

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

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

I. Call to Order of Town Council and Planning Commission

II. Approval of Public Hearing Minutes

February 26, 2018 Public Hearing - Town Council Approval

February 26, 2018 Public Hearing - Planning Commission Approval

III. Case PL01340-022718 Setback & Height Modifications - UDO Text Amendment

1. PL01340-022718 Setback & Height Modifications - Application

2. PL01340-022718 Setback & Height Modifications -Staff Report

IV. Case PL01341-022718 Government Use Recreation Facilities in M1 - UDO Text Amendment

1. PL01341-022718 Government Recreation Facilities in M1 - Application

2. PL01341-022718 Government Recreation Facilities in M1 - Staff Report

V. Adjournment of Town Council

VI. Approval of Planning Commission Meeting Minutes

February 26, 2018 Planning Commission Meeting

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

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

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

VIII. Consideration of Items Heard at the Public Hearing

IX. Other Matters by Board Members or Staff

X. Adjournment of Planning Commission

**PUBLIC HEARING MINUTES
MONDAY, FEBRUARY 26, 2018 AT 6:00 P.M.**

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

PLANNING COMMISSION MEMBERS: Chairman Connor Boyle, Vice Chairman Matt Vincent, Abie Bonevac, and Elizabeth Shay

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

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

CALL TO ORDER

Mayor Brantz called the Town Council to order at 6:03 p.m.

Commission Chairman Boyle called the Planning Commission to order at 6:03 p.m.

APPROVAL OF MINUTES

Mayor Pro-Tem Clawson made a motion, seconded by Council Member Ashcraft, to approve the November 27, 2017 Public Hearing minutes as written.

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

Commission Member Shay made a motion, seconded by Commission Member Bonevac, to approve the November 27, 2017 Public Hearing minutes as written.

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

CASE PL01240-122217 HOWARD ST. VENTURES LLC REZONING - GENERAL USE ZONING MAP AMENDMENT

Council Member Furgiuele wished to be recused from this case because he is an adjoining property owner whose property values could be affected by the outcome of this request. Council Member Mason made a motion to recuse Council Member Furgiuele from this case. The motion was seconded by Mayor Pro-Tem Clawson.

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

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.

Ms. Shook provided a brief description of the case and introduced Attorney Tucker Deal to outline the request.

Tucker Deal, attorney for the applicant, explained that the request was to return the properties that were granted a Planned Development approval in June 2016 back to the original zoning of B-1. Mr. Deal cited UDO Section 9.10.08 which states *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.* He stated that the property owner had tried numerous things to make this project work but it had become infeasible, thus the request to return the property to B-1. Mr. Deal stated that returning the property to a B-1 zoning would be in conformity with the surrounding properties as well as the adopted plans of the Town.

With no questions or public comment, Mayor Brantz closed the public hearing for this case at 6:08 p.m.

Council Member Mason made a motion to have Council Member Furguele return to the meeting. The motion was seconded by Mayor Pro-Tem Clawson.

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

CASE PL00981-092517 BEE HIVE REGULATIONS - UDO TEXT AMENDMENT

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.

Ms. Shook presented the case as outlined in the meeting packet and explained that these text changes would allow up to 5 hives per parcel, incorporate some additional regulations, and further define bees and hives.

Mayor Brantz asked if these regulations would make it difficult for the Town to become a Bee City. Ms. Shook felt the text would be an enhancement instead of an impediment.

Council Member Ulmer asked why the text was proposed. Ms. Meade replied that it was a requirement of State law.

Council Member Mason asked if the proposed text was taken from other model ordinances. Ms. Shook responded that the text was taken directly from State law.

Council Member Furguele asked if this was the same text that came before the Sustainability Committee. Ms. Shook replied that she believed it to be the same text. Council Member Furguele stated it was his recollection that the Sustainability Committee endorsed the idea. Ms. Shook stated that was correct.

Mayor Brantz asked what a bait hive was. Ms. Shook explained that a bait hive was an alternative place for bees to swarm to besides the original hive.

Commission Chairman Boyle asked why there was no reference to the 2030 Land Use Plan in the staff report. Ms. Shook replied that staff reports for text amendments usually do not have references to the 2030 Plan due to their lack of relevance with the 2030 Plan.

With no further questions or public comment, Mayor Brantz closed the public hearing on this case at 6:13 p.m.

CASE PL01265-011618 PLANNED DEVELOPMENT PROCESS - UDO TEXT AMENDMENT

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.

Ms. Shook presented the case as it was outlined in the meeting packet.

Council Member Furguele asked when the Planned Development text was adopted. Ms. Shook replied that she did not recall. General consensus was that the text was adopted in 2015. Council Member Furguele asked how many PD applications had been received since the text was adopted. Ms. Shook stated there had been 3 applications; Marketplace, Rivers Walk, and King & College. Mr. Ward added that there had been 2 or 3 others who had attempted to go through the Planned Development process but stopped after the neighborhood meetings due to the input they received at those meetings.

Council Member Furguele asked if a Planned Development essentially created a one of a kind zoning district with no restrictions to building heights and setbacks without having to obtain any variances. Ms. Shook stated that was correct, unless it was to a standard set forth by the state such as an environmental standard. Council Member Furguele asked if this essentially amounted to spot zoning because the Planned Development did not necessarily have to relate to surrounding properties. Ms. Shook replied that it would be a unique zoning district specific to that project that wouldn't necessarily have to meet the same standards that the properties around it meet. Council Member Furguele stated that PD's were legislative decisions and not decisions by the Board of Adjustment.

Council Member Furguele noted the 3 applications for Planned Development that had been received and asked how many of the neighborhood meetings staff attended. Ms. Shook stated that Planning staff did not attend any of the neighborhood meetings. Council Member Furguele asked if it was accurate to say that staff had no knowledge of whether or not the information reported regarding the course and outcome of the neighborhood meetings was accurate. Ms. Shook stated that was correct.

Council Member Furguele asked Ms. Meade if the courts viewed the Planned Development zoning as spot zoning. Ms. Meade replied that most commentators feel the PD plan is lawful and the way the UDO is worded gives Town Council the responsibility of making sure the PD does not become spot zoning. Ms. Meade explained that PD's were supposed to be designed to produce a product that was substantially better than what the underlying zoning would allow and felt the notion that Planned Developments were independent of their original zoning was not accurate.

Council Member Furguele mentioned the requirements to request a PD. Ms. Shook replied that there were 2 ways to qualify; 1) a minimum 3 acres lot size, or 2) create a mixed-use development containing both commercial and residential, on any size lot. Council Member Furguele asked if a mixed-use project could get a PD on a 1/8 acre lot in a neighborhood. Ms. Shook stated they could make application and approval would be up to Town Council. Council Member Furguele felt this could allow a development that did not resemble the character of the projects surrounding uses.

Commission Chairman Boyle asked why Town Council wanted to remove the Planned Development process from the UDO. Council Member Furguele replied that he proposed the repeal and while he was not against some of the aspects of the process he felt some aspects, such as the neighborhood meetings, were defective. Council Member Furguele felt the PD process was way too broad and the controls were not adequate to prevent people from abusing the process. He thought the process could be very destructive to surrounding neighbors. Council Member Furguele stated the PD process may still be a good idea for certain larger properties and was not against incorporating some of the regulations into the UDO.

Mayor Pro-Tem Clawson stated she never liked the PD process and noted that Town Council does not have the same level of expertise at reviewing plans and projects as the Board of Adjustment.

Commission Chairman Boyle stated he thought the PD process was a valuable tool and asked why the Town couldn't work with it instead of scrapping it. Council Member Furguele replied that he wanted it off the books before anything else could sneak in. Commission Chairman Boyle pointed out that Town Council did not have to approve a project if it felt the project was not a good fit or inappropriate for the area. Council Member Furguele replied that was not the point.

Council Member Ashcraft asked Council Member Furguele if there were alternatives that could change his mind about the PD process such as increasing the minimum lot size to 10 acres. Council Member Furguele responded that he did not want to just monkey around the edges. He went on to say that members of the public have told him they are unhappy with the types of development in this town.

Council Member Mason stated that some developers have probably used the PD process as a loophole to get the type of development they want and suggested that maybe the PD process was not refined well enough when it came to how neighborhood meetings should occur.

Commission Member Bonevac suggested have the Planning Commission meet with Planning staff to reconcile the language instead of repealing it. She felt a repeal of the PD process would hurt the rights of citizens to develop a unique project. Council Member Furguele stated there could be 9 good projects and 1 bad project but 1 bad project was too many. He suggested the Town hire a Public Advocate that could provide other aspects of a project that the developer would not provide. Council Member Furguele felt

the PD process should be repealed, the process should then be reviewed, and relevant parts should be incorporated into the UDO or a reconfigured PD process should be created.

Mayor Brantz called for public comment.

The first speaker was Pam Williamson. Ms. Williamson stated she is a Town resident and had been a neighborhood advocate for over 30 years, attending many Town and County meetings. She felt the PD process took away the predictability of Town zoning and what was substantially better for one person may not be substantially better for others. Ms. Williamson felt that PD's provided loopholes for developers. She stated that the Board of Adjustment provided ample opportunity for neighbors to make their case and be heard. Ms. Williamson suggested incorporating neighborhood meeting requirements into the UDO but felt the minutes of the neighborhood meetings should not be taken by the developers. Ms. Williamson stated she was not opposed to PD's on large tracts of land. She stated it was hard to fight a legislative decision but Board of Adjustment decisions can be fought in court. Ms. Williamson asserted that neighborhoods and people who wanted to protect their property did not need a free form code.

The next speaker was Tucker Deal. Mr. Deal stated he lives in a neighborhood with an approved PD (King & College) and also provided legal representation for that PD. Mr. Deal noted that the property owners spent over a year speaking with neighbors and incorporating their ideas into their plan and he felt this would be a successful Planned Development in the Town.

Council Member Ulmer stated this was a personal issue to a lot of people. She questioned if citizens of Boone wanted to be a quaint town or a city. Council Member Ulmer thought a repeal of the Planned Development process should not be considered a dismissal but a reprieve in order to create a revised plan with clarity.

With no further comments, Mayor Brantz closed the public hearing for this case at 7:24 p.m. and called for a break until 7:33 p.m.

CASE PL01298-020218 REMOVAL OF BOONE 2030 LAND USE PLAN REFERENCES - UDO TEXT AMENDMENT

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.

Ms. Shook presented the case as it was outline in the meeting packet. She explained that this case was placed on the agenda in the event that Town Council voted to repeal the Boone 2030 Land Use Plan at their February meeting. Ms. Shook stated that Town Council decided to defer consideration of whether to repeal the Boone 2030 Land Use Plan until their March meeting.

Mayor Brantz asked if the 2030 Plan should be repealed before the Comprehensive Plan revisions were complete.

Ms. Meade noted that adopted plans do not require public hearings, which provided more flexibility for legislative changes when issues or problems occurred. Council Member Furguele stated it was staggering to him that an adopted plan could be amended on a dime.

Council Member Furguele asked Ms. Shook if it was possible to have inconsistencies between the UDO and the 2030 Plan. Ms. Shook replied that it was possible. Council Member Furguele expressed concern that developers would use this plan as a means to sue the town and his role was to help protect the Town's money. He felt it was problematic to have numerous different plans that are not combined or well known.

Ms. Meade felt that even though there were various adopted plans, some plans, such as the Comprehensive Plan, carry more weight than others.

Vice Chairman Vincent left the meeting at 8:00 p.m. Quorum of the Planning Commission was discussed. Mr. Ward explained that the Planning Commission had quorum at the beginning of the meeting so they could continue the remainder of the meeting as though they still had quorum.

Commission Member Shay felt it was helpful to know that the Comprehensive Plan has priority over other plans.

Commission Chairman Boyle asked why the Town wanted to repeal the 2030 Plan and not all the other plans. Council Member Furguele replied that he did not even know all of the plans the Town had adopted but did know that developers were referencing compliance with the 2030 Plan over compliance with the UDO when trying to get their projects approved. Commission Member Shay asked why developers reference the 2030 Plan so much. Ms. Meade replied that the 2030 Plan and the Comp Plan were the main plans of the Town. Commission Member Shay wondered if, while relying only on the 2006 Comprehensive Plan, there was something they would be missing from a repealed 2030 Plan.

Council Member Ashcraft asked if Town Council gave any direction about what parts to include or remove from the Comprehensive Plan and 2030 Land Use Plan merged document. Ms. Shook explained that the merger was only to remove any inconsistencies between the two documents and make them more cohesive.

Council Member Furguele stated that when the Town lost the ETJ it impacted the 2030 Plan because a lot of the basis for some parts of the document were dependent upon the ETJ and were no longer relevant. He further stated that the Town can only control 10-20% of the stormwater coming into the valley floor and the Town cannot be protected from consequences of high density development.

Council Member Mason felt that encouraging density within the Town helped to discourage urban sprawl.

Commission Chairman Boyle stated that the 2030 Plan addressed smart growth, walkability, stormwater, etc. and he did not want the Plan repealed. He questioned who chose what the good parts of the Plan were and stated if the Town does not build up it will force sprawl. Commission Chairman Boyle felt strongly that the Town needed to work with ASU to address housing for students as enrollment was only expected to increase.

Council Member Ulmer agreed that the Town and ASU needed to have more conversations and indicated the system was at fault, not ASU.

Commission Member Bonevac asked how much money and time were put into developing the 2030 Plan. Ms. Shook responded that she did not know the amount of money spent but felt it was roughly a year long process to develop.

Mayor Brantz called for public comment.

Pam Williamson spoke, stating she attended the Charrettes for the 2030 Plan and loved the process but felt there were major inconsistencies in the Plan. She asked if the Town wanted higher density, growth, increased traffic, tall buildings, no setbacks, and the loss of our beautiful corridors. Ms. Williamson felt the Plan should be revisited and the desires of the citizens should be prioritized so that the good parts of the Plan could be kept.

Council Member Furguele asked Ms. Williamson what type of people participated in the Charrettes. Ms. Williamson replied that there were a lot of people from the ETJ, developers, and neighborhood people. She estimated there were 3-4 residents to every developer.

Council Member Ashcraft stated he had read every word of the 2030 Land Use Plan and there was heavy emphasis on sustainability, walkability, and it reflected a lot of the values of the Town.

Commission Member Shay questioned why the 2030 Plan should be repealed when so many poor projects were built under the UDO. Council Member Furguele expressed concern with the potential that arose from the State law change that could allow someone to sue the Town and that was his motivation for acting quickly to repeal the 2030 Plan. He stated he was not against incorporating the good parts of the Plan into the UDO, once they had been identified.

ADJOURNMENT OF TOWN COUNCIL

Mayor Pro-Tem Clawson made a motion to adjourn Town Council at 8:47 p.m. The motion was seconded by Council Member Furguele.

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

Mayor Rennie Brantz

Board Secretary Brenda Henson

Planning Commission Chairman Connor Boyle

At 8:51 p.m. Commission Chairman Boyle proceeded with the business of the Planning Commission.

APPROVAL OF PLANNING COMMISSION MEETING MINUTES

Commission Member Shay made a motion, seconded by Commission Member Bonevac, to approve the December 18, 2017 Planning Commission meeting minutes as written.

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

CASE PL01240-122217 HOWARD ST. VENTURES LLC REZONING - GENERAL USE ZONING MAP AMENDMENT

Commission Member Bonevac asked if there was even a choice for this property to revert back to its original zoning of B-1 if the PD process was going to be repealed. Commission Chairman Boyle stated that this Planned Development had expired. Ms. Shook replied that their PD was not expired and further explained that a repeal of the Planned Development process would prevent someone new from making application but would not affect any existing, approved Planned Developments.

First Motion and Vote

Commission Member Shay made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it simply follows the provisions of the rule that when a Planned Development expires the property reverts back to B-1. The motion was seconded by Commission Chairman Boyle.

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

Second Motion and Vote

Commission Member Bonevac made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning ordinance and believes approval is reasonable and in the public interest because the applicant is joining the surrounding land use as B-1 and meets all approved plans. The motion was seconded by Commission Member Shay.

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

CASE PL00981-092517 BEE HIVE REGULATIONS - UDO TEXT AMENDMENT

Commission Member Shay recapped that this request would allow one more hive, require the hives be secured at ground level or on a stand, and require that unattended or inactive hives be removed. Commission Chairman Boyle stated that all of these changes seemed good.

First Motion and Vote

Commission Chairman Boyle made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it provides habitat for pollinators which are a critical component of the world in which we live and it aligns with the Comprehensive Plan policy 2.1.4 Agricultural and Rural Development. The motion was seconded by Commission Member Shay.

Vote: Aye – All

Nay – None
The motion passed.

Second Motion and Vote

Commission Member Shay made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning ordinance and believes approval is reasonable and in the public interest because of the reasons noted above in the first motion and vote. The motion was seconded by Commission Chairman Boyle.

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

CASE PL01265-011618 PLANNED DEVELOPMENT PROCESS - UDO TEXT AMENDMENT

There was some discussion about voting after Vice Chairman Vincent left the meeting and Ms. Shook advised the Commission that they could vote and Vice Chairman Vincent's vote would be counted with the majority vote.

Commission Member Shay admitted she was struggling with the PD. She stated it sounded as if there were specific concerns that should be focused on, like where it impinges on neighborhoods. Commission Member Shay stated if you had a large lot and you were doing mixed-use and adding a residential component, it would be different than this same project happening in a smaller area that would impinge on neighborhoods. She felt this was what was a main concern of Town Council. Commission Member Shay stated she did not really know how she felt about repealing the PD process.

Commission Chairman Boyle stated he agreed with what Commission Member Shay said but did not agree with striking the whole thing out of the UDO and eliminating the Planned Development process even temporarily. He mentioned the reference to a mixed-use project being built on a 1/8 acre lot and, while this was possible, it has not happened. Commission Chairman Boyle stated that there was some risk associated with the Planned Development process, Town Council still had the final decision on the project approval. Commission Chairman Boyle noted that nothing was infallible and asked how many times the text had been revised. Ms. Shook replied that the text had been revised once or twice. Commission Chairman Boyle stated you would expect there to be revisions as you go along on something of this scale. He felt the PD should not be repealed but would recommend it be taken a look at by people who are impartial and not just throw it away. Commission Chairman Boyle stated the PD process provided flexibility for challenging lots and felt it was a good tool.

Commission Member Bonevac stated she was thinking of the Industrial Park allowing uses that were not industrial as a way to help support revenue when she thought of Planned Developments.

Commission Member Shay asked if the Commission would be comfortable with a motion that said something like the Planning Commission recognizes some of the shortcomings but also the benefits the PD offers and recommends that Town Council get an expert analysis on how to fine tune it to best serve the Town's purposes. She stated that might mean looking at residential versus commercial and industrial, looking at applying this to only larger projects, and other considerations that would make this a better and accurate tool for the Town's purposes without tossing out something that is beneficial.

Commission Chairman Boyle agreed that he would like to have someone analyze it and go through the “what if” scenarios in order to determine the worst thing that could happen in a given development situation. He stated he would also like to look back at projects that were approved for PD’s and projects that were not approved to see what could have been done to improve the projects.

Mr. Ward noted that the King & College PD garnered neighborhood support and was approved unanimously by Town Council. Ms. Shook noted there was some neighborhood concern, nothing really strong but there were questions. Commission Chairman Boyle felt this was a difficult lot and the PD process allowed them to do their development rather than having to go to the Board of Adjustment

Commission Member Shay stated she rejected the idea that all neighborhood meetings had to be positive. She felt they could flush out negative feelings and comments and suggested that unproductive and contentious meetings could be a part of the whole check on things. Commission Member Shay stated the neighborhood meetings give neighbors the sense that they have gotten to participate in the process beforehand instead of seeing something being built that they did not get to have input on and she contended that even an unpleasant process could be useful.

Commission Member Bonevac liked the idea of having an unbiased third party attend the neighborhood meetings in order to provide an accurate report of what took place.

Commission Member Bonevac asked if Commission members were all in agreement. Commission Chairman Boyle stated he was in agreement to deny the repeal and recommend that the PD process be looked at more closely.

First Motion and Vote

Commission Member Shay made a motion that the proposed amendment to the Town’s zoning ordinance is not consistent with the Town’s comprehensive plan and any other adopted plan(s) of the Town that are applicable because it does not honor the spirit of Comprehensive Plan policy 2.1.1 Economic Development in regards to enhancing the area’s physical and human resources. The motion was seconded by Commission Chairman Boyle.

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

Second Motion and Vote

Commission Member Shay made a motion that the Planning Commission recommends denial of the proposed amendment to the Town’s Zoning ordinance and believes denial is reasonable and in the public interest because the Town would be better served by an analysis on how to maintain the best features of the PD and analyze weaknesses that could result in universally unfavorable development. She added that completely eliminating the PD process could be more detrimental than the potential benefits of retaining the text. The motion was seconded by Commission Chairman Boyle.

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

CASE PL01298-020218 REMOVAL OF BOONE 2030 LAND USE PLAN REFERENCES - UDO TEXT AMENDMENT

Because Town Council has not acted on the repeal of the Boone 2030 Land Use Plan, Commission members felt they would rather wait until that time to make their recommendations on the removal of references to the Plan from the UDO.

Commission Chairman Boyle made a motion to table this agenda item until the March Planning Commission meeting. The motion was seconded by Commission Member Shay.

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

ELECTION OF OFFICERS

Due to the fact that there were only 3 members of the Planning Commission present at this time, Commission members agreed they would rather elect officers when there were more members present.

Commission Chairman Boyle made a motion to table election of officers until the March Planning Commission meeting when more members could be present. The motion was seconded by Commission Member Bonevac.

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

ADJOURNMENT OF PLANNING COMMISSION

Commission Chairman Boyle made a motion to adjourn the meeting at 9:40 p.m. The motion was seconded by Commission Member Shay

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

Planning Commission Chairman Connor Boyle

Board Secretary Brenda Henson

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: PL01340-022718

Case Name: Setback & Height Modifications

A. CONTACT INFORMATIONApplicant: Town of Boone Company: _____Address: PO Drawer 192, Boone, NC 28607Phone Number: 828-268-6200 Email Address: planning@townofboone.net**B. TEXT INFORMATION**

Amendment is to:

Article(s): 15, 16, 34Section(s): 15.11, 16.08, 34.01

Brief Description of Amendment (Attach Proposed Text):

Modification of UDO Articles 15, 16 and 34 to address the following:

1. Remove setback exemptions for mixed-use in UDO Section 15.11
2. Clarify how a building must be "setback" in its entirety to meet secondary height allowances
3. Prohibit replacement of buildings in the B1 with a building of higher height without conditional district rezoning including amending Section 15.11.02(D) to only apply to vacant land as of date of adoption of regulation.

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

Jane Shook
Applicant (Print)

/S/ Jane Shook
Applicant Signature

February 27, 2018
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
02/27/2018	\$0	NA	NA	NA

Hearing/Decision InformationPublic Hearing Meeting Date: March 26, 2018PC Meeting Date: March 26, 2018TC Meeting Date: April 19, 2018Text Approved: ☐ Yes ☐ No

Notes:

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

Communication: PL01340-022718 Setback & Height Modifications - Application (Case PL01340-022718 Setback & Height Modifications - UDO



STAFF REPORT

PUBLIC HEARING-MARCH 26, 2018

CASE PL01340-022718 SETBACK & HEIGHT MODIFICATIONS- UDO TEXT AMENDMENT

Request

At the January 8, 2018 Planning Retreat, Council requested modification of UDO Articles 15, 16 and 34 to address the following:

1. Remove setback exemptions for mixed-use in UDO Section 15.11
2. Clarify how a building must be “setback” in its entirety to meet secondary height allowances
3. Prohibit replacement of buildings in the B1 with a building of higher height without conditional district rezoning including amending Section 15.11.02(D) to only apply to vacant land as of date of adoption of regulation.

Staff presented draft to text to Council in February, which was then sent on to the March 2018 public hearing. Council requested Staff modify the text as follows:

1. Modify the mixed-use regulations in order to encourage applicants to preserve existing significant or historic trees, provide landscaped courtyards, landscaped greenspace, plazas or pocket parks and other pedestrian oriented amenities between the primary façade and the street.
2. To remove the interior setback exemptions for mixed-use developments, with the possibility that this may be retained after discussion.

ANALYSIS

The text in [blue underline](#) on the next page is the new text for consideration.

Article 15 District Uses

...

§ 15.11 MULTI-FAMILY IN MIXED USES.

15.11.02 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the Central Business District (B1) only if the projects in which they are included meet all the following criteria:

A. Each project shall provide primary street level commercial land uses (i.e. retail, office, restaurant) of at least 50% of the square footage of the footprint of each building on the primary street level. For developments located on lots which abut more than one public street in the Central Business District, each additional street level floor shall provide commercial uses of at least 30% of that level’s square footage. For purposes of this subsection, the “primary street” shall be determined according to the following order: King Street, Howard Street, Depot Street, all other streets. For example, if a project is located on a lot that abuts both King Street and Howard Street, King Street shall be considered the “primary street” while for a project which abuts Howard Street and Depot Street, Howard Street shall be considered the “primary street” and so on.

B. The entire frontage of the primary street level of the building abutting the street shall provide commercial uses. Required entrances for ingress and egress to secondary uses are permitted along said frontage so long as they are no larger than necessary to meet building code and safety requirements for ingress and egress. Commercial uses on the non-primary street level(s) shall front on the non-primary street.

C. The entire primary street level floor of the building shall be constructed to commercial standards in accordance with North Carolina Building Code Group A, B, E or M.

D. New projects on property which was vacant as of February 1, 2018 shall be at least two floors above the primary street level.

E. Buildings facades shall be oriented to each public street and shall have a primary entrance door facing each abutting public sidewalk.

F. A minimum of 60% of primary public street level facing building facade shall be comprised of transparent, non-reflective windows and 30% of non-primary street level facing building facades shall be comprised of transparent, non-reflective windows.

G. Surface parking shall be located away from each public street to the extent possible, and if practical, to the rear of the principal building.

H. Structured parking is permitted to the rear of the building or below the street level floor.

I. Building facades may be no further than 0'-0" from the established street setback line, except where necessary to provide landscaped courtyards, plazas, pocket parks, other pedestrian oriented amenities, or when there would be interference with public utilities.

J. The minimum building footprint shall be 50% of the total gross square feet of the lot.

K. Pedestrian weather protection such as awnings or canopies are encouraged along the public street but may be placed only in accordance with an encroachment agreement authorized by the Town Council.

15.11.03 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the Neighborhood Business District (B2) only if the projects in which they are included meet all the following criteria:

A. Each project shall provide street level commercial land uses (i.e. retail, office, restaurant) of at least 100% of the street-level floor square footage.

B. Buildings facades shall be oriented to the public street and shall have a primary entrance door facing the public sidewalk.

C. A minimum of 60% of the street facing street level building facade shall be comprised of transparent, non-reflective windows.

D. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.

E. Structured parking is permitted but shall be located to the rear or below street level commercial uses.

F. ~~In the area between the primary façade and the the street the applicant~~ ~~Building facades may be no further than 0'-0" from the street right of way line, except where necessary~~ is encouraged to preserve existing significant or historic trees, ~~which shall be preserved, if practical, or~~ to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities, ~~in which case the maximum setback shall not exceed 20' or when there would be interference with public utilities.~~

~~G. Interior setbacks for all mixed use buildings shall be 10'-0" except where abutting a residential zoning district in which case the interior setback shall equal the required interior setback in the abutting residential district.~~

~~G~~H. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council. Such awnings or canopies count toward the recreation space requirements found in Section 16.05 of this ordinance.

~~H~~I. All development shall comply with the landscape standards set forth in Article 31 except that Type "A" interior landscape buffers may be provided regardless of adjacent land use classifications.

15.11.04 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the General Business District (B3) only if the projects in which they are included meet the following:

A. Multi-family uses wholly or partially on property zoned B3 General Business within the Corridor Districts.

1. Mixed use building(s).

a. Each building shall fully consist of street level commercial uses (i.e. retail, office, and restaurant).

b. A minimum of 60% of the street level building façade facing the corridor shall be comprised of transparent, non-reflective windows.

c. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line. Structured parking is permitted but shall be located to the rear or in the interior of the building, or under street level commercial uses.

d. ~~In the area between the primary façade and the street the applicant~~ ~~Building facades may be no further than ten feet from the street right of way line, except where necessary to~~ is encouraged to preserve existing significant or historic trees which shall be preserved, ~~if practical, or~~ to provide landscaped

courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities, ~~in which case the maximum setback shall not exceed 20 feet or there would be interference with public utilities, or the placement of stormwater facilities and no reasonable alternative to that placement exists.~~

~~—— e. Interior setbacks for all mixed use buildings shall be a minimum of ten feet except where abutting a residential zoning district, in which case the interior setback shall at a minimum equal the required interior setback in the abutting residential district.~~

ef. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.

2. Single use building(s).

a. Single use multi-family building(s) are only allowed as part of a mixed use project if approved through the Conditional District B3 General Business rezoning.

b. A mixed use project shall meet the following criteria:

i. Each project shall fully consist of street level commercial uses (i.e. retail, office, and restaurant) of 100% of the street level gross floor area on every building which fronts a corridor protected by the Corridor District. In addition, at least 50% of the total gross floor area of all buildings located within the Corridor District shall fully consist of commercial uses. This requirement may be satisfied if the commercial floor area is distributed among buildings or within one building.

ii. The street level floor of all buildings within the Corridor District shall be built to commercial standards in accordance with North Carolina Building Code Group A, B, E, or M.

iii. A minimum of 60% of the street facing street level building façade of a building which fronts a protected corridor shall be comprised of transparent, non-reflective windows.

iv. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.

v. Structured parking is permitted but shall be located to the rear or in the interior of the building, or below the commercial uses.

vi. In the area between the primary façade and the street the applicant ~~Building facades may be no further than ten feet from the street right-of-way line, except where necessary to~~ is encouraged to preserve existing significant or historic trees, which shall be preserved, ~~if practical,~~ or to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities, ~~in which case the maximum setback shall not exceed 20 feet or there would be interference with public utilities, or the placement of stormwater facilities and no reasonable alternative to that placement exists.~~

vii. Interior setbacks for all mixed use buildings shall be ten feet except where abutting a residential zoning district in which case the interior setback shall equal the required interior setback in the abutting residential district.

viii. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.

B. Multi-family uses wholly or partially on property zoned B3 General Business outside the Corridor District but proximate to major streets.

1. For the purposes of this section “major street” refers to collector and arterial streets.
2. “Proximate” shall mean any building wholly or partially within 200 feet of the centerline of a major street.
3. Mixed use building(s).
 - a. Mixed use building(s) shall meet the same requirements as described in Subsection 15.11.04(A)(1).
4. Single use building(s).
 - a. Single use multi-family building(s) are only allowed as part of a mixed use project.
 - b. A mixed use project shall meet the following criteria:
 - i. Each project shall consist of street level commercial uses (i.e. retail, office, and restaurant) of 100% of the street level gross floor area on every building which fronts a major street. In addition, at least 25% of the total gross floor area of all buildings wholly or partially located within 200 feet of the centerline of a major street shall consist of commercial uses. This requirement may be satisfied if the commercial floor area is distributed among buildings or within one building.
 - ii. For any floor containing a commercial use the entire floor shall be built to commercial standards in accordance with North Carolina Building Code Group A, B, E, or M.
 - iii. A minimum of 60% of the major street facing street level façade of a building containing commercial use(s) shall be comprised of transparent, non-reflective windows.
 - iv. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.
 - v. Structured parking is permitted but shall be located to the rear or in the interior of the building, or below the commercial uses.
 - vi. In the area between the primary façade and the street the applicant ~~Building facades fronting the major street may be no further than ten feet from the street right-of-way line, except where necessary~~

is encouraged to preserve existing significant or historic trees, ~~which shall be preserved, if practical, or to~~ provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, and other pedestrian oriented amenities, ~~in which case the maximum setback shall not exceed 20 feet or there would be interference with public utilities, or the placement of stormwater facilities and no reasonable alternative to that placement exists.~~

~~vii. Interior setbacks shall be ten feet except where abutting a residential zoning district in which case the interior setback shall equal the required interior setback in the abutting residential district.~~

viii

. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.

C. Multi-family uses wholly or partially on property zoned B3 General Business in all other areas.

1. Multi-family uses not part of a mixed use development may be allowed if an applicant demonstrates that within one-fourth of a mile (1,320 feet) of the borders of the lot that is to be developed there exists commercial uses with gross floor area square footage equal to the gross floor area square footage of the proposed multi-family project. If this standard cannot be met then the proposed project must meet the requirements in Subsection 15.11.04(B) above.

D. Recreation space shall be provided for multi-family developments in the B-3 district as provided at Section 15.10.03(F).

(Ord. passed 12-16-2013; Ord. passed --)

...

Article 16 District Standards

...

16.01 SCHEDULE OF LAND USE INTENSITY REGUALTIONS

....

16.01.02 INTENSITY TABLE

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space* Ration (LSR)	Minimum Setback	
					Street	Interior
Residential Zoning Districts						
RA no public water & sewer available	20,000 sq. ft.	100 ft.	80 ft.	.65	20 ft.	18 ft.
RA public water available	15,000 sq. ft.	80 ft.	64 ft.	.65	20 ft.	18 ft.
RA Public water and sewer available	10,000 sq. ft.	65 ft.	52 ft.	.65	20 ft.	14 ft.
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
R1A	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
RR	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R2	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R4	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R3	5,000 sq. ft.	80 ft.	64 ft.	.40	20 ft.	13 ft.
MH	87,120 sq. ft.	None	56 ft.	.51	20 ft.	20 ft.
Commercial/Industrial Zoning Districts						
OI	10,000 sq. ft.	100 ft.	80 ft.	.27	20 ft.	17 ft.
B1	5,000 sq. ft.	15 ft.	12 ft.	None	Refer to Section 16.06.02	Refer to Section 16.06.04
B2	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
B3	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
M1	17,000 sq. ft.	80 ft.	64 ft.	.3	20 ft.	22 ft.
Educational Zoning Districts						
U1	None	None	None	.27	Refer to Section 16.06.09	Refer to Section 16.06.08
E1	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
E2	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
E3	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.

* LSR is a ratio where the numerator is the square footage of Livability Space and the denominator is the square footage of the entire parcel.

...

§ 16.06 BUILDING SETBACK REQUIREMENTS.

16.06.01 Subject to Sections 16.07 and 16.11 and the other provisions of this section, no portion of any building may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the Intensity Table.

A. If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline. Whenever a lot fronts a street with a right-of-way of 30 feet or less, the setback shall be measured from a line running parallel to the centerline at a distance of 15 feet from the centerline.

B. As used in this section, the term “lot boundary line” refers to lot boundaries other than those that abut streets.

C. As used in this section, the term “building” includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

1. Gas pumps and overhead canopies or roofs.
2. Fences running along lot boundary adjacent to public street rights-of-way if such fences exceed nine feet in height and are substantially opaque.
3. Retaining walls which exceed four feet in height.

D. Flagpoles, bridges, transmission poles, cables, heat pumps, generators, air condition units and pad mounted transformers shall be exempt from building setback requirements, however, walk in coolers and refrigeration units must meet the requirements for accessory buildings.

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.

16.06.03 In the B1 district, the minimum street setback distance shall not apply to a projecting theater marquee, canopy or roof overhang supports as long as such supports do not go beyond the edge of the sidewalk. This exemption shall not obviate the need for an encroachment agreement.

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.

16.06.05 In the B2 and B3 zoning districts, sideline to sideline construction may be permitted on one or more lots of at least 100 feet road frontage upon issuance of a special use permit in accordance with the provisions of Article 6 and subject to the following conditions:

- A. The building must be constructed in accordance with the regulations for the primary fire district as contained in the North Carolina State Building Code.
- B. There shall be a deeded street or right-of-way, built to town standards, at both the front and the rear of the property.
- C. Loading, unloading and refuse disposal access shall be from the street at the rear of the property.
- D. Loading and parking shall be in compliance with Article 24 of this ordinance.

16.06.06 Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.

16.06.07 Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, and the like).

16.06.08 In the U1 district, the minimum street setback of ten feet shall apply only when development is proposed adjacent to town maintained streets.

16.06.09 In the U1 district, the minimum interior setback shall be increased to 14 feet only when development is proposed adjacent to R1 zoned property. Additional setback provisions in Section [16.06.05](#) do not apply in the U1 district. The minimum interior setback is zero feet only when development is proposed adjacent to B1 zoned property.

(Ord. passed 12-16-2013; Ord. passed --; Ord. passed --)

...

§ 16.08 BUILDING HEIGHT LIMITATIONS.

16.08.01 For the purposes of this section:

A. The height of a building shall be the vertical distance measured from the average elevation of the finished grade at the primary facade of the building to the highest point of the building.

B. "Stories" as used herein refers to the number of heated, habitable floors above grade at the primary facade. Where both stories and heights are listed in the table below at Section 16.08.02, the building can have no more than the listed number of stories, and also may not exceed the specified height in feet.

16.08.02 Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as follows:

Zone	Height Limitation
R1, R1A, RR, R2, R4, RA	3 stories
R3	3 stories
MH	35 feet
OI	4 stories/67 feet
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 (See Subsection 16.08.04 for more detail)
B2	3 stories/40 feet
B3, E1, E2, E3	3 stories/45 feet (primary) - 5 stories/67 feet (secondary)
U1	Refer to Subsection 16.08.09
M1	67 feet

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

16.08.04 [Height in the B1 Central Business District](#)

- [A.](#) 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.
- [B.](#) [An existing building may not be demolished and replaced with a building of greater height unless approved under the Conditional District Zoning Map Amendment set forth in Article 9 herein.](#)
- [C.](#) [The height of existing buildings may not be increased unless approved under the Conditional District Zoning Map Amendment process set forth in Article 9 herein.](#)

i. Addition or modification of the features exempted in Subsection 16.08.08 do not trigger the requirement for the Conditional District Zoning Map Amendment process.

16.08.05 In all nonresidential zones and the R3 zone, all structures located within 100 feet of an R1 zoned property shall not exceed 40 feet in height.

16.08.06 Where a multi-unit or nonresidential structure has a height in excess of 20 feet and adjoins a low density residential district, the structure shall meet an additional setback of one and one-half feet for each foot in height above 20 feet.

16.08.07 If a structure is located at an elevation of 3,000 feet above mean sea level and 500 feet above the valley floor, in no case shall the height of such structure exceed 40 feet above the mean natural grade.

16.08.08 The following features are not included in calculating the height of a structure for the purposes of applying the district height limitations set forth in Subsection [16.08.02](#), except that on a corner lot in any residential district no planting, structures, fence, wall or obstruction to vision more than three feet in height measured from the street center line shall be placed or maintained within the triangular area formed by the intersection street lines and a straight line connecting points on said street lines each if which is 25 feet from the point of intersection.

A. Chimneys, accessory radio or television antennas, flagpoles, monuments or solar collectors provided that such features do not exceed 15% of the maximum height requirements.

B. Church spires, belfries, cupolas, domes, smokestacks, windmills, or observation towers, provided such structures do not exceed in height the horizontal distance from the structure to the nearest property line.

C. Utility transmission poles and cables.

D. [Parapets](#), ~~E~~levator or other mechanical equipment and mechanical penthouses; provided, however, that such features must be screened from [adjacent street](#) view by parapets and set-back from roof edges.

E. Limited structures to enable recreational use of open rooftops; provided, however, that such features must be screened from view by parapets and set-back from roof edges and may be no more than one-third the area of the entire roof. As used in this provision, "structures" do not include areas that are simply decking to be used for standing or sitting.

16.08.09 In the U1 district, building heights for structures internal to the main campus shall be generally limited only by the town's firefighting capability except for those structures located immediately adjacent to property in a non-University district. In this instance:

A. All buildings proposed within 100 feet of an R1, R1A, RR, R2, R4, or RA zoned property shall be limited to a maximum height of 40 feet.

B. All buildings proposed within 50 feet of an R3, OI, B1, B2, or B3 zoned property shall be limited to the maximum height allowed in the adjoining district. Additional height restrictions in Subsections 16.08.04 and 16.08.05 shall not apply in the U1 district.

(Ord. passed 12-16-2013; Ord. passed --; Ord. passed --)

...

Article 34 Definitions

...

LANDSCAPED GREENSPACE. A pedestrian oriented urban open space which includes manicured landscaping and other pedestrian oriented amenities (such as benches) which is at or near the same grade as the sidewalk or the street and is easily accessible to pedestrians.

PARAPET. A low wall at the top of the facade of a building.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15): The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy. *****
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.

- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.

2.1.2 Commercial Development

- A. Uncontrolled strip development along the area's through streets shall be prohibited. The undesirable effects of existing strip development shall be reduced and/or reconfigured when redevelopment opportunities permit. New strip development on isolated single lots along through streets shall be discouraged. *****
- B. Commercial and Office Development shall be encouraged to locate in planned shopping centers, office parks and mixed use developments to stop the proliferation of strip development.
- C. Community/Commercial Centers shall be located adjacent to a major street and contain or be adjacent to other appropriate community facilities.
- D. Automobile Orientated Neighborhood and Convenience Commercial Centers shall be encouraged to locate on a collector street or secondary street at its intersection with a major street.
- E. Residentially scaled and designed neighborhood businesses may be a planned element of newly developed or redeveloped neighborhoods. They should be near other compatible facilities such as elementary schools and neighborhood parks.
- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- G. Effective buffering and/or landscaping shall be provided where a large scale or automobile-orientated commercial or office use adjoins an existing or planned residential use.
- H. Encroachment of incompatibly scaled and designed commercial or office uses into viable existing or planned residential areas shall be prohibited.
- I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.
- J. Highway Oriented Commercial uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movement, and consistent sign standards.

...

2.1.5 Downtown

- A. A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place. ****
- B. The Town, in concert with the downtown property owners and merchants, shall encourage public and private efforts to develop and publicize adequate and appropriately designed off-street parking lots in the downtown area.
- C. A variety of mutually compatible and supportive mixed uses shall be encouraged in the downtown area.
- D. Public and private developments shall be encouraged to incorporate local artistry into public and semi-public spaces downtown.
- E. Public and private development decisions in the downtown area shall exhibit a special concern for maintaining the intensive, pedestrian oriented character of the district.
- F. The maintenance and revitalization of downtown Boone, as well as planning for its future development, will reflect the realities and qualities befitting its geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services.

2.3 THE COMMUNITY

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

2.3.1 Community Appearance

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

2.3.2 Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of

historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.

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

2.3.3 Housing & Neighborhoods

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

...

PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

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

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

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

TOWN COUNCIL ACTION

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

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

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

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

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: PL01341-022718

Case Name: Government Use Recreation Facilities in M1

A. CONTACT INFORMATIONApplicant: Town of Boone Company: _____Address: PO Drawer 192, Boone, NC 28607Phone Number: 828-268-6200 Email Address: planning@townofboone.net**B. TEXT INFORMATION**

Amendment is to:

Article(s): 15Section(s): 1.07

Brief Description of Amendment (Attach Proposed Text):

Modification of UDO Article 15 to allow Government Use Recreation Facilities in the M1 Manufacturing Zoning District.
 Amendments may also be made to other Articles to conform them to changes made in this Article.

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

Jane Shook
Applicant (Print)

/S/ Jane Shook
Applicant Signature

February 27, 2018
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
02/27/2018	\$0	NA	NA	NA

Hearing/Decision InformationPublic Hearing Meeting Date: March 26, 2018PC Meeting Date: March 26, 2018TC Meeting Date: April 19, 2018Text Approved: ☐ Yes ☐ No

Notes:

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

Communication: PL01341-022718 Government Recreation Facilities in M1 - Application (Case PL01341-022718 Government Use Recreation



STAFF REPORT

PUBLIC HEARING-MARCH 26, 2018

CASE PL01341-022718 GOVERNMENT RECREATION USES IN M1- UDO TEXT AMENDMENT

Request

At the February 2018 Council Meeting, Council requested modification to UDO Article 15 to allow Government Use Recreation Facilities in the M1 Manufacturing Zoning District. Council requested this amendment be sent to the March 2018 Public Hearing.

ANALYSIS

The text in [blue underline](#) on the next page is the new text for consideration. Staff has provided below the definitions for the different recreation facility uses which are proposed to be allowed in the M1 Manufacturing Zoning District.

UDO Article 34 Definitions

...

RECREATION FACILITY , CATEGORY 1. A facility in which regularly scheduled recreation activities take place within completely enclosed buildings.

RECREATION FACILITY , CATEGORY 2. A facility providing outdoor space in which regularly scheduled recreation activities take place, and which does not utilize outdoor event lighting.

RECREATION FACILITY , CATEGORY 3. A facility providing outdoor space in which regularly scheduled recreation activities take place, and which utilizes outdoor event lighting.

...

Article 15, District Use Requirements

15.07 Table of principal uses. (Excerpt of Use Category 5.0 Government Uses)

...

Use #	Principal 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
5.0 Government Uses																			
5.04	Recreation facility Category 1	P							P	P	P	P	P	P					
5.05	Recreation facility Category 2	P	P	P	P	P	P	P	P	P	P	P	P	P					
5.06	Recreation facility Category 3	P ^{T50}	S	S	S	S	S	S	S	P ^{T50}	P ^{T50}	P ^{T50}	P ^{T50}	P^{T50}					

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15): The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

...

2.1.3 Industrial Development

- A. The Town shall encourage a public service and regulatory environment conducive to light industrial development, provided that long term environmental quality considerations shall not be compromised.
- B. Industrial development shall be located on land which is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land shall be encouraged.
- C. Industrial development shall not be located in areas which would diminish the desirability of existing and planned non-industrial uses, nor shall non-industrial uses be allowed to encroach upon existing or planned industrial sites.
- D. Heavy industrial uses shall not be permitted within the zoning jurisdiction of the Town of Boone.
- E. Light industrial uses may be located in or near existing built up areas to take advantage of available services and to minimize home to work distances. Careful design and or buffering may be required to ensure compatibility with surrounding areas.
- F. Warehousing, storage and distribution facilities shall have a direct access to appropriate thoroughfares, and shall be visually buffered according to their location.
- G. New industrial developments shall be encouraged to locate in planned industrial parks.

...

2.2 INFRASTRUCTURE

...

2.2.3 Parks, Recreation & Open Space

- A. Future park development and open spaces shall be planned to provide for the rational and equitable distribution of recreation and open space opportunities within the planning area. Public facilities shall be provided to address the unmet needs of area residents lacking access to university or private recreational facilities.
- B. Financial support shall be provided to the rehabilitation, upkeep, and expansion of existing facilities first, and to new facilities second.
- C. In determining future sites for park, recreation and open space facilities, multiple objectives for natural area conservation, visual enhancement, promotion of cultural and historic preservation, watershed and flood prone area protection shall be considered.

- D. Land acquisition for new recreation sites in advance of need shall be encouraged to achieve desirable locations at cost effective levels.
- E. Provision of open space and recreational facilities shall be encouraged in private developments and through intergovernmental and public/private partnerships.
- F. The identification and appropriate development of a system of open space greenways within the planning area shall be encouraged for both recreational and alternative transportation purposes. The use of natural corridors such as streams, floodplains, and secondarily, man-made corridors such as utility and transportation rights-of-way and easements shall be emphasized. **
- G. While emphasizing programs which serve the unmet recreation needs of the greatest number of people, the Town shall strive to meet the needs of specific population subgroups, including, particularly, teenagers, the elderly and the physically challenged.

...

PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

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

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

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

TOWN COUNCIL ACTION

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

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

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

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

**PUBLIC HEARING MINUTES
MONDAY, FEBRUARY 26, 2018 AT 6:00 P.M.**

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

PLANNING COMMISSION MEMBERS: Chairman Connor Boyle, Vice Chairman Matt Vincent, Abie Bonevac, and Elizabeth Shay

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

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

CALL TO ORDER

Mayor Brantz called the Town Council to order at 6:03 p.m.

Commission Chairman Boyle called the Planning Commission to order at 6:03 p.m.

APPROVAL OF MINUTES

Mayor Pro-Tem Clawson made a motion, seconded by Council Member Ashcraft, to approve the November 27, 2017 Public Hearing minutes as written.

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

Commission Member Shay made a motion, seconded by Commission Member Bonevac, to approve the November 27, 2017 Public Hearing minutes as written.

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

CASE PL01240-122217 HOWARD ST. VENTURES LLC REZONING - GENERAL USE ZONING MAP AMENDMENT

Council Member Furguele wished to be recused from this case because he is an adjoining property owner whose property values could be affected by the outcome of this request. Council Member Mason made a motion to recuse Council Member Furguele from this case. The motion was seconded by Mayor Pro-Tem Clawson.

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

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.

Ms. Shook provided a brief description of the case and introduced Attorney Tucker Deal to outline the request.

Tucker Deal, attorney for the applicant, explained that the request was to return the properties that were granted a Planned Development approval in June 2016 back to the original zoning of B-1. Mr. Deal cited UDO Section 9.10.08 which states *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.* He stated that the property owner had tried numerous things to make this project work but it had become infeasible, thus the request to return the property to B-1. Mr. Deal stated that returning the property to a B-1 zoning would be in conformity with the surrounding properties as well as the adopted plans of the Town.

With no questions or public comment, Mayor Brantz closed the public hearing for this case at 6:08 p.m.

Council Member Mason made a motion to have Council Member Furguele return to the meeting. The motion was seconded by Mayor Pro-Tem Clawson.

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

CASE PL00981-092517 BEE HIVE REGULATIONS - UDO TEXT AMENDMENT

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.

Ms. Shook presented the case as outlined in the meeting packet and explained that these text changes would allow up to 5 hives per parcel, incorporate some additional regulations, and further define bees and hives.

Mayor Brantz asked if these regulations would make it difficult for the Town to become a Bee City. Ms. Shook felt the text would be an enhancement instead of an impediment.

Council Member Ulmer asked why the text was proposed. Ms. Meade replied that it was a requirement of State law.

Council Member Mason asked if the proposed text was taken from other model ordinances. Ms. Shook responded that the text was taken directly from State law.

Council Member Furguele asked if this was the same text that came before the Sustainability Committee. Ms. Shook replied that she believed it to be the same text. Council Member Furguele stated it was his recollection that the Sustainability Committee endorsed the idea. Ms. Shook stated that was correct.

Mayor Brantz asked what a bait hive was. Ms. Shook explained that a bait hive was an alternative place for bees to swarm to besides the original hive.

Commission Chairman Boyle asked why there was no reference to the 2030 Land Use Plan in the staff report. Ms. Shook replied that staff reports for text amendments usually do not have references to the 2030 Plan due to their lack of relevance with the 2030 Plan.

With no further questions or public comment, Mayor Brantz closed the public hearing on this case at 6:13 p.m.

CASE PL01265-011618 PLANNED DEVELOPMENT PROCESS - UDO TEXT AMENDMENT

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.

Ms. Shook presented the case as it was outlined in the meeting packet.

Council Member Furguele asked when the Planned Development text was adopted. Ms. Shook replied that she did not recall. General consensus was that the text was adopted in 2015. Council Member Furguele asked how many PD applications had been received since the text was adopted. Ms. Shook stated there had been 3 applications; Marketplace, Rivers Walk, and King & College. Mr. Ward added that there had been 2 or 3 others who had attempted to go through the Planned Development process but stopped after the neighborhood meetings due to the input they received at those meetings.

Council Member Furguele asked if a Planned Development essentially created a one of a kind zoning district with no restrictions to building heights and setbacks without having to obtain any variances. Ms. Shook stated that was correct, unless it was to a standard set forth by the state such as an environmental standard. Council Member Furguele asked if this essentially amounted to spot zoning because the Planned Development did not necessarily have to relate to surrounding properties. Ms. Shook replied that it would be a unique zoning district specific to that project that wouldn't necessarily have to meet the same standards that the properties around it meet. Council Member Furguele stated that PD's were legislative decisions and not decisions by the Board of Adjustment.

Council Member Furguele noted the 3 applications for Planned Development that had been received and asked how many of the neighborhood meetings staff attended. Ms. Shook stated that Planning staff did not attend any of the neighborhood meetings. Council Member Furguele asked if it was accurate to say that staff had no knowledge of whether or not the information reported regarding the course and outcome of the neighborhood meetings was accurate. Ms. Shook stated that was correct.

Council Member Furguele asked Ms. Meade if the courts viewed the Planned Development zoning as spot zoning. Ms. Meade replied that most commentators feel the PD plan is lawful and the way the UDO is worded gives Town Council the responsibility of making sure the PD does not become spot zoning. Ms. Meade explained that PD's were supposed to be designed to produce a product that was substantially better than what the underlying zoning would allow and felt the notion that Planned Developments were independent of their original zoning was not accurate.

Council Member Furguele mentioned the requirements to request a PD. Ms. Shook replied that there were 2 ways to qualify; 1) a minimum 3 acres lot size, or 2) create a mixed-use development containing both commercial and residential, on any size lot. Council Member Furguele asked if a mixed-use project could get a PD on a 1/8 acre lot in a neighborhood. Ms. Shook stated they could make application and approval would be up to Town Council. Council Member Furguele felt this could allow a development that did not resemble the character of the projects surrounding uses.

Commission Chairman Boyle asked why Town Council wanted to remove the Planned Development process from the UDO. Council Member Furguele replied that he proposed the repeal and while he was not against some of the aspects of the process he felt some aspects, such as the neighborhood meetings, were defective. Council Member Furguele felt the PD process was way too broad and the controls were not adequate to prevent people from abusing the process. He thought the process could be very destructive to surrounding neighbors. Council Member Furguele stated the PD process may still be a good idea for certain larger properties and was not against incorporating some of the regulations into the UDO.

Mayor Pro-Tem Clawson stated she never liked the PD process and noted that Town Council does not have the same level of expertise at reviewing plans and projects as the Board of Adjustment.

Commission Chairman Boyle stated he thought the PD process was a valuable tool and asked why the Town couldn't work with it instead of scrapping it. Council Member Furguele replied that he wanted it off the books before anything else could sneak in. Commission Chairman Boyle pointed out that Town Council did not have to approve a project if it felt the project was not a good fit or inappropriate for the area. Council Member Furguele replied that was not the point.

Council Member Ashcraft asked Council Member Furguele if there were alternatives that could change his mind about the PD process such as increasing the minimum lot size to 10 acres. Council Member Furguele responded that he did not want to just monkey around the edges. He went on to say that members of the public have told him they are unhappy with the types of development in this town.

Council Member Mason stated that some developers have probably used the PD process as a loophole to get the type of development they want and suggested that maybe the PD process was not refined well enough when it came to how neighborhood meetings should occur.

Commission Member Bonevac suggested have the Planning Commission meet with Planning staff to reconcile the language instead of repealing it. She felt a repeal of the PD process would hurt the rights of citizens to develop a unique project. Council Member Furguele stated there could be 9 good projects and 1 bad project but 1 bad project was too many. He suggested the Town hire a Public Advocate that could provide other aspects of a project that the developer would not provide. Council Member Furguele felt

the PD process should be repealed, the process should then be reviewed, and relevant parts should be incorporated into the UDO or a reconfigured PD process should be created.

Mayor Brantz called for public comment.

The first speaker was Pam Williamson. Ms. Williamson stated she is a Town resident and had been a neighborhood advocate for over 30 years, attending many Town and County meetings. She felt the PD process took away the predictability of Town zoning and what was substantially better for one person may not be substantially better for others. Ms. Williamson felt that PD's provided loopholes for developers. She stated that the Board of Adjustment provided ample opportunity for neighbors to make their case and be heard. Ms. Williamson suggested incorporating neighborhood meeting requirements into the UDO but felt the minutes of the neighborhood meetings should not be taken by the developers. Ms. Williamson stated she was not opposed to PD's on large tracts of land. She stated it was hard to fight a legislative decision but Board of Adjustment decisions can be fought in court. Ms. Williamson asserted that neighborhoods and people who wanted to protect their property did not need a free form code.

The next speaker was Tucker Deal. Mr. Deal stated he lives in a neighborhood with an approved PD (King & College) and also provided legal representation for that PD. Mr. Deal noted that the property owners spent over a year speaking with neighbors and incorporating their ideas into their plan and he felt this would be a successful Planned Development in the Town.

Council Member Ulmer stated this was a personal issue to a lot of people. She questioned if citizens of Boone wanted to be a quaint town or a city. Council Member Ulmer thought a repeal of the Planned Development process should not be considered a dismissal but a reprieve in order to create a revised plan with clarity.

With no further comments, Mayor Brantz closed the public hearing for this case at 7:24 p.m. and called for a break until 7:33 p.m.

CASE PL01298-020218 REMOVAL OF BOONE 2030 LAND USE PLAN REFERENCES - UDO TEXT AMENDMENT

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.

Ms. Shook presented the case as it was outline in the meeting packet. She explained that this case was placed on the agenda in the event that Town Council voted to repeal the Boone 2030 Land Use Plan at their February meeting. Ms. Shook stated that Town Council decided to defer consideration of whether to repeal the Boone 2030 Land Use Plan until their March meeting.

Mayor Brantz asked if the 2030 Plan should be repealed before the Comprehensive Plan revisions were complete.

Ms. Meade noted that adopted plans do not require public hearings, which provided more flexibility for legislative changes when issues or problems occurred. Council Member Furguele stated it was staggering to him that an adopted plan could be amended on a dime.

Council Member Furguele asked Ms. Shook if it was possible to have inconsistencies between the UDO and the 2030 Plan. Ms. Shook replied that it was possible. Council Member Furguele expressed concern that developers would use this plan as a means to sue the town and his role was to help protect the Town's money. He felt it was problematic to have numerous different plans that are not combined or well known.

Ms. Meade felt that even though there were various adopted plans, some plans, such as the Comprehensive Plan, carry more weight than others.

Vice Chairman Vincent left the meeting at 8:00 p.m. Quorum of the Planning Commission was discussed. Mr. Ward explained that the Planning Commission had quorum at the beginning of the meeting so they could continue the remainder of the meeting as though they still had quorum.

Commission Member Shay felt it was helpful to know that the Comprehensive Plan has priority over other plans.

Commission Chairman Boyle asked why the Town wanted to repeal the 2030 Plan and not all the other plans. Council Member Furguele replied that he did not even know all of the plans the Town had adopted but did know that developers were referencing compliance with the 2030 Plan over compliance with the UDO when trying to get their projects approved. Commission Member Shay asked why developers reference the 2030 Plan so much. Ms. Meade replied that the 2030 Plan and the Comp Plan were the main plans of the Town. Commission Member Shay wondered if, while relying only on the 2006 Comprehensive Plan, there was something they would be missing from a repealed 2030 Plan.

Council Member Ashcraft asked if Town Council gave any direction about what parts to include or remove from the Comprehensive Plan and 2030 Land Use Plan merged document. Ms. Shook explained that the merger was only to remove any inconsistencies between the two documents and make them more cohesive.

Council Member Furguele stated that when the Town lost the ETJ it impacted the 2030 Plan because a lot of the basis for some parts of the document were dependent upon the ETJ and were no longer relevant. He further stated that the Town can only control 10-20% of the stormwater coming into the valley floor and the Town cannot be protected from consequences of high density development.

Council Member Mason felt that encouraging density within the Town helped to discourage urban sprawl.

Commission Chairman Boyle stated that the 2030 Plan addressed smart growth, walkability, stormwater, etc. and he did not want the Plan repealed. He questioned who chose what the good parts of the Plan were and stated if the Town does not build up it will force sprawl. Commission Chairman Boyle felt strongly that the Town needed to work with ASU to address housing for students as enrollment was only expected to increase.

Council Member Ulmer agreed that the Town and ASU needed to have more conversations and indicated the system was at fault, not ASU.

Commission Member Bonevac asked how much money and time were put into developing the 2030 Plan. Ms. Shook responded that she did not know the amount of money spent but felt it was roughly a year long process to develop.

Mayor Brantz called for public comment.

Pam Williamson spoke, stating she attended the Charrettes for the 2030 Plan and loved the process but felt there were major inconsistencies in the Plan. She asked if the Town wanted higher density, growth, increased traffic, tall buildings, no setbacks, and the loss of our beautiful corridors. Ms. Williamson felt the Plan should be revisited and the desires of the citizens should be prioritized so that the good parts of the Plan could be kept.

Council Member Furguele asked Ms. Williamson what type of people participated in the Charrettes. Ms. Williamson replied that there were a lot of people from the ETJ, developers, and neighborhood people. She estimated there were 3-4 residents to every developer.

Council Member Ashcraft stated he had read every word of the 2030 Land Use Plan and there was heavy emphasis on sustainability, walkability, and it reflected a lot of the values of the Town.

Commission Member Shay questioned why the 2030 Plan should be repealed when so many poor projects were built under the UDO. Council Member Furguele expressed concern with the potential that arose from the State law change that could allow someone to sue the Town and that was his motivation for acting quickly to repeal the 2030 Plan. He stated he was not against incorporating the good parts of the Plan into the UDO, once they had been identified.

ADJOURNMENT OF TOWN COUNCIL

Mayor Pro-Tem Clawson made a motion to adjourn Town Council at 8:47 p.m. The motion was seconded by Council Member Furguele.

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

Mayor Rennie Brantz

Board Secretary Brenda Henson

Planning Commission Chairman Connor Boyle

At 8:51 p.m. Commission Chairman Boyle proceeded with the business of the Planning Commission.

APPROVAL OF PLANNING COMMISSION MEETING MINUTES

Commission Member Shay made a motion, seconded by Commission Member Bonevac, to approve the December 18, 2017 Planning Commission meeting minutes as written.

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

CASE PL01240-122217 HOWARD ST. VENTURES LLC REZONING - GENERAL USE ZONING MAP AMENDMENT

Commission Member Bonevac asked if there was even a choice for this property to revert back to its original zoning of B-1 if the PD process was going to be repealed. Commission Chairman Boyle stated that this Planned Development had expired. Ms. Shook replied that their PD was not expired and further explained that a repeal of the Planned Development process would prevent someone new from making application but would not affect any existing, approved Planned Developments.

First Motion and Vote

Commission Member Shay made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it simply follows the provisions of the rule that when a Planned Development expires the property reverts back to B-1. The motion was seconded by Commission Chairman Boyle.

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

Second Motion and Vote

Commission Member Bonevac made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning ordinance and believes approval is reasonable and in the public interest because the applicant is joining the surrounding land use as B-1 and meets all approved plans. The motion was seconded by Commission Member Shay.

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

CASE PL00981-092517 BEE HIVE REGULATIONS - UDO TEXT AMENDMENT

Commission Member Shay recapped that this request would allow one more hive, require the hives be secured at ground level or on a stand, and require that unattended or inactive hives be removed. Commission Chairman Boyle stated that all of these changes seemed good.

First Motion and Vote

Commission Chairman Boyle made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it provides habitat for pollinators which are a critical component of the world in which we live and it aligns with the Comprehensive Plan policy 2.1.4 Agricultural and Rural Development. The motion was seconded by Commission Member Shay.

Vote: Aye – All

Nay – None
The motion passed.

Second Motion and Vote

Commission Member Shay made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning ordinance and believes approval is reasonable and in the public interest because of the reasons noted above in the first motion and vote. The motion was seconded by Commission Chairman Boyle.

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

CASE PL01265-011618 PLANNED DEVELOPMENT PROCESS - UDO TEXT AMENDMENT

There was some discussion about voting after Vice Chairman Vincent left the meeting and Ms. Shook advised the Commission that they could vote and Vice Chairman Vincent's vote would be counted with the majority vote.

Commission Member Shay admitted she was struggling with the PD. She stated it sounded as if there were specific concerns that should be focused on, like where it impinges on neighborhoods. Commission Member Shay stated if you had a large lot and you were doing mixed-use and adding a residential component, it would be different than this same project happening in a smaller area that would impinge on neighborhoods. She felt this was what was a main concern of Town Council. Commission Member Shay stated she did not really know how she felt about repealing the PD process.

Commission Chairman Boyle stated he agreed with what Commission Member Shay said but did not agree with striking the whole thing out of the UDO and eliminating the Planned Development process even temporarily. He mentioned the reference to a mixed-use project being built on a 1/8 acre lot and, while this was possible, it has not happened. Commission Chairman Boyle stated that there was some risk associated with the Planned Development process, Town Council still had the final decision on the project approval. Commission Chairman Boyle noted that nothing was infallible and asked how many times the text had been revised. Ms. Shook replied that the text had been revised once or twice. Commission Chairman Boyle stated you would expect there to be revisions as you go along on something of this scale. He felt the PD should not be repealed but would recommend it be taken a look at by people who are impartial and not just throw it away. Commission Chairman Boyle stated the PD process provided flexibility for challenging lots and felt it was a good tool.

Commission Member Bonevac stated she was thinking of the Industrial Park allowing uses that were not industrial as a way to help support revenue when she thought of Planned Developments.

Commission Member Shay asked if the Commission would be comfortable with a motion that said something like the Planning Commission recognizes some of the shortcomings but also the benefits the PD offers and recommends that Town Council get an expert analysis on how to fine tune it to best serve the Town's purposes. She stated that might mean looking at residential versus commercial and industrial, looking at applying this to only larger projects, and other considerations that would make this a better and accurate tool for the Town's purposes without tossing out something that is beneficial.

Commission Chairman Boyle agreed that he would like to have someone analyze it and go through the “what if” scenarios in order to determine the worst thing that could happen in a given development situation. He stated he would also like to look back at projects that were approved for PD’s and projects that were not approved to see what could have been done to improve the projects.

Mr. Ward noted that the King & College PD garnered neighborhood support and was approved unanimously by Town Council. Ms. Shook noted there was some neighborhood concern, nothing really strong but there were questions. Commission Chairman Boyle felt this was a difficult lot and the PD process allowed them to do their development rather than having to go to the Board of Adjustment

Commission Member Shay stated she rejected the idea that all neighborhood meetings had to be positive. She felt they could flush out negative feelings and comments and suggested that unproductive and contentious meetings could be a part of the whole check on things. Commission Member Shay stated the neighborhood meetings give neighbors the sense that they have gotten to participate in the process beforehand instead of seeing something being built that they did not get to have input on and she contended that even an unpleasant process could be useful.

Commission Member Bonevac liked the idea of having an unbiased third party attend the neighborhood meetings in order to provide an accurate report of what took place.

Commission Member Bonevac asked if Commission members were all in agreement. Commission Chairman Boyle stated he was in agreement to deny the repeal and recommend that the PD process be looked at more closely.

First Motion and Vote

Commission Member Shay made a motion that the proposed amendment to the Town’s zoning ordinance is not consistent with the Town’s comprehensive plan and any other adopted plan(s) of the Town that are applicable because it does not honor the spirit of Comprehensive Plan policy 2.1.1 Economic Development in regards to enhancing the area’s physical and human resources. The motion was seconded by Commission Chairman Boyle.

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

Second Motion and Vote

Commission Member Shay made a motion that the Planning Commission recommends denial of the proposed amendment to the Town’s Zoning ordinance and believes denial is reasonable and in the public interest because the Town would be better served by an analysis on how to maintain the best features of the PD and analyze weaknesses that could result in universally unfavorable development. She added that completely eliminating the PD process could be more detrimental than the potential benefits of retaining the text. The motion was seconded by Commission Chairman Boyle.

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

CASE PL01298-020218 REMOVAL OF BOONE 2030 LAND USE PLAN REFERENCES - UDO TEXT AMENDMENT

Because Town Council has not acted on the repeal of the Boone 2030 Land Use Plan, Commission members felt they would rather wait until that time to make their recommendations on the removal of references to the Plan from the UDO.

Commission Chairman Boyle made a motion to table this agenda item until the March Planning Commission meeting. The motion was seconded by Commission Member Shay.

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

ELECTION OF OFFICERS

Due to the fact that there were only 3 members of the Planning Commission present at this time, Commission members agreed they would rather elect officers when there were more members present.

Commission Chairman Boyle made a motion to table election of officers until the March Planning Commission meeting when more members could be present. The motion was seconded by Commission Member Bonevac.

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

ADJOURNMENT OF PLANNING COMMISSION

Commission Chairman Boyle made a motion to adjourn the meeting at 9:40 p.m. The motion was seconded by Commission Member Shay

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

Planning Commission Chairman Connor Boyle

Board Secretary Brenda Henson

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

Applicant (Print)

/s/ Jane Shook

Applicant Signature

February 2, 2018

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 References - 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:

- 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:

- 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.

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.

(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.

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.

PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

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

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

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

TOWN COUNCIL ACTION

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

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

Second Motion and Vote: The Town Council ☐approves OR ☐denies the proposed amendment to the Town's Zoning ordinance and believes ☐approval OR ☐denial is reasonable and the public interest

because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

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