

**Town of Boone
Public Hearing
6:00 PM, May. 23, 2022
WebEx Video Conferencing System**

Public Comment: (Remote): Individuals who wish to address Council remotely can do so through WebEx either online or by phone. If you wish to provide public comment remotely, please email Interim Town Manager, Amy Davis at meetings@townofboone.net or call in at 828-268-6200 and you will be provided with an invite to the meeting. All registrations must be completed by 12:30 PM the day prior to the meeting. Staff will moderate the WebEx session to ensure all participants have an opportunity to address Council.

I. Call to Order of Town Council

II. Call to Order of Planning Commission

III. Moment of Silence

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

March 28, 2022 Public Hearing Minutes

V. PUBLIC HEARING

A. *General Guidelines for Each Case Presented at Public Hearing*

i. Presentation of Case

ii. Questions by Town Council & Planning Commission

iii. Public Comment

iv. Discussion /Questions by Town Council and Planning Commission

v. Public Hearing for Case is Closed

**VI. Cases PL05689-050322 & PL05690-050322 Modern Real Estate Investors -
General Use Zoning Map Amendments**

Cases PL05689-050322 & PL05690-050322 Application

Cases PL05689-050322 & PL05690-050322 Staff Report

Cases PL05689-050322 & PL05690-050322 Exhibit B Existing Zoning

Cases PL05689-050322 & PL05690-050322 Exhibit C Proposed Zoning

VII. Case PL05504-021822 Minor and Major Work for COA's - UDO Text Amendment

Case PL05504-021822 Application

Case PL05504-021822 Staff Report

VIII. Case PL05688-050322 Miscellaneous Revisions - UDO Text Amendment

Case PL05688-050322 Application

Case PL05688-050322 Staff Report

IX. Adjournment of Town Council

X. PLANNING COMMISSION MEETING

XI. Public Comment

XII. Approval of Planning Commission Meeting Minutes

March 28, 2022 Planning Commission Meeting Minutes

XIII. Planning Commission Consideration of Cases Heard at Public Hearing

XIV. Other Matters

XV. Adjournment of Planning Commission

**PUBLIC HEARING MINUTES
MONDAY, MARCH 28, 2022, 6:00 PM
VIA WEBEX SOFTWARE**

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

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice-Chair, Chris Behrend, John Tippet, Frank Venio, and Smith Warren

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Brandon Wise-Environmental Planner, and Brenda Henson-Board Secretary

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

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Tyler Moffatt, Andrew Rice, and Todd Rice

Call to Order

Mayor Futrelle called the Town Council to order at 6:05 p.m. Chair Shay called the Planning Commission to order at 6:05 p.m. for the Public Hearing/Planning Commission meeting held via WebEx.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member Roseman made a motion to approve the January 24, 2022 Public Hearing minutes. The motion was seconded by Council Member George.

Vote: Aye – All
Nay – None

The motion passed.

Vice-Chair Plaag made a motion to approve the January 24, 2022 Public Hearing minutes. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Mayor Futrelle introduced Amy Davis, Interim Town Manager.

Case PL05551-030422 A&R Mountain Properties – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of 243/245 Bamboo Road, owned by A&R Mountain Properties, to R3 Multiple-Family Residential, SFHA, and WS-IV-PA. Zoning is to coincide with the property owner's voluntary annexation of the property. A&R Mountain Properties LLC has submitted a Voluntary Annexation Petition requesting the Town to annex 0.988 acres contiguous to the Town of Boone primary corporate limits. This area to be annexed, located at 243/245 Bamboo Road, is identified as Watauga County PIN 2920-20-5262-000.

Ms. Jane Shook, Director of Planning & Inspections, presented the request as it was outlined in the meeting packet. She noted that in 2017, the Town lost jurisdiction of this property with the removal of

the ETJ. Ms. Shook added that the former property owner requested sewer service to the property in 2018. That request was approved with the condition that the property owner petition to be annexed.

Ms. Shook stated that property owners within 300 feet of the subject property were notified of the request to have the property annexed and zoned as R3 Multiple-Family Residential, SFHA, and WS-IV-PA.

Vice-Chair Plaag asked if properties that were annexed into the Town were required to bring their existing uses and conditions into compliance with the UDO. Ms. Shook replied that they were not. Vice-Chair Plaag asked what happened if there was a non-conformities on the property. Ms. Shook replied that they would be considered legal non-conformities.

Vice-Chair Plaag asked if the staff was aware of any problematic non-conformities on the subject property. Ms. Shook replied that staff had not done an in-depth analysis of the property, but she anticipated that there were likely some legal non-conformities with respect to landscaping, parking and other items.

Council Member Roseman asked what services would be extended to the property if it was annexed. Ms. Shook responded that the property would be entitled to the same services as any other parcel located within Town limits. She added that the property would be served by Town sewer and not Town water. Mr. Rick Miller, Public Works Director, added that the property had a well and was not requesting to hook onto Town water. He noted that the Town's sewer line would need to be extended approximately 1,000 ft. in order to serve the property. Ms. Meade asked if it was correct that the property owner would be responsible for the cost of extending the sewer line. Mr. Miller replied that was correct. Ms. Meade asked if a water main was available if the property owner decided they would like to have Town water service. Mr. Miller stated that there was a water line across the road, and it would be easier to connect the property to water than to sewer. Ms. Meade asked if it was correct that the property already received some Town services such as trash pickup and police services. Mr. Miller stated that was correct.

Vice-Chair Plaag asked how the property was zoned when it was part of the ETJ. Ms. Shook replied that the property was zoned MH Manufactured Home.

Commission Member Veno asked if the reason the property was seeking to be annexed was that they had sewer problems. Ms. Shook explained that, in order to have Town water or sewer extended to a property outside of Town limits, the property owner must petition Town Council to request that the property be annexed into Town.

Ms. Shook noted that no one had signed up to speak regarding this case.

With no public comment, Mayor Futrelle closed the public hearing for this case at 6:25 p.m.

Case PL05502-021822 Consultation in Certificates of Appropriateness Process – UDO Text Amendment

To modify UDO Article 8 and Appendix D related to consultations in the Certification of Appropriateness (COA) process to (i) correct language regarding the COA process to provide a clearer path for COA applicants, (ii) to reduce any potential conflict regarding the Historic Preservation Commission's interactions with applicants prior to a case, and (iii) align text with subsequent text amendments related to COA. Conforming amendments may also be made to other Articles.

Ms. Shook presented the case as it was outlined in the meeting packet. She stated that this amendment would remove the text allowing pre-application consultations with HPC. Ms. Shook explained that staff initially thought this was an acceptable method used across the State, but upon further review, decided it should not be part of the process due to the quasi-judicial nature of the HPC.

Vice-Chair Plaag asked if he should be recused from this case because he was the Chair of the Historic Preservation Commission. Ms. Meade stated that the HPC had not considered this issue, so she did not feel Vice-Chair Plaag needed to be recused.

Ms. Meade stated that the original idea was for HPC to be consulted in a more informal way prior to a hearing about how applicants might best propose to comply with the standards. However, there was concern that this could constitute ex-parte communication between HPC members and applicants prior to the hearing. She felt it would be best to have staff handle any pre-hearing consultations.

Council Member Roseman asked if these changes would allow the efficiency of the department to move more smoothly. Ms. Shook replied that it would help staff firm the process up for an applicant and allow for more complete applications.

Vice-Chair Plaag urged staff to advise applicants that the decision of approval or denial of a COA was up to the Commission, and staff was there to provide guidance through the process. Ms. Shook replied that staff always tries to make sure that applicants understand that staff is not the arbiter of the decision and that the board was the final decision-maker.

Ms. Shook noted that no one had signed up to speak regarding this case.

With no public comment, Mayor Futrelle closed the public hearing for this case at 6:33 p.m.

Case PL05558-030922 Stormwater Modifications – UDO Text Amendment

To modify UDO Article 21 Stormwater Management, Article 34 Definitions, and Appendix C Details and Specifications Manual related to stormwater detention requirements for the following uses:

1. Use 1.01 Single-Family Dwelling
2. Use 1.02-1.04 Manufactured Home
3. Use 1.06 Duplex (one duplex building per lot)
4. Any other use that operates out of a single-family dwelling (Family Care Homes, Boarding House, Home for Survivors of Domestic Violence, etc.)

This modification also:

1. Introduces exemptions for impervious improvements of 500 square feet or less and for lots within subdivisions or developments that have an approved drainage plan where the proposed development was considered and
2. Revises the definition of “impervious area” to include exemptions set forth in NC General Statutes.

Ms. Shook outlined the request as it was presented in the meeting packet. She stated that, prior to 2014, single-family dwellings were not required to provide stormwater detention, and the Town received complaints due to the impacts to adjacent property owners both during and after construction. Ms. Shook explained that the Town Council at that time tried to take a middle ground approach by requiring that the applicant submit a drainage plan, but not be required to submit any final certification from a design professional for that drainage plan. She noted that this left the applicant with the expense of submitting an engineer’s plan but not a certification that the stormwater detention was constructed according to that plan. Ms. Shook stated that the cost for single-family homeowners to obtain this design professional’s plan was substantial, and it was sometimes challenging to find someone who could provide the plan quickly. Ms. Shook noted that drainage plans were also required for the placement of small storage sheds.

Ms. Shook stated that this amendment would allow applicants to choose between one or more of the stormwater control measures detailed in the North Carolina Department of Environmental Quality Stormwater Design Manual. Staff would approve the modifications and design details based on site

conditions. She noted there were a lot of simplified methods for stormwater run-off with simple math that a homeowner or contractor could do, such as; rain barrels, rain gardens, and berms.

Ms. Shook stated that once the stormwater control measures were installed, they would need to be maintained. The property owner would have to file with Planning & Inspections an operation and maintenance agreement saying they would continue maintaining the system after it was installed.

Mr. Brandon Wise, Environmental Planner for the Town of Boone Planning & Inspections, introduced himself. Mr. Wise stated that his specialty was stormwater. He noted that he had worked on the private side designing stormwater infrastructure, mainly for commercial properties but also some residential properties. Mr. Wise stated he had also worked for the State of North Carolina with DEQ working with the stormwater manual. He added that he had seen some of the creativity you could get from the stormwater manual. Mr. Wise stated that he had worked with builders on implementation and ways to get creative with smaller detention systems, or more green detention systems where everything was not being put underground into a cistern. Mr. Wise stated he had also run an MS4 in Carolina Beach. He explained that an MS4 was the municipal separate storm sewer system permit, with requirements for how the Town maintained its infrastructure, how the community worked together in maintaining infrastructure and preventing stormwater run-off from causing issues from one house to impact the next house in the neighborhood.

Vice-Chair Plaag referred to Section 2.04.02(C) regarding the operation maintenance agreement and asked if this agreement would require a signature from the property owner. He also asked if this agreement could legally be made into a covenant that followed the land. Vice-Chair Plaag stated that a property owner could sell the property and asked how the Town would enforce the operation maintenance agreement with a new property owner. Ms. Shook replied that the property owner would sign the operation maintenance agreement. She added that the MS4 required commercial developments to record the maintenance agreement at the Register of Deeds, but staff did not feel it was necessary to require the document to be recorded for residential developments.

Ms. Meade stated that the applicant and the landowner were both charged with not only carrying out the plan but then maintaining it thereafter. She felt this was a permanent requirement once those facilities were in place under the UDO. While it was not a covenant per se, like other requirements of the UDO, it applied regardless of subsequent changes in ownership. Ms. Meade explained that new property owners were equally subject to the UDO requirements and to complying with the development plan that was approved. Ms. Meade suggested that it might be better, instead of specifying this as a contract, to provide this document for notice purposes so the property owner understood their obligations under the UDO for maintaining the stormwater system. She felt that Section 21.02.02 bound not only that owner but every subsequent owner to the maintenance obligation. Vice-Chair Plaag agreed that removing the illusion of the agreement being a contract was a good idea.

Commission Member Veno asked how subsequent property owners would know about the requirement to maintain the stormwater. Ms. Meade replied that stormwater system maintenance regulations were no different than any other regulation that applied to a home. She explained that if the home was sold, there was not a duty and there was nothing in the title records to tell the new potential purchasers that there were certain regulations that would apply to that home under the UDO. Ms. Meade stated it was the duty of new owners to review any pertinent government regulations for themselves. If they chose not to review the regulations, they were bound by them nonetheless.

Council Member Tugman asked if a title search would reveal what easements may be on a property. Ms. Meade explained that this agreement was a local government regulation and would not be the same as a recorded easement, so it would not be found in a title search.

Mr. Wise stated that education was important, and he hoped to do more to help people understand the regulations.

Commission Member Behrend asked if this change would affect current land owners. Ms. Shook replied that this amendment would affect new construction or any modifications where pervious surface would be added.

Ms. Shook noted that no one had signed up to speak regarding this case.

With no public comment, Mayor Futrelle closed the public hearing for this case at 7:05 p.m.

Adjournment of Town Council

Council Member Roseman made a motion to adjourn the Town Council at 7:06 p.m. The motion was seconded by Council Member Tugman.

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

Tim Futrelle, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Chair Shay called a break in the meeting from 7:07 p.m. until 7:14 p.m.

Public Comment

Ms. Shook noted that no one had signed up to speak under public comment.

Approval of Meeting Minutes

Vice-Chair Plaag made a motion to approve the January 24, 2022 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

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

Case PL05551-030422 A&R Mountain Properties – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of 243/245 Bamboo Road, owned by A&R Mountain Properties, to R3 Multiple-Family Residential, SFHA, and WS-IV-PA. Zoning is to coincide with the property owner's voluntary annexation of the property. A&R Mountain Properties LLC has submitted a Voluntary Annexation Petition requesting the Town to annex 0.988 acres contiguous to the Town of Boone primary corporate limits. This area to be annexed, located at 243/245 Bamboo Road, is identified as Watauga County PIN 2920-20-5262-000.

Vice-Chair Plaag stated that his question regarding non-conformities in properties seeking annexation was because there was a potential for some outrageous uses on those properties that the Town might not be aware of, and those uses could continue as a legal non-conformity. Vice-Chair Plaag added that he had wanted it to go on record that there were not any strange uses on the property that staff was aware of. He hoped that future Planning Commission's and the current Planning Commission would make it a practice to ask if there was anything unusual about a property seeking annexation that may not align with the proposed zoning classification. Vice-Chair Plaag stated that he trusted staff to suggest a zoning classification that was appropriate to the existing uses, but that might not always be the case with future Planning Department staff.

Ms. Shook explained that the person applying for annexation had the opportunity to choose which zoning district they would like to have applied. She noted that Town Council was not required to select the zoning district the applicant requested. In this case, the applicant's request was to zone the property R3, and Town Council agreed with that request. Ms. Shook stated that staff tried to look at the development of the property and the surrounding uses so they could encourage applicants to request a zoning district compatible with their surroundings.

Chair Shay asked if any responses had been received from the residents within the 300 ft. notification area. Ms. Shook replied that she had not received any responses. Mr. Mike James, Senior Planner with the Town of Boone Planning & Inspections, added that he had not received any responses either. He noted that within the 300 ft. notification area were the airport, Deerfield Ridge, and several properties that were outside of Town limits.

Commission Member Veno asked if it was correct that there were three buildings on the subject property. Ms. Shook replied that was correct.

Commission Member Tippettt noted that there were quite a few land uses in the area. He stated that he could support the zoning of this property to R3 because of the protections it would provide, and it would be beneficial to get public sewer to that property.

First Motion and Vote: Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.2.2 Utilities

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

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the

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

- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Plaag made a motion that the Planning Commission recommends approval of Ordinance PL05551-030422 and believes approval is reasonable and in the public interest because the zoning concurrent with annexation applies an appropriate zoning classification for the known present uses of the property and should not have an adverse impact on the surrounding properties that are located within Town limits or in adjacent County lots. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Case PL05502-021822 Consultation in Certificates of Appropriateness Process – UDO Text Amendment

To modify UDO Article 8 and Appendix D related to consultations in the Certification of Appropriateness (COA) process to (i) correct language regarding the COA process to provide a clearer path for COA applicants, (ii) to reduce any potential conflict regarding the Historic Preservation Commission's interactions with applicants prior to a case, and (iii) align text with subsequent text amendments related to COA. Conforming amendments may also be made to other Articles.

First Motion and Vote: Commission Member Tippet made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.1.5 Downtown

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

- A.4 Establish specific architectural and design standards for downtown consistent with its location, setting, and various functions.

Comprehensive Plan Policy 2.3.2 Community Character

- B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.

The motion was seconded by Commission Member Warren.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of Ordinance PL05502-021822 and believes approval is reasonable and in the

public interest because it will reduce potential conflicts and it helps the review process between the applicant and staff. The motion was seconded by Commission Member Warren. Vice-Chair Plaag wished to amend the motion to add that the proposed amendment eliminates potential ex-parte communication or the perception thereof between members of the HPC as a quasi-judicial board and the applicant that had been previously permitted through the consultation process directly with the HPC. Commission Members Tippet and Warren accepted the amendment.

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

Case PL05558-030922 Stormwater Modifications – UDO Text Amendment

To modify UDO Article 21 Stormwater Management, Article 34 Definitions, and Appendix C Details and Specifications Manual related to stormwater detention requirements for the following uses:

1. Use 1.01 Single-Family Dwelling
2. Use 1.02-1.04 Manufactured Home
3. Use 1.06 Duplex (one duplex building per lot)
4. Any other use that operates out of a single-family dwelling (Family Care Homes, Boarding House, Home for Survivors of Domestic Violence, etc.)

This modification also:

1. Introduces exemptions for impervious improvements of 500 square feet or less and for lots within subdivisions or developments that have an approved drainage plan where the proposed development was considered and
2. Revises the definition of “impervious area” to include exemptions set forth in NC General Statutes.

Chair Shay stated that this amendment introduced an interesting partnership between the Town and an applicant where staff could review the project and provided the ability to allow a variety of ways to address stormwater, including opening it up to creative new ideas. Ms. Shook stated that this would allow for creativity outside of the stormwater control measures that were listed in the State's manual, but the applicant would still be required to show evidence that the particular stormwater control measure best controlled their stormwater run-off.

Chair Shay asked Ms. Shook what type of burden she anticipated this change to have on staff. Ms. Shook replied that this amendment and the addition of the MS4 would be an increase of responsibility for Mr. Wise. She added that these types of responsibilities were anticipated when Mr. Wise was hired as the Environmental Planner.

Vice-Chair Plaag asked that any motion for approval include a condition that C2.04.02(C) be modified to remove references to an agreement or anything suggesting a contract between the property owner and the Town in order to not create an illusion of there being a separate contract from what was already required under the UDO. This language would be revised by Planning staff and Ms. Meade.

First Motion and Vote: Commission Member Behrend made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.2.5 Environmental Health

- D. Runoff and drainage from development activities shall be of a quality and quantity as near to natural conditions as possible, with special emphasis given to critical watershed areas.

- E. Development which preserves the natural features of the site, including existing topography, streams and significant trees and vegetation, shall be reflected in the Town's Development Standards.
- F. Recognizing the economic and environmental costs of commercial and residential stormwater runoff, innovative stormwater management techniques such as permeable sidewalks, driveways, and parking areas shall be encouraged.
- G. The development of a comprehensive drainage and flood plain management plan, including public and private actions in support of plan implementation, shall be supported.

The motion was seconded by Commission Member Warren.

Chair Shay wished to amend the motion to add Vice-Chair Plaag's suggestion that C2.04.02(C) be modified to remove references to an agreement or anything suggesting a contract between the property owner and the Town in order to not create an illusion of there being a separate contract from what was already required under the UDO. This language would be revised by Planning staff and Ms. Meade.

Commission Members Behrend and Warren accepted the amendment.

Vice-Chair Plaag wished to amend the motion to include:

Comprehensive Plan Policy 2.1.1 Economic Development

A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.

A.2 Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

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

D.1 Continue to evaluate opportunities in the zoning ordinance for flexibly designed and located single-family and multi-family residential developments.

Commission Members Behrend and Warren accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Chair Shay made a motion that the Planning Commission recommends approval of Ordinance PL05558-030922 and believes approval is reasonable and in the public interest because it strikes a balance between protecting watersheds and managing stormwater with the burden on property owners. It offers creative but data-based pathways for analysis, and it reduces the burden on both the applicant and the staff. The motion was seconded by Vice-Chair Plaag.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Ms. Shook noted that staff had recently reached out to Commission members to gauge their preference for virtual or in-person meetings. She stated that those preferences were presented to Town Council, and, as a result, Council decided that commission and board meetings would remain virtual, with the

exception of quasi-judicial decisions where there was a party that did not consent to a virtual or remote meeting. Ms. Shook stated that Town Council would, at some point, investigate a hybrid model utilizing technology within Council chambers. She noted that Council would be meeting in person for the first meeting in April. Ms. Shook stated Council was reminded that the majority of Planning Commission members were in favor of virtual meetings, and she was unsure how the joint Town Council and Planning Commission meetings would be held. She noted she was not expecting to have a Planning Commission meeting next month.

Adjournment of Planning Commission

Vice-Chair Plaag made a motion to adjourn the meeting at 7:48 p.m. The motion was seconded by Commission Member Venno.

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

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary

General Use Zoning Map Amendment 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 ♦ Email: planning@townofboone.net ♦ www.townofboone.net



A. Required to be Submitted at Time of Application

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

Failure to provide the info required on this application may delay the review and scheduling of the requested hearing.

- ☐ Property Owner Authorization for all property included in the request. See [Section D](#).
- ☐ Deed(s) of all property to be included in the request,
- ☐ Both a digital and a hard copy of a written metes and bound legal description with accompanying survey map for a request that would rezone only a portion of a tax parcel or requests for multiple zoning districts.
- ☐ Permit Fee (See Planning & Inspections Fee Schedule)

Each application is allowed two (2) reviews. The 1st review of the submitted information and a 2nd review if revisions or supplemental information is required based upon the 1st review. Each subsequent review after the 2nd review will be charged at 50% of the original fees charged for the application. These fees shall be paid at the time of resubmittal.

B. Property Information

Street Address:

185/225 Modern Drive &
Off of Modern Drive

Watauga County Parcel Identification Number:

2911-70-6621-000 &
2911-71-6673-000

Existing Zoning District(s): Unzoned

Proposed Zoning District(s): See Staff Report

Adjacent Land Uses: N: See Staff Report

E: See Staff Report

S: See Staff Report

W: See Staff Report

Are there any existing variances or special use permits granted to the property?

☒ Yes ☐ No ☐ Unknown

If yes, describe: Variance for signage

Total Land Area: 29.53 (total in both parcels)

C. Property Owner Information

Name:

Modern Real Estate Investors LLC

Complete Mailing Address (Street, City, Zip):

Phone Number:

Email Address:

Preferred Method of Contact for Written/Response Documents (select one): ☐ Mail or ☐ Email

D. Applicant Signature and Property Owner Authorization

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.

NA-Request processed in conjunction with property owner's request for annexation of property

Property Owner (Print)

Property Owner (Signature)

Date

Official Use Only

Permit Name:

Modern Real Estate Investors LLC General Use Zoning Map Amendment

Permit Number:

PL05689-050322 & PL05690-050322

Date: 05/03/2022	Fee: NA	Receipt Number: NA	Method of Payment: ☐ Cash ☐ Check Number: _____	Paid By: NA
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Official Use Only - Hearing/Decision Information

Public Hearing Meeting Date: May 23, 2022

PC Meeting Date: _____

TC Meeting Date: _____

Date of APO Mailed Notification: _____

Date of Posted Notification: _____

Request Approved: ☐ Yes ☐ No If yes, date request sent to GIS: _____

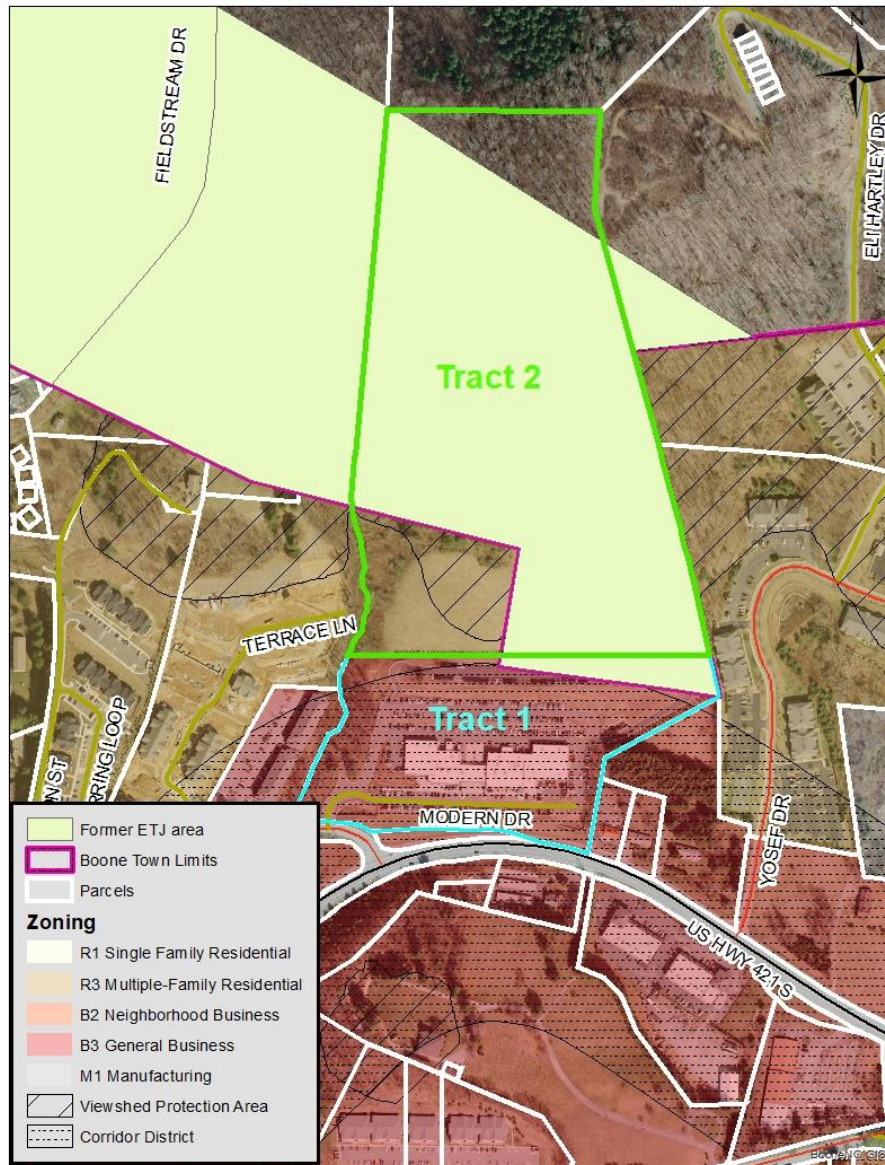
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Communication: Cases PL05689-050322 & PL05690-050322 Application (Cases PL05689-050322 & PL05690-050322 Modern Real Estate



Staff Report
Public Hearing
May 23, 2022

Cases PL05689-050322 & PL05690-050322 Modern Real Estate Investors LLC
General Use Zoning Map Amendment



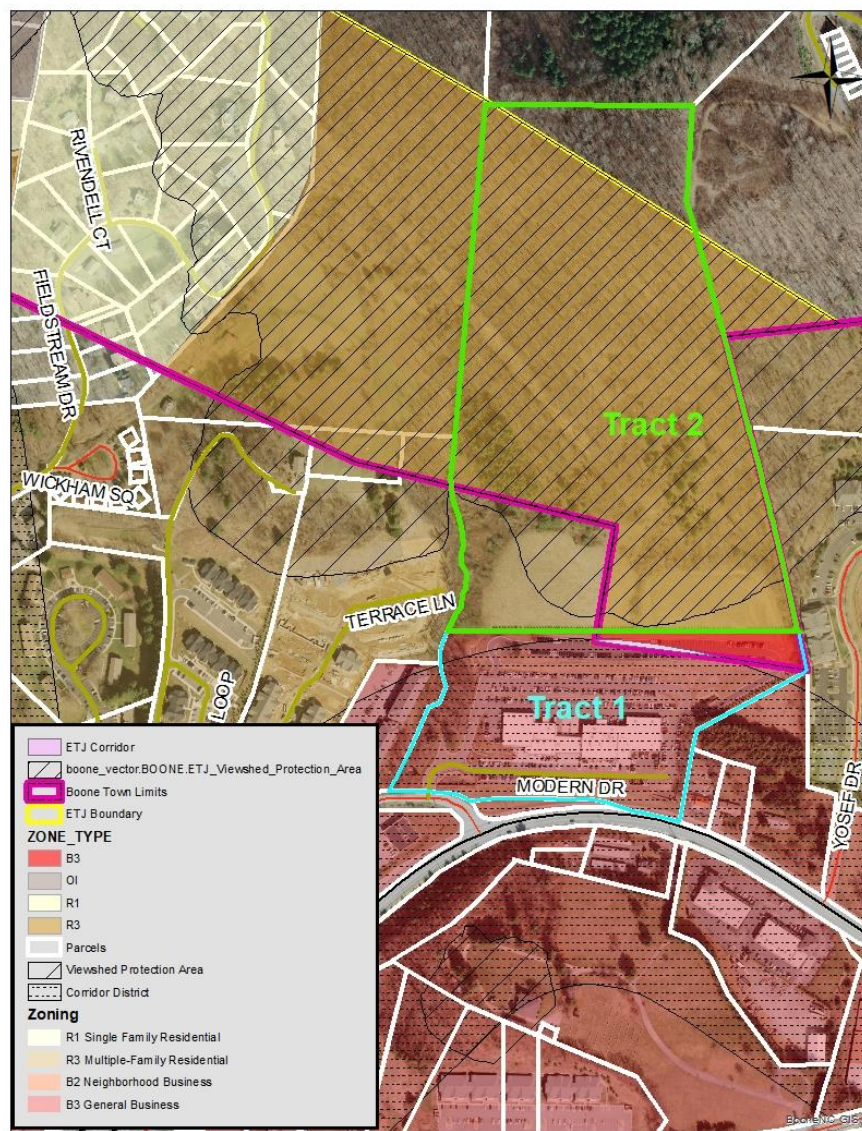
REQUEST

The Town of Boone has initiated the zoning of a portion of 185/225 Modern Drive to B3 General Business and Corridor District overlay (Tract 1 outlined in blue on map above) as well as a portion of Watauga County PIN: 2911-71-6673-000 to R1 Single-Family Residential, R3 Multiple-Family Residential and Viewshed Protection overlay (Tract 2 outlined in green on map to the right). Both parcels are owned by Modern Real Estate Investors LLC. Zoning is to coincide with the property owner's voluntary annexation of the properties.

Explanation: This request includes portions of two separate parcels. Both parcels are currently bifurcated by the Town of Boone corporate limits, where a portion of each parcel is within corporate limits and a portion of each parcel is located outside of the Town's corporate limits within Watauga County's jurisdiction. Note: the map above contains the former ETJ shown in green. This represents the area that was formerly in the Town's Extra-Territorial Jurisdiction (ETJ) but is now within the County's jurisdiction.

Note – The applicant has provided two documents (referred to as Exhibits B and C) to further assist in illustrating the current and proposed zoning for the two parcels. These exhibits show only the underlying zoning districts and do not show the Viewshed or Corridor Overlays.

HISTORY



1-10-2017: Town of Boone lost authority to exercise powers of extraterritorial jurisdiction. A portion of the subject property was previously located within the Boone ETJ.

1. Tract 1, highlighted borders in blue: The first parcel, Watauga County PIN 2911-70-6621-000, contains the Modern Toyota/Subaru development located at 151 Modern Drive. Though the majority of this tract is within the corporate limits, 1.221 acres (the northeast corner of the parcel) is located outside of the corporate limits. The 1.221 acres was previously part of the Boone ETJ and was zoned B-3 General Business with a portion of that area following into the Corridor District overlay (the same zoning as the remainder of the parcel within the corporate limits).
2. Tract 2, highlighted borders in green: The second parcel, Watauga County PIN 2911-71-6673-000, is vacant and contains 32.541 acres with 4.224 acres inside the Town's corporate limits and 28.317 acres located outside of the corporate limits. The southwest corner of the property currently located within the Boone Town Limits is zoned R-3 Multi-Family Residential. A portion of the 28.317 acres outside of the corporate limits was previously located in the Boone ETJ and was zoned R-3 Multi-Family Residential. The northeast corner of the property was located outside the ETJ and was not zoned. Most of the proposed annexed area was located within the ETJ Viewshed Protection Overlay District as well.

05-09-2014 A Zoning Permit was issued for construction of new Vehicle Sales and Service facility on parcel 2911-70-6621-000. The Zoning Permit was amended on 10-27-2014.

11-13-2015 Certificate of Occupancy was issued for the facility.

11-16-2015 The Boone Board of Adjustment approved two variances for sign dimensions.

05-09-2016 Town Council approved a General Use Zoning Map Amendment of a portion of parcel 2911-70-6621-000 from R-3 to B-3. This action made the entire portion of the Dealership parcel within Town limits B-3.

02-22-2022 Property owner requests annexation of a portion of the two adjoining parcels and requests Council consider the zoning of those parcels as follows:

Remainder of Dealership parcel: B3 General Business

Vacant Parcel: Split zoned between R3 Multiple-Family and R1 Single Family (see attached Exhibit B from client for distribution).

ZONING ANALYSIS OF ANNEXATION AREA

	Current Auto Dealership Parcel	Vacant Parcel Immediately North
Petitioner	Modern Real Estate Investors LLC	Modern Real Estate Investors LLC
Address	185/225 Modern Drive	Off Modern Drive
Watauga County PIN	2911-70-6621-000	2911-71-6673-000
Use	11.29 Vehicle Sales and Service	Vacant
Size	12.227 acres (total parcel) 1.221 acres to be annexed	32.58 acres (total parcel) 28.317 acres to be annexed
Jurisdiction	Watauga County/Town of Boone	Watauga County/Town of Boone
Access	Modern Drive to Perkinsville Road (fronts 421 but no access)	Modern Drive to Perkinsville Road
Viewshed	No	Most of the annexed area should be zoned Viewshed Protection Overlay

Watershed	No	No
SFHA	No	No
Steep Slope	No	Yes
Very Steep Slope	No	Yes
Existing Zoning	B-3 General Business for portion of parcel currently in Town	R-3 Multi-Family Residential for portion of parcel currently in Town
Previous Zoning	B-3 General Business for the portion previously within the ETJ	R-3 Multi-Family Residential for the portion of parcel previously within ETJ The portion of the property that was outside both Town and the ETJ was not zoned.
Requested Zoning	B-3 General Business	R-3 Multi-Family Residential and R-1 Single-Family Residential
Vesting	No	No

Analysis of Adjacent Zoning

Dealership Parcel 2911-70-6621-000

	Adjacent Zoning	Adjacent Land Use (Watauga Co. Tax Data)
North	R-3/Not zoned (Watauga County Jurisdiction)	Vacant (Parcel 2911-71-6673-000 -- also requested for annexation)
East	B-3 General Business	Vehicle Sales and Service/Single-Family Residential)
South	B-3 General Business	Other Personal Service Establishment/Religious Assembly-
West	B-3 General Business/R-3 Multi-Family Residential	Multi-Family Residential

Vacant Parcel 2911-70-6621-000

	Adjacent Zoning	Adjacent Land Use (Watauga Co. Tax Data)
North	Not zoned (Watauga County Jurisdiction)	Vacant
East	R-3 Multi-Family Residential/ Not zoned (Watauga County)	Multi-Family Residential
South	B-3 General Business/ Not zoned (Watauga County Jurisdiction)	Vehicle Sales and Service (Parcel 2911-70-6621-000 – also requested for annexation)
West	R-3 Multi-Family Residential/ Not zoned (Watauga County)	Multi-Family Residential/Vacant

Below are excerpts from UDO Article 4 and Appendix B regarding the districts, uses, intensity and height for the R1 Single-Family Residential District, the R3 Multiple-Family Residential District and the B3 General Business District.

Excerpt of ARTICLE 14 ZONING DISTRICTS

...

14.05 R1 Single-Family Residential District

14.05.01 The R1 Single Family Residential District is established to provide a low-density living area consisting only of single-family dwelling units and other related uses necessary for a sound neighborhood. The regulations for this district are designed to stabilize and encourage a comfortable, healthy, safe, aesthetically pleasing and pleasant living environment for family life that promotes peaceful quiet enjoyment sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

...

14.10.01 R3 Multiple-Family Residential District

14.10.01 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 intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

...

14.21 B-3 General Business District

14.21.01 The B3 General Business District is primarily intended to accommodate a wide range of office, restaurant, retail, service, and multi-family residential uses in a mixed-use environment. The regulations for this district are intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

...

Excerpts from UDO Appendix B –Next pages

B1.01 Complete 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	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4		
1.0 Household Living																									
1.01	Single-Family Dwelling	P	P	P	P	P	P	P																	
1.02	Manufactured Home “Class A”	L			L		L	L	L															15.01	
1.03	Manufactured Home “Class B”	L							L															15.01	
1.04	Manufactured Home “Class C”																								
1.05	Manufactured Home Park								L															15.02	
1.06	Duplex (one duplex building per lot)	P					P	P		P															
1.07	Duplex (more than one duplex building per lot)									L														15.03	
1.08	Townhouse (up to 30 bedrooms)							L T50		L T50														15.03	
1.09	Townhouse (31-100 bedrooms)							L T50		L T75														15.03	
1.10	Townhouse (> 100 bedrooms)							L T75		L 125														15.03	
1.11	Multi-Family Dwelling (up to 30 bedrooms)									L T125														15.03	
1.12	Multi-Family Dwelling (31-100 bedrooms)									L T200														15.03	
1.13	Multi-Family Dwelling (> 100 bedrooms)									L T300														15.03	
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)												L	L	L T75	L								15.04	
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)												CD	L T125		L T125								15.04	

Use #	Specific Use	Zoning Districts																						Reference		
		Low Density Residential				Medium to High Density Residential							Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)														L ^{T300}	L ^{T200}								15.04		
1.17	Adult Living Community									p ^{T300}	p ^{T300}															
2.0 Group Living																										
2.01	Family Care Home	L	L	L	L	L	L	L		L														15.06		
2.02	Family Care Institutions											L ^{T125}												15.07		
2.03	Halfway House, Category 1											L												15.07		
2.04	Halfway House, Category 2											L ^{T125}												15.07		
2.05	Residential Care Facility										CD	p ^{T300}				p ^{T300}										
2.06	Fraternity or Sorority Dwelling									S ^{T300}														15.09		
2.07	Boarding House									L						L								15.10		
3.0 Transient Living																										
3.01	Home for Survivors of Domestic Violence	L	L	L			L	L				L		L ^{T125}	L									15.11		
3.02	Shelter for Homeless, Category 1									L ^{T50}		L ^{T50}		L ^{T50}		L ^{T50}								15.12		
3.03	Shelter for Homeless, Category 2									L ^{T300}		L ^{T300}				L ^{T300}								15.12		
3.04	Bed and Breakfast, Category 1	L	S ^{T50}	S ^{T50}			L ^{T50}	L ^{T50}							L	L								15.13		
3.05	Bed and Breakfast, Category 2						L	L ^{T125}								L ^{T125}								15.13		
3.06	Vacation Rental	L ^{T75}								L ^{T75}			L ^{T75}	L ^{T75}	L ^{T75}	L ^{T75}								15.14		
3.07	Homestay Rental	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L						15.05		
3.08	Motel															p ^{T300}										
3.09	Hotel, Small												P	P		P	P									
3.10	Hotel, Large															p ^{T200}										
3.11	Hotel, extended stay															p ^{T300}										
4.0 Institutional																										
4.01	Airport/Landing Strip	S ^{T300}																						15.15		

Use #	Specific Use	Zoning Districts																						Reference		
		Low Density Residential				Medium to High Density Residential							Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
4.02	Heliport	S ^{T300}																								
4.03	Funeral Home Establishment											P	P	P	P	P										
4.04	Cemetery	P	P	P	P		P	P	P	P		P		P	P	P	P									
4.05	Post Office											P	P	P	P	P	P									
4.06	Post Office, Distribution																P									
4.07	Animal Sanctuary	S ^{T300}																								
5.0 Government Uses																										
5.01	Government Cultural Facility											P	p	p		P										
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	S	S	S	S		S	S				P		P	P	P										
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity											P				P										
5.04	Recreation Facility, Category 1	P								P		P	p	p	P	P	P									
5.05	Recreation Facility, Category 2	P	P	P	P		P	P				P	p	p	P	P	P									
5.06	Recreation Facility, Category 3	p ^{T50}	S	S	S		S	S		P		p ^{T50}	p ^{T50}	p ^{T50}	p ^{T50}	p ^{T50}	p ^{T50}									
5.07	Event Venue, Category 1								P	P		P	p	p	P	P	P									
5.08	Event Venue, Category 2								S	S		P	p	p	P	P	P									
5.09	Event Venue, Category 3											p ^{T50}	p ^{T50}	p ^{T50}	p ^{T50}	p ^{T50}										
5.10	Landfill																S									
5.11	Solid Waste Processing																S									
5.12	Police Substation	P	P	P	P		P	P				P	p	p	P	P	P									
5.13	Utility Facility, Town	L	L	L	L	L	L	L				L	L	L	L	L	L						15.16			
5.14	Utility Facility, Government, Neighborhood	L	L	L	L	L	L	L	P	P		L			L	L	L						15.16			
5.15	Utility Facility, Government, Regional	L ^{T300}							L	L		L ^{T300}				L ^{T300}	L ^{T300}						15.16			
5.16	Government Facility	P							L	L		P	P	P	P	P	P									

Use #	Specific Use	Zoning Districts																						Reference		
		Low Density Residential				Medium to High Density Residential							Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
6.0 Non-Government Utility Facility																										
6.01	Utility Facility, Neighborhood	L	L	L	L	L	L	L	P	L		L	L	L	L	L	L							15.16		
6.02	Utility Facility, Regional	L ^{T300}										L ^{T300}				L ^{T300}	L ^{T300}							15.16		
7.0 Wireless Communication																										
7.01	Small Wireless Collocation	L	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L	L	L	L	L	15.18		
7.02	Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole	L	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L	L	L	L	L	15.17		
7.03	Stealth Wireless Facility Attached to Existing Building or Structure	L	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L	L	L	L	L	15.17		
7.04	Non-stealth Wireless Facility Attached to Existing Building or Structure																							15.17		
7.05	Non-stealth Wireless Facility Collocation on Electrical Transmission Towers	L	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L	L	L	L	L	15.17		
7.06	Stealth Wireless Support Structure	S/L	S/L	S/L	S/L	S/L	L	L	L	L		L	L	L	L	L	L	L	L	L	L	L	L	15.17		
7.07	Non-stealth Wireless Support Structure									L		L			L	L	L	L	L	L	L	L	L	15.17		
7.08	Emergency Response Communication Antenna	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
8.0 Assembly																										
8.01	Religious Assembly, Category 1	P	P	P	P		P	P	P	P		P		P	P	P										
8.02	Religious Assembly, Category 2	P ^{T125}	P ^{T125}	P ^{T125}	P ^{T125}		P ^{T125}	P ^{T125}	P ^{T125}	P ^{T125}		P ^{T75}		P		P										
8.03	Religious Assembly, Category 3	P ^{T200}												P ^{T200}		P ^{T200}										
8.04	Club/Lodge, Category 1													P ^{T75}		P ^{T75}										
8.05	Club/Lodge Which Does Not Serve Alcohol	P													P											

Communication: Cases PL05689-050322 & PL05690-050322 Staff Report (Cases PL05689-050322 &

Use #	Specific Use	Zoning Districts																						Reference		
		Low Density Residential				Medium to High Density Residential							Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
9.0 Education																										
9.01	Public colleges and universities																	pT200	pT200	pT200						
9.02	Private colleges and universities																		pT200	pT200						
9.03	Trade school																				pT200					
9.04	High school																				pT200					
9.05	Elementary school																				pT200					
9.06	Boarding school																									
9.07	College- or university-operated community enterprise												L	L										15.63		
9.08	College- or university-operated child daycare center																					L		15.19		
10.0 Daycare																										
10.01	Child Daycare, Large	L						L		L				L	L									15.19		
10.02	Child Daycare Center											L			L									15.19		
10.03	Adult Daycare, Large	L						L		L				L	L									15.19		
10.04	Adult Daycare Center											L			L									15.19		
10.05	All Other Daycare											CD														
11.0 General Sales and Service																										
11.01	Kennel	L ^{T125}													L ^{T125}									15.20		
11.02	Veterinary Office/Hospital with Outdoor Kennels	L ^{T125}										L ^{T125}			L ^{T125}									15.20		
11.03	Veterinary Office/Hospital without Outdoor Kennels	P										P	P	P	P											
11.04	Financial Institution ≤ 5,000 ft²											P	P	P	P	P										
11.05	Financial Institution > 5,000 ft²											P	P	P	P											
11.06	Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am											P ^{T75}	P ^{T125}	P ^{T200}	P ^{T75}	P ^{T75}	P ^{T75}									

Communication: Cases PL05689-050322 & PL05690-050322 Staff Report (Cases PL05689-050322 &

Use #	Specific Use	Zoning Districts																						Reference		
		Low Density Residential				Medium to High Density Residential							Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
11.07	Other Restaurants ≤ 2,500 ft²											P	P	P	P	P	P									
11.08	Restaurant > 2,500 ft² open to the public during 10 pm – 6 am											pT200	pT125	pT200		pT200										
11.09	Other Restaurants > 2,500 ft²											pT125	pT75	pT75		pT125										
11.10	Restaurant ≤ 3,500 ft² open to the public during 10 pm-6 am																pT300									
11.11	Other Restaurants ≤ 3,500 ft²																pT300									
11.12	Bar																									
11.13	ABC Store															P	P									
11.14	Personal Service Establishment open to the public during 10 pm-6 am											pT75	pT125	pT125		pT75	P									
11.15	Other Personal Service Establishments											P	P	P	P	P	P									
11.16	Retail Store up to 5,000 ft²											P	P	P	P	P	P									
11.17	Retail Store more than 5,000 but less than 25,000 ft²												CD	P T300	pT200	pT200										
11.18	Retail Store 25,000 ft² and greater															L T300							15.21			
11.19	Reserved																									
11.20	Business or Professional Office open to the public during 10 pm - am											pT75	pT50	p125		pT75	p T75									
11.21	Other Business or Professional Office											P	P	P	P	P	P									
11.22	Medical Office, Category 1											pT300	pT300	pT300		pT300										
11.23	Medical Office, Category 2											pT125	pT125	pT125		pT125										
11.24	Medical Office, Category 3											pT125				pT125										
11.25	Medical Office, Category 4											P	P	P	P	P										
11.26	Hospital											pT300														

Use #	Specific Use	Zoning Districts																				Reference				
		Low Density Residential				Medium to High Density Residential							Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2		E3	E4		
11.27	Medical Emergency Response											pT300		pT300	pT300											
11.28	Open Air Market, Recurring	L ^{T75}										L ^{T50}			L ^{T75}								15.22			
11.29	Vehicle Sales and Service													L ^{T125}	L ^{T75}								15.23			
11.30	Equipment Sales and Service														L ^{T125}	L ^{T125}							15.24			
11.31	Moped Sales and Service													P	P	P										
11.32	Boat or Marine Craft Sales and Service														L ^{T75}	L ^{T75}							15.25			
11.33	Impound Lot/Towing Service														L ^{T125}	L ^{T125}							15.26			
11.34	Gas Station	pT125												pT125	pT125	pT125										
11.35	Car Wash													pT125	pT125	pT125										
11.36	Seasonal Retail Activities and Amusements	P										P	P	P	P	P	P									
11.37	Electric-Vehicle Charging Station													L	L	L	L						15.65			
12.0 Recreation & Entertainment Uses																										
12.01	Indoor Shooting Range	L ^{T75}													L ^{T75}								15.27			
12.02	Outdoor Shooting Range																									
12.03	Indoor Theater												P	P	P											
12.04	Outdoor Theater	pT200											P	pT125	pT125											
12.05	Event Venue, Category 1												P	P	pT75	P	P									
12.06	Event Venue, Category 2												pT50	pT50	pT125	pT125										
12.07	Event Venue, Category 3												pT200	pT200	pT200											
12.08	Campground and Recreational Vehicle Park	L ^{T200}													L ^{T200}								15.28			
12.09	Coliseum														S ^{T300}											
12.10	Recreation Facility, Category 1	pT125										P	P	P	P	P	P									
12.11	Recreation Facility, Category 2	pT125										p ^{T50}			p ^{T50}											

Communication: Cases PL05689-050322 & PL05690-050322 Staff Report (Cases PL05689-050322 &

Use #	Specific Use	Zoning Districts																						Reference		
		Low Density Residential				Medium to High Density Residential							Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
12.12	Recreation Facility, Category 3	pT200														pT200										
12.13	Racetrack																									
13.0 Agriculture																										
13.01	Garden, Community	L	L	L	L	L	L	L				L	L	L	L	L								15.29		
13.02	Garden, Residential	L	L	L	L	L	L	L				L	L	L	L	L								15.30		
13.03	Agricultural Operation Excluding Livestock	P																								
13.04	Agricultural Operation Including Livestock	P																								
13.05	Swine Farm																									
13.06	Confined Animal Feeding Operation (CAFO)																									
13.07	Custom Slaughterhouse	P																								
13.08	Other Slaughterhouse																									
13.09	Forestry	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L						15.31		
14.0 Manufacturing																										
14.01	Microbrewery												LT125	T200	T125	T125								15.32		
14.02	Brewpub												T75	T125	T125	T125								15.32		
14.03	Brewery/Distillery														T125	T125								15.33		
14.04	Brewery/Distillery, Other																							15.34		
14.05	Winery Associated with a Vineyard	T125															T125							15.35		
14.06	Winery														T125	T125								15.35		
14.07	Winery, Other																									
14.08	Extraction of Earth Materials																									
14.09	Machine/Welding Shop														T200	T200								15.37		
14.10	Manufacturing, Other															T300								15.38		
15.0 Parking																										

Use #	Specific Use	Zoning Districts																						Reference		
		Low Density Residential				Medium to High Density Residential							Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4			
15.01	Parking Lot											L			L									15.39		
15.02	Parking Structure									L ^{T125}		L			L									15.40		
15.03	Park and Ride Lots	L										L		CD	L		L							15.39		
16.0 Storage																										
16.01	Self-Storage Facilities	L ^{T125}													L ^{T75}		L ^{T75}							15.41		
16.02	Outdoor Storage																L ^{T75}							15.42		
16.03	Warehouse																p ^{T75}									
16.04	Fuel Storage Facility														p ^{T300}		p ^{T300}									
16.05	Chemical Storage Facility																									
17.0 Transportation																										
17.01	Passenger Terminals														p ^{T200}		P									
17.02	Trucking or freight terminal ≤ 10,000 ft²														p ^{T125}		p ^{T125}									
17.03	Trucking or freight terminal > 10,000 ft²																p ^{T300}									
18.0 Waste Related Uses																										
18.01	Recycling Drop-off Station	L ^{T300}															L ^{T200}							15.42		
18.02	Recycling and Salvage																L ^{T300}							15.42		
18.03	Junkyard																									
18.04	Private Landfill																									
19.0 Particular Activities Which Pose Particular Concern About Public Health																										
19.01	Electronic and Internet Gaming														S									15.43		
19.02	Adult Establishments														S									15.44		

B1.02 Complete Table of Accessory Uses

Use #	Accessory Use	Zoning Districts	
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		Low Density Residential				Medium to High Density Residential						Commercial/Industrial								Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	U1	E2	E3	E4		
A-1	Secondary suite	L	L	L	L	L	L	L	L	L		L		L	L	L								15.45	
A-2	Home occupation	L	L	L	L	L	L	L	L	L		L	L	L	L	L								15.46	
A-3	Accessory dwelling unit			L	L		L	L		L		L		L	L	L								15.47	
A-4	Drive-through											L				L		L						15.48	
A-5	Outdoor display											L	L	L	L	L		L						15.49	
A-6	Outdoor storage															L		L						15.50	
A-7	Outdoor dining											L	L	L	L	L		L ^{T300}						15.51	
A-8	Automated teller machine (ATM)											P			P	P		P							
A-9	Automated teller machine (ATM), freestanding									L		L	L	L	L	L		L						15.52	
A-10	Produce stand	L																						15.53	
A-11	Poultry	L	L	L	L		L	L	L	L		L			L	L								15.54	
A-12	Livestock, small	L	L	L	L		L	L	L	L		L				L								15.55	
A-13	Livestock, large	L																						15.56	
A-14	Bees	L	L	L	L	L	L	L	L	L		L	L	L	L	L								15.57	
A-15	Garden, residential	L	L	L	L	L	L	L	L	L		L	L	L	L	L		L						15.58	
A-16	Satellite receiving antennas less than 1 meter in diameter	P	P	P	P	P	P	P	P	P		P			P	P		P							
A-17	Satellite receiving antennas less than 2 meters in diameter	P										P			P	P		P							
A-18	Satellite receiving antennas 2 meters and greater in diameter											S				S		P							
A-19	Helistop	S ^{T300}										S ^{T300}				S ^{T300}		S ^{T300}							
A-20	Swimming pools, spas, and hot tubs	L	L	L	L	L	L	L	L	L		L	L	L	L	L		L						15.59	
A-21	Caretaker's residence											L				L		L						15.60	
A-22	Vehicular gate	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L		L						15.61	
A-23	Vehicle washing station	P								P		P			P	P		P							

Communication: Cases PL05689-050322 & PL05690-050322 Staff Report (Cases PL05689-050322 &

Use #	Accessory Use	Zoning Districts																						
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial						Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	U1	E2		E3	E4
A-24	Chemical storage facility															P ^{T125}		P ^{T125}						
A-25	Open air market, accessory	L	L	L	L		L	L	L	L		L	L	L	L	L		L						15.22
A-26	Daycare, small	P	P	P	P	P	P	P	P	P		P	P	P	P	P		P						
A-27	Limited structure to enable recreational use of open rooftops										L ^{T300}		L ^{T300}	L ^{T300}		L ^{T300}	L ^{T300}							14.03.07(G) 14.19.06(H)(8)(d)
A-28	Solar Energy System	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L				L		15.64
A-29	Electric-Vehicle Charging Station	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L				L		15.65

B1.03 Complete Table of Temporary Uses

Use #	Temporary Use		Zoning Districts																				Reference		
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1	B1DI	B2	B3	WD	M1	U1	E1	E2	E3		E4	
T-1	Temporary family care structure	L	L		L	L	L	L	L	L		L	L	L	L	L								15.62	
T-2	Temporary construction or repair dwelling	L	L	L	L	L	L	L	L	L		L		L	L	L		L						15.62	
T-3	Temporary construction trailer	L	L	L	L	L	L	L	L	L		L	L	L	L	L		L						15.62	
T-4	Temporary mobile medical unit											L				L								15.62	
T-5	Temporary classroom											L				L						L		15.62	
T-6	Temporary portable storage containers	L	L	L	L	L	L	L	L	L		L	L	L	L	L		L						15.62	
T-7	Temporary staging											L				L		L						15.62	
T-8	Temporary non-fixed site event venue	L										L				L								15.62	

Communication: Cases PL05689-050322 & PL05690-050322 Staff Report (Cases PL05689-050322 &

Use #	Temporary Use		Zoning Districts																				Reference	
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1	B1DI	B2	B3	WD	M1	U1	E1	E2	E3		E4
T-9	Carrier on wheels (cow)	L	L	L	L	L	L	L	L	L		L	L	L	L	L		L						15.62
T-10	Yard sales	L	L	L	L	L	L	L	L	L		L		L	L	L		L						15.62
T-11	Itinerant merchant/peddler	L	L	L	L	L	L	L	L	L		L	L	L	L	L		L						15.62
T-12	Open air market, temporary	L										L	L	L	L	L		L						15.62
T-13	Temporary Use 9.01 Public Colleges and Universities											L				L		L						15.62

B1.04 Complete Intensity Table

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
Residential Zoning Districts						
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
R1S	5,000 sq. ft.	35 ft.	28 ft.	NA, Refer to UDO Subsection 14.06.03(D)	20’	7’, Refer to Subsection 14.06.03(E)(2)
R1A	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
RR	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R2	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R3	20,000 sq. ft.	80 ft.	64 ft.	.40	20 ft.	13 ft.
R4	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R5	10,000 sq. ft.	70 ft.	56 ft.	.27	20 ft.	17 ft.
RA No Public Water & Sewer Available	20,000 sq. ft.	100 ft.	80 ft.	.65	20 ft.	18 ft.

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
RA Public Water Available	15,000 sq. ft.	80 ft.	64 ft.	.65	20 ft.	18 ft.
RA Public Water & Sewer Available	10,000 sq. ft.	65 ft.	52 ft.	.65	20 ft.	14 ft.
MH	87,120 sq. ft.	None	56 ft.	.51	20 ft.	20 ft.
Commercial/Industrial Zoning Districts						
B1-DC	2,500 sq. ft.	25 ft.	20 ft.	NA, Refer to Subsection 14.19.04(D)	Refer to Subsection 14.19.04(E)(1)(a)	Refer to Subsection 14.19.04(E)(1)(b)
B1-DI	5,000 sq. ft.	50 ft.	40 ft.	NA	Refer to Subsection 14.19.04(E)(2)	Refer to Subsection 14.19.04(E)(2)
B2	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
B3	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
OI	10,000 sq. ft.	100 ft.	80 ft.	.27	20 ft.	17 ft.
WD	10,000 sq. ft.	50 ft.	40 ft.	NA, Refer to Section 14.23(D)	Refer to Section 14.23(E)	Refer to Section 14.23(E)
M1	17,000 sq. ft.	80 ft.	64 ft.	.3	20 ft.	22 ft.
Educational Zoning Districts						
U1	None	None	None	.27	Refer to Subsection 14.29.03(B)(1)	Refer to Subsection 14.29.03(b)(2)
E1	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
E2	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
E3	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
E4	21,780 sq. ft.	80 ft.	64 ft.	.27	20 ft.	17 ft.

B1.05 Complete Building Height Table

Zone	Height Limitation
R1, R1A, RR, R2, R4, RA	3 stories
R1S	1 story with an attic story or a basement/25'; Refer to Subsection 14.06.03(F)
R3	3 stories
R5	4 stories/56'
MH	35'
B1-DC, B1-DI	Refer to Subsection 14.19.04(F)
B2	3 stories/40'
B3	3 stories/45' (primary)-4 stories/56' (secondary)
OI	4 stories/67'
WD	Refer to Section 14.23(F)
M1	67'
E1, E2, E3	3 stories/45' (primary)-5 stories/67' (secondary)
E4	2 stories
U1	Refer to Subsection 14.29.03(C)

B1.06 Complete Occupancy Table

Occupancy Regulation	Zoning District
One family or up to 2 unrelated Note: a dwelling occupied by a family (but not unrelated persons) may also have one (1) roomer.	1. R1 Single-Family Residential
	2. R1S Small Home Residential
	3. R1A Single-Family Residential with Accessory Dwelling
	4. RR Residential Rehabilitation
	5. R2 Two-Family Residential
	6. R4 Two-Family Residential

	Family Residential/Manufactured Housing 7. Housing Residential R5 55+ 8. Residential Agriculture RA 9. Manufactured Housing MH 10. Downtown Interface B1 11. Downtown Core B1 12. Neighborhood Business B2 13. Institutional O/I Office 14. Educational E2
One family or up to 4 unrelated Note: a dwelling occupied by a family (but not unrelated persons) may also have one (1) roomer.	1. Multiple-Family R3 2. Business B3 General 3. Manufacturing M1
No Occupancy Limitations	1. University U1
No Residential Uses Allowed	1. Wellness District WD 2. Educational District E1 3. Educational District E3

	4. Educational Child Daycare District	E4
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ANNEXATION PROCESS EXPLANATION

Annexation is a three-step process. The zoning of the property being annexed into the Town corporate limits occurs in a separate but concurrent process. Both of the processes require separate public hearings. Staff has detailed the steps in which both of these processes would occur below.

Date	Annexation	Zoning
April 13, 2022	Step 1 Presentation of Petition: The first step of the annexation process occurred at the April 13, 2022 regular Town Council meeting, where the annexation petition and Certificate of Sufficiency was presented and Council approved a resolution scheduling a date for a public hearing on June 8, 2022.	
May 23, 2022		Step 1 Zoning (Public Hearing on Zoning): Cases to zone properties placed on the May 23, 2022 public hearing agenda for the zoning of the property. Step 2 Zoning (PC Meeting): Planning Commission makes recommendation of the zoning of the parcel to Town Council following the May 23, 2022 public hearing.
June 8, 2022	Step 2 Public Hearing on Annexation: The second step of the annexation process would be an annexation public hearing during the first part of the Council meeting on June 8, 2022. Step 3 Council Vote on Annexation: Subsequent to the public hearing on annexation (at the same meeting) be scheduled and after the decision on the zoning of the properties, Council will vote on the Annexation Ordinance. The annexation ordinance can be made effective immediately, June 30, 2022 or June 30, 2023.	Step 3 Council Vote on Zoning: Planning Commission recommendations will be forwarded to the June 8, 2022 Town Council meeting for Council decision on zoning of the properties.

2006 COMPREHENSIVE PLAN ANALYSIS

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.

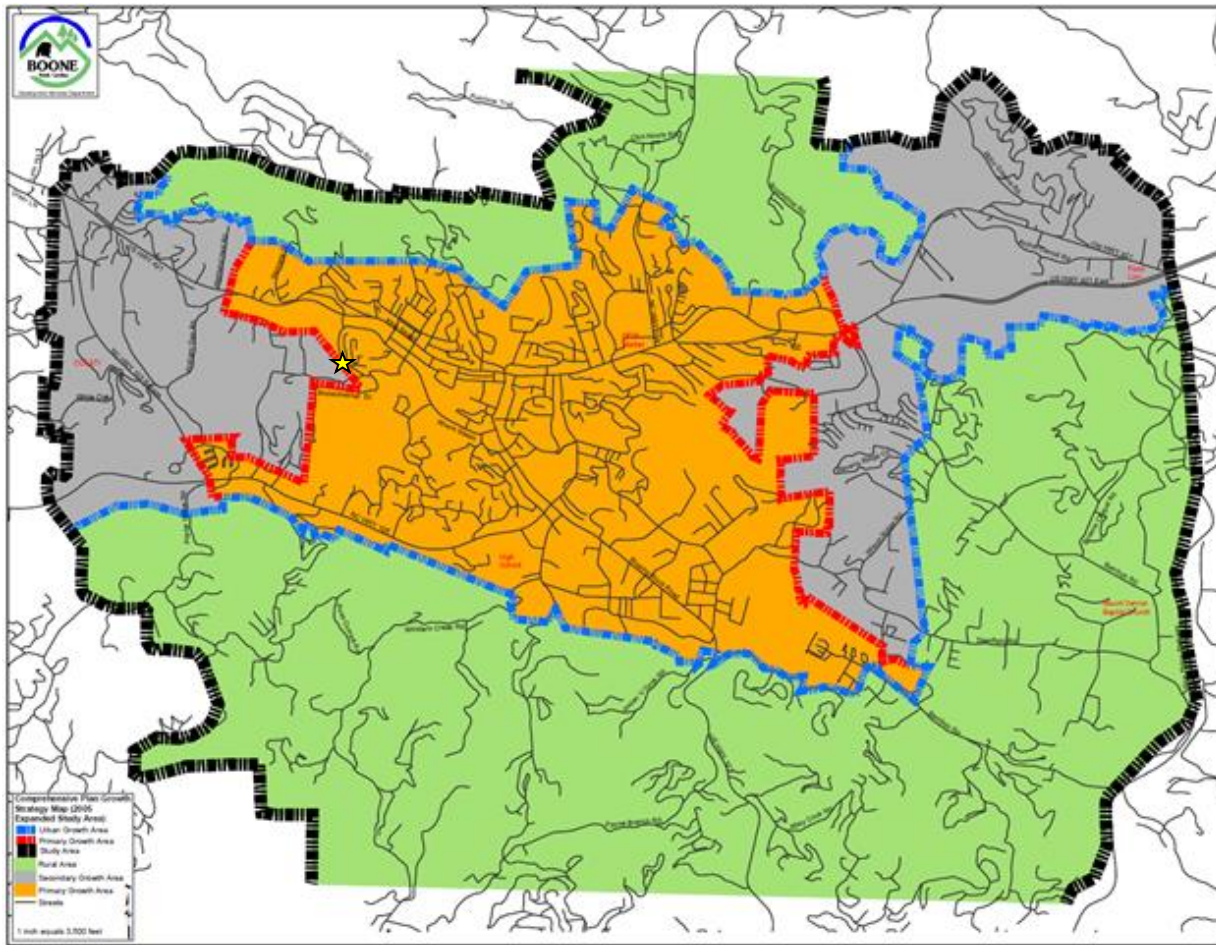
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

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 portion of the property within the corporate limits is located within the Primary Growth area and the portion of the property located outside the corporate limits is located within the Secondary Growth Area.

The Primary Growth Area is that portion of the urban growth area where urban level or facilities are already in place or can be provided most cost effectively. This is the area where near term growth and development is to be especially encouraged.

The Secondary Growth Area is that portion of the urban growth area where urban level services can be provided, but on a lower priority basis than in the primary growth area.

Additionally, for comparison, the Rural Area is that portion of the planning study area that is influenced by urban area growth forces, but within which urban level development should be strongly discouraged. Urban level services and associated development densities should not be planned for this area, except in case by case evaluations of major economic development projects.

Staff has reviewed land use and comprehensive plan policies, and listed those policies and actions which in staff's opinion have a bearing on the request. 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.

2.1 Economy (page 21)

2.1.1 Economic Development

- A.** The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.
 - A.1** Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
 - A.2** Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.
 - A.3** Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.
 - A.4** Balance the benefits of economic development projects with special concern for environmental quality issues.
- 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.
 - D.1** Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.
 - D.2** Urge the resolution of the clean-up process of the 482 State Farm Road site so as to render the building suitable for use as soon as possible.
 - D.3** Pursue annually at least one joint public-private venture that will benefit the community at large.
- 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.
- F.** New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G.** The Town shall support the development of new business parks.
 - G.1** Identify suitable property for possible business park development.
- H.** The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
 - H.1** Assist business recruitment and expansion efforts by providing demographic and market data and development information to potential developers and business prospects. Direct such interested parties, by referral through the Economic Development Director, to identified locations in the community.

H.2 Include economic development as a specific point of discussion by the recently created Community Council.

H.3 Continue to support the Economic Development Commission as the lead economic development agency in the county. Continue to support and work with the Committee of 100, Chamber of Commerce, Tourism Development Authority, High Country Host, Broyhill Institute for Business Development, High Country Council of Governments, Caldwell Community College and Technical Institute, JobLink and others on issues of economic benefit to the whole community.

I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.

J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.

J.1 Encourage the growth of a student internship program between area businesses, ASU and Caldwell Community College and Technical Institute as a means of providing training for Boone area citizens.

J.2 Actively pursue workforce training through ASU and Caldwell Community College and Technical Institute to meet existing needs of current employers and make efforts to develop the skills necessary for higher paying jobs.

J.3 Support careers education programs in the public schools.

K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.

K.1 Support local agencies and institutions efforts in the development of programs and services providing for the needs of the growing retiree population.

2.2 Infrastructure

2.2.2 Utilities (page 49)

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.

B.1 Continue to monitor water consumption at the Boone Water Treatment Plan with an eye toward planning for expansion of the facility when appropriate.

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

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

D.1 Establish revised written water and sewer service extension policies consistent with the designated growth area on the Growth Strategy Map of this plan. Coordinate with the County in assessing water

and sewer needs in the areas of the county that are already facing significant development pressures, and that are supportive of an organized, planned growth strategy.

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

- E.1 Establish an incentive program to encourage development within the Urban Growth Area.

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

- F.1 Consider the establishment of an “Alternate Energy Commission” to address this and other energy issues on an on-going basis.

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

- G.1 Prepare a community-wide stormwater management strategy to address the future implementation of NPDES Phase II program requirements.

...

2.3 Community

2.3.2 Community Character (page 75)

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.

- A.1 Conduct on-going assessments of critical locations in community deserving special attention by the zoning ordinance, in light of their high visibility, traffic impact, strategic location, or other unique features. Continue to encourage significant new public buildings and outdoor spaces to locate in these and other positions of visibility and strategic prominence. Encourage the private sector to do likewise.

- A.2 Seek out locations of historical merit in the community, and prepare an action plan for their enhancement, rehabilitation, or relocation as may be necessary.

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

- B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.

- C. Wise development of the tourism potential of the area’s architectural, historic, scenic and natural resources shall be encouraged.

- C.1 Consider the placement of public art at appropriate locations in downtown, including murals.

- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.

- D.1 Carefully scrutinize proposed road widening to ensure that such actions do not destroy community and neighborhood character.

- D.2 Continue to support the Town’s tree preservation standards. Evaluate the effectiveness of the tree regulations since their establishment and amend them as necessary.

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

2.3.3 Housing & Neighborhoods (page 79)

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
 - A.1 As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.
 - A.2 Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.
 - A.3 Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.
 - A.4 Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.
 - A.5 Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.
 - A.6 Implement a residential zoning enforcement policy based on the task force analysis above.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
 - B.1 Update the Town's standards for subdivision street layouts, emphasizing circulation between neighborhoods and the ability of pedestrians and bicyclists to travel on back streets throughout the town.
 - B.2 To the extent federal and state funding programs will allow, seek and apply for at least one grant to provide for bicycle paths to connect residential areas with commercial and university districts.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
 - C.1 Amend the zoning map and development regulations to prevent residential uses from locating adjacent to existing developments and other uses which may have characteristics which cannot be effectively mitigated.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
 - D.1 Continue to evaluate opportunities in the zoning ordinance for flexibly designed and located single-family and multi-family residential developments.

D.2 Establish ongoing relationships with ASU's departments of Geography and Planning, Appropriate Technology, and Sustainable Development to develop, enhance, and implement efforts toward creating affordable housing, appropriate infill development, neighborhood livability standards, and design standards for multi-family development. This should include attention to lighting, bike and pedestrian pathways, and federal, state, and local funding sources.

E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.

E.1 Review the zoning ordinance for the appropriate placement of high-density housing near urban activity centers that are coordinated with transit system stops.

F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

F.1 To the extent the federal and state funding programs will allow, seek and apply for at least one grant to provide for low to moderate income housing.

G. Compact, full-service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.

H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

...

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Vote 1: The proposed amendment to the Town’s zoning map ☐is OR ☐is not consistent with the Town’s comprehensive plan and any other adopted plan(s) of the Town that are applicable because:

Note 1

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL05690-050322 within in Exhibit A and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

TOWN COUNCIL ACTION – Adoption of Ordinance

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

Ordinance PL05690-050322

WHEREAS, pursuant to N.C. Gen. Stat. §160D-601, the Town may amend its zoning map after giving proper public notice and holding a public hearing; and

WHEREAS, the Planning Commission has received the request to amend the Official Zoning Map of the Town of Boone, North Carolina to zone portions of the parcel identified herein:

Address	Watauga Co. PIN	Property Owner	Proposed Zoning
185/225 Modern Drive	Portion of 2911-70-6621-000	Modern Real Estate Investors LLC	B3 General Business and Corridor District Overlay
Vacant (TBD Modern Drive	Portion of 2911-71-6673-000		R1 Single-Family, R-3 Multiple-Family, Viewshed Protection Overlay

WHEREAS, in accordance with the procedures set forth in the Town of Boone Unified Development Ordinance, the Commission and Council met to consider the proposed amendment on May 23, 2022; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; and

WHEREAS, in accordance with North Carolina General Statutes and with the provisions set forth in Article 9 of the Town of Boone Unified Development Ordinance, the Town of Boone duly advertised and held a public hearing to consider the proposed amendment.

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. The Official Zoning Map of the Town of Boone is hereby revised as set forth herein.

SECTION 2. This change shall be effective immediately upon its adoption by Town Council.

Adopted this ____ day of June, 2022

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

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

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance # PL05690-050322 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

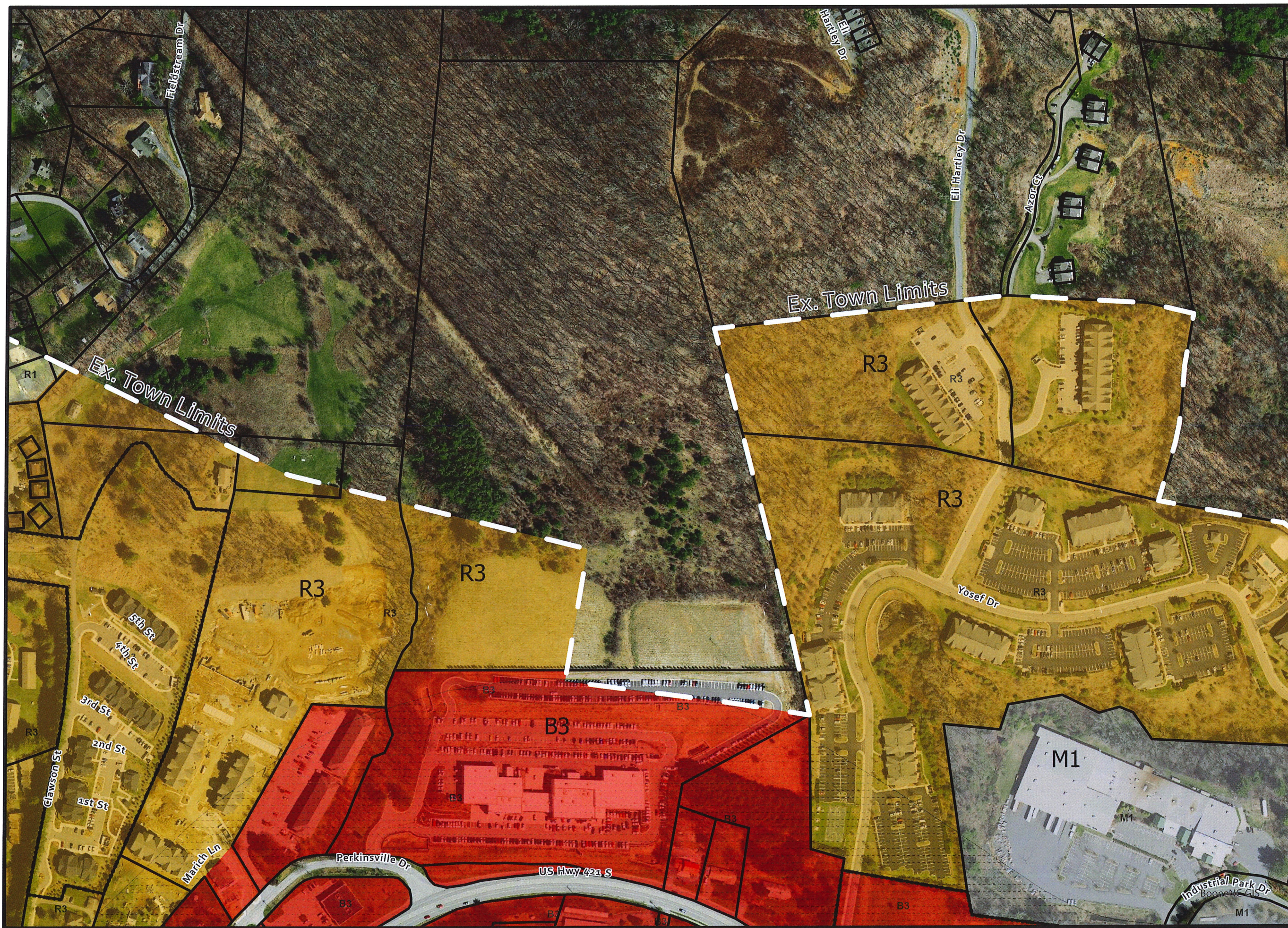


MODERN REAL ESTATE INVESTORS, LLC
VOLUNTARY ANNEXATION PETITION

EXISTING ZONING

SCALE: 1 in = 250 ft
DATE: 5/3/2022
DRWN BY: SGJ
CHKD BY: AJC
PROJECT NUMBER:
B21094

DWG NO. D-1
SHEET NO. 1 OF 2
Packet Pg. 48





MODERN REAL ESTATE INVESTORS, LLC
VOLUNTARY ANNEXATION PETITION
PROPOSED ZONING

SCALE: 1 in = 250 ft	
DATE: 5/3/2022	
DRWN BY: SGJ	
CHKD BY: AJC	
PROJECT NUMBER: B21094	
DWG NO. D-2	SHEET NO. 2 OF 2
Packet Pg. 49	

Planning Application - UDO Text Amendment

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

Official Use Only

Case Number:

Case PL05504-021822

Case Name:

Minor and Major Work – COA Revision

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____

Address: 567 West King Street

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

B. TEXT INFORMATION

Amendment is to:

Article(s): Article 8 and Appendix D

Section(s): 8.03, 8.04, 8.05 (UDO), Commission Procedures, Section 8. Signage (Appendix D)

Brief Description of Amendment (Attach Proposed Text):

The Town proposes to amend UDO Article 8 and Appendix D with respect to the downtown Boone historic district to clarify and elaborate on what repair and construction activities will be considered "minor work," which may be approved administratively, and what activities are considered "major work," which require a hearing and approval by the Historic Preservation Commission.

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

Jessica Mitchell
Applicant (Print)

/s/ Jessica Mitchell
Applicant Signature

02/18/2022
Date

Official Use Only

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

Hearing/Decision Information

Public Hearing Meeting
Date: 05/23/2022

PC Meeting Date: 05/23/2022

TC Meeting Date: 06/08/2022

Text Approved: ☐ Yes ☐ No

Notes:

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

Communication: Case PL05504-021822 Application (Case PL05504-021822 Minor and Major Work for COA's - UDO Text Amendment)



STAFF REPORT
PUBLIC HEARING
MAY 23, 2022

Case PL05504-021822 – Minor/Major Work – COA Revision - UDO Text Amendment

Request

The Town proposes to amend UDO Article 8 and Appendix D with respect to the downtown Boone historic district to clarify and elaborate on what repair and construction activities will be considered "minor work," which may be approved administratively, and what activities are considered "major work," which require a hearing and approval by the Historic Preservation Commission.

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.

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.

- 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.

D.1 Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.

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

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

2.1 THE ECONOMY

2.1.5 Downtown

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

A.4 Establish specific architectural and design standards for downtown consistent with its location, setting, and various functions.

- D. Public and private developments shall be encouraged to incorporate local artistry into public and semi-public spaces downtown.

D.1 Consider the placement of public art (including murals and statuary) at appropriate locations in the downtown area.

D.2 Support the development and enhancement of cultural facilities, e.g. art and antique galleries.

2.3 THE COMMUNITY

2.3.2 Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.

- A.1 Conduct on-going assessments of critical locations in community deserving special attention by the zoning ordinance, in light of their high visibility, traffic impact, strategic location, or other unique features. Continue to encourage significant new public buildings and outdoor spaces to locate in these and other positions of visibility and strategic prominence. Encourage the private sector to do likewise.
- A.2 Seek out locations of historical merit in the community, and prepare an action plan for their enhancement, rehabilitation, or relocation as may be necessary.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
 - B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.
 - C.1 Consider the placement of public art at appropriate locations in downtown, including murals.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
 - D.1 Carefully scrutinize proposed road widening to ensure that such actions do not destroy community and neighborhood character.
 - D.2 Continue to support the Town's tree preservation standards. Evaluate the effectiveness of the tree regulations since their establishment and amend them as necessary.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

PLANNING BOARD REPORT/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

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

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL05504-021822 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

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

TOWN COUNCIL ACTION – Adoption of Ordinance

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

ORDINANCE # PL05504-021822

**AN ORDINANCE TO REVISE ARTICLE 8 AND APPENDIX D OF THE TOWN OF BOONE UNIFIED
DEVELOPMENT ORDINANCE RELATING TO CERTIFICATE OF APPROPRIATENESS PROCESS AND PUBLIC
ART IN THE DOWNTOWN BOONE LOCAL HISTORIC DISTRICT**

WHEREAS, the Boone Town Council desires to modify, clarify and streamline the requirements for; and

WHEREAS, the Town Council finds that it is in the best interest of the Town and its citizens that Town Council directly consider and, with input from the public as deemed appropriate by Council; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160D, Article 6;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Article 8 and Appendix D of the Town of Boone Uniform Development Ordinance (“UDO”) is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in ~~red~~ and blue respectively:

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the ____th day of _____, 2022.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

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

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance # PL05504-021822 to the Town’s zoning ordinance and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

EXHIBIT A**Article 8 Historic Preservation Procedures**

...

8.03 ~~Certificate of Appropriateness~~ Application Required

8.03.01 From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a Statement of Conformity (SOC) for minor work or a Certificate of Appropriateness (COA) for major work has been approved as detailed herein.

- A. A ~~Statement of Conformity~~SOC or COA must be approved prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing ~~any structure~~structures.
- B. A ~~Statement of Conformity~~SOC or COA may be issued subject to reasonable conditions necessary to carry out the purposes of this Article.
- C. A ~~Statement of Conformity~~SOC or COA is required whether or not a building permit or other permit is required.
- D. ~~Approval for ordinary~~Exception: Ordinary or routine maintenance of the exterior features of a building does not require approval ~~under this Article. through the SOC or COA process.~~ Ordinary or routine maintenance may include only such work as has includes only those activities which have no discernable effect on the appearance of, or materials constituting, the exterior features of a building or other structure. ~~Examples include cleaning or re-painting existing siding with the existing color of paint and replacing a piece of trim with trim of the same material and color.~~ Ordinary or routine maintenance work is required to be permitted under a building or zoning permit so the Administrator can confirm the activity meets the standards for the exception.

...

8.04 Statement of Conformity for Minor Work

8.04.01 Upon application, the Administrator may issue a Statement of Conformity (SOC) approving changes to a structure or a site that are judged not to have significant impact on the historical integrity or character of the property ("minor work").

- A. The application for a ~~Statement of Conformity~~SOC approving minor work is reviewed by the Administrator on the basis of the standards adopted for the landmark or district in accordance with the provisions of Article 4.
- B. Minor works that may be approved pursuant to issuance of a SOC include by way of example, but are not limited to the examples described as minor work at Table 8.05.03 below.

~~A.C.~~ When the Administrator determines that an application for approval of a SOC involves major work or otherwise does not meet the requirements for SOC approval, or presents factual or legal issues or matters of discretion not appropriately determined by staff ~~Statement of Conformity does not meet the requirement for such approval,~~ the application will be forwarded to the HPC for review as a COA ~~Application for Major Work~~ application for major work. Upon such action by the Administrator, the applicant is required to submit such additional information or documentation as may be required for the COA review process.

8.04.02 Reserved. ~~Minor work that may be approved pursuant to issuance of a Statement of Conformity may include by way of example, but is not limited to, the following:~~

~~Installation of mechanical systems, air conditioning units, vents, and related equipment on secondary and tertiary elevations or adjacent land areas that does not involve alteration to the building.~~

~~Installation of patios and sidewalks in secondary and tertiary elevations or adjacent land areas.~~

~~Change of roofing materials with like materials on flat or low-slope roofs not visible from the street~~

~~Fence installation in land areas adjacent to secondary and tertiary elevations~~

~~Installation of skylights within a tertiary elevation~~

~~Installation of storm windows and doors where divided mullions of storm windows and doors align with windows and doors behind~~

~~Signs as permitted under Article 26 of the Unified Development Ordinance and adopted design standards for a district or landmark:~~

- ~~1. Temporary signs and/or approved historic house markers~~
- ~~2. Permanent signs on non-contributing buildings shall be historically appropriate to the period of significance for the district or landmark. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance of the district or landmark.~~
- ~~3. Permanent signs on contributing buildings shall be historically appropriate to the period of significance of the building. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance to the building and shall not harm, damage, or destroy historic materials or features. In the case there is not evidence of materials appropriate to the historic building, then the materials shall be appropriate to the materials in the historic district.~~

~~Removal of synthetic siding where original siding exists underneath~~

~~Installation of new doors, door frames, and associated door sills in tertiary AVCs when new materials are compatible with the original in terms of size, design, and material.~~

8.04.03 Applications.

- A. Pre-Application Consultation.** Pursuant to UDO Subsection 4.04, a pre-application consultation between the applicant and Staff is strongly encouraged in order to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance. ~~a preapplication consultation between the applicant and Staff is strongly encouraged.~~
- B. In addition to meeting the requirements of Appendix A as applicable, applications shall include** ~~In addition to the submittal requirements of Appendix A, as may be applicable, applications shall include:~~
1. Written ~~Description~~ description of the proposed work: The application shall describe ~~Describe~~ in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).
 2. Design Standards References: ~~Cite~~ The application shall cite the applicable sections of the design standards related to and/or reflected in the proposed request.
 3. Photographs of Existing Conditions: The application shall include contemporaneous ~~Provide current~~ photographs showing the current ~~present~~ conditions of the area where the work will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.
 4. Site Plan: For development which includes modifications to the site in addition to a structure ~~the building~~, the applicant shall provide scaled drawings prepared in accordance with UDO Appendix A. These drawing should ~~which~~ depict at least the relationship of all existing structures ~~buildings, secondary structures~~, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. ~~Clearly identify the location of any and all proposed changes.~~ Tree caliper sizes ~~Caliper of trees~~ should be indicated as measured from four and a half feet (4.5') above the earth's surface.
 5. Historical Documentation: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

(Ord. PL05044-083121, 10-21-2021)

8.05 Certificate of Appropriateness for Major Work

8.05.01 Major work includes all other work not considered as either ordinary or routine maintenance or minor work. Major work ~~projects require~~requires a COA Application and a quasi-judicial hearing before the Historic Preservation Commission for approval.

A. All public hearings on Certificates of Appropriateness for major work shall be conducted in a quasi-judicial manner as described in Article 6.

8.05.02 Major works that must be approved pursuant to issuance of a COA include by way of example, but are not limited to the examples set forth at Table 8.05.03 below.~~Major work may include, but is not limited to, the following:~~

- ~~A. New construction or additions to buildings~~
- ~~B. Reconstruction of buildings once located on the site but demolished or moved at some previous time~~
- ~~C. Restoration or rehabilitation of an historic property to its historic appearance~~
- ~~D. Pointing of masonry as well as alteration, repair, or replacement of masonry, siding, roofing materials, architectural trim elements, foundations, windows, doors, and other significant architectural details~~
- ~~E. Demolition of any part of a building or structure~~
- ~~F. Work that is likely to disrupt or damage known or discovered archaeological resources on the site~~
- ~~G. Moving of buildings~~
- ~~H. Replacement of architectural details when there will be a change in design or materials from the original or existing details~~
- ~~I. Changes to rooflines~~
- ~~J. Establishment of exterior fire exits~~
- ~~K. Exterior modification of existing buildings for ADA compliance~~
- ~~L. Painting or stuccoing of buildings not previously painted or stuccoed~~
- ~~M. Installation of mechanical systems, air conditioning units, vents, and related equipment in primary elevations that involves alteration to the building facade~~
- ~~N.A. _____ Location of satellite dishes, solar panels, and other roof attachments to the primary elevation roof and/or facade of a building if they are not effectively screened or are visible from a public street~~

8.05.03 Table of Minor Work and Major Work in the Historic District

Description of Work	Routine Maintenance	Minor Work (SOC)	Major Work (COA)
New construction of or additions to structures, except as specifically provided otherwise herein.			X
Accessory Buildings			
In-kind ¹ repair of existing accessory building	X		
In-kind replacement of existing, non-contributing accessory building		X	
Demolition of an existing, non-contributing accessory building		X	
New construction, modification or an addition to an accessory building on a tertiary elevation not visible from a public street		X	
All other alterations ²			X
ADA			
In-kind repair or replacement of existing ADA features	X		
Installation of <u>temporary</u> accessibility ramps		X	
Installation of ADA-required features on tertiary elevations not visible from a public street		X	
All other alterations			X
Architectural Features (not to include items specifically addressed in other categories) (may include but are not limited to cornices, friezes, medallions, sunbursts, brackets, bays, turrets, fascias, decorative moldings, quoins, columns, brickwork, string courses)			
In-kind repair/replacement of any existing architectural feature	X		
Addition, removal, or alteration of an architectural feature on tertiary elevation not visible from a public street		X	
All other alterations			X
Awnings, Canopies, or Shutters			
In-kind repair/replacement of an existing awning, canopy or shutters	X		
Addition of awnings, canopies or shutters on tertiary elevation not visible from a public street		X	
Removal of an awning, canopy or shutters on a non-contributing structure		X	
All other alterations			X
Decks, Patios, and Sidewalks			
In-kind repair/replacement of an existing deck, patio, or sidewalk; addition of public sidewalks	X		
Additions of decks, patios, and sidewalks on tertiary elevations		X	
All other alterations			X

Demolition and Relocation			
Except as otherwise specifically provided herein, any removal, relocation, or demolition of any structure or part thereof			X
Removal/alteration of archaeologically significant features			X
Any work that is likely to disrupt or damage known or discovered archaeological resources on the site			X
Doors & Windows			
In-kind repair/replacement of any door or window, including casing, frames, and trim	X		
Installation of storm windows where divided mullions of storm windows and doors align with windows and doors behind	X		
Installation of skylights within a tertiary elevation or where the skylight is not publicly visible		X	
Addition, removal, or modification of a door or window on tertiary elevations not visible from public street		X	
All other installation, removal, addition or modification of doors or windows, including construction of new openings and replacement, removal, or modification of existing openings			X
Driveways			
In-kind repair/replacement of an existing driveways	X		
Additions/alterations of driveways on tertiary elevations		X	
All other alterations			X
Fences			
In-kind repair/replacement of existing fence	X		
Additions/alterations of fences on tertiary elevations or not visible from public streets		X	
All other alterations			X
Exterior Surfaces Materials (Masonry, Siding, etc.)			
In-kind repairs/replacement, including repointing, to existing exterior surfaces when the material, color, composition of the new material matches the existing exterior surface (includes requirement that the composition of mortar match the original)		X	
All other alterations			X
Foundations			
In-kind repair of a foundation	X		
Alteration of a foundation on a tertiary elevation not visible from a public street		X	
All other alterations			X
Gutters and Downspouts			
In-kind repair/replacement of gutters and downspouts	X		

Installation of gutters and downspouts that match the house or trim color as long as no historic features are damaged or removed.		X	
Removal of gutters or downspouts that are not historic to the building		X	
All other alterations			X
Landscaping			
Insignificant landscaping including vegetable and flower gardens and shrubbery	X		
Pruning of trees and/or shrubbery	X		
Removal of trees less than 25 inches in diameter	X		
Removal of trees that are dead, dangerous per adequate documentation from licensed arborist	X		
Removal of any invasive species (landscape material) as listed on the Invasive Plants Found in the Mountains of North Carolina list published by the NC Invasive Plant Council	X		
Removal of any tree 25 inches or greater, unless documented as dead or dangerous			X
Mechanical Systems/Equipment			
In-kind repair/replacement of any existing mechanical systems, vents, and related equipment	X		
Removal of existing mechanical systems, vents and related equipment		X	
Installation of mechanical systems, vents, and related equipment on tertiary elevations		X	
Installation of window air conditioners		X	
All other installations			X
Painting			
In-kind repair/re-painting of a previously-painted surface	X		
All other painting, including the painting of exterior surfaces not previously painted			X
Parking Lots			
In-kind repair/replacement of existing parking lots	X		
Insubstantial alterations of existing parking lots and removal of non-historic parking lots		X	
All other alterations			X
Public Art			
In-kind repair/maintenance of previously-approved and installed public art	X		
Replacement of previously-approved and installed public art with artwork of essentially identical mass, proportions, and		X	

general features (e.g., a statue replacing a statue, or one mural design replacing another)			
New installation or substantial modification of public art in the local historic district			X
Roofs			
In-kind repair/replacement of roof coverings	X		
Repair/replacement of roof coverings not publicly visible		X	
All other alterations, including any modification of roof line			X
Satellites			
In-kind repair/replacement of existing satellite dishes	X		
Addition of satellite dishes on tertiary elevations		X	
Removal of satellite dishes		X	
All other alterations			X
Signs			
In-kind repair/replacement of an existing permanent sign	X		
Addition/alteration of temporary sign or approved historic house marker		X	
Addition/alteration of permanent sign on a non-contributing building		X	
Addition/alteration of permanent sign on a contributing building		X	
Removal of non-historic permanent sign		X	
Removal of historic permanent sign			X
Solar			
In-kind repair/replacement of an existing solar energy system	X		
Addition/alterations of solar panels on tertiary elevations		X	
Removal of solar panels		X	
All other alterations			X
Miscellaneous			
Installation of house numbers and mailboxes	X		
Establishment of exterior fire exits on tertiary elevations		X	
Establishment of exterior fire exits on secondary and primary elevations			X

Notes:

1. “In-kind” means having no change in the design, construction method and materials, and general appearance of the existing or original historic feature.
2. “Alteration” means and includes new construction or installation, modifications, additions, removal or demolition, and any other material change.

8.05.043 Applications

- A. Pre-application Consultation.** Pursuant to UDO Subsection 4.04, a pre-application consultation between the applicant and Staff is strongly encouraged in order to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance. ~~a pre-application consultation between the applicant and Staff is required.~~ At this meeting, Staff shall inform applicants on application requirements and provide assistance on identifying possible resources to obtain historic information.
- B.** In addition to meeting the requirements of Appendix A as applicable, applications shall include: ~~the submittal requirements of Appendix A, as may be applicable, applications for a Certificate of Appropriateness for major work shall include:~~
1. Written ~~Description of the Proposed Work~~ description of the proposed work: The application shall describe ~~Describe~~ in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).
 2. Design Standards References: The application shall cite ~~Cite~~ the applicable sections of the design standards ~~Design Standards~~ related to and/or reflected in the proposed project.
 3. Photographs of Existing Conditions: The application shall include contemporaneous photographs ~~Provide current photographs~~ showing the current ~~present~~ conditions of the area where the work ~~project~~ will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.
 4. Site Plan: The application shall provide ~~Provide~~ scaled drawings showing the relationship of all existing structures, buildings, secondary structures, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. ~~Clearly identify the location of any and all proposed changes. Tree caliper sizes~~ Caliper of trees should be indicated as measured from four (4) feet above the earth's surface.
 5. Historical Documentation: If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.
 6. Elevations: The application shall provide ~~Provide~~ architectural drawings showing all elevations, including the scale, where proposed work will occur. ~~Include scale.~~
 7. For Projects Involving Demolition or Relocation: The application shall describe ~~Describe~~ the structure, the reason for its demolition or relocation, the proposed reuse of the site, as well as plans for new landscaping at the site.

(Ord. PL04727-050721, 07-01-2021; Ord. PL05502-021822, 04-13-2022)

Appendix D Downtown Boone Local Historic District Design Standards and Handbook Commission Procedures

Design Review Process

Except for minor work eligible for a **Statement of Conformity (SOC)**, the Town of Boone Historic Preservation Commission (HPC) is responsible for the design review of all proposed changes to the exterior of structures, demolition of structures, moving of structures, new construction, and signage in the ~~district~~ District.

...

Completing the Statement of Conformity or COA Application

Applications fall under two different project types: ~~Minor Work and Major Work~~ minor work and major work. Requirements for ~~the~~ approval are outlined in the following sections: ~~Application for a Statement of Conformity and COA Application for Major Work.~~

Statement of Conformity Application

~~As set forth herein,~~ Minor ~~Work~~ work includes ~~those~~ changes to a structure or a site that ~~are judged not to do not~~ have significant impact on the historical integrity or character of the property. While ~~Minor Work~~ minor work does not require a review by the HPC, applicants are required to submit an ~~Application~~ application for a ~~Statement of Conformity~~ SOC. This application is reviewed administratively by Planning and Inspections Staff in context with the ~~historic district standards~~ Standards and is generally approved within ~~___~~ business days. ~~When an Application for a Statement of Conformity does not meet the limitations of Minor Work~~ If an application for a SOC cannot be approved by staff for any reason, the application will be forwarded to the HPC for review as a COA ~~application for major work~~ Application for Major Work.

~~When work proposed under a Statement of Conformity Application does not meet the limitations of Minor Work, the application will be forwarded to the HPC for review as a COA Application for Major Work.~~

Minor work that may be approved pursuant to issuance of a SOC includes those examples set forth in the table provided herein.

Examples of Minor Work include:

- ~~Installation of mechanical systems, air conditioning units, vents, and related equipment in secondary and tertiary AVCs that does not involve alteration to the building~~
- ~~Installation of patios and sidewalks in secondary and tertiary AVCs~~
- ~~Change of roofing materials with like materials on flat or low-slope roofs not visible from the street~~
- ~~Fence installation in secondary and tertiary AVCs~~
- ~~Installation of skylights within tertiary AVCs~~

- ~~Installation of storm windows and doors where divided mullions of storm windows and doors align with windows and doors behind~~
- ~~Signs as permitted under Article 26 of the Unified Development Ordinance and adopted design standards for a district:

 - ~~Temporary signs and/or approved historic house markers~~
 - ~~Permanent signs on non-contributing buildings shall be historically appropriate to the period of significance of the district. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance of the district.~~
 - ~~Permanent signs on contributing buildings shall be historically appropriate to the historic period of significance of the district. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance of the district and shall not harm, damage, or destroy historic materials or features. In the case there is not evidence of materials appropriate to the historic building, then the materials shall be appropriate to the materials in the historic district.~~~~
- ~~Removal of synthetic siding where original siding exists underneath~~
- ~~Installation of new doors, door frames, and associated door sills in tertiary AVCs when new materials are compatible with the original in terms of size, design, and material.~~

Required materials for a Statement of Conformity Application for Minor Work shall include:

- *Written Description of the Proposed Work:* The application shall describe ~~Describe~~ in detail the scope and nature of the proposed project, including exact material types, colors, and dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).
- *Design Standards References:* The application shall cite ~~Cite~~ the applicable sections of the design standards ~~Design Standards~~ related to and/or reflected in the proposed project.
- *Photographs of Existing Conditions:* The application shall include contemporaneous photographs ~~Provide current photographs~~ showing the current ~~present~~ conditions of the area where the work ~~project~~ will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.
- *Site Plan:* For development which includes modifications to the site in addition to a structure, the applicant shall provide ~~Provide~~ scaled drawings showing the relationship of all existing structures, buildings, secondary structures, driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. ~~Clearly identify the location of any and all proposed changes. Caliper of trees~~ Tree caliper sizes should be indicated as measured from four (4) feet above the earth's surface. (Not required for minor work, unless the proposed minor work involves modifications to landscaping, fencing, sidewalks, mechanicals, or other elements of the present "footprint" of the site.)
- *Historical Documentation:* If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.

(Ord. PL05419-010622, 02-09-2022)

...

COA Application for Major Work

~~As set forth herein, Major Work includes all other work not considered as either ordinary or routine maintenance or Minor Work. Major Work projects require both a COA Application and HPC approval.~~
Major work includes all other work that cannot be approved as either ordinary or routine maintenance or minor work. Examples are set forth in the table below. Major work requires submission of a COA application and approval by the HPC.

Examples of Major Work include:

- ~~• New construction or additions to buildings~~
- ~~• Reconstruction of buildings once located on the site but demolished or moved at some previous time~~
- ~~• Restoration or rehabilitation of an historic property to its historic appearance~~
- ~~• Pointing of masonry as well as alteration, repair, or replacement of masonry, siding, roofing materials, architectural trim elements, foundations, windows, doors, and other significant architectural details~~
- ~~• Demolition of any part of a building or structure~~
- ~~• Work that is likely to disrupt or damage known or discovered archaeological resources on the site~~
- ~~• Moving of buildings~~
- ~~• Replacement of architectural details when there will be a change in design or materials from the original or existing details~~
- ~~• Changes to rooflines~~
- ~~• Establishment of exterior fire exits~~
- ~~• Exterior modification of existing buildings for ADA compliance~~
- ~~• Painting or stuccoing of buildings not previously painted or stuccoed~~
- ~~• Installation of mechanical systems, air conditioning units, vents, and related equipment in primary elevations that involves alteration to the building facade~~
- Location of satellite dishes, solar panels, and other roof attachments to the primary elevation roof and/or facade of a building if they are not effectively screened or are visible from a public street

COA Application Submission and Review

Pursuant to UDO Subsections 4.04 and 8.05.03~~4~~, a pre-application consultation between the applicant and Staff is required. The aim of this consultation is to minimize development planning costs, avoid misunderstandings or misinterpretations, and ensure compliance with the requirements of this Ordinance. At this meeting, Staff shall inform applicants with respect to application requirements and provide assistance in identifying possible resources for historic information.

Required materials for all COA Application for Major Work shall include:

- *Written Description of the Proposed Work:* The application shall describe ~~Describe~~ in detail the scope and nature of the proposed project, including exact material types, colors, and

dimensions for materials to be used (e.g., width of siding, color of window trim, type of roofing materials, etc.).

- *Design Standards References:* The application shall cite ~~Cite~~ the applicable sections of the design standards ~~Design Standards~~ related to and/or reflected in the proposed project.
- *Photographs of Existing Conditions:* The application shall include contemporaneous photographs ~~Provide current photographs~~ showing the current ~~present~~ conditions of the area where the work ~~project~~ will be completed and/or the portions of any existing building or other structure(s) that will be affected by the proposed work.
- *Site Plan:* The application shall provide ~~Provide~~ scaled drawings showing the relationship of all existing structures, ~~buildings, secondary structures,~~ driveways, sidewalks, fences, drains, lighting, and trees to the property lines and identify the location of any and all proposed changes. ~~Clearly identify the location of any and all proposed changes.~~ Tree caliper sizes ~~Caliper of trees~~ should be indicated as measured from four (4) feet above the earth's surface.
- *Historical Documentation:* If available, provide copies of historic photographs of the property in question, along with a list of any known previous alterations to the property (and the approximate date of those alterations). If the property is already listed on the National Register of Historic Places or is a designated Local Historic Landmark, include a copy of the nomination text for the property.
- *Elevations:* The application shall provide ~~Provide~~ architectural drawings showing all elevations, including scale, where proposed work will occur. ~~Include scale.~~
- *For Projects Involving Demolition or Relocation:* The application shall describe ~~Describe~~ the structure, the reason for its demolition or relocation, the proposed reuse of the site, as well as plans for new landscaping at the site.

Once submitted, the COA application for major work ~~Application for Major Work~~ and supporting documentation are initially reviewed by Planning and Inspection Staff in context of the design standards. The results of this review are condensed to a Staff Report, which is then forwarded to a regularly scheduled HPC meeting.

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Staff Note: For Appendix D, the minor work and major works table will be included following the Appendix D sections of Statement of Conformity application and COA application for major work.

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Design Standards for Historic Streetscapes, Landscapes, Monuments, and Other Resources in the District Landscapes, Monuments, and Other Resources in the District

8. Signage

- 8.1 ~~No signs shall create any vision obstructions onto a public right of way, alley, sidewalk, adjacent drive, or private drive entering onto a street. Signs or floodlights erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property as defined in N.C. General Statute 136-32.2 are also prohibited.~~

- 8.2 ~~Freestanding signs must be placed in a landscape area that is at least three (3) feet in width and at least the length of the greatest dimension of the sign. Curbing, bricks, fencing, and/or other suitable vehicular barrier shall enclose the landscaped area.~~
- 8.3 1 Sandwich boards, other temporary street signage, seating, and/or merchandise shall not be placed upon the public ways of the District or otherwise impede the pedestrian or traffic flow on those public ways.
- 8.4 ~~Attached signs shall not project higher than the building soffit or eave height and shall not extend beyond the edge of any wall or other surface to which they are mounted (this does not refer to projecting signs).~~
- 8.5 ~~The area of a sign shall be measured according to the following rules as applicable:~~
- ~~○ In the case of freestanding, projecting, canopy, or marquee signs, area consists of the entire surface area on which copy could be placed. The supporting structure or bracing of a sign shall not be counted as a part of the sign area unless such structure or bracing is made part of the sign's message. Where a sign has two (2) display faces back to back, the area of only one face shall be considered as the sign area. When a sign has more than one display face, all areas that can be viewed simultaneously shall be considered the sign area. All signs are limited to two (2) faces.~~
 - ~~○ In the case of a sign (or other freestanding, projecting, canopy, or marquee) whose message is fabricated together with the background that borders or frames the message, sign area shall be the total area of the entire background.~~
 - ~~○ In the case of a sign (other than freestanding, projecting, canopy, or marquee) whose message is applied to a background that provides no border or frame, sign area shall be computed by continuous rectilinear lines, or a circle or an eclipse enclosing the extreme limits of the letters, writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display used to differentiate the sign from the backdrop or structure against which it is placed.~~
- 8.6 ~~All freestanding signs shall follow the following criteria:~~
- ~~○ No freestanding sign shall be placed less than forty (40) feet from another freestanding sign.~~
 - ~~○ Freestanding signs shall not be located in satellite parcels of real estate.~~
 - ~~○ All freestanding signs, support structures, and required landscaping areas shall be at least one (1) foot from any right-of-way or easement.~~
- 8.7 ~~Interior lighting for signs, where permitted, shall not exceed eleven (11) watts per bulb (the standard industry size). In the case of the use of exterior lighting by floodlights, such lights must comply with N.C. General Statute 136.32.2.~~
- 8.8 ~~Awning, canopy, projecting, and suspended signs may be no less than eight feet at their lowest point above any sidewalk.~~
- 8.2 Permanent signs in the historic district are to be historically appropriate for either a contributing or non-contributing building:

- Permanent signs of a non-contributing building shall be historically appropriate to the period of significance for the district or landmark. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance of the district or landmark.
- Permanent signs of a contributing building shall be historically appropriate to the period of significance of the building. The sign shall be of appropriate size, massing, and lighting design relative to the period of significance to the building, and shall not harm, damage, or destroy historic materials or features. In the case there is not photographic evidence of materials appropriate to the historic building, then the materials shall be appropriate to the materials in the historic district.

8.~~3~~⁹ All signs ~~must be placed in accordance with the~~ are subject to the general sign regulations contained in the Town of Boone UDO.

Staff Note: For Section 8 included above, the deleted sections (shown in ~~red strikethrough~~) are for areas that are general UDO standards already contained in Article 26.

Planning Application - UDO Text Amendment

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

Official Use Only

Case Number:
PL05688-050322
Case Name:
Miscellaneous Revisions

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 567 West King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): Articles 2, 5, 9, 14, 15, 30, 31, 34, and Appendix A

Section(s): _____

Brief Description of Amendment (Attach Proposed Text):

The Town proposes amendments to the UDO to correct formatting and other scrivener errors made in the course of recent approved text amendments. These includes correcting section references and confirming parking uses to be allowed in the B1 districts subject to conditional district approval.

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

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

05/03/2022
Date

Official Use Only

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

Hearing/Decision Information

Public Hearing Meeting
Date: 05/23/2022

PC Meeting Date: 05/23/2022

TC Meeting Date: 06/2022

Text Approved: ☐ Yes ☐ No

Notes:

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

Communication: Case PL05688-050322 Application (Case PL05688-050322 Miscellaneous Revisions - UDO Text Amendment)



Staff Report
Public Hearing
May 23, 2022

Case PL05688-050322 - Miscellaneous Revisions UDO Text Amendment

Request

The Town proposes amendments to the UDO to correct formatting and other scrivener errors made in the course of recent approved text amendments. These includes correcting section references and confirming parking uses to be allowed in the B1 districts subject to conditional district approval.

Staff maintains an ongoing list of potential ordinance and code changes that are suggested by Council or Town staff. The proposed revisions for this case are intended to improve the clarity of regulations, to streamline regulations, and to correct errors that create difficulties for customers, boards and staff.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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/RECOMMENDATIONS

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

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

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL05688-050322 within in Exhibit A and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

Note 1: describe elements of controlling land use plans and how the amendment is or is not consistent.

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

TOWN COUNCIL ACTION – Adoption of Ordinance

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

ORDINANCE # PL05688-050322**AN ORDINANCE TO REVISE ARTICLES OF THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, the Boone Town Council desires to modify, clarify and streamline the requirements within the Unified Development Ordinance; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160D, Article 6;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Articles 2, 5, 9, 14, 15, 30, 31, 34, and Appendix A of the Town of Boone Unified Development Ordinance (“UDO”) are hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in ~~red~~ and blue respectively:

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the ____th day of _____, 2022.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

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

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance # PL05688-050322 to the Town's zoning ordinance and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

EXHIBIT A**Article 2 Administrative Mechanisms**

...

2.06 Land Use Administrator**2.06.01 Land Use Administrator**

- A.** Except as otherwise specifically provided, primary responsibility for administering and enforcing this Ordinance may be assigned by the Town Manager to one or more individuals. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the “Land-use Administrator” or “Administrator”. The term “Planning Director”, “Staff” or “Planning and Inspections Staff” is sometimes used interchangeably with the term “Administrator”.
- B.** When enforcing this Ordinance, the Council recognizes that there may be instances where the Administrator should be given the authority to approve limited deviations to some provisions of the Ordinance. The Administrator may approve a deviation only after the applicant has submitted documentation to demonstrate that one of the following conditions exists:
 - 1. A surveying error has occurred that has created a situation in which the applicant is unable to comply with the requirements of the Ordinance.
 - 2. The configuration of the lot and location of existing structures is such that the applicant is unable to comply with the requirements of the Ordinance and that the deviation being requested will not have a detrimental effect upon any adjacent landowner.
 - 3. Due to unique circumstances related to the development being proposed, the applicant is able to demonstrate that strict compliance with the Ordinance will not be in the best interests of the Town and that the deviation being requested will not have a detrimental effect upon any adjacent landowner.
 - 4. The applicant has agreed to take measures that would ameliorate the effects of the deviation and the owners of all property located within 150’ have agreed in writing to the deviation being requested.
- C.** A request for deviation shall be made before the development approval is issued. Deviations may only be approved to the extent authorized below to the following provisions of the Ordinance:
 - 1. Deviations from the requirements of ~~Section 16.01 Schedule of Intensity Standards~~ B1.04 Complete Intensity Table, provided the deviation shall not exceed ten percent (10%) of any requirements.

2. Deviations from the setback requirements of ~~section 16.07 Accessory Structure Setback Requirements~~ Subsection 14.03.06(D) Accessory Structure Setback requirements, provided the deviation shall not exceed ten percent (10%) of any requirements.

...

Article 5 Subdivisions

...

- 5.10.03** In architecturally integrated subdivisions the amount of land saved by creating lots that are smaller than the standards set forth in ~~Section 16.01~~ B1.04 Complete Intensity Table shall be set aside as open space.

Article 9 Amendments

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9.09 Condition Districts (CD)

...

- 9.09.06** Specific conditions applicable to a CD may be proposed by the applicant or the Town or its agencies, but only those conditions approved by the Town and consented to by the petitioner in writing may be incorporated into the development approval requirements.
- A.** Conditions and site-specific standards imposed in a CD shall be limited to those that (i) address the conformance of the development and use of the site to Town Ordinances and the comprehensive plan and other applicable plans and (ii) the impacts reasonably expected to be generated by the development or use of the site.
 1. Unless consented to by the applicant in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.
 - B.** Town Council members and the applicant shall endeavor to discuss and agree to conditions as part of the public hearing process provided at section 9.03; notwithstanding the foregoing, proposed conditions may be discussed or negotiated at any time that Town Council is considering the proposed application.

- C. The applicant shall forthrightly answer any request by a Town Council member to agree to a proposed condition. Before doing so, however, the applicant may request continuance of the meeting or postponement of the applicant's response until a subsequent meeting so that the applicant may further consider the requested condition before making a response. Such request for delay in responding may be granted by a consensus of the Town Council or, there being none, majority vote. Town Council shall continue or postpone the meeting to the next available public hearing or such earlier meeting as it shall deem appropriate.
1. An applicant's refusal to answer a request to agree to a proposed condition shall be deemed a withdrawal of the application ~~per section 9.06.03~~.

Staff Note: *Change the section above from (D) to (C)(1) and renumber the remaining subsections.*

- D. After the Town has published the notice of public hearing for the application, the applicant shall make no changes to the conditions or site-specific standards that are less restrictive than those stated in the application, including but not limited to smaller setbacks, more dwelling units; greater height; more access ways; new uses; and fewer improvements. More restrictive conditions or additional conditions may be added to the application if such conditions are received by the Planning Department in writing and signed by all owners of the property at least ten (10) business days before the date scheduled for final Town Council action on the application.

...

Article 14 Zoning District Regulations

...

14.01.03 Split Zone:

- A. When a development is proposed on land with more than one zoning classification, the elements of the development, including but not limited to parking, recreation and storage, must be located on those portions of the development with zoning designations which allows the use as a principal use or is otherwise specifically authorized. Notwithstanding this prohibition all portions of the site may be used to satisfy the requirements of ~~Section 16.01~~ [B1.04 Complete Intensity Table](#) unless otherwise prohibited.

...

14.03.07 Building Height

- G. The following features are not included in calculating the height of a structure for the purposes of applying the district height limitations set forth in this Article, except that on a corner lot in any residential district no planting, structures, fence, wall or obstruction to vision more than three feet (3') in height measured from the street center line shall be placed or maintained within the triangular area formed by the intersection street lines

and a straight line connecting points on said street lines each if which is twenty-five feet (25') from the point of intersection.

...

3. Except as provided at ~~16.08.04(B)(2)~~ Subsection 14.19.04(F)(7)(b), parapets which do not exceed five feet (5') past the maximum building height; by way of clarification, the height of parapets above 5' shall be counted toward the building height for purposes of applying building height; and

...

14.19 B1 Downtown Districts

...

14.19.03 B1 Permissible Uses

...

Use #	Specific Use	B1-DC	B1-DI	Reference
Allowable Principal Uses				
15.0 Parking				
15.01	Parking Lot	CD	CD	15.39
15.02	Parking Structure	CD	CD	15.40
15.03	Park and Ride Lots		CD	15.39

Staff Note: These fields were inadvertently left blank when the UDO was officially modified for the adoption of the B1 Downtown Core and B1 Downtown Interface zoning districts in October of 2021. During all public input meetings these had been presented as shown above. No direction to remove these as permissible uses were discussed during the course of the B1 Expansion project.

...

14.19.04 B1 Development Standards

...

F. Maximum Building Height: (See Subsection 14.03.07)

...

7. Building Height Limitations:

- a. Flat roofs shall be capped by parapets of sufficient height to screen rooftop equipment and penthouses from view when standing at ground level twenty feet (20') from the structure.
- i. The building height limitations for buildings on King Street governed by Subsection 14.19.03(F)(1) above shall include parapet walls.

- ii. The building height limitations for buildings governed by Subsections 14.19.03(F)(2) and 14.19.04(F)(3) above shall not include parapet walls so long as the parapet walls do not exceed 4' above the maximum building height of thirty-three feet (33'). The height of parapet walls above 4' shall be counted toward the building height.
- b. The height of a building existing as of April 26, 2018 may not be increased, whether by demolition and rebuilding or reconstruction, renovation, or improvement, unless approved under the Conditional District Zoning Map Amendment process set forth in Article 9 herein. Provided, however, that an addition or modification of the features exempted in Subsection ~~16.08.08~~ 14.03.7(G) does not trigger the requirement for the Conditional District Zoning Map Amendment process.

...

14.29 U1 University

...

14.29.03 U1 Development Standards

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B. Minimum Setbacks:

1. Street: 10 feet when development is adjacent to Town maintained streets
2. Interior: 14' when development is proposed adjacent to R1 zoned property and 0' when development is proposed adjacent to B1 zoned property.
3. Additional setback provisions in Section ~~16.06.05~~ 14.03.07(E) do not apply in the U1 district.

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

1. All buildings proposed within 100 feet of an R1, R1A, RR, R2, R4, or RA zoned property shall be limited to a maximum height of thirty-five feet (35').
2. All buildings proposed within fifty feet (50') of an R3, OI, B1, B2, or B3 zoned property shall be limited to the maximum height allowed in the adjoining district. Additional height restrictions in Subsections ~~16.08.04 and 16.08.05~~ 14.03.07(D) and (E) shall not apply in the U1 district.

Staff Note: This is an error that has been in the UDO for several years. Research shows that the correct reference is to Subsection 14.03.07(E) which states "Where a multi-unit or nonresidential structure has

a height in excess of twenty feet (20') and adjoins a low-density residential district, the structure shall meet an additional setback of one- and one-half feet (1 ½') for each foot in height above twenty feet (20')."

...

14.42 Viewshed Protection District

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

14.42.02 Protection Map. The presumed boundaries of the Viewshed Protection District shall be depicted on a "Viewshed Map," which will be posted at the Town's Planning and Inspections Department and on the Town of Boone's website. This map shall show the areas of the Town's zoning jurisdiction which exceed the one-hundred-foot line which defines the lower most boundary of the viewshed. However, when an owner of property which is either partly or wholly above the depicted line files an application for development to take place within the presumed viewshed, and contends that the property is not within the viewshed, the Administrator or his designee shall determine if the development, as proposed, can be seen during any season of the year from one of the major traffic corridors. If the Administrator determines that the property cannot be thus seen, the requirements of the overlay district shall not apply.

14.42.03 The requirements for the development of properties wholly or partly within the Viewshed Protection District shall be as follows:

- A.** The maximum allowable land disturbance on property within the viewshed shall be as follows:
 1. Property up to two (2) acres in size shall be limited to three-quarters (3/4) of an acre of land disturbance. Therefore, a three-quarter (3/4) acre or smaller property in the viewshed is unrestricted by this Section with regard to land disturbing activity.
 2. The maximum allowable land disturbance for property in the viewshed which is larger than two (2) acres shall be limited to three-quarters (3/4) of an acre for the first two (2) acres, plus thirty percent (30%) of the additional property. For example, a tract of land of four (4) acres can be developed with three-quarters (3/4) acre, or 32,670 square feet, of land disturbed based upon the first two acres, and an additional thirty percent (30%), or 26,136 square feet of land disturbed, based on the additional two (2) acres. Therefore, a total of 58,806 square feet can be disturbed in the development of the four (4) acres, and this total amount of land disturbance may be consolidated in one area of the property. In this example, the land in one (1) acre can be 100% disturbed, in a second acre, partly disturbed, and in the remaining two (2) acres, undisturbed.

3. Land disturbance of portions of a property below the viewshed are unrestricted by this Section, but do not increase the amount of land disturbance which can take place on the portion of the property in the viewshed.
- B. The intensity of development of property zoned RA within the viewshed shall be as established for the RA district ~~in Article 16 of the UDO~~. The intensity, including height limitations, of development of property in all other zoning districts within the viewshed shall be as established for the R1 zoning district ~~in Article 16 of the UDO, but the exemption for single family homes contained in Subsection 16.01.01(B) shall not apply in the viewshed.~~

Staff Note: Subsection 16.01.01(B) referenced an exemption for single-family dwellings from maximum floor area. In 2017, the Town moved away from regulating development by "floor area". This exemption no longer exists.

- C. With respect to development existing before ~~Property which that has been developed before~~ the effective date of this amendment ~~will be affected as follows:~~
 1. When the intensity of the existing development does not exceed the limits established by Subsection 14.~~01.03~~42.03(B), ~~it~~the existing development may be increased in size up to ten percent (10%) greater than the limits established by Subsection 14.~~10.03~~42.03(B).
 2. When the intensity of the existing development already exceeds the limits established by Subsection 14.~~10.03~~42.03(B), additional development is permitted up to a size 10% greater than the existing structure, and likewise, an additional ten percent (10%) of impervious surface may be created.
 3. The limits on land disturbing activity created by Subsection 14.42.03 ~~10.03~~(A) shall be calculated as if no development on the property has yet taken place. In other words, the Administrator shall exclude from the calculations of allowable land disturbance that portion of the property upon which an impervious surface exists at the time this amendment is effective. For example, if a house with a 2,000 square foot footprint and 2,000 square feet of driveway already exists on a three (3) acre tract, and the owner wishes to construct an addition, the Administrator will first add the square footage of the house's footprint and the square footage of the driveway to determine that there is already 4,000 square feet of impervious surface on the property. This existing square footage of impervious surface will be subtracted from the total land area of the property to calculate how much of the remaining property can be disturbed. In the example, the property will be viewed not as a three (3) acre tract, but as a tract of two (2) acres, plus 39,560 square feet (an acre = 43,560 square feet, minus 4,000 square feet of existing impervious surface). The amount of allowable land disturbance to put in the addition ends up being 44,538 square feet.

...

Article 15 Limited Use Requirements

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15.03 1.07 Duplex; 1.08-1.10 Townhouse; 1.11-1.13 Multi-Family Dwelling; 1.14-1.16 Multi-Family Dwelling In Mixed Use (unless specifically excluded)

...

15.03.03 Each new multi-family development shall meet the following standards:

...

E. Recreation space:

1. A minimum of 5% of the parcel shall be provided as recreation space for residents of the ~~park~~development.

...

15.04 Multi-Family in Mixed Use

...

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

...

- F. Areas covered by pPedestrian weather protection such as awnings or canopies count toward ~~the any use that requires~~ recreation space ~~requirements found in Section 16.05 of this Ordinance~~.

...

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

...

- D. Recreation space shall be provided for multi-family developments in the B3 district as provided at Section 15.03.03(~~F~~E).

...

15.17 Wireless Communication Facilities

...

- 15.17.17 Nonconforming Setbacks for Existing Wireless Support Structures.** Wireless support structures that do not meet the minimum required setbacks from lots that were created after the construction of the wireless support structure shall be deemed conforming with regard to setbacks for the purposes of Section 15.17.

Note: Refer to ~~Section 16.05~~ [Subsection 5.04.05](#) for requirements associated with creating lots from an existing lot or parcel that contains a wireless support structure (stealth or non-stealth).

...

15.34 Brewery/Distillery, Other

- 15.34.01** All outdoor storage must be screened in accordance with Section ~~16.57~~ [15.50](#).

- 15.34.02** All visible emission, odor, air pollution, noise and dust standards set forth for Manufacturing in Section 15.38 must be met.

...

15.47 Accessory Dwelling Unit (Accessory)

...

- 15.47.09** An accessory dwelling unit must comply with all applicable land use intensity ratios, ~~and the exemption in Section 16.01, infra, shall not apply.~~

Staff Note: Subsection 16.01.01(B) referenced an exemption for single-family dwellings from maximum floor area. In 2017, the Town moved away from regulating development by "floor area". This exemption no longer exists.

...

15.62 Temporary Uses

...

15.62.01 General Regulations:

...

- D.** Unless otherwise provided herein, the land use intensity ratios ~~of Section 16.01~~ in [B1.04 Complete Intensity Table](#) shall apply.

...

- 15.62.02 Temporary Family Health Care Structure:** A temporary family health care structure may be permitted as provided in the Table of Temporary Uses, as a temporary use on a lot with Use 1.110 Single-family detached, one dwelling unit per lot, subject to the following conditions:

- A. Occupancy of the structure shall be limited to the caregiver or the mentally or physically impaired person requiring a substantial amount of personal care or attention based on a certified medical need.
- B. The temporary family health care structure shall meet all minimum building spacing requirements set forth in Subsection ~~16.09~~14.03.08.
- C. The temporary family health care structure shall be placed on the lot in such manner that it meets all required setbacks.
- D. No more than one (1) accessory temporary family health care structure per lot shall be allowed.
- E. The applicant must provide a certification by a qualified medical provider that the temporary family health care structure is needed to take care of a mentally or physically impaired person who lives on the same lot who is in need of personal or medical attention.
- F. The location, placement, and type of the temporary family health care structure must be selected so as to minimize any negative effects on adjacent properties.
- G. A permit shall be valid for a period of one (1) year. Applications for extensions for an additional one (1) year period must be filed between thirty (30) to sixty (60) days prior to the expiration of the permit. For each new extension the applicant must demonstrate continuing compliance with this Section and a new certification in accordance with Subsection ~~16.69.02(F)~~15.62.02(E) must be submitted. The applicant can continue to apply for extensions so long as all other requirements of this Section are met.
- H. Upon expiration of the permit or the cessation of the conditions giving rise to the permit, the temporary structure shall be removed from the property within sixty (60) days.

...

~~H.~~I. days.

- 15.62.03 Temporary Construction or Repair Dwelling:** A temporary construction or repair dwelling may be permitted as a temporary use while either a Use 1.111 (site built or modular structures) or 1.200 (two-family residences) is being constructed or repaired, subject to the following conditions:

...

- G. ~~The~~Iand use intensity ratios ~~of Section 16.01~~ do not apply to a temporary construction or repair dwelling.

...

- 15.62.04 Temporary Construction Trailer:** A temporary construction trailer may be permitted as a temporary use for a temporary office, security shelter or shelter for materials or tools (but not for residential purposes or sales office) incident to construction or development of the

premises upon which the temporary construction trailer is located subject to the following conditions:

...

- E. ~~The~~ Land use intensity ratios ~~of Section 16.01~~ do not apply to a temporary construction trailer.

...

15.62.05 Temporary Mobile Medical Unit: A temporary mobile medical unit may be permitted as a temporary recurring use accessory to an existing medical use subject to the following conditions:

...

- E. A temporary mobile medical unit shall not be subject to ~~Section 16.01 or to Subsection 16.07~~ any land use intensity ratio or setback requirements. Setbacks for temporary mobile medical units shall be ten feet (10') from any street rights-of-way and five feet (5') from any interior boundary.

...

15.62.06 Temporary Classroom: A temporary structure serving as expansion space for a classroom may be permitted as a temporary use to Use 9.05 Elementary School and Use 11.23 Hospital subject to the following conditions:

...

- E. ~~The~~ Land use intensity ratios ~~of Section 16.01~~ do not apply to a temporary classroom.

...

15.62.08 Temporary Staging: Temporary staging is permitted subject to the following conditions:

...

- C. ~~The~~ Land use intensity ratios ~~of Section 16.01~~ do not apply to temporary staging.

...

15.62.09 Non-Fixed Site Event Venue

...

- G. A temporary structure may be permitted subject to the following conditions:
1. The temporary structure shall be placed on the lot in such manner that it meets all required setbacks.

2. The location, placement, and type of the temporary structure must be placed so as to minimize any negative effects on adjacent properties.
3. ~~The~~ Land use intensity ratios ~~of Section 16.01~~ do not apply to a temporary structure.
4. Such structure shall not be erected more than forty-eight (48) hours before the event and must be taken down no later than the next business day following the event.

15.62.10 Carrier-On-Wheels (COW)

- A. The Administrator may allow a COW for providing communications during an emergency in any zoning district.
- B. The Administrator may allow a COW in the O1, B2, B3, U1 or M1 zoning districts for special events if the following conditions are met:
 1. The COW may only be erected twenty-four (24) hours in advance of the event.
 2. The COW must be taken down immediately following the event, not to exceed twenty-four (24) hours.
 3. The COW may not be erected for more than seventy-two (72) hours.
 4. The applicant must provide a copy of liability insurance at the time of application.
 5. The COW must be fully contained on the property where the event is occurring. A fall-zone equal to the height of the COW must be provided.
 6. The COW shall be placed on the lot in such manner that it meets all required setbacks.
 7. ~~The~~ Land use intensity ratios ~~of Section 16.01~~ do not apply to a COW.

...

15.62.12 Itinerant Merchant

- ~~A.~~ ~~An itinerant merchant is required to obtain a privilege license from Town Hall prior to undertaking any retail activity.~~
- ~~B.~~ A. An itinerant merchant may not stay on one (1) lot for more than seventy-two (72) consecutive hours in a one (1) week period unless the itinerant merchant is participating in an approved Open-Air Market.
- ~~C.~~ B. An itinerant merchant may not locate on public property, other than public sidewalks, without written permission.
- ~~D.~~ C. Unless operating in an Open-Air Market, an itinerant merchant must have the written permission of the owner or the entity in control of the property on which the itinerant merchant is located.

~~E.D.~~ An itinerant merchant is not required to obtain a zoning permit, and if the above standards are met, no additional Ordinance requirements are applicable.

...

Article 30 Flood Damage Prevention

...

30.03.02 Specific Standards: In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 30.01.02, or Section 30.03.03, the following provisions, in addition to the provisions of Section, are required:

...

K. Permissible Uses Within the Special Flood Hazard Area

The following uses shall be permitted within the Special Flood Hazard Area provided ~~they are permitted under Article 16 of the UDO~~ the use is a permissible use within the zoning district and documentation is submitted to show the use shall comply with the provisions of this Section:

1. General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.
2. Lawns, gardens, play areas, and other similar uses.
3. Golf courses, driving ranges, archery ranges, picnic grounds, parks, hiking, bicycle or horseback riding trails, open space and other similar private and public recreational uses.

...

Article 31 Landscape Standards

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31.09 Screening Along Streets

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31.09.04 Except in the B1 Central Business District, when a surface parking lot is a principal land use or a component of a combination use, the following provisions shall apply:

- A. The minimum street yard shall be twenty-five feet (25') measured perpendicular from the street right-of-way but the minimum street yard may be reduced by one foot (1') for every two feet (2') below adjacent street grade when the Administrator concludes the parking area shall have less of a visual impact than at street level.
- B. An average of one (1) large deciduous tree, two and one-half inch (2 ½") minimum caliper, per twenty- five feet (25') of street frontage shall be provided.

- C. An average of one (1) large evergreen tree, eight feet (8') minimum height, per fifty feet (50') of street frontage shall be provided.
- D. Shrubs at the rate of one (1) eighteen inch (18") minimum height per two linear feet (2') of street frontage shall be provided. The shrubs shall be of a species expected to reach a minimum height of thirty inches (30") and a minimum spread of thirty inches (30") within five (5) years of planting. At least seventy-five percent (75%) of shrubbery in this area must be evergreen.

...

Article 34 Definitions

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Architecturally Integrated Subdivision

A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated subdivision shall show the dimensions, height, and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated subdivisions as set forth in ~~Section 16.11~~[Section 5.10](#).

...

Appendix A Application Information

...

- A3.02.06** Plans must demonstrate all proposed changes in existing natural, man-made, and legal features, including:
- A. The number of square feet in every lot created by a new subdivision; and
 - B. Lot dimension, including lot widths measured in accordance with ~~Section 16.14.03.03~~; and
 - C. All intensities as set forth in ~~Section 16.01.02~~[Section B1.04](#) Complete Intensity Table.

...

**PUBLIC HEARING MINUTES
MONDAY, MARCH 28, 2022, 6:00 PM
VIA WEBEX SOFTWARE**

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

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice-Chair, Chris Behrend, John Tippet, Frank Venio, and Smith Warren

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Brandon Wise-Environmental Planner, and Brenda Henson-Board Secretary

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

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Tyler Moffatt, Andrew Rice, and Todd Rice

Call to Order

Mayor Futrelle called the Town Council to order at 6:05 p.m. Chair Shay called the Planning Commission to order at 6:05 p.m. for the Public Hearing/Planning Commission meeting held via WebEx.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member Roseman made a motion to approve the January 24, 2022 Public Hearing minutes. The motion was seconded by Council Member George.

Vote: Aye – All
Nay – None

The motion passed.

Vice-Chair Plaag made a motion to approve the January 24, 2022 Public Hearing minutes. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Mayor Futrelle introduced Amy Davis, Interim Town Manager.

Case PL05551-030422 A&R Mountain Properties – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of 243/245 Bamboo Road, owned by A&R Mountain Properties, to R3 Multiple-Family Residential, SFHA, and WS-IV-PA. Zoning is to coincide with the property owner's voluntary annexation of the property. A&R Mountain Properties LLC has submitted a Voluntary Annexation Petition requesting the Town to annex 0.988 acres contiguous to the Town of Boone primary corporate limits. This area to be annexed, located at 243/245 Bamboo Road, is identified as Watauga County PIN 2920-20-5262-000.

Ms. Jane Shook, Director of Planning & Inspections, presented the request as it was outlined in the meeting packet. She noted that in 2017, the Town lost jurisdiction of this property with the removal of

the ETJ. Ms. Shook added that the former property owner requested sewer service to the property in 2018. That request was approved with the condition that the property owner petition to be annexed.

Ms. Shook stated that property owners within 300 feet of the subject property were notified of the request to have the property annexed and zoned as R3 Multiple-Family Residential, SFHA, and WS-IV-PA.

Vice-Chair Plaag asked if properties that were annexed into the Town were required to bring their existing uses and conditions into compliance with the UDO. Ms. Shook replied that they were not. Vice-Chair Plaag asked what happened if there was a non-conformities on the property. Ms. Shook replied that they would be considered legal non-conformities.

Vice-Chair Plaag asked if the staff was aware of any problematic non-conformities on the subject property. Ms. Shook replied that staff had not done an in-depth analysis of the property, but she anticipated that there were likely some legal non-conformities with respect to landscaping, parking and other items.

Council Member Roseman asked what services would be extended to the property if it was annexed. Ms. Shook responded that the property would be entitled to the same services as any other parcel located within Town limits. She added that the property would be served by Town sewer and not Town water. Mr. Rick Miller, Public Works Director, added that the property had a well and was not requesting to hook onto Town water. He noted that the Town's sewer line would need to be extended approximately 1,000 ft. in order to serve the property. Ms. Meade asked if it was correct that the property owner would be responsible for the cost of extending the sewer line. Mr. Miller replied that was correct. Ms. Meade asked if a water main was available if the property owner decided they would like to have Town water service. Mr. Miller stated that there was a water line across the road, and it would be easier to connect the property to water than to sewer. Ms. Meade asked if it was correct that the property already received some Town services such as trash pickup and police services. Mr. Miller stated that was correct.

Vice-Chair Plaag asked how the property was zoned when it was part of the ETJ. Ms. Shook replied that the property was zoned MH Manufactured Home.

Commission Member Veno asked if the reason the property was seeking to be annexed was that they had sewer problems. Ms. Shook explained that, in order to have Town water or sewer extended to a property outside of Town limits, the property owner must petition Town Council to request that the property be annexed into Town.

Ms. Shook noted that no one had signed up to speak regarding this case.

With no public comment, Mayor Futrelle closed the public hearing for this case at 6:25 p.m.

Case PL05502-021822 Consultation in Certificates of Appropriateness Process – UDO Text Amendment

To modify UDO Article 8 and Appendix D related to consultations in the Certification of Appropriateness (COA) process to (i) correct language regarding the COA process to provide a clearer path for COA applicants, (ii) to reduce any potential conflict regarding the Historic Preservation Commission's interactions with applicants prior to a case, and (iii) align text with subsequent text amendments related to COA. Conforming amendments may also be made to other Articles.

Ms. Shook presented the case as it was outlined in the meeting packet. She stated that this amendment would remove the text allowing pre-application consultations with HPC. Ms. Shook explained that staff initially thought this was an acceptable method used across the State, but upon further review, decided it should not be part of the process due to the quasi-judicial nature of the HPC.

Vice-Chair Plaag asked if he should be recused from this case because he was the Chair of the Historic Preservation Commission. Ms. Meade stated that the HPC had not considered this issue, so she did not feel Vice-Chair Plaag needed to be recused.

Ms. Meade stated that the original idea was for HPC to be consulted in a more informal way prior to a hearing about how applicants might best propose to comply with the standards. However, there was concern that this could constitute ex-parte communication between HPC members and applicants prior to the hearing. She felt it would be best to have staff handle any pre-hearing consultations.

Council Member Roseman asked if these changes would allow the efficiency of the department to move more smoothly. Ms. Shook replied that it would help staff firm the process up for an applicant and allow for more complete applications.

Vice-Chair Plaag urged staff to advise applicants that the decision of approval or denial of a COA was up to the Commission, and staff was there to provide guidance through the process. Ms. Shook replied that staff always tries to make sure that applicants understand that staff is not the arbiter of the decision and that the board was the final decision-maker.

Ms. Shook noted that no one had signed up to speak regarding this case.

With no public comment, Mayor Futrelle closed the public hearing for this case at 6:33 p.m.

Case PL05558-030922 Stormwater Modifications – UDO Text Amendment

To modify UDO Article 21 Stormwater Management, Article 34 Definitions, and Appendix C Details and Specifications Manual related to stormwater detention requirements for the following uses:

1. Use 1.01 Single-Family Dwelling
2. Use 1.02-1.04 Manufactured Home
3. Use 1.06 Duplex (one duplex building per lot)
4. Any other use that operates out of a single-family dwelling (Family Care Homes, Boarding House, Home for Survivors of Domestic Violence, etc.)

This modification also:

1. Introduces exemptions for impervious improvements of 500 square feet or less and for lots within subdivisions or developments that have an approved drainage plan where the proposed development was considered and
2. Revises the definition of “impervious area” to include exemptions set forth in NC General Statutes.

Ms. Shook outlined the request as it was presented in the meeting packet. She stated that, prior to 2014, single-family dwellings were not required to provide stormwater detention, and the Town received complaints due to the impacts to adjacent property owners both during and after construction. Ms. Shook explained that the Town Council at that time tried to take a middle ground approach by requiring that the applicant submit a drainage plan, but not be required to submit any final certification from a design professional for that drainage plan. She noted that this left the applicant with the expense of submitting an engineer’s plan but not a certification that the stormwater detention was constructed according to that plan. Ms. Shook stated that the cost for single-family homeowners to obtain this design professional’s plan was substantial, and it was sometimes challenging to find someone who could provide the plan quickly. Ms. Shook noted that drainage plans were also required for the placement of small storage sheds.

Ms. Shook stated that this amendment would allow applicants to choose between one or more of the stormwater control measures detailed in the North Carolina Department of Environmental Quality Stormwater Design Manual. Staff would approve the modifications and design details based on site

conditions. She noted there were a lot of simplified methods for stormwater run-off with simple math that a homeowner or contractor could do, such as; rain barrels, rain gardens, and berms.

Ms. Shook stated that once the stormwater control measures were installed, they would need to be maintained. The property owner would have to file with Planning & Inspections an operation and maintenance agreement saying they would continue maintaining the system after it was installed.

Mr. Brandon Wise, Environmental Planner for the Town of Boone Planning & Inspections, introduced himself. Mr. Wise stated that his specialty was stormwater. He noted that he had worked on the private side designing stormwater infrastructure, mainly for commercial properties but also some residential properties. Mr. Wise stated he had also worked for the State of North Carolina with DEQ working with the stormwater manual. He added that he had seen some of the creativity you could get from the stormwater manual. Mr. Wise stated that he had worked with builders on implementation and ways to get creative with smaller detention systems, or more green detention systems where everything was not being put underground into a cistern. Mr. Wise stated he had also run an MS4 in Carolina Beach. He explained that an MS4 was the municipal separate storm sewer system permit, with requirements for how the Town maintained its infrastructure, how the community worked together in maintaining infrastructure and preventing stormwater run-off from causing issues from one house to impact the next house in the neighborhood.

Vice-Chair Plaag referred to Section 2.04.02(C) regarding the operation maintenance agreement and asked if this agreement would require a signature from the property owner. He also asked if this agreement could legally be made into a covenant that followed the land. Vice-Chair Plaag stated that a property owner could sell the property and asked how the Town would enforce the operation maintenance agreement with a new property owner. Ms. Shook replied that the property owner would sign the operation maintenance agreement. She added that the MS4 required commercial developments to record the maintenance agreement at the Register of Deeds, but staff did not feel it was necessary to require the document to be recorded for residential developments.

Ms. Meade stated that the applicant and the landowner were both charged with not only carrying out the plan but then maintaining it thereafter. She felt this was a permanent requirement once those facilities were in place under the UDO. While it was not a covenant per se, like other requirements of the UDO, it applied regardless of subsequent changes in ownership. Ms. Meade explained that new property owners were equally subject to the UDO requirements and to complying with the development plan that was approved. Ms. Meade suggested that it might be better, instead of specifying this as a contract, to provide this document for notice purposes so the property owner understood their obligations under the UDO for maintaining the stormwater system. She felt that Section 21.02.02 bound not only that owner but every subsequent owner to the maintenance obligation. Vice-Chair Plaag agreed that removing the illusion of the agreement being a contract was a good idea.

Commission Member Veno asked how subsequent property owners would know about the requirement to maintain the stormwater. Ms. Meade replied that stormwater system maintenance regulations were no different than any other regulation that applied to a home. She explained that if the home was sold, there was not a duty and there was nothing in the title records to tell the new potential purchasers that there were certain regulations that would apply to that home under the UDO. Ms. Meade stated it was the duty of new owners to review any pertinent government regulations for themselves. If they chose not to review the regulations, they were bound by them nonetheless.

Council Member Tugman asked if a title search would reveal what easements may be on a property. Ms. Meade explained that this agreement was a local government regulation and would not be the same as a recorded easement, so it would not be found in a title search.

Mr. Wise stated that education was important, and he hoped to do more to help people understand the regulations.

Commission Member Behrend asked if this change would affect current land owners. Ms. Shook replied that this amendment would affect new construction or any modifications where pervious surface would be added.

Ms. Shook noted that no one had signed up to speak regarding this case.

With no public comment, Mayor Futrelle closed the public hearing for this case at 7:05 p.m.

Adjournment of Town Council

Council Member Roseman made a motion to adjourn the Town Council at 7:06 p.m. The motion was seconded by Council Member Tugman.

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

Tim Futrelle, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Chair Shay called a break in the meeting from 7:07 p.m. until 7:14 p.m.

Public Comment

Ms. Shook noted that no one had signed up to speak under public comment.

Approval of Meeting Minutes

Vice-Chair Plaag made a motion to approve the January 24, 2022 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

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

Case PL05551-030422 A&R Mountain Properties – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of 243/245 Bamboo Road, owned by A&R Mountain Properties, to R3 Multiple-Family Residential, SFHA, and WS-IV-PA. Zoning is to coincide with the property owner's voluntary annexation of the property. A&R Mountain Properties LLC has submitted a Voluntary Annexation Petition requesting the Town to annex 0.988 acres contiguous to the Town of Boone primary corporate limits. This area to be annexed, located at 243/245 Bamboo Road, is identified as Watauga County PIN 2920-20-5262-000.

Vice-Chair Plaag stated that his question regarding non-conformities in properties seeking annexation was because there was a potential for some outrageous uses on those properties that the Town might not be aware of, and those uses could continue as a legal non-conformity. Vice-Chair Plaag added that he had wanted it to go on record that there were not any strange uses on the property that staff was aware of. He hoped that future Planning Commission's and the current Planning Commission would make it a practice to ask if there was anything unusual about a property seeking annexation that may not align with the proposed zoning classification. Vice-Chair Plaag stated that he trusted staff to suggest a zoning classification that was appropriate to the existing uses, but that might not always be the case with future Planning Department staff.

Ms. Shook explained that the person applying for annexation had the opportunity to choose which zoning district they would like to have applied. She noted that Town Council was not required to select the zoning district the applicant requested. In this case, the applicant's request was to zone the property R3, and Town Council agreed with that request. Ms. Shook stated that staff tried to look at the development of the property and the surrounding uses so they could encourage applicants to request a zoning district compatible with their surroundings.

Chair Shay asked if any responses had been received from the residents within the 300 ft. notification area. Ms. Shook replied that she had not received any responses. Mr. Mike James, Senior Planner with the Town of Boone Planning & Inspections, added that he had not received any responses either. He noted that within the 300 ft. notification area were the airport, Deerfield Ridge, and several properties that were outside of Town limits.

Commission Member Veno asked if it was correct that there were three buildings on the subject property. Ms. Shook replied that was correct.

Commission Member Tippettt noted that there were quite a few land uses in the area. He stated that he could support the zoning of this property to R3 because of the protections it would provide, and it would be beneficial to get public sewer to that property.

First Motion and Vote: Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.2.2 Utilities

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

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the

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

- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Plaag made a motion that the Planning Commission recommends approval of Ordinance PL05551-030422 and believes approval is reasonable and in the public interest because the zoning concurrent with annexation applies an appropriate zoning classification for the known present uses of the property and should not have an adverse impact on the surrounding properties that are located within Town limits or in adjacent County lots. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Case PL05502-021822 Consultation in Certificates of Appropriateness Process – UDO Text Amendment

To modify UDO Article 8 and Appendix D related to consultations in the Certification of Appropriateness (COA) process to (i) correct language regarding the COA process to provide a clearer path for COA applicants, (ii) to reduce any potential conflict regarding the Historic Preservation Commission's interactions with applicants prior to a case, and (iii) align text with subsequent text amendments related to COA. Conforming amendments may also be made to other Articles.

First Motion and Vote: Commission Member Tippet made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.1.5 Downtown

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

- A.4 Establish specific architectural and design standards for downtown consistent with its location, setting, and various functions.

Comprehensive Plan Policy 2.3.2 Community Character

- B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.

The motion was seconded by Commission Member Warren.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of Ordinance PL05502-021822 and believes approval is reasonable and in the

public interest because it will reduce potential conflicts and it helps the review process between the applicant and staff. The motion was seconded by Commission Member Warren. Vice-Chair Plaag wished to amend the motion to add that the proposed amendment eliminates potential ex-parte communication or the perception thereof between members of the HPC as a quasi-judicial board and the applicant that had been previously permitted through the consultation process directly with the HPC. Commission Members Tippet and Warren accepted the amendment.

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

Case PL05558-030922 Stormwater Modifications – UDO Text Amendment

To modify UDO Article 21 Stormwater Management, Article 34 Definitions, and Appendix C Details and Specifications Manual related to stormwater detention requirements for the following uses:

1. Use 1.01 Single-Family Dwelling
2. Use 1.02-1.04 Manufactured Home
3. Use 1.06 Duplex (one duplex building per lot)
4. Any other use that operates out of a single-family dwelling (Family Care Homes, Boarding House, Home for Survivors of Domestic Violence, etc.)

This modification also:

1. Introduces exemptions for impervious improvements of 500 square feet or less and for lots within subdivisions or developments that have an approved drainage plan where the proposed development was considered and
2. Revises the definition of “impervious area” to include exemptions set forth in NC General Statutes.

Chair Shay stated that this amendment introduced an interesting partnership between the Town and an applicant where staff could review the project and provided the ability to allow a variety of ways to address stormwater, including opening it up to creative new ideas. Ms. Shook stated that this would allow for creativity outside of the stormwater control measures that were listed in the State's manual, but the applicant would still be required to show evidence that the particular stormwater control measure best controlled their stormwater run-off.

Chair Shay asked Ms. Shook what type of burden she anticipated this change to have on staff. Ms. Shook replied that this amendment and the addition of the MS4 would be an increase of responsibility for Mr. Wise. She added that these types of responsibilities were anticipated when Mr. Wise was hired as the Environmental Planner.

Vice-Chair Plaag asked that any motion for approval include a condition that C2.04.02(C) be modified to remove references to an agreement or anything suggesting a contract between the property owner and the Town in order to not create an illusion of there being a separate contract from what was already required under the UDO. This language would be revised by Planning staff and Ms. Meade.

First Motion and Vote: Commission Member Behrend made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.2.5 Environmental Health

- D. Runoff and drainage from development activities shall be of a quality and quantity as near to natural conditions as possible, with special emphasis given to critical watershed areas.

- E. Development which preserves the natural features of the site, including existing topography, streams and significant trees and vegetation, shall be reflected in the Town's Development Standards.
- F. Recognizing the economic and environmental costs of commercial and residential stormwater runoff, innovative stormwater management techniques such as permeable sidewalks, driveways, and parking areas shall be encouraged.
- G. The development of a comprehensive drainage and flood plain management plan, including public and private actions in support of plan implementation, shall be supported.

The motion was seconded by Commission Member Warren.

Chair Shay wished to amend the motion to add Vice-Chair Plaag's suggestion that C2.04.02(C) be modified to remove references to an agreement or anything suggesting a contract between the property owner and the Town in order to not create an illusion of there being a separate contract from what was already required under the UDO. This language would be revised by Planning staff and Ms. Meade.

Commission Members Behrend and Warren accepted the amendment.

Vice-Chair Plaag wished to amend the motion to include:

Comprehensive Plan Policy 2.1.1 Economic Development

A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.

A.2 Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

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

D.1 Continue to evaluate opportunities in the zoning ordinance for flexibly designed and located single-family and multi-family residential developments.

Commission Members Behrend and Warren accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Chair Shay made a motion that the Planning Commission recommends approval of Ordinance PL05558-030922 and believes approval is reasonable and in the public interest because it strikes a balance between protecting watersheds and managing stormwater with the burden on property owners. It offers creative but data-based pathways for analysis, and it reduces the burden on both the applicant and the staff. The motion was seconded by Vice-Chair Plaag.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Ms. Shook noted that staff had recently reached out to Commission members to gauge their preference for virtual or in-person meetings. She stated that those preferences were presented to Town Council, and, as a result, Council decided that commission and board meetings would remain virtual, with the

exception of quasi-judicial decisions where there was a party that did not consent to a virtual or remote meeting. Ms. Shook stated that Town Council would, at some point, investigate a hybrid model utilizing technology within Council chambers. She noted that Council would be meeting in person for the first meeting in April. Ms. Shook stated Council was reminded that the majority of Planning Commission members were in favor of virtual meetings, and she was unsure how the joint Town Council and Planning Commission meetings would be held. She noted she was not expecting to have a Planning Commission meeting next month.

Adjournment of Planning Commission

Vice-Chair Plaag made a motion to adjourn the meeting at 7:48 p.m. The motion was seconded by Commission Member Venno.

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

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary