

**Town of Boone
Public Hearing
6:00 PM, Sep. 23, 2024
Town Council Chambers
1500 Blowing Rock Road**

The public may attend the meeting in-person or online via WebEx, a video conferencing software. To participate using WebEx, either online or by phone, please email Planning and Inspections at planning@townofboone.net or call 828-268-6960, and you will be provided with an email invitation to the meeting. All requests for an invitation must be submitted no later than one hour before the meeting is scheduled to begin.

I. Call to Order of Town Council & Planning Commission

II. Moment of Silence

III. Approval of Meeting Minutes

May 29, 2024, Public Hearing Minutes

PUBLIC HEARING - Guidelines for Each Case on the Agenda

- A. Presentation of Case by Staff/Applicant*
- B. Discussion/Questions by Town Council and Planning Commission*
- C. Public Comment*
- D. Discussion/Questions by Town Council and Planning Commission*

IV. Case A24-0595 174 S Depot St - Conditional District Zoning Map Amendment

Case A24-0595 Exhibit 1: Application Information

Case A24-0595 Exhibit 2: Neighborhood Meeting Notes

Case A24-0595 Exhibit 3: Site Plans

Case A24-0595 Exhibit 4: Staff Report

Case A24-0595 Exhibit 5: May 28, 2024, HPC Meeting Minutes

V. Case A24-0640 Occupancy & Other Residential Clarifications/Modifications - UDO Text Amendment

Case A24-0640 Exhibit 1: Application Information

Case A24-0640 Exhibit 2: Staff Report

VI. Case A24-0642 Appearance Standards Modification - UDO Text Amendment

Case A24-0642 Exhibit 1: Application Information

Case A24-0642 Exhibit 2: Staff Report

VII. Adjournment of Town Council

PLANNING COMMISSION

VIII. Approval of Meeting Minutes

June 5, 2024, Planning Commission Meeting Minutes

IX. Discussion of Cases Heard at the Public Hearing

X. Other Matters

XI. Adjournment

**TOWN COUNCIL AND PLANNING COMMISSION
PUBLIC HEARING MINUTES
MONDAY, MAY 29, 2024, 6:00 PM
1500 BLOWING ROCK ROAD AND VIA WEBEX SOFTWARE**

COUNCIL MEMBERS PRESENT: Mayor Tim Futrelle, Mayor Pro Tem Dalton George, Todd Carter, Eric Plaag, Virginia Roseman, and Edie Tugman

PLANNING COMMISSION MEMBERS PRESENT: Adrian Tait-Chair, Frank Veno-Vice-Chair, Chris Behrend (via WebEx), Garrett Kight (via WebEx), and Smith Warren (via WebEx)

HISTORIC PRESERVATION COMMISSION MEMBERS PRESENT: Vardell Smyth-Chair, Bettie Bond-Vice-Chair, Krystal Carter, Hannah Williams, and Jerry Williamson (all members participated via WebEx from the Planning and Inspections Conference Room)

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Commercial Zoning Administrator, Jessica Mitchell-Advanced Planning Specialist (via WebEx), Brandon Wise-Deputy Director, and Brenda Henson-Board Secretary (via WebEx)

OTHER TOWN STAFF/REPRESENTATIVES PRESENT: Allison Meade-Town Attorney

Call to Order

Mayor Futrelle called the Town Council to order at 6:00 p.m. Chair Tait called the Planning Commission to order at 6:01 p.m. Chair Smyth called the Historic Preservation Commission to order at 6:01 p.m. The meeting was held in the Town Council Chambers at 1500 Blowing Rock Road and via WebEx.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member Plaag moved to approve the March 25, 2024, April 3, 2024, and April 22, 2024, Public Hearing minutes. Council Member Roseman seconded the motion.

Vote: Aye – 5
Nay – None

The motion passed.

Chair Tait moved to approve the March 25, 2024, April 3, 2024, and April 22, 2024, Public Hearing minutes. Vice-Chair Veno seconded the motion.

Vote: Aye – 5
Nay – None

The motion passed.

PUBLIC HEARING

Mayor Futrelle reviewed the guidelines for public hearings. He noted that there were a lot of members of the public to speak and advised that each speaker would have three minutes to present their comments.

Cases A24-0107, A24-0109, and A24-0110 Rivers Property – Local Historic Landmark

Communication: May 29, 2024, Public Hearing Minutes (Approval of Meeting Minutes)

The Town of Boone has filed a Local Historic Landmark Application to designate the properties at 150 Clay House Drive (Watauga County PINs: 2900-78-3934-000, 2900-79-0308-000, 2900-69-9070-000) as a local historic landmark.

Council Member Plaag disclosed that he used to be the Chair of the Historic Preservation Commission, had helped former HPC intern Ellie McCorkle, and had done a lot of the work on this proposal. Ms. Meade stated that she did not feel that Council Member Plaag had a conflict that would cause him not to participate as a Council member on this request.

Jessica Mitchell, Advanced Planning Specialist, presented the request as outlined in the meeting packet. She noted that the three parcels to be designated encompassed the parcel with the house and garage, with the interior being excluded, the drive leading to the house and garage, the Daniel Boone Monument and Rivers Park, the land along the ridgeline to the north/northwest of the house, the area known as Rachel's meadow, and the North Carolina State champion sugar maple tree named Baby.

There was no public comment on this case.

Council Member Roseman asked how the Town would be prevented from using the property if it was designated. Ms. Meade replied that the Local Historic Landmark designation would not change the Town's use of the property. She noted that certain deed restrictions were already in place on the property, and the Town had and would continue to respect those. Additionally, anything that would change the exterior or significantly change the landscape or hardscape of the property would be subject to review under the Landmark standards.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:21 p.m.

Case A23-0634 Horton Hotel – Local Historic Landmark

SPA Properties I, LLC, has filed a Local Historic Landmark Application to designate the property at 611 West King Street (Watauga County PIN: 2900-88-3953-000), commonly known as the Horton Hotel, as a local historic landmark.

Council Member Plaag disclosed that his client was the applicant for this request, and he would be recusing himself from Town Council for this case to make a presentation on his client's behalf.

Mike James, Commercial Zoning Administrator, presented the request as outlined in the meeting packet and introduced Paul Passina, one of the owners of the Horton Hotel.

Dr. Eric Plaag with Carolina Historical Consulting, LLC, stated that this building's architecture was strikingly sophisticated compared to other commercial buildings that preceded it. The period of significance included in the designation was a single year (1929), denoting its association with Horton before Horton's loss of the building following the 1929 stock market crash. Dr. Plaag provided a brief history of Horton's life and a timeline of his businesses in early Boone. He noted that Horton was an early proponent of the major commercial and residential building campaign from 1919 to 1929 in Boone that completely transformed Boone's downtown.

Dr. Plaag stated that the H.W. Horton building retained its general integrity of design, citing workmanship of materials through the existing architectural elements, such as the original masonry and masonry patterns, the original wagon wheel medallions, the stunted battlements, the truncated shed roof of Terracotta tiles, the stepped back brick parapet, and the original existing freeze plate that still bore Horton's name. He noted that the adverse impact of the rooftop addition, which was visible from a distance at higher elevations, was mitigated by the fact that it was set back from the north parapet. Dr. Plaag stated that the surviving features of the building continued to convey integrity of feeling historic.

There was no public comment on this case.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:35 p.m.

HPC Chair Smyth adjourned the Historic Preservation Commission at 6:35 p.m.

Case A24-0269 Nolt – General Use Zoning Map Amendment

In conjunction with a request for voluntary annexation, the Town of Boone has initiated the zoning of property at 1585 and 1587 US Highway 421 North, owned by Todd and Jessica Nolt. The zoning districts that are to be considered include R1 Single-Family Residential, R1S Small Home Residential, R1A Single-Family Residential with Accessory Dwelling, R2 Two-Family Residential, or R3 Multiple-Family Residential along with the Corridor District overlay.

Mr. James presented the request as outlined in the meeting packet. He noted that there would be non-conformities regardless of the zoning classification applied because the property contained two single-family homes, setback requirements were not met, and the structures were only nine feet apart.

Council Member Tugman asked if the staff had a recommendation they believed would be the most appropriate for the property. Mr. James replied that the staff did not typically make recommendations. He noted that the property was zoned R3 when it was in the ETJ, and several properties around it were zoned R3. He pointed out that no zoning classification allowed two single-family homes of roughly the same size on the same parcel. Mr. James stated that the interior setback requirement for all of the zones under consideration was either 13 or 14 feet, and this parcel had setbacks well below that requirement on the eastern side.

Mr. James noted that the property next door was owned by the applicant and used as his primary residence. He stated that one of the homes was occupied by four renters, and the other was occupied by three, which was not allowed in every zone. Mr. James added that the back of the property was quite steep, making the development of any additional structures prohibitively expensive. He stated that given the uniqueness of the property and the two structures on it, an R3 zoning designation might be an appropriate consideration.

Council Member Plaag asked if the original purpose of the annexation request was to get access to town water and sewer. Mr. James replied that it was, and more specifically it was for sewer due to a rapidly deteriorating septic system.

Council Member Plaag asked how many dwelling units were in each building. Mr. James replied that they were both single-family homes, so four people lived in one single-dwelling unit, and three lived in the other. Council Member Plaag asked if zoning the property as R1S would create more non-conformities. Mr. James stated that was correct. Council Member Plaag noted that an R3 zoning could invite any uses and intensities listed in the Table of Principal Uses. He stated that an R2 zoning was essentially a two-family situation. He suggested that the two separate structures might act as a two-family situation even though they did not share a common wall.

Todd Nolt, the property owner and applicant, verified that he was trying to obtain Town water and sewer due to a rapidly declining septic system. He added that he was not really aiming to annex into the Town, but that was the process of receiving the services. Mr. Nolt stated that he had no intention of doing anything different with the property.

Council Member Roseman agreed with Council Member Plaag regarding the R2 zoning. She expressed concern about what the property could become if it were zoned R3 and sold. Council Member Roseman stated that the town needed to strive to protect the availability of homes for people in this community.

Council Member Carter asked if the subject property could be a flag lot. Mr. James replied that he did not analyze the property as a potential flag lot. Jane Shook, Director of Planning & Inspections, added that the second dwelling unit on the property would not meet the interior setback requirements for a flag lot.

Ms. Shook stated that this request was due to a hardship connection, which was covered in Town Code 50.29. As part of the hardship allowance to connect to the Town's water and sewer, the code stated that no change in the use of the property was planned or anticipated. She noted that the applicant had indicated there was no anticipated change of the use or occupancy. Ms. Shook added that occupancy could not be grandfathered. She asked Ms. Meade what that would mean for this applicant. Ms. Meade replied that there were two separate, difficult questions here. One was the treatment of the current occupancy and whether or not that comes in as a legal non-conformity. The second was the suggestion that the use would be locked in under Chapter 50, Hardship Connection. Ms. Meade stated that she believed that section gave the Town the right to terminate service if the use was subsequently expanded. She further believed that the Hardship Connection code was written more about a property not annexed but outside of the Town limits. Ms. Meade stated that a property that was annexed would be subject to the usual UDO rules and treated like any other property in the Town limits and could change use in conformity with the requirements of the UDO.

Ms. Shook noted that UDO Subsection 14.04.03 indicated the number or identity of occupants in a dwelling, whether consisting of family or unrelated individuals, did not constitute a use and could not create a legal non-conformity. Ms. Meade wondered if the situation differed when a property was annexed. She stated that Ms. Shook did not think it was the case that occupancy should be treated differently for an annexed property, and if the occupancy rules did apply, they would need to make clear to the applicant what that would mean for his rentals.

Mayor Pro Tem George stated that he, too, had concerns about the occupancy and felt that an R3 zoning might be better suited to this property. He thought that other zoning classifications might displace renters. He added that there was R3 zoning all around this property. Mayor Pro Tem George stated that they often talked about Boone being limited in its ability to grow, and the only way to do it was through voluntary annexation.

Ms. Meade stated that some part of that spirit had her more concerned about prohibiting occupancy non-conformities when they came through annexation instead of what would apply through normal UDO channels. She indicated she could research this further and see if there might be discretion for the Council to permit this property to come into Town with the existing occupancy non-conformities and allow them to stand regardless of the chosen zoning district.

Council Member Plaag asked if the current occupancy would be conforming if the property were zoned R3. Mr. James replied that was correct. Council Member Plaag stated that his reason for bringing up the R2 was not to express an objection to R3 but to try to figure out what this property would be most like in terms of the Town's existing zoning classifications. He added that he shared Council Roseman's concerns about the possibility of a four-story, twelve-unit apartment building going up. Still, he also heard that the property was zoned R3 when it was in the ETJ, and there was no problem with that then. Council Member Plaag also agreed with Mayor Pro Tem George's concern about removing beds given the current housing crisis. He stated that the property had existed effectively as an R3 property for decades, so he would support the R3 zoning that the applicant originally requested.

Council Member Roseman stated that she stood by her desire to have the property zoned R2 with grandfathering so that this applicant could continue using it as he had been. She felt that this would give the Town more control if the property owner wanted to change the use in the future.

Council Member Tugman asked if it was correct that there would still be a non-conformity if the property were zoned R3. Mr. James replied that was correct.

Mr. Nolt thanked Public Works for their work and stated they were an outstanding group. He also thanked Mr. James for helping him walk through this process.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:57 p.m.

Case A24-0273 Rich – General Use Zoning Map Amendment

In conjunction with a request for voluntary annexation, the Town of Boone has initiated the zoning of properties at 389 Eastview Dr. (Watauga County PINs: 2901-91-6572-000 & 2901-91-4666-000) owned by the Priscilla Rich Living Trust to R1-A Single-Family Residential with Accessory Dwelling along with the Viewshed Protection District overlay.

Brandon Wise, Deputy Director, presented the request as outlined in the meeting packet.

Council Member Plaag asked how the water would get to this parcel because there was a significant elevation where the water line was located in the curve on Junaluska Road. The property owner, Priscilla Rich, replied that she owned the vacant parcel to the left of the parcel containing her house, the water line was run across the vacant lot from Tall Timber Trail, and a booster pump was installed.

With nothing further, Mayor Futrelle closed the public hearing for this case at 7:00 p.m. and called a break from 7:01 p.m. until 7:15 p.m.

Case A24-0264 Mediation & Restorative Justice Center, 504 Green Street – Conditional District Zoning Map Amendment

Mediation & Restorative Justice Center has submitted a Conditional District Zoning Map Amendment to rezone property located at 504 Green Street (Watauga County PIN: 2901-51-2050-000) from R1A (Single-Family Residential with Accessory Unit) to OI (Office Institutional) with a site-specific plan to develop a Use 2.04 Residential Re-Entry Facility Category 2 (currently referred to in the UDO as Halfway House Category 2).

Mr. James presented the request as outlined in the meeting packet.

Mollie Bolick with Homestead Recovery gave a PowerPoint presentation explaining the background and function of the program. She stated that recovery housing was for people in the action and maintenance stage of their recovery, not for transient living or crisis stabilization. She added that by the time a person made it to recovery housing, a lot of effort had gone into their recovery. Ms. Bolick noted that recovery housing provided a substance-free, safe, structured, and healthy living environment for people in recovery from substance use disorders that promoted their recovery, wellness, and reintegration into the community.

Ms. Bolick stated that there were currently no recovery housing programs in Watauga County, so all residents had to go elsewhere to access this type of recovery support. She noted that since August 2022, they had placed 176 people in recovery housing or residential treatment outside Watauga County. Currently, they have 38 clients living in recovery housing or residential treatment in other areas of the state. She stated that in 2023, they had logged over 20,000 miles transporting clients to recovery support services, a painful reminder of the lengths many people must go to access recovery services in rural Appalachia. Ms. Bolick noted that recovery housing had been identified as a critical need by various local community action groups, including the Watauga Housing Council, Watauga Community Justice Coalition, High Country Reentry Collaborative, Watauga Community Mental Health Project, and the Stakeholder Group.

Ms. Bolick stated that their recovery homes would be structured and supportive home living environments guided by program policies and procedures that utilized best practices and experience from similar successful recovery residences, including but not limited to a thorough admissions policy, application and interview process, security and oversight, including security cameras on the exterior of the property and staff to oversee operations, a good neighbor policy to promote cohesive neighborhood dynamics and intentionality in preserving existing neighborhood norms, shared living agreements to support healthy boundaries, accountability, and relationships within the home, alcohol, and other drug testing to further promote a substance-free environment, curfew and quiet hours to promote healthy routines, structure, and to minimize disturbances to others, and a no visitors policy to protect the peace and privacy of residents and the neighbors. She stated that a housing coordinator would oversee all operations, and they intended to establish a live-in senior resident for each home that assisted the housing coordinator with the day-to-day responsibilities of the house. She added that the program was designed in phases, from the most accountability at phase one to the least restrictive at phase three. As residents practiced continued growth and accountability to prepare them for successful independent living, they would be reviewed for promotions through the program monthly. Ms. Bolick stated that through all phases, the residents were expected to develop an individualized recovery case plan with staff and be actively working towards their recovery and wellness goals, remain free of alcohol and other drugs, including cannabis products, abide by all program policies, pay service program fees to contribute to their living costs, actively, regularly, and continuously participate in the recovery process, and live an active lifestyle through employment, attending school, volunteering, and other activities that support their upward mobility.

Ms. Bolick stated that as part of their commitment to support and retain local community members, admissions priority would be given to Watauga County residents for these two homes. Residents must be in recovery from a substance use disorder, be substance-free at the time of acceptance and moving in, and consent to a background check that did not produce anything concerning that might cause them to be unsuccessful in a group living environment in a residential neighborhood. Ms. Bolick noted that residents must agree to reside and participate in the program for at least six months before acceptance. Still, they would be encouraged to stay for a year to ensure adequate time and support in the program and to reduce the number of people moving in and out of the home.

Ms. Bolick stated that they recognized there was a lot of stigma and fear around recovery and recovery services, so they tried to have meaningful conversations with people because all people's feelings were valid and deserved to be heard. She added that everyone had a reasonable expectation of feeling comfortable in their home.

Ms. Bolick stated that this project was selected to receive funding by the Watauga County Commissioners through an application process for Watauga County opioid settlement dollars. She added that this funding was being channeled directly back into the community to repair the harm caused by the over-prescribing and false marketing of prescription opioids and would allow them to invest more into the project versus many recovery housing programs that were established based on the revenue of resident program fees.

Ms. Bolick explained that the owners of 504 Green Street and 208 Sunset Drive offered to rent these homes to them for recovery housing because of a deep connection to addiction and recovery. Because of that, they chose to call their recovery housing project The Homeplace. Ms. Bolick stated that David and Rachel Sanders owned the Green Street property, and they lost a family member to addiction. By offering their property, they hoped that people would have more opportunities than their brother did and fewer people in Boone would be forced to leave their support systems in pursuit of recovery. In his memory, they plan to name this home the Shannon House.

Ms. Bolick noted that the Sunset Drive property was owned by Georgia and Eugene Potter, the mother and stepfather of their peer support specialist, Pam Greer. She stated that in 2012, Pam was sentenced to 63 months in prison for drug-related offenses. When she was released, Pam went to halfway housing in Asheville, and her mother, Georgia, drove two hours to see her.

Ms. Bolick stated that the 2800 square foot home at 504 Green Street was currently zoned R1A single-family residential with an accessory dwelling. She noted that it had five bedrooms, three bathrooms, and mature trees and shrubs in a large backyard. Ms. Bolick added that the property had been used mainly as a student rental since being owned by David and Rachel Sanders. She stated that they proposed to rezone the property as OI to allow a halfway house with six or more people. This location would be the men's home. Ms. Bolick stated that the property was adjoined by R1, R1A, and R3 zoned properties. She anticipated a reduction in noise in the Green Street neighborhood from the use of the property as a recovery residence because a group of students previously rented the residence, and the noise level was consistent with the congregate living of young college men and their visitors. Ms. Bolick explained that house rules and policies would help reduce noise, such as quiet hours from 10 p.m. to 6 a.m. Sunday through Thursday and 11 p.m. to 6 a.m. on Friday and Saturday, curfew in phase one from 8 p.m. to 8 a.m., phase two from 9 p.m. to 8 a.m., phase three from 10 p.m. to 8 a.m. unless otherwise approved by staff for employment, continuing education, or recovery support groups, zero tolerance policy for alcohol and other substance use, and a no visitor policy.

Ms. Bolick anticipated a reduction in light pollution from this property in the Green Street neighborhood because of the curfew and the no-visitor policy, and most of their residents would use public transportation. This would also reduce traffic in the neighborhood. She noted that the property was located in a neighborhood conservation district, so residents would be required to comply with all district ordinances, including acquiring parking stickers if a resident had a vehicle.

Ms. Bolick stated they would hold weekly house meetings with staff and the residents. They would implement and enforce house policies including, among others, no visitors, lights out at specified times, quiet hours, random alcohol and other substance screening and room checks, and a requirement to report any violations of another resident. She added that they would install outside security cameras to provide additional safety, accountability, and supervision by a housing coordinator, and they anticipated having a senior resident living on the property to oversee additional house operations and policies within six months of operation. Ms. Bolick noted that the existing construction, including materials, parking, and lighting, appeared to comply with the Article 25 Community Appearance Standards. She asked that the property be allowed to be kept in its current condition to preserve its residential appearance so it blended in with the existing homes and overall atmosphere of the neighborhood. Ms. Bolick stated that the Town staff suggested adding the following landscaping to bring the property into compliance with the landscaping standards for OI zoning: additional shrubs where possible along the creek bank, between the property and the adjoining short-term rental, and additional evergreen shrubs if needed for privacy along the chain link fence bordering the property and the adjoining yellow house.

Ms. Bolick noted that on January 17, they received a list of 43 property owners within 300 feet of the home from Planning and Inspections. Neighborhood meeting notices were mailed to the property owner's tax addresses on that document on February 20 by Caitlin Carter. On April 4, they held the Green Street neighborhood meeting at the Farm Cafe at 6 p.m. No one from the neighborhood was in attendance. Their staff stayed until approximately 6:20 p.m. and then left for the evening. Ms. Bolick stated that their application was submitted on April 17, and since that time, the Town of Boone updated their UDO to move recovery housing from OI Office Institutional Halfway Housing 1 and 2 to R3 Multiple-Family Residential and created a new residential classification for this use on May 22. She added that, while they felt R3 zoning more closely represented their residential project, it was their understanding

from conversations with Planning and Inspections that they were not eligible to pursue this zoning with the same application since the changes to the UDO were made after their application was submitted.

Ms. Bolick noted that during the review of their application, the town informed them that they would be required to install a fire suppression system. They contacted Century Fire Protection on May 22 and were quoted a price of \$16,125 to install the sprinkler system.

Devin Lyall, Executive Director of Wilkes Recovery Revolution, stated they had a similar recovery-based organization out of Wilkes County. She noted they had concerned and fearful neighbors who later apologized and even bought their residents Christmas gifts. Ms. Lyall stated that the recovery housing did not decrease surrounding property values.

David Sanders, the owner of 504 Green Street, stated that he contacted Ms. Bolick about using the property as recovery housing. He noted that according to the Journal of the American Medical Association, there were over 321,000 children without parents from the opioid epidemic. On January 29, 2021, Shannon Green, his wife's brother, passed away and lost his battle with addiction. Mr. Sanders stated that Mr. Green went to recovery housing, and the closest bed was 5 hours away. This took him away from his family and community. Mr. Sanders felt that recovery housing could help save a life or bring one more day to someone in need.

Council Member Plaag stated that he lived in Columbia, SC, for ten years, four of which were in an expensive, historic neighborhood across from a recovery house with 12-18 people living there. He noted that there were never disruptive people on the street, crimes, inappropriate behavior, drunkenness, or people getting high.

Council Member Plaag asked if this was going to be a treatment center. Ms. Bolick replied that it would not. She stated that this recovery housing was one of the last pieces of the process toward independent living. Council Member Plaag asked who might be excluded after a background check. Marisa Cornell, MRJC Executive Director, replied that anyone who might present a safety issue, such as a predator or violent person, would be excluded from the recovery house.

Council Member Plaag stated that a Category 2 halfway house allowed six or more residents. He noted that the house had five bedrooms and asked how the living arrangement would work. Ms. Bolick replied that they planned to have two residents per bedroom, with the fifth bedroom being for the live-in senior resident, making a total of nine occupants. Council Member Plaag stated that the senior resident was typically someone who had already done this type of living arrangement for six months or more. When this was a new recovery house, he asked how they would get this person with six months of experience living in this environment. Ms. Bolick replied that they would likely choose a resident of another Homestead house in the state to become the senior resident at the Green Street location.

Mayor Pro Tem George asked Mr. James to explain what a Conditional District was versus a General Use. Mr. James stated that a Conditional District was a site-specific approval that allowed only that particular use on that parcel. Additionally, conditions can be placed on the approval of the CD. If that use ceased, the property could not be used for anything else without approval from the Town Council for a change of the Conditional District zoning. A General Use would allow any use on the parcel that was listed in the UDO's Table of Principle Uses.

Council Member Plaag asked what zoning jurisdictions allowed recovery housing after the recent text amendment. Mr. James replied that they would be allowed in the R3, B1DC, and B1DI, but some could still require a Conditional District rezoning. Council Member Plaag asked if this request could be considered for an R3 zoning designation. Mr. James replied that the use was not allowed in the R3 at the time of application, nor was the request advertised with the R3 zoning option. Ms. Meade added that the

application could go forward as OI or R3 because the underlying use remained the same regardless of the zoning classification.

Council Member Roseman stated that she used to be a neighbor of the Hospitality House and thought they were great neighbors. However, she noted that she had more issues with student neighbors.

Council Member Carter applauded Ms. Bolick on her presentation and stated it was well thought out and detailed.

Commission Member Kight stated he lived on Green Street and owned adjacent property. He asked if he should be recused from this case. Ms. Meade noted that this was not a quasi-judicial hearing but suggested they ask the applicant if they objected to Commission Member Kight participating. Ms. Cornell stated they had no objections to Commission Member Kight participating in the case.

Mayor Futrelle invited public comment for this case at 8:29 p.m.

Jodi Hill of Stoneybrook Condos opposed the request. She noted that no property owner in Stoneybrook Condos received notice of the neighborhood meeting. Ms. Hill felt the proposed use did not conform to the Neighborhood Conservation District standards. She stated that this was a business use, and it was close to the university, a school, and a daycare.

Clair McCoy stated she grew up in this area, and her child was a recovering addict. She felt having this type of facility was important because it could change lives. Ms. McCoy supported the request.

Olive Burris stated that her uncle had been in and out of addiction. He went to a recovery house in 2020 and had been sober ever since. Ms. Burris supported the request.

Amy Fox stated that she owned property on Old Bristol Road and Green Street. She noted that she was not against recovery housing but was concerned about the increased occupancy. Ms. Fox stated that students currently occupied the house, and occupancy restrictions were in place.

Janice Koppenhaver of Charles Street expressed concern about the erosion of R1A in the neighborhood and the density that would be allowed on this property. She noted that under the current use and zoning, the town investigated student housing complaints. Ms. Koppenhaver stated that she did get the neighborhood meeting notice and felt the applicant's presentation offered them more information.

Diane Brown did not speak.

Jack Scruggs did not speak.

Nathan Miller stated he was an attorney representing a property owner in that neighborhood. He noted that he had represented addicts and others, but he did not believe that this use should be allowed in this location. Mr. Miller stated that the property did not meet street frontage requirements or the minimum road width of 20'. He added that the notice to property owners did not provide much information about the request. Mr. Miller felt this was a noble cause that needed a different location.

Jeremy McCauley of 505 Green Street stated that he did not get a notice of the neighborhood meeting. He felt there needed to be more information about the live-in senior resident and was also concerned about density.

Gregory Lewis spoke in favor of the request. He stated that he entered a recovery house 44 years ago in Wisconsin and left 90 days later drug and alcohol-free. Mr. Lewis noted that this house might not be ideally suited, but this kind of offer did not come along often. He felt that the request should be granted for the greater good of the community.

Daniel Gryder stated he had spoken to Ms. Cornell and had a good conversation. He acknowledged that there was a need but was opposed to the request. Mr. Gryder stated putting a halfway house in a residential neighborhood was a bad idea. He noted that he had attended the Comprehensive Plan meeting on April 19 and did not feel that this request met the vision discussed for Boone. Mr. Gryder stated that enforcing some of the policies presented at the Comp Plan meeting would be difficult if the property were rezoned.

Jill Holmes stated she owned a condo at Stoneybrook and was the president of the HOA. She added that she hoped something like this would come to Boone, but this was not the correct location. Ms. Holmes noted that she did not receive a neighborhood meeting notice. She stated that she was concerned with the density of the home and suggested that 3-5 people would be more appropriate.

Emily Fortunato, housing coordinator for Oasis, stated that many of their clients were also Homestead clients. She noted that a lack of recovery housing was a barrier to recovery and an injustice to the community. She asked that the Town Council vote in favor of this request.

Laura Buck of Howard Street spoke on behalf of the Hunger and Health Coalition. She stated that addiction started in doctors' and dentists' offices, too, and asked that this request be approved.

Stephanie Critcher did not speak.

Courtney Hobbs did not speak.

Kate Brinko of Charles Street stated that her street had a bad history with zoning infractions. She expressed concern with density, noting that the same concern existed when the Stoneybrook Condos were built. Ms. Brinko stated that her son had an intellectual disability, so she felt for the people who needed this housing. She added that she was okay with this request but would like to have fewer people living in the home.

Trent and Molly Woodcock did not speak.

Ray Russell, Watauga County Commissioner, stated that the County allocated funds to this project from the opioid settlement program. He noted that his father became a drug addict as a result of a football injury and was able to conquer that addiction. Mr. Russell stated that recovery housing promoted prevention and provided life-saving and end-stage care for addicts who were mostly recovered. He asserted that people were not disposable.

Diane Blanks of Green Street stated they were trying to take back their neighborhood from commercial uses. She felt that neither an OI nor an R3 zoning designation was appropriate for this neighborhood. Ms. Blanks stated that approval of this request would cause a crack in the dam of a neighborhood they were trying to protect.

Melissa Shandor opposed this request. She felt it did not align with the Comprehensive Plan and was not in the best interest of the Town. Ms. Shandor noted that the property was located in a Neighborhood Conservation District. She stated that if the Town did not want ten college students living in the house, why would they want ten recovering addicts living in it? Ms. Shandor thought changing the name from halfway house to residential reentry was misleading. She stated that leaving the environment that caused the addiction was not always a bad thing. Ms. Shandor noted that property values would not increase, and as a real estate agent, she would be happy to find another location that would be more suitable.

Lena Shandor stated she was a freshman at ASU and lived at 157 Stoneybrook Court. She noted that housing for students was difficult to find in Town. Ms. Shandor stated that she was not against the goals associated with recovery housing, but she did not want a negative impact on the neighborhood. She

stated that she did not get a notice of the neighborhood meeting and felt the process was improperly handled.

Mike Tanner stated he was a member of the council for the Homestead Recovery Center, a family member of people whose lives had been profoundly affected by mental illness and substance abuse, and a retired pastor. He noted that he used to serve a parish made up mostly of people with serious mental illness and addiction issues struggling with recovery, and he thought they were the safest, best people he had ever lived with. Mr. Tanner stated that housing was important to a stable, healthy life for everyone. He added that the MRJC's proposal was about more than just safe housing and property values; it was about life and death. Mr. Tanner asked for the Town Council's full support and commitment to support the recovery homes' long-term success.

Council Member Plaag asked if the Lovill House was zoned R3. Mr. James replied that it was. Council Member Plaag asked if the Lovill House was in a Neighborhood Conservation District. Mr. James stated that it was not. Council Member Plaag asked if the Stoneybrook Condos were in a Neighborhood Conservation District. Mr. James replied that they were not. Council Member Plaag asked if anything prohibited the recovery housing use in a Neighborhood Conservation District. Mr. James stated that there was not. Council Member Plaag asked if the property would be removed from the NCD if it was rezoned to OI or R3. Mr. James stated that it would not. Ms. Shook reiterated that the Neighborhood Conservation District was an overlay and would remain in place.

Council Member Plaag asked the applicant if they would be willing to commit to having a senior resident with six months' experience present at the start date or have a staff member there until a senior resident could be established. Ms. Bolick replied that she could not make that commitment on behalf of the organization because she did not know who might fit that role at this time. However, they were willing to explore and consider conditions.

Mayor Pro Tem George asked if the staff could address Nathan Miller's comments regarding the property not meeting UDO requirements. Mr. James replied that there was an existing non-conformity for street frontage, whether the property was rezoned or not.

Council Member Tugman stated that this property was advertised as multi-family in 2017. She noted that occupancy and noise were issues in this neighborhood. Council Member Tugman asked how such matters would be enforced if the property was rezoned. Mr. James replied that occupancy was difficult to enforce because people often had visitors who stayed over for varying lengths of time. Ms. Meade added that noise issues would be enforced by the Police Department under the Town's noise ordinance.

Council Member Carter asked about the driveway width not meeting UDO standards. Mr. James replied that a complete project review would be performed under the zoning permit application submittal. If the driveway width did not meet UDO standards, it would be non-conforming.

Council Member Roseman asked if the 300' property owner notification included properties located outside of Town limits. Mr. James replied that notification included all properties within 300' of the subject property, whether in Town or the County. He noted that the 300' property owner list provided to the applicant included 43 property owners, with 24 of those being at Stoneybrook Condos.

Council Member Plaag asked if it was correct that the property owner list came from the County's tax records and if updates to the tax records were sometimes lagging. Mr. James replied that the addresses for the property owner list came from tax records. He added that for most APO mailings, several letters were usually returned undeliverable due to outdated addresses.

Council Member Plaag mentioned the width of the roadway and asked if various non-conformities did not need to be addressed because there was no triggering mechanism in what was proposed under this zoning

change. Mr. James replied that was correct. He noted that UDO Subsection 7.05.02 addressed the mechanism to trigger older properties to come up to code. Mr. James stated that as an applicant spent more money on a property, the property had to comply more with the UDO. He noted that this project would have minimal expense in installing the fire sprinkler and landscaping.

Council Member Plaag stated there was concern about nine residents living in the house. He asked how there could be a set of occupancy standards that normally applied, then have uses that could not comply with those standards. Mr. James replied that when this application was submitted, this use was only allowed in the OI and was classified as a commercial use. He added that commercial uses did not have residential occupancy controls. Council Member Plaag stated that the subject property abutted the Stoneybrook Condos, and there was another R3 property down the street. He noted that he would be more supportive of an R3 zoning than an OI zoning.

Council Member Carter stated that if the property was rezoned to OI without a conditional use, it could be used for many different purposes. He noted that the applicant was asking for a use that kept the structure as a residential use where people would live. Council Member Carter stated he was glad the use was now allowed in the R3 because he did not see this use as business use. He felt that there would be less traffic impact on the neighborhood. Council Member Carter stated that he appreciated all the comments and concerns and thought the applicant was doing something the community desperately needed. He noted that with safeguards, provisions, and monitoring, the applicant would add to the neighborhood by installing security cameras and monitoring the site. Council Member Carter stated that whether the property was zoned OI or R3, it would still be a residential use in a residential neighborhood.

Mayor Futrelle stated that this proposal would help people better themselves.

Mayor Pro Tem George stated that this project was made possible by the opioid settlement, which the Town signed onto in hopes of receiving funds to better the lives of those needing help with addiction. He noted that there was over a 99 % occupancy rate in rentals across the county, so he felt that this use would not impact the ability to make use of rentals in a market like that.

Council Member Roseman stated that many communities were not using their opioid funding correctly. She thought that everyone should be proud of the way this community was trying to take care of the people in need.

Vice-Chair Veno felt bad that some people did not receive notice of the neighborhood meeting, but it seemed that the notification process was followed. He added that there could be a lack of understanding about the Town's zoning and how it worked. Vice-Chair Veno urged people to call the Planning Department because they were always receptive to answering questions.

Commission Member Kight asked if this parcel would be zoned R3 and then separately get a Conditional District use for the residential reentry or if it was all lumped together. Mr. James replied that the Conditional District request had to have an underlying zoning, so this request would be considered together, whether OI or R3 zoning was chosen.

Council Member Carter felt for the neighbors who did not receive the letter about the neighborhood meeting. He noted there was an opportunity for public comment at the public hearing and the Town Council meeting, which was a transparent process. Council Member Carter stated that there were no malfeasants on anyone's part to try to keep people from the process.

Ms. Bolick echoed that sentiment. She stated that they used the address list provided to them by the Town and would have liked to have the neighborhood come to the neighborhood meeting to discuss the project and any concerns they had. Ms. Bolick invited anyone to contact them regarding this project.

Council Member Tugman stated that Realtor.com advertised this home as a five-bedroom home, but she thought it might have only four bedrooms. Ms. Bolick replied that it could depend on someone's definition of a bedroom.

Chair Tait stated that this evening had been enlightening in terms of the community's needs and the reality of what these facilities bring. He noted there were a number of parcels in the Town zoned R3 that might be appropriate for this type of use and suggested that the town consider ways to enable further development of this type of facility.

Vice-Chair Veno asked what occupancy would be allowed if the property was zoned R3. Mayor Pro Tem George replied that under the Conditional District, it would be up to the Planning Commission and Town Council to decide the occupancy limit. He noted that the applicant requested nine occupants.

With nothing further, Mayor Futrelle closed the public hearing for this case at 10:04 p.m. and called a break until 10:17 p.m.

Case A24-0265 Mediation & Restorative Justice Center, 209 Sunset Drive – Conditional District Zoning Map Amendment

Mediation & Restorative Justice Center has submitted a Conditional District Zoning Map Amendment to rezone property located at 209 Sunset Drive (Watauga County PIN: 2910-34-1380) from R1 (Single-Family Residential) to OI (Office Institutional) with a site-specific plan to develop Use 2.03 Residential Re-Entry Category 1 (currently referred to in the UDO as Halfway House Category 1).

Mr. James presented the request as outlined in the meeting packet. He referred to UDO Section 14.04 Residential Occupancy Controls, which stated that except for authorized group living, residential occupancy was limited in Town.

Ms. Bolick stated that the Sunset Drive house, owned by Georgia and Eugene Potter, had three bedrooms and 1.5 bathrooms. She noted they were requesting a Category 1 with six people or less; this would be the women's house, and it would be called The Homeplace. Ms. Bolick stated that the house was currently unoccupied, so there would be an increase in noise, light, and traffic from the proposed use. She noted that the same rules of regular weekly meetings, no visitors, quiet time, curfew, zero tolerance, and an on-site senior resident would apply to this property as they did on the Green Street property. Ms. Bolick noted that they wanted to maintain the residential look of the house. She said they would install a sprinkler system for \$12,000, landscaping, and security cameras. Ms. Bolick noted that on March 7, the list of addresses of adjacent property owners within 300' was received from the Town, and Crystal Trivette mailed the neighborhood meeting notice that same day. The neighborhood meeting was held on April 3 at the Farm Café at 6 p.m., and nine people were in attendance. Materials were presented, questions were answered, and the meeting lasted 2.5 hours.

Georgia Potter, the property owner, stated she had lived in Watauga County all her life and had owned this property since 1985 or 1986. She said that her daughter Pam had gotten into addiction, and she thought the town had a responsibility to help their residents who were overcoming their addictions. Ms. Potter felt that a house provided a better environment for rehabilitation.

Melissa Monday, Homestead Recovery Court Advocate, stated that she was completely broken by addiction seven years ago and considered suicide. She noted that she got into a halfway house in Gastonia and was later able to attend college. Ms. Monday felt that people should not wait until the issue got worse but should work together to solve the problem.

Council Member Carter asked if the fire suppression system was still required for the Category 1 house. Mr. James replied that it was, per the North Carolina Building and Fire Codes.

Mayor Futrelle invited public comment for this case.

Laura Coffey stated her family was one of the first families in Blowing Rock. In December 2017, as a 31-year-old single mom, she drank herself into deep despair. She detoxed for ten days at Grace Hospital in Asheville, then went to Black Mountain. Ms. Coffey stated she would have chosen somewhere closer to home if there had been a place. She added that recovery required support.

Mariah Cox stated she moved to Watauga County six years ago because her partner was an addict, and she had hoped that moving would break his cycle. It did not, and he was currently in prison. Ms. Cox felt that if Watauga County had offered her partner somewhere to get help, his outcome might have been different.

Sean Morris from the Hospitality House spoke in support of the request. He stated that substance abusers for those in recovery. Mr. Morris added that if substance abuse was in our town, then recovery needed to be.

Kelly Reid-Ashcraft, with the Watauga Housing Council, stated that there was a housing crisis in Watauga County. She noted that the Watauga Housing Council supported both rezoning requests because they furthered the Housing Council's mission to increase quality housing.

Ashley Wirth of the NC Substance Abuse Team spoke in favor of both rezoning requests. She stated that people needed housing tailored to their treatment needs. Ms. Wirth added that discrimination due to a disability was against the law. She noted that she started using drugs as a teenager to cope with family issues, and she later married an abuser and drug trafficker. Ms. Wirth added that the Town needed to look out for those who lived there, not absentee owners.

Tammy Kowalski did not speak.

Stephen Phillips stated he had two rental properties on Sunset Drive. He understood the need for recovery housing but felt this use should be in an R3-zoned area. Mr. Phillips stated that if this property was rezoned as R3, he might also seek to have his properties zoned R3.

Mary Rupp stated she owned rental properties at 155 Sunset Drive, 158 Sunset Drive, and 265 Azalea Drive. She noted that some of these properties housed small children. Ms. Rupp stated that the property at 209 Sunset Drive had an inaccessible driveway and it did not have adequate parking. She felt that the Sunset Drive area was a great location with good neighbors, and she rented to people with jobs. Ms. Rupp did not think three bedrooms and 1.5 bathrooms were suitable for six people.

Brent Bingham stated he owned 207 Sunset Drive and shared a driveway with the subject property. He noted that the driveway was steep, washed out constantly, and had little parking. Mr. Bingham stated that this drastic change of use was disappointing. He recognized the need but felt this was not an appropriate property for this use.

Anthony Love of 248 Sunset Drive noted that his property was across the street from the subject property, and he had lived there for 21 years. He stated that his mother continued to recover from addiction, and he was supportive of this request. Mr. Love recognized that his neighbors had concerns and felt there were things to work on, but he thought that good communication was helpful.

Diane Towsley of the Hunger and Health Coalition stated she supported the initiative. She noted that a recent health survey showed housing and mental health as the top concerns. Ms. Towsley felt this was a good location for the recovery housing.

Patrick Richardson of 233 Azalea Drive stated that he had been concerned about this request. He noted that he spoke with Ms. Bolick and received good feedback. Mr. Richardson felt the facility would provide much-needed benefits but could also present problems that would have to be worked through.

Council Member Plaag asked if the bedroom configuration would be two people per bedroom. Ms. Bolick stated that was correct.

Council Member Roseman asked Ms. Bolick if MRJC would maintain the driveway. Ms. Bolick replied that they had not considered the driveway an issue but were committed to keeping up the property. Council Member Roseman stated that the property always needed to be accessible. Ms. Potter added that this was a shared driveway with shared maintenance at the bottom of the driveway. She noted that seven cars could park at the property. Council Member Carter asked if the driveway had always washed out. Ms. Potter replied that the driveway did wash, noting that it was a reasonably steep gravel driveway. She added that she was country and never had problems getting in and out.

Council Member Tugman asked about the possibility of accessibility issues for emergency vehicles. Mr. Wise replied that the Fire Department would review the request and require no more than a 10% grade on the driveway. Council Member Plaag suggested paving the driveway.

With nothing further, Mayor Futrelle closed the public hearing for this case at 11:30 p.m.

Adjournment of Town Council

Council Member Plaag motioned to adjourn the Town Council at 11:33 p.m. Council Member Roseman seconded the motion.

Vote: Aye – 5
Nay – None

The motion passed.

Tim Futrelle, Mayor

Brenda Henson, Board Secretary

Adrian Tait, Planning Commission Chair

PLANNING COMMISSION

Due to the time, Planning Commission members wished to continue their meeting at a later date. After a brief discussion, a date was set of Wednesday, June 5, 2024, at 5:00 p.m. via WebEx was set to continue the meeting.

Adjournment of Planning Commission

Chair Tait made a motion to adjourn the meeting at 11:37 p.m. Commission Member Behrend seconded the motion.

Vote: Aye – 5
Nay – None

The motion passed.

Adrian Tait, Planning Commission Chair

Brenda Henson, Board Secretary

DRAFT

Communication: May 29, 2024, Public Hearing Minutes (Approval of Meeting Minutes)

Conditional District 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 (check all that apply)

Note: A pre-application meeting is required prior to application submittal.

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

- ☐ Digital copies of all paper submittal documents (may be emailed to planning@townofboone.net)
- ☐ 6 paper copies of complete site plans meeting the requirements of Town of Boone Unified Development Ordinance (UDO) Appendix A (max. size 30" x 42")
- ☐ 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.
- ☐ Property Owner Authorization. If you are not the property owner, you will need to provide documentation of property owner authorization to apply for this permit.
- ☐ 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. Requested Hearing – See latest published Meeting Schedule for dates

Date of requested hearing: 09/23/24

C. Property Information (Project Location)

Street Address:
174 South Depot Street

Watauga County Parcel Identification Number(s):
2900-78-9884-000

D. Property Owner Information

Name:
Thaler Irrevocable Trust - Ester & Michael Thaler

Complete Mailing Address (Street, City, Zip):
15144 SW 72 Ct, Palmetto bay, FL 33158

Phone Number:
305-522-4378

Email Address:
topshelfagent@gmail.com

E. Applicant Information

Name:
Bill Dixon, Architect

Company:
Appalachian Architecture, PA

Complete Mailing Address (Street, City, Zip):
703 West King Street, Suite 201, Boone, NC 28607 (or PO Box 179)

Phone Number:
828-265-2405

Email Address:
bill@appalarch.com

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

F. Detailed Description of Project

Owner requests approval to construct new two-story mixed-use building to replace the original 1939 building. The new building will include ground floor leasable space with (2) one-bedroom and (2) two-bedroom apartments on the 2nd level. Front 1/2 of existing building is 1 story/Back 1/2 of building constructed in the 1950's is two stories. UDO section 14.19.04.F.7.b. requires council approval of zoning Map amendment to construct the 2nd level.

G. Project Cost

Project Cost:

\$ 1.9 million

H. Development Information

Is the development subject to a previous Special Use Permit? ☐ Yes ☒ No ☐ Unknown

If yes, please describe: _____

Are there any other variances granted that impact the property? ☐ Yes ☒ No ☐ Unknown

If yes, please describe: _____

Are there any other variances requested with this development? ☐ Yes ☒ No

If yes, please describe: _____

I. District/Use Information

Existing Zoning District:

B1-Downtown Core

Proposed Zoning District(s):

same

Existing Land Use(s):

commercial 11.11 & 11.14

Proposed Land Use(s) (Specific Use # from UDO Section 15.07 Required):

1.14, 3.06, 11.06, 11.11, 11.14

J. Site Information (include information for additional buildings on a separate sheet)

Building Footprint Square Footage:	Current: 4,204 sf	Proposed: 4,122sf
Total Building Square Footage (all floors):	Current: 4,204sf	Proposed: 8,244sf
Number of Stories	Current: 1 & 2 storys	Proposed: 2 stories
Building Height:	Current: 20'	Proposed: 33'
Number of Units:	Current: 2 commercial	Proposed: 1 Com/4 Apt.
Number of Bedrooms:	Current: 0	Proposed: 6

K. Environmental Information

Total Land Area : 5,467sf ☐ Sq. Feet or ☐ Acres

Disturbed Area: 5,467sf ☐ Sq. Feet or ☐ Acres

Viewshed: Is development occurring within the Viewshed Protection District? ☐ Yes ☒ No ☐ Unknown

Is development occurring on slopes in excess of 30%? ☐ Yes ☒ No ☐ Unknown

Slope:

Is development occurring on slopes in excess of 50%? ☐ Yes ☒ No ☐ Unknown

Is the property located within a designated Water Supply Watershed Area? ☐ Yes ☒ No ☐ Unknown

Watershed:

If yes, please select: ☐ WS-II-CA ☐ WS-IV-PA ☐ WS-IV-CA

Stream/River: Is there a stream or river on or near the property? ☒ Yes ☐ No

SFHA: Is the property located within the Special Flood Hazard Area? ☒ Yes ☐ No ☐ Unknown

Impervious Area: What is the existing impervious area in the development? 4,972 sf ~~X~~ sq. feet ☐ acres
What is the proposed impervious area in the development? 4,972 sf ~~X~~ sq. feet ☐ acres

L. Design Professional Information

Designer is an: ☒ Architect ☐ Engineer ☐ Owner ☐ Other: _____

Name:
Bill Dixon, Architect

Company:
Appalachian Architecture, PA

Complete Mailing Address (Street, City, Zip):
703 West King Street, Suite 201, Boone, NC 28607

Phone Number:
828-265-2405

Email Address:
bill@appalarch.com

Additional Designer Information: If additional designers are involved beyond the 1 listed, please provide additional info on a separate sheet.

M. Brownfields Agreement Notification

1. Does the applicant have or is the applicant planning to enter into a Brownfields Agreement with the NC Brownfields Program? ☐ Yes ☒ No (If yes, please answer question #2 below.)

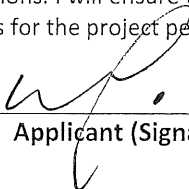
2. Anticipated date for the first year of partial exclusion of property taxes: NA

N. Applicant Signature and Property Owner Authorization

I hereby certify that I am authorized to submit this application; that all information is correct and complete; and all work will comply with all applicable State and local laws, ordinances, and regulations. I will ensure that the Planning and Inspections Department is notified of any changes in the approved plans and specifications for the project permitted herein.

William (Bill) Max Dixon, Jr.

Applicant (Print)



Applicant (Signature)

August 8, 2024

Date

Michael Thaler

Property Owner (Print)



Property Owner (Signature)

August 8, 2024

Date

Official Use Only				
Permit Name: 174 S Depot St - CD Zoning map Amend				
Permit Number: A24-0595				
Date: 8-8-24	Fee: \$1090.00	Receipt Number: 390431	Method of Payment: ☐ Cash ☒ Check Number: 9198	Paid By: Appalachian Architecture

Official Use Only - Hearing/Decision Information

Public Hearing Meeting Date: _____

PC Meeting Date: _____

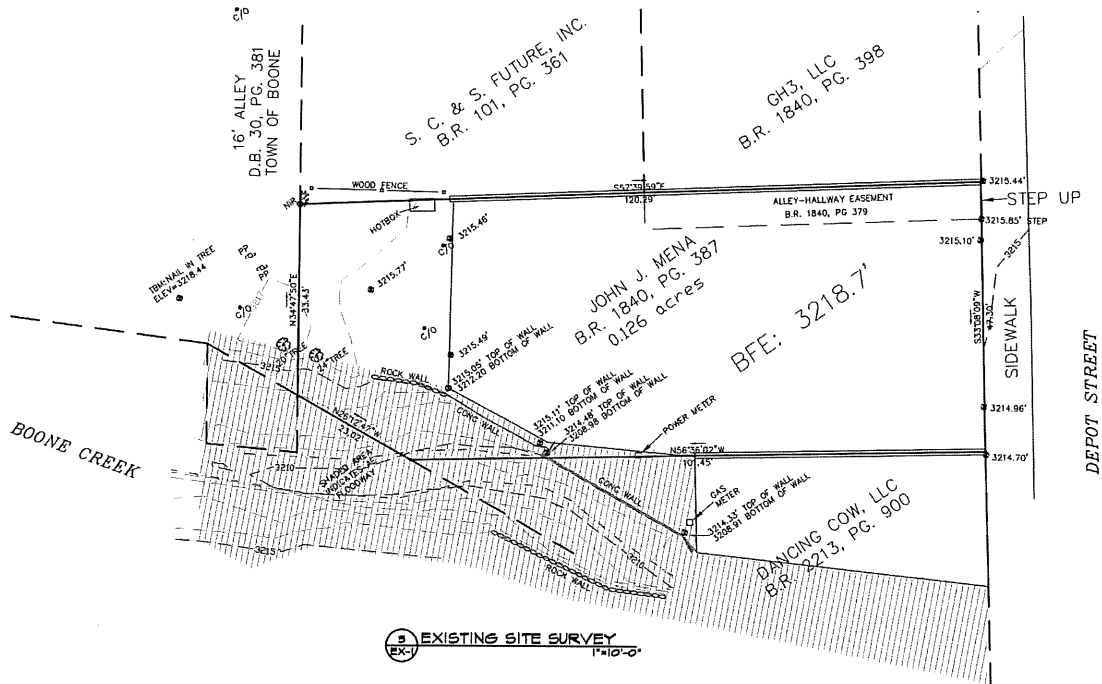
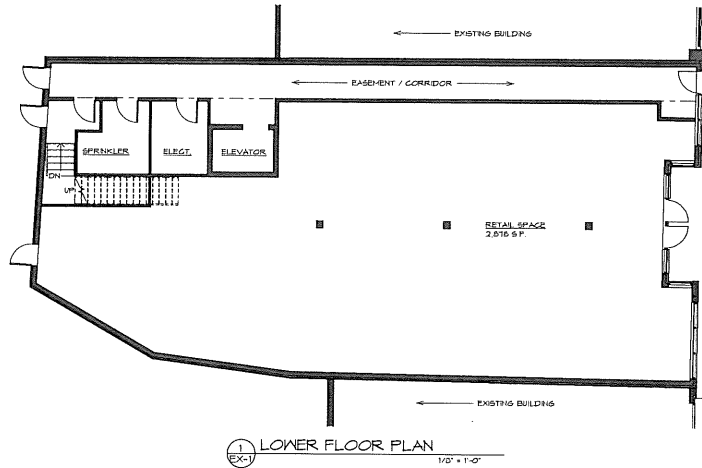
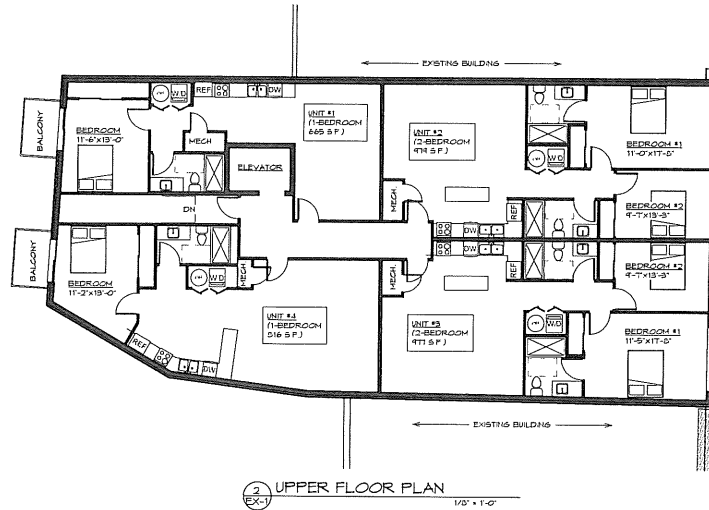
TC Meeting Date: _____

Date of APO Mailed Notification: _____

Date of Posted Notification: _____

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

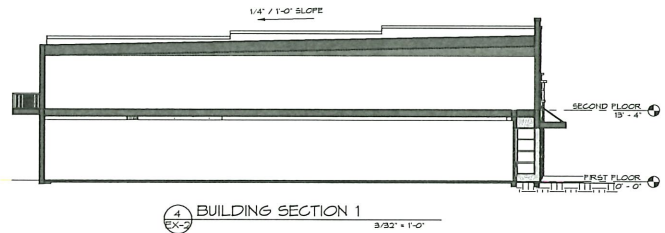
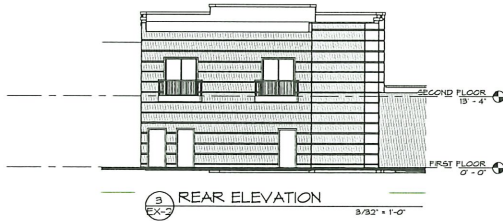
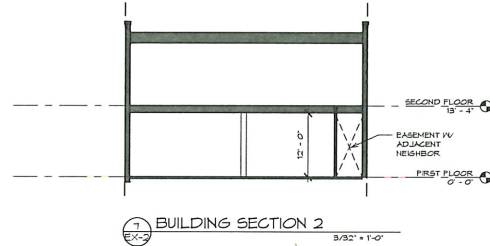
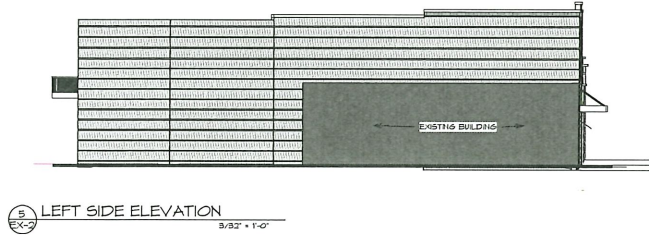
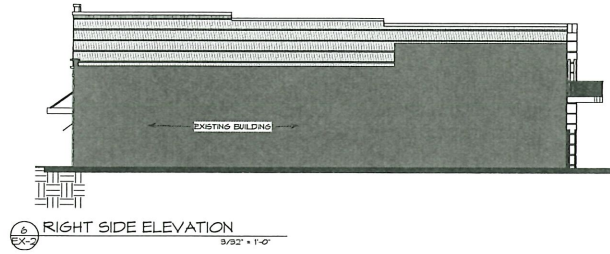
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APPALACHIAN ARCHITECTURE, P.A.
BILL DIXON, NCARB
103 W. KING ST.
BOONE, N.C. 28601
828-265-2405
www.appalacharch.com

EXHIBIT #1

THALER MIXED-USE
174 S. DEPOT ST.
BOONE, NC
7/2/24



APPALACHIAN ARCHITECTURE, P.A.
 BILL DIXON, NCARB
 703 W. KING ST.
 BOONE, NC. 28601
 828-265-2405
 www.appalacharch.com

EXHIBIT #2

THALER MIXED-USE
 174 S. DEPOT ST.
 BOONE, NC
 7/2/24

NEIGHBORHOOD MEETING NOTES**THALER MIXED-USE PROJECT**4:30-5:30 on Tuesday, July 2nd, 2024

174 South Depot Street

Per the UDO requirements, Architect conducted a neighborhood meeting at the project site on Tuesday, July 2nd, 2024. Invitations to the neighborhood meeting were mailed on June 5th, 2024 to property owners within 300' of the project from a list provided to the applicant by the Planning & Inspections Department. Ester & Michael Thaler, owners of the subject property, were present at the meeting.

Floor plans and exterior elevations of the proposed new building were available for the attendees to review and comment on. Of the 33 invitations mailed, only 2 property owners attended the meeting. (sign-up sheet attached).

Crae Morton, Owner of the property located at 154 South Depot Street

Julian "Deac" Heath, Owner of SC&S Future, Inc. located at 216 Howard Street

NOTES:

Both attendees indicated their support of the project and spoke generally of their support for more mixed-use commercial/residential projects in downtown Boone. They supported higher density developments downtown and felt like 2-3 story buildings were appropriate (and NOT out-of-scale) in downtown Boone. They noted that parking was often a problem in downtown Boone, particularly because of the close proximity to the University.

Mr. Morton expressed his concern that the sewer line serving his property (154 South Depot Street) exited under the adjacent Greenhouse Building and the subject property to drain into the city main sewer line which is located at Boone Creek. Architect and Michael Thaler reassured Mr. Morton that a permanent utility easement had been negotiated with Greenhouse Building Owners and recorded in the Register of Deeds office, guaranteeing the perpetual right to continue the use of the area described in the easement for the purpose of underground utilities currently serving the properties at 154 and 164 South Depot Street.

Mr. Heath expressed his concern that his apartments located adjacent to the subject property might be negatively affected by the proposed new building. Architect reassured him that the proposed building would be constructed entirely on the Thaler property and would be completely independent of his building. The proposed two-story building would not significantly change the conditions currently existing between the two properties and buildings. Additionally, the proposed new building would require 2hr rated non-combustible exterior walls with no openings which would significantly increase the fire protection between the two properties over what currently exists. Mr. Heath was satisfied with our response and expressed his support for the project.

Due to lack of attendance, the neighborhood meeting concluded around 5:30 pm.



APPALACHIAN ARCHITECTURE, P.A.

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

Wednesday, June 5th, 2024

Appalachian Architecture, PA
Post Office Box 179
Boone, NC 28607

Dear Downtown Property Owner,

On behalf of Michael & Ester Thaler, owners of the former Haircut 101 property on South Depot Street, you are invited to a "neighborhood meeting" to provide feedback on the design of a new two-story mixed-use building which is proposed to replace the 80+ year old Haircut 101 building. The proposed building will have "For Lease" commercial space(s) on the ground floor and four (4) apartments on the 2nd level.

Per Section 14.19.04.F.7.b. of the Town's Zoning Ordinance (attached), a 'Conditional District Zoning Map Amendment' (CDZMA) of the property must be approved by Town Council in order to build a two-story building on the property.

The process of approval involves a three-meeting process:

1. Public hearing with both Town Council & Planning Commission in attendance; followed by
2. Planning Commission consideration of the matter; then
3. Town Council's approval (or denial) of the requested CDZ.

The property is located in the Downtown Boone Historic District. On May 28th, the Historic Preservation Commission, approved Certificates of Appropriateness to demolish the existing building and construct the new two-story building.

The CDZMA requires that all neighbors within a 300' radius of the property be invited to a neighborhood meeting, conducted by the Applicant who will explain the proposed redevelopment of the property. This meeting is the neighbor's opportunity to provide feedback on the redevelopment of the property and proposed design of the new building prior to applicant submitting the project for Conditional District Map Amendment. Drawings of the proposed design will be available for your review at the meeting.

As such, you are invited to a neighborhood meeting at the former Haircut 101 business located at 174 South Depot Street on Tuesday, July 2nd from 4:30 to 6:00 pm. We will have a brief presentation of the project at 4:30 followed by a Q/A period. We welcome your input and feedback.

You are welcome to contact me at the following email address if you have any questions prior to the meeting- bill@appalarch.com. We look forward to meeting you on July 2nd and gaining your feedback on the design of the new building.

Regards,



Bill Dixon, Architect

(representing the property owners-Ester & Michael Thaler)

APPALACHIAN ARCHITECTURE, P.A.

NEIGHBORHOOD MEETING SIGN-UP SHEET

Thaler Mixed-Use Building @ former Haircut 101

174 S Depot St.

July 2nd, 2024

Name Physical address Email address

1. H "CRAE" MORTON 158 S DEPOT ST ~~158 S~~ Craymie 44@gmail.com

2. Julian F Heath

3. "Deac" Julian Heath (SCSS Future)

4.

5.

6.

7.

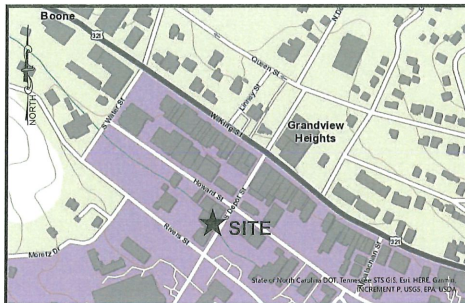
8.

9.

10.

11.

12.

[illegible]

OWNER/APPLICANT:
THALER IRREVOCABLE TRUST
MICHAEL & ESTER THALER
15144 SW 72 CT
PALMETTO BAY, FL 33158

ARCHITECT:
APPALACHIAN ARCHITECTURE
703 W. KING STREET, SUITE 201
BOONE, NC 28607
(828) 265-2406

SURVEYORS:
AB CHRISTIE SURVEYORS
PO BOX 406
BOONE, NC 28607
(828) 263-8005

CIVIL ENGINEER:
MUNICIPAL ENGINEERING INC.
820-B STATE FARM ROAD
BOONE, NC 28607
(828) 262-1767

**THALER MIX-USE DEVELOPMENT
THALER IRREVOCABLE TRUST
174 SOUTH DEPOT STREET
BOONE, NORTH CAROLINA
PROJECT NO. B22060**

Municipal Engineering Inc,
Boone, N.C. Garner, N.C.

PRELIMINARY
FOR REGULATORY REVIEW ONLY

By: _____
Professional Engineer

LEGEND		LINETYPES		ZONING COMPLIANCE INFORMATION		PARKING CALCULATIONS	
	EX. POWER POLE		PROPOSED POWER MAIN	CURRENT ZONING	B1DC	1.11-1.16	MULTI-FAMILY 0.7 SPACE PER BEDROOM:
	EX. SS MANHOLE		PROPOSED CONTOURS	PROPOSED ZONING	CZ-B1DC		6 BEDROOMS x 0.7 = 4 SPACES REQUIRED
	EX. SS CLEANOUT		EXISTING CONTOURS	TOTAL PROPERTY AREA	0.126 ACRES	24.01.05	EXCEPTIONS IN DOWNTOWN B1 CORE DISTRICT:
	EX. GATE VALVE		STREAM OR CREEK	PIN	2900-78-9884-000		0 (ZERO) PARKING REQUIRED FOR COMMERCIAL USE
	EX. FIRE HYDRANT		DITCH OR SWALE	EXISTING USE	11.11 & 11.14	24.01.11	ALLOWED REDUCTIONS:
	EX. LIGHT POLE		T/B — T/B — STREAM OR CREEK TOP OF BANK	PROPOSED USE	1.14, 3.06, 11.06, 11.11 & 11.14		1/2 MILE OF UNIVERSITY-10% REDUCTION PUBLIC TRANSIT ROUTE-10% REDUCTION MAXIMUM OF 15% REDUCTION ALLOWED
	EX. CATCH BASIN		SB — SB — STREAM BUFFER	EXISTING NUMBER OF STORIES	1		4 SPACES x 15% REDUCTION = 3 SPACES REQUIRED
	EX. DROP INLET		TB — TB — TROUT BUFFER	PROPOSED NUMBER OF STORIES	2		ONE PARKING SPACE WILL BE PROVIDED BEHIND BUILDING. THE OWNER WILL SECURE TWO ADDITIONAL DOWNTOWN PARKING SPACES FOR RESIDENTS.
	EX. WATER METER		WTL — EXISTING WETLANDS	EXISTING BUILDING HEIGHT	20 FT		TWO SHORT TERM AND TWO LONG TERM BICYCLE PARKING SPACES SHALL BE PROVIDED PER THE TOWN OF BOONE'S UDO.
	EX. GUY WIRE		PROPOSED DRAINAGE PIPE	PROPOSED BUILDING HEIGHT	33 FT		
	EX. TEST PIT		EXISTING STORM DRAINAGE	EXISTING BUILDING FOOTPRINT	4,204 FT²		
	EX. DRAINAGE MANHOLE		PROPOSED SANITARY SEWER MAIN	PROPOSED BUILDING FOOTPRINT	4,122 FT²		
	EX. GAS MARKER		CENTERLINE	EXISTING GROSS FLOOR AREA	4,204 FT²		
	EX. WELL		FENCES	PROPOSED GROSS FLOOR AREA	8,244 FT²		
	EX. TREE		EXISTING WATERLINE	EXISTING SITE IMPERVIOUS AREA	4,972 FT²		
	EX. BUSH		RIGHT-OF-WAY LINE	PROPOSED SITE IMPERVIOUS AREA	4,972 FT²		
	EX. SIGN		EA — EA — EASEMENTS	DISTURBED AREA	5,280 FT²		
	EX. TELEPHONE PEDESTAL		WS — WS — EXISTING WATERSHED	DRAINAGE BASIN	NEW RIVER		
	EX. FIBER OPTIC MARKER		AE — EXISTING FLOOD ZONE AE LIMIT	WATERSHED	N/A		
			EXISTING SANITARY SEWER				
			PERMANENT DIVERSION				
			TEMPORARY BERM DITCH				
			SILT FENCE				
			EXISTING WOODS LINE				
			EXISTING OVERHEAD POWERLINE				
			UNDERGROUND GAS LINE				
			UNDERGROUND FIBER OPTIC LINE				
			UNDERGROUND POWERLINE				
			UNDERGROUND TELEPHONE LINE				
			UNDERGROUND CABLE LINE				

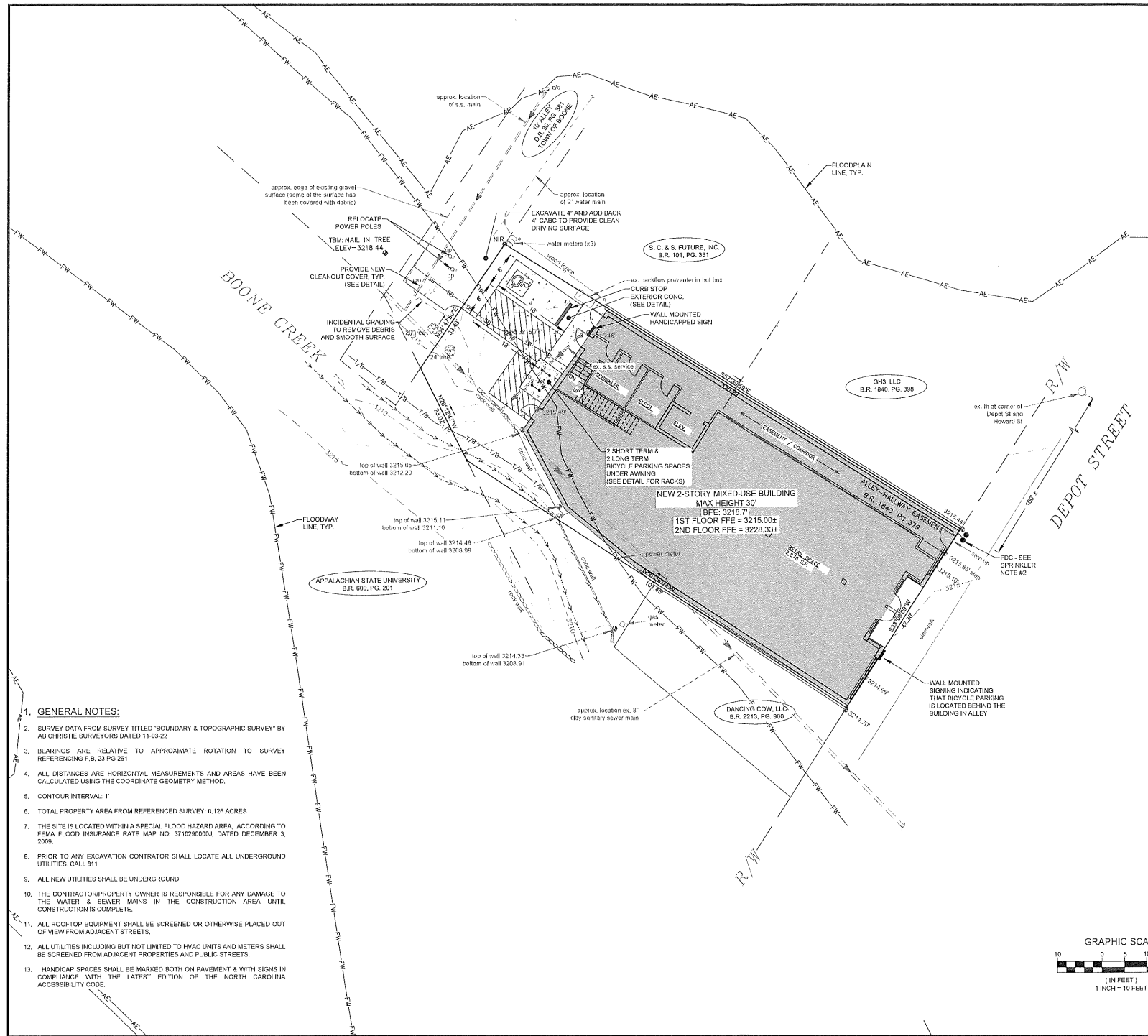
MUNICIPAL ENGINEERING, INC.
69 SHIPWASH DRIVE, BARNER, NC 27529 - PHONE: 919-772-5393
920-8 STATE FARM ROAD, BOONE, NC 28607 - PHONE: 828-262-1767
LIC#ENSE NUMBERS: F-0812 & D-586



THALER MIX-USE DEVELOPMENT
THALER IRREVOCABLE TRUST
174 SOUTH DEPOT STREET
BOONE, NORTH CAROLINA

SCALE: AS SHOWN									
DATE: 8-8-24									
DRWN. BY: SCJ									
CHKD. BY: AJC/MP									
DATE									
BY									
REV.									
DESCRIPTION									

COVER SHEET



FLOOD PROOFING NOTES:

1. THE BASE FLOOD ELEVATION FOR THE BUILDING IS 3218.7.
2. THE BOTTOM COMMERCIAL FLOOR OF THE BUILDING SHALL BE FLOOD PROOFED TO A MINIMUM ELEVATION OF 3220.7. THIS WILL BE ACCOMPLISHED WITH THE COMBINATION USE OF FLOOD PANEL BARRIERS, FLOOD PROOF STORE FRONTS AND FLOOD PROOF DOORS.
3. ALL UTILITIES SERVICING THE BUILDING SHALL HAVE A MINIMUM ELEVATION OF 3220.7.
4. THE PORTION OF THE BUILDING WITHIN THE FLOODWAY SHALL BE CONSTRUCTED TO STRUCTURALLY WITHSTAND THE IMPACT OF DEBRIS PER FEMA REQUIREMENTS AND BE SUBSTANTIALLY PERMEABLE TO INFILTRATION OF FLOOD WATERS.
5. THE SECOND LEVEL RESIDENTIAL FLOOR OF THE BUILDING WILL BE AT AN ELEVATION OF 3228.33±.

UTILITY NOTES:

1. THE CONTRACTOR SHALL COORDINATE WITH THE TOWN OF BOONE'S PUBLIC WORKS DEPARTMENT REGARDING THE USE OF EXISTING WATER AND SEWER SERVICES FOR THE BUILDING.
2. THE CONTRACTOR SHALL EVALUATE THE EXISTING DOMESTIC WATER SERVICE, METER, BACKFLOW DEVICE, HOTBOX AND REPLACE ANY COMPONENTS AS NECESSARY.
3. THE CONTRACTOR SHALL EVALUATE THE EXISTING SANITARY SEWER SERVICE AND REPLACE AS NECESSARY.
4. ALL UTILITIES SERVICES INCLUDING ELECTRIC, PHONE, CABLE, DATA AND GAS SHALL BE PLACED UNDERGROUND.

SPRINKLER NOTES:

1. A FIRE HYDRANT SHALL BE SET WITHIN 100' OF THE FDC.
2. ENGINEER SHALL COORDINATE WITH THE TOWN OF BOONE FIRE DEPARTMENT REGARDING THE BEST LOCATION OF THE FDC AND USE OF EX. FIRE HYDRANT.
3. THE FIRELINE SHALL BE SIZED BY THE SPRINKLER CONTRACTOR.
4. THE RPDA FOR THE SPRINKLER LINE SHALL BE LOCATED IN THE SPRINKLER ROOM AND HAVE A DRAIN OF SUFFICIENT SIZE TO HANDLE CATASTROPHIC FAILURE OF THE BACKFLOW DEVICE.

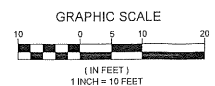
LIGHTING NOTES:

1. A PHOTOMETRIC LIGHTING PLAN SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE CURRENT UNIFIED DEVELOPMENT ORDINANCE AND APPROVED BY THE TOWN OF BOONE'S PLANNING DEPARTMENT

SCREENING NOTES:

1. ALL UTILITY SERVICES, INCLUDING ROOFTOP HVAC EQUIPMENT, SHALL BE SCREENED FROM VIEW FROM NEIGHBORING PROPERTIES AND PUBLIC STREETS.

- 1. GENERAL NOTES:**
2. SURVEY DATA FROM SURVEY TITLED "BOUNDARY & TOPOGRAPHIC SURVEY" BY AB CHRISTIE SURVEYORS DATED 11-03-22
 3. BEARINGS ARE RELATIVE TO APPROXIMATE ROTATION TO SURVEY REFERENCE P.B. 23 PG 261
 4. ALL DISTANCES ARE HORIZONTAL MEASUREMENTS AND AREAS HAVE BEEN CALCULATED USING THE COORDINATE GEOMETRY METHOD.
 5. CONTOUR INTERVAL: 1'
 6. TOTAL PROPERTY AREA FROM REFERENCED SURVEY: 0.126 ACRES
 7. THE SITE IS LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA, ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NO. 371029000U, DATED DECEMBER 3, 2009.
 8. PRIOR TO ANY EXCAVATION CONTRACTOR SHALL LOCATE ALL UNDERGROUND UTILITIES. CALL 811
 9. ALL NEW UTILITIES SHALL BE UNDERGROUND
 10. THE CONTRACTOR/PROPERTY OWNER IS RESPONSIBLE FOR ANY DAMAGE TO THE WATER & SEWER MAINS IN THE CONSTRUCTION AREA UNTIL CONSTRUCTION IS COMPLETE.
 11. ALL ROOFTOP EQUIPMENT SHALL BE SCREENED OR OTHERWISE PLACED OUT OF VIEW FROM ADJACENT STREETS.
 12. ALL UTILITIES INCLUDING BUT NOT LIMITED TO HVAC UNITS AND METERS SHALL BE SCREENED FROM ADJACENT PROPERTIES AND PUBLIC STREETS.
 13. HANDICAP SPACES SHALL BE MARKED BOTH ON PAVEMENT & WITH SIGNS IN COMPLIANCE WITH THE LATEST EDITION OF THE NORTH CAROLINA ACCESSIBILITY CODE.



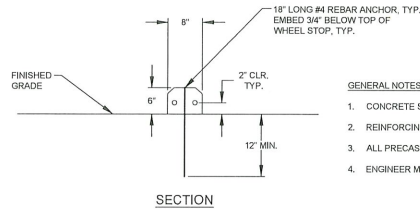
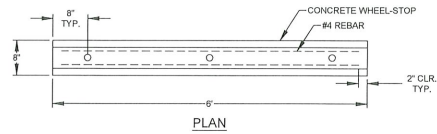
PRELIMINARY
FOR REGULATORY REVIEW ONLY

MUNICIPAL ENGINEERING, INC.
88 SHIPWASH DRIVE, GARNER, NC 27529 - PHONE: 919-772-5393
8204 STATE FARM ROAD, BOONE, NC 28607 - PHONE: 828-262-1767
LICENSE NUMBER: F-0812 & C-596

**THALER MIX-USE DEVELOPMENT
THALER IRREVOCABLE TRUST
174 SOUTH DEPOT STREET
BOONE, NORTH CAROLINA**

DATE	BY	REV.	DESCRIPTION
			PROPOSED SITE PLAN

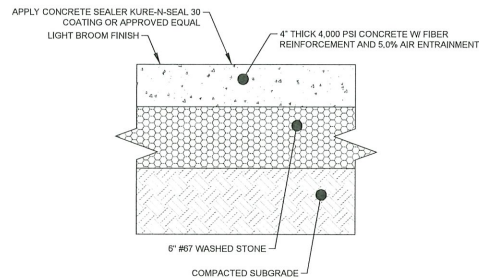
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DATE: 8-8-24
DRAWN BY: SOJ
CHECKED BY: AJC/MP



CONCRETE WHEEL STOP
NOT TO SCALE

GENERAL NOTES:

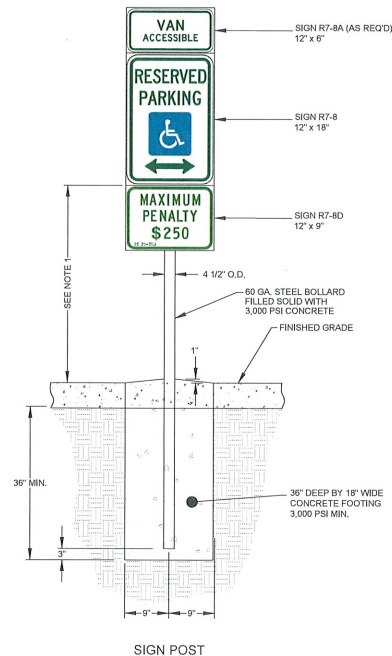
1. CONCRETE SHALL BE 4000 PSI MIN.
2. REINFORCING STEEL TO MEET ASTM A 615 FOR GRADE 60.
3. ALL PRECAST ELEMENTS SHALL MEET ASTM C913.
4. ENGINEER MAY APPROVE PROPOSED EQUAL.



NOTES:

1. SUBGRADE AND TOP OF WASHED STONE MUST BE WITHIN 1/8" OF DESIGN DRAWINGS TO ENSURE CONSISTENT DEPTH OF CONCRETE SLAB.
2. ISOLATE CONCRETE FROM COLUMNS, WALLS, DRAINS, ETC. WITH ISOLATION JOINTS.
3. SAW CUT CONTRACTION JOINTS IN 12" X 12" DIMENSIONS IN ALL DIRECTIONS AND DIAGONALLY AT CORNERS.
4. CONTRACTION JOINTS SHALL BE 1 1/2" DEEP AND SAW CUT INTO PAVEMENT AS SOON AS THE CONCRETE IS SUFFICIENTLY HARD TO RESIST TEARING AND RAVELING.
5. APPLY SEALING COMPOUND IN STRICT ACCORDANCE WITH MANUFACTURERS SPECIFICATIONS AND INSTRUCTIONS.

EXTERIOR CONCRETE SLAB DETAIL
NOT TO SCALE



SIGN POST

ACCESSIBLE PARKING LAYOUT & SIGNAGE
NOT TO SCALE



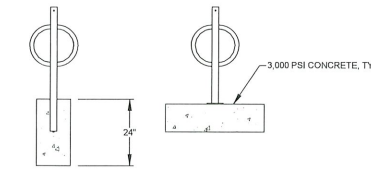
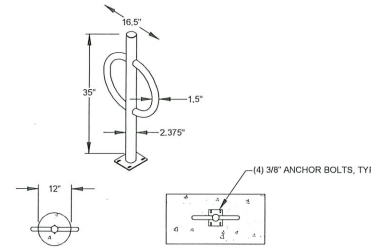
HANDICAP SYMBOL

NOTE:

PAINT SYMBOL BELOW ONTO PAVED SURFACE WITH 2 COATS OF BLUE PAINT

NOTES:

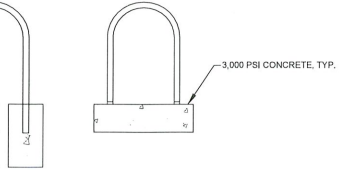
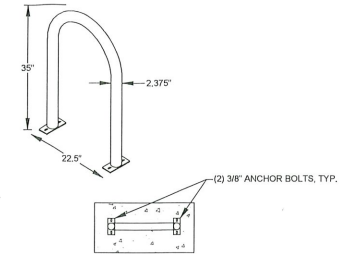
1. ALL 12" X 18" ACCESSIBLE SIGNS SHALL BE MOUNTED AT 7 FEET FROM GRADE TO BOTTOM EDGE OF SIGN FACE (MUTCD). MOUNTING HEIGHT CAN BE REDUCED TO 5 FEET IF PLACED IN AN AREA BETWEEN SIDEWALK AND BUILDING FACE IN WHICH PEDESTRIANS ARE NOT EXPECTED TO USE.
2. REFER TO MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) U.S. DEPARTMENT OF TRANSPORTATION AND NORTH CAROLINA DEPARTMENT OF TRANSPORTATION SUPPLEMENT.
3. IF ACCESSIBLE ROUTE IS A RAISED SIDEWALK AREA, THEN RAMPS ARE REQUIRED AT LOADING ZONE AREA.



SUBGRADE MOUNT

SURFACE MOUNT

BIKE HITCH OPTION



SUBGRADE MOUNT

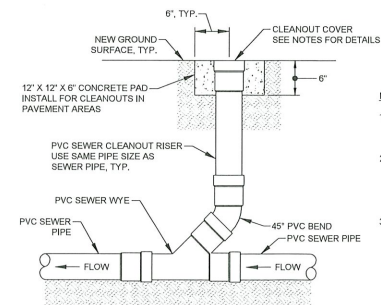
SURFACE MOUNT

LOOP RACK OPTION

NOTES:

1. PIPE MATERIAL SHALL BE 2" HOT DIP GALVANIZE SCHEDULE 40 SEAMLESS PIPE (UNLESS OTHERWISE NOTED OR APPROVED) FURNISHED AND INSTALLED BY GENERAL CONTRACTOR.
2. BIKE RACK SHALL BE POWDER COATED OR OTHERWISE PRIMED PAINTED WITH INDUSTRIAL OIL BASED ENAMEL. COLOR TO BE DETERMINE BY OWNER.
3. REFER TO TOWN OF BOONE UDO FOR ADDITIONAL INFORMATION AND REQUIREMENTS.

BIKE RACK DETAILS
NOT TO SCALE



SEWER CLEANOUT DETAIL
NOT TO SCALE

NOTES:

1. CLEANOUTS IN NON-PAVEMENT AREAS SHALL HAVE COVER WITH REMOVABLE PVC THREADED PLUG.
2. CLEANOUTS IN PAVEMENT AREAS SHALL HAVE CAST IRON RING AND COVER OR OTHER APPROVED PROTECTIVE DEVICE, THAT IS TRAFFIC RATED.
3. CONCRETE FOR CLEANOUT COVER PAD IN PAVEMENT AREAS SHALL BE 3,000 PSI MINIMUM.

PRELIMINARY
FOR REGULATORY REVIEW ONLY

MUNICIPAL ENGINEERING, INC.



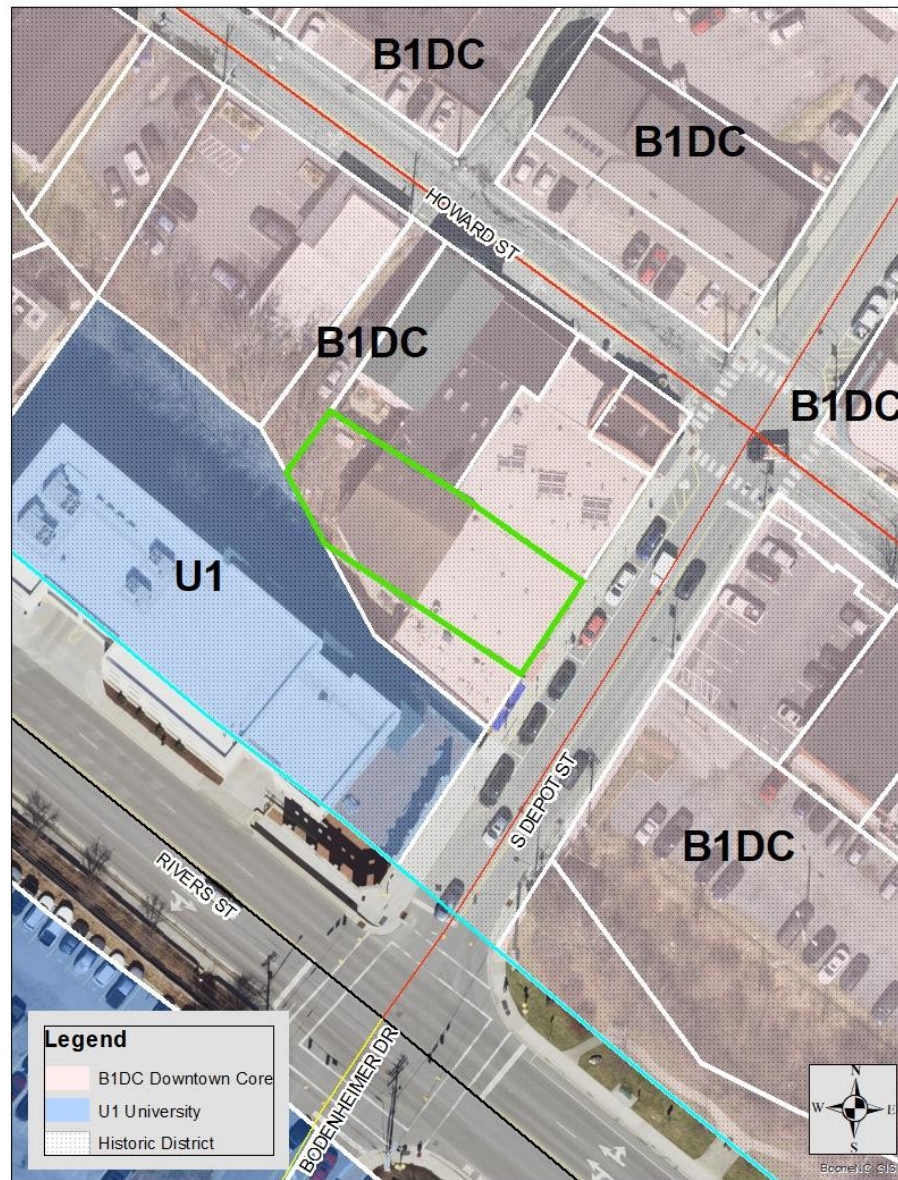
**THALER MIX-USE DEVELOPMENT
THALER IRREVOCABLE TRUST
174 SOUTH DEPOT STREET
BOONE, NORTH CAROLINA**

DATE	BY	REVISION

SCALE: AS SHOWN
DATE: 8-8-24
DRWN. BY: SCJ
CHKD. BY: AJC/MP



Staff Report
September 23, 2024 Public Hearing
Case A24-0595 – Thaler Irrevocable Trust Conditional District Zoning Map Amendment



Request

Thaler Irrevocable Trust – Ester and Michael Thaler -- has submitted a Conditional District Zoning Map Amendment application to rezone 174 S Depot Street from B1DC Downtown Core to Conditional District B1DC Downtown Core with a site specific plan that would demolish the existing structure and construct a new 2-story building. The proposed structure will include ground floor commercial space with two (2) one-bedroom and two (2) two-bedroom apartments on the second floor. A Conditional District Zoning Map Amendment is required to comply with UDO Subsection 14.19.04 (F)(7)(b) as the new structure will exceed the height of the existing structure. The subject property is outlined in green on the map above.



Parcel Information

Address:	174 South Depot Street
Property Owner:	Esther & Michael Thaler Irrevocable Trust
Watauga County PIN:	2900-78-9884-000
Lot size:	5,467 sq ft
Jurisdiction:	Town of Boone
Access:	South Depot Street (Town street)
SFHA:	Yes. Proposed structure within AE (100-year) SFHA and a portion of the property is located within the AE Floodway – see map above
Watershed District:	No.
Corridor District:	No.
NCD:	No.
Viewshed:	No.
Steep Slope:	No.

Current Zoning: B1 Downtown Core with Downtown Historic District Overlay

The Downtown Core District is the center of the downtown area and contains the greatest concentration of historic commercial buildings. This district establishes a continuous building facade at the street frontage to strengthen the identity of downtown as a pedestrian destination where pedestrians feel comfortable through the careful selection of building materials, human scale design, and ground floor fenestration. Standards in this district reinforce the historic nature of the existing built environment through regulation of appearance, height, scale and mass.

Historic districts are established as overlay districts intended to preserve historic landmarks and districts within the Town pursuant to Article 8 Historic Preservation.

Proposed Zoning: Conditional District B1 Downtown Core with Downtown Historic District Overlay

Current Use: 11.11 Retail Store up to 5,000 sq ft
11.14 Business or Professional Office

Proposed Use: 1.14 Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)

3.06 Vacation Rental - A vacation rental is the lease of a dwelling with up to six bedrooms for transient overnight accommodations for any period of less than thirty (30) days. A vacation rental is considered a "Lodging" use under this UDO. A vacation rental includes the leasing of any dwelling or portion thereof for any period of less than thirty (30) days that does not qualify as a homestay rental under this ordinance; provided, that any use that comes within the purview of another use under this ordinance (e.g., motel, hotel, boarding house, etc.) shall be governed by the terms of that use and not as a vacation rental.

11.06 Restaurants up to 3,500 sq ft - An establishment primarily engaged in preparing and selling of food and/or beverages (that may include alcoholic beverages) for consumption on or off premises.

11.11 Retail Store up to 5,000 sq ft - A commercial establishment that provides goods, products, or materials directly to the consumer. This includes clothing stores, appliance stores, bakeries, food stores, grocers, caterers, pharmacies, bookstores, florists, furniture stores, hardware stores, pet stores, toy stores, and variety stores. It does not include restaurants, personal service establishments, or gas stations.

11.14 Business or Professional Office -- An establishment where business is conducted that does not primarily involve the sale or transfer of goods by the business to the customer at the location. This includes, but is not limited to, general business offices, insurance offices, law offices and real estate sales or management offices.

Zoning & Use of Adjacent Properties		
	Adjacent Zoning	Adjacent Land Use
North	B1DC with Downtown Historic District Overlay	Office Mixed Use Residential
East	B1DC with Historic District Overlay	Parking Lots
South	B1DC with Historic District Overlay U1 University with Downtown Historic District Overlay	Personal Service Establishment University
West	B1DC with Downtown Historic District Overlay U1 University with Downtown Historic District Overlay	Vacant University

History

05-28-2024 The Boone Historic Preservation Commission granted a Certificate of Appropriateness for the demolition of the current structure at 174 South Depot Street and the construction of the new 2-story mixed use building. The following conditions apply:

- Where there is a conflict between the application information and the plans (March 28, 2024), the plans control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
- Any commitments and representations concerning the proposed exterior modification made by the applicant or its representatives at the public hearing shall also become a condition of the permit and a basis for a stop work order and/or permit revocation if violated.
- The applicant shall submit the necessary applications, plans, details, and specifications which meet the requirements of the Town Code, UDO, Building Code, and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.

Staff Note: The minutes for the HPC case are included in the Board Packet as Exhibit 5.

Procedural Analysis

Pursuant to UDO Subsection 14.01.02(C) a Conditional District (CD) is a zoning district in which the use and development of a property pursuant to a site-specific development plan is approved through the legislative process pursuant to Article 9 of this Ordinance. A CD utilizes a proposed general use zoning district, is limited to the authorized uses and development standards mandated within that district and may be subjected to conditions that make the development more desirable.

A site-specific vesting plan is defined in UDO Article 34 as “A plan submitted to a local government in which the applicant requests vesting in accordance with Section 4.13, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan. The plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting

development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.”

See below for details on the applicant’s compliance with the Conditional District procedural requirement for a neighborhood meeting as set forth in UDO Subsection 9.09.02 and the development’s overall compliance with UDO standards specific to the development:

Compliance with UDO Subsection 9.09.02 Neighborhood Meeting:

- A. The applicant shall conduct a neighborhood meeting prior to the submission of the application for a Conditional District Zoning Map Amendment. This meeting will allow the applicant to explain the proposed development and to be informed of the concerns of the neighborhood and surrounding property owners.
- B. A meeting notice must be mailed to property owners within 300’ of the development at least 25 days prior to the meeting in accordance with Subsection 1.13.02 herein. A copy of the notice shall also be provided to the Planning Department. The notice shall contain a summary of the proposed development, the applicants contact information, the date, time, and location of the meeting.
- C. The meeting must be held at an accessible and convenient location and time in light of available options. Upon coordination through the Planning Department, the meeting may be held at Town Council Chambers if that location is available.
- D. At the meeting, the petitioner, at a minimum, shall present all the following information:
 - 1. Contact information of the parties involved in the ownership, design, and development of the property;
 - 2. The location of the property and general information on the current conditions of the site;
 - 3. Proposed use(s) and site development;
 - 4. Any preliminary plans or renderings, if available; and
- E. The applicant shall provide the Administrator with a summary report of the meeting which includes a list of all attendees and details the meeting including all concerns expressed by attendees and commitments made by the petitioner. This report shall be included in the staff report.

Staff Note: The applicant held a neighborhood meeting on July 2, 2024. A recap of the meeting along with the certification of mailing to the property owners is included in the board packet as Exhibit 2.

Zoning Analysis

B1DC Intensity Standards:

Standard	Proposed	Compliance
Minimum Gross Land Area:	2,500 sq ft	Yes
Minimum Lot Width:	25 ft	Yes
Minimum Street Frontage:	20 ft	Yes
Minimum Livability Space:	NA (Building footprint must be at least 50% of lot)	Yes
Interior Setback:	0 ft	Yes
Street Setback:	Build to lot line	Yes
Maximum Building Height:	33 feet	Yes

Parking:

Required	Proposed	Compliance
Automobile Space – 4	4	Yes
Bicycle, Short-Term – 2	2	Yes
Bicycle, Long-Term – 2	2	Yes
Motorcycle – None	None	Yes

Staff Note: Most uses in the B1DC are exempt from automobile parking requirements with the exception of multi-family residential uses and use 3.09 (Hotel, small). The applicant states the intention to lease the additional required automobile parking spaces at one of the two parking lots across the street.

Use Compliance

Compliance with limited use requirements in UDO Section 15.XX

Pursuant to UDO Section 15.04 each multi-family residential in mixed use shall meet the following standards:

Multi-Family in Mixed Uses

15.04.01 Multi-family residential uses (Use 1.14, 1.15 and 1.16) are allowed in the B1, B2 and B3 zoning districts when the criteria in this Section are met.

- A.** For purposes of this Section, “commercial” shall include the following uses: 3.08 Motel, 3.09-3.11 Hotel, 4.03 Funeral Home Establishment, 4.05 Post Office, 5.01 Government Cultural Facility, 5.02-5.03 Government Neighborhood Cultural Facility, 5.04-5.06 Recreation Facility, 5.07-5.09 Event Venue, 5.12 Police Substation, 5.16 Government Facility, 8.0 Assembly, 9.0 Education, 10.02 Child Daycare Center, 10.04 Adult Daycare Center, 10.5 All Other Daycare, 11.0 General Sales and Service, 12.0 Recreation, 14.0

Manufacturing, 16.01 Mini-Storage, 17.0 Transportation, and 19.0 Particular Activities which pose Particular Concerns about Public Health.

Staff Note: The applicant has demonstrated compliance.

- B. To the extent this Section conflicts with other Articles of this Ordinance, this Section shall control.
- C. “Commercial use” and “street level commercial land use” as referred to in this section 15.04, means only space in a building used or to be used for commercial uses unrelated to the residential use of the building or development. By way of clarification and not as a limitation, the following uses may not be counted as “commercial use”: amenities operated entirely or in the main for residents (including but not limited to swimming pools, gyms, etc.); required recreation space; space used to operate and maintain the residential portion of the development, including leasing, management, and/or maintenance-related office space; and/or common areas of the residential units.
 - 1. Notwithstanding the foregoing, only parking spaces located in a single-use parking structure (not containing residential units below or above) may be counted as “street level commercial land use.”

Staff Note: The applicant has demonstrated compliance.

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

Staff Note: The applicant has demonstrated compliance.

- E. Pedestrian weather protections such as awnings or canopies are encouraged along public streets provided, they do not encroach into the roadway. Awnings or canopies which encroach above a public sidewalk shall obtain an encroachment agreement from the Town of Boone.

Staff Note: The applicant has demonstrated compliance.

- F. No one type of dwelling units, as defined by the number of bedrooms, shall comprise more than 50% of the total units.

Staff Note: The applicant has demonstrated compliance.

- G. The bedroom to bathroom ratio of each unit within the development shall be limited as follows:
 - 1. Efficiency unit and one-bedroom unit: one bathroom.
 - 2. Two-bedroom unit: one or two bathrooms, with no less than one bathroom with common access.
 - 3. Three-bedroom unit: two bathrooms with no less than one bathroom with common access.
 - 4. Four or more-bedroom unit: three bathrooms with no less than two bathrooms with common access from a hall.

Staff Note: The applicant has demonstrated compliance.

- H. In every unit with two or more bedrooms, a designated master suite must be included and shall be at least 25% larger than every other bedroom and not less than 144 square feet excluding closet space.

Staff Note: The applicant has demonstrated compliance.

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

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

Staff Note: The applicant has demonstrated compliance.

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

Staff Note: The applicant has demonstrated compliance.

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

Staff Note: To be reviewed during Building Permit review.

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

Staff Note: N/A

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

Staff Note: The applicant has demonstrated compliance.

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

Staff Note: The applicant demonstrated compliance during the COA process.

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

Staff Note: A portion of the parking is proposed to be off-site.

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

Staff Note: N/A.

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

Staff Note: The applicant has demonstrated compliance.

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

Staff Note: The applicant has demonstrated compliance.

Analysis by Other Town Staff

Public Works:

Utilities Division (Robbie Jones, Utility Services Technician)

Approved.

Services Division (Justin Stines, Deputy Public Works Director)

Approved.

Fire Department (Amy Flieg, Fire Marshal)

Approved with a few issues to be addressed during the Zoning and/or Building Permit review.

Conformity to Adopted Plans: Potentially Relevant Comprehensive Plan Provisions

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.

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.

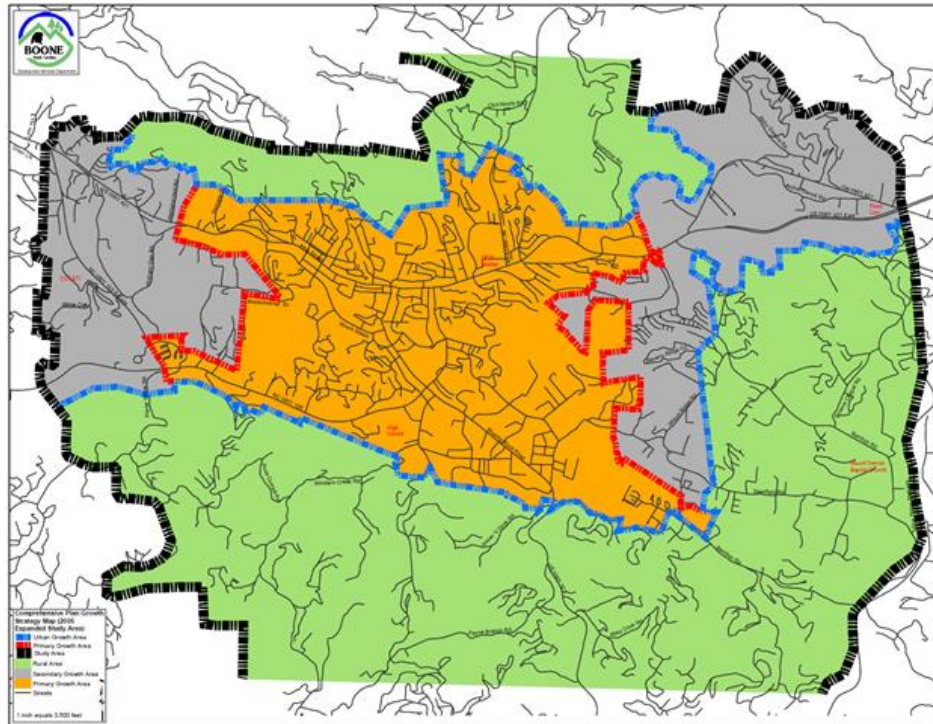
Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

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.

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

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

1.2 Growth Strategy Map (p. 17): The property is located within Primary Growth Area.



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

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 which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation. See below:

...

2.1 The Economy

2.1.1 Economic Development

- B.** 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.
- C.** Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
 - C.1** Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.

2.1.5 Downtown

- C.** A variety of mutually compatible and supportive mixed uses shall be encouraged in the downtown area.
 - C.1** Examine zoning ordinances and revise as necessary to encourage construction of buildings with residences over ground-floor businesses.
 - C.2** Develop strategies that will assist in providing a diversity of commercial and service businesses more reflective of the town's economic and demographic profile.
- E.** Public and private development decisions in the downtown area shall exhibit a special concern for maintaining the intensive, pedestrian oriented character of the district.
 - E.1** Evaluate the need for additional sidewalks and crosswalks and make physical improvements to existing sidewalks and crosswalks in the downtown area.
 - E.2** Evaluate the needs of bicyclists and take appropriate action regarding bicycle travel and storage needs in the downtown area.
 - E.3** Incorporate transit stops into the downtown area for the convenience of the bus riders.
 - E.4** Planned improvements shall emphasize needs of the pedestrian.

2.2.5 Environmental Health

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

2.3 The Community

- A.** Urban type development within the Urban Growth Area shall meet appropriate Town standards.
 - A.1** Establish minimum architectural design standards for commercial development throughout the Town.
- B.** Properly planned, mixed use developments that promote efficient provision of public services shall be encouraged within the Urban Growth Area.

2.3.2 Community Character

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

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

Certificate of Mailing

I, Brenda Henson, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on 08/30/2024.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, Michael James, certify that the subject property was posted as required in Article 9, Subsection 9.03.03(B)(2) of the Town of Boone UDO on 09/04/2024.

/s/ Michael James

Michael James, Commercial Zoning
Administrator

Conditions of Approval

The following conditions are automatically included and a part of any approval.

1. Where there is a conflict between the application information and the plans (dated received on August 8, 2024), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed development made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.

3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.

Any other conditions agreed upon by the applicant and Town Council:

1. Any other conditions agreed upon ...

Planning Commission 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

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance #A24-0595 within 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. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently.

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

Vote 2: The Town Council ☐ **approves** OR ☐ **denies** and believes ☐ **approval** OR ☐ **denial** of Ordinance #A24-0595 in Exhibit A 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.

Exhibit A**Ordinance A24-0595**

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 and Town Council has received the request to amend the Official Zoning Map of the Town of Boone, North Carolina to rezone the property below from B1DC B1 Downtown Core to Conditional District B1 Downtown Core with a site-specific development plan to demolish the existing structure and construct a new 2-story mixed-use building for Uses 1.14 Multi-Family Dwelling in Mixed Use (up to 30 bedrooms), 3.06 Vacation Rental, 11.06 Restaurants up to 3,500 sq ft, 11.11 Retail Store up to 5,000 sq ft and 11.14 Business or Professional Office.

Addresses: 174 South Depot Street

Watauga County PIN: 2900-78-9884-000

Property Owner: Esther and Michael Thaler Irrevocable Trust

WHEREAS, the Boone Town Council held a duly-noticed public hearing 09/23/2024 with respect to this rezoning request; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

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

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. The Boone Town Council hereby approves and adopts the modifications to the Town Zoning Map as set forth herein.

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

SECTION 3. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the 23rd day of October, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon-Church, Town Clerk

**TOWN OF BOONE
HISTORIC PRESERVATION COMMISSION
MEETING MINUTES
MAY 28, 2024, 3:00 p.m.
Planning & Inspections Department & WebEx Video Conferencing**

Historic Preservation Commission Members in Attendance: Vardell Smyth-Chair, Bettie Bond-Vice-Chair, Hannah Williams, and Jerry Williamson

Council Liaison: Virginia Roseman (via WebEx)

Town Staff in Attendance: Jessica Mitchell-Advanced Planning Specialist, Mike James-Commercial Zoning Administrator, and Brenda Henson-Board Clerk

Others in Attendance: Allison Meade-Town Attorney (via WebEx)

Call to Order

Chair Smyth called the Boone Historic Preservation Commission meeting to order at 3:00 p.m. The meeting was held in the Planning & Inspections Conference Room at 680 West King Street and via WebEx.

Adoption of Agenda

Vice-Chair Bond moved to adopt the agenda as presented. Commission Member Williams seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

PUBLIC COMMENT

There was no public comment.

Chair Smyth provided a brief synopsis of the Historic Preservation Commission, its makeup, and its function.

Case A24-0224 174 South Depot Street – Certificate of Appropriateness

Bill Dixon, on behalf of property owner Michael Thaler, has submitted an application for a Certificate of Appropriateness for Major Work for 174 South Depot Street (WT0604 Brendell's Garage Building #1) located in the Downtown Boone Local Historic District. The request includes the demolition of the existing building and the construction of a new two-story mixed-use structure (ground-floor commercial space and 4 apartments on the second floor).

Mike James and Jessica Mitchell, Town Staff members, were sworn in by Chair Smyth.

Chair Smyth affirmed Bill Dixon, applicant and architect for the proposed project, and swore in Leigh Blevins with Appalachian Architecture.

Commission members indicated they had no fixed opinions or conflicts of interest and had not participated in ex-parte communication regarding this case. Chair Smyth stated that he went to look at the building but did not talk with anyone.

Chair Smyth asked Mr. Dixon if he had any objections to the material in the meeting packet. Mr. Dixon replied that he did not have any objections.

Mr. Dixon noted that the pre-application workshop was beneficial and appreciated that process. He referred to packet page 26, which contained his answers to questions asked by Mr. James in an email on April 23, 2024. Mr. Dixon provided members with a copy of the April 23 email so they would have some context to the information in his responses on packet page 26 **(Email on file)**.

Mr. Dixon stated that this was a two-part request. The first request was for approval to demolish the 174 South Depot Street building, and the second was to build a new one.

Mr. Dixon believed the building had exceeded its useful lifespan. He noted that the front part of the building was nice. The back part, which had always been used for storage, was falling in and in horrible shape.

Mr. Dixon stated that he had looked through the inventory classifications in the original document inventories; this property was considered a CH classification, which meant it contributed to the character of the district based on its historical significance related to events or individuals associated with the property. The building was not a CA classification and was not of architectural significance, so it should be allowed to be torn down.

Ms. Meade stated that the Commission could not delay the demolition period by more than 12 months, as outlined in Article 8 of the Unified Development Ordinance (UDO).

Mr. Dixon requested that HPC not delay the demolition for 12 months but make it contingent on them getting the new building permitted and approved, which would likely take 6-8 months. Mr. Dixon noted that Digital Watauga had done a great job of documenting the building and did not feel a need to document more. He stated that this project would not negatively affect the other buildings beside it, even though the property lines were within the center of the walls. He added that they would not cut the walls in half but would have a self-supporting building and respect those walls.

Commission Member Williamson thought that the demolition of the building was appropriate.

Commission Member Williams added that the building was deteriorated.

Chair Smyth asked if an engineer needed to certify that the building had deteriorated to the point that it needed to be demolished. Mr. James replied that he thought they could accept the applicant's information and documentation unless the Commission felt it was insufficient or they wanted an expert second opinion. Ms. Meade stated that when someone claimed a building was unsafe and needed to be torn down, the Commission could delay the demolition to obtain proof that the demolition was warranted, which was addressed in the standards on packet page 57.

Mr. Dixon stated that the documentation from Digital Watauga showed the building's history. Chair Smyth noted that nothing inside the building was significant, and the back of the building was deteriorated.

Jane Shook, Director of Planning & Inspections, was affirmed by Chair Smyth. Ms. Shook stated that the UDO did not allow the demolition of a building without the approval of a zoning permit for redevelopment.

There was no public present to speak to this case.

Mr. Dixon noted that he had nothing further to present regarding the demolition of the building.

Motion and Vote:

Vice-Chair Bond made a motion, seconded by Commission Member Williams, to approve the demolition of the building at 174 South Depot Street, subject to the UDO requirement that an approved zoning permit must be obtained.

Vote: Aye – All

Nay – None

The motion passed.

Mr. Dixon stated that the pre-application workshop provided great feedback, and changes to the plan were made based on comments received. He noted that there would be more glass on the lower level than required, no balconies, the awning size would be reduced, and red brick and rockwork similar to the adjacent building would be used.

Chair Smyth referred to 14.3 and 14.7 regarding scale and massing. He expressed concern about the building being two stories, noting that most of the surrounding buildings were one-story. Chair Smyth felt that keeping the height low matched a smaller town feel and would be more in keeping with the character of the area. He added that there were lots of places for high-density development that were not located in Downtown Boone.

Commission Member Williamson stated he did not have the same concern as Chair Smyth.

Mr. Dixon stated they would also have to go through a Conditional District Zoning Map Amendment to gain approval from the Town Council and Planning Commission to build a two-story building at this location.

Vice-Chair Bond stated she did not find the two stories to be offensive.

Ms. Meade referred to page 44 of the meeting packet depicting architectural details. She noted the bricks that created a horizontal banding at the top under the parapet and asked what that was called. Mr. Dixon stated that was a reveal, and the bricks would be inset about $\frac{3}{4}$ " to create a shadow line. He added that the vertical brick over the windows was called a soldier course. Ms. Meade asked if a native stone would be used on the building. Mr. Dixon replied that it would be stone quarried out of Mt. Airy.

Ms. Meade referred to packet page 35 and asked which mortar joint would be used. Mr. Dixon stated that the bottom photo would better reflect the type of mortar joint they planned to use. He explained that a darker brick would be used with a brick reveal every few brick courses. A concrete parapet cap, similar to the Farmer's Hardware and Ben & Jerry's building would be used.

Vice-Chair Bond felt the transition from brick to stone on that block would provide a good flow and make the two-story building not seem so dramatic.

Mr. Dixon added that they thought they could accommodate two parking spaces in the back of the building, one of which would be handicapped. Assuming they could provide the two spaces in the back, they would have to provide two additional parking spaces at another location.

Ms. Meade suggested that the HPC place a condition on the approval regarding the materials and architectural elements so there would be no question about what would be allowed. Chair Smyth asked if it was not implied that what was presented was what would be constructed. Ms. Meade replied that pictures presented a physical appearance that did not always become a reality. She offered that Mr. Dixon could provide affirmation that the details and materials proposed in the meeting packet and discussed during the meeting would be what was used. Mr. Dixon agreed.

Motion and Vote:

Vice-Chair Bond made a motion, seconded by Commission Member Williams, that the proposed development is congruous with the special character of the Downtown Boone Local Historic District and is approved subject to the following automatic conditions:

- Where there is a conflict between the application information and the plans (March 28, 2024), the plans control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
- Any commitments and representations concerning the proposed exterior modification made by the applicant or its representatives at the public hearing shall also become a condition of the permit and a basis for a stop work order and/or permit revocation if violated.
- The applicant shall submit the necessary applications, plans, details, and specifications which meet the requirements of the Town Code, UDO, Building Code, and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.

Vote: Aye – 3 (Bond, Williams, Williamson)
Nay – 1 (Smyth)

The motion passed.

With no further discussion, Chair Smyth closed this case.

Other Matters

Ms. Mitchell reminded HPC members of the Public Hearing/Planning Commission meeting scheduled for May 29, 2024, at 6:00 p.m. She noted that the Local Historic Landmark cases for the R.L. Clay (Rivers) House Property and H.W. Horton Building would be discussed, and HPC members were asked to meet in the Planning & Inspections Conference Room for the meeting.

Ms. Mitchell stated that the Historic Preservation Commission's June meetings were scheduled for June 4 and June 11, 2024.

Adjournment

Vice-Chair Bond made a motion, seconded by Commission Member Williams, to adjourn the meeting at 4:15 p.m.

Vote: Aye – All
Nay – None

The motion passed.

Vardell Smyth, Chair

Brenda Henson, Board Clerk

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:
A24-0640
Case Name:
Occupancy/Residential Terms Mod.

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 680 W. King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): 14, 15, 34, Appendix B

Section(s): 14.04, 14.23, 14.24, 14.31, 15.03, 34.01, B1.06

Brief Description of Amendment (Attach Proposed Text):

A text amendment to revise the residential occupancy requirements in the WD Wellness and E2 Educational zoning districts, remove occupancy limitations listed in UDO Subsection 15.03.05(D), clarify terms related to residential uses and residential occupancy limitations; revise the standards for vacation rentals in multi-family developments so as to address the number of dwelling units in each development that can be used as vacation rentals.

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

08/20/2024
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: 09/23/2024

PC Meeting Date: 09/23/2024

TC Meeting Date: 10/23/2024

Text Approved: ☐ Yes ☐ No

Notes:

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



Staff Report
Public Hearing
September 23, 2024

Case A24-0640 Occupancy & Other Residential Clarifications/Modifications – UDO Text Amendment

Summary.....	1
Wellness District Occupancy Limitations	1
E2 Educational District Occupancy Limitations	2
Multi-family in Mixed Use Occupancy Limitations	2
Residential Occupancy Related Terms Clarification	2
Bed & Breakfast and Hotel Uses/Guest Rooms	3
Boarding House Use/Rooms.....	3
Homestay and Vacation Rental Uses/Bedrooms.....	3
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Summary

The purposes of this proposed text amendment are to:

- revise standards for occupancy limitations in the WD Wellness and E2 Educational zoning districts to correct discrepancies and make the occupancy limitations of those districts consistent with that of the B3 General Business district – that is, one family or four unrelated persons;
- remove the occupancy limitation in UDO Subsection 15.03.05(D) that had limited townhome and multi-family dwelling units to two unrelated persons regardless of number of bedrooms in the dwelling unit;
- clarify certain terminology related to residential uses and occupancy limitations; and
- revise the standards for vacation rentals in multi-family developments so as to address the number of dwelling units in each development that can be used as vacation rentals.

Wellness District Occupancy Limitations

Staff recently discovered a discrepancy in the occupancy limitations set for the Wellness District (WD) zoning district. The WD was established to provide an area-specific zoning district located around Watauga Medical Center to promote a diverse mixture of medical, education, office, retail, and residential uses within a compact, vibrant pedestrian-oriented center while encouraging community interaction and transportation options. Uses 1.14-1.16 Multi-Family Dwellings in Mixed Use are allowed within the WD, however, upon review, the only reference in the UDO to an occupancy limitation for the WD is found in Section B1.06 Complete Occupancy Table which lists the occupancy in the “No Residential Uses Allowed” category. Staff research indicates that an occupancy limitation wasn’t set at the time of the creation of the Wellness District. The proposed amendment aligns the occupancy limitations of the WD with those

of the B3 General Business district and the R3 Multiple-Family zoning district to “one-family or up to four (4) unrelated”.

E2 Educational District Occupancy Limitations

The E2 Educational District’s (E2) occupancy limitation has also been subject of recent discussion with Staff and Council. The E2 Educational District was established to provide for appropriate uses by colleges or universities outside of the ASU main campus, which uses may include residential uses. When first created, the intensity of the zoning was modeled after the B3 General Business District. However, unlike the B3 General Business zoning district, at the time of adoption, occupancy was limited to “one-family or up to two (2) unrelated” per dwelling unit.

Based upon the intent of the E2 district, the “one-family or up to two (2) unrelated” residential occupancy limitation is too restrictive for the types of residential uses (i.e., student housing) that would be appropriate in the E2. In order to reflect a balance between the lower-density intention of the district (as compared to the higher intensity U1 University zoning district), the proposed amendment aligns the occupancy limitations of the E2 with those of the B3 General Business district and the R3 Multiple-Family zoning district to “one-family or up to four (4) unrelated” per dwelling unit. Additional discussion, may be required, as the occupancy limitations may have no real effect based upon the group housing (residence halls) exceptions.

Multi-family in Mixed Use Occupancy Limitations

UDO Section 1.07 titled “Duplex; 1.08-1.10 Townhouse; 1.11-1.13 Multi-Family Dwelling; 1.14-1.16 Multi-Family Dwelling In Mixed Use” was implemented in 2013 and provides additional regulation on multi-family development. Within these regulations, UDO Subsection 15.03.05(D) limits the residential occupancy of any multi-family dwelling unit approved under 15.03 to two (2) unrelated persons.

This regulation presents a unique challenge for multi-family developments, while it restricts occupancy to two (2) unrelated per dwelling unit, it does not align with the general use zoning district regulations, which for multi-family development, often allows up to four (4) unrelated; thus, creating a discrepancy that complicates enforcement and reporting. Staff must first determine the construction date of a development to apply the correct occupancy limitation, rather than relying on the zoning district classifications. Without personal knowledge of the difference and without personal knowledge of when the development approval occurred, it would be difficult for an individual, outside of Staff, to determine what the occupancy regulation would be. Additionally, since adoption, Staff has noticed that there is a trend of predominantly 1-2-bedroom multi-family dwelling unit developments. The proposed amendment aligns the occupancy of the multi-family uses to that of the underlying zoning district.

Residential Occupancy Related Terms Clarification

At the conclusion of the last short-term vacation rental text amendment, it was determined that it would be beneficial for Staff to review the terms related to occupancy including: “guest rooms,” “rooms,” “bedrooms,” “roomers,” and “boarders” to ensure that standards didn’t conflict with definition or intent. Upon review, Staff discovered the following:

Bed & Breakfast and Hotel Uses/Guest Rooms

The regulations and definitions for Bed and Breakfast & Hotel Uses, utilize the term “guest rooms.” A guest room is defined as “a room designed for and outfitted to be used for sleeping and/or lodging of guests. A shared space outfitted to be used for any purpose other than sleeping or lodging of guests shall not be counted as a guest room (e.g. living rooms, parlors, offices, game room, or utility room).” This is an appropriate use of the term based upon the intention of the use. Staff concluded that no changes to either the guest room definition or the regulations for Bed and Breakfasts and Hotel Uses were needed.

Boarding House Use/Rooms

A Boarding House use is defined as “a dwelling unit where three (3) or more rooms (not to exceed nine (9) are provided for lodging for definite periods exceeding seven days. Meals may or may not be provided, but there is only one common kitchen facility and no meals are provided to outside guests.” This use is allowed in the R3 Multiple-Family and the B3 General Use Zoning Districts. Based upon the definition of the term Boarding House, the proposed amendment proposes to change the term “rooms” to “bedrooms” to reflect the residential nature of the use.

Homestay and Vacation Rental Uses/Bedrooms

The term “bedroom” is used primarily in the UDO for use descriptions where the number of bedrooms is controlled by the different use classification and within the sections where there are regulations related to bedrooms in multi-family dwelling units (Section 15.03 Multi-Family Dwellings and 15.04 Multi-Family Dwellings in Mixed-Use). For purposes of this review, Staff concluded that the recently revised use of the term “bedroom” for Homestay Rentals and Vacation Rentals are appropriate due to the residential nature of the uses. Please note, while there is no definition of “bedroom,” it is defined in the NC Residential Building Code as “a room designated as sleeping or bedroom on the plans and permit applications.”

Boarder/Room

The term “boarder” is only used twice in the ordinance and is not defined. The term appears once in the definition of “family” (excepting boarders from live-in help) and again in the M1 Manufacturing zoning district occupancy regulations where it references both roomers and boarders (only district to do so). Staff’s assessment is that the term’s continued inclusion is unnecessary and potentially confusing. The proposed amendment proposes to remove the instances of “boarder” to avoid any potential confusion, in favor of the term “roomer” which has a clearer connotation consistent with the intent behind ordinance’s allowance of a roomer as an incidental use in residential districts.

A “roomer” is defined as “a person who rents and inhabits a room in another person’s dwelling unit,” and is used 19 times in UDO, once in the definition of family (also excepting roomers from live-in help), and the remaining uses of the term can be found in the residential occupancy limitations of each zoning district as well as in Appendix B in Section B1.06 Complete Table of Occupancy Limitations. During review, Staff discovered a discrepancy between how many roomers are allowed in the B3, R3, and M1 zoning districts. Each individual district description in Article 14 allows up to two (2) roomers, while the table in Appendix B, only allows one (1). The amendment proposed to modify the table in Appendix B to reflect the two (2) roomers allowed in the district descriptions.

Family

During the review of the preceding terms, Staff also discovered a discrepancy between how the term “family” was defined in UDO Subsection 14.04.02 and within Article 34 Definitions. The term as used in Subsection 14.04.02 mentions the exception of “roomers and boarders” while the definition does not. The proposed amendment aligns the definition with text in Subsection 14.04.02 by adding the exception regarding roomers (term boarders to be removed).

Vacation Rentals in Multi-Family Developments

During consideration of a prior text amendment related to Vacation Rentals, there was extensive by Town Council concerning the town’s the goal of preserving long-term residential housing. Subsequent to this discussion, Staff has noted additional language in Section 15.14 Vacation Rental that might undermine this goal. Subsection 15.14.10 states “For any building that contains multiple dwelling units, no more than 5% of the dwelling units or two dwelling units, whichever is greater, may be operated as a vacation rental in any single building. . .”

In a multi-family development scenario with six buildings, each containing four dwelling units, the current subsection 15.14.10 language would allow the conversion of two units per building into vacation rentals, resulting in a total of 12 vacation rental units and 12 long-term units. If this outcome does not reflect the goals of Council, Staff recommends Council consider modifying the section or to reconsider allowing vacation rentals in multi-family developments, including multi-family development in mixed use.

Conformity to Adopted Plans: Potentially Relevant Comprehensive Plan Provisions

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.

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

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

2.1 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.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area’s economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.

- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

2.1 THE ECONOMY

2.1.2 Commercial Development

- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- H. Encroachment of incompatibly scaled and designed commercial or office uses into viable existing or planned residential areas shall be prohibited.

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

2.3 THE COMMUNITY

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

2.3.3 Housing and Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

Planning Board Report/Recommendations

Per NCGS 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

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 #A24-0640 within Exhibit A and ☐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– 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.

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:

Note 1

Vote 2: The Town Council ☐ **approves** OR ☐ **denies** Ordinance #A24-0640 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

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.

Ordinance #A24-0640

ORDINANCE # A24-0640

AN ORDINANCE TO REVISE THE UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, the Boone Town Council desires to modify the occupancy regulations within the Town of Boone; and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on September 23, 2024 with respect to this ordinance; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; 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. The Town of Boone Unified 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 23rd day of October, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon-Church, Town Clerk

Exhibit A – Modified UDO Language**Article 14 Zoning District Regulations****14.04 Residential Occupancy Controls**

14.01.04 Except for authorized group living, residential occupancy is limited in the Town’s jurisdiction as enumerated each district within this Article.

...

14.04.02 For purposes of the occupancy regulations set forth in this Article:

A. A "family" means individuals related by blood, marriage, domestic partnership, or adoption occupying a premise and living as a single, non-profit housekeeping unit, which may include live-in help but does not include roomers ~~or boarders~~. A "single, non-profit housekeeping unit" means individuals who live and cook together, as with or similar to a traditional family, on a single lease if renting the premises. The following individuals may constitute a family: a single person or a couple that is married or are domestic partners; that person’s or persons’ children, parents, siblings, grandparents, great-grandparents, grandchildren, or great-grandchildren; and the spouses of any of the foregoing persons. "Domestic partners" means two persons who are both at least 18 years of age, are each other’s sole domestic partner, have a common residence, and intend to maintain a common residence together indefinitely. "Child" and "children" shall for these purposes include a biological, foster, step- or adopted child, legal ward or other legal dependent, or other person who is or has been in a child-parent relationship with an adult in the family. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, group of students rooming together, institutional group or the like.

...

14.04.05 The occupancy limitations of this section shall not apply to group living and transient residential uses.

...

14.10 R3 Development Standards

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.

...

14.10.04 **Occupancy:** One (1) family or up to four (4) unrelated persons (see Section 14.04) per dwelling unit A dwelling occupied by a family (but not by unrelated persons) may also have two (2) roomers.

Staff Note: Add “per dwelling unit” to each occupancy section in Article 14.

...

14.21 B3 General Business

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.

...

14.21.04 **Occupancy:** One (1) family or up to four (4) unrelated persons per dwelling unit (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have two (2) roomers.

...

14.23 Wellness District

14.23.01 The Wellness District (WD) is established to provide an area-specific zoning district located around the local hospital to promote a diverse mixture of medical, education, office, retail and residential uses within a compact, vibrant pedestrian oriented center while encouraging community interaction and transportation options. The Wellness District is guided by the goals, objectives, policies, and standards of the Wellness District Small Area Plan.

...

14.23.06 **Occupancy:** One (1) family or up to four (4) unrelated persons per dwelling unit (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have two (2) roomers.

...

14.24 M1 Manufactured District

14.24.01 The M1 Manufacturing District is established primarily to accommodate appropriate light industrial and warehouse enterprises engaged in the assembly, fabrication, finishing, packaging, warehousing or distribution of goods and materials, including the storage and processing of raw materials into other products, as well as and (related and/or compatible commercial uses. The intent in allowing related and/or compatible commercial uses is to promote flexible and creative use of the District while still serving the primary intent of accommodating light industrial, warehousing, and distribution uses.

...

14.24.04 **Occupancy:** One (1) family or up to four (4) unrelated persons per dwelling unit (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have two (2) roomers/~~boarders~~.

...

14.31 E2 Education District

14.31.01 The E2 Educational District is established to provide for appropriate uses by colleges or universities outside of the ASU main campus, which uses may include residential uses. The owner of a property zoned E2 must be a college or university. In the event that a property or portion of a property zoned E2 is sold to a third party that is not a college or university, no use of the property shall be permitted until the property is rezoned.

...

14.31.04 Occupancy: One (1) family or up to ~~two (2)~~ four (4) unrelated persons per dwelling unit (see Section 14.04). A dwelling occupied by a family (but not by unrelated persons) may also have up to one (1) two (2) roomers.

...

Article 15 Limited Use Requirements

...

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)

...

15.03.05 Each dwelling unit shall meet the following standards:

- A.** The bedroom to bathroom ratio of each unit within the development shall be limited as follows:
 - 1. Efficiency unit and one (1) bedroom unit: one (1) bathroom.
 - 2. Two (2) bedroom unit: one (1) or two (2) bathrooms, with no less than one bathroom with common access.
 - 3. Three (3) bedroom unit: Two (2) bathrooms with no less than one (1) bathroom with common access.
 - 4. Four (4) or more bedroom unit: Three (3) bathrooms with no less than two (2) bathrooms with common access from a hall.
- B.** In every unit with two (2) or more bedrooms, a designated master suite must be included and shall be at least twenty-five percent (25%) larger than every other bedroom and not less than 144 square feet excluding closet space.
- C.** Dedicated storage space of at least fifty square feet (50 ft²) per unit must be provided for units without garages. Any storage space which is not within or attached to the building containing the units served by the space must be architecturally integrated with the development.

~~**D.** Occupancy of each unit shall be limited to (2) two unrelated persons.~~

Article 15 Limited Use Requirements

...

15.14 Vacation Rentals

...

Option 1

15.14.10 For any ~~building development~~ that contains multiple dwelling units, no more than 5% of the dwelling units or two dwelling units, whichever is greater, may be operated as a vacation rental ~~in any single building~~. Permits shall be issued on a first-come, first-served basis based on the initial application date, and thereafter may be renewed. If a permit lapses before renewal, a renewal application shall be treated like an initial application for purposes of this paragraph.

Option 2

15.14.10 For any multi-family developments, including any mixed-use developments, that contains up to twenty-nine (29) dwelling units, no more than one dwelling unit may be operated as a vacation rental. For any multi-family developments, including any mixed-use developments, that contains thirty (30) or more dwelling units, no more than 5% of the dwelling units may be operated as a vacation rental.

Option 3

15.14.05 ~~In the B1-Downtown, B2-Neighborhood Business, and B3-General Business zoning districts,~~ Only single-family detached dwellings and two-family detached dwellings (and any accessory dwellings on the same property) may be used as a vacation rentals s and only if the dwelling existed as of January 1, 2014.

15.14.10 Reserved

...

Article 34 Definitions

...

Boarding House

A dwelling unit where three (3) or more bedrooms (not to exceed nine (9)) are provided for lodging for definite periods exceeding seven days. Meals may or may not be provided, but there is only one common kitchen facility and no meals are provided to outside guests.

...

Family

Individuals related by blood, marriage, domestic partnership, or adoption, occupying a premises and living as a single, non-profit housekeeping unit, which may include live-in help but does not include roomers. A “single, non-profit housekeeping unit” means individuals who live and cook together, as with or similar to

a traditional family, on a single lease if renting the premises. The following individuals may constitute a family: a single person or a couple that is married or are domestic partners; that person's or persons' children, parents, siblings, grandparents, great-grandparents, grandchildren, or great-grandchildren; and the spouses of any of the foregoing persons. "Domestic partners" means two persons who are both at least 18 years of age, are each other's sole domestic partner, have a common residence, and intend to maintain a common residence together indefinitely. "Child" and "children" shall for these purposes include a biological, foster, step- or adopted child, legal ward or other legal dependent, or other person who is or has been in a child-parent relationship with an adult in the family. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, group of students rooming together, institutional group or the like.

...

Roomer

A person who rents and inhabits a room in another person's dwelling unit. A roomer shall not include a person or person inhabiting an authorized accessory dwelling unit.

Appendix B Comparative Tables

...

B1.06 Complete Occupancy Table

Occupancy Regulation (<u>persons per dwelling unit</u>)	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. R1A Single-Family Residential with Accessory Dwelling 3. R1C Compact Neighborhood Residential 4. R1S Small Home Residential 5. R2 Two-Family Residential 6. R4 Two-Family Residential/Manufactured Housing 7. R5 55+ Housing Residential 8. MH Manufactured Housing 9. RA Residential Agriculture 10. B1 Downtown Interface 11. B1 Downtown Core 12. B2 Neighborhood Business 13. O/I Office Institutional 14. E2 Educational
One family or up to 4 unrelated	1. R3 Multiple-Family 2. <u>WD Wellness District</u> 2.3. B3 General Business

Note: a dwelling occupied by a family (but not unrelated persons) may also have one (1) <u>two (2)</u> roomers.	<u>4.</u> M1 Manufacturing 3. <u>5.</u> E2 Educational District
No Occupancy Limitations	1. U1 University
No Residential Uses Allowed	1. WD Wellness District 2. <u>1.</u> E1 Educational District 3. <u>2.</u> E3 Educational District 4. <u>3.</u> E4 Educational Child Daycare District

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:
A24-0642
Case Name:
Community Appearance Modification

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 680 W. King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): 1, 25, 34

Section(s): 1.28, 25.01-25.09, 34.01

Brief Description of Amendment (Attach Proposed Text):

A text amendment to revise to modify administration of the article and required building design elements.

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

08/20/2024
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: 09/23/2024

PC Meeting Date: 09/23/2024

TC Meeting Date: 10/23/2024

Text Approved: ☐ Yes ☐ No

Notes:

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

Communication: Case A24-0642 Exhibit 1: Application Information (Case A24-0642 Appearance Standards Modification - UDO Text



Staff Report
Public Hearing
September 23, 2024

Case A24-0642 Community Appearance Standards Modifications – UDO Text Amendment

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Summary

Staff recommends the attached proposed amendment to Article 25 Community Appearance Standards in order to revise numerous standards related to required building design elements. This amendment has been initiated in light of a number of recent development projects that have illuminated problem areas in this Article.

Following these recommended changes, Staff recommends that Council begin a complete overview of the Community Appearance Standards as soon as possible. This would include a review of regulations that set standards for mass/scale, building orientation, and building design.

Conformity to Adopted Plans: Potentially Relevant Comprehensive Plan Provisions

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.

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

2.1 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.

2.3 THE COMMUNITY

- A. Urban type development within the Urban Growth Area shall meet appropriate Town standards.
 - A.1 Establish minimum architectural design standards for commercial development throughout the Town.

2.3.1 Community Appearance

- C. The significance of major roadway entrances into Boone as measures of community image and quality shall be recognized through building placement, landscape, signage and other visual improvements. The Town, along with private property owners and developers, shall work to jointly improve the appearance and design of major street corridors.

2.3.2 Community Character

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

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 #A24-0642 within Exhibit A and ☐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– 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.

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:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance #A24-0642 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

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.

Ordinance #A24-064

ORDINANCE # A24-0642**AN ORDINANCE TO REVISE THE UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, the Boone Town Council desires to modify the community appearance standards within the Town of Boone; and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on September 23, 2024 with respect to this ordinance; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; 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. The Town of Boone Unified 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 23rd day of October, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon-Church, Town Clerk

Exhibit A – Modified UDO Language**Article 1 General Provisions**

...

1.28 Building Design Elements

1.28.02 ~~Any~~ regulation relating to building design elements or appearance adopted under this Ordinance may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

- A. The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.
- B. The structures are located in an area designated as a historic district on the National Register of Historic Places.
- C. The structures are individually designated as local, State, or national historic landmarks.
- D. The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.
- E. Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.
- F. Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

~~1.28.03~~ Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

...

Article 25 Community Appearance Standards**25.01 General Applicability**

25.01.01 ~~This Article is applicable to the publicly visible portions of building elements, as defined herein.~~ The standards herein, unless otherwise excepted, are applicable to all development within the Town of Boone.

~~A. A building façade shall be deemed publicly visible when more than thirty percent (30%) of the façade is visible from any street or adjacent residentially zoned property.~~

~~A. Each element of a building shall be evaluated independently for public visibility~~

~~B. If building elements are not publicly visible at the time of construction due to existing site features (earthen berms, heavily wooded areas, vegetative buffer, existing buildings to remain), then these existing site features must remain indefinitely. If they are altered at any time to allow greater visibility, then the element made visible must comply with the standard.~~

~~C. The following uses are exempted from the requirements in this Article: 1.01 Single Family Dwelling, 1.02 & 1.03 Manufactured Home, 1.05 Duplex, 2.01 Family Care Home, A 1 Secondary Suite, A 2 Home Occupation, A 3 Accessory Dwelling Unit, all Temporary Uses.~~

Staff Note: This section has been modified. Previously the Article was structured to make the entire article only applicable to publicly visible. However, this is incorrect, as the retaining wall and building orientation standards should apply to all development. The article has now been restructured to reflect this.

25.02 Flexibility in Administration

25.02.01 Flexibility in administration is required for this Article. When strict application of the standards within this Article undermines other provisions of the UDO, then those other provisions take precedence. For example, the retaining wall height limitation may be increased to afford an opportunity to preserve significant or historic tree(s).

Staff Note: This section has been moved from the back of the Article to the front. No changes in text proposed at this time.

25.03 Alternatives

25.03.01 Alternatives to the appearance standards provided herein may be permitted upon written review and approval of the Administrator.

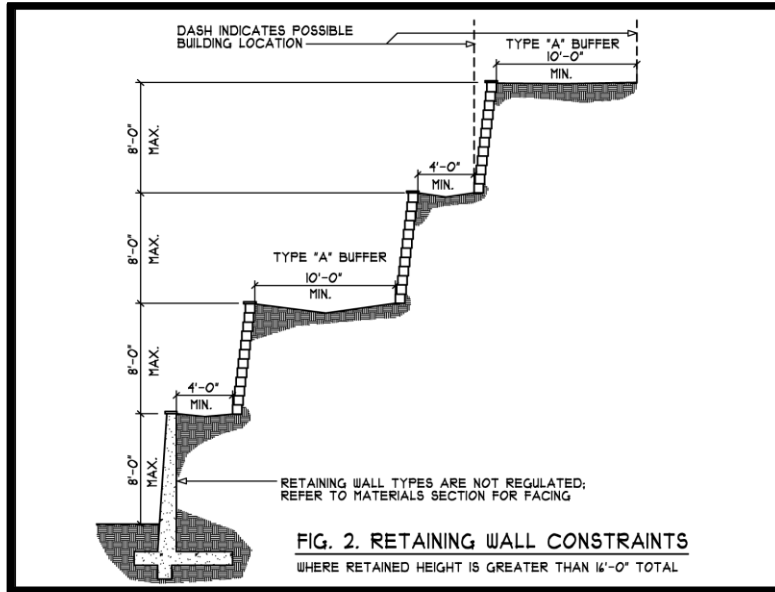
25.03.02 The Administrator may approve an alternative not to exceed +/- 25% of the relevant standard or requirement if they find that the alternative meets the purpose and intent of the provisions contained within this Article. When the Administrator approves an alternative, they specifically identify how the alternative meets the purposes and intent of this Article. An applicant may not seek a variance with respect to any deviation allowed by the Administrator under this section.

Staff Note: This section has been moved from the back of the Article to the front. No changes in text proposed at this time.

25.04 ~~Site~~ Retaining Walls

25.04.01 The intent of this Section is to prevent walls which appear to dwarf the human scale and to encourage equalizing cut/fill or majority cut slope methods of grading.

25.04.02 No retaining wall may be more than eight feet (8') in height. This height does not include decorative caps that are less than eight inches (8") in height. Screen walls shall not be taller than necessary to conceal the item screened (such as a dumpster, HVAC equipment, etc.)



- 25.04.08** Publicly visible site wall material and color shall be architecturally compatible with the principle building(s) on site.

Staff Note: This section has been moved so that it fits in with the new article structure (sections that are applicable to all development) made in 25.01 Applicability. No changes in text, other than section title is proposed at this time.

25.04 Building Orientation

- 25.04.01** With the exception of townhouse uses which are subject to this section, structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings are exempt from this section.

- 25.04.02** ~~Pedestrian Orientation:~~ ~~The intent of this Section is to provide a design of buildings that support a safe and attractive pedestrian environment.~~

Primary façade and main building entry shall face the primary public way.

~~If site constraints are present, the applicant's intent to use a "stock plan" is not a basis for appeal.~~

However, ~~T~~he Administrator may approve a ~~re~~design in which the main primary entrance does not face the primary public way provided the following:

1. The main building entrance, when not facing the primary public way, shall provide a safe and convenient access for pedestrians from the main building entrance to the primary public way. The pedestrian way must provide additional landscape amenities.
2. Entrances which are oriented on a diagonal are permitted, provided that they are integrated with the overall architectural design, and not merely angled appendages or alcoves.

3. Ground floor windows or window displays shall be provided along at least ten percent (10%) of the building's (ground floor) street-facing elevation(s); windows and display boxes shall be integral to the building design and not mounted to an exterior wall. Parapets above the first floor are excluded from the calculations when the building is over eighty feet (80') in length.

Staff Note: This section has been moved from the building design section to correspond with changes made in 25.01 Applicability. Changes have been made to explain applicability. Previously, the intent was to exempt single-family and two-family uses (as required by state law); the reference now to the Residential Building Code continues this exemption.

25.09 Building Design Elements

25.09.01 Applicability: All publicly visible facades, except for the facades of structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, are required to meet the standards of this section.

Staff Note: A-C is language originally in Section 25.01 Applicability. Relocated to be relevant to the regulation that are relevant to being publicly visible.

- A. A building façade shall be deemed publicly visible when more than thirty percent (30%) of the façade is visible from any street or adjacent residentially zoned property.
- B. Each element of a building shall be evaluated independently for public visibility
- C. If building elements are not publicly visible at the time of construction due to existing site features (earthen berms, heavily wooded areas, vegetative buffer, existing buildings to remain), then these existing site features must remain indefinitely. If they are altered at any time to allow greater visibility, then the element made visible must comply with the standard.

25.09.02 **Exterior Walls:** The intent of this Subsection is to require running lengths of walls to be interrupted by architectural features which lend a more human scale to the overall massing.

A. Features include:

1. Offsets of the building wall or other elements in plan of four feet (4');
2. A colonnade with columns or other vertical elements of sixteen feet (16') or less on center;
3. A change in building material, with a maximum of two (2) uses of this option being counted toward the schedules below;
4. Awnings or canopies;
5. Covered entries or porticos;
6. Windows with a minimum width of two feet and eight inches (2'8") and a minimum height of three feet and four inches (3'4");

~~Trellises;~~

7. Pilasters, which must be a different material or contrasting color than their background;
 8. A combination of the above; and
 9. Any other type of feature not listed here which is deemed by Staff to meet the intent of this Ordinance.
- B.** Plumbing, mechanical, electrical service components and gutter downspouts are not considered features and may require screening. Such screening is not considered an architectural feature.
- C.** Required features must be distributed throughout the building façade and shall not be clustered.
- D.** Features shall be provided in accordance with the following feature schedules:

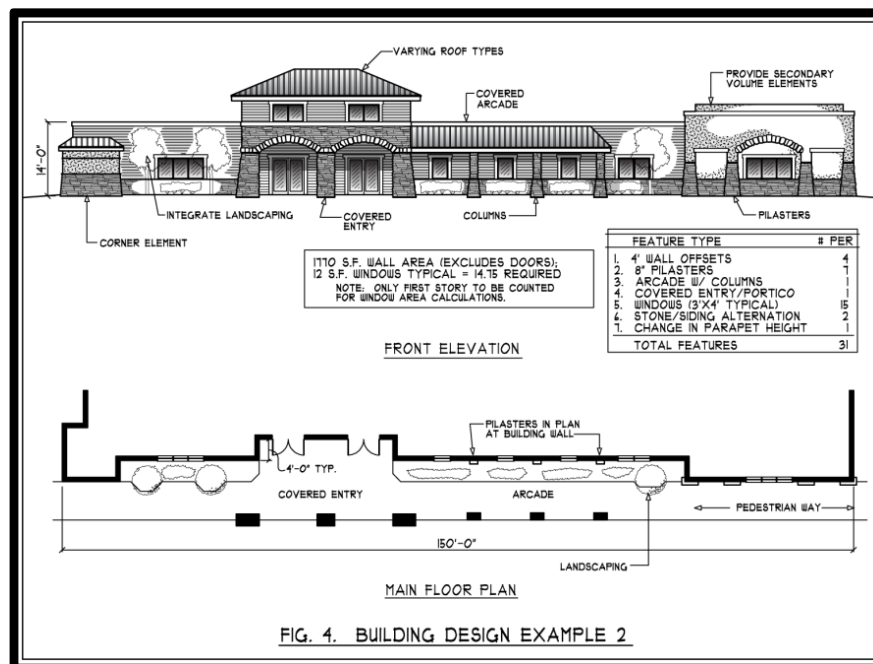
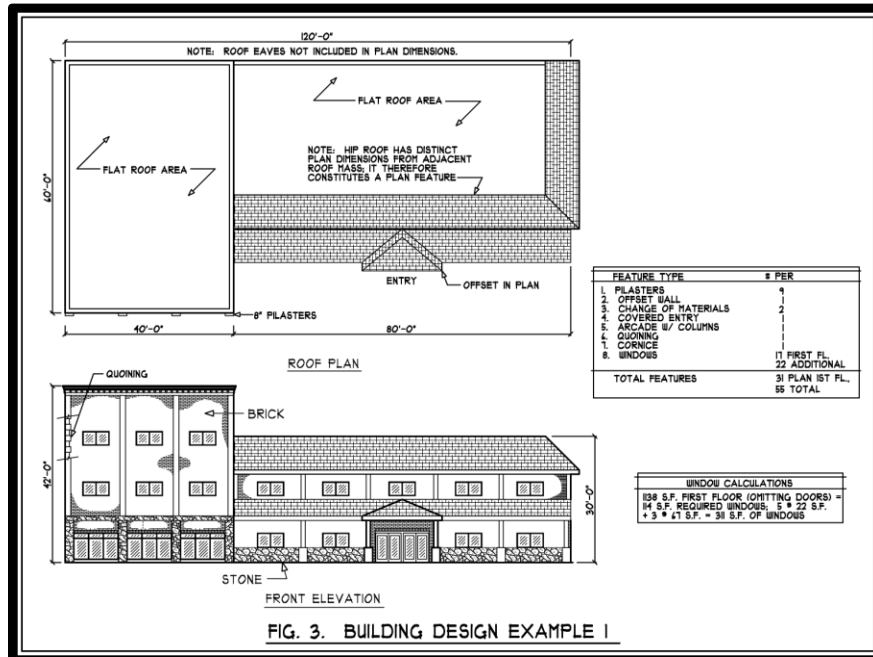
Table A
Feature Schedule – Plan

Linear Dimensions, in Plan	Minimum # of Feature Types	Minimum # of Total Features
10' to less than 40'	2	4
40' to less than 80'	3	8
80' to less than 120'	4	12
120'+	5	16

Table B
Feature Schedule – Elevation

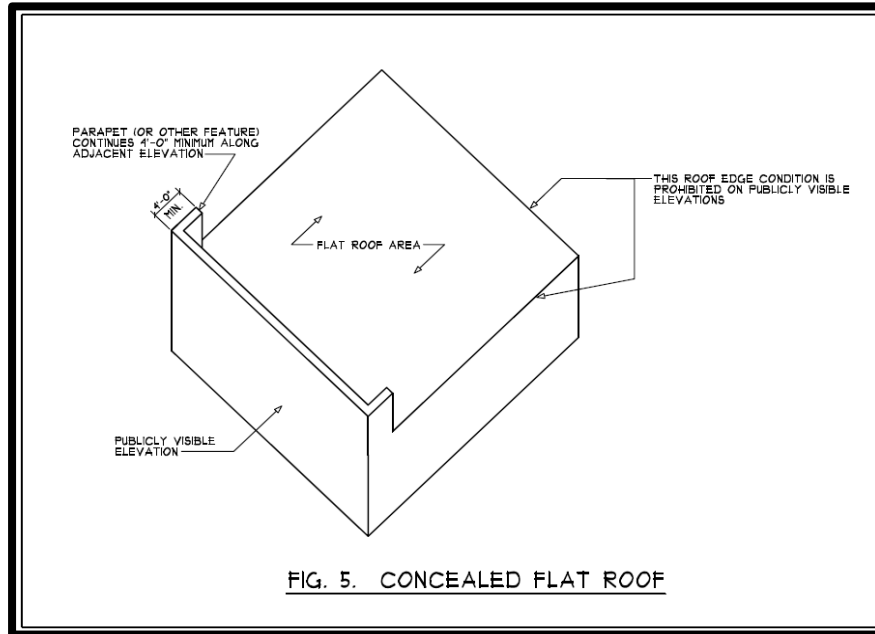
Linear Dimensions, in Elevation	Number of Features Required
10' to less than 16'	2
16' to less than 32'	3
32' to less than 48'	4
48'+	5

- E.** Features which serve to interrupt the building façade in both plan and elevation shall be credited as such using the above charts. Windows are considered plan and elevation features. See examples in Figures 3 and 4 below.

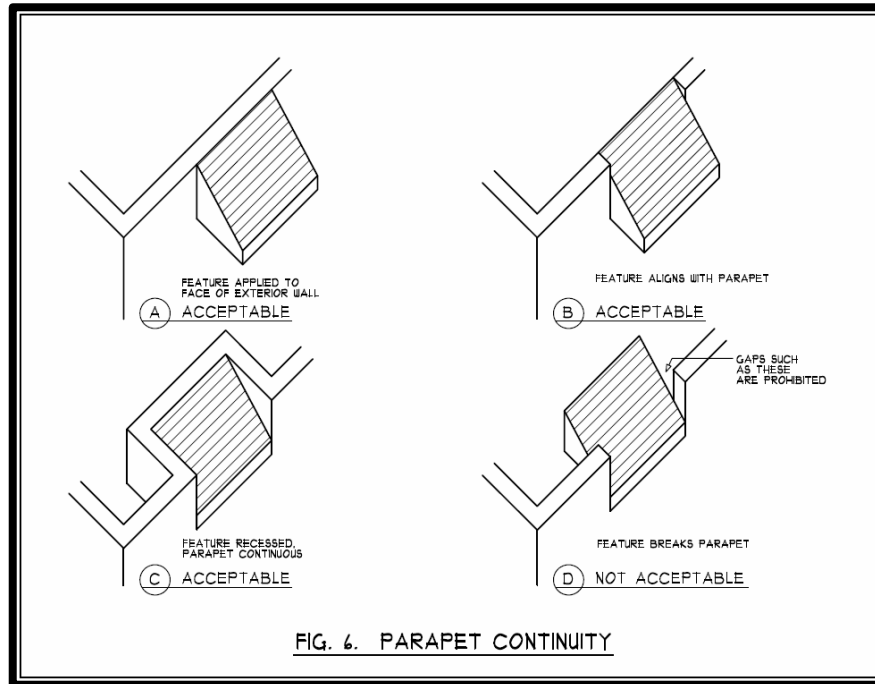


25.09.03 Roofs: This Section regulates both pitched and flat roofs. The intent is to interrupt expanses of pitched roofs and minimize or prevent the visibility of flat roofs.

- A. Walls shall not appear to terminate at flat roofs. Flat roofs shall be concealed from view by using pitched roof features, parapets, or a mixture thereof. Where only one elevation has this condition, the parapet or other feature will continue four feet (4') along the adjacent elevation. See Figure 5 below.



- B. Buildings over two stories above grade may utilize a flat roof, provided the flat portion is not publicly visible. Compliance may not be possible if the adjacent road grade is substantially above the roof in question.
- C. Minimum roof slope for pitched roofs is 4'(v):12'(h).
- D. Publicly visible plumbing vent stacks shall be colored to match the roofing material.
- E. Where a parapet intersects with a pitched roof element, there shall be no apparent breaks in the parapet wall. See Figure 6 on page 22-17.



~~Awnings or canopies which are illuminated from within must be covered or finished with fully opaque material.~~

Staff Note: Deleted, this standard is located within four other portions of the ordinance and is out of place in this section on roofs.

- F. Publicly visible pitched roofs shall be articulated by features in accordance with the following schedule. Features shall be in proportion to the roof area where they appear. Features include:

Table C
Feature Schedule – Roof Areas

Roof Area	Number of Features Required
Less than 1200 ft ²	0
1200 ft ² to less than 1600 ft ²	1
1600 ft ² to less than 2400 ft ²	2
2400 ft ² +	3

- G. No part of this Ordinance shall be construed to prevent solar panels or any other type of renewable energy collection or storage method, provided the development follows the massing guidelines established herein.

25.09.04 Exterior Materials: ~~The intent of this Section is to require materials indigenous to the area for a native, natural appearance.~~

- ~~A. For any publicly visible elevation, a minimum of twenty-five percent (25%) of the building finish material must be stone or concrete-simulated stone, wood or simulated wood in concrete board (such as "Hardi" products), or brick or concrete-simulated brick.~~

- ~~B. Mirrorized glass is prohibited from use. Reflective tinted glass is acceptable up to thirty percent (30%) tint. Anything above thirty percent (30%) tint is subject to review by the Administrator pursuant to 25.07.01.~~
- ~~C. Architectural concrete masonry such as split face, or ground-face block is acceptable.~~
- ~~D. Stucco and synthetic stone are acceptable finish materials.~~
- ~~E. Architectural concrete (containing a pattern or finish) as a finish material is acceptable. Gray, unfinished concrete is prohibited as a finish material. Concrete architectural detail elements intended to be a decorative enhancement for exterior walls and site walls are acceptable~~
- ~~F. Other materials subject to Staff review and approval include vinyl siding (which should simulate wood grain) and other manufactured materials. Vinyl siding shall be anchored to the exterior envelope sufficiently to avoid the appearance of deformation or bowing across the façade.~~
- ~~G. For publicly visible roof surfaces, allowed materials include standing seam metal, asphalt shingles, shakes, tile, or manufactured shingles which give an appearance of shingles, shakes, or other simulated natural material. Sheet materials other than those listed in this Section are subject to Staff review for use on publicly visible roofs.~~
- ~~H. Any materials which comprise less than ten percent (10%) of a publicly visible exterior building wall and are components of windows or trim systems are allowed (example: aluminum storefront, metal corner trim, etc.).~~
- ~~I. FRP, PVC, and other composites formed into architectural detail elements such as columns, cornices, etc., are approved for use as long as such material is intended to be a decorative enhancement for the façade.~~
- A. A minimum of twenty-five percent (25%) of each façade's exterior building material must be stone, wood, or brick. High-quality materials (concrete or composite) that simulate any of the preceding materials is acceptable.
- B. Acceptable Exterior Materials:
1. Brick, stone, or wood.
 2. Architectural concrete masonry blocks (split-face or ground-face).
 3. Architectural concrete (containing a pattern or finish).
 4. Stucco.
 5. Metal wall panels that visually replicate traditional materials and patterns such as board and batten siding or shake siding, and standing seam roofs (board and batten, standing seam, etc.).
 6. Wood grain vinyl siding. Vinyl siding shall be anchored to the exterior envelope sufficiently to avoid the appearance of deformation or bowing across the façade.

7. Synthetic or composite material that duplicates any item listed in (1, 3, 4, or 5 above).

OR

Synthetic or composite material that cannot be visually distinguished from real brick, stone, wood, metal, or stucco by a person who is knowledgeable as to such products, which persons may include, for example, the Administrator, architects, and building contractors.

8. FRP, PVC, and other composites formed into architectural detail elements such as columns, cornices, etc., so long as such material is intended to be a decorative enhancement for the façade.

C. Prohibited Materials:

1. Mirrorized glass.

2. Unfinished architectural concrete masonry block.

3. Unfinished architectural concrete.

4. Corrugated metal (wavy in appearance).

5. Vinyl siding that does not have a wood grain appearance.

6. Cultured stone and other synthetic materials except is specified herein.

D. Acceptable Roof Materials:

1. Standing seam metal

2. Asphalt shingles

3. Shakes

4. Tile

5. Any manufactured materials that visually replicate shingles, shakes, or other simulated natural material.

E. Acceptable Trim Materials: Any materials which comprise less than ten percent (10%) of a publicly visible exterior building wall and are components of windows or trim systems are allowed (example: aluminum storefront, metal corner trim, etc.).

F. All other materials not listed are subject to Staff review and approval. However, characteristics such as scale, proportions, form, detailing, color, texture, shall be reviewed to ensure that enough similarity exists for the material to be compatible with the acceptable materials listed in this Subsection.

Staff Note: This section has been reformatted to be easier to read and to make changes to references to synthetic materials and to provide guidance on materials not listed.

25.09.05 Colors: The intent of this Section is to prevent inordinately bright façades and primary color ranges. With the exception of pavement markings and signage, All new construction

elements, including publicly visible roofs, are subject to the color requirements herein, ~~except pavement markings and signage.~~

~~A. Acceptable colors for site walls and any other outside construction elements (excluding signage) include that equivalent to Sherwin-Williams series “Essential” and “Fundamentally Neutral” in the Town of Boone Color Reference Guide.~~

~~B. Acceptable field colors and trim colors are those equivalent to Sherwin-Williams series “Essential” and “Fundamentally Neutral” in the Town of Boone Color Reference Guide.~~

~~1. The “LRV” Light Reflection Value of field colors must be below 60.~~

~~2. Black is prohibited as a field color in the series “Essential”.~~

~~C. Acceptable accent colors are those equivalent to Sherwin-Williams series “Essential”, “Fundamentally Neutral”, and “Color Options” in the Town of Boone Color Reference Guide.~~

A. Color Application:

1. Field Color: A single color which is used most extensively in a building’s visible façade.

a. Acceptable colors are those equivalent to Sherwin Williams series “Essential” (with the exception of black) and “Fundamentally Neutral” provided that the “LRV” Light Reflection Value of field colors must be below 60.

2. Trim Color: A single color which is used on a building’s trim, lesser in proportion to the Field Color.

a. Acceptable colors are those equivalent to Sherwin Williams series “Essential” and “Fundamentally Neutral”.

3. Accent color: A single color which is used on a building, in the least proportion of all colors used, not to exceed 5% of the façade area.

a. Acceptable colors are those equivalent to Sherwin-Williams series “Essential”, “Fundamentally Neutral”, and “Color Options”.

4. Publicly Visible Roofs: Acceptable colors are those equivalent to Sherwin Williams series “Essential” and “Fundamentally Neutral”.

1.5. Retaining Walls and Site Elements (fences, light poles, etc.): Acceptable colors are those equivalent to Sherwin Williams series “Essential” and “Fundamentally Neutral”.

Staff Note: This section has been modified to add the definitions to the language for ease of understanding how color is regulated. Additionally, color regulations for roofs has been added. Staff would like to discuss lowering LRV to 50 for field colors, and whether or now we still want to not allow “black” as a field color.

25.09.06 Parking Structures

- A. The intent of this Section is to regulate aesthetic features on parking structures to prevent a utilitarian appearance, and to provide a safe, secure environment for patrons, employees and vehicles.

~~Publicly visible facades must comply with provisions of this Article pertaining to exterior walls, materials, and colors.~~

- B. All above-ground parking floors and decks shall be designed using a continuous façade incorporating window-like openings. The sill of any window-like opening must be a minimum of 42" above the finished floor.
- C. Elevator and stair shafts shall be topped with gabled roofs or other architectural features and be oriented so that lobbies are visible from the street at each level.

Article 34 Definitions

...

Accent Color

A single ~~paint~~ color which is used on a building, in the least proportion of all colors used, not to exceed 5% of the façade area.

Field Color

A single ~~paint~~ color which is used most extensively in a building's visible façade.

Finish

The visual characteristics including color, texture, and reflectivity of exterior materials.

Trim Color

A single ~~paint~~ color which is used on a building's trim, lesser in proportion to the Field Color.

**SPECIAL PLANNING COMMISSION
MEETING MINUTES
WEDNESDAY, JUNE 5, 2024, 5:00 PM
VIA WEBEX SOFTWARE**

PLANNING COMMISSION MEMBERS PRESENT: Adrian Tait-Chair, Frank Veno-Vice-Chair, Chris Behrend, Garrett Kight, and Smith Warren

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Brandon Wise-Deputy Director of Planning and Inspections, Mike James-Commercial Zoning Administrator, Jessica Mitchell-Advanced Planning Specialist, and Brenda Henson-Board Clerk

Call to Order

Chair Tait called the Planning Commission to order at 5:05 p.m. The meeting was held via WebEx.

CONTINUATION OF PLANNING COMMISSION MEETING

Approval of Meeting Minutes

Commission Member Warren made a motion to approve the April 3, 2024, April 5, 2024, and April 25, 2024, Planning Commission meeting minutes. Vice-Chair Veno seconded the motion.

Vote: Aye – 5
Nay – None

The motion passed.

Cases A24-0107, A24-0109, and A24-0110 Rivers Property – Local Historic Landmark

The Town of Boone has filed a Local Historic Landmark Application to designate the property at 150 Clay House Drive, (Watauga County PINs: 2900-78-3934-000, 2900-79-0308-000, 2900-69-9070-000) as a local historic landmark.

Ms. Jessica Mitchell, Advanced Planning Specialist, provided a recap of the request. She noted the discussion from the public hearing regarding the protection of the property. Ms. Mitchell stated that this designation would be covered by the standards in UDO Article 8, Appendix D Downtown Boone Local Historic District Standards, and the Secretary of the Interior's Standards for Rehabilitation.

Chair Tait stated that the Planning Commission appeared to agree to support the designation, and Comprehensive Plan policies supporting its approval were discussed.

First Motion and Vote: Vice-Chair Veno 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 2.1.1 Economic Development

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

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

Comprehensive Plan Policy 2.3.2 Community Character

Communication: June 5, 2024, Planning Commission Meeting Minutes (Approval of Meeting Minutes)

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.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.

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

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

The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Veno made a motion that the Planning Commission recommends approval of Ordinance A24-0107, A24-0109, and A24-0110 within Exhibit A and believes approval is reasonable and in the public interest because the designation is in accordance with the comprehensive plan and concurs with the work of the Historic Preservation Commission to identify and rehabilitate historic structures in our Town. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Case A23-0634 Horton Hotel – Local Historic Landmark

SPA Properties I, LLC, has filed a Local Historic Landmark Application to designate the property at 611 West King Street (Watauga County PIN: 2900-88-3953-000), commonly known as the Horton Hotel, as a local historic landmark.

Mr. Mike James, Commercial Zoning Administrator, provided a recap of the request. He noted that the Horton building only had a one-year period of significance, but it still met the requirements to qualify as a Local Historic Landmark.

Chair Tait stated that the building warranted the protection of the historic designation.

Vice-Chair Veno noted that he had some reservations based upon the roof-top bar addition but was trusting the State Historic Preservation Office and the Historic Preservation Commission on their recommendations.

First Motion and Vote: Vice-Chair Veno 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 1.1 Overall Objectives for the Boone Comprehensive Plan

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

Comprehensive Plan Policy 2.1.1 Economic Development

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

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

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.

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

Comprehensive Plan Policy 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 the 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.

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

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.

The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Veno made a motion that the Planning Commission recommends approval of Ordinance A23-0634 within Exhibit A and believes approval is reasonable and in the public interest because the designation is consistent with the comprehensive plan and acknowledges the work of the HPC and town staff to identify and preserve local historic landmarks. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Case A24-0269 Nolt – General Use Zoning Map Amendment

In conjunction with a request for voluntary annexation, the Town of Boone has initiated the zoning of property at 1585 and 1587 US Highway 421 North owned by Todd and Jessica Nolt. The zoning districts that are to be considered include R1 Single-Family Residential, R1S Small Home Residential, R1A Single-Family Residential with Accessory Dwelling, R2 Two-Family Residential, or R3 Multiple-Family Residential along with the Corridor District overlay.

Mr. James provided a recap of the request. He stated that there was some discussion at the Public Hearing regarding zoning the property either R2 or R3. Mr. James noted that any of the districts proposed would create non-conformities on the property due to use and district standards. He stated that the property contained two structures and there were currently seven tenants total.

Commission Member Behrend stated that she would support an R3 zoning based on the number of tenants in the houses.

Vice-Chair Veno stated that there seemed to be a consensus at the Public Hearing to zone the property R3.

Chair Tait noted that several properties in the nearby area contained multi-family uses.

Mr. James stated that the property had a failing septic system that was deemed an emergency. He added that Public Works had already connected the property to the Town sewer system.

First Motion and Vote: Commission Member Behrend made a motion that the proposed amendment to the Town's zoning map with R3 Multiple-Family and Corridor District Overlay 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.

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.

The motion was seconded by Vice-Chair Veno.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Behrend made a motion that the Planning Commission recommends approval of Ordinance A24-0269 within Exhibit A and believes approval is reasonable and in the public interest because the request was required in order to connect to Town sewer and it added property to the Town of Boone. The motion was seconded by Commission Member Warren.

Vote: Aye – 5
Nay – None

The motion passed.

Case A24-0273 Rich – General Use Zoning Map Amendment

In conjunction with a request for voluntary annexation, the Town of Boone has initiated the zoning of properties at 389 Eastview Dr. (Watauga County PINs: 2901-91-6572-000 & 2901-91-4666-000) owned by the Priscilla Rich Living Trust to R1-A Single-Family Residential with Accessory Dwelling along with the Viewshed Protection District overlay.

Mr. Brandon Wise, Deputy Director, provided a recap of the request.

Chair Tait stated that he was supportive of the R1A zoning designation because it added beds to the community by allowing an accessory dwelling unit.

Mr. Wise informed the Planning Commission that part of this annexation included an undeveloped lot. Chair Tait noted that the undeveloped lot was steep but could possibly be built on in the future.

First Motion and Vote: Chair Tait 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.

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.

The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Second Motion and Vote: Chair Tait made a motion that the Planning Commission recommends approval of Ordinance A24-0273 within Exhibit A and believes approval to zone the property R1A is reasonable and

in the public interest because the zoning fits within the neighborhood, extends the Town's boundaries, and provides for more housing. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None

The motion passed.

Case A24-0264 Mediation & Restorative Justice Center, 504 Green Street – Conditional District Zoning Map Amendment

Mediation & Restorative Justice Center has submitted a Conditional District Zoning Map Amendment to rezone property located at 504 Green Street (Watauga County PIN: 2901-51-2050-000) from R1A (Single-Family Residential with Accessory Unit) to OI (Office Institutional) with a site-specific plan to develop a Use 2.04 Residential Re-Entry Facility Category 2 (currently referred to in the UDO as Halfway House Category 2).

Mr. James provided a recap of the request. He noted that the option to choose R3 Multiple-Family was also available due to a text amendment change that was approved subsequent to the submission of the application. The use was now permissible, while before, it was only allowed in the OI Office Institutional zoning district.

Commission Member Behrend stated that she appreciated the presentation and thought the use was needed in the area. She offered a condition that the MRJC not open until they have a good on-site supervisor for the facility.

Chair Tait asked the applicant how they would feel about this condition. Ms. Marisa Cornell, representative of MRJC, indicated that they intended to have a senior resident on-site at both houses, but they would like to discuss the condition before they committed to it.

Vice-Chair Veno mentioned those from the public that felt they were not invited to the neighborhood meeting. He asked if those people were located outside of the radius of notification. Mr. James noted that some of the public hearing speakers were within 300' of the subject property and some were not. Mr. James stated that the applicant certified that they had sent letters to the property owners within 300', yet some of those property owners indicated they did not get notification. Chair Tait noted that it was disappointing that this neighborhood meeting was not as successful as the neighborhood meeting for the Sunset Drive request.

Commission Member Kight stated he did not feel comfortable zoning the property R3 when it was in the middle of an R1A neighborhood because it could lead to other R3 properties within the area. Ms. Shook wished to clarify that this request was not a general use rezoning but was a Conditional District request that was tied to a specific use and site plan, which would not set a legal precedent for other cases.

Commission Member Smith noted that he did not have an issue with the CDR3 zoning for this property or the Sunset Drive property.

Chair Tait noted that this was a tough case. He stated that if he looked at this from the standpoint of rezoning within an R1 neighborhood that had an additional protection on top of that neighborhood, he struggled to balance the desire for this particular project to go in this location with the need to rezone this particular property. Chair Tait added that he understood that this particular property was being considered for this use because the landowner felt strongly about supporting the effort of recovery. He stated that homeowners that lived in that neighborhood and people who purchased property in that neighborhood expect that they would be living in a neighborhood with similar single-family homes. Chair Tait noted that, generally speaking, the neighborhood in this area was pretty much against this rezoning.

for a variety of reasons, such as crime in the neighborhood and decreased property values. He suggested that the Planning Commission should try to address the neighborhood concerns with conditions.

Vice-Chair Veno stated that there was a perception of crime, but felt that it was just a perception because according to the presentation there would be safety measures in place. He added that he did not think property values would decrease, but he did not know. Vice-Chair Veno indicated that similar concerns were raised when the condo project went in. He noted that there seemed to be a “not in my neighborhood” type issue. Vice-Chair Veno stated that zoning was double-edged sword that was created for segregation. However, he did not want to approach this as a NIMBY issue because this use needed to go somewhere in Town.

Commission Member Smith indicated he was supportive of what Vice-Chair Veno said about zoning.

Chair Tait noted that Commission Member Behrend had brought up a potential condition of having a qualified Senior Resident in the house when it opened and suggested that this might address some concerns with potential crime.

Commission Member Behrend suggested a condition that they do not fill the house immediately but that it be done slowly to give the neighborhood time to adjust. Chair Tait noted that a maximum number of residents could be placed as a condition. Chair Behrend noted that one room was for the Senior Resident and the other rooms would have 2 in each for a total of 9 persons.

Discussion ensued as to a condition that would regulate occupancy and supervision. Chair Tait asked the applicants their thoughts on the conditions. Ms. Cornell noted that they would consider, but would need to discuss, a condition that occupancy would be limited to 4 residents and the senior resident for the first six months with full occupancy of 8 residents and the senior resident at the conclusion of the six months.

Vice-Chair Veno asked why it would be necessary to limit occupancy at the start. Ms. Cornell replied that it would be more for the allowance of any organizational adjustments and not necessarily for a residential adjustment. Ms. Bolick noted that it may help to ease into the neighborhood slowly while the organization is adjusting. Ms. Cornell noted that they wanted to start slowly and make good relationships. She added that her hesitancy to accept conditions was due to the limitations placed on the operations when they may need to make adjustments.

Chair Tait asked the applicants if they could address the concerns that were voiced about crime. Ms. Bolick noted that the people who participate in this program would be farther along in the program. They would have shared space agreements and have well-trained staff who look for issues. She added that they had never trespassed anyone from their properties or had a crime in the way people might be concerned about. Ms. Bolick stated that if there was crime in the home they would handle it the same way as the neighbors would deal with crime on their properties.

Ms. Cornell noted that there was a misconception that residents would be placed in the home due to a court order. Ms. Bolick noted that the use definition in the UDO painted a picture that was not actually how these facilities operated.

Commission Member Kight asked the applicant what they would consider a successful facility to be. Ms. Bolick replied that it would be a home that was integrated into the neighborhood where people felt safe and supported and had services in place to support them.

Chair Tait asked if similar organizations had similar goals. Ms. Bolick noted that they would be very similar. She stated that Wilkes was a good example, noting that there were other types of halfway house/recovery housing, such as Oxford Housing, which was purely resident-run with no oversight.

Commission Member Kight asked if there could be a condition that only MRJC could operate this facility or it would revert back to its original zoning. Ms. Shook replied that the approval ran with the property, not the property owner.

Vice-Chair Veno asked if there were any other upgrades to the property that were needed other than the sprinklers. Ms. Bolick noted that they had proposed landscaping for the Green Street home with bushes on the left-hand side where possible and on the opposite side near the chain link fence. She added that the Sunset Drive property was similar and they planned to install a privacy buffer where possible. Vice-Chair Veno stated that the buffers would be more pleasing to the neighbors. Mr. James confirmed that the applicant's commitment to the additional landscaping material would be captured in the standard three conditions included in the approval.

First Motion and Vote: Commission Member Warren 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 1.1 Overall Objectives for the Boone Comprehensive Plan

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 Policy 2.1.1 Economic Development

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

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

Comprehensive Plan Policy 2.3.2 Community Character

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

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

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

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.

The following conditions of approval shall apply:

1. Where there is a conflict between the application information and the plans (dated received on April 16, 2024), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed development made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit and a basis for a stop work order and/or permit revocation if violated.

3. The applicant shall submit the necessary applications, plans, details, and specifications which meet the requirements of the Town Code, UDO, Building Code, and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.
4. A Senior Resident shall be in place within six months of the beginning of operation.
5. There shall be a maximum of 9 residents, including the Senior Resident.

The motion was seconded by Commission Member Behrend.

Ms. Cornell agreed to the conditions.

Vote: Aye – 4 (Behrend, Tait, Veno, Warren)
Nay – 1 (Kight)

The motion passed.

Second Motion and Vote: Commission Member Warren made a motion that the Planning Commission recommends approval of Ordinance A24-0264 within Exhibit A and believes approval is reasonable and in the public interest because this new use will provide a much-needed and overdue resource for people in recovery in Watauga County and provide more housing. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4 (Behrend, Tait, Veno, Warren)
Nay – 1 (Kight)

The motion passed.

Case A24-0265 Mediation & Restorative Justice Center, 209 Sunset Drive – Conditional District Zoning Map Amendment

Mediation & Restorative Justice Center has submitted a Conditional District Zoning Map Amendment to rezone property located at 209 Sunset Drive (Watauga County PIN: 2910-34-1380) from R1 (Single-Family Residential) to OI (Office Institutional) with a site-specific plan to develop Use 2.03 Residential Re-Entry Category 1 (currently referred to in the UDO as Halfway House Category 1).

Mr. James provided a recap of the request.

Chair Tait suggested the same or similar conditions that were placed on the 504 Green Street approval (a maximum of 6 occupants and having the senior resident in place within 6 months). He noted that the neighbors who spoke at the public hearing seemed to have fewer objections to this proposal, and he felt it could have been in part because of the neighborhood meeting, which seemed to assuage some of the neighbors' concerns.

Vice-Chair Veno stated that objections were mostly caused by fear of the unknown. He noted that the project would increase housing stock slightly. Vice-Chair Veno added that the conditional district zoning would eliminate any commercial zoning creep into the neighborhoods.

Vice-Chair Veno mentioned concerns raised at the public hearing regarding parking and the driveway. Applicants Marisa Cornell and Mollie Bolick stated that they intended to maintain the driveway and leave the property better than they found it. There was discussion about the need for water runoff control.

As the Commission discussed possible conditions, Mr. James noted that the Category 1 use capped the occupancy of the dwelling at six, so there was technically no need to place a condition limiting the occupancy to six.

First Motion and Vote: Commission Member Warren made a motion that the proposed amendment to the Town's zoning map as Conditional District R3 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 1.1 Overall Objectives for the Boone Comprehensive Plan

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 Policy 2.1.1 Economic Development

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

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

Comprehensive Plan Policy 2.3.2 Community Character

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

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

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

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.

The following conditions of approval shall apply:

1. Where there is a conflict between the application information and the plans (dated received on April 16, 2024), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed development made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details, and specifications which meet the requirements of the Town Code, UDO, Building Code, and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.
4. A Senior Resident shall be in place within six months of the beginning of operation.

The motion was seconded by Commission Member Behrend.

Vote: Aye – 4 (Behrend, Tait, Veno, Warren)
Nay – 1 (Kight)

The motion passed.

Second Motion and Vote: Commission Member Warren made a motion that the Planning Commission recommends approval of Ordinance A24-0265 within Exhibit A and believes approval is reasonable and in

the public interest because it provides much-needed housing for people in recovery and provides general housing for the Boone community and people in need. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4 (Behrend, Tait, Veno, Warren)
Nay – 1 (Kight)

The motion passed.

Other Matters

Ms. Shook stated that the regular Planning Commission meeting scheduled for June 24, 2024, had been canceled.

Adjournment of Planning Commission

Chair Tait adjourned the meeting at 7:00 p.m.

Adrian Tait, Planning Commission Chair

Brenda Henson, Board Clerk