

Town of Boone
Town Council/Planning Commission
Public Hearing
5:30 PM, May. 2, 2016
Council Chambers, 1500 Blowing Rock Road

I. () **Call to Order**

II. () **Case 20160058 Modern Automotive General Use Zoning Map Amendment**

 () Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use Zoning Map Amend Petition to rezone the R3 Multi-Family Residential portion of 185 and 225 Modern Drive to B3 General Business.

 () Modern Automotive Application Information and Staff Report

III. () **Case 20160027 Protest Petition Removal**

 () Amend UDO Articles 1 and 9 to remove reference to "Protest Petitions"

 () Protest Petition Removal Application Information and Staff Report

IV. () **Case 20160028 Fire Code Coordination**

 () Amend UDO Article 23 to bring street and driveway standards into compliance with the NC Fire Code.

 () Fire Code Coordination Application Information and Staff Report

V. () **Case 20160178 Planned Development Modification**

 () Amend UDO Article 9 to modify who the applicant must invite to the neighborhood meeting and the place of the meeting.

 () Planned Development Modification Application Informatin and Staff Report

VI. () **Case 20160222 Unlisted Uses**

 () Amend UDO Articles 2 and 15 to add catch-all for uses not listed in the Table of Uses and provide for evaluation of unlisted uses; modify "Recreation" table title and add 12.13 Motor Vehicle Racing/Speedway to Table of Principal Uses as a prohibited use.

 () Unlisted Uses Application Information and Staff Report

VII. () **Case 20160224 Tree Board Removal**

() Amend UDO Article 2 to remove the "Tree Board" from the UDO and modify the powers and duties of the "Community Appearance Commission".

() Tree Board Removal Application Information and Staff Report

VIII. () Case 20150149 Public Hearing Process Change

() Modify UDO Article 9 with respect to the hearing, review and approval process for UDO text amendments and Zoning Map amendments (including PD and CD applications).

() Public Hearing Process Change Application Information and Staff Report

IX. Adjournment

20160058

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

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

A. CONTACT INFORMATION

Applicant: Jerry Hollifield, CFO Company: Modern Automotive Network
Address: 3901 Westpoint Blvd Winston-Salem, NC 27103
Phone Number: 336-448-2977 Email Address: jhollifield@modernauto.com
Property Owner: Modern Real Estate Investors, LLC Company: _____
Address: 3901 Westpoint Blvd Winston-Salem, NC 27103
Phone Number: 336-448-2977 Email Address: jhollifield@modernauto.com

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): 2911-70-6621-000
Address/Location: Modern Drive Boone, NC
Project Name: Modern Auto Rezoning

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

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

Board of Adjustment Hearings

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

Planning/Other

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

D. DETAILED DESCRIPTION OF PROJECT

Rezone a 3-acre portion of the property from R-3 to B-3 so the whole 12 acre property is in a single zoning district

E. PROJECT MANAGER DESIGNATION

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

Name: Jerry Hollifield, CFO

Company: Modern Automotive Network

Address: 3901 Westpoint Blvd Winston-Salem, NC 27103

License #: _____

Phone Number: 336-448-2977

Email Address: jhollifield@modernauto.com

F. DESIGN PROFESSIONAL INFORMATION**Engineer:**

Name: Alan J. Crees

Company: Municipal Engineering Services

Address: PO Box 349 Boone, NC 28607

License #: C-0281

Phone Number: 828-262-1767

Email Address: creesmesco@bellsouth.net

Architect:

Name: n/a

Company: _____

Address: _____

License #: _____

Phone Number: _____

Email Address: _____

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

JERRY HOLLIFIELD
Applicant¹ (Print)

[Signature]
Applicant Signature

1/15/16
Date

MODERN REAL ESTATE INVESTORS, LLC
Property Owner (Print)

[Signature] CFO
Property Owner Signature

1/15/16
Date

Official Use Only

Project File Name: General USE
Modern Auto- Rezoning

Permit Number: _____

Project Name/Number: 2016 0058

Date: 01-28-2016

Fee: \$300.00

Receipt Number: 339689

Method of Payment: ✓ #: 001209

Paid By: Modern Real Estate Investors, LLC

S:\FORMS\Forms_2015\ZoningPermitApplication_052015.doc

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

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

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

Official Use Only
Project Name/Number: <u>Modern Auto - General Use RZ</u>
Permit Name/Number: <u>20160058</u>

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

A. ADDITIONAL APPLICATION INFORMATION

Hearing Date Requested¹: May 2, 2016

B. DEVELOPMENT INFORMATION

Existing Zoning District(s): B-3 and R-3 Proposed Zoning District(s): B-3
Existing Land Use(s): Automotive Dealership
Adjacent Land Use(s): N: Undeveloped/Multi-Family E: Commercial/Multi-Family
W: Commercial/Multi-Family S: Commercial

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

If yes, describe: _____

Total Land Area: 12.230 Acres

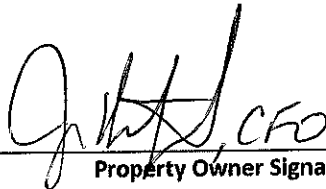
C. DOCUMENTS REQUIRED FOR SUBMITTAL

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

D. PROPERTY OWNER SIGNATURE

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

MODERN REAL ESTATE INVESTMENTS, LLC
Property Owner (Print)

 CFO
Property Owner Signature

1/15/16
Date

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

Official Use Only

Public Hearing Meeting Date: 5.2.16

PC Meeting Date: 5.9.16

TC Meeting Date: 5.19.16

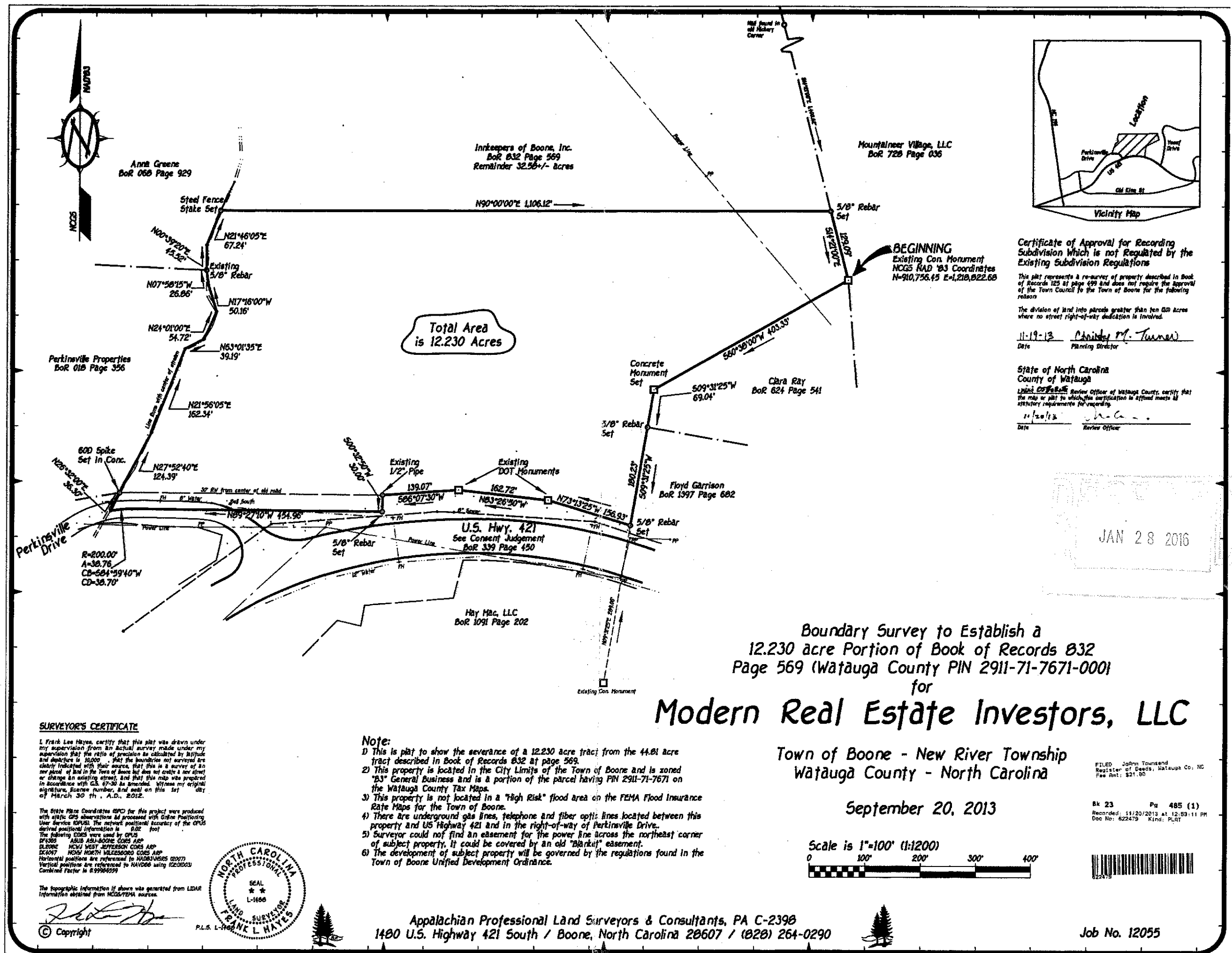
Date of APO Mailed Notification: _____

Date of Posted Notification: _____

Project Approved: ☐ Yes ☐ No

Date Order Recorded: _____

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



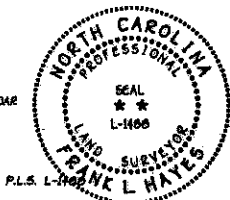
SURVEYOR'S CERTIFICATE

I, Frank Lee Hayes, certify that this plat was drawn under my supervision from an actual survey made under my supervision that the ratio of precision as calculated by latitude and departure is 1/10000. That the boundaries not surveyed are clearly indicated with their source, that this is a survey of an new parcel of land in the Town of Boone but does not create a new street or change an existing street; and that this map was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, license number, and seal on this 31st day of March 30th, A.D., 2012.

The State Plane Coordinates (SPC) for this project were produced with static GPS observations and processed with Online Positioning User Service (OPUS). The network positional accuracy of the OPUS derived positional information is 0.02 feet. The following codes were used by OPUS: D15000 ABUS ABUS-BOONE CODES ARP D15000 NCW WEST JEFFERSON CODES ARP D15000 NCW NORTH WILKESBORO CODES ARP D15000 NCW SOUTH WILKESBORO CODES ARP. Horizontal positions are referenced to NAD83/VN02S (2007). Vertical positions are referenced to NAVD83 using IZ20023. Combined Factor is 0.999962591.

The topographic information if shown was generated from LIDAR information obtained from NCOS/DEM sources.

Frank Lee Hayes
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Note:

- 1) This is plat to show the severance of a 12.230 acre tract from the 44.81 acre tract described in Book of Records 832 at page 569.
- 2) This property is located in the City Limits of the Town of Boone and is zoned "B3" General Business and is a portion of the parcel having PIN 2911-71-7671 on the Watauga County Tax Maps.
- 3) This property is not located in a "High Risk" flood area on the FEMA Flood Insurance Rate Maps for the Town of Boone.
- 4) There are underground gas lines, telephone and fiber optic lines located between this property and US Highway 421 and in the right-of-way of Perkinsville Drive.
- 5) Surveyor could not find an easement for the power line across the northeast corner of subject property. It could be covered by an old "Blanket" easement.
- 6) The development of subject property will be governed by the regulations found in the Town of Boone Unified Development Ordinance.

Appalachian Professional Land Surveyors & Consultants, PA C-2398
1480 U.S. Highway 421 South / Boone, North Carolina 28607 / (828) 264-0290

Boundary Survey to Establish a
12.230 acre Portion of Book of Records 832
Page 569 (Watauga County PIN 2911-71-7671-0001)
for

Modern Real Estate Investors, LLC

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

September 20, 2013

Scale is 1"=100' (1:1200)
0 100' 200' 300' 400'

FILED JoAnn Townsend
Register of Deeds, Watauga Co., NC
Fee Amt: \$21.00

Bk 23 Pg 485 (1)
Recorded: 11/20/2013 at 12:53:11 PM
Doc No: 622479 Kind: PLAT



Job No. 12055

**STAFF REPORT
MAY QUARTERLY PUBLIC HEARING
MAY 2, 2016**



CASE 20160058 MODERN AUTOMOTIVE GENERAL USE ZONING MAP AMENDMENT

Request

Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use Zoning Map Amendment Petition for the property located at 185 and 225 Modern Drive to rezone the R3 Multi-Family Residential portion of the lot to B3 General Business. (Watauga County PIN: 2911-70-6621-000)

Analysis

Access: Modern Drive (private), off of Perkinsville Drive (town maintained)

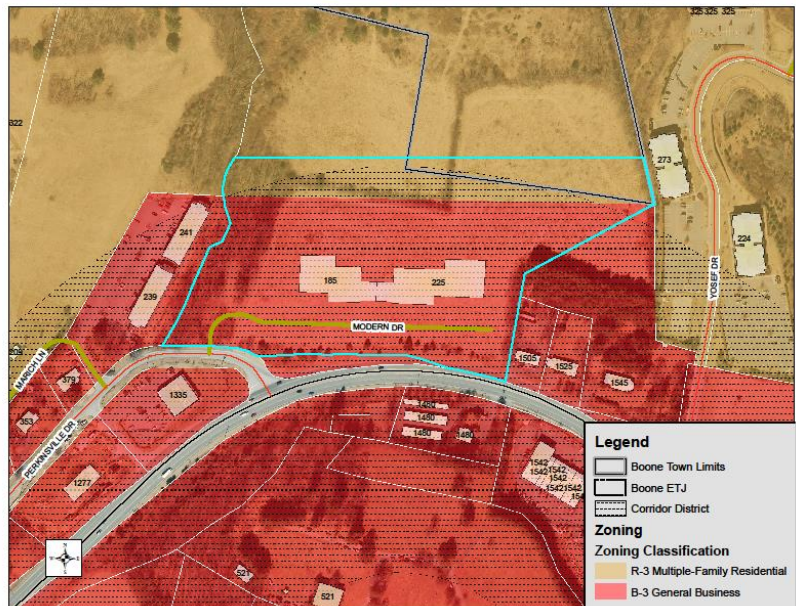
Current Use: 11.27 Vehicle Sales and Service

Zoning: B3 General Business, R3 Multi-Family Residential, Corridor District

Zoning District Descriptions:

R3: The R3 Multiple-Family Residential District is established to provide a high density area consisting of three or more dwelling units per lot plus limited service use. The regulations for this district are designed and intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment in which to live and provide for compatible and disruptive activities that properly belong in nonresidential districts.

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



Zoning & Use of Adjacent Properties		
	Zoning	Land Use
North	R3 Multi-Family	vacant
East	B3 General Business, R3 Multi-Family	Personal Service Establishment, Multi-family
South	B3 General Business	Retail, Office, Storage
West	B3 General Business, R3 Multi-Family	Multi-family

Permissible Uses

UDO Article 15, Section 15.07 contains the Table of Principal Uses, which should be read in conjunction with the definition of terms set forth in UDO Article 34. Below is a comparison of the uses allowed in the R3 and B3 zoning districts.

15.07 Table of Principal Uses

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
1.0 Household Living				
1.01	Single-Family Dwelling			
1.02	Manufactured Home “Class A”			15.08
1.03	Manufactured Home “Class B”			15.08
1.04	Manufactured Home “Class C”			
1.05	Manufactured Home Park			15.09
1.06	Duplex (one duplex building per lot)	P		
1.07	Duplex (more than one duplex building per lot)	L		15.10
1.08	Townhouse (up to 30 bedrooms)	L ^{T50}		15.10
1.09	Townhouse (31-100 bedrooms)	L ^{T75}		15.10
1.10	Townhouse (> 100 bedrooms)	L ¹²⁵		15.10
1.11	Multi-Family Dwelling (up to 30 bedrooms)	L ^{T125}		15.10
1.12	Multi-Family Dwelling (31-100 bedrooms)	L ^{T200}		15.10
1.13	Multi-Family Dwelling (> 100 bedrooms)	L ^{T300}		15.10
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)		L	15.11
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)		L ^{T125}	15.11
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)		L ^{T200}	15.11
2.0 Group Living				
2.01	Family Care Home	L		15.13
2.02	Family Care Institutions			15.14
2.03	Halfway House, Category 1			15.14
2.04	Halfway House, Category 2			15.14
2.05	Nursing Care Home	L	L	15.14
2.06	Nursing Care Institution		L ^{T125}	15.14
2.07	Skilled Nursing Facility		L ^{T300}	15.14
2.08	Retirement Community, Category 1	L		15.15
2.09	Retirement Community, Category 2	L ^{T200}		15.15
2.10	Residence Hall, Category 1	L	L	15.15
2.11	Residence Hall, Category 2	L ^{T200}	L ^{T200}	15.15
2.12	Residence Hall, Category 3		L ^{T300}	15.15
2.13	Fraternity or Sorority Dwelling	S ^{T300}		15.16
2.14	Boarding House	L	L	15.17
3.0 Transient Living				
3.01	Home for Survivors of Domestic Violence			15.18
3.02	Shelter for Homeless, Category 1	L ^{T50}	L ^{T50}	15.19
3.03	Shelter for Homeless, Category 2	L ^{T300}	L ^{T300}	15.19
3.04	Bed and Breakfast, Category 1			15.20
3.05	Bed and Breakfast, Category 2		L ^{T125}	15.20
3.06	Vacation Rental	L ^{T75}	L ^{T75}	15.21
3.07	Motel		p ^{T300}	
3.08	Hotel		p ^{T200}	

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
4.0 Institutional Uses				
4.01	Airport/Landing Strip			15.22
4.02	Heliport			15.22
4.03	Funeral Home Establishment		P	
4.04	Cemetery	P	P	
4.05	Post Office		P	
4.06	Post Office, Distribution			
4.07	Animal Sanctuary			
5.0 Government Uses				
5.01	Government Cultural Facility		P	
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	P	P	
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity		P	
5.04	Recreation Facility, Category 1	P	P	
5.05	Recreation Facility, Category 2	P	P	
5.06	Recreation Facility, Category 3	S	P ^{T50}	
5.07	Event Venue, Category 1		P	
5.08	Event Venue, Category 2		P	
5.09	Event Venue, Category 3		P ^{T50}	
5.10	Landfill			
5.11	Solid Waste Processing			
5.12	Police Substation	P	P	
5.13	Utility Facility, Town	L	L	15.23
5.14	Utility Facility, Government, Neighborhood	L	L	15.23
5.15	Utility Facility, Government, Regional		L ^{T300}	15.23
5.16	Government Facility	P	P	
6.0 Non-Government Utility Facility				
6.01	Utility Facility, Neighborhood	L	L	15.23
6.02	Utility Facility, Regional		L ^{T300}	15.23
7.0 Telecommunications				
7.01	Antenna Collocation on Existing Wireless Support Structure not requiring additional accessory equipment	P	P	
7.02	Antenna Collocation on Existing Wireless Support Structure requiring additional accessory equipment	L	L	15.24
7.03	Building Mounted Antenna not requiring additional accessory equipment	L	L	15.24
7.04	Building Mounted Antenna requiring additional accessory equipment		L	15.24
7.05	Antenna Collocation on Electrical Transmission Towers	L		15.24
7.06	Other Antenna		L	15.24
7.07	Wireless Support Structure which meets district height requirements	L	L	15.24
7.08	Stealth Wireless Facility which exceeds district height requirements	S	L	15.24
7.09	Wireless Support Structure which does not meet district height requirements up to and including 120’			15.24
7.10	Other Tower that exceeds 120’ in height			15.24
7.11	Emergency Response Communication Antenna	P	P	
8.0 Assembly				
8.01	Religious Assembly, Category 1	P	P	
8.02	Religious Assembly, Category 2	P ^{T125}	P	
8.03	Religious Assembly, Category 3		P ^{T200}	
8.04	Club/Lodge, Category 1		P ^{T75}	

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
8.05	Club/Lodge Which Does Not Serve Alcohol		P	
9.0 Education				
9.01	Appalachian State University			
9.02	Caldwell Community College and Technical Institute			
9.03	Other Public Colleges and Universities			
9.04	Private Colleges and Universities		pT300	
9.05	Trade School		pT200	
9.06	High School			
9.07	Elementary School			
9.08	Boarding School		pT300	
9.09	All other Educational Facilities			
10.0 Daycare				
10.01	Child Daycare, Large	L	L	15.25
10.02	Child Daycare Center		L	15.25
10.03	Adult Daycare, Large	L	L	15.25
10.04	Adult Daycare Center		L	15.25
10.05	All Other Daycare			
11.0 General Sales and Service				
11.01	Kennel		L ^{T125}	15.26
11.02	Veterinary Office/Hospital with Outdoor Kennels		L ^{T125}	15.26
11.03	Veterinary Office/Hospital without Outdoor Kennels		P	
11.04	Financial Institution ≤ 5,000 ft ²		P	
11.05	Financial Institution > 5,000 ft ²		P	
11.06	Restaurant ≤ 2,500 ft ² open to the public during 10 pm – 6 am		p ^{T75}	
11.07	Other Restaurants ≤ 2,500 ft ²		P	
11.08	Restaurant > 2,500 ft ² open to the public during 10 pm – 6 am		pT200	
11.09	Other Restaurants > 2,500 ft ²		p ^{T125}	
11.10	Bar			
11.11	ABC Store		P	
11.12	Personal Service Establishment open to the public during 10 pm – 6 am		p ^{T75}	
11.13	Other Personal Service Establishments		P	
11.14	Retail Store up to 5,000 ft ²		P	
11.15	Retail Store more than 5,000 but less than 25,000 ft ²		pT200	
11.16	Retail Store 25,000 ft ² and greater		L ^{T300}	15.27
11.17	Shopping Center/Mall		S ^{T300}	15.28
11.18	Business or Professional Office open to the public during 10 pm–6 am		p ^{T75}	
11.19	Other Business or Professional Office		P	
11.20	Medical Office, Category 1		pT300	
11.21	Medical Office, Category 2		p ^{T125}	
11.22	Medical Office, Category 3		p ^{T125}	
11.23	Medical Office, Category 4		P	
11.24	Hospital			
11.25	Medical Emergency Response		p ^{T300}	
11.26	Open Air Market, Recurring		L ^{T75}	15.29
11.27	Vehicle Sales and Service		L ^{T75}	15.30
11.28	Equipment Sales and Service		L ^{T125}	15.31
11.29	Moped Sales and Service		P	
11.30	Boat or Marine Craft Sales and Service		L ^{T75}	15.32

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
11.31	Impound Lot/Towing Service		L ^{T125}	15.33
11.32	Gas Station		p ^{T125}	
11.33	Car Wash		p ^{T125}	
11.34	Seasonal Retail Activities and Amusements		P	
12.0 Recreation				
12.01	Indoor Shooting Range		L ^{T75}	15.34
12.02	Outdoor Shooting Range			
12.03	Indoor Theater		P	
12.04	Outdoor Theater		p ^{T125}	
12.05	Event Venue, Category 1		P	
12.06	Event Venue, Category 2		p ^{T125}	
12.07	Event Venue, Category 3		p ^{T200}	
12.08	Campground and Recreational Vehicle Park		L ^{T200}	15.35
12.09	Coliseum		S ^{T300}	
12.10	Recreation Facility, Category 1		P	
12.11	Recreation Facility, Category 2		p ^{T50}	
12.12	Recreation Facility, Category 3		p ^{T200}	
13.0 Agriculture				
13.01	Garden, Community	L	L	15.36
13.02	Garden, Residential	L	L	15.37
13.03	Agricultural Operation Excluding Livestock			
13.04	Agricultural Operation Including Livestock			
13.05	Swine Farm			
13.06	Confined Animal Feeding Operation (CAFO)			
13.07	Custom Slaughterhouse			
13.08	Other Slaughterhouse			
13.09	Forestry	L	L	15.38
14.0 Manufacturing				
14.01	Microbrewery		L ^{T125}	15.39
14.02	Brewpub		L ^{T125}	15.39
14.03	Brewery/Distillery		L ^{T125}	15.40
14.04	Brewery/Distillery, Other			15.41
14.05	Winery Associated with a Vineyard			15.42
14.06	Winery		L ^{T125}	15.42
14.07	Winery, Other			
14.08	Extraction of Earth Materials			
14.09	Machine/Welding Shop		L ^{T200}	15.44
14.10	Manufacturing, Other			15.45
15.0 Parking				
15.01	Parking Lot		L	15.46
15.02	Parking Structure		L	15.47
15.03	Park and Ride Lots		L	15.46
16.0 Storage				
16.01	Mini-Storage		L ^{T75}	15.48
16.02	Outdoor Storage			15.49
16.03	Warehouse			
16.04	Fuel Storage Facility		p ^{T300}	
16.05	Chemical Storage Facility			

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
17.0 Transportation				
17.01	Passenger Terminals		pT200	
17.02	Trucking or freight terminal ≤ 10,000 ft²		pT125	
17.03	Trucking or freight terminal > 10,000 ft²			
18.0 Waste Related Uses				
18.01	Recycling Drop-off Station			15.49
18.02	Recycling and Salvage			15.49
18.03	Junkyard			
18.04	Private Landfill			
19.0 Particular Activities which pose Particular Concerns about Public Health				
19.01	Electronic and Internet Gaming		S	15.50
19.02	Adult Establishments		S	15.51

15.07.01 Table of Accessory Uses

Use #	Accessory Uses	Zoning Districts		Reference
		R3	B3	
A-1	Secondary Suite	L	L	15.52
A-2	Home Occupation	L	L	15.53
A-3	Accessory Dwelling Unit	L	L	15.54
A-4	Drive-Through		L	15.55
A-5	Outdoor Display		L	15.56
A-6	Outdoor Storage		L	15.57
A-7	Outdoor Dining		L	15.58
A-8	Automated Teller Machine (ATM)		P	
A-9	Automated Teller Machine (ATM), Freestanding	L	L	15.59
A-10	Produce Stand			15.60
A-11	Poultry	L	L	15.61
A-12	Livestock, Small	L	L	15.62
A-13	Livestock, Large			15.63
A-14	Bees	L	L	15.64
A-15	Garden, Residential	L	L	15.65
A-16	Satellite receiving antennas less than 1 meter in diameter	P	P	
A-17	Satellite receiving antennas less than 2 meters in diameter		P	
A-18	Satellite receiving antennas 2 meters and greater in diameter		S	
A-19	Helistop		S ^{T300}	
A-20	Swimming pools, spas, and hot tubs	L	L	15.66
A-21	Caretaker's residence		L	15.67
A-22	Vehicular Gate	L	L	15.68
A-23	Vehicle Washing Station	P	P	
A-24	Chemical Storage Facility		p ^{T125}	
A-25	Open Air Market, Accessory	L	L	15.29
A-26	Daycare, Small	P	P	

15.07.03 Table of Temporary Uses

Use #	Temporary Uses	Zoning Districts		Reference
		R3	B3	
T-1	Temporary Care Provider Dwelling	L	L	15.69
T-2	Temporary Construction or Repair Dwelling	L	L	15.69
T-3	Temporary Construction Trailer	L	L	15.69
T-4	Temporary Mobile Medical Unit		L	15.69
T-5	Temporary Classroom		L	15.69
T-6	Temporary Portable Storage Containers			15.69
T-7	Temporary Staging		L	15.69
T-8	Temporary Non-Fixed Site Event Venue		L	15.69
T-9	Carrier on Wheels (COW)	L	L	15.69
T-10	Yard Sales	L	L	15.69
T-11	Itinerant Merchant/Peddler	L	L	15.69
T-12	Open Air Market, Temporary		L	15.29

Intensity Regulations

Per UDO Section 16.01 development shall comply with the intensity regulations indicated in the Intensity Table (below) with the following exceptions (as noted in Subsection 16.01.01):

- A. Unless otherwise provided in this Ordinance, the land use intensity regulations for planned residential developments and architecturally integrated subdivisions shall apply to the development as a whole and not to individual parts thereof.
- B. A site specific development plan consisting of no other use than one (1) "single family dwelling" is not subject to the maximum floor area ratio requirements but all other intensity rules apply.
- C. In the B1 Zoning District, a minimum "Building Footprint" of fifty percent (50%) is required. All other regulations in the Intensity Table apply.
- D. In the B2 Zoning District, a development may utilize the values in the Intensity Table or may substitute a maximum "Building Footprint" of thirty percent (30%) and an open space ratio of seventy percent (70%). All other regulations in the Intensity Table apply.
- E. In the B3 Zoning District, a development may utilize the values in the Intensity Table or may substitute a maximum "Building Footprint" of thirty percent (30%) and an open space ratio of seventy percent (70%). All other regulations in the Intensity Table apply.

16.01.02 Intensity Table

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Maximum Floor Area Ratio (FAR)	Minimum Open Space Ratio (OSR)	Minimum Livability Space Ratio (LSR)	Minimum Recreation Space Ratio (RSR)	Setbacks	
								Street	Interior
R3	5,000 sq. ft.	80 ft.	64 ft.	.480	.72	.40	.062	20 ft.	13 ft.
B3	5,000 sq. ft.	50 ft.	40 ft.	.429	.71	.27	.062	20 ft.	17 ft.

Building Height Limitations

Subject to other provisions of UDO Section 16.08, building height limitations in the R-1 and B-1 shall be as follows:

Zone	Height Limitation (Feet)
R3	50 (primary) – 90 (secondary)
B3	44 (primary) – 67 (secondary)

Certificate of Mailing**Certificate of Mailing:**

I, Marlene Crosby, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on April 15, 2016.

Marlene Crosby, Administrative Support Specialist

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 cost 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.

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.
- 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.
- 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.

2.2 INFRASTRUCTURE

2.2.2 Utilities

- A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited.
- B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.
- C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.
- E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.

2.3 THE COMMUNITY

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

2.3.1 Community Appearance

- C. The significance of major roadway entrances into Boone as measures of community image and quality shall be recognized through building placement, landscape, signage and other visual improvements.

The Town, along with private property owners and developers, shall work to jointly improve the appearance and design of major street corridors.

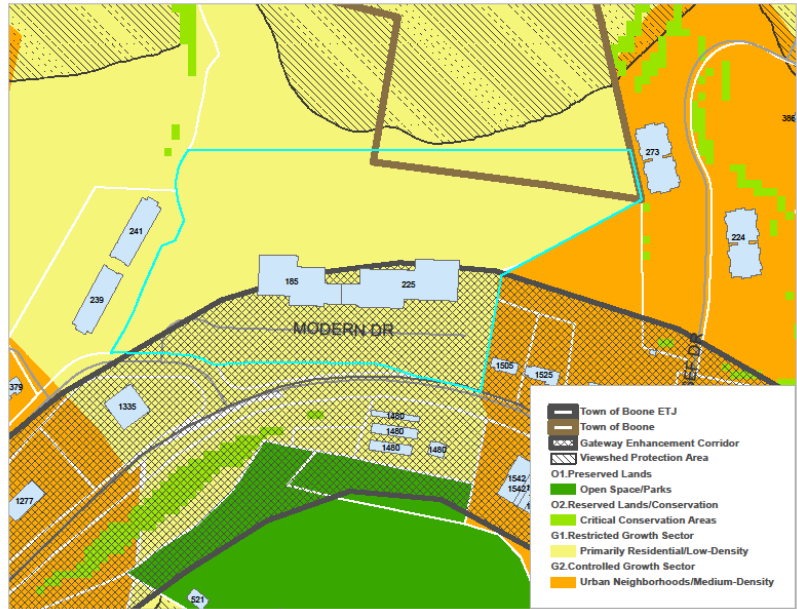
2.3.2 Community Character

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

BOONE 2030 LAND USE PLAN

This property is located within the G-1 sector (light yellow on adjacent map). The G-1 sector is intended for relatively low density residential development. This sector includes existing low-density residential neighborhoods that are not appropriate for redevelopment. It also includes lands that are not proximate to thoroughfares and are not projected to be high growth areas due to limited access to transportation networks and utilities.

Appropriate development typically consists of cluster developments such as conservation subdivisions, or low-density residential development on relatively large lots. For Boone, this sector is generally located away from planned neighborhood or regional centers and close to heavily encumbered O-1 or O-2 land.



Appropriate Land Uses/Development Types:

- Low density cluster developments or hamlets (a clustering of buildings around a rural crossroad)
- Low density residential development comprised predominately of single family detach structures and small scale multiple family units (e.g. duplexes, triples) (up to 5 units per acres- except where limited by watershed rules to 1 single family unit per two acres (WS-II) or 2 single family units per acres (WS-IV))
- Limited convenience retail uses
- Civic uses (parks, schools, religious and government uses)

PLANNING BOARD REPORT

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

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

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: The Planning Commission recommends ☐approval ☐denial for the following reasons:

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.

ACTION TAKEN

First motion and vote: The proposed amendment to the Town's zoning map ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: I move to ☐approve ☐deny the proposed amendment to the Town's zoning map and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

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

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Protest Petition Removal – UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

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

Board of Adjustment Hearings

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

Planning/Other

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

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

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

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

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

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

Architect: NA

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

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

Jane Shook, Planning Supervisor**Applicant¹ (Print)****Applicant Signature****Date****NA****Property Owner (Print)****NA****Property Owner Signature****NA****Date****Sent to Feb QPH by
TC on 12/17/2015****Official Use Only**

Project File Name:

Protest Petition Removal – UDO Text Amendment

Permit Number:

20160027

Project Name/Number:

NA

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
January 2016	NA	NA	NA	NA

S:\FORMS\Forms_2015\ZoningPermitApplication_052015.doc

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

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Protest Petition Removal- UDO Text Amendment

Permit Name/Number:

20160027

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 1 General Provisions, Article 9 Amendments

Section(s): 1.14 Computation of Time, 9.04 Protest Petitions

Brief Description of Amendment (Attach Proposed Text):

See Reason for change below.

Reason for Change:

On July 16, 2015 the North Carolina General Assembly (Session Law 2015-160, House Bill 201) modified the General Statute regarding qualified protests (protest petitions). The modifications eliminated a municipality's ability to allow protest petitions; in lieu the General Assembly has provided language on "Citizen Comments". These changes were effective as of August 1, 2015. The proposed draft brings the UDO into compliance with the recently modified statutes.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

Communication: Protest Petition Removal Application Information and Staff Report (Case 20160027 Protest Petition Removal)

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CASE 20160027 PROTEST PETITION REMOVAL- UDO TEXT AMENDMENT

Request

On July 16, 2015 the North Carolina General Assembly (Session Law 2015-160, House Bill 201) modified the General Statute regarding qualified protests (protest petitions). The modifications eliminated a municipality's ability to allow protest petitions; in lieu the General Assembly has provided language on "Citizen Comments". These changes were effective as of August 1, 2015. The proposed draft brings the UDO into compliance with the recently modified statutes.

ANALYSIS

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 1 General Provisions

...

- 1.14.03** Except for appeals to the Board of Adjustment ~~or protest petitions~~, any materials received after 3:00 p.m. will be considered to have been received the next business day.

Article 9 Amendments

...

9.04 ~~Protest Petition~~ Citizen Comment

9.04.01 If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two (2) business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the Town Council.

~~**9.04.01** If a protest petition opposing a general or conditional district map amendment is filed in accordance with the provisions of this Section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Council.~~

~~**A.** For the purposes of this Section, vacant positions on the Council and members who are excused from voting shall not be considered for calculation of the requisite supermajority.~~

~~**9.04.02** To trigger the three-fourths vote requirement, the petition must meet all of the following:~~

~~**A.** Be signed by the owners of either:~~

~~**1.** Twenty percent (20%) or more of the area included in the proposed change, or~~

2. ~~Five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.~~

~~B. Computation of Protest Petition Area:~~

1. ~~A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less.~~
2. ~~When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel.~~
3. ~~In the absence of evidence to the contrary the Town may rely on the county tax listing to determine the 'owners' of potentially qualifying areas.~~

~~C. Property Owner Signature Required:~~ ~~When there are multiple owners of a single parcel, all owners must sign the protest petition for the parcel to be included in the calculation of the amount of property represented by the protest petition.~~

~~D.~~ ~~Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.~~

~~E.~~ ~~Be received by the Town Clerk in sufficient time to allow the Town at least two (2) normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.~~

~~F.~~ ~~Be on a form provided by the Town Clerk and contain all the information requested on this form.~~

~~9.04.03~~ ~~A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.~~

~~9.04.04~~ ~~Only those protest petitions that meet the qualifying standards set forth at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.~~

~~9.04.05~~ ~~A protest petition shall not be applicable to the following:~~

~~A.~~ ~~Any amendment which initially zones property added to the Town's jurisdiction as a result of annexation or otherwise, or~~

~~B.~~ ~~Amendments to adopted conditional districts when the amendment does not:~~

1. ~~Change the types of uses that are permitted within the district or~~
2. ~~Increase the approved density for residential development, or~~
3. ~~Increase the total approved size of nonresidential development, or~~
4. ~~Reduce the size of any buffers or screening.~~

~~9.04.06 — If a petition opposing a change in the zoning classification of any property is filed in accordance with the provisions of this Section, the Administrator shall announce to the Commission and Council receipt of such petition prior to accepting public comment at the public hearing.~~

UDO Subsection 9.02.01(B)(1) Statement

Approved as to planning policy this 1st day of February 2016.

Planning Director

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.

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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

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

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

PLANNING BOARD REPORT

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.

PLANNING BOARD RECOMMENDATIONS

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 other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

The Planning Commission recommends ☐approval ☐denial for the following reasons:

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.

ACTION TAKEN**First motion and vote:**

The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2015-160
HOUSE BILL 201

AN ACT TO AMEND THE PROCESS BY WHICH THE CITY COUNCILS RECEIVE
CITIZEN INPUT IN ZONING ORDINANCE AMENDMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-385(a) reads as rewritten:

"§ 160A-385. Changes.

(a) ~~Qualified Protests.~~ Citizen Comments.

- (1) Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. ~~In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority. If any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the city council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.~~
- (2) ~~To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right of way shall not be considered in computing the 100-foot buffer area as long as that street right of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas.~~
- (3) ~~The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district."~~

SECTION 2. G.S. 160A-386 is repealed.

SECTION 3. G.S. 122C-403(3) reads as rewritten:

- "(3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, 3C, 5, 6, and 7, of Chapter 160A of the



General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required to notify landowners of zoning classification actions under G.S. 160A-384, ~~and the protest petition requirements in G.S. 160A-385, and 160A-386 do not apply,~~ but the Secretary shall give the mayor of the Town of Butner at least 14 days' advance written notice of any proposed zoning change. The Secretary may designate Advisory establish a board to act like a Board of Adjustment to make recommendations to the Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, Advisory that board shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388."

SECTION 4. This act also repeals any local act authority for submission, review, or action by any municipality upon any zoning protest petition, whether or not enacted as a provision in a municipal charter.

SECTION 5. G.S. 160A-75 reads as rewritten:

"§ 160A-75. Voting.

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e)(2). In all other ~~eases, cases except votes taken under G.S. 160A-385,~~ a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council."

SECTION 6. This act becomes effective August 1, 2015, and applies to zoning ordinance changes initiated on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:30 a.m. this 17th day of July, 2015

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

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

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Fire Code Coordination- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

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

Board of Adjustment Hearings

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

Planning/Other

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

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

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

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

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

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

Architect: NA

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

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

Jane Shook, Planning Supervisor**Applicant¹ (Print)****Applicant Signature****Date****NA****Property Owner (Print)****NA****Property Owner Signature****NA****Date****Sent to Feb QPH by
TC on 12/17/2015****Official Use Only**

Project File Name:

Fire Code Coordination – UDO Text Amendment

Permit Number:

20160028

Project Name/Number:

NA

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
January 2016	NA	NA	NA	NA

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

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Fire Code Coordination- UDO Text Amendment

Permit Name/Number:

20160028

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 23 Driveways, Streets and Sidewalks

Section(s): 23.03 Driveways, 23.04 Relationships of Streets to Topography

Brief Description of Amendment (Attach Proposed Text):

See Reason for change below.

Reason for Change:

Language in UDO Subsections 23.03 and 23.04 are in conflict with the requirements of the NC Fire Code regarding maximum grade for driveways and streets. The proposed amendment will align the UDO with the NC Fire Code and eliminate confusion the different standards cause for applicants.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

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Communication: Fire Code Coordination Application Information and Staff Report (Case 20160028 Fire Code Coordination)

STAFF REPORT
FEBRUARY QUARTERLY PUBLIC HEARING
MAY 2, 2016



CASE 20160028 FIRE CODE COORDINATION- UDO TEXT AMENDMENT

Request

Language in UDO Subsections 23.03 and 23.04 are in conflict with the requirements of the NC Fire Code regarding maximum grade for driveways and streets. The proposed amendment will align the UDO with the NC Fire Code and eliminate confusion the different standards cause for applicants.

ANALYSIS

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 23 Driveways, Streets, and Sidewalks

...

23.03 Driveways

...

23.03.04 The maximum grade at any one point on a driveway used for a fire access roadway shall not exceed ~~fifteen percent (15%)~~ ten percent (10%) at any one point on the driveway unless ~~no other practicable alternative is available and has been~~ approved by the ~~Boone Fire Marshal~~ Chief of the Boone Fire Department.

23.04 Relationship of Streets to Topography

...

23.04.02 The maximum grade ~~at any one point on a~~ of any street used for a fire access roadway shall not exceed ~~fifteen percent (15%)~~ ten percent (10%) at any one point unless ~~no other practicable alternative is available and has been~~ approved by the ~~Boone Fire Marshal~~ Chief of the Boone Fire Department.

UDO Subsection 9.02.01(B)(1) Statement

Approved as to form this 1st day of February 2016.

Town Attorney

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

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

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

PLANNING BOARD REPORT

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.

PLANNING BOARD RECOMMENDATIONS

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 other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

The Planning Commission recommends ☐approval ☐denial for the following reasons:

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.

ACTION TAKEN

First motion and vote:

The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

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

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: PD Modifications- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

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

Board of Adjustment Hearings

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

Planning/Other

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

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

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

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

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

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

Architect: NA

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

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

**Sent to May QPH by
TC on 04/21/2016**

Jane Shook
Applicant¹ (Print)

Applicant Signature

Date

NA
Property Owner (Print)

NA
Property Owner Signature

NA
Date

Official Use Only

Project File Name:

PD Modifications – UDO Text Amendment

Permit Number:

20160178

Project Name/Number:

NA

Date: April 2016	Fee: NA	Receipt Number: NA	Method of Payment: NA	Paid By: NA
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¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

PD Modifications- UDO Text Amendment

Permit Name/Number:

20160178

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 9 Amendments; Appendix A

Section(s): 9.10 Planned Development; A2 Written Application

Brief Description of Amendment (Attach Proposed Text):

See Reason for Change below.

Reason for Change:

Council has given direction for the Town Attorney and Town Staff to work together to further refine the Planned Development Process.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

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Communication: Planned Development Modification Application Information and Staff Report (Case 20160178 Planned Development)



CASE 2016078 PLANNED DEVELOPMENT MODIFICATIONS- UDO TEXT AMENDMENT

Request

Council has given direction for the Town Attorney and Town Staff to work together to further refine the Planned Development Process.

Proposed Amendment

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 9 Amendments

...

9.10 Planned Development (PD)

9.10.01 The authorization of a PD for any use which is permitted only as a special use in this Ordinance shall preclude any requirement for obtaining a special use permit for such use.

9.10.02 Specific conditions applicable to a PD may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually agreed upon by the Town and the petitioner may be incorporated into the permit requirements.

A. Conditions and site-specific standards imposed in a PD shall be limited to those that address (i) the conformance of the development and use of the site to Town Ordinances and the comprehensive plan or other plan and (ii) the impacts reasonably expected to be generated by the development or use of the site.

9.10.03 A PD may only be proposed for one of the following:

A. A development site containing 3 or more acres;

B. A proposed development which includes both commercial and residential uses.

9.10.04 The authorization of a PD shall preclude any requirement for obtaining a variance from the Board of Adjustment unless it is a variance to Article 29 Watershed Protection and Article 30 Flood Damage Prevention. Any such variances must be obtained before a public hearing is held on the proposed PD.

9.10.05 Because the PD is not tied to a designated primary zoning district, specific procedural steps not generally applicable are mandated and more detailed information must be submitted by the petitioner before the petition may be acted upon.

A. Specific procedural requirements include:

1. One or more pre-petition consultations with the Administrator, in which the petitioner identifies the development site, its natural features, and the nature of the proposed development.
2. Before submitting the petition, the petitioner must coordinate ~~schedule~~ a neighborhood meeting with the Planning Department ~~owners of property located within 150' of the development site.~~
 - a. The Planning Department shall schedule a charrette-style neighborhood meeting at Council Chambers.
 - b. This neighborhood meeting shall occur on a weekday between the hours of 4 p.m. – 6 p.m.
 - c. The Administrator shall attend the meeting for the sole purpose of answering questions about the PD process and to take meeting minutes.
 - d. The ~~petitioner~~ Administrator must provide notice at least 21 days prior to the meeting in accordance with Subsection 1.13.02 herein to all property owners within 150' of the development site and to the Town Manager.
~~The meeting must be held at an accessible and convenient location in light of available options.~~
 - e. The ~~petitioner~~ Administrator must record the names and addresses of all attendees at the meeting.
 - f. At the meeting, the petitioner, at a minimum, shall present all the following information:
 - i. Contact information of the parties involved in the ownership, design, and development of the property;
 - ii. The location of the property and general information on the current conditions of the site;
 - iii. Proposed use(s) and site development;
 - iv. Any preliminary plans or renderings, if available; and
 - v. Any other information deemed pertinent by the Administrator.
 - g. The ~~petitioner shall provide the~~ Administrator ~~with a report which details the meeting including any concerns expressed by attendees and any commitments made by the petitioner. This report shall be included~~ in the staff report a copy of the meeting minutes which shall detail any concerns expressed by the attendees and any commitments made by the petitioner.

B. Specific information which must be submitted:

1. A site specific development plan addressing plan aspects identified in Appendix A, ~~identifying~~ and shall include all development ~~specifies~~ aspects which deviate from the standards of this Ordinance.
2. Written analysis, tailored to specifically address the characteristics of the particular location, ~~addressing~~ and how the planned development will effectively and to the greatest degree reasonably possible, mitigate the impacts of the proposed development on the surrounding area, including but not limited to:
 - a. noise impacts;
 - b. light impacts; and
 - c. any other predictable negative effect, including but not limited to:
 - i. negative visual effects;
 - ii. negative traffic effects; and
 - iii. negative health effects.
3. Information to demonstrate compliance with all mandatory requirements of this Ordinance, including:
 - a. Article 5 Subdivisions (for purposes of this Section the Town Council is the approval authority for major subdivision preliminary plats);
 - b. Article 8 Historic Preservation;
 - c. Article 19 Grading;
 - d. Article 20 Soil Erosion and Sediment Control;
 - e. Article 21 Stormwater Management;
 - f. Article 22 Utilities;
 - g. Article 29 Watershed Protection;
 - h. Article 30 Flood Damage Prevention;
4. Other information which may be required by the Administrator to fully evaluate the proposed development and its potential impacts on the surrounding area. Such information may include but is not limited to: traffic impact analysis, community impact analysis, additional engineering, and legal information.
5. The petition shall also include an affidavit stating that:
 - a. All zoning conditions and provisions are freely offered as proposed zoning laws, based solely on the petitioner's independent judgment; and
 - b. The petitioner's is not relying upon any statement by the Town staff or any member of the Town Council in connection with the decision to offer any zoning conditions or provisions; and

- c. The petitioner understands that other parties that have standing in the rezoning proceeding are relying on the validity of the zoning conditions and provisions; and
- d. The petitioner intends for all future owners of the property to be bound by the zoning conditions and provisions should the Town Council adopt them as part of the rezoning.

(20160178-XXXX2016)

- 9.10.06** Except for minor modifications, changes to an approved petition or to conditions attached to the approved petition shall be treated the same as amendments to this Ordinance or to the zoning map and shall be processed as a new application.
- A.** Except for a proposed minor modification to a previously approved PD, no proposal to amend or change may be accepted nor considered within twelve (12) months of the date of the original approval of the PD or within twelve (12) months of a hearing upon any previous proposal to amend or change the PD.
 - B.** A minor modification is one which does not significantly change the essential character of the use or activity that has been previously authorized through the PD approval.
 - C.** The Administrator shall determine whether a proposed modification to a previously approved PD is a minor modification, and the determination of the Administrator shall constitute the final decision of the Town and is not appealable.
- 9.10.07** If a petition for a PD is approved, a copy of the approval and all conditions relative to the approval, including site specific development plan(s), shall be kept on file in the Planning and Inspections Department office. A copy of the approval will also be recorded with the Watauga County Register of Deeds.
- 9.10.08** Should the property fail to be developed in accordance with the terms and conditions of the PD approval, no subsequent use of the property shall be permitted without a new petition for zoning map amendment being filed.
- 9.10.09** Should a petition for a PD be denied, no new petition for making similar use of the same property shall be considered within twelve (12) months of the date of the original denial.
- 9.10.09** If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to construct an approved site specific development plan in accordance with any condition agreed upon in the rezoning process, the authorization of the PD shall be null and void and of no effect and proceedings shall be instituted to rezone the property.
- 9.10.10** Except as expressly provided otherwise, a planned development district is subject to all applicable standards, procedures, and regulations set forth in this Ordinance and such

development shall comply with all requirements of this Ordinance unless the approved PD documents specifically state otherwise.

(20160178-XXXX2016)

9.10.11 Approval of a PD shall only be granted if the petitioner can provide sufficient information to address the findings found in Subsection 14.05.01(B).

(20160178-XXXX2016)

9.10.12 The approval of a PD application shall not become effective until the petitioner has submitted to the Planning Department a copy of the approved plan incorporating all changes, if any, that were required as conditions to Town Council approval, and such additional information as the Town Council may have required as a condition of PD approval.

(20160178-XXXX2016)

A2 Written Application

A2.01 Every applicant shall complete a written application containing at least the following information:

- A.** The name, address, and phone number of the property owner; and
- B.** If the applicant is not the property owner in question, the name, address and phone number of the applicant.
 - 1. Pursuant to Subsection 4.03.01(B), when a person other than the owner of the property applies for a permit or approval including a lessee or a person who has contracted to purchase the property, the application must be accompanied by the written approval of the property owner or other proof of authority; and
- C.** The date of the application; and
- D.** A succinct statement of the nature of the development proposed under the permit or the nature of the variance; and
- E.** Identification of the lot in question by street address and Watauga County Parcel Identification Number; and
- F.** The zoning district in which the lot is located; and
- G.** The cost of the development project; and
- H.** The number of square feet or acres of the lot in question; and
- I.** The number of square feet or acres of land disturbing activity; and
- J.** The gross floor area of all existing or proposed buildings located on the lot where the development is to take place; ~~and~~ and

K. [Existing land uses; and](#)

L. [Proposed land uses, including their locations, within the development.](#)

(20160178-XXXX2016)

UDO Subsection 9.02.01(B)(1) Statement

Approved as to policy this 22nd day of May 2016.

Planning Director

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.

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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

- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
 - E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

PLANNING BOARD REPORT

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.

PLANNING BOARD RECOMMENDATIONS

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 other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: The Planning Commission recommends ☐approval ☐denial for the following reasons:

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.

ACTION TAKEN

First motion and vote: The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

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

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Unlisted Uses- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

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

Board of Adjustment Hearings

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

Planning/Other

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

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

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

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

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

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

Architect: NA

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

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

**Sent to May QPH by
TC on 04/21/2016**

Jane Shook
Applicant¹ (Print)

Applicant Signature

Date

NA
Property Owner (Print)

NA
Property Owner Signature

NA
Date

Official Use Only

Project File Name:

Unlisted Uses – UDO Text Amendment

Permit Number:

20160222

Project Name/Number:

NA

Date: April 2016	Fee: NA	Receipt Number: NA	Method of Payment: NA	Paid By: NA
----------------------------	-------------------	------------------------------	---------------------------------	-----------------------

S:\FORMS\Forms_2015\ZoningPermitApplication_052015.doc

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

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Unlisted Uses- UDO Text Amendment

Permit Name/Number:

20160222

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 2 Administrative Mechanisms, Article 15 District Use Requirements, Article 34 Definitions

Section(s): 2.06 Land Use Administrator; 15.02 Permissible Uses and Specific Exclusions; 15.07 Table of Permissible Uses; 34.01 Definitions of Basic Terms

Brief Description of Amendment (Attach Proposed Text):

See Reason for Change below.

Reason for Change:

Council has given direction for the Town Attorney and Town Staff to work together to further refine how the UDO treats "unlisted and prohibited uses". This amendment also clarifies that a "motor vehicle racing/speedway" use is not a permissible use.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

Communication: Unlisted Uses Application Information and Staff Report (Case 20160222 Unlisted Uses)

S:\FORMS\Forms_2015\UDOTextAmendmentProjectDataForm_062015.doc



CASE 20160222 UNLISTED USES- UDO TEXT AMENDMENT

Request

Council has given direction for the Town Attorney and Town Staff to work together to further refine how the UDO treats “unlisted and prohibited uses”. This amendment also clarifies that a “motor vehicle racing/speedway” use is not a permissible use.

Proposed Amendment

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 2 Administrative Mechanisms

...

2.06.02 Interpretations

A. Zoning Map Interpretations: The ~~Administrator~~ Planning Director is authorized to interpret the zoning map and disputed questions of zoning district boundary lines.

1. A zoning map interpretation shall only be made upon proper written application.
2. Where uncertainty exists as to the boundary of districts as shown on the Official Zoning Map, the following rules shall apply:
 - a. A boundary indicated as approximately following the centerline of an alley, street, highway, stream or railroad shall be construed to follow such centerline;
 - b. A boundary indicated as approximately following a lot line, corporate limit, or extraterritorial boundary line, shall be construed as following such line, limit or boundary;
 - c. A boundary indicated as following the shoreline or the centerline of a stream, river, lake, or other bodies of water shall be construed to follow such shoreline or centerline, and in the event of change in the shoreline or centerline, the boundary shall be construed as moving with the actual shoreline or centerline;
 - d. A boundary indicated as approximately following the designated limit of a special flood hazard area shall be construed as following such limit;
 - e. Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map;
 - f. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that

portion of such street or alley added thereto by virtue of such vacation or abandonment.

(20160222-XXXX2016)

B. Text Interpretation: The ~~Administrator~~ Planning Director is authorized to interpret Ordinance text.

1. A text interpretation shall only be made upon proper written application.
2. Where uncertainty exists as to any meaning of this Ordinance, the provisions of Article 1 shall be used for guidance.
3. The Planning Director shall consult with the Town Attorney where there is uncertainty in the meaning of the Ordinance with respect to a substantive matter.

(20160222-XXXX2016)

C. Advisory Opinions ~~Regarding Nonconformities:~~ ~~Except during the investigation of an alleged violation or in the course of evaluating an application, the Administrator shall not render an advisory opinion regarding the legality or effects of nonconformities.~~

An advisory interpretation or advisory opinion given by the Administrator is not binding and does not constitute a final and binding decision subject to appeal under Article 6.

(20160222-XXXX2016)

D. Procedure for Evaluating Unlisted Uses: See procedures set forth in Section 15.02.

(20160222-XXXX2016)

Article 15 District Use Requirements

...

15.02 ~~Permissible Uses and Specific Exclusions~~ Other Prohibited Uses and Unlisted Uses

15.02.01 ~~All uses that are not listed in Section 15.07 are prohibited. A use which is not permitted as a principal use in a zoning district cannot be allowed even as an accessory use in that district unless it is accessory to a principal use that would be allowable in that district.~~

Other Prohibited Uses: Any use that is (i) listed in the Land Based Classification Standards (2001) published by the American Planning Association (as such may be amended from time to time, and which is hereby incorporated by reference as if fully set forth herein) and (ii) not listed in Tables of Principal, Accessory or Temporary Uses of this Ordinance is prohibited. A copy of the Land Based Classification Standards may be found on the internet at <https://www.planning.org/lbcs/> and a copy is also available for inspection in the office of the Planning Director.

15.02.02 Unlisted Uses: Any use not permitted, prohibited, or restricted by this Ordinance is an “unlisted use” that shall only be permitted if approved by the Planning Director pursuant to the following provisions:

- A. **Procedure for Evaluating Unlisted Uses:** Where a particular use category or use type is not specifically allowed under this Ordinance or is also not prohibited or restricted by this Ordinance, the Planning Director may permit the use category or type if the criteria of Subsection 15.02.02(B) below are met. The Planning Director shall give due consideration to the intent of this Ordinance concerning the district(s), involved, the character of the uses specifically identified, and the character of the use(s) in question.
- B. **Criteria for Evaluating Unlisted Uses:** In order to determine that the proposed uses(s) has an impact that is similar in nature, function, and duration to the other uses allowed in a specific zoning district, the Planning Director shall assess all relevant characteristics of the proposed use, including but not limited to the following:
1. The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;
 2. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing; and
 3. The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders); and
 4. The type, size and nature of buildings and structures; and
 5. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts; and
 6. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other uses on the site; and
 7. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses; and
 8. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation and fumes; and
 9. Any special public utility requirements for serving the proposed use, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
 10. The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the zoning district.

15.02.03 Determination of Unlisted Use(s) by the Planning Director: All determinations by the Planning Director made pursuant to this section shall be in writing. In making the determination described in this section, the Planning Director shall initiate an amendment to this Ordinance if the particular use or category of use(s) is likely to be common or to recur frequently, or if the omission is likely to lead to public uncertainty and confusion. Until final action has been taken on such proposed amendment, the determination of the Planning Director shall be binding on all officers and departments of the Town. If no amendment is initiated, the Planning Director's determination shall thereafter be binding on all officers and departments of the Town, without further action or amendment of this Ordinance.

15.02.04 Appeal of Determination of the Planning Director: The determination of the Planning Director may be appealed to the Board of Adjustment pursuant to the procedures set forth in Article 6 of this Ordinance.

(20160222-XXXX2016)

15.07 Table of Principal Uses

Use #	Specific 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	
12.0 Recreation and Entertainment Uses																		
12.01	Indoor Shooting Range	L ^{T75}											L ^{T75}		P			15.
12.02	Outdoor Shooting Range																	
12.03	Indoor Theater										P		P		P			
12.04	Outdoor Theater	p ^{T200}									p ^{T125}		p ^{T125}		P			
12.05	Event Venue, Category 1										P	p ^{T75}	P		P			
12.06	Event Venue, Category 2										p ^{T50}	p ^{T125}	p ^{T125}		P			
12.07	Event Venue, Category 3										p ^{T200}		p ^{T200}		P			
12.08	Campground & Recreational Vehicle Park	L ^{T200}											L ^{T200}		L			15.
12.09	Coliseum												S ^{T300}		p ^{T300}			
12.10	Recreation Facility, Category 1	p ^{T125}								P	P	P	P		P			
12.11	Recreation Facility, Category 2	p ^{T125}								p ^{T50}			p ^{T50}		P			
12.12	Recreation Facility, Category 3	p ^{T200}											p ^{T200}					
12.13	Racetrack																	

(20160222-XXXX2016)

Article 34 Definitions

...

Advisory Interpretation

Any interpretation or opinion issued by the Planning Director other than as part of the final written approval or denial of a written permit application.

(20160222-XXXX2016)

Advisory Opinion

See “Advisory Interpretation”

(20160222-XXXX2016)

Racetrack

An establishment that operates racing or other events involving motorized vehicles or animals, including but not limited to: the racing of automobiles, trucks, motorcycles, or any other motorized conveyance; racing of dogs, horses or other animals; and demolition derbies, monster truck rallies, and similar events.

(20160222-XXXX2016)

UDO Subsection 9.02.01(B)(1) Statement

Approved as to policy this 22nd day of May 2016.

Planning Director

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

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PERMIT IS FOR (CHOOSE ONE):

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

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Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Tree Board Removal- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- | | |
|---|---|
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| ☐ Addition/Expansion including decks and patios | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Change of Occupancy | *Commercial Project Data Form |
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| ☐ Sign | *Sign Project Data Form (Zoning) |
| ☐ Pavement Sealant | *Pavement Sealant Project Data Form |
| ☐ Major Subdivision Zoning Permit | *Commercial Project Data Form |

Board of Adjustment Hearings

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

Planning/Other

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

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

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

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

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

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

Architect: NA

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

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

Bill Bailey, Planning Director**Applicant¹ (Print)****Applicant Signature****Date****NA****Property Owner (Print)****NA****Property Owner Signature****NA****Date****Changes approved
by TC on 1/21/2016****Official Use Only**

Project File Name:

Tree Board Removal – UDO Text Amendment

Permit Number:

20160224

Project Name/Number:

NA

Date:

April 2016

Fee:

NA

Receipt Number:

NA

Method of Payment:

NA

Paid By:

NA

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

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Tree Board Removal- UDO Text Amendment

Permit Name/Number:

20160224

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 2 Administrative Mechanisms

Section(s): 2.03 Community Appearance Commission; 2.05 Tree Board

Brief Description of Amendment (Attach Proposed Text):

Modification of duties for the Community Appearance Commission and removal of references to the Tree Board.

Reason for Change:

In January 2016, Town Council approved a reorganization of Town Boards & Committees. Within this reorganization, the duties and responsibilities of the Tree Board were moved back to the Community Appearance Commission. Originally the Tree Board operated as a subcommittee of the Community Appearance Commission but was made into a separate board partially due to the requirements for a "tree board" from the Tree City USA program. Recently Tree City program requirements have changed and no longer require a separate board and so the duties and responsibilities will once again belong with the Community Appearance Commission.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

Communication: Tree Board Removal Application Information and Staff Report (Case 20160224 Tree Board Removal)



CASE 20160224 TREE BOARD REMOVAL- UDO TEXT AMENDMENT

Request

In January 2016, Town Council approved a reorganization of Town Boards & Committees. Within this reorganization, the duties and responsibilities of the Tree Board were moved back to the Community Appearance Commission. Originally the Tree Board operated as a subcommittee of the Community Appearance Commission but was made into a separate board partially due to the requirements for a “tree board” from the Tree City USA program. Recently Tree City program requirements have changed and no longer require a separate board and so the duties and responsibilities will once again belong with the Community Appearance Commission.

ANALYSIS

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 2 Administrative Mechanisms

....

2.03.06 Powers and Duties of the Community Appearance Commission

A. The Community Appearance Commission may:

1. Make studies and recommend to the Council plans, goals, and objectives relating to the visual appearance, community beautification, landscape development, urban forest protection and redevelopment of the Town's planning area; and
2. Develop and recommend to the Council policies, Ordinances, administrative procedures, and other means for carrying out plans for community beautification in a coordinated and efficient manner. The Community Appearance Commission shall not, however, have the power to “initiate” changes to this Ordinance, as the term “initiate” is used in Section 9.02; and
3. Develop educational programs and materials which inform the public on matters concerning community beautification and urban forest protection and other subjects as detailed in Section 2.03.06(A)(1); and
4. Respond to requests made by the Administrator for recommendations concerning the suitability of site landscaping for proposed special use permits; and
5. Upon request of the Administrator, review and approve or reject requests for approval of alternative means to address the Community Appearance Standards of Article 25, as well as when such approval is a condition adopted by the Board in

connection with the issuance of a special use permit or one adopted by the Council in a conditional zoning determination; and

6. Coordinate and/or conduct special studies related to assigned responsibilities; and
7. Perform any other duty assigned by the Council which is authorized pursuant to N.C. Gen. Stat. § 160A-452.

(20160224-05192016)

...

2.05 ~~Tree Board~~ Reserved (20160224-05192016)

2.05.01 ~~The Tree Board is an advisory board which makes recommendations, studies and educational programs relating to the urban forest within the Town's jurisdiction pursuant to Subsection 2.05.05.~~

2.05.02 ~~Appointment and Terms of Tree Board Members~~

A. ~~Number of Members:~~ ~~There shall be a Tree Board consisting of five members. All members shall reside within the planning jurisdiction of the Town.~~

1. ~~To the extent qualified persons can be found, the members shall have special training or experience in arboriculture, horticulture, architecture, or landscape design.~~
2. ~~If during a protracted period of time during for which a position is advertised no qualified person applies, then any interested person may be appointed.~~
 - a. ~~Ninety (90) days shall be considered a "protracted period of time" for purposes of this Section.~~

B. ~~Terms:~~ ~~Tree Board members shall be appointed for two [2] year staggered terms, but members may continue to serve until their successors have been appointed.~~

1. ~~Vacancies which occur for reasons other than the expiration of term shall be filled as they occur for the unexpired remainder of the term.~~
2. ~~Members may be appointed to no more than three successive terms. A former member may be reappointed following a one-year period of non-membership.~~

C. ~~Absences:~~

1. ~~Absences due to sickness, death or other emergencies of like nature shall be recognized as excused absences and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the Commission.~~
 - a. ~~For example, if a member misses six of twelve meetings during a twelve month period and two of the absences are due to the member's illness, the member will be recorded as having missed four of ten meetings.~~

~~b. In the event of a long illness or other such cause for prolonged absence, as determined by the Administrator and confirmed by the Council, the member shall be replaced.~~

~~c. Council may take specific action to excuse the absences and reappoint a member after being informed by the Administrator of the member's removal.~~

~~2. Tree Board members shall be automatically removed for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) of the regular meetings in any twelve month period.~~

~~3. The Administrator shall notify in writing any member for whom one more absence will trigger removal.~~

~~4. The Administrator shall notify the member and Town Council when a member has exceeded the allowable number of unexcused absences.~~

~~**D. Resignation:** A member of the Tree Board may resign by notifying the Mayor, Town Manager, or Administrator. A resignation shall be effective at the time a replacement member has been appointed unless the member declares a date certain in the resignation.~~

~~2.05.03 Meetings of the Tree Board~~

~~**A. Schedule:** The Tree Board shall conduct a meeting no less than quarterly (in order to meet the requirements of Tree City USA), or more often as it shall determine or require, to be held so long as there are items for its consideration, and it may schedule additional meetings ("continuation meetings" and "special meetings"), as necessary, so long as all notice requirements are met. Continuation meetings may be scheduled without additional advertising if the date, time, and location of the meeting is adopted and announced by the Tree Board at a duly advertised meeting.~~

~~**B. Rules and Procedure:** Since the Board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Article 6. However, it shall conduct its meetings so as to obtain necessary information and to promote the free and full exchange of ideas.~~

~~**C. Open Meetings:** The Tree Board shall operate in compliance with the North Carolina Open Meetings law, codified as N.C. Gen. Stat. §§ 143-318.9 et seq. (hereafter, "the law"). At a minimum, all meetings of the Tree Board or any subcommittee, advisory group, or working group, by whatever name or designation (hereafter referred to as a "subcommittee") shall require all of the following:~~

~~1. Notice of all official meetings, other than an emergency meeting, by posting of the date and time of the meeting at least 48 hours in advance on the bulletin Board for that purpose in Town Hall. If an agenda has been distributed to members of the Tree Board or subcommittee, it shall also be posted.~~

- ~~a. An "official meeting" occurs whenever a regularly scheduled meeting of the Tree Board or subcommittee occurs, whether or not a quorum is present, or when a majority of the Tree Board meets, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action, or otherwise transact public business.~~
- ~~b. "Deliberate" includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision.~~
- ~~c. An "emergency meeting" is one that concerns generally unexpected circumstances which require the immediate consideration of the Tree Board or subcommittee. In the event of an emergency meeting, a local news medium must be notified prior to the meeting of the date, time and subject matter of the meeting.~~
- ~~2. A meeting which is open to the public, except as to a closed session conducted in accordance with the law for a reason authorized by the law.~~
- ~~3. Full and accurate minutes of the meeting, a copy of which shall be provided to the Town Clerk, once they are approved by the Tree Board or subcommittee.~~
 - ~~a. Minutes of the Tree Board or subcommittee shall be subject to revision and adoption by the group as a whole.~~
- ~~D. In the absence of the Chair, the Vice-Chair shall conduct any meeting of the Tree Board, and in the absence of both officers, the Mayor may designate a person to act as Chair for the meeting in question or if no one is designated the Board can elect a presiding officer by majority vote.~~
- ~~E. The agenda shall include only those matters within the responsibilities and powers of the Tree Board, as provided herein.~~
- ~~F. The business of the Tree Board or subcommittee shall be conducted in such manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the Chair, and members of the Tree Board or subcommittee shall be respectful to each other and shall avoid interrupting each other.~~
- ~~G. Meetings of the Tree Board or subcommittee shall proceed in the following order: adoption of an agenda, approval of the minutes, unfinished business, new business, informal discussion, and public comment, when public comment is to be accepted. By majority vote of the members in attendance, the order of business may be altered.~~
- ~~H. At any meeting of the Tree Board or subcommittee, if the meeting is opened for public comment, any person wishing to address the body or subcommittee shall state his or her name and whether or not he or she is a resident of the Town or ETJ.~~

- ~~1. If there is a signup sheet provided, speakers shall be recognized in the order in which they have signed up.~~
- ~~2. Unless a different time limit is adopted by the Tree Board or subcommittee, no member of the public shall be allowed to speak for more than five minutes.~~
- ~~3. Should more than one person wish to make substantially the same comments regarding the same subject, or where a group of persons supports or opposes the same positions, the presiding officer may require that all such persons designate a spokesperson for their group to address the Tree Board or subcommittee, and the presiding officer may allot a larger amount of time for the presentation of the group position by the spokesperson.~~
- ~~4. All persons addressing the Tree Board or subcommittee shall be treated respectfully by other persons in attendance at the meeting, and all speakers shall conduct themselves with proper decorum. Should any person present during a public comment period substantially interfere with the ability of a person offering public comment or engage in behavior which violates norms of accepted decorum, or should a person offering public comment engage in behavior which violates norms of accepted decorum, after warning such person(s) and, except in a situation where there is a risk of harm to any person present, providing such person(s) the opportunity to alter the behavior to bring it into conformity with norms of accepted decorum, the presiding officer may direct that such person(s) be removed from the meeting.~~

~~2.05.04 — Quorum and Voting~~

- ~~A. A quorum shall consist of a simple majority of the appointed members.~~
- ~~B. All actions or recommendations of the Tree Board or subcommittee shall require the presence of a quorum and are only effective or adopted upon majority vote of the members present, following a motion and second. In the case of a divided vote on any question on which the Tree Board is required to act, the record shall include the vote of each member. When such action is to be reported to the Council, Community Appearance Commission or Planning Commission, the Tree Board shall not only report the action or recommendation adopted, but the vote by which it was adopted. Proxy voting is not allowed, but a member who cannot be physically present may participate in the meeting by electronic or telephonic means so long as the member can hear all deliberations and proceedings of the Board, and the members of the Board can hear the member.~~
- ~~C. A roll call vote shall be taken upon the request of any member.~~

~~2.05.05 — Tree Board Officers~~

- ~~A. Unless the Town Council designates the Chair and Vice Chair of the Tree Board, it shall retain the power to choose its own Chair and Vice Chair. The Tree Board shall designate~~

~~the Chair and Vice Chair of any subcommittees. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for re-appointment. Vacancies in these offices shall be filled for the unexpired terms only. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for re-appointment. Vacancies in these offices may be filled for the unexpired terms by the Council.~~

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

~~2.05.06 Powers and Duties of the Tree Board~~

~~A. The Tree Board may:~~

- ~~1. Make studies and recommend to the Council plans, goals, and objectives relating to the urban forest of the Town.~~
- ~~2. Develop and recommend to the Council policies, Ordinances, administrative procedures, plans and other means for maintaining the Town's urban forest program. The Tree Board, shall not, however, have the power to "initiate" changes to this Ordinance, as the term "initiate" is used in Section 9.02.~~
- ~~3. Develop public education programs which inform the public on matters concerning the betterment of trees and related resources.~~
- ~~4. Coordinate and/or conduct special projects for the betterment of the urban forest.~~

~~B. Limitations on Powers of the Tree Board~~

- ~~1. No individual member of the Board shall purport to speak or act on behalf of the Board without action by the Board explicitly authorizing the member to speak or act on its behalf.~~
- ~~2. No individual member of the Board, or the Board itself, shall purport to speak or act on behalf of the Town without action by the Council explicitly authorizing the member or empowering or authorizing the Board to speak or act on its behalf.~~
- ~~3. Without an express grant of authority or explicit authorization by the Council, no individual member of the Board, or the Board itself, shall direct Staff to take action requiring the expenditure of Town funds.~~
- ~~4. The Tree Board shall not create any group external to its membership without the explicit approval and or appointment of the Town Council. When deemed appropriate the Town Council will appoint a group(s) to advise the Tree Board on tasks assigned by the Town Council or its designee.~~
- ~~5. The Tree Board may create subcommittees or working groups within its membership without explicit approval of the Town Council providing that these groups do not require ongoing resources. Where ongoing resources are requested the assignment of these resources shall be approved by the Town Manager or his or her designee.~~

UDO Subsection 9.02.01(B)(1) Statement

Approved as to planning policy this 20th day of April 2016.

Planning Director

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

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

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

PLANNING BOARD REPORT

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.

PLANNING BOARD RECOMMENDATIONS

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 other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

The Planning Commission recommends ☐approval ☐denial for the following reasons:

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.

ACTION TAKEN

First motion and vote:

The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

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

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Public Hearing Process Change- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

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

Board of Adjustment Hearings

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

Planning/Other

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

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

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

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

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

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

Architect: NA

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

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

Jane Shook, Planning Supervisor**Applicant¹ (Print)****Applicant Signature****Date****NA****Property Owner (Print)****NA****Property Owner Signature****NA****Date****Sent to SPH by TC
on 2/16/2016****Official Use Only**

Project File Name:

Public Hearing Process – UDO Text Amendment

Permit Number:

20150149

Project Name/Number:

NA

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
February 2016	NA	NA	NA	NA

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

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Fire Code Coordination- UDO Text Amendment

Permit Name/Number:

20160028

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 9 Amendments

Section(s): 9.02 Initiation of Amendments, 9.05 Planning Commission Consideration of Proposed Amendments

Brief Description of Amendment (Attach Proposed Text):

See Reason for change below.

Reason for Change:

Due to the recent number of requests for a special public hearing and the length of time it takes to get from application to decision, Council authorized Planning Staff to develop alternatives that would streamline the amendment process and provide for more frequency within the hearing schedule.

Official Use Only

Public Hearing Meeting Date: ~~April 4, 2016~~ May 2, 2016

PC Meeting Date: ~~April 11, 2016~~ May 9, 2016

TC Meeting Date: ~~April 21, 2016~~ May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

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CASE 20150149 PUBLIC HEARING CHANGES- UDO TEXT AMENDMENT

Request

Before adopting or amending the UDO (NCGS 160A-364) or the zoning map (NCGS 160A-384), the Town is required to hold a public hearing. Currently the Town processes text (UDO 9.02.01) and map (9.02.02 & 9.02.03) amendments through a quarterly public hearing process.

Application processing timelines range widely from fifty days to more than 120 days depending on when an applicant submits an application. The only way to expedite the approval process is to appear before Council and request a special public hearing. However, even this process can add up to 20 days to the processing of an application. Furthermore, special public hearings interrupt the normal workflow of staff and increases the opportunity for mistakes.

Given the number of requests for special public hearings (6 in 2014 for example) and the length of time it takes to get from application to decision, Council authorized Planning Staff to develop alternatives that would streamline the amendment process and provide for more frequency.

Initially, this case was discussed at a special public hearing in April 2016 and was subsequently withdrawn so that the Town Attorney and Town Staff could further refine the process.

ANALYSIS

In order to move to a monthly hearing process, similar to how the Board of Adjustment operates, changes were needed to not only the Unified Development Ordinance but also to the Planning Commission (Commission) meeting schedule.

While a public hearing in front of the Commission is not required by law, the Council wished to continue to involve the Planning Commission in the public hearing process. Therefore, in order to achieve a monthly process, which still contains a joint public hearing with the Council and the Commission and reduces the overall time between petition and decision, changes to the Planning Commission regularly scheduled meeting date are required. This will involve changes to the regular Commission meeting date. Each Commission meeting has the potential to be bifurcated with the first part of the agenda reserved for public hearings with Council and the second part reserved for case review and other matters.

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 9 Amendments

9.01 Amendments in General

9.01.01 Amendments to the text of this Ordinance (hereafter, "the UDO") or to the Town's officially adopted zoning map shall be made in accordance with the provisions of this Article.

9.02 Initiation of Amendments

9.02.01 Text and Map Amendments

~~Only Council may initiate an amendment to this Ordinance. Staff and other Town entities (boards, commissions, advisory bodies, and other such entities), when they are charged or empowered with making recommendations to the Council regarding the text of the UDO, may make recommendations regarding potential desired changes to the UDO to the Council, but the preparation of the text of a proposed draft amendment shall only proceed after the Council has endorsed the policy objectives sought to be achieved with the recommendation and has acted to authorize preparation of a draft text amendment.~~

~~Whenever a request to amend the text of this Ordinance is initiated or authorized by the Council, the Town Attorney in consultation with the Administrator shall determine whether the proposed amendment represents substantive planning policy or procedural matters, such as enforcement procedures, amendment procedures and appeal procedures.~~

- ~~1. If the Town Attorney determines the proposed amendment represents a substantive planning policy, the Administrator shall draft the text of the proposed amendment in consultation with the Town Attorney. Before an amendment drafted by the Administrator is presented to the Council for consideration, the Town Attorney shall endorse and date the draft amendment with the following statement: Approved as to Form this __ day of __, 20__, _____ Town Attorney.~~
 - ~~2. If the Town Attorney determines the proposed amendment represents a procedural matter, the Town Attorney shall draft the text of the proposed amendment in consultation with the Administrator. Before an amendment drafted by the Town Attorney is presented to the Council for consideration, the Administrator shall endorse and date the draft amendment with the following statement: Approved as to Planning Policy this __ day of __, 20__, _____ Administrator.~~
- A. Any other person may petition request the Council to ~~amend the text of this Ordinance~~ set a public hearing to consider a text amendment or a general map amendment, Conditional District map amendment or Planned Development map amendment (the later three being collectively referred to as "map amendments" or "rezonings").
1. Such petition shall be heard by Council at the next available regularly-scheduled Council meeting.
- B. The petition shall be filed with the Administrator and shall include at a minimum:
1. The name, address, and phone number of the applicant, and
 2. ~~A~~ In the case of a proposed text amendment, a summary of the specific objective of any proposed change in the text of this Ordinance.
 3. In the case of a proposed general map amendment,
 - a. A description of the land affected by the proposed amendment, and
 - b. A description of the proposed map change.
 4. In the case of Conditional District or Planned Development map amendments, those items described at Subsection 9.02.02 below.

- C. The drafting of proposed text amendments and general map amendments and consideration of any such amendment at a public hearing may proceed only upon direction given by Council to Staff:
1. Upon Council's own initiative, or
 2. Upon recommendation made by Staff, the Town Attorney, or any Town board, commission, or other entity, or
 - a. Every text amendment proposed by a department, board, or officer of the Town shall be drafted by the Administrator or the Town Attorney, in consultation with each other.
 3. Upon consideration by Council of a petition made by the owner of any legal or equitable interest in land located within the Town or its extraterritorial jurisdiction;
 4. Provided, however, that amendments considered by the Administrator or the Town Attorney to be necessary or advisable in light of state law may be prepared without prior direction by Council.
- D. The Administrator may in his or her discretion, prepare a written analysis of the proposed amendment to assist Council in consideration of whether to forward the amendment for public hearing. Any such analysis by the Administrator shall address the conformity of the proposed amendment with the Comprehensive Plan and other officially adopted plans of the town, as well as such other matters as the Administrator deems relevant.

~~Upon receipt of a petition the Administrator shall forward the petition to Council with or without written comment for a determination of whether a draft amendment should be prepared in accordance with Subsection 9.02.01(B).~~

~~Upon receipt of a draft amendment, should the Council act to proceed with its consideration, it shall establish a date for a public hearing.~~

- ~~1. The public hearing may be scheduled at a pre-arranged date, time and location, such as at a "quarterly public hearing," or at such other date, time and location authorized by the Council which will allow proper notice to issue in advance of the hearing.~~

~~No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed petition to assist the Planning Commission and Council in determining the conformity of the draft amendment with the Comprehensive Plan and any other officially adopted plan of the Town which relate to the proposed amendment.~~

9.02.02 — General Map Amendments

- ~~A. Any person may petition the Council to amend the Zoning Map. The petition shall be filed with the Administrator and shall include at a minimum:~~
- ~~1. The name, address, and phone number of the applicant,~~
 - ~~2. A description of the land affected by the proposed amendment, and~~
 - ~~3. A description of the proposed map change.~~

- ~~B. Upon receipt of a petition, the Administrator shall forward the petition to Council to establish a date for a public hearing.~~
- ~~1. The public hearing may be scheduled at a pre-arranged date, time and location, such as at a "quarterly public hearing," or at such other date, time and location authorized by the Council which will allow proper notice to issue in advance of the hearing.~~
- ~~C. No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed petition to assist the Planning Commission and Council in determining the conformity of the draft amendment with the Comprehensive Plan and any other officially adopted plan of the Town which relate to the proposed amendment.~~

9.02.0302 Conditional District (CD) and Planned Development (PD) Map Amendments

- A. A property may be placed in a CD or in a PD only in response to a petition by the owners of all property to be included.
1. No State owned property may be placed in a CD or in a PD without prior approval by the Council of State.
- B. The petition shall be filed with the Administrator and shall include at a minimum:
1. The name, address, and phone number of the applicant,
2. A description of the land affected by the proposed amendment, and
3. A description of the proposed map change, and
4. A site specific development plan and supporting documentation that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined Ordinance requirements, will govern the development and use of the property.

~~Upon receipt of a petition, the Administrator shall forward the petition to Council to establish a date for a public hearing.~~

- ~~1. The public hearing may be scheduled at a pre-arranged date, time and location, such as at a "quarterly public hearing," or at such other date, time and location authorized by the Council which will allow proper notice to issue in advance of the hearing.~~

~~No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed petition to assist the Planning Commission and Council in determining the conformity of the draft amendment with this Ordinance, the Comprehensive Plan and any other officially adopted plan of the Town that relates to the proposed amendment. In the case of a proposed PD district, the Administrator shall specifically advise and comment as to whether the proposed district is in keeping with the purpose and intent of the Council for creating such PD districts, as set forth at Section 14.05.01 herein.~~

(20150028-11192015)

9.02.03 Council Consideration of Proposed Amendments

- A. Upon consideration of a proposal to amend the UDO text or zoning map, Council may take any one or more of the following actions:
1. Direct further consideration and/or development of the amendment by Staff and/or the Planning Commission,
 2. Authorize drafting of a proposed amendment if such has not already been drafted,
 3. Set the proposed amendment for public hearing and consideration by the Planning Commission, and/or
 4. Decline to authorize further consideration of the proposed amendment.
- B. In the event Council directs a proposed amendment to be considered at a public hearing, such hearing may be scheduled at any such date, time and location as will allow proper notice to issue in advance of the hearing.
- C. No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed amendment to assist the Planning Commission and Council in determining the conformity of the draft amendment with this Ordinance, the Comprehensive Plan and any other officially adopted plan of the Town that relates to the proposed amendment. In the case of a proposed PD district, the Administrator shall specifically advise and comment as to whether the proposed district is in keeping with the purpose and intent of the Council for creating such PD districts, as set forth at Section 14.05.01 herein.

9.02.04 Modification of Applications After Distribution of Agenda Packet

- A. Modification of Petition Between Distribution of the Agenda Packet and the Public Hearing:**
1. Modification in Response to Administrator's Recommendation or Request: An applicant may not significantly modify an application between the distribution of the Agenda Packet containing the Staff Report of the case and the public hearing unless the proposed modification is in direct response to a specific request or recommendation by the Administrator.
 - a. A proposed modification, even in response to the Administrator's recommendation or request, shall be submitted to the Administrator prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification.
 - b. If the Administrator determines that the applicant did not submit the proposed modification prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the public hearing being rescheduled until the next regularly scheduled public hearing or withdrawal of the proposed modification.

2. **Insignificant or Minor Modifications in a Petition:** An applicant may make a non-substantial modification to an application between the distribution of the Agenda Packet containing the Staff Report and the scheduled public hearing.
 - a. A proposed non-substantial modification shall be submitted to the Administrator prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification. However, if an applicant proposes an insignificant modification to a petition during the scheduled hearing, and the Administrator indicates that adequate time exists to fully evaluate the impacts of the modification with or without a recess by the Council, the modified application may be acted upon by the Council.
 - b. If the Administrator determines that the petitioner did not submit the proposed modification prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the hearing being rescheduled until the next regularly scheduled public hearing or withdrawal of the proposed modification.
3. **Major Modification of an Application:** A petitioner seeking to significantly modify an application between the distribution of the Agenda Packet containing the Staff Report of the case and the public hearing, whether in response to Staff recommendations or self-initiated, must file a new application.
4. **Determination as to whether a Proposed Modification is Insignificant, Minor or Major:** The Planning Director shall make the determination as to whether a modification is “insignificant”, “minor” or “major” in accordance with Section 4.16. The determination of the Planning Director shall constitute the final decision of the Town and is not appealable.

B. Modification of Petition In Response to Concerns & Issues Raised at the Hearing

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board an applicant may agree to modify an application, including the plans and specifications submitted.
2. Unless such modification is so substantial or extensive that the Council cannot reasonably be expected to perceive the nature and impact of the proposed change without revised plans before it, the Council may approve the petition with the condition that the permit will not be issued until plans reflecting the agreed upon changes are submitted and approved by the Administrator.

9.03 Hearing Required: Conduct of Hearing; Notice of Hearing

9.03.01 Hearing Required

- A. Text, General, Conditional District and Planned Development Map Amendments are legislative processes subject to judicial review.
- B. No action that amends or repeals any of the provisions of this Ordinance may be adopted until a public hearing has been held on such.

*(20150028-11192015)***9.03.02****Conduct of Hearing**

- A.** The Council and Planning Commission shall meet in joint session to hold the public hearing, and a quorum of each body must be present.
- B.** Public hearings on proposed Ordinance amendments will be scheduled no less frequently than on a quarterly basis in February, May, August and November.
- C.** A record of the public hearing will be prepared by Staff and minutes of the hearing submitted to the Planning Commission and Council as soon as practical following the public hearing.
- D.** Public hearings shall be conducted in accordance with rules for the hearing adopted by the Council.
- E.** The Mayor or other presiding officer may, at a minimum:
 - 1. Limit the length of time for each speaker, and
 - 2. Require the designation of a spokesperson for groups of persons supporting or opposing the proposed amendment for the same reasons, and
 - 3. Provide for the maintenance of order and order the removal from the hearing room of any person attempting to disrupt the hearing or to intimidate or belittle other speakers, and
 - 4. Limit the number of persons in the hearing room at any one time, insofar as the number of persons wishing to attend the hearing exceeds the safe capacity of the hearing room.

9.03.03**Hearing Notice**

- A. Legal Ad:** For all amendments, the Administrator shall publish a notice of the public hearing no less than once a week for two (2) successive weeks in a newspaper having general circulation in the area.
 - 1. The notice shall be published for the first time not less than ten (10) days nor more than twenty five (25) days before the date fixed for the hearing.
 - 2. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.
- B. Adjacent Property Owner Notification:** With respect to General, Conditional District and Planned Development map amendments, the Administrator shall mail written notice of the public hearing by first class mail to the owners, as shown on the listings of the Watauga County Tax Administration, of all properties whose zoning classification will be changed by the proposed amendment and owners of properties for which any portion is within 150 feet of the subject property.
 - 1. Each notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing.

2. The person mailing such notices shall certify to the Council that fact, and such certificate shall be deemed conclusive in the absence of fraud. The certificate of mailing shall be included in the Administrator's analysis of the proposed petition to the Council and Commission.

- a. However, if the proposed zoning map amendment directly affects more than fifty (50) properties owned by a total of at least fifty (50) different property owners, the Council may direct notification, instead of by the aforesaid individually mailed notices, by publication of the notice described above, supra, alone, but the notice must be not less than one-half a newspaper page in size and must be supplemented by individual notices by first class mail to property owners who reside outside the newspaper circulation area, according to the addressees listed on the most recent property tax listing for each affected property.

C. Posting: With respect to General, Conditional District and Planned Development Map Amendments, the Administrator shall also post notices of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right of way within at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing.

1. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Administrator shall post sufficient notices to provide reasonable notice to interested persons.
2. In addition, the Administrator shall take any other action deemed by the Council or Administrator to be useful or appropriate or desirable to give notice of the public hearing.

D. Every notice required by this Section shall:

1. State the date, time, and place of the public hearing, and
2. Summarize the nature and character of the proposed change, and
3. Reasonably identify the property whose zoning classification would be affected by the amendment if the proposed amendment involves a change in zoning district classification, and
4. State that the full text of the proposed amendment can be obtained from the Town Clerk, and
5. State that substantial and insubstantial changes in the proposed amendment may be made following the public hearing.

(20150028-11192015)

9.04 Reserved (20160027-05192016)

9.05 Planning Commission Consideration of Proposed Amendments

9.05.01 ~~At its next meeting following the public hearing, scheduled in accordance with Section 9.03, supra, the Commission shall review the proposed amendment and shall submit a written recommendation to the Council.~~

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.

9.06 Council Action on Amendments

9.06.01 Council Action After Referral to the Commission:

- A. At any meeting following the receipt of ~~the~~ a written report and recommendation from the Commission or after thirty (30) days following referral of ~~the~~ a proposed amendment to the Commission if the Commission fails to ~~make a~~ 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 ~~must~~ should endeavor to take action, ~~however,~~ no later than sixty (60) days after the Commission ~~adopts a~~ 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, ~~and~~ .
- 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 ninety (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 ~~zoning~~ 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 (6) months thereafter, the application shall be deemed to have expired.

9.07 Ultimate Issue Before Council on Amendments

9.07.01 In deciding whether to adopt a proposed amendment to this Ordinance, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments:

- A. The Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

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

9.08 Action Subsequent to Council Decision

9.08.01 The Administrator shall notify the petitioner of the disposition of the amendment petition and file a copy of the decision in the office of the Planning and Inspections Department.

9.08.02 Any amendments pertaining to watershed protection must be filed with the North Carolina Division of Water Quality, North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

9.08.03 In the case of approval of an amendment, all necessary changes to the Ordinance or zoning map shall be entered within fifteen (15) working days of the effective date of the amendment. The Administrator shall authenticate the entry of each amendment and shall maintain a record of the nature and date of the amendment.

UDO Subsection 9.02.01(B)(1) Statement

Approved as to form this 4th day of April 2016.

Town Attorney

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

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

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

PLANNING BOARD REPORT

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.

PLANNING BOARD RECOMMENDATIONS

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 other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: The Planning Commission recommends ☐approval ☐denial for the following reasons:

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.

ACTION TAKEN

First motion and vote: The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because: