^{T300}$ | |
| 11.21 | Medical Office, Category 2 | | $P^{T125}$ | |
| 11.22 | Medical Office, Category 3 | | | |
| 11.23 | Medical Office, Category 4 | | P | |
| 11.24 | Hospital | | | |
| 11.25 | Medical Emergency Response | | $P^{T300}$ | |
| 11.26 | Open Air Market, Recurring | | | 15.29 |
| 11.27 | Vehicle Sales and Service | | | 15.30 |
| 11.28 | Equipment Sales and Service | | | 15.31 |
| 11.29 | Moped Sales and Service | | P | |
| 11.30 | Boat or Marine Craft Sales and Service | | | 15.32 |
| 11.31 | Impound Lot/Towing Service | | | 15.33 |
| 11.32 | Gas Station | | | |
| 11.33 | Car Wash | | | |
| 11.34 | Seasonal Retail Activities and Amusements | | P | |
| **12.0 Recreation** | | | | |
| 12.01 | Indoor Shooting Range | | | 15.34 |
| 12.02 | Outdoor Shooting Range | | | |
| 12.03 | Indoor Theater | | P | |



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| Use # | Specific Use | Zoning Districts | | Reference |
|---|---|---|---|---|
| | | PD Marketplace | B1 | |
| 12.04 | Outdoor Theater | | $P^{T125}$ | |
| 12.05 | Event Venue, Category 1 | | P | |
| 12.06 | Event Venue, Category 2 | | $P^{T50}$ | |
| 12.07 | Event Venue, Category 3 | | $P^{T200}$ | |
| 12.08 | Campground and Recreational Vehicle Park | | | 15.35 |
| 12.09 | Coliseum | | | |
| 12.10 | Recreation Facility, Category 1 | | P | |
| 12.11 | Recreation Facility, Category 2 | | | |
| 12.12 | Recreation Facility, Category 3 | | | |
| **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 | | $L^{T75}$ | 15.39 |
| 14.02 | Brewpub | P | $L^{T75}$ | 15.39 |
| 14.03 | Brewery/Distillery | | | 15.40 |
| 14.04 | Brewery/Distillery, Other | | | 15.41 |
| 14.05 | Winery Associated with a Vineyard | | | 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 | | L | 15.46 |
| 15.02 | Parking Structure | P | L | 15.47 |
| 15.03 | Park and Ride Lots | | | 15.46 |
| **16.0 Storage** | | | | |
| 16.01 | Mini-Storage | | | 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 | | | 15.49 |
| 18.02 | Recycling and Salvage | | | 15.49 |



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| Use # | Specific Use | Zoning Districts | | Reference |
|---|---|---|---|---|
| | | PD Marketplace | B1 | |
| 18.03 | Junkyard | | | |
| 18.04 | Private Landfill | | | |
| **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 |

**15.07.01 Table of Accessory Uses**

| Use # | Accessory Uses | Zoning Districts | | Reference |
|---|---|---|---|---|
| | | **PD Marketplace** | **B1** | |
| A-1 | Secondary Suite | | L | 15.52 |
| A-2 | Home Occupation | | L | 15.53 |
| A-3 | Accessory Dwelling Unit | | L | 15.54 |
| A-4 | Drive-Through | | | 15.55 |
| A-5 | Outdoor Display | | L | 15.56 |
| A-6 | Outdoor Storage | | | 15.57 |
| A-7 | Outdoor Dining | | L | 15.58 |
| A-8 | Automated Teller Machine (ATM) | | P | |
| A-9 | Automated Teller Machine (ATM), Freestanding | | L | 15.59 |
| A-10 | Produce Stand | | | 15.60 |
| A-11 | Poultry | | | 15.61 |
| A-12 | Livestock, Small | | | 15.62 |
| A-13 | Livestock, Large | | | 15.63 |
| A-14 | Bees | | L | 15.64 |
| A-15 | Garden, Residential | | L | 15.65 |
| A-16 | Satellite receiving antennas less than 1 meter in diameter | | P | |
| A-17 | Satellite receiving antennas less than 2 meters in diameter | | P | |
| A-18 | Satellite receiving antennas 2 meters and greater in diameter | | | |
| A-19 | Helistop | | | |
| A-20 | Swimming pools, spas, and hot tubs | | L | 15.66 |
| A-21 | Caretaker's residence | | | 15.67 |
| A-22 | Vehicular Gate | | L | 15.68 |
| A-23 | Vehicle Washing Station | | | |
| A-24 | Chemical Storage Facility | | | |
| A-25 | Open Air Market, Accessory | | L | 15.29 |
| A-26 | Daycare, Small | | P | |



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**15.07.03 Table of Temporary Uses**

| Use # | Temporary Uses | Zoning Districts | | Reference |
|---|---|---|---|---|
| | | PD Marketplace | B1 | |
| | | | | |
| T-1 | Temporary Care Provider Dwelling | | L | 15.69 |
| T-2 | Temporary Construction or Repair Dwelling | | L | 15.69 |
| T-3 | Temporary Construction Trailer | | L | 15.69 |
| T-4 | Temporary Mobile Medical Unit | | L | 15.69 |
| T-5 | Temporary Classroom | | | 15.69 |
| T-6 | Temporary Portable Storage Containers | | | 15.69 |
| T-7 | Temporary Staging | | | 15.69 |
| T-8 | Temporary Non-Fixed Site Event Venue | | | 15.69 |
| T-9 | Carrier on Wheels (COW) | | L | 15.69 |
| T-10 | Yard Sales | | L | 15.69 |
| T-11 | Itinerant Merchant/Peddler | | L | 15.69 |
| T-12 | Open Air Market, Temporary | | L | 15.29 |

**Intensity/Density Regulations:**

| Zoning District | Min. Gross Land Area | Min Lot Width | Min. Livability Space Ratio (LSR) | Setbacks | |
|---|---|---|---|---|---|
| | | | | Street | Interior |
| PD Marketplace | 1.018 acres<br>44,344 sq. ft. | 262.44 ft.<br>(King) | No info provided | Varies<br>(See Approved Plans in Exhibit 3) | Varies<br>(See Approved Plans in Exhibit 3) |
| B1 | 5,000 sq. ft. | 15 ft. | None | Refer to Section 16.06.02 | Refer to Section 16.06.04 |

**16.06.02** In the B1 district, existing development may rebuild to existing building footprint lines, but cannot rebuild any closer to a street than the established existing building setback line as noted on the Official Existing Building Line Maps recorded with the Watauga County Registry in Deed Book 239, Pages 132-138. Structures existing prior to February 25, 1993 that do not meet the required setbacks shall not be considered to have nonconforming features.

**16.06.04** The interior setback for the B1 zoning district is zero feet, unless the lot abuts a district other than a U1 zoning district, in which case the lot boundary setback shall be 15 feet.



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**Building Height**

| Zone | Height Limitation (Feet) |
|---|---|
| PD Marketplace | 40' (King), 42'4" (Water), 50'4" (Howard) |
| B1 | On King St. from Water to College and on Depot Street from King to Howard: 3 stories/45 feet; elsewhere: 4 stories/55 feet |

**16.08.04** In the B1 district the maximum building height shall be limited to 45 feet, as measured from the average elevation of the existing or proposed sidewalk along the primary street at the middle of the building elevation facing the street to the highest point of the building or structure. Where a property has street frontages on opposite sides the applicable height limitation shall apply for each side and the building height limitation for each side shall terminate at the midpoint of the building. Where a property does not border a primary street on any side, the maximum height shall be measured from the average finished ground elevation of the finished building. For the purpose of this section, the following are considered primary streets: King Street, Queen Street, Howard Street, Rivers Street, Water Street, Depot Street, Appalachian Street, Grand Boulevard, Poplar Grove Road, Straight Street, Bent Street, Orchard Street, and Wallace Circle.

## 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.



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**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.

**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.

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

F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.

#### 2.1.2 Commercial Development



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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.

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.

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.

**2.1.5 Downtown**

A. A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.

B. The Town, in concert with the downtown property owners and merchants, shall encourage public and private efforts to develop and publicize adequate and appropriately designed off-street parking lots in the downtown area.

C. A variety of mutually compatible and supportive mixed uses shall be encouraged in the downtown area.

E. Public and private development decisions in the downtown area shall exhibit a special concern for maintaining the intensive, pedestrian oriented character of the district.

F. The maintenance and revitalization of downtown Boone, as well as planning for its future development, will reflect the realities and qualities befitting its geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services.

**2.2 THE INFRASTRUCTURE**

**2.2.1 Transportation**

I. Driveway cuts along major streets and roads shall be limited to allow these streets to serve primarily as safe traffic movement corridors or, alternatively, to maximize curb frontage for on-street parking.



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**2.2.2 Utilities**

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

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

**2.2.4 Public Safety**

D. The Town shall place renewed emphasis on enforcement of the state building code and flood prevention regulations to avert or minimize loss of life and property during natural disasters.

**2.2.5 Environmental Quality**

C. Development activities in the 100 year floodplain or near lakes or streams shall be carefully controlled. If development must occur, low intensity uses such as open space, recreation and adequately buffered agricultural or forestry activities shall be preferred.

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

**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.

**2.3.2 Community Character**

E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

**2.3.3 Housing and Neighborhoods**

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

C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.

C. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.

D. 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



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and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.

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.

## Certification 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 February 1, 2018.

_____

Brenda Henson, Administrative Support Specialist

## Certification of Posting

I, Brian Johnson, 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 February 2, 2018.

_____

Brian Johnson, Urban Design Specialist

## UDO Section 9.07 Ultimate Issue Before Council on Amendments

**9.07.01** In deciding whether to adopt a proposed amendment to this ordinance, 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:

A. 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.

B. The Council shall only consider the impact of the proposed change on the public at large.

## 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*]:

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**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]* :

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**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*]:

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## 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*]:

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**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]* :

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**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*]:

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## Exhibit 1 – Meeting Minute Excerpts

Special Public Hearing – June 6, 2016
Meeting Minutes Excerpt

…

**Case 20160275 Marketplace Planned Development - Zoning Map Amendment** - John Winkler with The Winkler Organization has filed a Zoning Map Amendment Petition for a planned development at properties located at or near 783 West King Street (Watauga Co. PINs: 2900-79-7562-000 & 2900-79-6480-000). The proposed development consists of a mixed-use building containing both residential and commercial uses, including a parking deck. The residential portion will contain 99 dwelling units with 159 bedrooms; with the following uses are proposed to be allowed for the commercial portion of the building: 11.06 Restaurant ≤ 2,500 $ft^2$ open to the public during 10pm-6am, 11.07 Other restaurants ≤ 2,500 $ft^2$; 11.08 Restaurant > 2,500 $ft^2$ open to the public during 10pm-6am; 11.09 Other restaurants ≤ 2,500 $ft^2$, 11.12 Personal Service Establishment open to the public during 10 pm – 6 am, 11.13 Other Personal Service Establishments, 11.14 Retail Store up to 5,000 $ft^2$; 11.15 Retail Store more than 5,000 $ft^2$ but less than 25,000 $ft^2$, 11.19 Other business or Professional Office, 14.02 Brewpub and 15.02 Parking Structure.

Mr. Bailey gave a brief background on this case. Mr. Bailey handed out a copy of an email that Mr. Bailey had received regarding this case. He noted that a final draft of this proposed project will be presented tonight by Mr. Jim Deal, Attorney for the applicant.

Mr. Jim Deal the attorney for the applicant gave a brief background of the proposed project. He noted that the idea for this project started a little over one year ago. He said it started out as a possible parking garage and as a result of meetings with the Town Staff and community members it evolved into a mixed-use project with a street-level commercial component and a residential component and a parking garage. He said this proposed project has gone through a number of redesigns. He explained that the proposed project located on three streets in the Downtown area and how the applicant has tried to incorporate the commercial component on all three streets. He further explained that the applicant tried to create as many parking spaces as possible to help Downtown Business Owners. He talked about the applicant trying to make the residential apartments more geared for the young professionals. He said he walked along King Street trying to figure what the character of Boone is with some of the buildings having wood and some of them with stutto. He passed around two photos of Downtown Boone buildings that no longer exist (the old Daniel Boone Hotel and the Old Watauga County Courthouse building). He noted that the courthouse building had red brick on it. He said that Mr. John Cooper the owner of Mast General Stores and a member of the Downtown Boone Development Association suggested adding balconies on the upper levels of the residential units of the proposed building.

Mr. Deal talked about the meetings he had with Town Staff regarding the way the Unified Development Ordinance and the Boone 2030 Master Plan are constructed and what could be called into question in terms of this proposed project. He noted that the applicant would like to arrive at some kind of a consensus as a community on what we would like the proposed project to be which would include the exterior appearance.

The town meetings consisted of the Downtown Boone Development Association and the Community Appearance Commission and other community members and the applicant was able to gather feedback from each of them regarding this proposed project to incorporate into the revised plans.

Mr. Deal talked about the neighborhood meeting that was held and the concerns that were talked about at the meeting. He talked about the building heights on King Street, Howard Street and Water Street. He said in the original building plans and the building height presented at the neighborhood meeting was 46



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feet and eight inches. He said as a result of the neighborhood meeting discussion and comments, the developer has reworked the plans. He noted that the project information in the meeting packet shows the building height to be 38 feet and the height probably really closer to 36 feet and four inches and he explained that the building height is measured from the median to the corner and not going up in a straight line but in a diagonal line. It noted to not be misleading, they put 38 feet in the plans and it is less than the 40 feet. He noted there is an eight feet and eight inch reduction in the height of the building on King Street. He said at the mid-point of the building on Water Street, he said as a result of the neighborhood meeting the building height changed from 50 feet and ten inches to 42 feet and four inches. He said based on measuring the building height from Water Street, it is 2 feet and four inches higher from what the UDO could "arguably" require. He noted that the UDO states that you measure from a primary street and in the case the primary street is King Street. He said at the neighborhood meeting the mid-point or median on Howard Street was 61 feet and six inches and the proposed redesigned height was changed to 50 feet and four inches.

Mr. Deal talked about a lengthy email that was sent to the Town regarding the requirements of the Boone 2030 Master Plan. He said the email conveniently left out what the Boone 2030 Master Plan called for at this exact site. He said the Boone 2030 Master Plan called for a six-story building. He further talked about the other building heights on King Street.

Mr. Deal talked about a concern regarding the building appearance. He talked about the old Watauga County Bank building and the Farmers Hardware building being located beside it. He noted that the proposed redesign included the look of the old Watauga Bank building on King Street. He talked about needing certain features in order to comply with the UDO.

Mr. Deal noted that on June 2, 2016 the proposed plans were reviewed by the Community Appearance Commission meeting. He noted that the developer is not requesting any deviations from the UDO regarding the exterior appearance. He said the CAC members were alright with the proposed plans based on the proposed revisions presented at this meeting.

Mr. Deal talked about some of the features like folding windows for some of the commercial space which may allow patio-type seating for some of the restaurants.

Mr. Deal said when the CAC members were asked about the building being stepped down, they did not like this idea.

Mr. Deal said there is a clock feature on the King Street elevation and it adds a couple of feet of height to the building and the building is still only at 38 feet.

Mr. Deal talked again about an email regarding this proposed project. He said he felt the email was wanting the Town to develop property that was owned by someone else. He noted that the proposed project is in line with the 2030 Boone Master Plan.

Mr. Deal said the proposed project has 159 bedrooms, he said after the neighbor meeting the number of bedrooms were reduced. He said the 159 bedrooms are in separate units. He said it has 367 parking spaces. He said if every single bedroom took a parking space, which he does not believe will happen based on the history in the Town and the cost of the parking spaces. He said this will leave 108 extra spaces which will be dedicated to some of the restaurants.

Mr. Deal talked about the planned development process and how it has worked well on this project because there has been a lot of opportunities to gather feedback and apply the feedback to the revised plans.

Mr. Deal introduced Mr. Brent Davis from Brent Davis Architecture.

Mr. Davis said that he has incorporated the communities concerns into the revised plans.

Mr. Davis pointed out that the clock feature on the King Street elevation changed the building height from 36 to 38 feet, he said otherwise the majority of the building height is 36 feet. He talked about the Water Street elevation and said the building height is 48 feet and four inches. He went over some of the other building heights of the building at various points of the building.

Mr. Davis said the main building feature is brick with applied trim. He noted that the King Street elevation represents the best revisions. He said he incorporated some of the elements of the old Watauga County Bank building into the revisions. He talked about the creating of shadow lines to make the building look like it had grown over time rather than using the typical bronze store front look. They chose to use a divided store front look to create more of a vintage look. He noted that the Downtown Boone Development Association suggested to include balconies in the apartments. He talked about the lobby being a place for people to wait for restaurant seating and it connects with the parking garage.

Mr. Davis talked about the style of windows with sloped awnings and they have a number of vendors they can get various types of windows from for the building.

Mr. Davis noted that Mr. Jason Gaston from Valor Engineering had information on the landscape and hardscape for the proposed project.

Mr. Davis went over the square footage for the whole building, entrances to the apartments and the parking deck. He explained on the elevations the location of the parking deck because the deck is not exposed from the outside of the building.

Mayor Pro-tem Mason asked Mr. Davis to break out the number of units that are one-bedroom and two-bedroom. Mr. Davis said there are 44 one-bedroom units, 50 two-bedroom units, five three-bedroom units for a total of 99 units and 159 bedrooms.

Council Member Teague asked for more information on the underground parking. He said the parking deck is 35 feet deep on King Street and another 20 feet deep for two more parking levels. He said each deck has a sloped parking ramp to reduce the retaining wall height and costs on King Street. He said there are 134 standard parking spaces, 11 accessible spaces 222 compact spaces for a total of 367 parking spaces and there are 88 bicycle spaces. She asked what level the bikes will be located on. Mr. Davis said they are trying to get them on the grade level off of Howard Street.

Council Member Mizelle asked for clarification on the trash compactors. Mr. Davis said there is one compactor not two compactors. Council Member Mizelle asked if there is enough room for the trash truck to get in and out to empty the trash. Mr. Davis said it is enough room according to the trash company.

Mr. Ward added, if this proposed plan is approved the Town will incorporate the Howard Street design plan with the radius turn.

Council Member Mizelle asked if the building will be thoroughly lit on all sides of the building. Mr. Davis said the lighting has not been addressed on one side of the building.

Mr. Ward said if the proposed plan is approved the Town will work with the developer on the Town's Streetscape plan.

Mayor Pro-Tem Mason clarified that there is an adopted street scape plan for the Downtown area. She asked Mr. Deal if this proposed plan would meet those requirements on W. King Street, Water Street and Howard Street as one unified project. Mr. Deal said it was his understanding that the Town is still working



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on their Howard Street plan and the developer wants to work with the Town on this plan but once they know what that plan is, the developer will agree to work with the Town on the Howard Street plan.

Mr. Deal further explained the closures of the Town streets during the proposed project would need to be coordinated with the Town and the developer. He noted that about 85 percent of the construction of this proposed project will take place inside the building footprint.

Council Member Clawson asked about the height of the proposed building where it joins the Murphy's Restaurant. Mr. Deal said the building is about seven feet taller than Murphy's Restaurant and on W. King Street it is lower than the Watauga County Bank building. He noted the Farmers Hardware building on W. King Street is 47 feet high. He said behind the building facing Howard Street the current building is 53 high. He said the proposed building is lower than both of those elevations.

Council Member Mizelle asked about the width of the compact parking spaces. Mr. Deal said the compact spaces are eight-feet wide instead of nine-feet wide. He talked about the turning ratios for the parking spaces. He said the standard space is 9 feet and you need a greater width, if you have a certain amount of compact spaces. He further explained the change in parking. He said if the spaces become too tight, come of the spaces may need to be reconfigured, if needed. He noted that the compact spaces will be in the very low level of the building for the tenants that are living in the building because of the ability to control the tenant parking. He talked about the current proposed parking space plan being 367 spaces. He said this number could change to 330 parking spaces in order to accommodate extra space for cars.

Council Member Clawson talked about the narrow parking spaces at the movie theatre and she doesn't want to see that size in these parking spaces. Mr. Deal noted that most parking lots have a mixture of parking spaces in their lots. He said the developer was trying to maximize the available number of parking spaces in the Downtown area. He talked about gas prices determining the type of cars that people drive. Council Member Mizelle asked Mr. Deal if changing the parking spaces is as simple as changing the lines that outline a parking space. He said there are others present at this meeting that could answer parking questions.

Mayor Pro-Tem Mason asked what percentage of parking spaces will be reserved for residents versus commercial and public use. Mr. Deal said the figure used in the plan was 80 percent. He said he felt this was a high percentage and he did not feel that 80 percent of the residents will rent a space. He said it will depend on the tenant. He said if every single bedroom had a parking space, there are 208 extra spaces which is more parking than all of King Street. He confirmed that the 208 extra spaces would be available for commercial or public parking.

Council Member Teague asked about short-term parking.

Council Member Teague asked if the restaurants will be built out. Mr. Deal said this is usually driven by the tenant and it sometimes determines the cost of rent.

Mayor Pro-Tem Mason asked is the developer intending to lease the units by the unit or the bedroom. Mr. Deal said renting by the bedroom has been going on in Boone for 40 years and there is no negative connotation for doing this. He noted that he has had a good experience with renting by the bedroom.

Mayor Pro-Tem Mason said she felt it is important to have versatility in housing in the Downtown area and it not be geared to one sector of our community. She said for some populations renting by the bedroom works great but for a good part of our community, they are looking for units to rent rather than bedrooms to rent. He said he thinks this is why the developer is proposing one-bedroom units. Mr. Deal agreed with Mayor Pro-Tem Mason and he said the thinks this project has a good mix and it is attractive to the young professional. He noted that there may be a lot of young professionals that want a two-bedroom unit.

Council Member Clawson asked if the bedrooms would be per person. Mr. Deal explained how lease contracts are written.

Council Member Collins said she talked with the Community Appearance Commission regarding the King Street façade changes. She said they talked about taking off some of the EFIS and adding more brick to the façade to help with the transition to Howard Street. Mr. Deal asked if the feedback from the CAC members could be given to Mr. Brent Davis to review.

Council Member Mizelle asked since this is a proposed planned development project has anyone shown any interest in adding rooftop solar because it is the wish of the Sustainability, Environment and Economics committee members to have rooftop solar. Mr. Deal said there is one private person that is interested in it but the management of the water needs to be figured out. He said he was not sure, if it will actually happen yet. He said if the rooftop solar would make the building higher, the developer would need to deal with the height issue. Mr. Deal said the developer is happy to look into it.

Planning Commission Member Catoe asked if the rent rate amounts have been established. Mr. Deal explained how the rent amounts are usually calculated.

Planning Commission Member Boyle talked about the solar panels and said that the water would drip off of the roof. He asked about the height of the proposed building on the East elevation. Mr. Deal pointed out on the elevations the answer to this question.

Council Member Teague asked if the units are structured to be sold. Mr. Deal said not at this time it is not the intent. He said he would not say it will never happen due to condominium laws.

Council Member Clawson said the Downtown merchants would like to see public parking. Mr. Deal talked about the hourly parking turn over being needed to make the parking work. Council Member Teague asked Mr. Deal to get more information regarding the hourly parking spaces by the next Council meeting to find out how many spaces would be going to hourly parking. Mr. Deal said he would like for the parking expert to talk about the parking and the developer would need to know the dollar amount of the approved for the project. Council Member Clawson said she thought restaurant spaces are important.

Planning Commission Vice-Chairperson Simmons asked on the East elevation what part of the proposed building is covered in relation to Murphy's Restaurant. Mr. Deal said that Murphy's Restaurant is about a third of the way back. Discussion ensued on the driveway behind Murphy's Restaurant.

Planning Commission Chairperson Woolridge asked for any comments the developer might have regarding the lobby and bringing more life to King Street because these type of changes are not reflected in the proposed plans. Mr. Deal talked about some changes that were made at the June 2, 2016 CAC meeting and said that Mr. Bailey has not had time to present him with those changes. Mr. Deal talked about the roll-up windows and the use of them being weather driven. Mr. Deal noted that the drawings presented at this meeting are not the final drawings.

Mr. Davis talked about the sloping sidewalks and they possibility can install folding windows and still meet accessibility requirements.

Planning Commission Chairperson Woolridge asked if the plans would reflect the changes that Mr. Deal is presenting in this meeting.

Mr. Winkler talked about the question on egress and the door openings of the building.

Planning Commission Member Lippard reiterated what Planning Commission Chairperson Woolridge mentioned regarding bringing more life to King Street. Vice-Chairperson Simmons agrees that he would

like to see more life brought to the King Street. Mr. Deal said the developer is open to looking at options that are acceptable.

Ms. Allison Meade, Town Attorney said in the PD process this would be the time to work out the options to the best extent possible.

Planning Commission Tate agreed that it will be difficult to deal with the slope on the corner of the building at King Street and Water Street.

Mr. Winkler noted that where the terrain will allow the developer will do as much as possible to allow entry off the street into the building.

Mr. Deal said the developer is willing to work out conditions on the proposed project.

Council Member Teague asked Mr. Davis a question on the entry of the building. Mr. Davis explained the entrances to the building.

Council Member Teague said she understands what the Planning Commission Chairperson Woolridge is saying in support of the Planning Commission.

Mr. Steve McLaurin from McLaurin Parking said the proposed project will have in access of 135 hourly parking spaces available. Mr. McLaurin said the parking rate will determine who parks in the parking deck. He talked about the parking rate and how it will stimulate people to park there and have an incentive to move their car from the parking deck. He talked about the parking deck having 80 percent occupancy on a normal day. He talked about the extra parking being able to absorb the extra vehicles for days, when it is needed.

Council Member Mizelle asked about the eight-foot parking space width. Mr. McLaurin said the key to the dynamics of turnover is where people can get out of the vehicles easily. He talked about training the parking attendances on how to park the vehicles in regular and compact spaces. He said there is a possibility that they may need to decrease the parking spaces because they want people to be able to get in and out of the parking spaces with ease.

Council Member Teague asked would the parking be paid before or after you park. Mr. McLaurin said that has not been determined yet. He said he thinks the parking deck will have an attendant and you will pay on the way out Monday through Friday. He said they are still working out the dynamics of the parking deck.

Planning Commission Member Vincent asked if they will limit the amount of time for the parking. Mr. McLaurin said the parking rate will determine the parking cost and he thinks that the cost might be $2.00 for the first hour.

Council Member Teague asked if other spaces can be rented other than the tenants in the building. Mr. McLaurin said the tenants of the building will be the first to rent spaces and then to business owners and there will be a cap on it.

Mayor Pro-Tem Mason asked if Mr. McLaurin to prepare some information on the minimum of public parking spaces that might be available for those who want long-term parking and bring it to the next Council meeting so they do not lose the public parking option for people who want long-term parking.

Mr. Frank Amenya from Davenport Engineering gave an overview of the traffic study and the traffic improvements that are being worked on. He said at the neighborhood meeting there were asked if they were going to increase parking. He said that yes they will increase parking and they will mitigate the traffic that they are bringing in. He said at Water Street and King Street, they are looking at re-timing the signal light and providing a right-hand lane. He said at the intersection of Howard Street and Water Street

the Town is improving their pedestrian addition with the Howard Street study. He said at the intersection of Poplar Grove and Water Street the North Carolina Department of Transportation is looking at this section for a possible round-a-bout which was recommended as a result of the traffic study. He said there will be a sidewalk along King Street and there are improvements for the pedestrians and bicycles along Howard Street. He noted that they are proposing 88 bicycle racks for bicycles in the parking deck.

Mr. Amenya said the proposed project is within 400 feet of a transit line. He said there is an express transit line routes on Poplar Grove Road.

Planning Commission Member Boyle asked how they will mitigate the traffic at intersection of Water Street and King Street due to traffic back-ups on Water Street from River Street. Mr. Amenya talked about re-timing the signal lights to help cars exit the parking deck to help keep the traffic flowing. He said that he recommends that the Town work with NCDOT to reconfigure the light cycle at the Poplar Grove Extension and King Street to make sure it is signalized to help traffic flow onto the Poplar Grove Road to King Street rather than the River Street traffic continuing onto the Poplar Grove Road.

It was asked how many cars will exit the Water Street parking deck every minute? Mr. Amenya said in the morning peak hours, there are 26 cars making a left turn and 26 cars making a right turn per hour. He said in the evening peak hours, there are 47 making left turn and 43 making a right turn per hour. He noted that peak hours are usually 7 am to 9 am and 6 pm to 8 pm.

Mr. Amenya referred to the tables in the traffic study and explained the levels of service for E, D or F and how it relates to peak hours. He said you are good, if you can maintain a level D or better and this goes out to 20 years of growth on this case.

Planning Commission Member Lippard asked about future projections and what it would cost. Mr. Amenya said they base the traffic counts on the growth rate and he said the growth rate is compounded. He said he projected the growth rate by two percent.

Mr. Amenya explained the comparison and the level of service between the Rivers Walk project and the Marketplace project and he said they have accounted for future traffic flow and he added that he had worked with NCDOT on the future traffic count.

Mr. Amenya introduced Mr. Trent Moody from Davenport Engineering, he said he may be at future Town meetings when Mr. Amenya may not be available.

Council Member Mizelle asked about the round-a-bout at Water Street and River Street. Mr. Amenya explained that the NCDOT and the university are looking at this area for a round-a-bout. He said they will need the support of the Town, when they look at River Street. He said the university is looking at reducing the number of lanes due to speeding on Rivers Street.

Mayor Pro-Tem Mason asked if there was other information to be presented by the applicant. Mr. Deal said they have no more to present at this time but they are available for additional questions after the public comment.

Mayor Pro-Tem Mason called for a short break at 7:10 p.m.

Mayor Pro-Tem Mason reconvened the hearing at 7:20 p.m.

Mr. Charles Travis and his wife owns Old World Galleries and he said he is acutely aware of the parking problem in Downtown Boone. He said the Town parking meters helped the parking problem. He said he is in favor of the project as presented. He said the architectural drawings were appropriate for the Town of Boone.

Mr. Morgan Shaw said he is a business partner with Mr. Charles Travis at Old World Galleries. He noted that traffic and parking has always been a problem on King Street. He said the more parking the better to help their clients have better accessibility to benefit their business and the Town of Boone. He is in support of the parking of the proposed project.

Mr. Chuck Luddeke said he owns the Boone Mellow Mushroom. He said since his business has moved to King Street he has twice the parking issues than his former location on Rivers Street. He has had a number of customers that have been ticketed, booted or towed and his customers want him to pay these costs and have stated that they will not return to his restaurant. He also said that he supports the parking in the proposed project.

Mayor Pro-Tem Mason said that Mr. Ward has some written communication that he had received regarding this proposed case. She also noted that there were some emails sent to the Council from Mr. Eric Plaag and Ms. Pam Williamson. Mr. Ward said he also has a typed document from Steve and Eric Lawson with possible questions to be provided to the Council on this proposed project (not in the record).

Mayor Pro-Tem Mason asked if there were others that wanted to speak on this case or if anyone had any further questions on it from the Council or the Planning Commission. She also noted that the public hearing on this case will remain open for ongoing conversation as a result of the planned development process.

Council Member Teague asked if the proposed building touches the Murphy's Restaurant building. Mr. Deal said the proposed building does not physically touch Murphy's Restaurant.

Mr. Ward noted there is a walkway between the buildings.

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Planning Commission – June 13, 2016
Meeting Minutes Excerpt

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**CASE 20160275 Marketplace Planned Development – Zoning Map Amendment** John Winkler with The Winkler Organization has filed a Zoning Map amendment Petition for a planned development consisting of a mixed-use building containing both residential and commercial uses, including a parking deck for properties located at or near 783 West King Street (Watauga Co. PINs: 2900-79-7562-000 & 2900-79-6480-000).

Mr. Bailey presented this case as outlined in the meeting packet. He noted the applicant has made revisions to the proposed plans as a result concerns stated at the June 6, 2016 special public hearing.

Discussion ensued as to whether the public hearing was still open. The meeting continued with the public hearing considered open.

Chairperson Woolridge explained that the floor would be open to public comment after Mr. Davis gave his presentation on the plan revisions.

Mr. Jim Deal, Attorney for the applicant summarized the revisions that are reflected in the proposed plans and Mr. Brent Davis from Brent Davis Architecture handed out revised plans and elevations (permanently attached) and reviewed each of the revisions.

Mr. Davis said the compact parking spaces have been re-calculated to address the people's concern regarding the ease of getting in and out of their vehicles. In the re-calculation the compact parking

widths changed to 8' 8"to 9 feet wide. Mr. Deal said that he estimates around 15 parking spaces were lost in the revision of the plan. Mr. Deal said it dropped their estimated parking to 350 spaces from 367 spaces. Mr. Deal the engineers would have to determine where the support columns would need to be placed which may cause a further reduction in parking spaces.

Mr. Davis presented the following changes:

King Street: The windows closest to Murphy's have been modified to be folding doors which would open the space on the street. Other folding windows were added. Mr. Davis noted that the "arrows" as shown on the plan indicate that the windows and doors could be opened. Mr. Davis noted that the lobby had been narrowed to provide additional room to the restaurant spaces on either side of the lobby. Mr. Davis explained that there were options for steps down into the commercial spaces due to the change of grade along the sidewalk. Mr. Davis further described the potential for outdoor seating at the corner of King Street and Water Street at the 45 degree angle portion of the building.

Water Street: Mr. Davis noted the addition of windows and doors similar to those on King Street.

On the Howard Street elevation, Chairperson Woolridge asked the width of the door going into the restaurant. Mr. Davis said the width is five feet.

On the King Street elevation, Member McCracken asked why the entrance to the commercial tenant on the right was on the side of the building.

Mr. Davis said there was a request to put it on the side. Chairperson Woolridge explained that the original plans showed a main entry into the building a lobby. He said that he requested entry off of another street.

Discussion ensued on the location of the doors on King Street for the restaurants. Mr. Davis said there will be more planning for the restaurant entry depending on what the tenant will want for the restaurant. Mr. Davis said the revision on King Street opened up about 70 percent of the linear footage of this side of building for the restaurant.

Member Catoe asked, if you include parking, what is the square footage of the commercial area. Mr. Davis said it is 30,000 square feet.

On the King Street side, Mr. Davis explained how they made a change to the parking deck entrance that gained square footage to the building.

Chairperson Woolridge asked if the entrance to the building will be off of Water Street. Mr. Davis said yes. Mr. John Winkler, the applicant for this project, explained that they removed the big lobby opening on King Street based off of a request to remove it.

Chairperson Woolridge if there were other comments regarding the redesign of the proposed project.

Member Vincent asked about the parking spaces. Mr. Winkler gave a breakdown of the parking spaces, he said that 210 spaces have been allotted for long term monthly spaces and 140 have been allotted for hourly parking spaces for a total of 350 spaces. Mr. Winkler explained the cost of the parking deck is around $5 to $6 million dollars and there will be a ten percent deposit needed prior to construction of the parking deck. Mr. Deal said the tenants will have to pay for their parking. Mr. Deal said another part of it is the restaurant customer and staff parking is taking into consideration.



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Discussion ensued on the changes to the original lobby area off of King Street to a hallway which now would lead to the parking deck and the residential units.

Chairperson Woolridge asked Mr. Davis what their thoughts were on signage for the building. Mr. Davis said that they created the sign bands to help with sign options on the building and to break up the look of the building.

Chairperson Woolridge said he felt that good well-planned signage is important and wanted to suggest that all the retail or restaurant signage be projecting signs.

Mr. Deal said that signage could this be placed as a condition on the proposed project. Mr. Bailey said if the applicant deviates from the current ordinance, there would need to be a recommendation made for it. Mr. Bailey pointed out that the Council could make a different recommendation on it.

Mr. Deal noted that they have a deviation on the square footage for wall signs.

Discussion ensued on different types of signage and adding dimension and character to the building. Member Lippard said he does not want to see the signage making it look like a government building.

Member McCracken asked about the previous main hall lobby door and noted that the entry way was more open than what is currently being proposed. She asked if the commission needed to discuss the change in door width at this meeting. Member Lippard said it was the consensus of the commission to not have the main entrance look like an interior mall. Mr. Deal said the revised change to the main hallway entry is a direct result of what the commission said they wanted to see at the June 2016 special public hearing. Member McCracken said she liked the idea of having a lobby because of the winter weather and she noted that she liked the idea of giving the entry a more welcome feel. Mr. Deal said you would have to take into consideration the loss of square footage for restaurant seating.

Discussion ensued on the type of entry way into the main hallway. Mr. Davis said he could make a change to the double doors off of the street.

Mr. Bailey explained the process for recommendations that should be followed so the Council can see what has been done.

Discussion ensued on how the King Street hallway functioned for ADA compliance.

Chairperson Woolridge noted it was the consensus of the commission to recommend projecting signs on the proposed building.

Discussion ensued on awnings. Mr. Johnson said that some people like awnings and some people do not like them. Mr. Johnson said the purpose of awnings is to provide protection from the weather. Mr. Johnson talked about the maintenance issues from the Public Works standpoint concerning the awnings. Mr. Johnson said the Community Appearance Commission supports the use of awnings.

Member Lippard said he feels like the Downtown area needs architectural style in their signage and awnings. He said the tenant would hopefully have some stylistic ideas that will make the building pop.

Vice-Chairperson Simmons talked about the possibility of a tenant using a structural awning.

Mr. Davis talked about identifying entrances into the proposed building, he said he would be glad to look at other possibilities on this topic, if needed.

Mr. Bailey talked about the Deviation Analysis in Accordance with UDO 9.10.05 (B)(1) located on page 58 of the meeting packet and he read number two from this list.

Mr. Deal said maybe there needs to be a recommendation from the commission for the applicant to look into projecting signs rather than sign bands. Mr. Deal noted that he was not sure what the square footage should be. It was noted that 48 square feet is a lot of square footage.

Mr. Bailey said that the applicant might want to think about doing some combination of sign band and projecting signage.

Ms. Shook asked that any recommendations for the signage be very clear so that Staff would be able to issues permits without confusion.

Chairperson Woolridge asked the applicant if the applicant would be agreeable to number two. Mr. Deal said yes they are agreeable to it.

Chairperson Woolridge asked about window logos. Mr. Bailey said the Town does not regulate anything inside the windows.

Discussion ensued on the deviation table and signage.

Mr. Bailey read UDO Article 26.07.01 through 26.07.07 about the signage that is allowed and not allowed in the B-1 zoning district. Mr. Bailey noted that a freestanding sign is not proposed at this project.

Ms. Shook talked about the Staff revising the sign ordinance and this would be a good opportunity to discuss sign-package requirements to include in the sign ordinance.

Mr. Deal talked about identifying the Marketplace building versus the tenants that live there. He talked about using a wall sign that directs the public to the parking deck.

Mr. Bailey said one of the things that the Staff tries to promote directory signs that help the public understand who is in the building.

Discussion ensued on projecting signs and wall signs.

Vice-Chairperson Simmons talked about the street level commercial uses on page 58 of the meeting packet. He talked about the King Street and Water Street sharing square footage and Water Street and Howard Street sharing square footage for commercial uses. He talked about the raw requirements outlined on the Deviation Analysis in Accordance with UDO 9.10.05(B)(1). He reviewed the changes that were made to the table. Vice-Chairperson Simmons and Member Long agreed that the commercial parking spaces are not included in these calculations.

Vice-Chairperson Simmons discussed the complexities of measuring commercial area in a building which has three different street frontages with varying topographical changes which change the street level of the building on all three sides.

Mr. Deal said all three street facing sides of the building having commercial square footage.

Vice-Chairperson Simmons talked about the Howard Street parking deck entrance and accessing the parking deck at this location which is parking deck level three. Mr. Deal noted that the applicant is not positive if they can put any bicycle parking at this location until they get the design from the construction company.



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Mr. Winkler talked about the possible addition of 48 to 64 more bicycle parking spaces and the location of the bicycle parking if they do not have to install several water meters.

Vice-Chairperson Simmons said the only time he almost got seriously injured was on a bicycle in a parking deck.

Mr. Deal talked about the challenges of putting bicycle parking on level three of the Howard Street side of the building with the possible challenges of the installation of the water meters. Mr. Deal said they would work with the Public Works department on this.

Discussion ensued on the commuting by bicycle and being able to locate the parking deck on level three. Mr. Davis said he would work on this.

Member Dineen asked if the balcony doors were glass. Mr. Davis said yes they are proposing glass on these doors.

Vice-Chairperson Simmons talked about the configuration of bedrooms. He said originally there were 100 one-bedrooms, 31 two-bedrooms and three three-bedroom units. The current proposal is 44 one-bedroom units (44 bedrooms), 50 two-bedroom units (100 bedrooms), and five three-bedroom units with (15 bedrooms) for a total of 99 units and 159 bedrooms.

Mr. Deal said they tried to balance the mix of the number of bedrooms and the number of parking spaces to make enough profit to pay for the building. Mr. Winkler said the parking deck alone will not support paying for the building.

Member Lippard talked about the student housing, young professionals and family. Mr. Deal said there are five three-bedroom units. Mr. Deal explained the leasing process and who is obligated to pay the rent on the units.

Member Myers asked for clarification on the hallway that goes to the back of the building, if it was created as a result of reducing the main hallway. Mr. Davis said it was not shown in the first concept of the plan.

Member Myers asked how wide is the alley way between Murphy's Restaurant and the southwest corner of the building. Mr. Davis said the distance is seven feet. It was noted that the applicant only owned five feet of the seven foot alley.

Member Myers asked about fire access issues on the Murphy's side of the building. Mr. Deal said they had not had any comments about it from the Fire Department during the plan review.

Mr. Winkler said the building and parking deck will be sprinkled.

Member Vincent asked about other exterior building materials other than brick that they might be looking at to use on the building. Mr. Davis said as far as trim materials, they are looking at a manufactured stone which is a ground limestone mixed into a slurry and poured into a form. It will give them a lot of the design elements they are trying to achieve. He said they are still researching trim materials. He noted that real limestone is very heavy and difficult to work with on the building.

Member Vincent asked about the materials for guard rails. Mr. Davis said some type of metal that is powder coated.

Mr. Davis said they have more research to do for molding and pilasters, etc.

Chairperson Woolridge asked the commission members about their feelings on the exterior building materials. Member Vincent said he is still trying to decide what the look of Boone is because every building is different. Member Long said that he likes the look of the proposed plans as it relates to the exterior of the building.

Member Dineen asked if there will an opportunity to add live plants in the enclosed atrium. Mr. Davis said the atrium will be enclosed and a conditioned space with sky lights. Mr. Winkler said that they have not yet researched this topic.

The first speaker was Mr. Eric Plaag. Mr. Plaag introduced himself as the Chair of the Historic Preservation Commission, but noted that he is conveying his thoughts as a citizen of Boone and not as the Chairperson of the Historic Preservation Commission. He said that he had emailed many of the thoughts that he is sharing at this meeting to the Council and he had asked that those concerns be forwarded to the Planning Commission.

Mr. Plaag commended Mr. Winkler and his development team for listening to concerns voiced at the neighborhood meeting on April 5, 2016 regarding the proposed project.

Mr. Plaag said the reduction in building height along King Street and Howard Street is a modest improvement. He said although flawed and incomplete the applicant has tried proposed to modify the architectural elements that are more appropriate to Downtown Boone.

Mr. Plaag said the biggest flaw is thinking the parking deck will improve parking in the Downtown area.

He said the problem is Mr. Winkler's reason for asking for parking in Downtown Boone. He further talked about the parking allowances mentioned in the Staff report for this case, he said they are maximum and not minimum allowances. He talked about the proposed 367 parking spaces and what is permitted by the UDO. He said that Mr. Winkler is hoping to make a profit from the long-term leased parking spaces.

Mr. Plaag talked about the traffic study showing an increase in traffic.

Mr. Plaag talked about the not having the commitment in writing for any hourly parking arrangement. He urged the commission to get it in writing, if they want it to be part of the deal.

Mr. Plaag said partnering with the university and other commercial companies on the proposed parking deck would keep parking from coming onto King Street, Howard Street and Water Street and help mitigate parking issues in the Downtown area.

Mr. Plaag talked about the problems with the increased traffic flow will increase rather than decrease the current traffic issues.

Mr. Plaag strongly urged the Planning commission to deny the PD request because it exceeds the UDO limits on parking, height limitations and because of under-performed street-level commercial use. He noted that parking is not one of the categories of commercial space.

Mr. Plaag talked about the use of inappropriate building materials such as fiber cement, composite trim, cast concrete and parapet walls and exterior balconies that are not found in Boone's architectural.

The PC has the power to use the PD process for the appropriate building materials. He suggested that the Planning Commission members make use of that power.

Mr. Plaag handed out a photo named Downtown redevelopment concept from the Boone 2030 Land Use Plan, and noted that the design was more appropriate for Downtown Boone.

Member Templeton asked Mr. Plaag about one of the building materials. Mr. Plaag asked to complete his presentation before addressing his question. He said the materials used in the photo are appropriate for Downtown Boone.

Mr. Plaag handed out a rough sketch dated June 2, 2016 of the proposed Marketplace re-design levels that he had drawn (permanently attached). The sketch showed three levels of the building from King Street, Water Street and Howard Street. He reviewed the mix of uses on each level. He talked about the garage access on Howard Street. He said this building design fits the property and it does support the PD process. He noted that Howard Street would be the only access point for the parking garage.

Mr. Plaag asked the commission to encourage Mr. Winkler and Mr. Deal to consider his design proposal or to revise their proposal to a design that would make a better fit for Downtown Boone.

Member Templeton talked about the proposed building materials not being harmonious with the Downtown area. Member Templeton asked Mr. Plaag in his opinion what he thought is the appropriate building materials for the Downtown area. Mr. Plaag said the HPC has been engaged in the survey of Downtown Boone to help establish for the appropriate architectural materials for the Downtown area. Mr. Plaag referred to the Downtown guidelines draft that has been reviewed by the Community Appearance Commission. Mr. Plaag said the solution is to figure out what you want your Downtown area to look like. He said raw brick is a historic building material and certain stylistic features.

Mr. Plaag talked about the Planning Commission not attending the Historic Preservation Committee meetings and asking for advice on building materials. Member Lippard said he is not required to go to the HPC meetings and said he is not beholden to the HPC, he is beholden to the Council.

Member Long asked if members of the CAC have communicated with the HPC. Mr. Plaag said yes they have. Member Long noted that he depends upon and respects the opinion of the CAC that relays their information to the Planning Commission.

Discussion ensued on to appropriate building materials in the downtown area and how they compare to existing buildings.

Member Lippard said the commission appreciates Mr. Plaag's comments regarding helping to make the Downtown buildings more ascetically pleasing on a Downtown strip, however, he feels that we have one of the ugliest Downtowns because everyone got to choose what they wanted at one time. He said we are having some guidelines placed on this proposed project which is more than a step forward than any 1920's building built in this Town.

Member Lippard said it is good that the HPC finally has one representative that comes and talks constantly about this subject. He said if you are a public entity you should share that information and the commission should not have to ask for it, he said he wants to make sure that this is clear.

Mr. Johnson talked about the look of the Farmers Hardware building having the look of concrete. Mr. Plaag said it was appropriate to use concrete, when that building was built.

Member Lippard said right now the commission has to figure out what the commission needs to discuss regarding building height, traffic issues, hourly parking. He said he does not see any agreement on materials at this time.

Member Long talked about the Downtown Boone Development Association comments being incorporated into the proposed plans that included the balconies. Mr. Plaag said there are no buildings in Downtown Boone that has balconies.

Vice-Chairperson Simmons noted that the illustrations in the Boone 2030 Land Use Plan were for illustration purposes only and that a person cannot choose just one photo from the plan to indicate importance. He noted that description found on page 223 of the Staff Report regarding the illustrations was important.

Member McCracken made a motion, seconded by Member Lippard to recess the public hearing.

At 8:12 p.m. Chairperson Woolridge called for a short break.

At 8:24 p.m. Chairperson Woolridge reconvened the meeting.

Chairperson Woolridge asked the Planning Commission regarding their thoughts or concerns on the proposed project.

Member Templeton said he is in favor of the proposed project. He said this is a viable and needed project for the Downtown area.

Member McCracken said she is generally in support of this proposed project. She said that she would like to see a condition placed on the project that no less than 40 percent of the total parking spaces be for short-term parking. She talked about the 50 percent requirement for commercial and that she has struggled with it. She said she would like to see more flexibility be given to the petitioner to be able to make the best use for the lobby hallway space. She said she would like to see a right turn on Water Street.

Mr. Deal said they are in agreement with 40 percent or whatever the ultimate percentage is. He also said the more hourly parking the better.

Discussion ensued on the possible traffic issue at 5 p.m.

Member Dineen said she would like to see more housing for young professionals and families but the market does not lend itself to this type of housing. She noted her concern for having this large amount of parking at this location.

Member Lippard said he has taken into consideration that the applicant is willing to work with the Council and Planning Commission on this proposed project and trying to make the plans more suitable to the Downtown area. He said he appreciates the public comment because it reiterates what they have been doing. He noted that the commission can never make everyone happy. He said some of the things that need to continue to be discussed are the projecting signage, awning and the parking being specified as the 40 percent for hourly parking. He thinks the building height issues have been dealt with well, he likes the sliding doors that open up into the sidewalk environment, regarding the lobby, he doesn't care if it has one or not. He said he hoped that the housing options in the future would include young professionals.



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Member Vincent talked about the parking issue in the Downtown area. He commended the applicant and his team for working with everyone and making the revisions to the proposed project. He said he would like to see the façade of the building broken up. He supports the proposed plan.

Member Myers talked about the availability of parking in the parking deck for the Downtown businesses. He said the softening the streetscape with the sliding doors and the projecting signs would be a good addition. He said he is in support of the project.

Member Catoe asked about the number of bedrooms, if Council approves can they be changed again.

Mr. Bailey said they have to go back through the approval process, if they change the layout of the unit mix.

Member Long talked about the difference between affordable housing and housing for young professionals. He said he would recommend this proposed project to the Council.

Vice-Chairperson Simmons said he agrees with Member Long and Member Vincent and he talked about hourly parking, and making it clear as to what the sign package is. He talked about the discussion regarding bringing vitality to the street. He talked about the change of the unit-mix being included in the recommendation. He supports this proposed project. He also reminded the commission to include the information on page 192 in the packet, when making recommendations.

Mr. Bailey said a statement should be made if the unit mix needs to be specific.

Member Vincent talked about the marketing research for the proposed project.

Chairperson Woolridge asked the applicant if they would agree to no more than five three-bedrooms and zero four-bedroom units. Mr. Deal said yes.

Member McCracken said she is struggling with the number of bedrooms. She asked if we should the commission should say they do not want to see more than ten percent of the one or two bedroom units. Chairperson Woolridge said they want to keep the bedrooms at one and two bedroom units.

Discussion ensued on the signage requirements for the proposed building.

Discussion ensued on building identification signs. Mr. Winker showed a rendering of the 45 degree angle of the building that faces the court house with the name Marketplace on it.

Chairperson Woolridge discussed with Staff how to describe the sign requirements.

Member McCracken asked if there was any signage in the Downtown area for parking. Mr. Bailey said yes.

Chairperson Woolridge told the applicant that the commission is working on substitute language for number two on the deviation list.

The commission discussed using a sign band and the possibility of the option of an awning at the entrances.

Ms. Shook talked about the directory signs that are allowed by right. Ms. Shook explained the benefit of a directory sign.

Chairperson Woolridge asked the applicant if would agree to these options. Mr. Deal said yes.



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Mr. Bailey reminded the commission members to include the PD findings found on page 191 of the meeting packet into their motion for recommendations for conditions.

Discussion ensued on acceptable building materials. Member Long said the commission members are in agreement that they did not want to see hardy board used as building material. Mr. Bailey read about the acceptable building materials.

Member Long asked about the architectural exterior building materials and should they be addressed now. Mr. Deal said the applicant would not mind appearing before the Community Appearance Commission again for a final approval, if needed.

Discussion ensued on the type of building materials that should be used on the proposed building.

Chairperson Woolridge asked what the applicant would agree to use as building material.

Mr. Bailey said the Council modified the requirements for materials in the B-1 zoning district which are red brick or darker, natural stone, use of concrete. He said simulated brick, cultured stacked stone is prohibited.

Member Long suggested noting that architectural concrete would be prohibited under the current ordinance.

Mr. Johnson explained that the building material has to physically attach to the building.

Mr. Bailey said the CAC members showed a concern for the use of EFIS.

Mr. Davis noted that pre-cast concrete is thick and heavy and he further described this material.

Member Catoe asked if the railings are acceptable per the UDO. Mr. Bailey said yes.

Mr. Johnson talked about the variations of building materials that break up the look of the building.

It was noted if the applicant wanted to use slate as a building material that it would be allowed.

Chairperson Woolridge summarized the recommendations discussed by the Planning Commission members <u>and agreed upon by the applicant as follows:</u>

1. <u>At least forty percent (40%) of the project's parking will be dedicated for short-term hourly parking.</u>
2. <u>The development is limited to the proposed five 3 bedroom units and is not allowed to have any 4 bedroom units.</u>
3. <u>The applicant is granted an exception to allow cast concrete or similar material (such as cast moldings) for accent trim as shown on the building.</u>
4. <u>The applicant's removal of the request for the deviation regarding attached wall signage to be allowed the following:</u>
    a. <u>The applicant is allowed to place a building identification sign [such as "Marketplace"] within the sign band or cornice band at each of the 45 degree angles proposed for the building.</u>
    b. <u>Each [commercial] tenant will be allowed up to a 16 square foot projecting sign and an awning sign [meeting the requirements set forth for awning signs in the B1].</u>
    c. <u>Each parking entrance will be allowed up to a 24 square foot projecting sign.</u>



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d. The applicant is given approval to have an awning at all other ingress/egress points on the building.

**First motion and vote:**

Member Lippard made a motion, seconded by Member McCracken that the proposed amendment to the Town's zoning map is consistent with the Towns comprehensive plan and other applicable plans of the Town which relate to this application because of the following:

1. It [the Marketplace development] meets the call from the Boone 2030 plan for mixed-use development;
2. It [the Marketplace development] provides the possibility for more much-needed commercial parking in the B1 downtown district;
3. The parcel is located in the Primary Growth Area and the parcel is located in the G-4 Downtown Boone sector, which is appropriate for redevelopment and new infill mixed-use downtown development.
4. The development is further supported by the Comprehensive Plan Update as follows:
   a. 2.3.2(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, and
   b. 2.1.5(B) The Town in concert with the downtown property owners and merchants shall encourage public and private efforts to develop and publicize adequate and appropriately designed off-street parking lots in the downtown area, and
   c. 2.1.1(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, and
   d. 2.1.5(A) A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.
   e. 2.1.5(B) A variety of mutually compatible and supportive mixed uses shall be encouraged in the downtown area;
   f. 2.3.3(D) 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.
   g. 2.3.3(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.
5. It [the Marketplace development] presents a unique application of the new planned development procedures because:
   a. The proposed PD will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;



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b. The proposed PD will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;

c. The proposed PD will produce a development functioning as a cohesive, unified project; and

d. The proposed PD will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the Town.

**Vote:** Aye – All

Nay – None

**The vote was unanimous.**

**Second Motion and Vote:**

Chair Woolridge made a motion, seconded by Member Catoe that the Planning Commission recommends approval with the following developer agreed upon conditions:

1. Where there is a conflict between the application information and the plans (site plans and architectural plans bearing a received date of May 27, 2016 and as amended on June 13, 2016), 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. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. All driveway permits shall be obtained prior to the issuance of a Zoning Permit.
5. The applicant will be required to satisfy all NCDOT requirements prior to the issuance of a Zoning Permit.
6. At least forty percent (40%) of the project's parking will be dedicated for short-term hourly parking.
7. The development is limited to the proposed five 3 bedroom units and is not allowed to have any 4 bedroom units.
8. The applicant is granted an exception to allow cast concrete or similar material (such as cast moldings) for accent trim as shown on the building.
9. The applicant's removal of the request for the deviation regarding attached wall signage to be allowed the following:

   a. The applicant is allowed to place a building identification sign [such as "Marketplace"] within the sign band or cornice band at each of the 45 degree angles proposed for the building.

   b. Each [commercial] tenant will be allowed up to a 16 square foot projecting sign and an awning sign [meeting the requirements set forth for awning signs in the B1].

   c. Each parking entrance will be allowed up to a 24 square foot projecting sign.



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d. The applicant is given approval to have an awning at all other ingress/egress points on the building because of the reasons listed within the first motion.

**Vote:** Aye – All

Nay – None

**The vote was unanimous.**

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Town Council – June 16, 2016
Meeting Minutes Excerpt

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**CASE 20160275 MARKETPLACE PLANNED DEVELOPMENT ZONING MAP AMENDMENT - VOTE #1:**

Case 20160275 Marketplace Planned Development Zoning Map Amendment – John Winkler with The Winkler Organization has filed a Zoning Map Amendment Application for a planned development at properties located at or near 783 W. King Street (Watauga County PINs 2900-79-7562-000 and 2900-79-6480-000). The proposed development consists of a mixed-use building containing both residential and commercial uses, including a parking deck. The residential portion will contain 99 dwelling units with 159 bedrooms; with the following uses proposed to be allowed for the commercial portion of the building: 11.06 Restaurant ≤ 2,500 ft2 open to the public during 10pm-6am, 11.07 Other restaurants ≤ 2,500 ft2; 11.08 Restaurant > 2,500 ft2 open to the public during 10pm-6am; 11.09 Other restaurants ≤ 2,500 ft2, 11.12 Personal Service Establishment open to the public during 10 pm – 6 am, 11.13 Other Personal Service Establishments, 11.14 Retail Store up to 5,000 ft2; 11.15 Retail Store more than 5,000 ft2 but less than 25,000 ft2, 11.19 Other business or Professional Office, 14.02 Brewpub and 15.02 Parking Structure.

Mayor Pro Tem Mason noted that the public hearing on this item remains open from the last hearing. Town Attorney Allison Meade reiterated her earlier comments regarding the intent of the planned development process. She pointed out that the reason behind this planned development application is due to deviations requested from the Unified Development Ordinance including height, less commercial space and an increase in parking space with more compact spaces.

Jim Deal, representing the Marketplace planned development request, spoke regarding the project, noting changes and conditions. He stated that all downtown business owners who spoke at the initial hearing were in favor of this project and reviewed the conditions as noted in the Planning Commission recommendation to Council. Brent Davis, architect for the Marketplace project, reviewed the changes as they were included in the Planning Commission meeting minutes. In response to Council Member Mizelle's question regarding parking, Mr. Davis advised that the parking will be available 24/7 with a ticket machine and arm to pay as you leave. Council questioned what security measures would be in place for those parking in the deck and the residents of the building. Mr. Deal advised there would be security cameras in place and access off King Street would require a key card. Town Manager John Ward advised that the hourly parking to be provided in this development will double the parking currently available on King Street. Mr. Deal added that they will be working with Town staff to ensure timing things in order to limit the disruption during construction and will coordinate with the Howard Street project. In response to Mayor Pro Tem Mason's question regarding the structural integrity of the

adjacent building, Planning Director Bill Bailey advised that in addition to their inspections, the project's engineer will have to certify this as well.

Discussion ensued regarding the types of residents the developers expect to attract to this development. Mr. Deal noted that people do not want to be responsible for someone else's half of the apartment, and they typically rent per bedroom with utilities included unless a family is renting, in which it would be for the entire unit.

Eric Plaag, of Boone, stated there has never been a project in Boone that fronts three streets at one time. He voiced his concern with the access from King Street and to whom the two- and three-bedroom units were intended to be rented, stating that Mr. Deal indicated they would be for undergraduates. Mr. Plaag added that Mr. Winkler owns the Mellow Mushroom building and apartments, and students park along Water Street all day when moving in and out.

Mr. Deal advised that the one-bedroom apartments are intended for graduate students and young professionals, and if a family wants to rent, they would rent the entire unit. Mr. John Winkler advised that they have a group of men to help move people in, if needed, and have certain times during the day in which people can move in. Town Manager John Ward added that the Howard Street concept has loading zones proposed should this development be approved.

Mayor Pro Tem Mason closed the public hearing at 8:38 p.m.

Council Member Clawson voiced her concern with bringing such a large building with a lot of students who rent by the bedroom, noting that she believed this would also create traffic problems. She felt this was not the right location for a parking deck.

Upon a motion by Council Member Mizelle, 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 of the following:

1. The Marketplace development meets the call from the Boone 2030 plan for mixed-use development;
2. The Marketplace development provides the possibility for more much-needed commercial parking in the B1 downtown district;
3. The parcel is located in the Primary Growth Area and the parcel is located in the G-4 Downtown Boone sector, which is appropriate for redevelopment and new infill mixed-use downtown development.
4. The development is further supported by the Comprehensive Plan Update as follows:
    a. 2.3.2(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, and;

    b. 2.1.5(B) The Town in concert with the downtown property owners and merchants shall encourage public and private efforts to develop and publicize adequate and appropriately designed off-street parking lots in the downtown area; and,

c. 2.1.1(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; and,

d. 2.1.5(A) A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.

e. 2.1.5(B) A variety of mutually compatible and supportive mixed uses shall be encouraged in the downtown area;

f. 2.3.3(D) 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.

g. 2.3.3(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.

5. The Marketplace development presents a unique application of the new planned development procedures because:

   a. The proposed PD will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;

   b. The proposed PD will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible and environmentally sensitive design;

   c. The proposed PD will produce a development functioning as a cohesive, unified project; and,

   d. The proposed PD will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the Town.

**RESULT:** **APPROVED [4 TO1]**
**MOVER:** Charlotte Mizelle, Council Member
**SECONDER:** Jeannine Underdown Collins, Council Member
**AYES:** Mason, Mizelle, Teague, Collins
**NAYS:** Clawson

**CASE 20160275 VOTE #2:**
Upon a motion by Council Member Mizelle, seconded by Council Member Underdown Collins, Council moved to approve the proposed amendment to the Town's zoning map and believe approval is reasonable and in the public interest for the reasons listed in the first motion with the following developer agreed upon conditions:

1. Where there is a conflict between the application information and the plans (site plans and architectural plans bearing a received date of May 27, 2016, and as amended on June 13, 2016), the



Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 1, Past Meeting Minutes (Case PL01240-122217 Howard St.

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 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. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. All driveway permits shall be obtained prior to the issuance of a zoning permit.
5. The applicant will be required to satisfy all NCDOT requirements prior to issuance of a zoning permit.
6. At least 40 percent of the project's parking will be dedicated for short-term hourly parking.
7. The development is limited to the proposed five, three-bedroom units and is not allowed to have any four-bedroom units.
8. The applicant is granted an exception to allow cast concrete or similar material (such as cast moldings) for accent trim as shown on the building.
9. The applicant's removal of the request for the deviation regarding attached wall signage to be allowed the following:
    a. The applicant is allowed to place a building identification sign (such as "Marketplace") within the sign band or cornice band at each of the 45-degree angles proposed for the building.
    b. Each [commercial] tenant will be allowed up to a 16-square-foot projecting sign and an awning sign [meeting the requirements set forth for awning signs in the B1].
    c. Each parking entrance will be allowed up to a 24-square-foot projecting sign.
    d. The applicant is given approval to have an awning at all other ingress/egress points on the building.

**RESULT:** **APPROVED [4 TO1]**
**MOVER:** Charlotte Mizelle, Council Member
**SECONDER:** Jeannine Underdown Collins, Council Member
**AYES:** Mason, Mizelle, Teague, Collins
**NAYS:** Clawson

…



Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 1, Past Meeting Minutes (Case PL01240-122217 Howard St.

## PROJECT DIRECTORY

DEVELOPER/OWNER
THE WINKLER ORGANIZATION
P.O. BOX 2675
BOONE, NC 28607
(828) 262-3431
CONTACT: MR. JOHN WINKLER

CIVIL ENGINEER
VALOR ENGINEERING, PLLC
215 BOONE HEIGHTS DR., SUITE 107
BOONE, NC 28607
(828) 262-9807
CONTACT: MR. JASON GASTON, P.E.

ARCHITECT
BRENT DAVIS ARCHITECTURE, INC.
189 SALLY STREET
BOONE, NC 28307
(828) 265-4848
CONTACT: MR. BRENT DAVIS, AIA

SURVEYOR
APPALACHIAN PROFESSIONAL LAND
SURVEYORS AND CONSULTANTS
1480 U.S. HIGHWAY 421 SOUTH
BOONE, NC 28607
(828) 264-0290
CONTACT: MR. DONALD MCNEIL

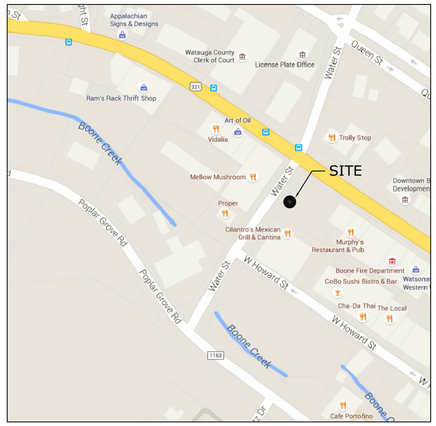
TOWN OF BOONE PLANNING & INSPECTIONS
567 WEST KING STREET
BOONE, NC 28607
(828) 268-6200
CONTACT: MRS. JANE SHOOK

PLANNED DISTRICT REZONING PLANS FOR:

# Marketplace Mixed Use

*A Mixed Use Development*

783 WEST KING STREET
BOONE, WATAUGA COUNTY, NC 28607
ZONED: B-1
PROPOSED ZONING: PD B-1
PARCELS #: 2900-79-7562-000, 2900-79-6480-000




VICINITY MAP
NOT TO SCALE

N

24 HR CONTACT: MR. JASON GASTON, P.E.
(828) 262-9807

PREPARED BY:

VALOR ENGINEERING

215 Boone Heights Drive Suite 107
Boone, NC 28607
828-262-9807

April 29, 2016
001-024

## SHEET INDEX

Exhibit 2

| | |
|---|---|
| G-1 | COVER SHEET |
| V-1 | SURVEY |
| CDR-1 | PRELIMINARY SITE PLAN |
| CDR-2 | PRELIMINARY GRADING & DRAINAGE PLAN |
| CDR-3 | PRELIMINARY UTILITY PLAN |
| CDR-4 | PRELIMINARY LANDSCAPE PLAN |
| PE1 | PRELIMINARY LIGHTING PLAN |
| PE2 | PRELIMINARY LIGHTING PLAN |

Town of Boone
Planning & Inspections
Date Received
May 27, 2016

## UTILITY PROVIDERS

NEW RIVER LIGHT AND POWER COMPANY
WINKLER'S CREEK RD.
P.O. BOX 1130
BOONE, NC 28607
(828) 264-3671
CONTACT: MR. PHILIP HIATT

FRONTIER NATURAL GAS
1927 NORTH BRIDGE ST.
ELKIN, NC 28621
(336) 366-7245
CONTACT: MR. ERNIE MCGUIRE

AT&T
1047 HARPER AVE.
LENOIR, NC 28645
(828) 754-0532
CONTACT: MR. DAVID MOORE

TOWN OF BOONE PUBLIC UTILITIES
321 EAST KING ST.
BOONE, NC 28607
(828) 268-6250
CONTACT: MR. JACK HARMON

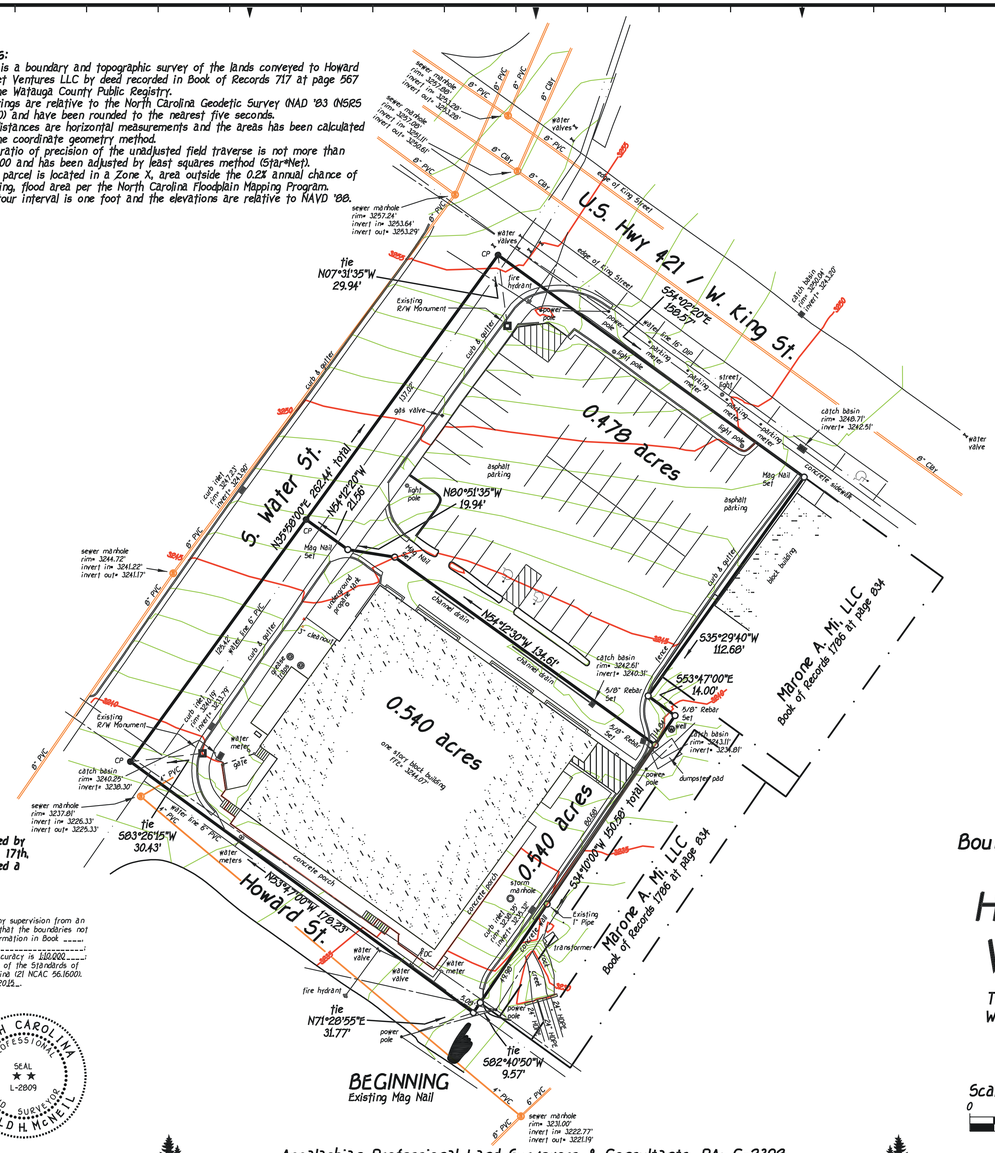
NORTH CAROLINA PROFESSIONAL SEAL 035233 ENGINEER JASON GASTON
05/27/16

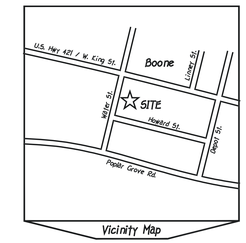
| | REVISIONS: | | |
|---|---|---|---|
| NO. | DESCRIPTION: | BY: | DATE: |
| 1 | TOWN COMMENTS | JEG | 05/27/16 |
| | | | |
| | | | |
| | | | |
| | | | |

Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)

## Notes:

1. This is a boundary and topographic survey of the lands conveyed to Howard Street Ventures LLC by deed recorded in Book of Records 717 at page 567 of the Watauga County Public Registry.
2. Bearings are relative to the North Carolina Geodetic Survey (NAD '83 (NSRS 2007)) and have been rounded to the nearest five seconds.
3. All distances are horizontal measurements and the areas has been calculated by the coordinate geometry method.
4. The ratio of precision of the unadjusted field traverse is not more than 1:10,000 and has been adjusted by least squares method (Star*Net).
5. This parcel is located in a Zone X, area outside the 0.2% annual chance of flooding, flood area per the North Carolina Floodplain Mapping Program.
6. Contour interval is one foot and the elevations are relative to NAVD '88.




Vicinity Map

Total Area
1.018 acres

This document originally issued and sealed by Donald H. McNeil, P.L.S., L-2809 on Sept. 17th, 2015. This medium shall not be considered a certified document.

### Surveyors Certificate

I certify that this map was drawn under my supervision from an actual survey made under my supervision that the boundaries not surveyed are indicated as drawn from information in Book _____ page _____ or other referenced source _____ that the ratio of precision or positional accuracy is 1:10,000 and that this map meets the requirements of the Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600). This 17th day of September, 2015.

Donald H. McNeil
Donald H. McNeil, P.L.S., L-2809

NORTH CAROLINA PROFESSIONAL SEAL L-2809 LAND SURVEYOR DONALD H. MCNEIL

Boundary & Topographic Survey
For

# Howard Street Ventures LLC

Town of Boone - Boone Township
Watauga County -- North Carolina

September 11, 2015

Scale is 1"=30' (1:360)

0 30' 60' 90' 120'

© Copyright

Appalachian Professional Land Surveyors & Consultants, PA; C-2390
1480 US Highway 421 South / Boone, North Carolina 28607 / (828) 264-0290

Job No. 15150

## GENERAL NOTES:

1.) ALL PROPOSED DIMENSIONS USED TO SHOW THE GEOMETRIC LAYOUT OF THE PROPOSED PARKING LOT ARE SHOWN AT THE FACE OF CURB. ALL PROPOSED DIMENSIONS USED TO SHOW THE GEOMETRIC LAYOUT OF THE PROPOSED BUILDING LOCATION ARE GIVEN AT THE OUTSIDE FACE OF THE BUILDING CORNERS. ALL CURB RADII ARE GIVEN AT THE FACE OF CURB.

2.) CONTRACTOR SHALL NOTIFY ENGINEER OF ANY DISCREPANCIES BETWEEN THE EXISTING CONDITIONS IN THE FIELD AND THE SURVEY SHOWN ON THE PLANS BEFORE PROCEEDING WITH ANY NEW CONSTRUCTION.

3.) CONTRACTOR IS RESPONSIBLE FOR CORRECT HORIZONTAL AND VERTICAL ALIGNMENT OF ALL TIES BETWEEN PROPOSED AND EXISTING PAVEMENTS, CURB AND GUTTER, SIDEWALKS, WALLS, AND UTILITIES.

## SITE NOTES:

1.) TRACT IS ZONED B-1.

2.) SEE ARCHITECTURAL PLANS FOR BUILDING FLOOR PLAN DIMENSIONS, DOOR LOCATIONS, SITE LIGHTING PLAN, AND OTHER ARCHITECTURAL DETAILS.

3.) NO CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNTIL ALL SITE IMPROVEMENTS HAVE BEEN COMPLETED ON THE SITE.

4.) HIGH INTENSITY LIGHTING FACILITIES SHALL BE SO ARRANGED THAT THE SOURCE OF ANY LIGHT IS CONCEALED FROM THE PUBLIC VIEW AND DOES NOT INTERFERE WITH TRAFFIC. (SEE PHOTOMETRICS PLAN IN ARCH. PLANS).

5.) ALL BUFFERS, TREE SAVE AREAS, AND UNDISTURBED AREAS SHALL BE CLEARLY IDENTIFIED BY FLAGGING AND/OR FENCING PRIOR TO COMMENCEMENT OF ANY LAND DISTURBANCE.

6.) NO OUTSIDE STORAGE IS PROPOSED. THIS INCLUDES SUPPLIES, VEHICLE, EQUIPMENT, PRODUCTS, ETC.

7.) SIGNS (LOCATION, NUMBER, AND SIZE) ARE NOT APPROVED UNDER THIS DEVELOPMENT PERMIT. A SEPARATE PERMIT IS REQUIRED FOR ON-SITE SIGNAGE.

8.) ALL PAVEMENT MARKING WITHIN NCDOT R/W SHALL BE CONSTRUCTED ACCORDING TO NCDOT SPECIFICATIONS.

9.) ALL CONSTRUCTION RELATED PERMITS DURING THE CONSTRUCTION PHASE OF THIS PROJECT ARE THE RESPONSIBILITY OF THE OWNER, HOWEVER A CONTRACTOR/DEVELOPER CAN DO PERMITTING WITH AGENT AUTHORIZATION.

10.) CONSTRUCTION TRAILERS ARE TO BE PERMITTED THROUGH THE ZONING DIVISION OF DEVELOPMENT SERVICES.

11.) ALL EROSION, SEDIMENT CONTROL AND TREE PROTECTION MEASURES SHALL BE INSTALLED PRIOR TO ANY GRADING.

12.) THE JURISDICTION ACCEPTS NO RESPONSIBILITY FOR THE AMERICANS WITH DISABILITIES ACT (ADA), EXCEPT FOR NOTIFICATION REQUIREMENT. THE OWNER/DEVELOPER IS SOLELY RESPONSIBLE FOR COMPLIANCE FOR SAID ACT.

13.) DUMPSTER AND RECYCLING ENCLOSURES SHALL BE ARCHITECTURALLY COMPATIBLE WITH THE BUILDING BY PAINTING THE ENCLOSURE THE SAME COLOR AS THE BUILDING SIDING.

14.) 24 HOUR CONTACT: JASON GASTON, P.E., 770-722-9178

### LEGEND

- PROPOSED CONCRETE
- PARKING COUNT
- PROPOSED TRAFFIC SIGN
- PAINTED TRAFFIC ARROWS
- PROPERTY LINE
- EXISTING RIGHT-OF-WAY LINE

### COMMERCIAL USE LOCATION LEGEND

- KING STREET COMMERCIAL USE
- WATER STREET COMMERCIAL USE
- HOWARD STREET COMMERCIAL USE

### LAND USE INTENSITY CALCULATIONS

| | ACRES | MIN. FOOTPRINT COVERAGE | | MIN. OSR | MIN. LSR | MIN. RSR |
|---|---|---|---|---|---|---|
| | | % | MIN. FOOTPRINT | | | |
| ZONED B-1 (MAX. FOOTPRINT) | 1.018 | 50% | 22,163 | N/A | N/A | N/A |
| TOTAL: | 1.018 | | 22,163 | | | |
| 44,325 SF | | PROPOSED: | 36,336 82.0% | | | |

### STREET LEVEL COMMERCIAL USES

| | | |
|---|---|---|
| MIN. KING ST. LEVEL COMMERCIAL LAND USE OF AT LEAST 50%: | 18,168 | sf |
| KING ST. PROPOSED: | 9,376 | sf |
| KING ST. PROPOSED (%): | 25.8% | |
| MIN. WATER ST. LEVEL COMMERCIAL LAND USE OF AT LEAST 30%: | 10,901 | sf |
| WATER ST. PROPOSED: | 3,558 | sf |
| WATER ST. PROPOSED (%): | 9.8% | |
| MIN. HOWARD ST. LEVEL COMMERCIAL LAND USE OF AT LEAST 30%: | 10,901 | sf |
| HOWARD ST. PROPOSED: | 4,904 | sf |
| HOWARD ST. PROPOSED (%): | 13.5% | |

### USE TABLE

| Quantity | Description | Use # |
|---|---|---|
| 44 | 1-BEDROOM APARTMENTS | 1.16 |
| 50 | 2-BEDROOM APARTMENTS | 1.16 |
| 5 | 3-BEDROOM APARTMENTS | 1.16 |
| 4,688 | SF OF RESTAURANT | 11.09 |
| 4,688 | SF OF RESTAURANT | 11.09 |
| 3,558 | SF OF RETAIL | 11.14 |
| 4,904 | SF OF RETAIL | 11.15 |

### BUILDING HEIGHT SUMMARY

| | |
|---|---|
| PRIMARY BUILDING HEIGHT IN B-1: | 40' |
| PROPOSED MEAN BUILDING HEIGHT (KING STREET): | 38' |
| PROPOSED MEAN BUILDING HEIGHT (WATER STREET): | 42'-4" |
| PROPOSED MEAN BUILDING HEIGHT (HOWARD STREET): | 50'-4" |
| ADDITIONAL SETBACK PER UDO SECTION 207[C] | N/A |

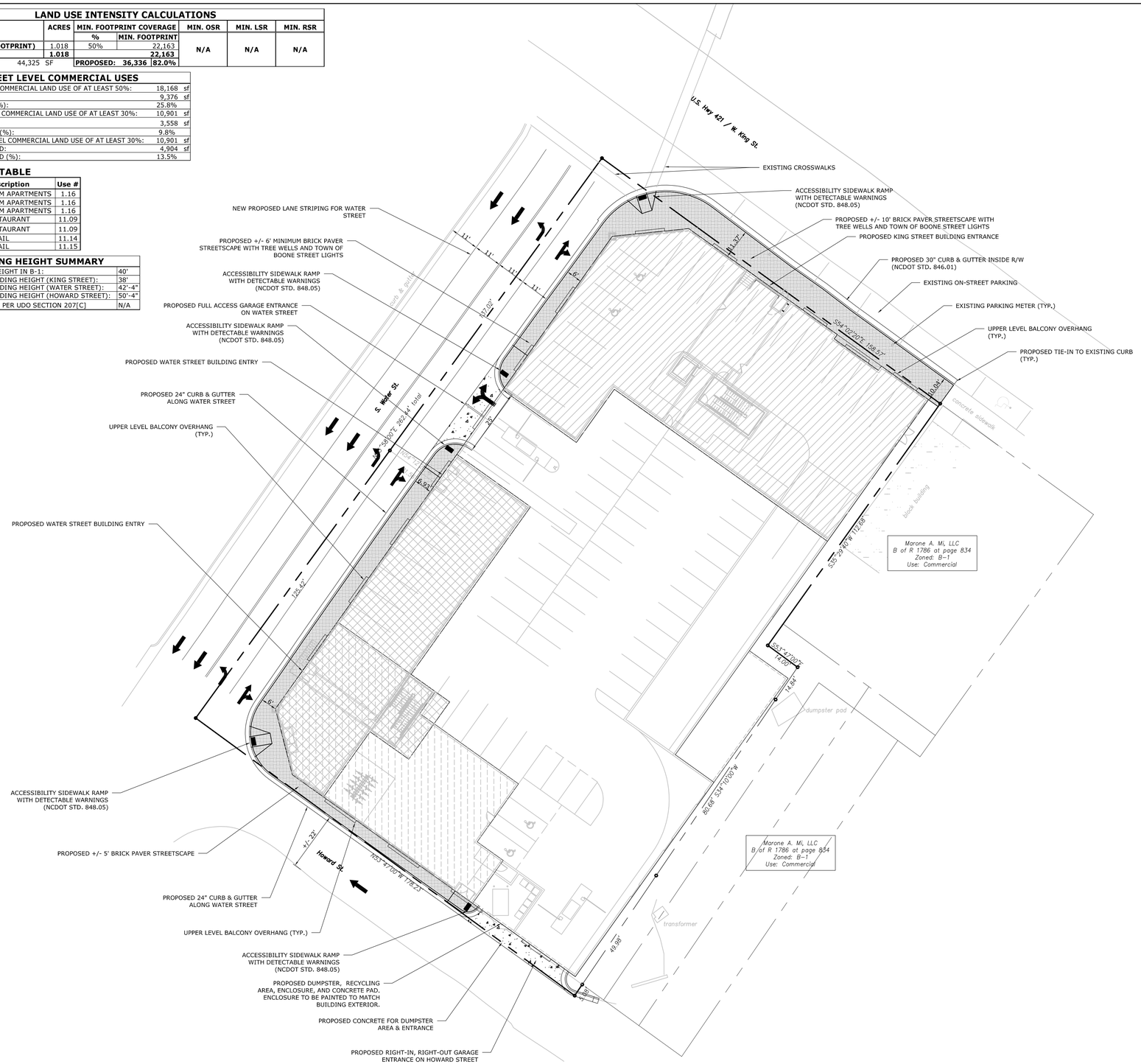
### PARKING CALCULATIONS

| | |
|---|---|
| **MAX. MULTIFAMILY RESIDENTIAL PARKING** | |
| 1 SPACE / 1-BR UNITS | 44 SPACES |
| 2 SPACES / 2 BR UNITS | 100 SPACES |
| 3 SPACES / 3 BR UNITS | 15 SPACES |
| **MAX. RESTAURANT PARKING** | |
| 12 SPACES / 1,000 SF GFA | 113 SPACES |
| **MAX. RESTAURANT PARKING** | |
| 5 SPACES / 1,000 SF GFA | 43 SPACES |
| **MAXIMUM ALLOWABLE PARKING:** | **315 SPACES** |
| MIN. MULTIFAMILY RESIDENTIAL PARKING REQ'D (80% OF MAX): | 128 SPACES |
| MIN. RESTAURANT PARKING (10 SPACES /1,000 SF GFA) | 94 SPACES |
| MIN. RETAIL PARKING (3 SPACES / 1,000 SF GFA) | 26 SPACES |
| **MINIMUM REQUIRED PARKING:** | **248 SPACES** |
| PROVIDED STANDARD PARKING SPACES: | 134 SPACES |
| PROVIDED STANDARD PARKING SPACES (ACCESSIBLE) | 11 SPACES |
| PROVIDED COMPACT PARKING SPACES: | 222 SPACES |
| **TOTAL PARKING PROVIDED:** | **367 SPACES** |
| EXCESS PARKING PROVIDED OVER MAX. ALLOWABLE: | 52 SPACES |
| EXCESS PARKING PROVIDED OVER MIN. REQ'D: | 119 SPACES |
| MULTIFAMILY ALLOWABLE COMPACT SPACES (MAX. 50%): | 79 SPACES |
| OTHER USES ALLOWABLE COMPACT SPACES (MAX. 30%) | 62 SPACES |
| TOTAL NUMBER OF ALLOWABLE COMPACT SPACES: | 141 SPACES |
| TOTAL NUMBER OF ALLOWABLE COMPACT SPACES (%): | 38.4% |
| PROVIDED NUMBER OF COMPACT SPACES: | 222 SPACES |
| PROVIDED NUMBER OF COMPACT SPACES (%): | 60.5% |

*Motorcycle Parking & Bicycle Parking: The B-1 Central Business Zoning District is exempt from both of these requirements.*

| | |
|---|---|
| **TOTAL PROVIDED BICYCLE PARKING (INSIDE GARAGE):** | **88 SPACES** |

| | |
|---|---|
| **COMMERCIAL/RETAIL LOADING SPACE CALCULATIONS** | |
| MIN. REQ'D LOADING SPACES FOR RESTAURANT (1 / 5,000 SF): | 2 SPACES |
| MIN. REQ'D LOADING SPACES FOR RETAIL (1 / 5,000 SF): | 2 SPACES |
| PROVIDED LOADING SPACES: | 0 SPACES |




N

Know what's **below**
**Call** before you dig

PROJECT:

# The Marketplace

*A Mixed Use Development*

ADDRESS:
783 West King Street
Boone, NC

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

CONTACT: MR. JOHN WINKLER

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

SEAL:
NORTH CAROLINA PROFESSIONAL SEAL 035233 ENGINEER JASON GASTON
05/27/16

| REVISIONS | DATE |
|---|---|
| 1 TOWN COMMENTS | 05/27/16 |

| | |
|---|---|
| PROJECT MANAGER: | JEG |
| DRAWING BY: | JEG |
| JURISDICTION: | TOWN OF BOONE |
| DATE: | 04/29/16 |

SHEET TITLE:

PRELIMINARY SITE PLAN

SHEET NUMBER: PDR-1

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

FILE NUMBER: 001-024

Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)

## GRADING NOTES:

1.) ALL SPOT ELEVATIONS SHOWN ARE @ THE EOP UNLESS OTHERWISE NOTED.

2.) ALL PROPOSED SIDEWALKS SHALL BE BUILT WITH A 2% CROSS-SLOPE AWAY FROM THE BUILDING.

3.) THE CONTRACTOR SHALL CLEAN OUT ACCUMULATED SILT IN STORM WATER CONVEYANCE CHANNELS, PIPES, AND DETENTION FACILITIES AT END OF CONSTRUCTION WHEN DISTURBED AREAS HAVE BEEN STABILIZED.

4.) COORDINATE WITH THE TOWN OF BOONE INSPECTIONS DURING CONSTRUCTION.

5.) NO CERTIFICATE OF OCCUPANCY WILL BE ISSUED UNTIL ALL SITE IMPROVEMENTS HAVE BEEN COMPLETED.

6.) REFER TO SUBSURFACE EXPLORATION AND GEOTECHNICAL ENGINEERING EVALUATION REPORTS AS PROVIDED BY OWNER FOR RECOMMENDATIONS ASSOCIATED WITH: GENERAL SITE PREPARATION, BUILDING PAD PREPARATION, PAVEMENT SECTIONS, FILL, SLOPES AND EXCAVATION.

7.) CONSTRUCT EROSION CONTROL BARRIERS PER THE TOWN OF BOONE INSPECTOR AND MAINTAIN UNTIL PERMANENT VEGETATION IS ESTABLISHED.

8.) THE CONTRACTOR SHALL RE-ESTABLISH ALL RIGHT OF WAY AREA WHICH IS DAMAGED OR DISTURBED TO ORIGINAL CONDITIONS OR BETTER DURING AUTHORIZED WORK. ALL WORK IN NCDOT RIGHT OF WAY SHALL COMPLY WITH NCDOT SPECIFICATIONS.

9.) ALL CURBED ISLANDS SHALL BE FILLED TO TOP OF CURB WITH TOPSOIL AND SEEDED.

10.) MAXIMUM CUT SLOPE IS 1.5:1 AND MAXIMUM FILL SLOPE IS 2:1. ANY PROPOSED SLOPE > 2:1 SHALL BE PROPERLY DESIGNED AND CERTIFIED BY A NORTH CAROLINA REGISTERED PROFESSIONAL ENGINEER OR GEOLOGIST. CONTRACTOR SHALL COORDINATE WITH THE GEOTECHNICAL CONSULTANT AND PROVIDE COPIES OF THE DESIGNS AND CERTIFICATIONS TO THE TOWN OF BOONE.

11.) ALL BUFFERS, TREE SAVE AREAS, AND UNDISTURBED AREAS SHALL BE CLEARLY IDENTIFIED BY FLAGGING AND/OR FENCING PRIOR TO COMMENCEMENT OF ANY LAND DISTURBANCE.

12.) ALL STORM PIPE SHOWN ON THIS PLAN SHALL BE WRAPPED WITH LOCATION WIRE AND TAPE.

13.) IN ALL AREAS OF FILL OR OTHERWISE DISTURBANCE OF EXISTING CONDITIONS, UNLESS OTHERWISE NOTED, THE CONTRACTOR SHALL FULLY AND COMPLETELY REMOVE AND LEGALLY DISPOSE OFF-SITE, ALL PLANT MATERIALS INCLUDING BUT NOT LIMITED TO ROOT SYSTEMS, CONCRETE, REINFORCED CONCRETE, ASPHALT DEBRIS, UNDERBRUSH, TOPSOIL, AND OTHER DELETERIOUS MATERIAL. THE SUBGRADE TO REMAIN SHALL BE COMPACTED TO 95% STANDARD PROCTOR MAXIMUM DRY DENSITY FOLLOWING FULL REMOVAL OF THESE MATERIALS.

14.) ALL SUBGRADE PREP AND AREAS OF THE SITE TO RECEIVE FILL SHALL BE COMPLETED IN STRICT CONFORMANCE WITH THE RECOMMENDATIONS PROVIDED BY THE PROJECT GEOTECHNICAL ENGINEER. THE CONTRACTOR SHALL HAVE THIS REPORT ON THE JOB SITE FOR REFERENCE AT ALL TIMES. THE CONTRACTOR SHALL PROVIDE EARTHWORK OPERATIONS AND CONSTRUCTION PHASE MONITORING TO ENSURE THAT ALL COMPACTION IS COMPLETED IN ACCORDANCE WITH THE GEOTECHNICAL REPORT. THE CONTRACTOR SHALL PROVIDE TESTING REPORTS TO THE OWNER REGARDING COMPACTION TESTING PER THE TESTING PROTOCOL IN THE GEOTECHNICAL REPORT.

15.) IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN QUALIFIED PROFESSIONAL ADVICE WHEN QUESTIONS ARISE CONCERNING DESIGN AND EFFECTIVENESS OF EROSION CONTROL DEVICES. 24 HR. CONTACT: MR. JASON GASTON (770) 722-9178

16.) NO PORTION OF THIS PROPERTY LIES WITHIN A SPECIAL FLOOD HAZARD AREA.

17.) STORMWATER MANAGEMENT FACILITIES AND EROSION CONTROL MEASURES ARE TO BE ACCOMPLISHED PRIOR TO ANY OTHER CONSTRUCTION ON THE SITE AND MAINTAINED UNTIL PERMANENT GROUND COVER IS ESTABLISHED. STORM WATER MANAGEMENT SHALL BE IN ACCORDANCE WITH COUNTY, STATE, AND OTHER APPROPRIATE ORDINANCES AND REGULATIONS IN EFFECT AT TIME OF CONSTRUCTION PLAN APPROVAL.

18.) EXTREME CAUTION SHALL BE USED WHEN WORKING WITHIN THE VICINITY OF THE EXISTING OVERHEAD POWER LINES. CONTRACTORS SHALL NOTIFY/COORDINATE WITH NEW RIVER LIGHT AND POWER COMPANY PRIOR TO CONSTRUCTION.

19.) ALL PUBLICLY MAINTAINED SIDEWALK SHALL BE BUILT WITH 5,000 PSI CONCRETE WITH FIBER 4" THICK AND 4" WASHED STONE UNDERNEATH. SIDEWALK TO BE SEALED WITH CONCRETE SEALER. ALL DRIVEWAYS SHALL BE 6" WASH STONE AND 6" 5,000 PSI CONCRETE WITH FIBER AND SEALED. ALL PROPOSED SIDEWALKS SHALL BE BUILT WITH A 2% CROSS-SLOPE AWAY FROM THE BUILDING.

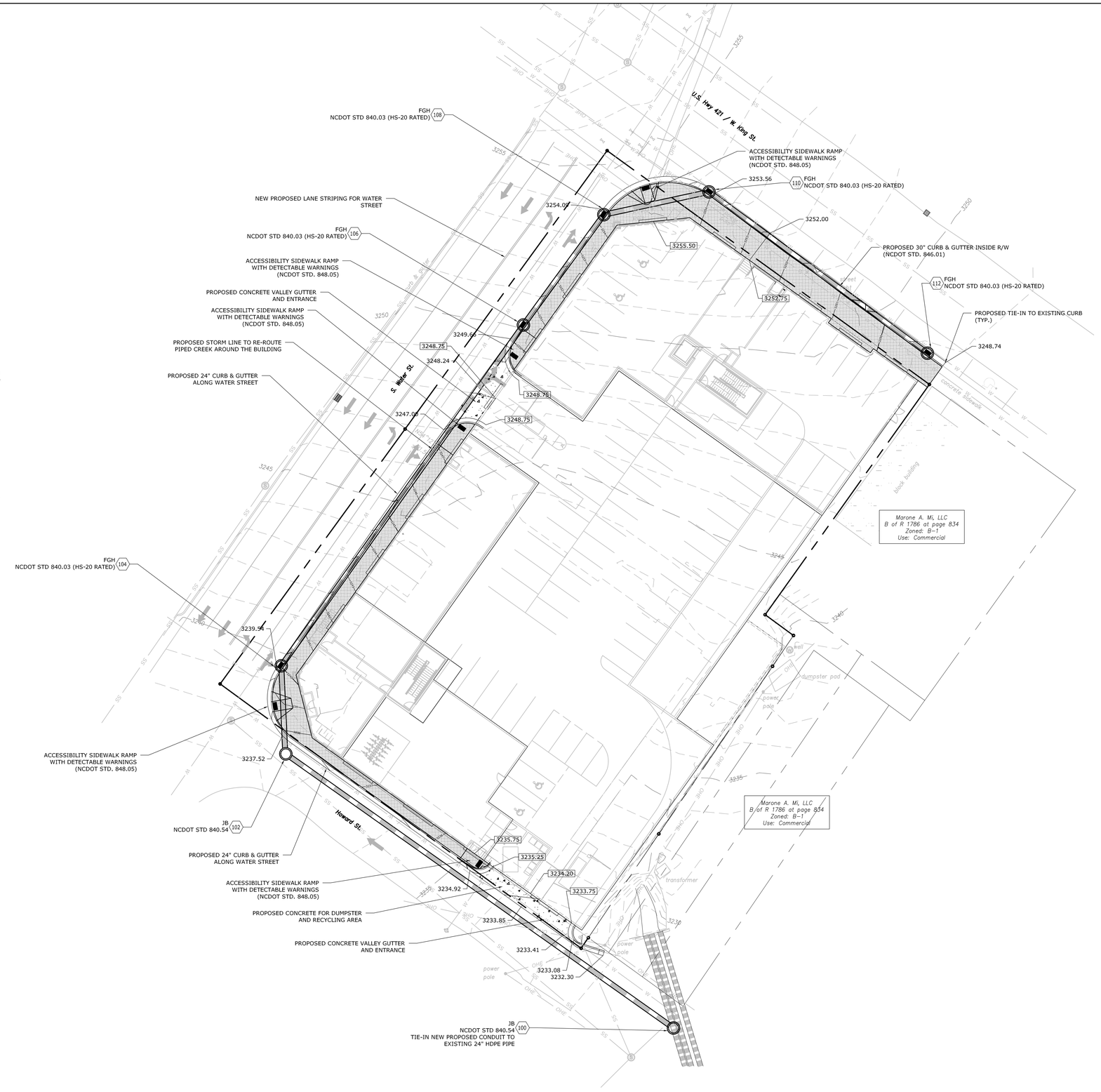
| EARTHWORK CALCULATIONS | | | |
|---|---|---|---|
| REQ'D CUT = | + | 30,650 | CY |
| REQ'D FILL = | - | 105 | CY |
| ADDITIONAL CUT FROM PAVEMENT BASE = | + | 0 | CY |
| ADDITIONAL CUT FROM FOUNDATION = | + | 750 | CY |
| BALANCE: | + | 31,295 | CY |

EARTHWORK NOTES:
1.) A SHRINKAGE OF 15% WAS USED FOR THESE CALCULATIONS. REQ'D CUT IS IN SITU CUT.

2.) ANY SOIL MATERIAL TO BE TRANSPORTED OFFSITE SHALL BE EXPORTED TO A SPOIL SITE APPROVED BY THE GOVERNING JURISDICTION. AT THE START OF EARTH MOVING ACTIVITIES, THE CONTRACTOR SHALL PROVIDE THE TOWN OF BOONE WITH A COPY OF THE APPROVED SPOIL SITE PERMIT.

LEGEND

- CONCRETE SIDEWALK AND PAVING
- STANDARD DUTY ASPHALT PAVING
- HEAVY DUTY ASPHALT PAVING
- NCDOT ASPHALT PAVING
- XXX.XX — EXISTING SPOT ELEVATION
- XXX.XX — PROPOSED SPOT ELEVATION
- XXXX — EXISTING CONTOURS
- XXXX — PROPOSED CONTOURS




N

811 Know what's **below** **Call** before you dig

PROJECT:

# The Marketplace

*A Mixed Use Development*

ADDRESS:
783 West King Street
Boone, NC

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

CONTACT: MR. JOHN WINKLER

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

SEAL:
NORTH CAROLINA PROFESSIONAL SEAL 035233 ENGINEER JASON GASTON
05/27/16

| REVISIONS | DATE |
|---|---|
| 1 TOWN COMMENTS | 05/27/16 |

| | |
|---|---|
| PROJECT MANAGER: | JEG |
| DRAWING BY: | JEG |
| JURISDICTION: | TOWN OF BOONE |
| DATE: | 04/29/16 |

SHEET TITLE:
PRELIMINARY GRADING & DRAINAGE PLAN

SHEET NUMBER: PDR-2

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

FILE NUMBER: 001-024

Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)

## GENERAL NOTES:

1.) NEW RIVER LIGHT AND POWER COMPANY WILL PROVIDE UNDERGROUND ELECTRICAL SERVICE TO THE TRANSFORMER PAD. CONTRACTOR MUST PROVIDE ELECTRICAL SERVICE FROM THE TRANSFORMER TO EACH BUILDING. CONTRACTOR TO COORDINATE WITH NEW RIVER LIGHT AND POWER COMPANY FOR FINAL COORDINATION OF UNDERGROUND CONDUITS ON SITE.
2.) FRONTIER NATURAL GAS WILL PERFORM THE GAS SERVICE CONNECTION, INSTALL THE CONDUIT, AND SET METER FOR THE BUILDING. THE CONTRACTOR IS RESPONSIBLE FOR PROVIDING THE SERVICE FROM THE METER INTO THE PROPOSED BUILDING. CONTRACTOR MUST COORDINATE WITH FRONTIER NATURAL GAS.
3.) THE TOWN SHALL MAKE ALL TAPS TO EXISTING LINES (AT OWNER'S EXPENSE) UNLESS OTHERWISE SPECIFICALLY AUTHORIZED BY THE TOWN OF BOONE PUBLIC WORKS DIRECTOR.
4.) IF AN IRRIGATION LINE IS REQUIRED, THE TOWN OF BOONE WATER & SEWER DEPARTMENT SHALL TAP THE EXISTING LINE AND THE CONTRACTOR SHALL FURNISH THE METER. THE CONTRACTOR MUST INSTALL THE METER BOX AND PROVIDE ALL THE IRRIGATION LINES FROM THE BOX TO THE AREAS SPECIFIED ON THE IRRIGATION PLAN (WHEN APPLICABLE).
5.) COORDINATE AS REQUIRED WITH TOWN OF BOONE INSPECTIONS DURING CONSTRUCTION FOR REQUIRED INSPECTIONS.
6.) THIS SITE INDICATES POTABLE WATER SERVICE AND SANITARY SEWER LATERALS. NORTH CAROLINA STATE LAW REQUIRES THIS WORK TO BE INSTALLED BY A NORTH CAROLINA LICENSED PLUMBER. ALL WORK MUST BE INSPECTED TOWN OF BOONE CODES AND INSPECTION DEPARTMENT.
7.) ALL ON-SITE PVC PIPE SHALL BE PRESSURE CLASS SDR-26 WITH CLASS B BEDDING. PVC MUST BE MANDREL, CCTV, AND PRESSURE TESTED BY THE UTILITY CONTRACTOR AND WITNESSED/INSPECTED BY THE TOWN OF BOONE.
8.) ALL CONDUIT, PIPE, AND CHASE PIPE SHALL BE WRAPPED WITH THE APPROPRIATE LOCATION WIRE AND TAPE.
9.) NO PRESSURE REDUCING VALVES ARE TO BE INSTALLED ON FIRE LINES. ALL FIRE LINES ARE TO BE INSPECTED BY THE JURISDICTION'S FIRE SERVICE PRIOR TO COVERING.
10.) NOTIFY WATER AND SEWER INSPECTOR PRIOR TO START OF CONSTRUCTION.
11.) CABLE TV LINE CANNOT BE INSTALLED WITHIN PRIVATE STREET DEVELOPMENTS UNLESS THE COST IS BORNE BY THE INDIVIDUAL PROPERTY OWNER.
12.) OWNER SHALL BE RESPONSIBLE FOR ANY REPAIR OR REPLACEMENT OF ANY IMPROVEMENTS WITHIN THE SANITARY SEWER, WATER, DRAINAGE EASEMENT(S) DUE TO MAINTENANCE OF SEWER, WATER, STORM DRAIN OF TOWN OF BOONE.
13.) ALL ELECTRIC POWER LINES, GAS DISTRIBUTION, TELEPHONE AND CABLE TELEVISION LINES SHALL BE PLACED UNDERGROUND.
14.) BACKFLOW DEVICES FOR THE IRRIGATION AND DOMESTIC WATER SERVICES MUST BE REDUCED PRESSURE ASSEMBLIES INSTALLED TO MANUFACTURES SPECIFICATIONS.
15.) SEE STORM AND UTILITY PROFILES FOR MAJOR UTILITY CROSSINGS
16.) THE CONTRACTOR/PROPERTY OWNER SHALL BE RESPONSIBLE FOR ANY DAMAGE TO THE WATER AND SANITARY SEWER MAINS AND APPURTENANCES LOCATED WITHIN THE PROJECT SCOPE UNTIL DEVELOPMENT COMPLETION.

## TOWN OF BOONE WATER LINES - GENERAL NOTES:

1.) ANY EXISTING WATER METER(S) TO BE REMOVED BY THE CONTRACTOR MUST BE RETURNED TO THE TOWN OF BOONE. THE EXISTING WATER SERVICE TAP LINES MUST BE REMOVED AND/OR DISCONNECTED FROM THE WATER MAINS BY THE TOWN OF BOONE.
2.) CONCRETE BLOCKING (3000 PSI) TO BE PLACED AT ALL BENDS OR AS REQUIRED.
3.) STANDARD DEPTH OF COVER TO BE THREE (3) FEET EXCEPT AT VALVE OR HYDRANT LOCATIONS OR OTHER SPECIAL SITUATIONS. COVER IS BASED ON ELEVATION BELOW EDGE OF PAVEMENT OR AS INDICATED ON THE PLANS.
4.) PROVIDE CONCRETE PADS (30" X 30" X 6") AT ALL VALVE BOXES.
5.) EXTENSIONS FOR VALVE BOXES, WHEN REQUIRED, ARE TO BE 5" SOIL PIPE.
6.) ALL PAVEMENT CUTS, CONCRETE OR ASPHALT, ARE TO BE REPLACED ACCORDING TO THE STANDARD DETAILS OF THE NC DEPARTMENT OF TRANSPORTATION.
7.) PAVEMENT CUTS ARE TO BE REPLACED IMMEDIATELY AFTER BACKFILLING OF INITIAL CUT EITHER WITH PERMANENT REPLACEMENT OR A TEMPORARY REPLACEMENT OF 1-1/2" OF I-2 OR 4" OF H-BINDER.
8.) REPAIRS TO MAIN BREAKS:
   A. BELL CLAMPS WILL NOT BE ALLOWED, EXCEPT IN SPECIAL SITUATIONS AND AS DIRECTED BY THE DIRECTOR OF PUBLIC UTILITIES.
   B. SOLID SLEEVES TO BE USED FOR CONNECTING SPIGOT ENDS SHALL BE OF THE LONG PATTERN TYPE.
9.) IN ANY INSTANCE WHERE IT WILL BE NECESSARY TO HAVE THE WATER SHUT OFF ON EXISTING MAINS IN ORDER TO MAKE A TIE-IN, THE WORK MUST BE DONE UNDER THE DIRECT SUPERVISION OF THE DIRECTOR OF PUBLIC UTILITIES, AND AT THE TIME LEAST INCONVENIENT TO THE WATER CUSTOMERS INVOLVED.
10.) WHEN A WATER MAIN CROSSES AN EXISTING SEWER MAIN, THE CONTRACTOR IS TO REPLACE THE SEWER PIPE SPANNING THE DITCH WITH DUCTILE PIPE WHEN THE FOLLOWING CONDITIONS OCCUR:
   A. ANYTIME A WATER MAIN IS INSTALLED UNDER A SEWER MAIN.
   B. WHEN A WATER MAIN IS OVER A SEWER MAIN AND THE VERTICAL DISTANCE BETWEEN THE TWO MAINS IS 18" OR LESS.
11.) WATER MAINS SHALL BE INSTALLED WITH A MINIMUM OF 10 (TEN) FEET HORIZONTAL SEPARATION FROM SEWER LINES. WHERE THIS IS NOT POSSIBLE, AS DETERMINED BY THE DIRECTOR OF PUBLIC UTILITIES, BOTH THE WATER LINE AND THE SEWER LINE SHALL BE DUCTILE IRON PIPE.
12.) WATER LINES SHALL BE DISINFECTED AND HYDROSTATICALLY TESTED IN ACCORDANCE WITH ALL STATE AND TOWN OF BOONE REQUIREMENTS.
13.) THE TOWN OF BOONE SHALL BE RESPONSIBLE FOR ALL WATER METER AND METER VAULT INSTALLATIONS. ALL WATER METERS SHALL BE INVENSIUS TOUCHREAD AND SHALL BE INSTALLED 18-INCHES FROM THE METER FACE TO THE TOP OF THE METER BOX.
14.) MEGA LUG MJ GLANDS AND THRUST BLOCKING MUST BE INSTALLED ON ALL MJ FITTINGS. THREAD ROD SHALL BE USED ON ALL FIRE HYDRANT ASSEMBLIES.
15.) ALL FIRE HYDRANTS SHALL BE KENNEDY GUARDIAN K-81, M&H MODEL 129, OR MUELLER SUPER CENTURION.

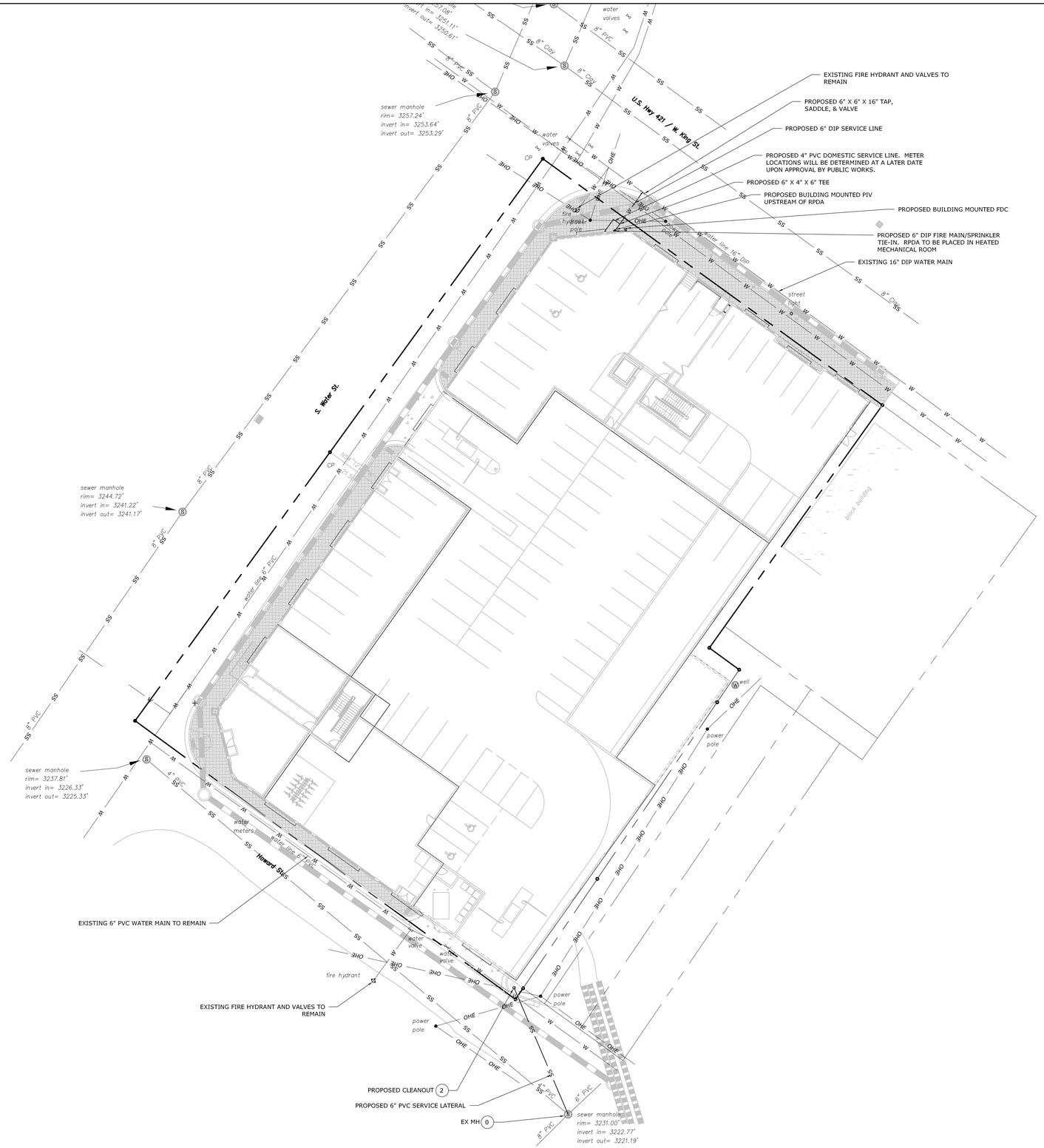
## FIRE MARSHAL NOTES:

1.) ALL FIRE HYDRANTS SHALL BE FITTED WITH HYDRANT MARKERS FOR INCLEMENT WEATHER LOCATION (3/8" x 60" *BARCO PRODUCTS* OR EQUIVALENT).
2.) ALL STREET NUMBERS SHALL BE 8" MIN HEIGHT AND A COLOR CONTRASTING THE BUILDING FINISH.

| LEGEND | |
|---|---|
| | PROPERTY LINE |
| OHE OHE OHE | EXISTING O/H ELECTRIC LINE |
| UG/E UG/E UG/E | EXISTING U/G ELECTRIC LINE |
| GAS GAS GAS | EXISTING U/G GAS LINE |
| SS SS SS | EXISTING SANITARY SEWER LINE |
| W W W | EXISTING WATER LINE |
| | EXISTING STORM LINE |
| GAS GAS GAS | PROPOSED GAS LINE |
| SS SS SS | PROPOSED SANITARY SEWER LINE |
| W W W | PROPOSED WATER LINE |
| UG/E UG/E UG/E | PROPOSED U/G ELECTRIC LINE |
| | PROPOSED U/G ELECTRIC SERVICE |
| | PROPOSED STORM PIPE |
| T | PROPOSED TRANSFORMER |
| A/C | PROPOSED A/C UNIT |
| | PROPOSED GATE VALVE |

## SOLID WASTE CALCULATIONS:

1/8 CY / BEDROOM REQUIRED / WEEK
TOTAL CY REQUIRED: 20 CY
CAPACITY IN DUMPSTER: 8 CY
TOTAL DUMPSTERS REQUIRED: 1 (PICKED UP 4 X PER WEEK)

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Know what's **below**
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*A Mixed Use Development*

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Boone, NC

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Winkler organization
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www.valorengineering.com

SEAL:
NORTH CAROLINA PROFESSIONAL SEAL 035233 ENGINEER JASON GASTON
05/27/16

| REVISIONS | DATE |
|---|---|
| 1 TOWN COMMENTS | 05/27/16 |

| | |
|---|---|
| PROJECT MANAGER: | JEG |
| DRAWING BY: | JEG |
| JURISDICTION: | TOWN OF BOONE |
| DATE: | 04/29/16 |

SHEET TITLE:
PRELIMINARY UTILITY PLAN

SHEET NUMBER: PDR-3

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

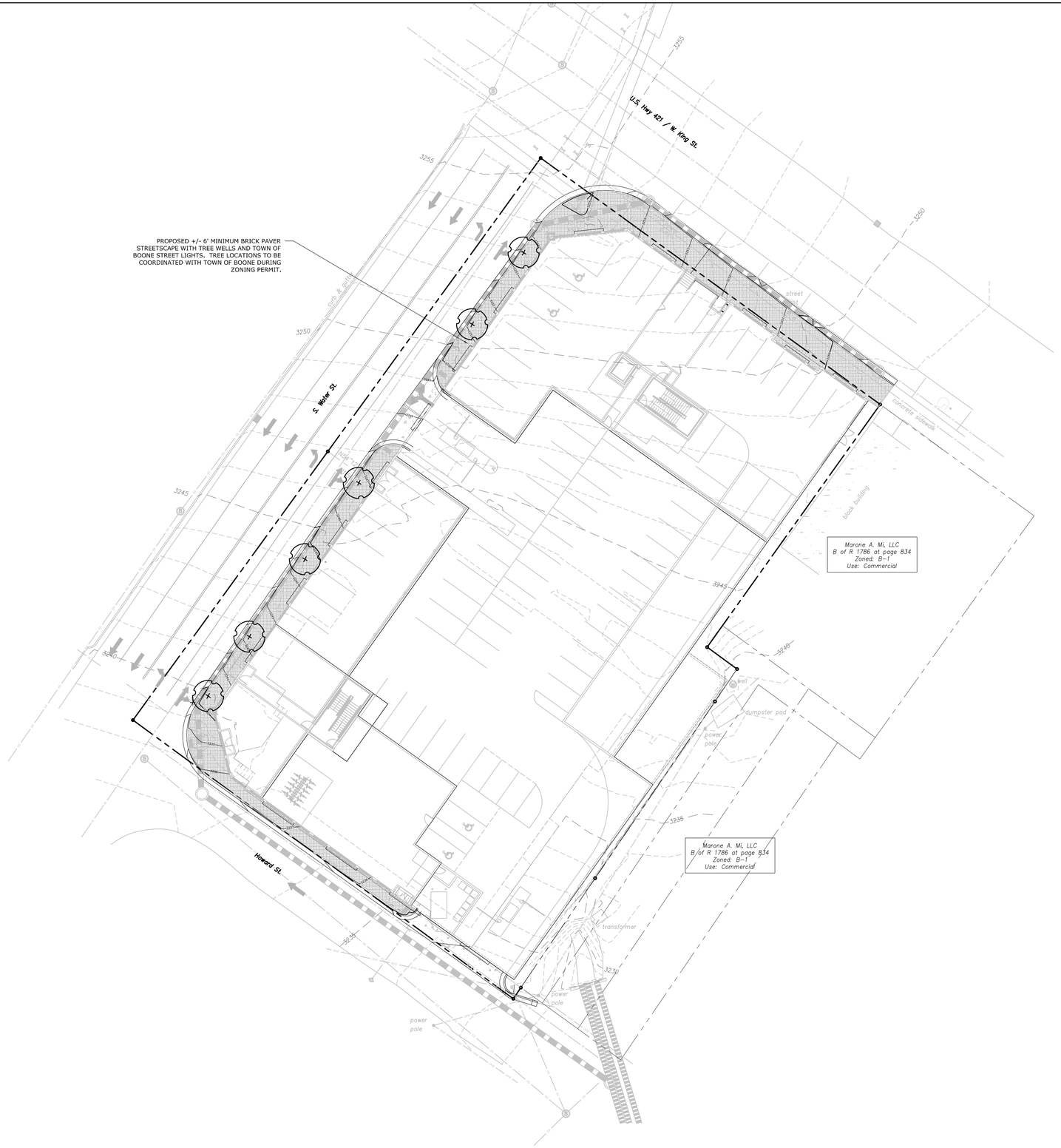
FILE NUMBER: 001-024

Communication: PL01240-122217 Howard St. Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)

NOTES:

1.) FORMAL LANDSCAPE DESIGN, INCLUDING SPECIES AND QUANTITY, TO BE COMPLETED DURING ZONING PERMIT. THIS PLAN IS FOR REZONING ONLY.

| LEGEND | |
|---|---|
| | PROPOSED SHADE TREE |
| | PROPOSED SHRUB |
| | PROPOSED EVERGREEN TREE |

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# The Marketplace

*A Mixed Use Development*

ADDRESS:
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Boone, NC

DEVELOPER:
Winkler organization
RESIDENTIAL & COMMERCIAL PROPERTY MANAGEMENT
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828-262-3431

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828-262-9807
www.valorengineering.com

SEAL:
NORTH CAROLINA PROFESSIONAL SEAL 035233 ENGINEER JASON GASTON
05/27/16

| REVISIONS | DATE |
|---|---|
| 1 TOWN COMMENTS | 05/27/16 |

| | |
|---|---|
| PROJECT MANAGER: | JEG |
| DRAWING BY: | JEG |
| JURISDICTION: | TOWN OF BOONE |
| DATE: | 04/29/16 |

SHEET TITLE:

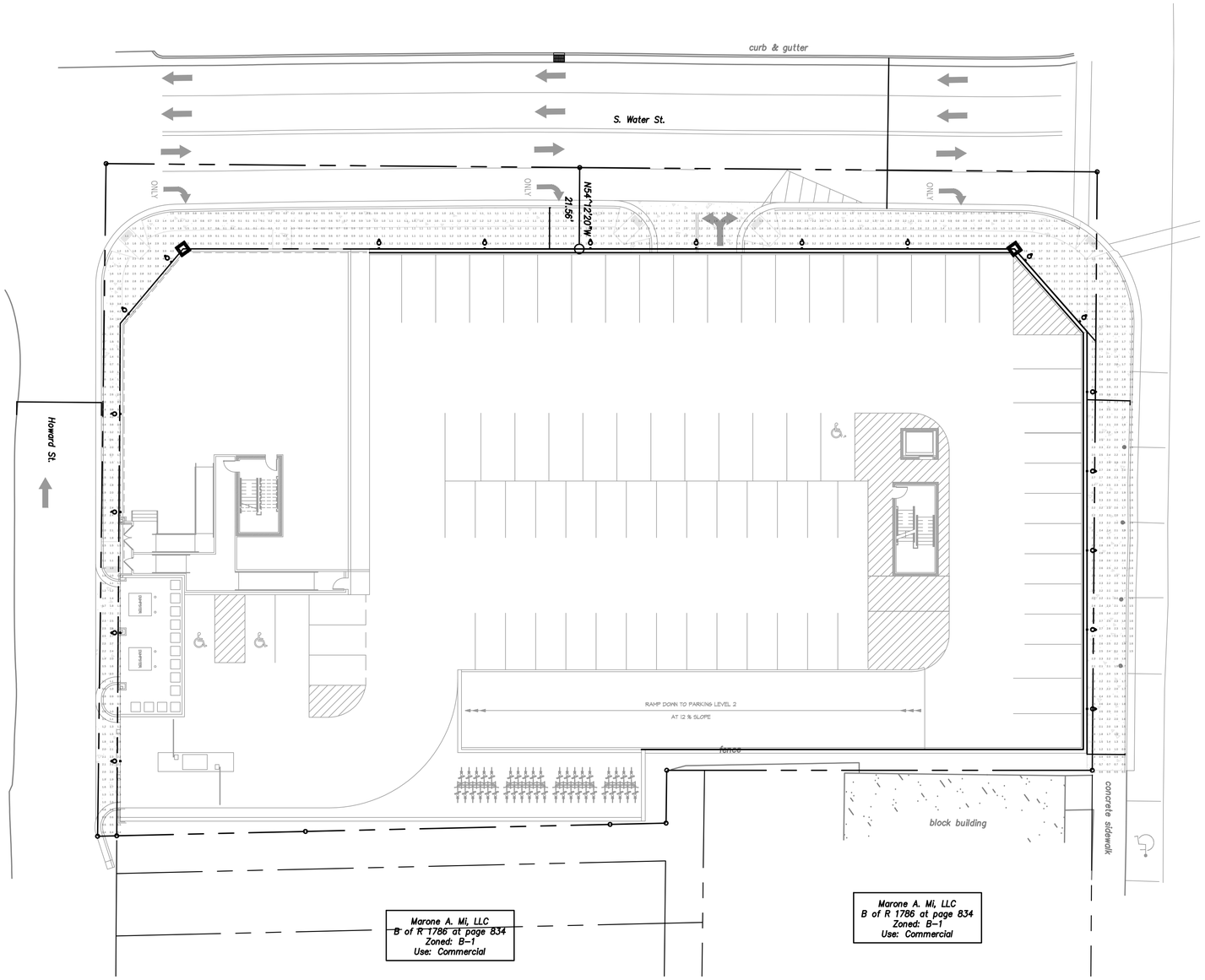
PRELIMINARY LANDSCAPE PLAN

SHEET NUMBER: PDR-4

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

FILE NUMBER: 001-024

Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)




## 1 SITE PHOTOMETRIC PLAN
1/16

### STATISTICS

| Description | Symbol | Avg | Max | Min | Max/Min | Avg/Min |
|---|---|---|---|---|---|---|
| Sidewalk | + | 1.7 fc | 4.4 fc | 0.1 fc | 44.0:1 | 17.0:1 |

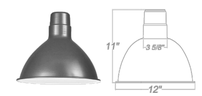
### LUMINAIRE SCHEDULE

| Symbol | Label | Qty | Catalog Number | Description | Lamp | File | Lumens | LLF | Watts |
|---|---|---|---|---|---|---|---|---|---|
| | B | 19 | D612-32WPL 100GLCL | WITH WHITE INTERIOR AND CLEAR VAPOR TIGHT GLASS LENS | ONE SYLVANIA 32 WATT CPFL LAMP | D612-100GLCL-32WPL-T15295.IES | 2400 | 0.95 | 33 |

BDA-1601-PE1.dwg, Plotted By: rick
May 18, 2016 - 3:20pm

ANPLighting
INNOVATIVE SITE LIGHTING

## Specifications D612




Project: _____
Customer No: _____
Fixture Type: _____
Quantity: _____

**D612**
12" Deep Bowl

RLM Shades manufactured using 1100 aluminum alloy, typically .08-.125 thickness

Catalog Logic

| D612 | 32WPL | RTC | 120 | E6 | 100GLCLGUP | PC | 41 |
|---|---|---|---|---|---|---|---|
| Fixture | Light Source & Wattages | Ballast Housing | Voltage | Mounting | Glass | Accessory | Finish |

| D612 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|---|
| | | | | | | | |

**1 LIGHT SOURCE & WATTAGES**

| Flourescent (WPL) | High Pressure Sodium Metal Halide |
|---|---|
| **GU24** Socket Option | |
| **26WPL** | **50MH** |
| **32WPL** | **50HPS** |
| **42WPL** | **70MH** |
| ***26WPLDIM** | **70HPS** |
| ***32WPLDIM** | **100MH** |
| ***42WPLDIM** | **100HPS** |
| ***Max Distance From Lamp is 12"** | **150MH** (Without Glass) |
| **(*Default 0 -10v DC)** | **150HPS** (Without Glass) |

| Indoor Remote Ballast | Postline |
|---|---|
| Housing included (skip step 2) | requires 4" OD pole |
| **50MHRI** | Housing included (skip step 2) |
| **70MHRI** | **50MHP** |
| **100MHRI** | **50HPP** |
| **150MHRI** (Without Glass) | **70MHP** |
| | **70HPP** |

**2 BALLAST HOUSING**

| Fluorescent (WPL) | High Pressure Sodium/Metal Halide |
|---|---|
| **RTC** (WPL Ballast Canopy) | **HIDRC** (Metal Halide Ballast Canopy) |
| **RTCNC** (WPL Ballast Canopy/ No Spun Cover) | **HIDRCNC** (Metal Halide Ballast Canopy/No Spun Cover) |
| **DBH** (Dimming CFL Ballast housing) | |

**3 VOLTAGES**

| 120 | 208 | 240 | 277 |
|---|---|---|---|

**4 MOUNTING SOURCES**

Arm Mounts
**E1 E2 E3 E4 E5 E6 E7**
**E8 E9 E10 E11 E12 E13**
**E15 E16 E17 E18**
**E18SC E19 E20 E21 E22 E23 E25 E26**

Wall Mounts
**WM35**
**WM40** (ballast housing not required!)
**WM55**
**WM55SC**
**WM75** (ballast housing not required!)
**WM318** (requires remote ballast)
**WM85** (requires remote ballast)
**WM85SC** (requires remote ballast)
**WM85BP** (requires remote ballast)
**WM85SCBP** (requires remote ballast)

Post Mounts
**PM10**
**PM20**
**PM30**
**PM40**
**PM50**

Pendant Mounts
**BLC** (black cord - includes canopy and 8' cord)
**WHC** (white cord - includes canopy and 8' cord)
1/2" stems (Comes Standard with STC)
**2ST6 2ST12 2ST18 2ST24 2ST36 2ST48**
**2ST60 2ST72 2ST96**
3/4" stems (Comes Standard with STC)
**3ST6 3ST12 3ST18 3ST24 3ST36 3ST48**
**3ST60 3ST72 3ST96**

**5 GLASS**

Wattages 32w WPL and 50w HID max and below
**100GLCL** (100w Vapor Tight w/Clear Glass)
**100GLPR** (100w Vapor Tight w/Prismatic Glass)
**100GLFR** (100w Vapor Tight w/Frosted Glass)
**100GLBG** (100w Vapor Tight w/White Ball Glass)

Wattages for 42w WPL and 100w HID
**200GLCL** (200w Vapor Tight w/Clear Glass)
**200GLPR** (200w Vapor Tight w/Prismatic Glass)
**200GLFR** (200w Vapor Tight w/Frosted Glass)

Glass & Guards
**100GLCLGUP** (100w Vapor Tight with Clear Glass & Small Wire Guard)
**100GLPRGUP** (100w Vapor Tight with Prismatic Glass & Small Wire Guard)
**100GLFRGUP** (100w Vapor Tight with Frosted Glass & Small Wire Guard)
**100GLCLGUPC** (100w Vapor Tight with Clear Glass & Cast Guard)
**100GLPRGUPC** (100w Vapor Tight with Prismatic Glass & Cast Guard)
**100GLFRGUPC** (100w Vapor Tight with Frosted Glass & Cast Guard)
**200GLCLGUP** (200w Vapor Tight with Clear Glass and Large Wire Guard)
**200GLPRGUP** (200w Vapor Tight with Prismatic Glass & Large Wire Guard)
**200GLFRGUP** (200w Vapor Tight with Frosted Glass & Large Wire Guard)

Guard Only, No Glass
**100GLGUP** (Small Wire Guard with No Glass)
**100GLGUPC** (Cast Guard with No Glass)
**200GLGUP** (Large Wire Guard with No Glass)
**AC** (Clear Stipple Glass Acorn) (50w HID; 32w WPL Max)

**6 ACCESSORIES**
**CB** (Cast back plate)
**CBC** (Cast back plate Spun Alum Cover)
**GR12** (12" Wire Grill)
**PC** (Button Photo Cell) Remote Only
**SC** (Scroll for Arms)
**SLC** (Sloped Ceiling Mount)
**SQ** (Square Back Plate)
**STC** (Flat Ceiling Stem Canopy)
**SWL** (Swivel)

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ANP reserves the right to change material or design, without prior notice, in a continuing effort to upgrade its products.

**1-800-548-3227**
**ANPlighting.com**

ANPLighting
INNOVATIVE SITE LIGHTING

**D612**
12" Deep Bowl

RLM Shades manufactured using 1100 aluminum alloy, typically .08-.125 thickness

SABER ENGINEERING
2923 South Tryon Street Suite 2
Charlotte, North Carolina 282
tel 704.373.0068 fax 704.373.02
MECHANICAL ELECTRICAL PLUMBI

May 18, 2016

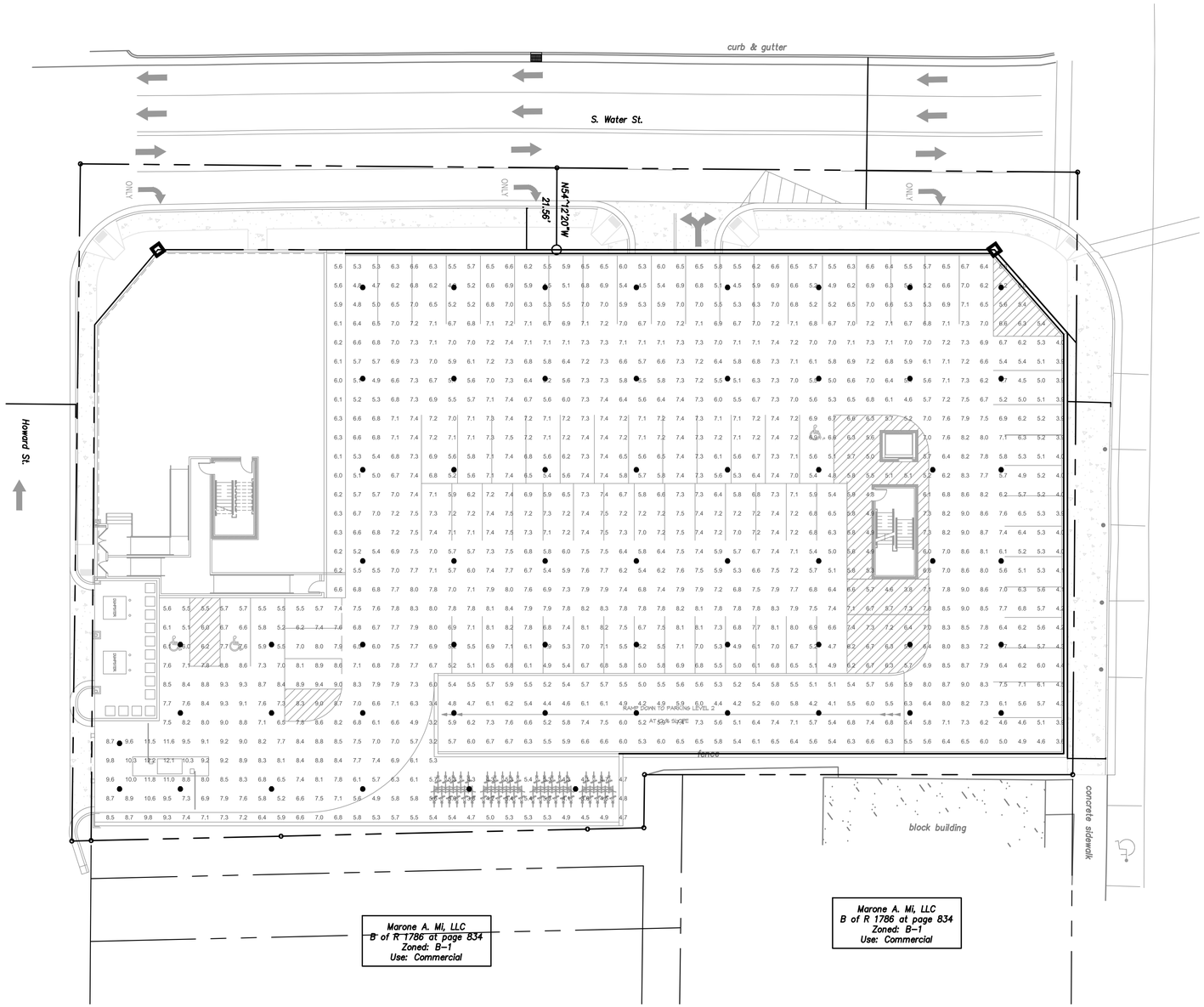
# The Marketplace Mixed Use
BOONE, NORTH CAROLINA

MAY 18, 2016

SITE PHOTOMETRIC PLAN

**PE1** OF 2

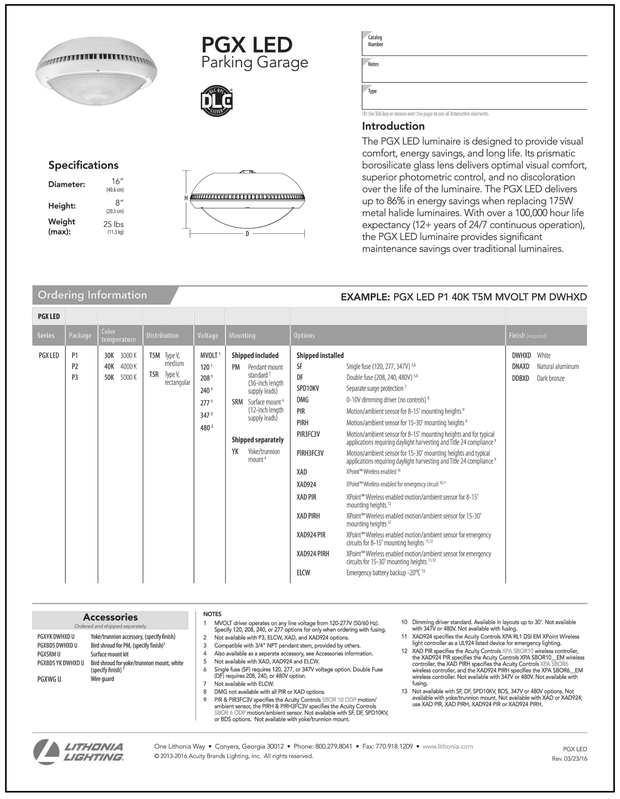
Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)




1 GARAGE PHOTOMETRIC PLAN
1/16

| STATISTICS | | | | | | |
|---|---|---|---|---|---|---|
| Description | Symbol | Avg | Max | Min | Max/Min | Avg/Min |
| Garage | + | 6.6 fc | 12.2 fc | 3.2 fc | 3.8:1 | 2.1:1 |

| LUMINAIRE SCHEDULE | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Symbol | Label | Qty | Catalog Number | Description | Lamp | File | Lumens | LLF | Watts |
| ⊙ | A | 59 | PGX LED P1 40K T5M MVOLT | PGX LED Nichia LED 4K T5M Optic | LED | PGX_LED_P1_40K_T5M_MVOLT.ies | Absolute | 0.95 | 30 |



# PGX LED
Parking Garage

Specifications
Diameter: 16" (40.6 cm)
Height: 8" (20.3 cm)
Weight (max): 25 lbs (11.3 kg)

Catalog Number
Notes
Type

Hit the Tab key or mouse over the page to see all interactive elements.

## Introduction
The PGX LED luminaire is designed to provide visual comfort, energy savings, and long life. Its prismatic borosilicate glass lens delivers optimal visual comfort, superior photometric control, and no discoloration over the life of the luminaire. The PGX LED delivers up to 86% in energy savings when replacing 175W metal halide luminaires. With over a 100,000 hour life expectancy (12+ years of 24/7 continuous operation), the PGX LED luminaire provides significant maintenance savings over traditional luminaires.

## Ordering Information
EXAMPLE: PGX LED P1 40K T5M MVOLT PM DWHXD

PGX LED

| Series | Package | Color temperature | Distribution | Voltage | Mounting | Options | | Finish (required) |
|---|---|---|---|---|---|---|---|---|
| PGX LED | P1 | 30K 3000 K | T5M Type V, medium | MVOLT [1] | **Shipped included** | **Shipped installed** | | DWHXD White |
| | P2 | 40K 4000 K | | 120 [1] | PM Pendant mount standard [3] (36-inch length supply leads) | SF Single fuse (120, 277, 347V) [5,6] | | DNAXD Natural aluminum |
| | P3 | 50K 5000 K | T5R Type V, rectangular | 208 [1] | | DF Double fuse (208, 240, 480V) [5,6] | | DDBXD Dark bronze |
| | | | | 240 [1] | | SPD10KV Separate surge protection [7] | | |
| | | | | 277 [1] | SRM Surface mount [4] (12-inch length supply leads) | DMG 0-10V dimming driver (no controls) [8] | | |
| | | | | 347 [1] | | PIR Motion/ambient sensor for 8-15' mounting heights [9] | | |
| | | | | 480 [1] | | PIRH Motion/ambient sensor for 15-30' mounting heights [9] | | |
| | | | | | **Shipped separately** | PIRSFC3V Motion/ambient sensor for 8-15' mounting heights and for typical applications requiring daylight harvesting and Title 24 compliance [9] | | |
| | | | | | YK Yoke/trunnion mount [4] | PIRHSFC3V Motion/ambient sensor for 15-30' mounting heights and typical applications requiring daylight harvesting and Title 24 compliance [9] | | |
| | | | | | | XAD XPoint™ Wireless enabled [10] | | |
| | | | | | | XAD924 XPoint™ Wireless enabled for emergency circuit [10,11] | | |
| | | | | | | XAD PIR XPoint™ Wireless enabled motion/ambient sensor for 8-15' mounting heights [12] | | |
| | | | | | | XAD PIRH XPoint™ Wireless enabled motion/ambient sensor for 15-30' mounting heights [12] | | |
| | | | | | | XAD924 PIR XPoint™ Wireless enabled motion/ambient sensor for emergency circuits for 8-15' mounting heights [11,12] | | |
| | | | | | | XAD924 PIRH XPoint™ Wireless enabled motion/ambient sensor for emergency circuits for 15-30' mounting heights [11,12] | | |
| | | | | | | ELCW Emergency battery backup -20°C [13] | | |

## Accessories
Ordered and shipped separately.

PGXYK DWHXD U — Yoke/trunnion accessory, (specify finish)
PGXBDS DWHXD U — Bird shroud for PM, (specify finish)[2]
PGXSRM U — Surface mount kit
PGXBDS YK DWHXD U — Bird shroud for yoke/trunnion mount, white (specify finish) [2]
PGXWG U — Wire guard

## NOTES
1 MVOLT driver operates on any line voltage from 120-277V (50/60 Hz). Specify 120, 208, 240, or 277 options for only when ordering with fusing.
2 Not available with P3, ELCW, XAD, and XAD924 options.
3 Compatible with 3/4" NPT pendant stem, provided by others.
4 Also available as a separate accessory, see Accessories information.
5 Not available with XAD, XAD924 and ELCW.
6 Single fuse (SF) requires 120, 277, or 347V voltage option. Double Fuse (DF) requires 208, 240, or 480V voltage.
7 Not available with ELCW.
8 DMG not available with all PIR or XAD options.
9 PIR & PIRSFC3V specifies the Acuity Controls SBOR 10-ODP motion/ambient sensor, the PIRH & PIRHSFC3V specifies the Acuity Controls SBOR 6-ODP motion/ambient sensor. Not available with SF, DF, SPD10KV, or BDS options. Not available with yoke/trunnion mount.
10 Dimming driver standard. Available in layouts up to 30'. Not available with 347V or 480V. Not available with fusing.
11 XAD924 specifies the Acuity Controls XPA RL1 DSI EM XPoint Wireless light controller as a UL924 listed device for emergency lighting.
12 XAD PIR specifies the Acuity Controls XPA SBOR10_ wireless controller, the XAD924 PIR specifies the Acuity Controls XPA SBOR10_ _EM wireless controller, the XAD PIRH specifies the Acuity Controls XPA SBOR6_ wireless controller, and the XAD924 PIRH specifies the XPA SBOR6_ _EM wireless controller. Not available with 347V or 480V. Not available with fusing.
13 Not available with SF, DF, SPD10KV, BDS, 347V or 480V options. Not available with yoke/trunnion mount. Not available with XAD or XAD924; use XAD PIR, XAD PIRH, XAD924 PIR or XAD924 PIRH.

LITHONIA LIGHTING
One Lithonia Way • Conyers, Georgia 30012 • Phone: 800.279.8041 • Fax: 770.918.1209 • www.lithonia.com
© 2013-2016 Acuity Brands Lighting, Inc. All rights reserved.
PGX LED
Rev. 03/23/16

# PGX LED
Parking Garage

Specifications
Diameter: 16" (40.6 cm)
Height: 8" (20.3 cm)
Weight (max): 25 lbs (11.3 kg)

SABER ENGINEERING
2923 South Tryon Street Suite 2
Charlotte, North Carolina 282
tel 704.373.0068 fax 704.373.02
MECHANICAL ELECTRICAL PLUMBI

May 18, 2016

# The Marketplace Mixed Use
BOONE, NORTH CAROLINA

MAY 18, 2016

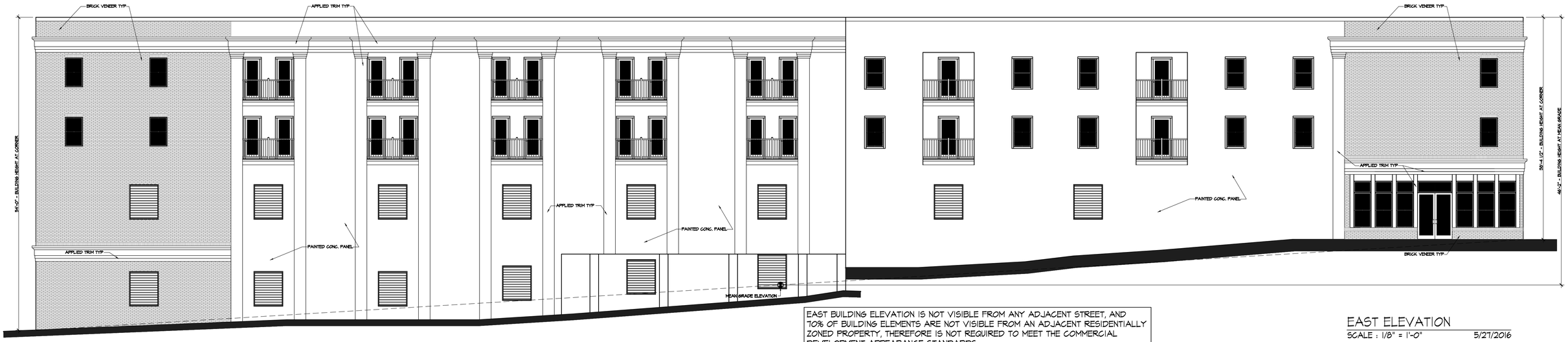
GARAGE
PHOTOMETRIC PLAN

PE2 OF 2

Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)



BDA-1601-PE2.dwg, Plotted By: rick
May 18, 2016 - 3:19pm




EAST BUILDING ELEVATION IS NOT VISIBLE FROM ANY ADJACENT STREET, AND 70% OF BUILDING ELEMENTS ARE NOT VISIBLE FROM AN ADJACENT RESIDENTIALLY ZONED PROPERTY, THEREFORE IS NOT REQUIRED TO MEET THE COMMERCIAL DEVELOPMENT APPEARANCE STANDARDS.

## EAST ELEVATION

SCALE : 1/8" = 1'-0" 5/27/2016

Town of Boone
Planning & Inspections
Date Received
May 27, 2016

| COMMERCIAL APPEARANCE REQUIREMENTS | | |
|---|---|---|
| HOWARD STREET | | |
| PLAN = 152' LIN. DIM. | | |
| FEATURE TYPE | LOCATION | NO. OF FEATURES |
| 1. WINDOWS / FULL GLASS DOORS | PLAN | 18 |
| 2. PILASTERS | PLAN | 20 |
| 3. BUILDING OFFSETS | PLAN | 2 |
| 4. COVERED ENTRY | PLAN | 1 |
| 5. DIAGONAL WALL | PLAN | 1 |
| 6. BALCONIES | PLAN | 5 |
| PLAN FEATURE TYPES - 5 REQ'D. | | 47-TOTAL (16 REQ'D) |

| COMMERCIAL APPEARANCE REQ'MTS | |
|---|---|
| HOWARD STREET | |
| ELEVATION = 50'-4" +/- (HT. FROM MEAN GRADE) | |
| 1. MATERIAL CHANGE | ELEVATION |
| 2. WINDOWS | ELEVATION |
| 3. PILASTERS | ELEVATION |
| 4. BALCONIES | ELEVATION |
| 5. CHANGE IN PARAPET WALL HT | ELEVATION |
| 6. DORMERS | ELEVATION |
| ELEVATION FEATURE TYPES - 5 REQ'D. | |

| COMMERCIAL APPEARANCE REQ'MTS | |
|---|---|
| HOWARD STREET | |
| ROOF | |
| 1. CHANGE IN PARAPET WALL HT | ROOF |
| ELEVATION FEATURE TYPES - 0 REQ'D. | |
| NO VISIBLE PITCHED ROOFS | |

WINDOW CALCULATIONS - B1 MIXED USE (60%)
15.11.09 - A MINIMUM OF 60% OF THE STREET FACING STREET LEVEL BUILDING FACADE SHALL BE COMPRISED OF TRANSPARENT, NON-REFLECTIVE WINDOWS.

BUILDING LENGTH = 152' (x) .60 = 91.2' LFT GLASS REQUIRED ; 113'-2" LFT PROVIDED (WINDOWS AND GARAGE OPENING)

## HOWARD STREET ELEVATION

SCALE : 3/16" = 1'-0" 5/27/2016

THE ELEVATIONS SHOWN ARE CONCEPTUAL AND MAY BE MODIFIED FOR COMPLIANCE WITH U.D.O. REGULATIONS AND CLIENT REQUIREMENTS.

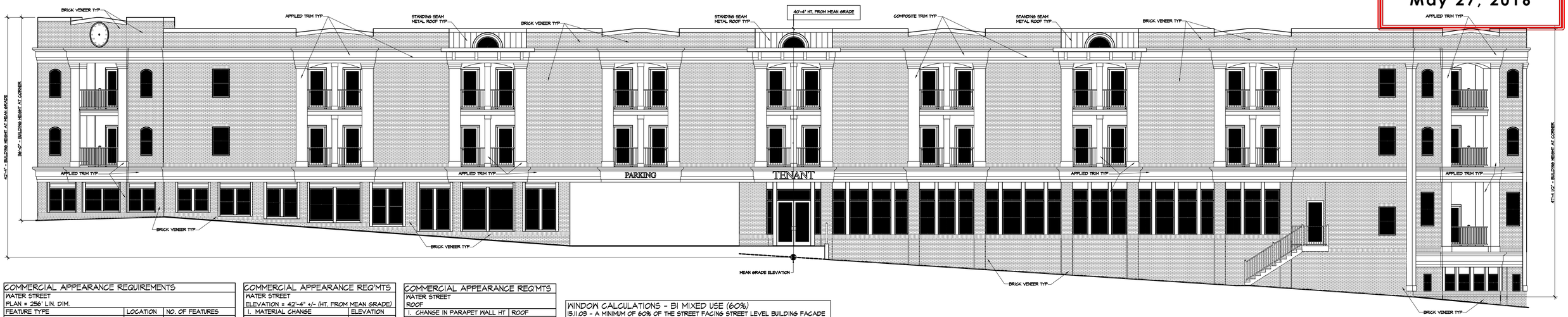
# MARKETPLACE MIXED USE

PLANNED DISTRICT REZONING SUBMITTAL 5/27/16

BRENT DAVIS ARCHITECTURE, INC.
BOONE, NORTH CAROLINA

Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)

Town of Boone
Planning & Inspections
Date Received
May 27, 2016




| COMMERCIAL APPEARANCE REQUIREMENTS | | |
|---|---|---|
| WATER STREET | | |
| PLAN = 256' LIN. DIM. | | |
| FEATURE TYPE | LOCATION | NO. OF FEATURES |
| 1. WINDOWS / FULL GLASS DOORS | PLAN | 51 |
| 2. PILASTERS | PLAN | 27 |
| 3. BUILDING OFFSETS | PLAN | 2 |
| 4. COVERED ENTRY | PLAN | 3 |
| 5. DIAGONAL WALL | PLAN | 1 |
| 6. BALCONIES | PLAN | 16 |
| PLAN FEATURE TYPES - 5 REQ'D. | | 100-TOTAL (16 REQ'D) |

| COMMERCIAL APPEARANCE REQ'MTS | |
|---|---|
| WATER STREET | |
| ELEVATION = 42'-4" +/- (HT. FROM MEAN GRADE) | |
| 1. MATERIAL CHANGE | ELEVATION |
| 2. WINDOWS | ELEVATION |
| 3. PILASTERS | ELEVATION |
| 4. BALCONIES | ELEVATION |
| 5. CHANGE IN PARAPET WALL HT | ELEVATION |
| 6. DORMERS | ELEVATION |
| ELEVATION FEATURE TYPES - 4 REQ'D. | |

| COMMERCIAL APPEARANCE REQ'MTS | |
|---|---|
| WATER STREET | |
| ROOF | |
| 1. CHANGE IN PARAPET WALL HT | ROOF |
| ELEVATION FEATURE TYPES - 0 REQ'D. | |
| NO VISIBLE PITCHED ROOFS | |

WINDOW CALCULATIONS - B1 MIXED USE (60%)
15.11.03 - A MINIMUM OF 60% OF THE STREET FACING STREET LEVEL BUILDING FACADE SHALL BE COMPRISED OF TRANSPARENT, NON-REFLECTIVE WINDOWS.

BUILDING LENGTH = 256' (x) .60 = 153'-6' LFT GLASS REQUIRED ; 162'-0" LFT PROVIDED

## WATER STREET ELEVATION

SCALE : 1/8" = 1'-0" 5/27/2016

| COMMERCIAL APPEARANCE REQUIREMENTS | | |
|---|---|---|
| KING STREET | | |
| PLAN = 134' LIN. DIM. | | |
| FEATURE TYPE | LOCATION | NO. OF FEATURES |
| 1. WINDOWS / FULL GLASS DOORS | PLAN | 29 |
| 2. PILASTERS | PLAN | 17 |
| 3. BUILDING OFFSETS | PLAN | 2 |
| 4. COVERED ENTRY | PLAN | 1 |
| 5. DIAGONAL WALL | PLAN | 1 |
| 6. BALCONIES | PLAN | 6 |
| PLAN FEATURE TYPES - 5 REQ'D. | | 56-TOTAL (16 REQ'D) |

| COMMERCIAL APPEARANCE REQ'MTS | |
|---|---|
| KING STREET | |
| ELEVATION = 38'-0" +/- (HT. FROM MEAN GRADE) | |
| 1. MATERIAL CHANGE | ELEVATION |
| 2. WINDOWS | ELEVATION |
| 3. PILASTERS | ELEVATION |
| 4. BALCONIES | ELEVATION |
| 5. CHANGE IN PARAPET WALL HT | ELEVATION |
| 6. DORMERS | ELEVATION |
| ELEVATION FEATURE TYPES - 4 REQ'D. | |

| COMMERCIAL APPEARANCE REQ'MTS | |
|---|---|
| KING STREET | |
| ROOF | |
| 1. CHANGE IN PARAPET WALL HT | ROOF |
| ELEVATION FEATURE TYPES - 0 REQ'D. | |
| NO VISIBLE PITCHED ROOFS | |

WINDOW CALCULATIONS - B1 MIXED USE (60%)
15.11.03 - A MINIMUM OF 60% OF THE STREET FACING STREET LEVEL BUILDING FACADE SHALL BE COMPRISED OF TRANSPARENT, NON-REFLECTIVE WINDOWS.

BUILDING LENGTH = 134' (x) .60 = 80.4' LFT GLASS REQUIRED ; 98'-0" LFT PROVIDED

PROPOSED COLOR SELECTION
BRICK: RED / BROWN TONE
TRIM: SHERWIN WILLIAMS SW 6149 RELAXED KHAKI
METAL ROOF: HUNTER GREEN

## KING STREET ELEVATION

SCALE : 3/16" = 1'-0" 5/27/2016

THE ELEVATIONS SHOWN ARE CONCEPTUAL AND MAY BE MODIFIED FOR COMPLIANCE WITH U.D.O. REGULATIONS AND CLIENT REQUIREMENTS.

# MARKETPLACE MIXED USE

PLANNED DISTRICT REZONING SUBMITTAL 5/27/16

BRENT DAVIS ARCHITECTURE, INC.
BOONE, NORTH CAROLINA

Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures LLC Rezoning - General Use Zoning Map Amendment)

MARKETPLACE MIXED USE

KING STREET ELEVATION 6/13/16

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# MARKETPLACE MIXED USE

HOWARD STREET ELEVATION 6/13/16

RECEIVED
JUN 1 3 2016

RECEIVED
JUN 1 3 2016

Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures

MARKETPLACE MIXED USE
EAST ELEVATION 6/13/16

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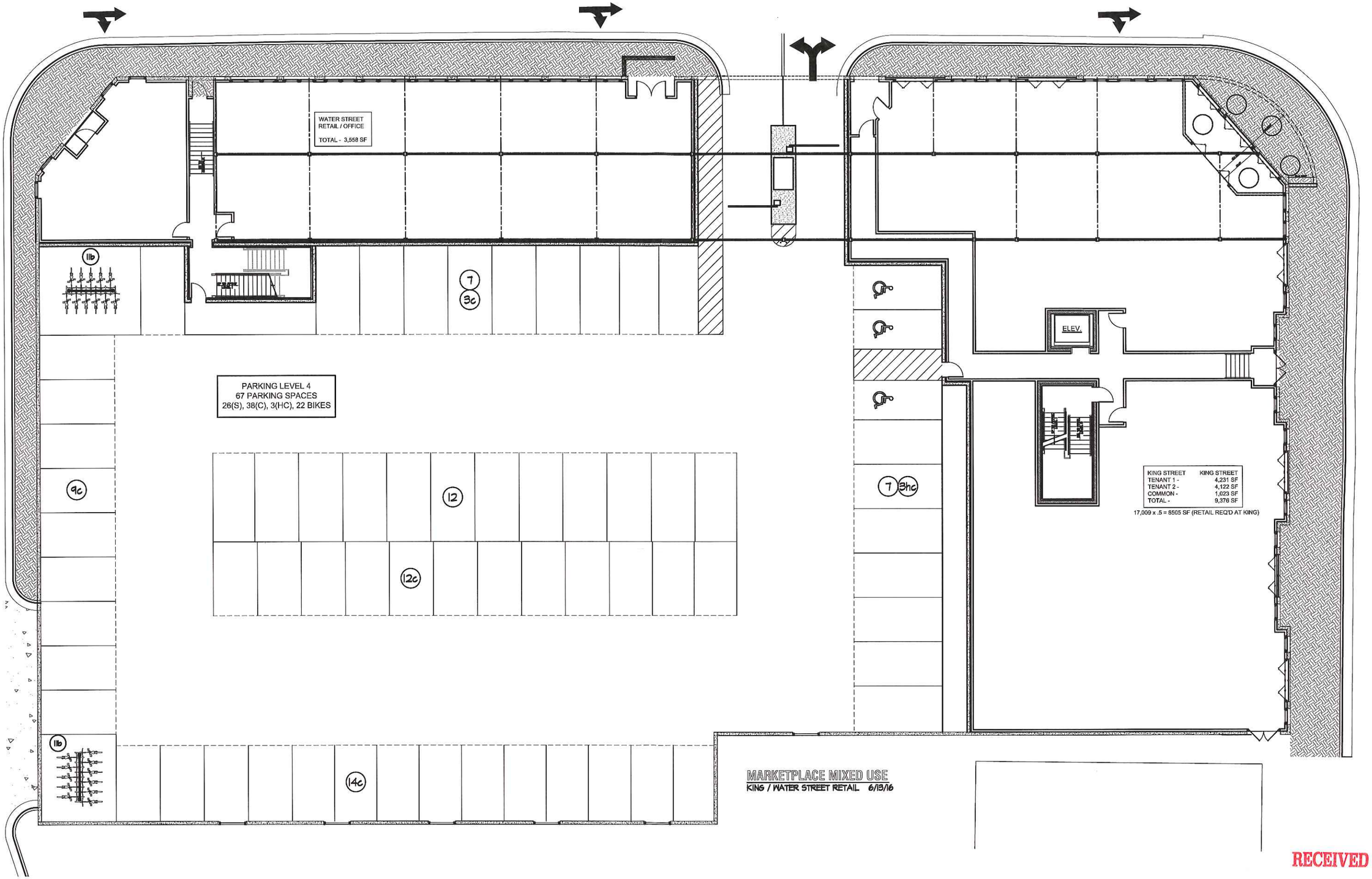


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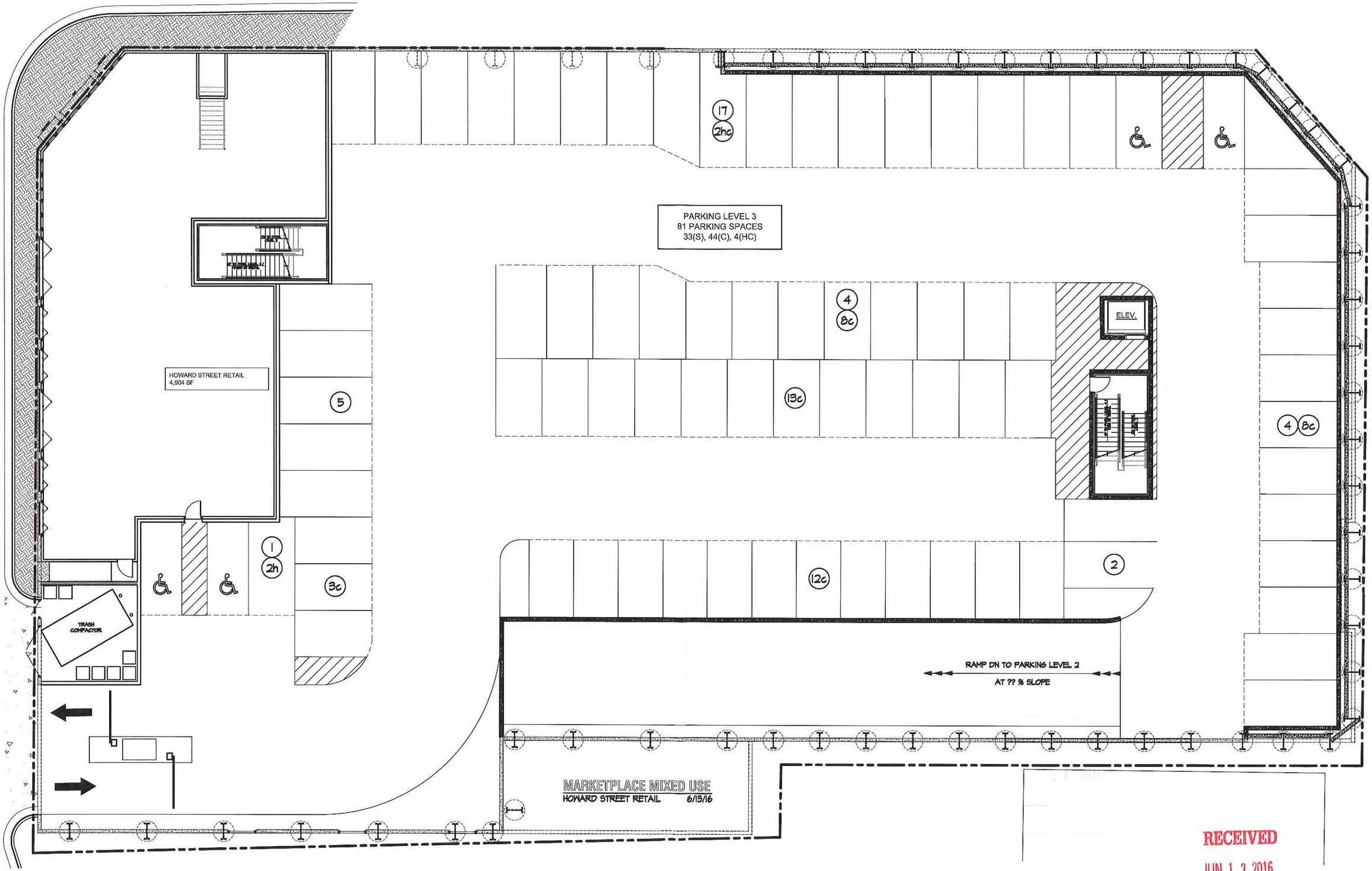


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Communication: PL01240-122217 Howard St Ventures LLC - Staff Report Exhibit 2, Approved Plans (Case PL01240-122217 Howard St. Ventures

Exhibit 3

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**Howard Street Ventures Planned Development Neighborhood Meeting**

Pursuant to the Town of Boone's Planned Development Ordinance, section 9.10.05, the Principals of a potential Planned Development located along Water Street between King and Howard Streets held a neighborhood meeting concerning said potential development. The meeting was held at the Watauga County Administrative Building on April 5, 2016 at 6:00 P.M. Notice was provided to all property owners located within 150 feet of the development site on March 11, 2016. In addition, the Boone Town Council called a Special Public Hearing, and provided notice thereof, in the event that a majority of Council should attend the meeting. Further, notice was provided to downtown business and property owners through the Downtown Boone Development Association.

The meeting was well attended and the developers circulated a sign-up sheet so that all attendees could provide their names and addresses, as required by the Ordinance. A copy of this sign-up sheet is attached to this report.

To begin the meeting, the petitioner presented to the attendees the names and contact information for the principals and representatives involved in the project, those individuals being: James M. Deal, Jr. and Tucker Deal, Attorneys from the Law Firm of Deal, Moseley & Smith, LLP; John Winkler, Kenneth Wilcox, and Roger Wright, property owners and developers; Jason Gaston, Engineer; Frank Amenya, Traffic Engineer; and Brent Davis, Architect.

The petitioner presented preliminary design plans and discussed the expected uses associated with the planned development. The petitioner also provided preliminary engineering and architectural plans illustrating the interior design scheme, reflecting the commercial, residential, and parking garage components of the planned development. In discussing these plans, the petitioner stated that the preliminary design plans showed a building that would be 46 feet tall on King St., and which would contain approximately 180 bedrooms (100 one BR units, 31 two BR units, and 3 three BR units) and approximately 333 parking spaces. The following items were also discussed:

1. There was a question from the public regarding whether the developer could anticipate how many parking spaces would be rented by the businesses located within the development. The developer responded that it would likely be cost-prohibitive for a business owner to rent spaces in the garage for their employees.
2. There was a discussion regarding whether undergraduate students would be the primary target of the development. The petitioner stated that the project would necessarily be appealing to undergraduate students and that they would likely make up a large percentage of the tenants. The petitioner also stated that proposed units were primarily one-bedroom and that in their experience this attracted quieter and older students.
3. There was a discussion regarding the traffic impacts the project would have on downtown in general and Water St. in particular. Concerns were raised regarding traffic backing up from the light at King and Water Streets. Petitioner stated that they are working with the same traffic engineers as the Town of Boone for the Howard St. redevelopment project. Frank Amenya stated that the project would necessarily increase traffic downtown, but that there were ways that impact would be mitigated, such as adjusting timing on lights and the proximity to downtown amenities and the university.
4. There was a discussion regarding the Town of Boone's plan for Water St., as incorporated in the West Downtown plan. This discussion was largely among members of the audience: Sam

Communication: PL01240-122217 Howard St Ventures Staff Report Exhibit 3, Original Neighborhood Meeting Information (Case PL01240-122217

Furgiuele, Eric Woolridge, and John Ward. The principal concern expressed by Mr. Furgiuele seemed to be related to the West Downtown Plan's calling for converting Water St. into a two-lane street and how this project might impact or blend with that plan. Mr. Woolridge stated that the West Downtown plan was conceptual in nature. Mr. Ward stated that the Town would likely be blending to the greatest extent possible the Howard St. redevelopment plan and the West Downtown plan, and coordinating with the potential planned development plans.

5. There was a discussion regarding the Town's 2030 plan and its recommendations for height on King St. and Howard St.
6. A member of the public asked how the property is currently zoned (B1) and what is the B1 height allowance (40 feet). The individual asked if there were any buildings downtown with a height comparable to that proposed for the development. The petitioner stated that they believed the County Administration building to be approximately 51 feet tall and the County Courthouse to be approximately 49 feet tall.
7. There was further discussion related to parking within the development. Specifically, whether the petitioner would allow all spaces to be rented monthly. The petitioner stated that they had retained McLaurin Parking to set parking policies, but that it was in their interest to turn over parking spaces as often as possible. The petitioner stated that they would be amenable to ensuring a certain number of hourly spaces.
8. A member of the public asked if any units would be listed for sale, of if the units would be lease only. The petitioner responded that the units would be for lease only.
9. A member of the public expressed concern over the scope and scale of the proposed development, stating that he felt it would not be in keeping with the character or feel of downtown.
10. There was a discussion regarding the exterior materials of the building. Eric Plaag, a member of the Historic Preservation Committee, did not believe that the proposed materials would be consistent with the historic context of downtown Boone. He also expressed concerns with the size and scale of the project. The petitioner stated that many of the materials and façade elements they were utilizing in their proposal were mandated by the Town's UDO. The petitioner indicated that they would be willing to work with the Town and the appropriate committee to improve the exterior appearance of the building.
11. A discussion was had regarding the streetscape surrounding the building and how it should match the newer/redeveloped streetscapes in downtown Boone, incorporating brick pavers, trees, and benches.
12. There was a discussion between the project's Engineer, Jason Gaston, and members of the public regarding what would be an appropriate development for this site. Lower height was suggested.
13. A member of the public stated that she was not sure height was the biggest issue, but that the biggest problem with "these developments" is that they look scary – she suggested a visual break-up of the building. The Petitioner stated that they would look into the possibility, but that the incorporation of a parking deck in this development would make such a design tricky.
14. A downtown business owner expressed support for the project based on her concern regarding the currently inadequate parking for downtown businesses.
15. The owner of Mellow Mushroom (across Water St. from the proposed project) stated that he recognized the point of projects needing to fit in with downtown Boone, but that he was unsure

Communication: PL01240-122217 Howard St Ventures Staff Report Exhibit 3, Original Neighborhood Meeting Information (Case PL01240-122217

of what does fit in with downtown Boone's "style," as it seems to be a hodgepodge of different styles. He also stated that the need for downtown parking is a massive issue for his business and that the number one complaint he hears is that people don't come downtown because there's no parking.

16. Another downtown Boone business owner spoke in support of providing more long-term parking that would allow visitors more time to shop and eat.
17. There was a discussion regarding marketing towards students, and whether the project might market towards individuals age 55 and up.

The primary concerns voiced by the attendees at the meeting were:

1. The height and the scale of the building.
2. The exterior design/materials and conformity with the style of downtown Boone.
3. Concern over traffic impact.
4. How the project will fit with other Town Plans and redevelopment in this area (Howard St., West Downtown, etc.).
5. An overall lack of parking for downtown visitors and the project's potential to mitigate this problem.

The meeting began at approximately 6:05 PM and ended at 8:05 PM. This concludes the report from the Neighborhood Meeting for the proposed Market Place Mixed-Use Development.

This Report was prepared by J. Tucker Deal pursuant to the Town of Boone UDO Planned Development Ordinance, section 9.10.05

J. Tucker Deal

Communication: PL01240-122217 Howard St Ventures Staff Report Exhibit 3, Original Neighborhood Meeting Information (Case PL01240-122217

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| Name | Address |
|---|---|
| Jesse Wood | 303 Spice Creek Rd, Banner Elk, NC 28 |
| Sam Furgiuele | 169 Gragg St. Boone N |
| Eric Plaga | 703 Junaluska Rd., Boone N |
| Harold Tilley | 768 West King St. |
| Peggy Marshall | 169 Gragg St Boone NC |
| Loretta Chanson | 218 VFW Drive, Boone, NC |
| Penn Williamson | 375 Old 421 S, Boone, NC |
| Jerry Williamson | " " " " " |
| Greg Simmons | 310 Delmar St, Boone, NC |
| Eric Woodruff | 545 OAK ST. |
| Josh Teague | 827 W. King St. Boone, NC 28607 |
| John Ward | 267 W. King St. Boone NC 28607 |
| David Wilke | 164 S. Depot St. Boone NC 28607 |
| Laney Ruckstuhl | 309 Woodby Ridge Rd. Vilas |
| David Welsh | 240 Grand Blvd Boone |
| David Parks | 161 C Howard St Boone |
| Anna Roseman | 641 W King St Boone |
| Valerie Midgett | 212 N. Water St. Boone |
| Mechelle Trivette | 784 W. King St, Boone |
| Lynn Hallowell | 784 W King St Boone |
| Rennie Brantz | 575 Grand Blvd. |
| Pilar Totta | 604 W. KING STREET TOWN OF BOONE |
| Virginia Faldh | " " |
| Joe Furman | Watauga County |
| Jeannine Underdown Collins | Town of Boone - Boone |
| Joanne Schm | 970 Rivers St. Boone |
| Olga Esterson | 970 Rivers St. Boone |
| Sam Ratchford | 831 W. King St. Boone. |
| Steve McLaurin | McLaurin Parking Company Raleigh, N.C. |

Communication: PL01240-122217 Howard St Ventures Staff Report Exhibit 3, Original Neighborhood Meeting Information (Case PL01240-122217 Howard St. Ventures LLC Rezoning -

# DEAL, MOSELEY & SMITH, LLP
## ATTORNEYS AND COUNSELLORS AT LAW

**870 WEST KING STREET, SUITE B**
**BOONE, NORTH CAROLINA 28607**
**Telephone (828) 264-4734**

**James M. Deal, Jr.**
**Allen C. Moseley**
**Claude D. Smith, Jr. ***
**C. Philip Ginn**
**Bryan P. Martin**
**J. Tucker Deal**

---
*** Also Licensed in Georgia**
**Certified Mediator**

**Mailing Address:**
**Post Office Box 311**
**Boone, North Carolina 28607**
**Facsimile (828) 264-2712**


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MAY - 4 2016

March 11, 2016

Dear Property Owner,

The purpose of this letter is to provide notice of a neighborhood meeting concerning a potential Planned Development for the Marketplace Building located on Water St., between King and Howard Streets. The meeting is scheduled for Tuesday, April 5th at 6:00 pm and will be held in the Watauga County Administration Building, located at 814 W. King St. Boone, NC, in the Commissioner's Meeting Room. Notice of this meeting is being provided to the owners of property located within 150 feet of the proposed Development in accordance with the Town of Boone Planned Development Ordinance.

At the meeting, the proponent of the potential Planned Development will, at a minimum, present the following information:

1. Contact information of the parties involved in the ownership, design, and development of the property;
2. The location of the property and general information on the current conditions of the site;
3. Proposed use(s) and site development;
4. Any preliminary plans or renderings, if available; and
5. Any other information deemed pertinent by the Director of Planning & Inspections for the Town of Boone.

Very truly yours,

**DEAL, MOSELEY & SMITH, LLP**

James M. Deal, Jr.

Communication: PL01240-122217 Howard St Ventures Staff Report Exhibit 3, Original Neighborhood Meeting Information (Case PL01240-122217

Exhibit 4

# The Marketplace Mixed Use:
# Mitigation Analysis in Accordance with UDO 9.10.05(B)(2)

**Noise Impact Mitigation**

1) The parking garage will be fully enclosed (with the exception of the entrances) to help minimize noise generated by vehicles traveling in the parking areas.
2) Stairwells that service the upper story multifamily levels will be internal to the building and parking garage with the exception of the fire escapes exit on Water Street.
3) Parapet walls will help shield any noise that may be generated by roof-top utilities.

**Light Impact Mitigation**

1) The entirety of the parking structure is enclosed, so there will be no lighted parking area exposed to the public. The only exterior lighting will be the Town of Boone lights to be provided in the streetscape and the small lights mounted on the building for aesthetics and building entrances.
2) The lights to be placed in the streetscape and those mounted on the building will be full cut-off in accordance with UDO 25.05.02.

**Traffic Impact Mitigation**

1) The project shall utilize entrance from Water Street and Howard Street and close the entrance on King Street. This factor shall minimize turn movements on King Street that commonly cause congestion along that corridor.
2) The project is walkable to campus and the surrounding downtown area. Once a patron parks at this project, he or she can walk to other businesses without having to get back into a vehicle and drive. (Smart Growth Principle #4)
3) This "in-town" location promotes alternative means of transportation, such as biking or electric vehicles. The project is providing more than double the required amount of bicycle parking and will also provide parking spaces with vehicle charging areas (Smart Growth Principle #8).

**Visual Impact Mitigation:**

1) The project has been developed in coordination with input from adjacent property owners and other interested parties. Based on that feedback, we've adjusted the building character to better fit downtown and used the "theme" from the old Farmer's Hardware/Watauga County Bank building (Smart Growth Principle #5, 7, 10)
2) Based upon input we received from the public meeting, the King Street facade has been broken up with pilasters, differing parapet walls, and other material breaks to provide the aesthetic of many different shops instead of one large store front.
3) The exterior of the parking garage has a façade to match the character of the building and to visually shield it from the public.
4) The corner of the building at West King Street and Water Street will be fitted with an architectural element, such as a clock.
5) Parapet walls will help provide visual obstructions to any of the roof-top utilities.

**Mitigation of Health Effects:**

No impacts to health are anticipated.

RECEIVED
MAY 23 2016

Communication: PL01240-122217 Howard St Ventures LLC Staff Report Exhibit 4, Original Mitigation Analysis (Case PL01240-122217 Howard

# 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: PL00981-092517 |
| Case Name: Bee Hive Regulations- UDO Text Amendment |

## A. CONTACT INFORMATION

Applicant: Town of Boone  Company:

Address: PO Drawer 192, Boone , NC 28607

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

## B. TEXT INFORMATION

**Amendment is to:**

Article(s): 15, 34

Section(s): 15.07, 15.64 and 34.01

**Brief Description of Amendment (Attach Proposed Text):**

In 2015, the NC General Assembly (Session Law 2015-246, House Bill 44) modified the General Statutes regarding Limitations of local government regulation of [bee] hives, effective September 12, 2015. The proposed text brings the UDO into compliance with these changes.

## 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, P&I Director | Jane Shook, P&I Director | September 25, 2017 |
|---|---|---|
| **Applicant (Print)** | **Applicant Signature** | **Date** |

## Official Use Only

| Date: | Fee: | Receipt Number: | Method of Payment: | Paid By: |
|---|---|---|---|---|
| 09/25/2017 | NA | NA | NA | NA |

## Hearing/Decision Information

Public Hearing Meeting Date: October 23, 2017

PC Meeting Date: October 23, 2017

TC Meeting Date: November 16, 2017

Text Approved: ❑ Yes ❑ No

Notes:

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Communication: PL00981-092517 Bee Hive Regulations- Application (Case PL00981-092517 Bee Hive Regulations - UDO Text Amendment)

**STAFF REPORT**
**PUBLIC HEARING-FEBRUARY 26, 2018**
**CASE PL00981-092517 BEE HIVE REGULATIONS- UDO TEXT AMENDMENT**

## Request

In 2015 the North Carolina General Assembly (Session Law 2015-246, House Bill 44) modified the General Statute regarding limitations of local government regulation of [bee] hives . These changes were effective as of September 23, 2015. The proposed text brings the UDO into compliance with the North Carolina General Statutes.

## ANALYSIS

Below is the relevant text from SL2015ss-246, House Bill 44

### LOCAL REGULATION OF BEEHIVES

**SECTION 8.** Article 55 of a 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-645. Limitations on local government regulation of hives.**

(a) Notwithstanding Article 6 of Chapter 153A of the General Statutes, no county shall adopt or continue in effect any ordinance or resolution that prohibits any person or entity from owning or possessing five or fewer hives.

(b) Notwithstanding Article 8 of Chapter 160A of the General Statutes, a city may adopt an ordinance to regulate hives in accordance with this subsection. The city shall comply with all of the following:

(1) Any ordinance shall permit up to five hives on a single parcel within the land use planning jurisdiction of the city.

(2) Any ordinance shall require that the hive be placed at ground level or securely attached to an anchor or stand. If the hive is securely attached to an anchor or stand, the city may permit the anchor or stand to be permanently attached to a roof surface.

(3) Any ordinance may include regulation of the placement of the hive on the parcel, including setbacks from the property line and from other hives.

(4) Any ordinance may require removal of the hive if the owner no longer maintains the hive or if removal is necessary to protect the health, safety, and welfare of the public.

(c) For purposes of this section, the term "hive" has the same definition as in G.S. 106-635(15)."

---

To connect the proposed text amendment with adopted plans, Staff recommends the Planning Commission and Town Council consider the honey bee's value in the economy and agricultural sectors while evaluating the changes.

The following is from an excerpt from the post "Helping Agriculture's Helpful Honey Bees" on the US Food and Drug Administration's (FDA) website (US Food and Drug Administration, n.d.) which explains the importance of honey bees:

> "Honey bees are big money makers for U.S. agriculture. These social and hardworking insects produce six hive products – honey, pollen, royal jelly, beeswax, propolis, and venom – all collected and used by people for various nutritional and medicinal purposes.



Communication: PL00981-092517 Bee Hive Regulations - Staff Report (Case PL00981-092517 Bee Hive Regulations - UDO Text Amendment)

Honey, of course, is the most well-known and economically important hive product. According to the U.S. Department of Agriculture's National Agriculture Statistics Service, honey bees made a little less than 163 million pounds of honey in 2016. With the cost of honey around $2.08 per pound, that's a value of a little over $339 million.

After honey, beeswax is the second most important hive product from an economic standpoint. The beeswax trade dates to ancient Greece and Rome, and in Medieval Europe, the substance was a unit of trade for taxes and other purposes. The market remains strong today. Beeswax is popular for making candles and as an ingredient in artists' materials and in leather and wood polishes. The pharmaceutical industry uses the substance as a binding agent, time-release mechanism, and drug carrier. Beeswax is also one of the most commonly used waxes in cosmetics. The U.S. is a major producer of raw beeswax, as well as a worldwide supplier of refined beeswax.

But the greatest importance of honey bees to agriculture isn't a product of the hive at all. It's their work as crop pollinators. This agricultural benefit of honey bees is estimated to be between 10 and 20 times the total value of honey and beeswax. In fact, bee pollination accounts for about $15 billion in added crop value. Honey bees are like flying dollar bills buzzing over U.S. crops.

Unfortunately, a widespread bacterial disease called American foulbrood is destroying entire colonies of honey bees. But fortunately for the honey bees and the many crops that depend on them for pollination, FDA has approved three antibiotics to control this devastating honey bee disease."

Helping Agriculture's Helpful Honey Bees (n.d). Retrieved from https://www.fda.gov/AnimalVeterinary/ResourcesforYou/AnimalHealthLiteracy/ucm309134.htm

In summary, the proposed modification below will increase the number of hives allowed from four to five, increases the requirements on how the hives should be maintained and allows the removal of hives that are not maintained or allows removal if necessary to protect the health, safety or welfare of the public .

The text in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration.



Communication: PL00981-092517 Bee Hive Regulations - Staff Report (Case PL00981-092517 Bee Hive Regulations - UDO Text Amendment)

Article 15, District Use Requirements

15.07.01 Table of accessory uses.

| *Use #* | *Accessory Use* | *Zoning Districts* | | | | | | | | | | | | | | | | | *Reference* |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | *Low Density Residential* | | | | *Medium to High Density Residential* | | | | *Commercial/Industrial* | | | | | *Education* | | | | |
| | | *RA* | *R1* | *R1A* | *RR* | *R2* | *R4* | *MH* | *R3* | *OI* | *B1* | *B2* | *B3* | *M1* | *U1* | *E1* | *E2* | *E3* | |
| A-1 | Secondary suite | L | L | L | L | L | L | L | L | L | L | L | L | | | | | | 15.52 |
| A-2 | Home occupation | L | L | L | L | L | L | L | L | L | L | L | L | | | | | | 15.53 |
| A-3 | Accessory dwelling unit | | | L | L | L | L | | L | L | L | L | L | | | | | | 15.54 |
| A-4 | Drive-through | | | | | | | | | L | | | L | L | | | | | 15.55 |
| A-5 | Outdoor display | | | | | | | | | L | L | L | L | L | | | | | 15.56 |
| A-6 | Outdoor storage | | | | | | | | | | | | L | L | | | | | 15.57 |
| A-7 | Outdoor dining | | | | | | | | | L | L | L | L | | | | | | 15.58 |
| A-8 | Automated teller machine (ATM) | | | | | | | | | P | P | P | P | P | | | | | |
| A-9 | Automated teller machine (ATM), freestanding | | | | | | | | L | L | L | L | L | L | | | | | 15.59 |
| A-10 | Produce stand | L | | | | | | | | | | | | | | | | | 15.60 |
| A-11 | Poultry | L | L | L | L | L | L | L | L | L | | L | L | | | | | | 15.61 |
| A-12 | Livestock, small | L | L | L | L | L | L | L | L | L | | | L | | | | | | 15.62 |
| A-13 | Livestock, large | L | | | | | | | | | | | | | | | | | 15.63 |
| A-14 | Bees | L | L | L | L | L | L | L | L | L | L | L | L | L | | | | | 15.64 |
| A-15 | Garden, residential | L | L | L | L | L | L | L | L | L | L | L | L | L | | | | | 15.65 |
| A-16 | Satellite receiving antennas less than 1 meter in diameter | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | |



Communication: PL00981-092517 Bee Hive Regulations - Staff Report (Case PL00981-092517 Bee Hive

**§ 15.64 BEES (ACCESSORY).**

**15.64.01** The keeping of bees as an accessory use does not require a zoning permit.

**15.64.02** No lot may contain more than ~~four~~ five hives.

**15.64.03** Hives must be screened with an opaque fence at least six feet high and must provide adequate security and signage to prevent inadvertent entry.

**15.64.04** A water source must be provided.

**15.64.05** A bait hive placed ten (10') to thirty ~~30~~ feet (30') away and at least ten feet (10') above the hives shall be provided.

15.64.06 The hive shall be placed at ground level or securely attached to an anchor or stand.

15.64.07 The hive shall be removed if the owner no longer maintains the hive or if removal is necessary to protect the health, safety, and welfare of the public.

(Ord. passed 12-16-2013)

…

**Article 34 Definitions**

…

**Bees**
Insects of the superfamily Apoidea; in particular, the honeybees, Apis mellifera (L). It includes all life stages of such insects, their genetic material, and dead remains.

**Hive**
Any receptacle or container, or part of receptacle or container, which is made or prepared for the use of bees, or which is inhabited by bees.

## 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.



Communication: PL00981-092517 Bee Hive Regulations - Staff Report (Case PL00981-092517 Bee Hive Regulations - UDO Text Amendment)

**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.

E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development



Communication: PL00981-092517 Bee Hive Regulations - Staff Report (Case PL00981-092517 Bee Hive Regulations - UDO Text Amendment)

projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

**2.1.4 Agricultural and Rural Development**

A. Farms and woodlands shall be recognized as an integral part of the planning area's open space system

## 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



Communication: PL00981-092517 Bee Hive Regulations - Staff Report (Case PL00981-092517 Bee Hive Regulations - UDO Text Amendment)

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*]:

---



Communication: PL00981-092517 Bee Hive Regulations - Staff Report (Case PL00981-092517 Bee Hive Regulations - UDO Text 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: PL01265-011618 |
| Case Name: PD Process Repeal UDO Text Amendment |

## A. CONTACT INFORMATION

Applicant: Town of Boone  Company:

Address: PO Drawer 192, Boone , NC 28607

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

## B. TEXT INFORMATION

Amendment is to:

Article(s): 4, 6, 7, 9, 14, 15

Section(s): 4.06, 4.14, 7.03, 9.02, 9.03, 9.10, 14.03, 14.05, 15.01, 15.10

Brief Description of Amendment (Attach Proposed Text):

At the January 8, 2018 Planning Retreat, Town Council authorized Staff and the Town Attorney to draft text which would repeal the Planned Development Zoning Map Amendment process from the Unified Development Ordinance.

## 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, P&I Director | /s/ Jane Shook | January 16, 2018 |
|---|---|---|
| **Applicant (Print)** | **Applicant Signature** | **Date** |

## Official Use Only

| Date: | Fee: | Receipt Number: | Method of Payment: | Paid By: |
|---|---|---|---|---|
| January 16, 2018 | NA | NA | NA | NA |

## Hearing/Decision Information

Public Hearing Meeting Date: February 26, 2018

PC Meeting Date: February 26, 2018

TC Meeting Date: March 15, 2018

Text Approved: ❑ Yes ❑ No

Notes:

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Communication: PL01265-011618 Planned Development Repeal - Application (Case PL01265-011618 Planned Development Process - UDO Text

**STAFF REPORT**
**PUBLIC HEARING-FEBRUARY 26, 2018**
**CASE PL01265-011618 PLANNED DEVELOPMENT REPEAL - UDO TEXT AMENDMENT**

## Request

At the January 8, 2018 Planning Retreat, Town Council directed Staff to draft text which would repeal the Planned Development Zoning Map Amendment process from the Unified Development Ordinance due to concerns in part, over the types of projects the process was used for and how neighborhood meetings were conducted.

## ANALYSIS

The text in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration.

### Article 4 Permits

…

### § 4.06 STAFF CONSULTATION AFTER APPLICATION SUBMITTED.

**4.06.01** Upon receipt of an application and all necessary supplemental documentation and materials, the Administrator shall:

A. review the application and confer with the applicant regarding staff's interpretation of the applicable requirements of this ordinance; and

B. that the applicant has submitted all of the information that the applicant intends to submit; and

C. that the application represents precisely and completely what the applicant proposes to do.

**4.06.02** Applications requiring hearings. The Administrator shall place an application on the agenda of the appropriate Board or Commission as soon as feasible after the applicant has provided all information requested by the Administrator or the applicant, in writing, refuses to provide requested information and demands the application be forwarded to the appropriate Board or Commission for action.

A. If the Administrator believes that the application is incomplete, the Administrator shall recommend to the appropriate Board or commission that the application be denied on that basis, and shall provide detailed information to the appropriate Board or commission as to the elements, supplemental documentation or materials which the Administrator believes are lacking.

B. Except for an application for conditional district rezoning, if an application is submitted for zoning approval and the site specific development plan or accompanying details of the plan are materially different from the site specific development plan or accompanying details presented to Council in connection with an application for an allocation of vested rights to connect to the town's water or sewer system, the Administrator must treat the application as an application for a special use permit. This provision does not apply with respect to CD ~~and PD~~ applications.

1. A "material" difference shall consist of any "minor modification", if the modification relates to a detail or characteristic of the UDO the application which was specifically discussed in the hearing before the Council, or any "major modification."

(Ord. passed 12-16-2013)



Communication: PL01265-011618 Planned Development Repeal - Staff Report (Case PL01265-011618 Planned Development Process - UDO Text

…

**§ 4.14 VESTED RIGHTS.**

**4.14.01** A vested right shall be deemed established upon proper and lawful approval of a site specific development plan by the Board of Adjustment (in the case of an application for a special use permit or major subdivision) or by the Council (in the case of an application for a Conditional District ~~or Planned Development district~~).

…

**Article 7 Nonconformities**

…

**§ 7.03 NONCONFORMING USE.**

**7.03.04** Change of use.

A. Any change of use may only be to a permissible use.

B. A change of use for an existing development which does not trigger transitional zone standards to a use which does trigger transitional zone standards may only be initiated by a special use permit or a conditional district ~~or planned development~~ zoning map amendment.

C. All other changes of use that do not involve any new development do not require increased compliance with current ordinance standards.

D. All changes of use that involves new development are governed by Section 7.05.

…

**Article 9 Amendments**

…

**§ 9.02 INITIATION OF AMENDMENTS.**

**9.02.01** Text and map amendment.

A. Any person may request the Council to set a public hearing to consider a text amendment, ~~or~~ a general map amendment, or a Conditional District map amendment ~~or Planned Development map amendment~~ (the latter ~~three~~ two being collectively referred to as "map amendments" or "rezonings").

1. Such petition shall be heard by Council at the next available regularly-scheduled Council meeting.

B. The petition shall be filed with the Administrator and shall include at a minimum:

1. The name, address, and phone number of the applicant; and

2. In the case of a proposed text amendment, a summary of the specific objective of any proposed change in the text of this ordinance.

3. In the case of a proposed general use map amendment:

a. A description of the land affected by the proposed amendment; and

b. A description of the proposed map change.



Communication: PL01265-011618 Planned Development Repeal - Staff Report (Case PL01265-011618 Planned Development Process - UDO Text

4. In the case of a Conditional District ~~or Planned Development~~ map amendment~~s~~, those items described at Subsection 9.02.02 below.

**9.02.02** Conditional District (CD) ~~and Planned Development (PD)~~ map amendments.

A. A property may be placed in a CD ~~or in a PD~~ only in response to a petition by the owners of all property to be included.

1. No State owned property may be placed in a CD ~~or in a PD~~ without prior approval by the Council of State.

B. The petition shall be filed with the Administrator and shall include at a minimum:

1. The name, address, and phone number of the applicant;

2. A description of the land affected by the proposed amendment; and

3. A description of the proposed map change; and

4. A site specific development plan and supporting documentation that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property.

**9.02.03** Council consideration of proposed amendments.

A. Upon consideration of a proposal to amend the UDO text or zoning map, Council may take any one or more of the following actions:

1. Direct further consideration and/or development of the amendment by Staff and/or the Planning Commission;

2. Authorize drafting of a proposed amendment if such has not already been drafted;

3. Set the proposed amendment for public hearing and consideration by the Planning Commission; and/or

4. Decline to authorize further consideration of the proposed amendment.

B. In the event Council directs a proposed amendment to be considered at a public hearing, such hearing may be scheduled at any such date, time and location as will allow proper notice to issue in advance of the hearing.

C. No later than seven days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed amendment to assist the Planning Commission and Council in determining the conformity of the draft amendment with this ordinance, the Comprehensive Plan and any other officially adopted plan of the town that relates to the proposed amendment. ~~In the case of a proposed PD district, the Administrator shall specifically advise and comment as to whether the proposed district is in keeping with the purpose and intent of the Council for creating such PD districts, as set forth at Subsection 14.05.01 herein.~~

**…**

**§ 9.03 HEARING REQUIRED: CONDUCT OF HEARING; NOTICE OF HEARING.**

**9.03.01** Hearing required.

A. Text, general, and conditional district ~~and planned development~~ map amendments are a legislative processes subject to judicial review.

B. No action that amends or repeals any of the provisions of this ordinance may be adopted until a public hearing has been held on such.

**9.03.03** Hearing notice.

A. Legal ad. For all amendments, the Administrator shall publish a notice of the public hearing no less than once a week for two successive weeks in a newspaper having general circulation in the area.

1. The notice shall be published for the first time not less than ten days nor more than 25 days before the date fixed for the hearing.

2. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

B. Adjacent property owner notification. With respect to general~~,~~ and conditional district ~~and planned development~~ map amendments, the Administrator shall mail written notice of the public hearing by first class mail to the owners, as shown on the listings of the Watauga County Tax Administration, of all properties whose zoning classification will be changed by the proposed amendment and owners of properties for which any portion is within 150 feet of the subject property.

1. Each notice shall be deposited in the mail at least ten but not more than 25 days prior to the date of the public hearing.

2. The person mailing such notices shall certify to the Council that fact, and such certificate shall be deemed conclusive in the absence of fraud. The certificate of mailing shall be included in the Administrator's analysis of the proposed petition to the Council and Commission.

a. However, if the proposed zoning map amendment directly affects more than 50 properties owned by a total of at least 50 different property owners, the Council may direct notification, instead of by the aforesaid individually mailed notices, by publication of the notice described above, supra, alone, but the notice must be not less than one-half a newspaper page in size and must be supplemented by individual notices by first class mail to property owners who reside outside the newspaper circulation area, according to the addressees listed on the most recent property tax listing for each affected property.

C. Posting. With respect to ~~general, conditional district and planned development~~ map amendments, the Administrator shall also post notices of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right of way within at least ten but not more than 25 days prior to the date of the public hearing.

1. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Administrator shall post sufficient notices to provide reasonable notice to interested persons.

2. In addition, the Administrator shall take any other action deemed by the Council or Administrator to be useful or appropriate or desirable to give notice of the public hearing.

D. Every notice required by this section shall:

1. State the date, time, and place of the public hearing; and

2. Summarize the nature and character of the proposed change; and

3. Reasonably identify the property whose zoning classification would be affected by the amendment if the proposed amendment involves a change in zoning district classification; and

4. State that the full text of the proposed amendment can be obtained from the Town Clerk; and

5. State that substantial and insubstantial changes in the proposed amendment may be made following the public hearing.

(Ord. passed 12-16-2013)

...

**§ 9.10 ~~PLANNED DEVELOPMENT (PD).~~ Reserved**

~~**9.10.01** The authorization of a Planned Development ("PD") for any use which is permitted only as a special use in this ordinance shall preclude any requirement for obtaining a special use permit for such use.~~

~~**9.10.02** Specific conditions applicable to a PD may be proposed by the petitioner or the town or its agencies, but only those conditions mutually agreed upon by the town and the petitioner may be incorporated into the permit requirements.~~

~~A. Conditions and site-specific standards imposed in a PD shall be limited to those that address (I) the conformance of the development and use of the site to town ordinances and the comprehensive plan or other plan and (ii) the impacts reasonably expected to be generated by the development or use of the site.~~

~~B. After the town has published the notice of public hearing for the application, the applicant shall make no changes to the conditions or site specific standards that are less restrictive than those stated in the application, including but not limited to smaller setbacks, more dwelling units; greater height; more access ways; new uses; and fewer improvements. More restrictive conditions or additional conditions may be added to the application if such conditions are received by the Planning Department in writing and signed by all owners of the property at least ten business days before the date scheduled for final Town Council action on the application. For purposes of this section, "business day" refers to a day that the Town's Planning Department is open for business.~~

~~**9.10.03** A PD may only be proposed for one of the following:~~

~~A. A development site containing three or more acres;~~

~~B. A proposed development which includes both commercial and residential uses.~~

~~**9.10.04** The authorization of a PD shall preclude any requirement for obtaining a variance from the Board of Adjustment unless it is a variance to Article 29 Watershed Protection and Article 30 Flood Damage Prevention. Any such variances must be obtained before a public hearing is held on the proposed PD.~~

~~**9.10.05** Because the PD is not tied to a designated primary zoning district, specific procedural steps not generally applicable are mandated and more detailed information must be submitted by the petitioner before the petition may be acted upon.~~

~~A. Specific procedural requirements include:~~

~~1. One or more pre-petition consultations with the Administrator, in which the petitioner identifies the development site, its natural features, and the nature of the proposed development.~~

~~2. Before submitting the petition, the petitioner must schedule a meeting with owners of property located within 300 feet of the development site.~~

~~a. The petitioner must provide notice at least 21 days prior to the meeting in accordance with Subsection 1.13.02 herein.~~

~~b. The meeting must be held at an accessible and convenient location in light of available options. Upon coordination through the Planning Department, the meeting may be held at Town Council Chambers if that location is available.~~

~~c. The petitioner must record the names and addresses of all attendees at the meeting.~~

~~d. At the meeting, the petitioner, at a minimum, shall present all the following information:~~

~~i. Contact information of the parties involved in the ownership, design, and development of the property;~~

~~ii. The location of the property and general information on the current conditions of the site;~~

~~iii. Proposed use(s) and site development;~~

~~iv. Any preliminary plans or renderings, if available; and~~

~~v. Any other information deemed pertinent by the Administrator.~~

~~e. The petitioner shall provide the Administrator with a report which details the meeting including any concerns expressed by attendees and any commitments made by the petitioner. This report shall be included in the staff report.~~

~~B. Specific information which must be submitted:~~

~~1. A site specific development plan that (i) includes all information required per Appendix A and (ii) identifies all elements of the proposed development that deviate from the standards of this ordinance.~~

~~2. Written analysis, tailored to specifically address the characteristics of the particular location, addressing how the planned development will effectively and to the greatest degree reasonably possible, mitigate the impacts of the proposed development on the surrounding area, 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.~~

~~3. Information to demonstrate compliance with all mandatory requirements of this ordinance, including:~~

~~a. Article 5 Subdivisions (for purposes of this Section the Town Council is the approval authority for major subdivision preliminary plats);~~

~~b. Article 8 Historic Preservation;~~

~~c. Article 19 Grading;~~

~~d. Article 20 Soil Erosion and Sediment Control;~~

~~e. Article 21 Stormwater Management;~~

~~f. Article 22 Utilities;~~

~~g. Article 29 Watershed Protection;~~

~~h. Article 30 Flood Damage Prevention;~~

~~4. Other information which may be required by the Administrator to fully evaluate the proposed development and its potential impacts on the surrounding area. Such information may include but is not limited to: traffic impact analysis, community impact analysis, additional engineering, and legal information.~~

~~5. The petition shall also include an affidavit stating that:~~

~~a. All zoning conditions and provisions are freely offered as proposed zoning laws, based solely on the petitioner's independent judgment; and~~

~~b. The petitioner is not relying upon any statement by the town staff or any member of the Town Council in connection with the decision to offer any zoning conditions or provisions; and~~

~~c. The petitioner understands that other parties that have standing in the rezoning proceeding are relying on the validity of the zoning conditions and provisions; and~~

~~d. The petitioner intends for all future owners of the property to be bound by the zoning conditions and provisions should the Town Council adopt them as part of the rezoning.~~

~~**9.10.06** Except for minor modifications, changes to an approved petition or to conditions attached to the approved petition shall be treated the same as amendments to this ordinance or to the zoning map and shall be processed as a new application.~~

~~A. Except for a proposed minor modification to a previously approved PD, no proposal to amend or change may be accepted nor considered within 12 months of the date of the original approval of the PD or within 12 months of a hearing upon any previous proposal to amend or change the PD.~~

~~B. A minor modification is one which does not significantly change the essential character of the use or activity that has been previously authorized through the PD approval.~~

~~C. The Administrator shall determine whether a proposed modification to a previously approved PD is a minor modification, and the determination of the Administrator shall constitute the final decision of the town and is not appealable.~~

~~**9.10.07** If a petition for a PD is approved, a copy of the approval and all conditions relative to the approval, including site specific development plan(s), shall be kept on file in the Planning and Inspections Department office. A copy of the approval will also be recorded with the Watauga County Register of Deeds.~~

~~**9.10.08** Should the property fail to be developed in accordance with the terms and conditions of the PD approval, no subsequent use of the property shall be permitted without a new petition for zoning map amendment being filed.~~

~~**9.10.09** Should a petition for a PD be denied, no new petition for making similar use of the same property shall be considered within 12 months of the date of the original denial.~~

~~**9.10.10** If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to construct an approved site specific development plan in accordance with any condition agreed upon in the rezoning process, the authorization of the PD shall be null and void and of no effect and proceedings shall be instituted to rezone the property.~~

~~**9.10.11** Except as expressly provided otherwise in the PD plan documents, a planned development district is subject to and must comply with all applicable standards, procedures, and regulations set forth in this ordinance.~~

~~**9.10.12** Approval of a PD shall only be granted if the petitioner can provide sufficient information to address the findings found in Subsection 14.05.01(B).~~

~~**9.10.13** The approval of a PD application shall not become effective until the petitioner has submitted to the Planning Department and the Administrator has officially approved a copy of the plan documents incorporating all changes that were required as conditions to Town Council approval and such additional information as the Town Council may have required as a condition of PD approval.~~

(Ord. passed 12-16-2013)

**Article 14 Zoning Districts and Zoning Maps**

**…**

**§ 14.03 EDUCATIONAL DISTRICTS ESTABLISHED.**

**…**

**14.03.05** The E-3 Educational District is established to provide for planning and appropriate expansion of trade schools and public or private elementary and secondary educational institutions. Such uses shall not include residential uses unless such are approved through a CD ~~or PD~~ process. The owner of a property zoned E-3 must be a public or private educational institution. In the event that a property or portion of property zoned E-3 is sold to a third party that is not such an educational institution, the property must be rezoned. The third-party property owner shall submit a petition to rezone the property within six months of closing on its purchase of the property.

(Ord. passed 12-16-2013; Ord. passed --; Ord. passed --)

**…**

**§ 14.05 CONDITIONAL ~~AND PLANNED DEVELOPMENT~~ DISTRICTS ESTABLISHED.**

**14.05.01** A Conditional District (CD) ~~and a Planned Development (PD) are~~ is a zoning district~~s~~ 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. 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.



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~~B. A PD creates a sui generis (unique) zoning district not limited to the authorized uses and the development standards of a specific existing zoning district and may be subjected to conditions that make the development plan more desirable. A PD is intended to permit the establishment of areas in which diverse uses may be combined and integrated through careful planning to provide a unified and compatible development which is consistent with adopted plans, and which may reasonably be expected to result in a quality of living environment which is more closely in keeping with the purposes of zoning than would otherwise likely be obtained. It is not the intent of the Town Council that the PD district become a "loophole" designed to permit otherwise illegal contract, conditional or spot zoning, or clandestine institution of an unlawful use variance. Rather the PD district is intended to permit further refinement and more detailed expression of adopted plans in situations where the owners of the property present a development plan which is found to be in the public interest and consistent with adopted plans.~~

~~1. A PD should only be approved upon the following findings:~~

~~a. That the proposed PD will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;~~

~~b. That the proposed PD will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;~~

~~c. That the proposed PD will produce a development functioning as a cohesive, unified project; and~~

~~d. That the proposed PD will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the town.~~

(Ord. passed 12-16-2013)

**Article 15 District Use Requirements**

**§ 15.01 TYPES OF USES**.

…

**15.01.06 Transitional zones.** Transitional zones attach to each R1, R1A, RR, R2, and RA district and are designed to address the predictable negative impacts of certain uses and therefore have additional standards which must be met. A proposed use subject to a transitional zone must be approved by a special use permit or in a Conditional District ~~or PD~~. A superscript "Tn" in the Table of Principal Uses, Table of Accessory Uses or the Table of Temporary Uses denotes the specified use in the specified district is subject to a transitional zone, where "n" represents the size, in feet, of the transitional zone, measured from the boundary of the protected district. However, in any of the protected districts, the distance is measured from the protected lot rather than the protected zone. See Subsection 6.02.02 for full transitional zone requirements.

**…**

**§ 15.10 1.07 DUPLEX; 1.08-1.10 TOWNHOUSE; 1.11-1.13 MULTI-FAMILY DWELLING; 1.14-1.16 MULTI-FAMILY DWELLING IN MIXED USE (UNLESS SPECIFICALLY EXCLUDED).**

**15.10.01** Applicable standards described in this section are required for uses 1.07-1.16 and apply to all of the following:

A. New construction, whether such construction constitutes a new development or an expansion of an existing development;

B. Multi-family dwelling units created by a change in use of a portion or all of an existing development to multi-family use; and

C. Renovation or replacement of a portion or all of an existing multi-family development when the costs of renovation or replacement trigger the requirements of Article 7 for compliance with this ordinance.

**15.10.02** This section shall not apply to:

A. Multi-family dwelling units in mixed-use building(s) constructed pursuant to and in accordance with the requirements of Section 15.11;

B. Multi-family dwelling units in single use buildings within a mixed use project constructed pursuant to an in accordance with the requirements of Section 15.11, if:

1. The development is approved through a Conditional District B-1 General Business, B-2 Neighborhood Business, B3 General Business ~~or PD~~ rezoning process; and

2. No phasing of construction is proposed or approved unless:

a. The commercial portions of the development will be constructed as part of the initial phase; or

b. All phases approved prior to the construction of the phase in which the commercial portions of the development are completed, together allow the construction of no more than one-third the number of multi-family dwelling units which are approved for the development as a whole; or

c. The applicant provides adequate assurances in the form of financial commitments which will guarantee that all commercial portions of the development will be completed within the approved vesting period. For purposes of this alternative, by example only and not by way of exclusion, an irrevocable letter of credit from an appropriate financial institution in favor of the Town in a sufficient amount to cover 125% of the projected costs of construction, said projection sealed by a North Carolina licensed engineer, is considered such a guarantee.

...



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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.



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**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**

E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

**2.3 THE COMMUNITY**

**2.3.4 Public Involvement**

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

B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.

C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.

D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.

## PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 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.



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**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*]:

---



Communication: PL01265-011618 Planned Development Repeal - Staff Report (Case PL01265-011618 Planned Development Process - UDO Text

# 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: PL01298-020218 |
| Case Name: Removal of references to Boone 2030-UDO Text Amendment |

## A. CONTACT INFORMATION

Applicant: Town of Boone  Company:

Address: PO Drawer 192, Boone , NC 28607

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

## B. TEXT INFORMATION

Amendment is to:

Article(s): 1, 6, 9

Section(s): 1.03, 1.08, 6.02, 9.05, 9.06

Brief Description of Amendment (Attach Proposed Text):

Removal of references to the Boone 2030 Land Use Plan based upon pending repeal of the document.

## 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, P&I Director | /s/ Jane Shook | February 2, 2018 |
|---|---|---|
| **Applicant (Print)** | **Applicant Signature** | **Date** |

## Official Use Only

| Date: | Fee: | Receipt Number: | Method of Payment: | Paid By: |
|---|---|---|---|---|
| February 2, 2018 | NA | NA | NA | NA |

## Hearing/Decision Information

Public Hearing Meeting Date: February 26, 2018

PC Meeting Date: February 26, 2018

TC Meeting Date: March 15, 2018

Text Approved: ❑ Yes ❑ No

Notes:

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

Communication: PL01298-020218 Removal of Boone 2030 Land Use Plan Referencs - Application (Case PL01298-020218 Removal of Boone

**STAFF REPORT**
**PUBLIC HEARING-FEBRUARY 26, 2018**
**CASE PL01298-020218 REMOVE BOONE 2030 LAND USE PLAN REFERENCES**
**UDO TEXT AMENDMENT**

## Request

At the January 8, 2018 Planning Retreat, Town Council directed the Town Attorney to schedule a hearing for the February 15, 2017 regularly scheduled Town Council meeting in order to repeal the Boone 2030 Land Use Plan. This text amendment corresponds to this request and removes all references to the Boone 2030 Land Use Plan from the Unified Development Ordinance.

## ANALYSIS

The text in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration.

**Article 1 General Provisions**

**…**

**§ 1.03 PURPOSE.**

**1.03.01** Purposes of this ordinance are to:

A. Promote the health, safety, and general welfare within the Town of Boone and its environs; and

B. Strive to implement the policies and goals contained within officially adopted plans, including the Comprehensive Plan~~, the Boone 2030 Land Use Plan~~ and other related plans; and

C. Ensure adequate light, air, privacy, and access to property.

(Ord. passed 12-16-2013)

**…**

**§ 1.08 RELATION TO COMPREHENSIVE PLAN~~, BOONE 2030 LAND USE PLAN~~ AND OTHER OFFICIALLY ADOPTED PLANS.**

**1.08.01** It is the intention of the Council that this ordinance implement the planning policies adopted by the Council for the Town and its extraterritorial planning area, as reflected in the Comprehensive Plan.

**1.08.02** The goal of the Council is to implement ~~the Boone **2030** Land Use Plan and other~~ officially adopted plans; however, it recognizes that this is a process that requires continued study and analysis and may occur in stages. While the Council reaffirms its commitment that this ordinance and any amendment to it be in conformity with adopted plans, the Council hereby expresses its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with such plans.

(Ord. passed 12-16-2013)

**…**

**Article 6 Board of Adjustment Hearings**

**…**

**§ 6.02 SPECIAL USE PERMIT, TRANSITIONAL ZONES AND MAJOR SUBDIVISION PRELIMINARY PLAT APPLICATIONS.**

**6.02.01** An applicant for a special use permit or major subdivision preliminary plat approval must demonstrate all of the following:



Communication: PL01298-020218 Removal of Boone 2030 Land Use Plan References - Staff Report (Case PL01298-020218 Removal of Boone

A. The application is complete;

B. If completed as proposed, the development or subdivision:

1. Will comply with the requirements of this ordinance;

2. Will not materially endanger the public health or safety;

3. Will not substantially injure the value of adjoining or abutting property;

4. Will be in harmony with the area in which it is to be located;

5. Will be in general conformity with the Comprehensive Plan~~, Boone **2030** Land Use Plan,~~ and all other relevant plans officially adopted by the town; and

6. In cases involving transitional zones, meets the standards of Subsection 6.02.02.

**…**

**6.02.03** Board of Adjustment action on special use permits and major subdivision preliminary plat applications.

A. Conclusions of law. In deciding whether to approve or deny an application for a special use permit or a major subdivision preliminary plat, the Board shall proceed according to the following format:

1. The Board shall determine whether the application is complete.

a. The burden of presenting a complete application to the Board shall be upon the applicant. The fact that the Administrator believes the application is complete or the applicant has submitted all requested supplemental documentation to the Administrator shall not bind the Board to conclude that the application is complete. The Board is the final arbiter of whether an application is complete.

i. If the Board concludes that the application is incomplete in a hearing conducted following a demand by the applicant for immediate action by the Board pursuant to Subsection 4.06.02(A) or the applicant refuses to provide the information determined by the Board necessary to complete the application, the application shall be denied.

ii. If the Board otherwise concludes that the application is incomplete the Board may deny the application or may give the applicant an appropriate opportunity to complete the application if the applicant expresses an interest in timely supplementing the application to make it complete.

A. A motion to continue the hearing in order to afford the applicant an opportunity to complete the application shall state the location, date and time of the reconvened hearing.

B. A case continued under these circumstances shall not require the same Board identity at the reconvened hearing, as the applicant will be expected to present his full case at that time.

b. If an application includes features which must be approved by another town board, commission or department, then such approvals must be obtained prior to the hearing.

2. If the Board concludes that the application is complete, the Board next shall consider whether the application complies with all of the applicable requirements of this ordinance. If the Board concludes that an element of the application does not fully comply with this ordinance but has a minimal effect on the issues before the Board, it may conditionally approve the application. If the Board concludes that the application does not comply with all applicable requirements of this ordinance and conditions will not sufficiently cure the deficiencies or the Board concludes that the deficiency is material to the Board's approval, then the Board shall deny the application.

3. If the Board concludes that the application is complete and complies with this ordinance, if completed as proposed, before it may approve the permit or subdivision it must find all the following:



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a. The development or subdivision as proposed will not materially endanger the public health or safety; and

b. The development or subdivision as proposed will not substantially injure the value of adjoining or abutting property; and

c. The development or subdivision as proposed will be in harmony with the area in which it is to be located; and

d. The development or subdivision as proposed will be in general conformity with the Comprehensive Plan~~, Boone **2030** Land Use Plan,~~ and all other relevant plans officially adopted by the town.

B. Conditions. Even when a development or subdivision meets the criteria above, the Board may still impose conditions on an approval.

1. All conditions shall be reasonable and appropriate and shall be related to the predicted impacts of the development.

2. Unless the Board explicitly orders otherwise, every approval is conditioned upon the development being completed in accordance with the plans submitted by the applicant, the commitments and representations concerning the proposed development made by the applicant and representatives at the public hearing, and final conformity with all requirements of the UDO.

3. The Board may attach to a special use permit a condition limiting the permit to a specified duration and in appropriate situations may provide additional process including another public hearing after the special use has begun to evaluate unanticipated impacts, provided such a condition shall not be employed to terminate a special use for which substantial construction or reconstruction has occurred.

4. Without limiting the foregoing, conditions should normally require measures to address impacts on the:

a. Public health or safety; and

b. Values of adjoining or abutting properties; and

c. Harmony with the area in which it is located; and

d. In the case of transitional zones, noise, light, and other predictable negative effects

such as visual, traffic and health.

**…**

**Article 9 Amendments**

**…**

**§ 9.05 PLANNING COMMISSION CONSIDERATION OF PROPOSED AMENDMENTS.**

**9.05.01** Following the public hearing, the Planning Commission, may proceed to consider the proposed amendment:

A. In that same meeting;

B. At its next regularly-scheduled meeting; and/or

C. At a subsequent special meeting, so long as proper notice is given thereof.

**9.05.02** The Commission shall endeavor to provide a written report and written recommendation to the Council within 30 days of the public hearing. However, the Commission may apply to Council for an extension of time to submit its recommendations.



Communication: PL01298-020218 Removal of Boone 2030 Land Use Plan References - Staff Report (Case PL01298-020218 Removal of Boone

A. The Commission shall specifically advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan~~, the Boone **2030** Land Use Plan~~ and other officially adopted plans that are applicable and whether the Commission recommends adoption of the proposed amendment.

B. In its report to the Council, the Commission may comment, as it deems appropriate, on any other matter related to the proposed amendment.

**9.05.03** Additional testimony not presented at the public hearing may be considered by the Commission upon favorable vote of the majority of its members present.

**9.05.04** No member of the Commission shall participate in the discussion or vote on any recommendations regarding any amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(Ord. passed 12-16-2013)

**§ 9.06 COUNCIL ACTION ON AMENDMENTS.**

**9.06.01** Council action after referral to the Commission.

A. At any meeting following the receipt of a written report and recommendation from the Commission or after 30 days following referral of a proposed amendment to the Commission if the Commission fails to submit a written recommendation, the Council may proceed with its consideration of the proposed amendment. Council may:

1. Adopt the proposed amendment; or
2. Adopt the proposed amendment with modifications; or
3. Reject the proposed amendment; or
4. Continue its consideration of the amendment to a later meeting date; or
5. Refer the proposed amendment back to staff and/or the Planning Commission for such further consideration as Council may direct.

B. The Council should endeavor to take action no later than 60 days after the Commission submits its written recommendation.

C. A comment by the Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Council.

D. The Council is not bound by any other recommendation of the Planning Commission, including a recommendation that the proposed amendment be rejected.

E. In the event Council fails to act on a proposed amendment within 90 days of submission of the Commission's recommendation, such action shall be deemed a denial of the proposed amendment.

**9.06.02** Additional testimony not presented at the public hearing may be considered by the Council upon favorable vote of the majority of its members present.

**9.06.03** When adopting or rejecting any UDO text or map amendment, the Council shall adopt a statement describing whether its action is consistent with the Comprehensive Plan~~, the Boone **2030** Land Use Plan~~ and other officially adopted plan that is applicable and explaining why the Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

**9.06.04** A proposed amendment submitted by an applicant may be withdrawn by the applicant at any time prior to final Town Council action on the application.

A. If an applicant fails to pursue the application for a period of six months thereafter, the application shall be deemed to have expired.



Communication: PL01298-020218 Removal of Boone 2030 Land Use Plan References - Staff Report (Case PL01298-020218 Removal of Boone

(Ord. passed 12-16-2013)

…

## 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.



Communication: PL01298-020218 Removal of Boone 2030 Land Use Plan References - Staff Report (Case PL01298-020218 Removal of Boone

**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

### 2.3 THE COMMUNITY

#### 2.3.4 Public Involvement

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

B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.

C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.

D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.



Communication: PL01298-020218 Removal of Boone 2030 Land Use Plan References - Staff Report (Case PL01298-020218 Removal of Boone

## 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*]:

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**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]* :

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**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*]:

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## 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*]:

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**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



Communication: PL01298-020218 Removal of Boone 2030 Land Use Plan References - Staff Report (Case PL01298-020218 Removal of Boone

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]* :

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**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*]:

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Communication: PL01298-020218 Removal of Boone 2030 Land Use Plan References - Staff Report (Case PL01298-020218 Removal of Boone

**PLANNING COMMISSION MEETING MINUTES**
**MONDAY, DECEMBER 18, 2017, 5:30 P.M.**

**PLANNING COMMISSION MEMBERS IN ATTENDANCE:** Chairman Connor Boyle, Vice Chairman Matt Vincent, Becky Gosky, and Alan Lee

**PLANNING STAFF IN ATTENDANCE:** Jane Shook-Director of Planning and Inspections, Marty Little-Planner, and Brenda Henson-Board Secretary

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**CALL TO ORDER**
Chairman Boyle called the meeting to order at 5:32 p.m.

**APPROVAL OF MINUTES**
Vice Chairman Vincent made a motion, seconded by Commission Member Gosky, to approve the June 26, 2017 meeting minutes as written.

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

**CASE PL00800-080917 ROBERT BROWN - GENERAL USE ZONING MAP AMENDMENT**
Attorney Tucker Deal submitted a Planning Permit Application for a General Use Zoning Map Amendment on behalf of Robert Brown to rezone Watauga County PIN: 2910-27-5331-000 from R-1 Single Family to B-3 General Business.

Ms. Shook stated that, since the public hearing in November, the applicant has submitted a request to split zone the property and suggested that the public hearing be reopened in order to hear the request from the applicant.

Chairman Boyle made a motion to reopen the public hearing for this case at 5:34 p.m. The motion was seconded by Vice Chairman Vincent.

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

Mr. Deal explained that the property owner met with the surveyor and, in an effort to address the concerns of the neighbors, developed a revised plan for zoning the property (copy of plat presented to Commission members for review). The revised request would leave the back portion of the property zoned R-1, which would offer a measure of protection for the neighborhood, and the portion of the property that fronts Hwy. 105 Ext. would be zoned B-3. Mr. Deal stated the zoning would split at the bank with the slope remaining in the R1 zone. This proposal would split the tract into a 0.126 acre area of B-3 zoned property and a 0.070 area of R-1 zoned property.

Chairman Boyle closed the public hearing at 5:37 p.m.



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Chairman Boyle felt the proposed revision was a workable and a decent compromise and seemed to address the concerns expressed during the public hearing. Chairman Boyle asked if Commission members had reviewed the public hearing minutes and saw the concerns of the residents and they all agreed they had read the minutes. Chairman Boyle felt that leaving the slope in the R1 zone was a good idea because development on that slope would be difficult.

**FIRST MOTION AND VOTE**

Commission Member Lee made a motion, seconded by Commission Member Gosky, 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 revised map amendment, based on the boundary survey dated October 30, 2017 [showing property in question, split zoned R1 Single-Family & B-3 General Business] is consistent with Comprehensive Plan policy 1.2 Growth Strategy Map, this property is located in a 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.

**Vote:** Aye – All
Nay – None

**The motion passed.**

**SECOND MOTION AND VOTE**

Commission Member Lee made a motion, seconded by Vice Chairman Vincent, that the Planning Commission recommends approval of the map amendment for the following reasons: the amendment as revised is consistent with the best use of the Boone 2030 Plan.

**Vote:** Aye – All
Nay – None

**The motion passed.**

**CASE PL00982-092517 STORAGE USES - UDO TEXT AMENDMENT**

In May 2017, Planning Staff received a request for evaluation of use for a facility using temporary storage containers as a principal use. Staff reviewed the existing uses listed in Section 15.07 Table of Principal Uses (Use Category 16.0 Storage) and in UDO Subsection 15.07.01 Table of Accessory Uses (Temporary Portable Storage Containers) and determined that this type of use has not been explicitly permitted, prohibited, or restricted by the UDO and is therefore considered an "unlisted use" which required evaluation in accordance with UDO Section 15.02 Unlisted Uses. Staff determined that this type of use changes the nature and location of storage outside of a principal building and may impact the transportation requirements that were customarily considered for Use 16.01 Mini-Storage. Therefore, pursuant to UDO Section 15.02 Unlisted Uses, the Planning Director initiated a UDO amendment because this particular use is likely to be common or recur frequently and the omission is likely to lead to public uncertainty and confusion.

Ms. Shook referred to pages 30 and 31, Section A of the meeting packet noting, as a result of the public hearing, proposed language changes highlighted in yellow. Ms. Shook noted there was concern that M1 properties would be penalized under these regulations. The revised language in #6 would exempt M1 zoned property. Ms. Shook explained that a zoning permit would be required for a commercial use and the original recommendation was that a zoning permit be required for each separate time of utilization. This permit would be for the Fire Department to review but after conversation with the Fire Department



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they have indicated the applicant would only need a one-time permit with any modifications requiring a new permit. Ms. Shook stated this would create the need to modify page 32, F. 2. Chairman Boyle felt it would be appropriate to delete the last sentence of F. 2.

Chairman Boyle wished to clarify that the proposed text had two parts; one part explains regulations for storage unit businesses and one part explains regulations for temporary portable storage units. Ms. Shook explained that the mini-storage language was changed to self-storage in order to encompass different types of storage uses and with the allowance of the new temporary storage uses, regulations for the off-site containers had to be developed.

Chairman Boyle expressed concern with the time limit for placement of containers for residential property as described on page 31, C. 1. He felt some situations, such as floods or fires, might create the need for more than 14 days for use of a container. Chairman Boyle stated he also realized that as a neighbor you probably would not want someone to park a storage container in their yard for a lengthy amount of time.

Ms. Shook stated that construction trailers were allowed under a separate permit whenever there was an active construction permit in place. This trailer can be used as a construction office space or for storage during construction. These trailers would have to be an actual construction trailer and not a shipping container.

Commission Member Lee agreed that 14 days might be too short in some instances.

Chairman Boyle asked if the intent of the 14 day time period was so the container did not sit there and become an eyesore in the neighborhood. Ms. Shook stated that was correct.

Commission Member Gosky asked if the 14 day time period was recommended by staff. Ms. Shook replied that, based upon research, timeframe's vary widely nationwide and staff recommended the most conservative time period and the most protective for the particular uses. Ms. Shook explained that the 14 day timeframe was focused mainly on people who might be utilizing a POD for moving purposes. Commission Member Gosky stated she tended to agree with staff's recommendation.

Commission Member Boyle suggested allowing one 14 day renewal for single family uses as long as a building permit is issued to that address. Vice Chairman Vincent felt it might be too easy for someone to manipulate this requirement and obtain a permit just so they could maintain the container for a longer period of time. Chairman Boyle hoped that people would not be that devious. When asked her opinion, Ms. Shook stated it was very difficult to write a regulation that did not have loop holes because you can never foresee all possibilities. She felt the impacts of the length of time a POD would be allowed on-site needed to be weighed, taking into consideration things like projects under construction that could have the need for a longer timeframe. Vice Chairman Vincent stated he guessed they could try extending the timeframe with a building permit. Ms. Shook asked if this would apply to all uses or just single family/two family. Chairman Boyle replied it would only apply to single family/two family.

**FIRST MOTION AND VOTE**

Chairman Boyle made a motion, seconded by Vice Chairman Vincent, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it helps ensure the livability of neighborhoods which is consistent with Comprehensive Plan policy 1.1 Overall Objectives.



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**Vote:** Aye – All
Nay – None

**The motion passed.**

**SECOND MOTION AND VOTE**

Chairman Boyle made a motion, seconded by Vice Chairman Vincent, that the Planning Commission recommends approval of the text amendment because it provides for the livability of the neighborhoods while accommodating those in temporary need.

**Vote:** Aye – All
Nay – None

**The motion passed.**

**AMEND SECOND MOTION AND VOTE**

Chairman Boyle wished to amend his second motion to add the following changes:

- Page 31, C. 1. – Single-family and two-family dwelling units may utilize a temporary portable storage container for a period of fourteen (14) consecutive days with one (1) fourteen (14) day renewal period provided a building permit has been issued at the address the container is located, up to two (2) times per calendar year.
- Changes made by staff to Pages 31 and 32, A. 5., 6., 7.
- Page 32, F. 2. – Delete the last sentence that states a zoning permit is required for each separate time of utilization.

The amended motion was seconded by Commission Member Lee.

**Vote:** Aye – All
Nay – None

**The motion passed.**

**CASE PL00991-092617 M1 MANUFACTURING USE EXPANSION - UDO TEXT AMENDMENT**

In September 2017, Council authorized Staff and the Town Attorney to draft text which would allow additional flexibility to the "uses" allowed with the M1 zoning district by allowing "compatible" commercial uses. Council's instructions included the request for Staff to be cautious with the new "uses" in order to preserve the integrity of the zoning district for manufacturing/warehouse uses.

Ms. Shook noted that no changes had been made to this request since the public hearing and provided a brief recap of the request. She stated there were some members of the public who wished to make comments.

Chairman Boyle asked if any of the people wishing to speak had any new information to add. No new information was to be added so the public hearing was not reopened for this case. Vice Chairman Vincent asked if anyone spoke against the request and Chairman Boyle stated all speakers were in favor of the text amendment.

Chairman Boyle noted that university uses were not included in this text. Ms. Shook replied that the university use was addressed in the Temporary Use text amendment that would be considered next on the agenda.



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Chairman Boyle thought that Town Council seemed supportive of the text amendment but noted there was discussion at the public hearing that the list of uses needed to be less inclusive and also discussion that the list needed to be more open. Chairman Boyle felt all of the proposed uses were fine and should possibly include more. Chairman Boyle noted that safety and noise concerns were expressed at the public hearing.

Ms. Shook added there was also concern that allowing other uses in an M1 could potentially occupy a vacancy that a manufacturing use would need should they be interested in located in town.

**FIRST MOTION AND VOTE**

Chairman Boyle made a motion, seconded by Vice Chairman Vincent, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it will encourage a public service and regulatory environment conducive to business recruitment and expansion in line with Comprehensive Plan policy 2.1.1 Economic Development.

**Vote:** Aye – All
Nay – None

**The motion passed.**

**SECOND MOTION AND VOTE**

Chairman Boyle made a motion, seconded by Vice Chairman Vincent, that the Planning Commission recommends approval because the text will allow for better use of existing facilities within the town limits.

**Vote:** Aye – All
Nay – None

**The motion passed.**

**CASE PL01019-092917 USE 9.01 TEMPORARY COLLEGE AND UNIVERSITY USE - UDO TEXT AMENDMENT**

At the September 2017 joint meeting with the Planning Commission and Town Council, Council authorized Staff and the Town Attorney to draft text which would allow Use 9.01 Public Colleges and Universities as a temporary use in the M1 Manufacturing, B3 General Business and O/I Office Institutional zoning districts. Appalachian State University has expressed a need for what is referred to as "swing space" – temporary space to house University functions that must be temporarily re-located due to remodeling or construction and cannot be accommodated on campus due to space constraints. The University also experiences the need for temporary space when University faculty receive time-limited grants for programs that cannot be accommodated on campus due to limited space.

Ms. Shook provided a brief review of the request and noted that the staff report for this case has been modified as a result of the public hearing and directed Commission members to page 63, A. 5. And 6. of the packet with proposed changes highlighted in yellow. She stated there were members of the audience who wished to speak.

Commission Member Lee made a motion to reopen the public hearing for this case at 6:18 p.m. The motion was seconded by Commission Member Gosky.

**Vote:** Aye – All



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Nay – None
**The motion passed.**

Robert Holton of Holton Mountain Rentals felt there should be a longer period of time allowed for the university to lease space in order to amortize the costs of upfitting the space. He suggested a time period of at least 5 years but more would be better.

Joseph Miller, who owns Cheap Joe's Art Stuff in the Industrial Park, agreed with Mr. Holton. He also expressed concern with the ability to recoup expenses during a shorter lease period. Mr. Miller suggested having no lease time limit. He noted discussion during the public hearing about keeping property on the tax rolls and not having ASU pull properties off. Mr. Miller felt if this text was limited to a 4 or 5 year term and the university needed a 20 year term it would, in essence, cause ASU to go elsewhere and acquire another property that would be taken off the tax rolls. He stated he had served 3 terms on the Economic Development Committee and during that time there have not been a flood of businesses wanting to come to Boone that did not come here because they could not find a place to go. They did not come here because we did not have the infrastructure to support them. Mr. Miller felt private business owners did not want time limits on leases.

Vice Chairman Vincent asked Mr. Miller what time period he felt would be reasonable for a university leased space. Mr. Miller suggested a 20 year lease limit that could be a 5 year lease with up to 3 renewals.

Dayton Cole, ASU attorney, stated he had one new development. He explained that ASU had acquired the old High School property from Watauga County in an exchange agreement for the Business Affair's Annex property on State Farm Rd. The facility houses their main warehouse and offices for payroll, accounting, purchasing, etc. Mr. Cole stated they have leased the property back from the County through October, 2018. Since the public hearing, the County has approached them and would like to terminate their lease on the State Farm building early so they can move forward with development plans for the recreation center for the community and the favorable consideration of this text amendment would directly promote public health and welfare. In order for the university to terminate their lease on the State Farm Road building they would need another place to go, making the need for this text amendment all the more urgent.

Chairman Boyle asked for some examples of situations in the past where the university has had to move something into a B-3 district.

Mr. Holton provided an example of a retail building across from McDonald's that was looked at to move a program into when they were tearing down the Broyhill Inn. Mr. Cole added the examples of the Community Music School and various office functions where space had been needed.

Commission Member Lee made a motion to close the public hearing at 6:28 p.m. The motion was seconded by Chairman Boyle.

**Vote:** Aye – All
Nay – None

Vice Chairman Vincent asked who proposed the 4 or 5 year timeframes. Ms. Shook replied that, based on some leasing issues the university faced, ASU proposed the 4 or 5 year timeframes. Vice Chairman Vincent asked if there were any negatives to the proposed timeframes. Ms. Shook stated there was some



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concern regarding university uses in business districts that might cause other businesses not to be able to locate there and some concern over the university's growth into the town. Chairman Boyle stated that was a concern of his as well.

Commission Member Lee suggested that permits for leased "swing space" be valid for 5 years with a one-time extension of up to 3 years, or longer if possible.

Commission Member Gosky stated she would like to see the time period be 10 years.

Chairman Boyle noted that the "swing space" would be allowed in the O/I, B3, and M1 under the proposed text. He stated he was not in favor of this being allowed in all three of these districts. Chairman Boyle suggested these temporary uses only be allowed in the O/I and M1 districts.

**FIRST MOTION AND VOTE**

Vice Chairman Vincent made a motion, seconded by Commission Member Lee, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because the revised text amendment is consistent with Comprehensive Plan policy 1.1 University, emphasize cooperative planning among the Town, County, and University and recommends that the initial lease period be allowed for a time period of five (5) years with a three (3) year renewal.

**Vote:** Aye – 3 (Vincent, Lee, Gosky)
Nay – 1 (Boyle)

**The motion passed.**

Chairman Boyle wished to go on record that he voted against this text amendment because he did not feel this should extend to the B-3 zoning districts.

**SECOND MOTION AND VOTE**

Vice Chairman Vincent made a motion, seconded by Commission Member Lee, that the Planning Commission recommends approval of the text amendment for the following reasons: the amendment as revised is consistent with Comprehensive Plan policy 1.1 University, emphasize cooperative planning among the Town, County, and University and recommends that Council consider allowing a longer renewal period of up to 5 years.

**Vote:** Aye – 3 (Vincent, Lee, Gosky)
Nay – 1 (Boyle)

**The motion passed.**

**OTHER MATTERS**

Ms. Shook noted that Phil Trew with the High Country Council of Governments has completed the Comprehensive Plan and Boone 2030 Plan merger. Staff is in the process of sending the draft out to the smaller boards and department heads for their input. Planning Commission members will get a copy of the draft to begin working on in January, 2018.

**ADJOURNMENT**

Vice Chairman Vincent made a motion, seconded by Commission Member Gosky, to adjourn the meeting at 6:43 p.m.



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

_____ _____

**Connor Boyle, Planning Commission Chairman** **Brenda Henson, Board Secretary**

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