

**Town of Boone
Public Hearing
6:00 PM, Sep. 28, 2020
WebEx, WebEx**

**This meeting will be held remotely using video conferencing software (WebEx).
For information on how to watch, listen, and/or participate in the
meeting, please see the WebEx Video Conferencing Information section at the end of this agenda.**

- I. Call to Order of Town Council**
- II. Call to Order of Planning Commission**
- III. Approval of Public Hearing Minutes by Town Council & Planning Commission**
 - August 24, 2020 Public Hearing Minutes
- IV. PUBLIC HEARING**

General Guidelines for Each Case Presented at Public Hearing

- i. Presentation of Case**
- ii. Questions by Town Council & Planning Commission**
- iii. Public Comment**
- iv. Discussion/Questions by Town Council & Planning Commission**
- v. Public Hearing for Case is Closed**
- A. Case PL03547-020420 Kensington Gate - Conditional District Zoning Map Amendment**

Case PL03547-02420 Application Information

Case PL03547-020420 Project Narrative

Case PL03547-020420 Site Plans

Case PL03547-020420 Building Elevations

Case PL03547-020420 Lighting Plan

Caes PL03547-020420 Staff Report

Case PL03547-020420 Exhibit 1 Meeting Minutes Excerpts

***B. Case PL04195-090820 Administrative Mechanisms Modifications - UDO Text
Amendement***

Case PL04195-090820 Application Information

Case PL04195-090820 Staff Report

V. Adjournment of Town Council

VI. PLANNING COMMISSION

VII. Approval of Planning Commission Meeting Minutes

VIII. Planning Commission Consideration of Cases Heard at Public Hearing

IX. Other Matters

X. Adjournment of Planning Commission

WebEx Video Conferencing Information

This meeting will be held remotely using video conferencing software (WebEx).

The following provides information on how to watch or participate in the meeting:

Watch the Meeting: Anyone can view the Council meeting live at:
<https://townofboone.viebit.com/?folder=ALL>

Participate in Meeting: Individuals who wish to speak during public comment can do so through WebEx either online or by phone. To do so, email Jane Shook, Director of Planning & Inspections at jane.shook@townofboone.net or call 828-268-6960 and you will be provided with an invite to the meeting. All registrations by phone must be completed by 5:00 p.m. on the day of the meeting. Participants should complete the registration form provided in the meeting invite to be included in public participation and view further instructions. Individuals who require user assistance registering or joining the WebEx event on the night of the meeting can call 828-268-6960 for support. Written comments will be accepted until 24 hours after the hearing and may be emailed to jane.shook@townofboone.net or delivered to the secure drop-off box located to the side of Boone Town Hall at 567 W. King Street.

Note: To preserve bandwidth and ensure an orderly meeting, only individuals who wish to speak should use the WebEx link. Anyone who wants to watch the meeting, but not speak, should view the livestream at the link above.

**PUBLIC HEARING MINUTES
MONDAY, AUGUST 24, 2020, 6:00 P.M.
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Rennie Brantz-Mayor, Loretta Clawson-Mayor Pro Tem, Connie Ulmer, Dustin Hicks, and Nancy LaPlaca

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

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Brian Johnson-Urban Design Specialist, and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: John Ward-Town Manager, Rick Miller-Director of Public Works, and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Nick Katers, Matt Dull, Randy Jones, Brandy & Austin Combs, and Nancy Lewis

Call to Order

Mayor Brantz called the Town Council to order at 6:02 p.m.

Chair Shay called the Planning Commission to order at 6:02 p.m.

Approval of Meeting Minutes

Council Member LaPlaca made a motion to approve the July 27, 2020 Public Hearing minutes as written. Council Member Hicks seconded the motion and requested a change to the 4th paragraph on page 2 of the minutes to add the word home after the word mobile so that the first sentence would read *Council Member Ulmer asked if there was a mobile home on the 170 Clawson Street property.*

Vote: Aye – All
Nay – None

The motion passed.

Vice Chair Plaag made a motion to approve the July 27, 2020 Public Hearing minutes as amended by Town Council. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

General Guidelines for Each Case Presented at Public Hearing

Ms. Shook read the guidelines that are to be followed during public hearing cases.

Case PL04085-072720 – UDO Text Amendment

In July 2020, Appalachian State University approached Council to request the creation of a new educational zoning district that would be limited to (and allow by right) child daycares. Appalachian State University presented the request as a solution to a concern regarding the June 2020 request to rezone/zone a parcel on Poplar Grove Road to E1 Educational District.

Discussion at the June 2020 Public Hearing/Planning Commission meeting and the July 2020 Council meeting included a concern that the E1 (and the other educational zoning districts) were broad in description and permitted a wide range of college and university uses.

Council agreed to consider the creation of a new district as requested and directed Staff to draft language to create a new E4 Educational Zoning District. The draft language creates a new E4 Educational Child Daycare District which is limited to college- and university- operated child daycare centers and also cleans up language in the educational zoning districts for when a property zoned as an educational district is sold to a third party that is not a college or university or educational institution.

Ms. Shook presented the request as it was outlined in the meeting packet and noted that she had presented the text to Council last week, and that Council had requested that the building height be reduced from 3 stories to 2 stories.

Ms. Meade noted the word “subsequent” should be removed from the proposed text in E1, E2, E3, and the new E4.

Vice Chair Plaag noted that the new E4 section was numbered as 14.03.05 but should be 14.03.06. He felt that the language in E4 should be similar to the language in E1 and E2 and state that the owner must be a college or university instead of stating the owner must be a public or private education institution. Vice Chair Plaag asked why there was no transitional zone requirement for the proposed E4 zoning district. Ms. Shook replied that ASU requested a by right zoning district because the district would only allow for child daycares. Vice Chair Plaag stated he would prefer the requirement of a 200’ transitional zone for E4.

Mayor Brantz felt a 200’ transitional zone requirement in E4 would be good.

Council Member Furguele agreed with requiring a transitional zone. He felt that the regulations contained in Section 15.26 Child Daycare should apply to E4. He also noted that on packet page 16 the heading stated this was An Ordinance To Revise The Town Of Boone Unified Development Ordinance (UDO) Relating To Temporary Classrooms and felt this might be a typographical error. Ms. Shook agreed with regarding the error.

Chair Shay and Commission Member Veno were still uncertain why no transitional zone was proposed. Ms. Shook replied that was the direction she was given by Town Council based on the allowance of only one use in the zoning district.

Mayor Pro Tem Clawson agreed that transitional zone requirements should be applied to the E4 district.

Council Member Hicks asked for an explanation of transitional zones. Ms. Shook explained that within the Table of Principal Uses, Table of Accessory Uses and the Table of Temporary Uses that each use where allowed had been evaluated to see if transitional zones should apply. A transitional zones, if required in the Tables, are triggered if the proposed development is within a specified distance to a protected low density residential zoning district. The specified distance is listed next to the “T” in the respective Table. Ms. Shook noted that if triggered then the development would be required to obtain a special use permit and demonstrate that the development had mitigated predictable negative impacts on the protected districts in compliance with UDO Section 6.02.02. Council Member Furguele asked Ms. Shook if transitional zones could also be reviewed during a conditional district petition. Ms. Shook agreed.

Council Member Ulmer asked if the E4 was for temporary uses and Ms. Shook replied that it was not.

Ms. Meade suggested the addition of a new use in the Use Table of 9.08 College or university operated child daycare with a T200 populated in the E4 district.

At 6:27 p.m. Mayor Brantz invited public comment.

Matt Dull with ASU stated the University requested E4 by right because childcare is a lower density use that would be restricted to two stories.

Brady and Austin Combs, neighbors to the south of the subject properties, were present on the meeting. Ms. Combs asked what a transitional zone would mean to their property. Ms. Shook replied that a transitional zone would trigger the need for a Special Use Permit from the Board of Adjustment and would provide extra mitigation measures to protect properties in the protected district that were located within 200' of the subject property. She stated that the Combs property was not located within the protected district so their property would not trigger transitional zone requirements but the neighborhood across the street would.

Ms. Combs stated she loved having the ASU daycare as neighbors and would like to see it grow. Mr. Combs added that their property was zoned Conditional District R3 but they intended to continue living there in the future.

Council Member Furgiuele asked why privately run daycares had no transitional zone requirements. Ms. Shook stated she did not recall the discussion regarding daycares in regards to transitional zones. Council Member Furgiuele felt it was not fair to place transitional zone requirements on ASU when private daycares did not have that requirement. He suggested not having transitional zone requirements in E4 but instead apply the requirements of Section 15.26. Council Member Furgiuele stated they could, in the future, explore things such as hours of operation, parking, and traffic. He stated he could support moving forward with this text amendment but felt the language should be enhanced before other applications were received.

Vice Chair Plaag agreed with applying Section 15.26 requirements to E4 and stated he would then be okay with no transitional zone. Vice Chair Plaag expressed concern with traffic backing up into the roadway and asked if there could be some language requiring that traffic not impede the roadway.

Ms. Meade asked Ms. Shook if there was other language in the UDO that was enforceable by the administrator regarding the stacking up of traffic. Ms. Shook noted that there was language for vehicle stacking at drive-through and self-storage but not for a pick-up drop-off scenario. Vice Chair Plaag noted that Section 15.55 spoke about traffic stacking. Ms. Shook stated that section applied to drive-through lanes on site.

Randy Jones, project manager and architect for ASU, stated he had spoken with DOT regarding traffic from the property. Ms. Shook noted this request was for a text amendment only and it would not be appropriate to discuss site specific details at this time.

Ms. Shook offered the following addition to the text: Applicant shall show plan regarding stacking and traffic backup on-site, based upon enrollment.

Council Member Furgiuele felt that was a solution and added that such wording should also be placed in Section 15.26 so it would apply to all daycares.

Vice Chair Plaag stated that addressed his concern.

Ms. Shook stated she could add Section 15.26 language and stacking language to this text amendment request but questioned whether general changes to Section 15.26 could be made under the E4 text amendment. Ms. Meade agreed that any changes generally applicable to all uses governed by Section 15.26 rather than only this particular use under consideration would need to come back to public hearing for a separate text amendment.

Ms. Shook reviewed the requested changes as follows:

- Remove the word "subsequent" from the proposed language in Section 14.03
- Change Section 14.03.05 E4 to Section 14.03.06 E4

- Language in Section 14.03.06 should mirror language in Sections 14.03.03 and 14.03.04, not language in Section 14.03.05
- Create Use 9.08 College or university operated child daycare center and populate the table with a “L” in the E4 with a reference to Section 15.26
- Height limit of two stories
- Add stacking language such as; The applicant, for Use 9.08, shall initially and continually provide sufficient stacking within the site to accommodate the drop-off and pick-up needs based on enrollment of the child daycare center.

Chair Shay asked why the proposed three stories was being reduced to two stories. Ms. Shook replied that Town Council was more comfortable with two stories for a daycare than three stories, given the daycare would be allowed by right.

Council Member Furguele stated he thought the ongoing responsibility for traffic issues was a good idea. With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:02 p.m.

Case PL04083-072420 and Case PL04084-072720 ASU Endowment Fund – General Use Zoning Map Amendments

Case PL03541-013120 Information: The Board of Trustees of the Endowment Fund of Appalachian State University has requested a General Use Zoning Map Amendment for 1.61 acres of property located at or near 538 Poplar Grove Road (Watauga County PINs: 2900-58-7299-000 and 2900-58-6723-000) to rezone portions of the properties from R1 Single-Family Residential to E4 Educational District.

Case PL03608-022820 Information: The Town of Boone has initiated the zoning of approximately 2.27 acres of property located off of 538 Poplar Grove Road (portions of Watauga County PINs: 2900-58-7299-000 and 2900-58-6723-000) owned by The Board of Trustees of the Endowment Fund of Appalachian State University to E4 Educational Zoning District in conjunction with the property owner's request for annexation of the property.

Ms. Shook noted this was the same request that was made previously with the exception of the requested E4 zoning classification.

Council Member Furguele asked who was notified of the case. Ms. Shook stated that property owners within 150’ of the subject properties were notified. Council Member Furguele asked if those living outside the Town’s jurisdiction but still within 150’ of the properties were notified and Ms. Shook replied that they were.

At 8:30 p.m. Mayor Brantz invited public comment.

Ms. Shook noted she did have someone interested in commenting but stated they may submit their written comments after the meeting.

Vice Chair Plaag thanked Ms. Shook and Ms. Meade for their efforts to find a solution to the issues related to this request.

Commission Member Veno wanted to make sure the request was the same except for the change to E4 and any changes to be made as a result of this hearing. Ms. Shook replied that was correct.

Council Member Clawson stated it was wonderful that staff handled this so quickly noting that childcare was so needed.

Council Member LaPlaca added her thanks as well.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:11 p.m.

Adjournment of Town Council

Council Member Furgiuele made a motion for Town Council to adjourn at 7:12 p.m. The motion was seconded by Council Member LaPlaca.

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

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Chair Shay called a break in the Planning Commission meeting from 7:12 p.m. until 7:20 p.m.

Board Training

Ms. Meade noted that the gift policy had been revised and may need some additional work. She asked Commission members to review the document emailed to them by Ms. Shook and be prepared to discuss the policy at their September meeting. Ms. Meade stated they would need to have a procedural training session and then another training session related to zoning amendments. Planning Commission members agreed to review the gift policy prior to the September meeting.

Approval of Meeting Minutes

Vice Chair Plaag noted a correction to the July 27, 2020 Planning Commission meeting minutes on page 12 in the 4th paragraph to remove the apostrophe from the word “greenway’s”.

Vice Chair Plaag made a motion to approve the July 27, 2020 meeting minutes as amended. The motion was seconded by Commission Member Tippet.

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

Case PL04085-072720 – UDO Text Amendment

In July 2020, Appalachian State University approached Council to request the creation of a new educational zoning district that would be limited to (and allow by right) child daycares. Appalachian State University presented the request as a solution to a concern regarding the June 2020 request to rezone/zone a parcel on Poplar Grove Road to E1 Educational District.

Discussion at the June 2020 Public Hearing/Planning Commission meeting and the July 2020 Council meeting included a concern that the E1 (and the other educational zoning districts) were broad in description and permitted a wide range of college and university uses.

Council agreed to consider the creation of a new district as requested and directed Staff to draft language to create a new E4 Educational Zoning District. The draft language creates a new E4 Educational Child

Daycare District which is limited to college- and university- operated child daycare centers and also cleans up language in the educational zoning districts for when a property zoned as an educational district is sold to a third party that is not a college or university or educational institution.

Ms. Shook reviewed the changes suggested to the text during the public hearing as follows:

- Remove the word “subsequent” from the proposed language in Section 14.03
- Change Section 14.03.05 E4 to Section 14.03.06 E4
- Language in Section 14.03.06 should mirror language in Sections 14.03.03 and 14.03.04, not language in Section 14.03.05
- Create Use 9.08 College or university operated child daycare center and populate E4 with a reference to Section 15.26
- Height limit of two stories
- Add stacking language such as; The applicant, for Use 9.08 college- or university-operated child daycare center, shall initially and continually provide sufficient stacking within the site to accommodate the drop-off and pick-up needs based on enrollment of the child daycare center.

Chair Shay stated she was still confused as to why Town Council wanted two stories instead of three. She felt three stories could allow for office space, training areas, or other useful areas. Ms. Shook explained that Town Council may have been concerned about the impacts of three stories in a by right zoning district. She noted that a three story single-family home had different impacts than a three story daycare. She also noted that ASU did agree to the two story limit.

Vice Chair Plaag expressed concern that three stories would be too high.

Chair Shay stated that including regulations from Section 15.26 in the E4 allayed her concerns. She noted that she also accepted the Council and Vice Chair Plaag’s concerns about height.

Commission Member Veno agreed with the height concern. He stated he was struggling with the term “by right” and asked for an explanation of what that meant. Ms. Shook explained that by right meant projects could be developed without the need for conditional district or special use permit approval.

First Motion and Vote: Vice Chair Plaag made a motion that the proposed amendment, with the changes discussed, to the Town’s zoning ordinance is consistent with the Town’s comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

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

Comprehensive Plan Policy 2.3.2 Community Character

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

The motion was seconded by Commission Member Zebzda.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Plaag made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning ordinance, with the changes discussed, and believes approval is reasonable and in the public interest because the new zoning district addresses a specific need in the community while simultaneously providing restrictions and limitations that allow for the protection of low density neighborhoods that might be impacted by the zoning designation. The motion was seconded by Commission Member Behrend.

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

Case PL04083-072420 and Case PL04084-072720 ASU Endowment Fund – General Use Zoning Map Amendments

Case PL03541-013120 Information: The Board of Trustees of the Endowment Fund of Appalachian State University has requested a General Use Zoning Map Amendment for 1.61 acres of property located at or near 538 Poplar Grove Road (Watauga County PINs: 2900-58-7299-000 and 2900-58-6723-000) to rezone portions of the properties from R1 Single-Family Residential to E4 Educational District.

Case PL03608-022820 Information: The Town of Boone has initiated the zoning of approximately 2.27 acres of property located off of 538 Poplar Grove Road (portions of Watauga County PINs: 2900-58-7299-000 and 2900-58-6723-000) owned by The Board of Trustees of the Endowment Fund of Appalachian State University to E4 Educational Zoning District in conjunction with the property owner's request for annexation of the property.

Vice Chair Plaag wanted to verify that Planning Commission was combining both map amendment requests into one for consideration and voting. Ms. Shook stated that was correct.

First Motion and Vote: Commission Member Veno made a motion that the proposed amendments to the Town's zoning map are consistent with the Town's Comprehensive Plan and any other adopted plan(s) of the Town that is applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

- A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- D.1 Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.

Comprehensive Plan Policy 2.3 The Community

- D. Coordinated inter-governmental and university-town planning for urban area land use and development, transportation, utilities, recycling, environmental management, law enforcement, education, recreation, tourism and economic development shall be encouraged.

The motion was seconded by Commission Member Tippet.

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

Second Motion and Vote: Chair Shay made a motion that the Planning Commission recommends approval of the proposed amendments to the Town's Zoning map and believes approval is reasonable and in the public interest because it offers a solution to the regions unmet childcare needs while also protecting residential neighborhoods. The motion was seconded by Commission Member Behrend. Vice Chair Plaag felt Chair Shay's rationale for approval was not appropriate for a general use rezoning. Chair Shay withdrew her motion.

Chair Shay made a motion that the Planning Commission recommends approval of the proposed amendments to the Town's Zoning map and believes approval is reasonable and in the public interest because it provides flexibility to meet community needs while also protecting residential neighborhoods. The motion was seconded by Commission Member Behrend.

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

Other Matters

Ms. Shook noted that the Town has hired a new senior planner, Michael James, who will be starting next week. Chair Shay asked if there was a 7th Planning Commission member yet and Ms. Shook replied that there was not. Chair Shay asked if Planning Commission would be meeting virtually for the foreseeable future. Ms. Shook replied that they would.

Adjournment of Planning Commission

Vice Chair Plaag made a motion to adjourn the meeting at 8:18 p.m. The motion was seconded by Commission Member Tippet.

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

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary

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 info 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 variance requires a separate application and fee.
- 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: 4-14-2020

C. Property Information (Project Location)

Street Address:

GATEWAY DRIVE

Watauga County Parcel Identification Number(s):

2910-63-0767-000, 1, 2, 3, 4, 5, 6, 7, 8

D. Property Owner Information

Name:

WFG DEVELOPMENT, LLC

Complete Mailing Address (Street, City, Zip):

216 RANKIN RD BLOWING ROCK NC 28605

Phone Number:

828-719-5773

Email Address:

GRASINGERJL@GMAIL.COM

E. Applicant Information

Name:

JOHN GRASINGER

Company:

WFG DEVELOPMENT LLC

Complete Mailing Address (Street, City, Zip):

216 RANKIN RD, BLOWING ROCK NC 28605

Phone Number:

828-719-5773

Email Address:

GRASINGERJL@GMAIL.COM

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

F. Detailed Description of Project

KENSING GATE CONDOMINIUMS

55 + OLDER HOUSING

GATEWAY DRIVE, BOONE NC 28607

G. Project Cost

Project Cost:

\$ 6.2 MILLION

H. Development Information

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

If yes, please describe: OFFICE/INSTITUTIONAL ZONED Special Use Permit

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:

OFFICE INSTITUTIONAL

Proposed Zoning District(s):

ADULT LIVING COMMUNITY

Existing Land Use(s):

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

J. Environmental Information

Total Land Area : 2.684 ☐ Sq. Feet or ☒ Acres

Disturbed Area: 0 ☐ 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? 0 ☐ sq. feet ☐ acres

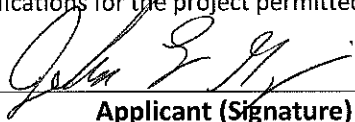
What is the proposed impervious area in the development? 0 ☐ sq. feet ☐ acres

K. Design Professional Information.Designer is an: ☒ Architect ☐ Engineer ☐ Owner ☐ Other: _____Name: BILL DIXON Company: APPALACHIA ARCHITECTUREComplete Mailing Address (Street, City, Zip):
703 W. KING ST, BOONE NC 28607Phone Number: 828-263-2405 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.***L. Brownfields Agreement Notification**

- 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.)
- Anticipated date for the first year of partial exclusion of property taxes: _____

M. 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.

JOHN L. GRASINGER  2-3-20
Applicant (Print) Applicant (Signature) Date

WFTG DEVELOPMENT, LLC WFTG DEVELOPMENT BY  2-3-20
Property Owner (Print) Property Owner (Signature) Date

Official Use Only

Permit Name: <u>Kensington Gate - Conditional District Zoning Map Amendment</u>				
Permit Number: <u>PL03547-020420</u>				
Date: <u>2-4-2020</u>	Fee: <u>\$765⁰⁰</u>	Receipt Number: <u>474240</u>	Method of Payment: ☐ Cash ☒ Check Number: <u>1147</u>	Paid By: <u>W F & G Development,</u>

Official Use Only - Hearing/Decision Information

Public Hearing Meeting Date: 4-27-20

PC Meeting Date: 4-27-20

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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Project Narrative

Kensington Gate Development

August 20th, 2020

Initial plans for Kensington Gate were developed in late 2003. The developer, John Grasinger, had a vision of redeveloping the property on Dale Street as a condominium development for active seniors. The development emphasized preservation of historic hard wood trees, mature evergreen buffers and a stream buffer along an unnamed tributary to the South Fork of the New River. In 2008, the property was zoned - Office and Institutional (O&I) Zoning District. At the time of its development, the existing four-story buildings met all requirements in the O&I Zoning District.

Ultimately, the development was approved under a Special Use Permit. The Special Use Permit allowed for a phased development of 3 condominium buildings with 8 units each. All site work was completed and Buildings 1 and 2 were constructed and occupied. The slab, parking area and all underground utility connections (including plumbing) were completed for Building 3. (See attached photo)

Per the approved Phasing Plan, Building 3 was scheduled for completion in the Fall of 2008. However, the Great Recession fell upon the Country. New residential construction all but ceased in the High Country. The vertical construction of Building 3 was postponed until the economy recovered. In the ensuing twelve years, the Special Use permit expired.

Since 2008 the Town of Boone's Unified Development Ordinance (UDO) has incurred many revisions. Specific to Kensington Gate development, multi-family housing was eliminated as a permitted use in the O&I Zoning District (including Adult Living Communities). As such, the third building at Kensington Gate could not be permitted within the permissible uses allowed in the UDO at that time.

Seeing a need for adult living communities and wanting to complete his vision, Mr. Grasinger sought a way to complete Building 3 at Kensington Gate. In the past two years, Mr. Grasinger worked with the Town of Boone's Planning Staff to create a new Zoning District for active seniors. It was ultimately adopted by the Town Council and designated as the R-5 Zoning District.

Mr. Grasinger is now requesting Conditional District R-5 Zoning for the Kensington Gate development which will allow him to complete the vertical construction of Building 3 on the existing concrete floor slab which was installed under the original permitting of the project.

The development team including John Grasinger, Appalachian Architecture and Municipal Engineering, respectfully request that the Town Council consider this request for Conditional District R-5 Zoning for the Kensington Gate Development.

Tier System - Non-conforming Situations

UDO Section 7.05.C. Items 1-4

August 20th, 2020

Calculations:

Construction costs to complete vertical construction on Building 3 = \$1,600,000

\$1,600,000. / \$4,321,000. tax value = 37%

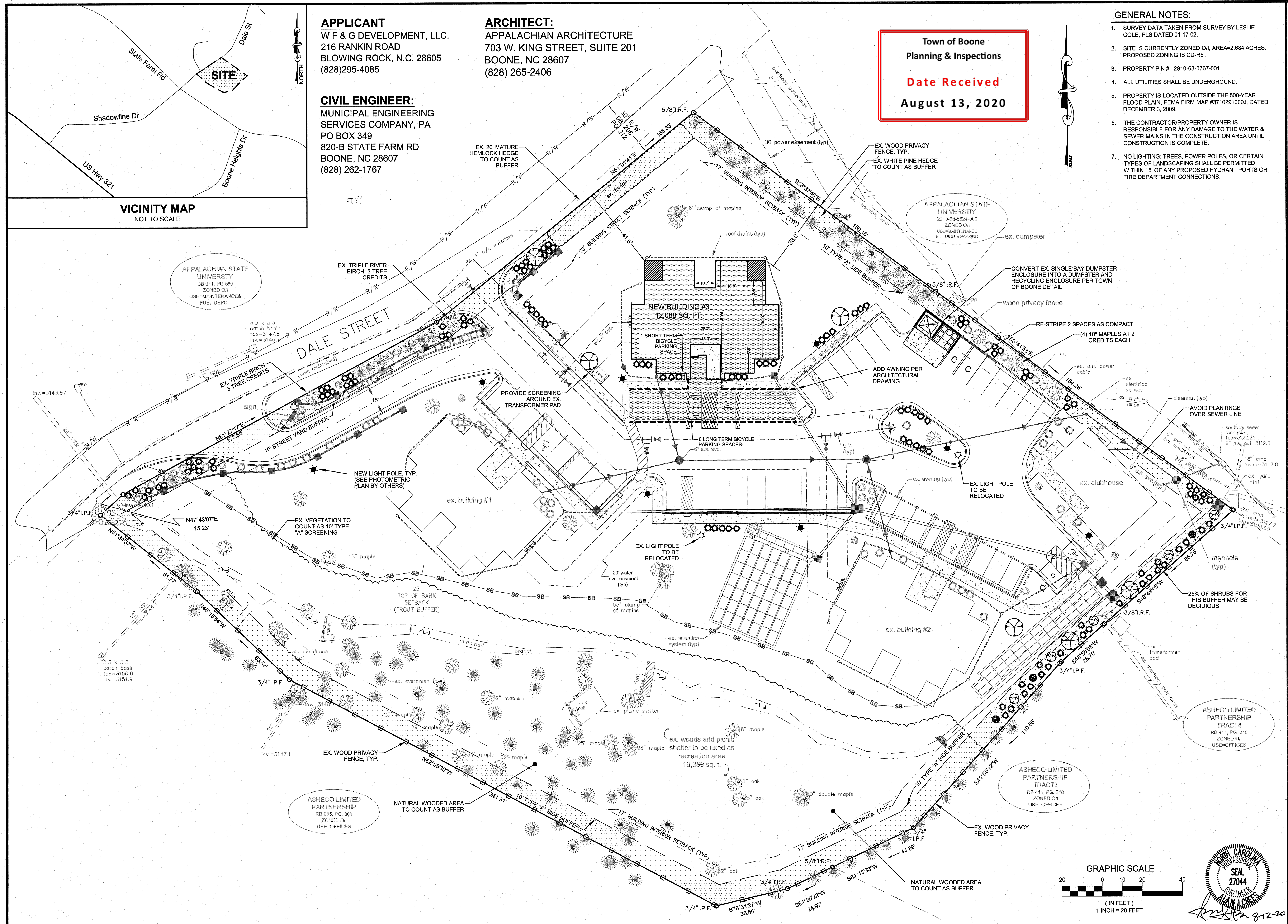
The ratio for the cost of new construction as compared to the existing development value falls between 25% and 50%. This means that the entire development will have to meet the current UDO requirements for Tiers 1 & 2 compliance “to the extent practicable”

As such, the conditional rezoning request to complete the Kensington gate project will meet the following current UDO standards:

1. Bicycle Parking
2. Site Lighting
3. Trash and Recycling Containers
4. Signs
5. Exterior Building Colors
6. Landscaping



Packet Pg. 17



	COMMON NAME	SCIENTIFIC NAME	QTY.	CALIPER	HEIGHT
TREES - EVERGREEN					
	EXISTING EVERGREEN TREE		SEE PLAN		
	PROPOSED EVERGREEN TREE		5		8'
TREES - DECIDUOUS					
	EXISTING LARGE DECIDUOUS		SEE PLAN		
	EXISTING SMALL DECIDUOUS		SEE PLAN		
	PROPOSED LARGE DECIDUOUS		6	2.5"	12' - 14'
	PROPOSED SMALL DECIDUOUS		3	1"	8'
SHRUBS					
	EXISTING EVERGREEN SHRUB		SEE PLAN		
	EXISTING DECIDUOUS SHRUB		SEE PLAN		
	PROPOSED EVERGREEN SHRUB		* 120		18"
	PROPOSED DECIDUOUS SHURB		*		18"

1. EXACT SPECIES OF PROPOSED PLANTINGS TO BE SUBMITTED TO TOWN OF BOONE'S URBAN DESIGN SPECIALIST FOR APPROVAL.
2. FLEXIBILITY ALLOWED UNDER TOWN OF BOONE'S UDO SECTION 31.11. ANY REVISIONS OR MODIFICATIONS TO THE LANDSCAPE PLAN TO BE COORDINATED AND APPROVED BY THE TOWN OF BOONE'S URBAN DESIGN SPECIALIST.

VEHICLE PARKING AREA
(23,572 S.F.)

EXISTING EVERGREEN SHRUBS = 36
EXISTING DECIDUOUS SHRUBS = 14 (15%)
NEW EVERGREEN SHRUBS = 44

EX. TREE CREDITS =	6
NEW DECIDUOUS TREE =	1
EX. EVERGREEN SHRUBS & SMALL TREES =	24
NEW EVERGREEN SHRUBS =	39

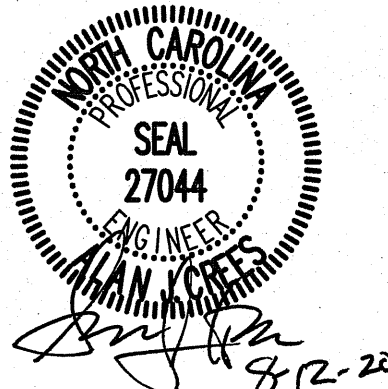
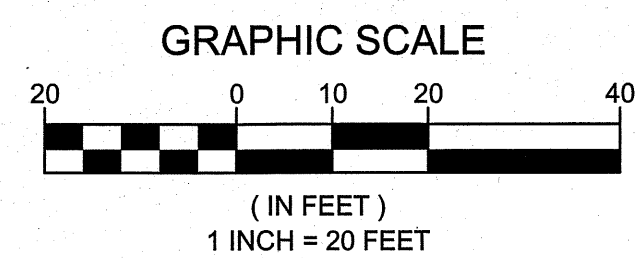
EX. TREE CREDITS=	10
EX. EVERGREEN SHRUBS =	6
NEW SHRUBS (75% EVERGREEN) =	19

NEW EVERGREEN TREES =	5
NEW LARGE DECIDUOUS TREES =	2
NEW SMALL DECIDUOUS TREES =	3
NEW SHRUBS (75% EVERGREEN)=	24

THE ENTIRE LENGTH OF THE SIDE YARD BUFFER IS COMPRISED OF A NATURAL AREA WITH MATURE TREES AND OTHER VEGETATION AND A STREAM BUFFER. THEREFORE NO ADDITIONAL PLANTINGS ARE NECESSARY.

THE EXISTING LANDSCAPING SHALL BE SUPPLEMENTED TO ENSURE THAT IT MEETS THE CURRENT UDO REQUIREMENTS TO THE EXTENT PRACTICABLE. FLEXIBILITY IS ALLOWED.

	<u>PROVIDED:</u>		<u>ALLOWED:</u>
LOT AREA	= 116,915 SF	> MIN	= 10,000 SF
LOT WIDTH	= 343 LF	> MIN	= 70 FT
TOTAL LIVABILITY SPACE	= 84,428 SF (70.5%)	> MIN	= 31,567 SF (27%)
BUILDING HEIGHT	= 53.5'	< MAX	= 56' (4 STORIES)



**CONDOMINIUMS FOR
ACTIVE SENIORS
W F & G DEVELOPMENT, LLC
BOONE, NORTH CAROLINA**

	BY	REV.	DESCRIPTION

SCALE: AS SHOWN	
DATE: 8-12-20	
DRAWN BY: SGJ	
CHKD. BY: AJC	
PROJECT NUMBER	
B20030	
DRAWING NO.	SHEET NO.
C-2	2 OF 2



FEATURES PER TOWN REQUIREMENTS:

FEATURE SCHEDULE - PLANS/ELEVATIONS

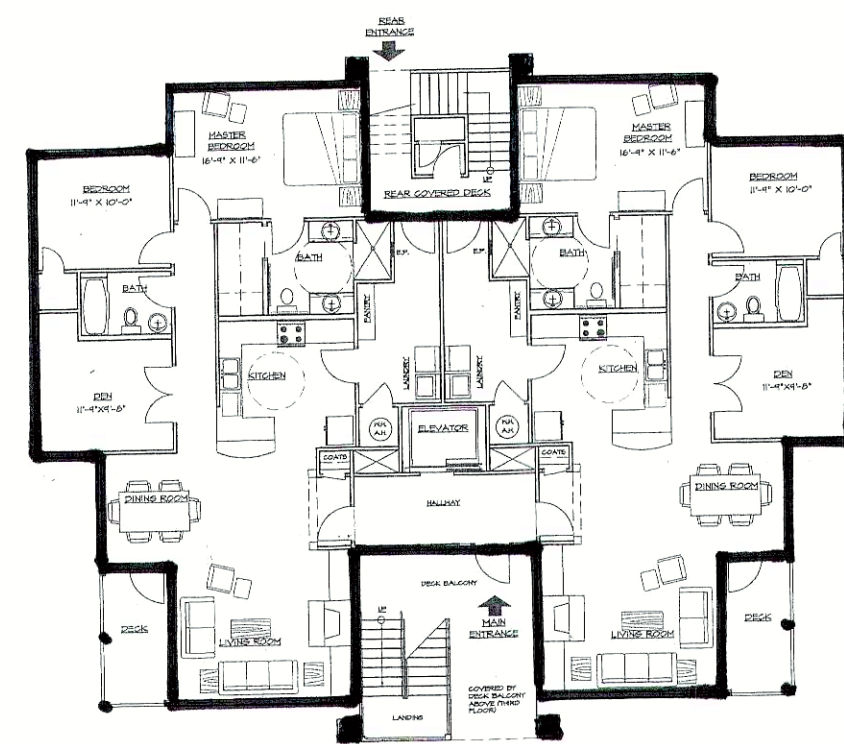
LENGTH	MIN./# OF FEATURE TYPE	MIN. # OF TOTAL FEATURES
73'-8" LENGTH -	(3 REQ. - 5 PROVIDED)	(8 REQ. - 15 PROVIDED)

TYPES	FEATURES
COLUMNS	(2)
CHANGE IN BUILDING MATERIAL	(2)
COVERED ENTRY	(1)
WINDOWS/DOOR	(8)
4'-0" OFFSET	(2)

EXTERIOR MATERIAL FINISH LIST

MATERIAL	TYPE OF MATERIAL	COLOR	MANUFACTURER	LOCATION
ROCK	DRystack LEDGESTONE	CHARDONNAY (CSV-2012)	"CULTURED STONE"	EXTERIOR WALLS - 1ST FLOOR
STUCCO 1	HARD STUCCO	DESERT TAN (AC-211)	"ACRO-CRETE"	EXTERIOR WALLS - (BLDG. MAIN COLOR) 2ND-4TH FLOOR
STUCCO 2	HARD STUCCO	NEW CREAM (AC-201)	"ACRO-CRETE"	EXTERIOR WALLS - (BLDG. ACCENT COLORS) 2ND-4TH FL. WINDOW TRIM/BELLY BANDS
GUTTER & DOWNSPOUTS	ALUMINUM (COMMERCIAL 6")	TSA-POLY SANDSTONE	"REYNOLDS"	ROOF/SEE ROOF PLAN FOR DS LOCATION (MATCH MAIN COLOR)
SOFFIT & FASCIA	ALUMINUM	TCK-POLY COASTAL DUNE	"REYNOLDS"	@ ROOF (TO MATCH ACCENT COLOR)
ROOF	30 YR. ASPHALT SHINGLES	FOREST GREEN	"ELK - PRESTIGUE"	30 YR. "ARCHITECTURAL" SHINGLE
DECKS/RAILINGS	P.T. WOOD	GREEN TO MATCH WINDOWS	TO BE DETERMINED	ALL DECKS/RAILINGS
WINDOWS	CLAD/WOOD	GREEN	TO BE DETERMINED	ALL DECKS/RAILINGS

ALL COLORS/MANUFACTURERS SHALL AS SPECIFIED OR EQUAL TO THE ABOVE SPECS. IF OTHER MANUFACTURER/OR COLOR IS SELECTED ARCHITECT MUST APPROVE PRIOR TO INSTALLATION!!



BUILDING 3
FIRST FLOOR PLAN

FEATURES PER TOWN REQUIREMENTS:

FEATURE SCHEDULE - PLANS/ELEVATIONS

LENGTH	MIN./# OF FEATURE TYPE	MIN. # OF TOTAL FEATURES
73'-8" LENGTH -	(3 REQ. - 5 PROVIDED)	(8 REQ. - 15 PROVIDED)

TYPES	FEATURES
COLUMNS	(2)
CHANGE IN BUILDING MATERIAL	(2)
COVERED ENTRY	(1)
WINDOWS/DOOR	(8)
4'-0" OFFSET	(2)

40'-10 1/2" ROOF TRUSS BEARING

31'-10 1/2" 4TH FLOOR

21'-3" 3RD FLOOR

10'-7 1/2" 2ND FLOOR

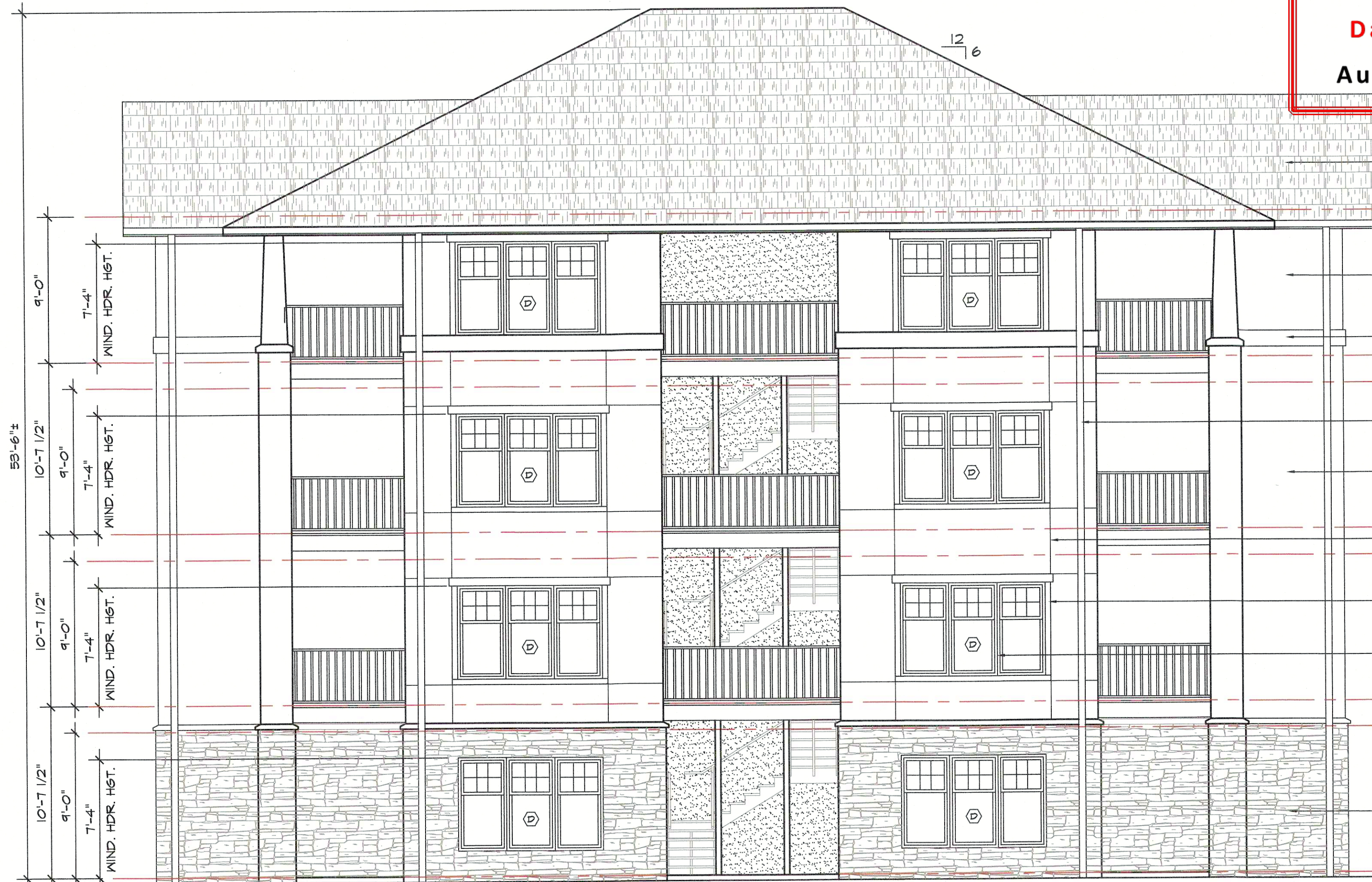
0.0' FIN.FLR.-1ST LEVEL

59'-6 1/2"

9'-0" 10'-7 1/2" 9'-0" 10'-7 1/2" 9'-0" 10'-7 1/2" 9'-0" 10'-7 1/2"

7'-4" 7'-4" 7'-4" 7'-4" 7'-4"

WIND. HDR. HGT. WIND. HDR. HGT. WIND. HDR. HGT. WIND. HDR. HGT. WIND. HDR. HGT.



30 YEAR ARCHITECTURAL SHINGLES

STUCCO COLOR - STUCCO 1

STUCCO - BELLY BAND COLOR - STUCCO 2

DOWNSPOUTS

STUCCO COLOR - STUCCO 1

CONTROL JOINTS

STUCCO TRIM COLOR - STUCCO 2

WINDOW WD/CL

ROCK BASE

2 REAR ELEVATION
A-6 3/16" = 1'-0"



30 YEAR ARCHITECTURAL SHINGLES

STUCCO COLOR - STUCCO 1

STUCCO - BELLY BAND COLOR - STUCCO 2

DOWNSPOUTS

STUCCO COLOR - STUCCO 1

LIGHT FIXTURE

CONTROL JOINT

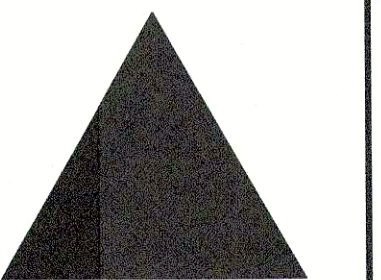
STUCCO TRIM COLOR - STUCCO 2

WINDOW WD/CL

ROCK BASE

1 FRONT ELEVATION
A-6 3/16" = 1'-0"

Town of Boone
Planning & Inspections
Date Received
August 13, 2020



APPALACHIAN
ARCHITECTURE, P.A.

BILL DIXON, NCARB
703 N. KING STREET
SUITE 201
BOONE, NC 28607
PHONE: (828) 265-2405
FAX: (828) 265-2406
E-MAIL: bill@apparch.net
DATE: 8-10-20

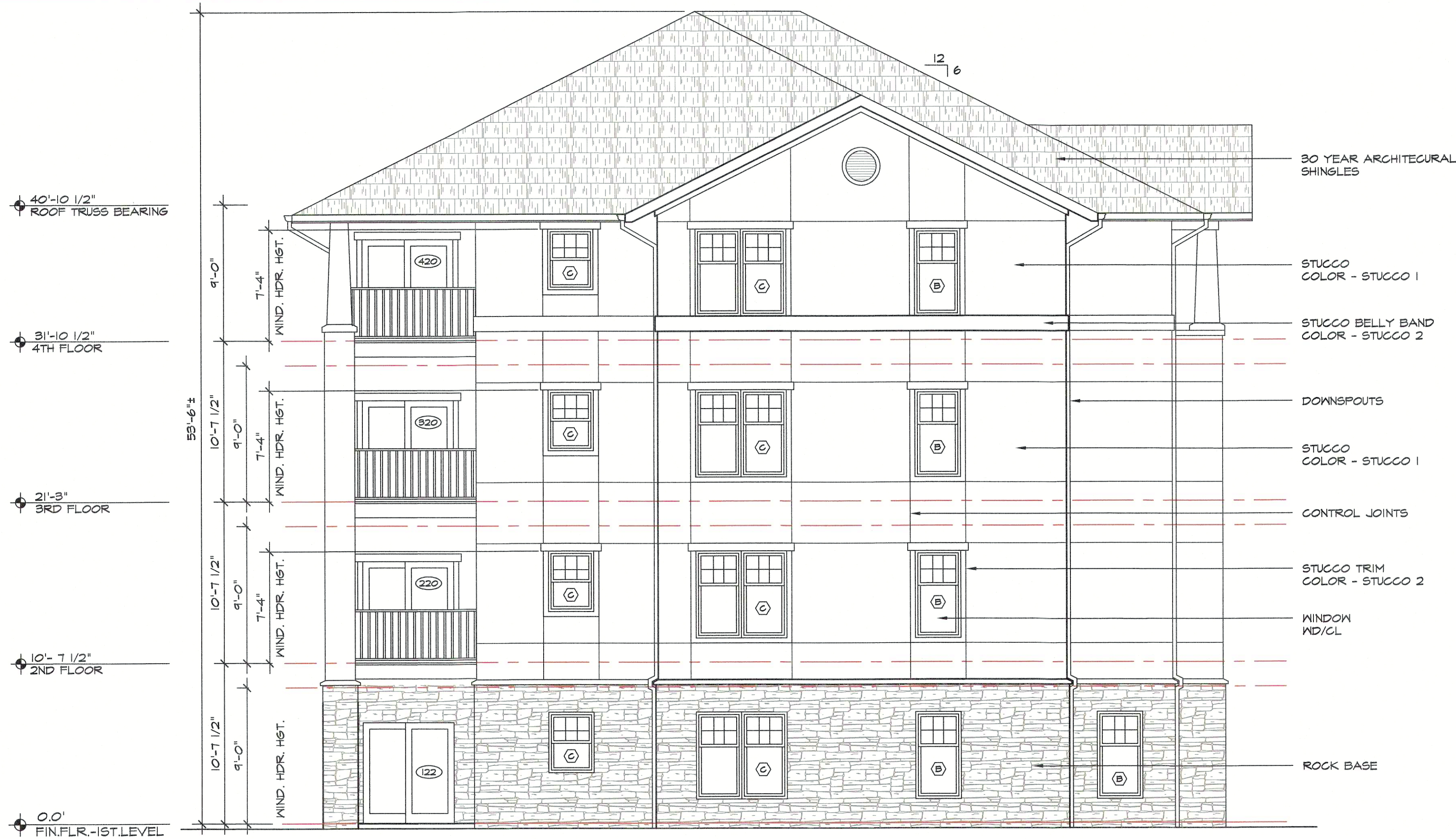
REV#	DATE	BY	REVISIONS
1	8/13/20	BD	RE-ZONING SUBMITTAL



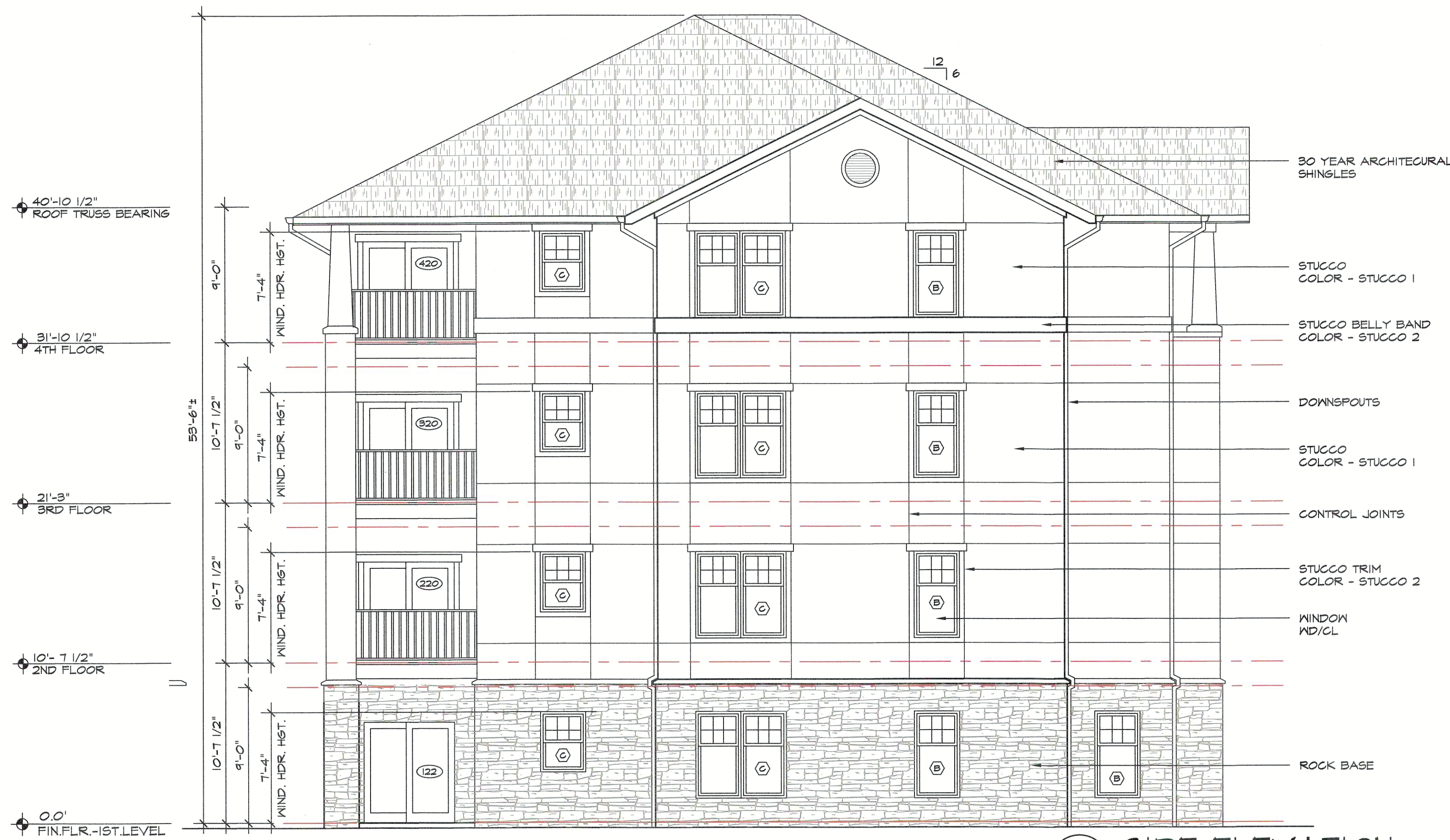
Re-Zoning Submittal
Building III - Kensington Gate Condos
Front & Rear Elevations
Exterior colors and features
Dale Street, Boone, NC

JOB NUMBER: 2002-13
DRAWN BY: KC/BS
CHECKED BY: BD

SHEET NUMBER:
A-1
1 OF 2 TOTAL



2 SIDE ELEVATION
A-7 3/16" = 1'-0"

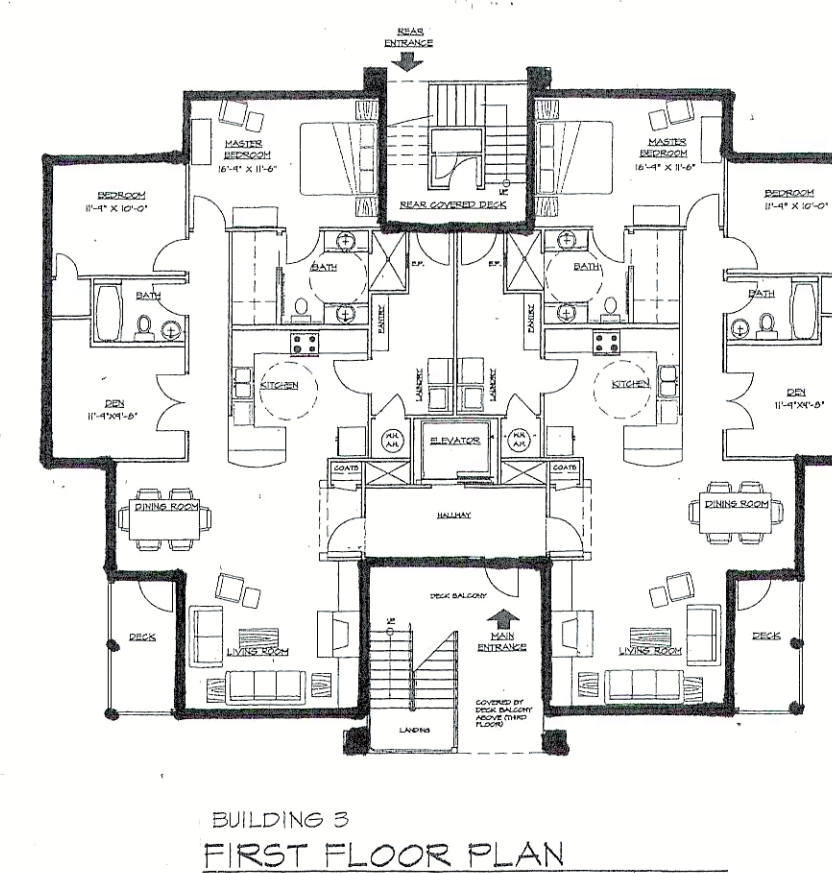


1 SIDE ELEVATION
A-7 3/16" = 1'-0"

EXTERIOR MATERIAL FINISH LIST				
MATERIAL	TYPE OF MATERIAL	COLOR	MANUFACTURER	LOCATION
ROCK	DRystack LEDGESTONE	CHARDONNAY (CSV-2012)	"CULTURED STONE"	EXTERIOR WALLS -1ST FLOOR
STUCCO 1	HARD STUCCO	DESERT TAN (AC-211)	"ACRO-CRETE"	EXTERIOR WALLS - (BLDG. MAIN COLOR) 2ND-4TH FLOOR
STUCCO 2	HARD STUCCO	NEW CREAM (AC-201)	"ACRO-CRETE"	EXTERIOR WALLS - (BLDG. ACCENT COLORS) 2ND-4TH FL. WINDOW TRIM/BELLY BANDS)
GUTTER & DOWNSPOUTS	ALUMINUM (COMMERCIAL 6")	TSA-POLY SANDSTONE	"REYNOLDS"	ROOF/SEE ROOF PLAN FOR DS LOCATION (MATCH MAIN COLOR)
SOFFIT & FASCIA	ALUMINUM	TCK-POLY COASTAL DUNE	"REYNOLDS"	@ ROOF (TO MATCH ACCENT COLOR)
ROOF	30 YR. ASPHALT SHINGLES	FOREST GREEN	"ELK - PRESTIGUE"	30 YR. "ARCHITECTURAL" SHINGLE
DECKS/RAILINGS	P.T. WOOD	GREEN TO MATCH WINDOWS	TO BE DETERMINED	ALL DECKS/RAILINGS
WINDOWS	CLAD/WOOD	GREEN	TO BE DETERMINED	ALL DECKS/RAILINGS

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FEATURES PER TOWN REQUIREMENTS::		
FEATURE SCHEDULE - PLANS/ELEVATIONS		
LENGTH	MIN./OF FEATURE TYPE	MIN. # OF TOTAL FEATURES
59'-4" LENGTH -	(3 REQ. - 5 PROVIDED)	(8 REQ. - 20 PROVIDED)
TYPES		
COLUMNS		(2)
CHANGE IN BUILDING MATERIAL		(2)
COVERED ENTRY		(1)
WINDOWS/DOOR		(13)
4'-0" OFFSET		(2)
FEATURES		
		(2)
		(2)
		(1)
		(13)
		(2)



FEATURES PER TOWN REQUIREMENTS::		
FEATURE SCHEDULE - PLANS/ELEVATIONS		
LENGTH	MIN./OF FEATURE TYPE	MIN. # OF TOTAL FEATURES
59'-4" LENGTH -	(3 REQ. - 5 PROVIDED)	(8 REQ. - 20 PROVIDED)
TYPES		
COLUMNS		(2)
CHANGE IN BUILDING MATERIAL		(2)
COVERED ENTRY		(1)
WINDOWS/DOOR		(13)
4'-0" OFFSET		(2)
FEATURES		
		(2)
		(2)
		(1)
		(13)
		(2)

APPALACHIAN
ARCHITECTURE, P.A.
BILL DIXON, NCARB
103 N. KING STREET
SUITE 201
BOONE, NC 28601
PHONE: (828) 265-2405
FAX: (828) 265-2406
E-MAIL: bill@apparch.net

DATE: 8/10/20
BY: August 13, 2020
REVISED: August 13, 2020

APPALACHIAN ARCHITECTURE, P.A.
REGISTERED ARCHITECTURAL CORPORATION
CERT. NO. 50893
NORTH CAROLINA
BOONE, N.C.

Re-Zoning Submittal
Building III - Kensington Gate Condos
Side Elevations
Exterior colors and features
Dale Street, Boone, NC

JOB NUMBER: 2002-13
DRAWN BY: KC/BS
CHECKED BY: BD

SHEET NUMBER:
A-2
2 OF 2 TOTAL

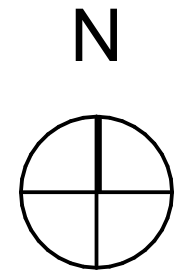
NOTES:

- ALL FIXTURES TO BE FULL-CUT OFF OR NIGHT SKY COMPLIANT. ALL FIXTURES SHOWN ARE GE EVOLVE LED AREA LIGHT EALS-03 AT 20' OR 25' POLE MOUNTED HEIGHT, HYDREL OXFORD WALL DOWN LIGHT SCENCE AT 20 WALL MOUNTED HEIGHT , LITHONIA LIGHTING GATEWAY DEEP CAST OVAL WALL SCENCE AT 7' WALL MOUNTED HEIGHT OR EQUAL.
- UTILITY TO CONFIRM MOUNTING POLE AND MOUNTING STRUCTURAL ENGINEERING BY OTHER.
- CONTRACTOR TO CONFIRM VOLTAGE, DIMMING, CONTROLS, MOUNTING ARM, FIXTURE COLOR AND ANY FURTHER OPTIONS.
- NOTE:** LIGHTING COMPLIANCE IS SUBJECT TO CHANGES, WHICH WILL SUBMITTED TO TOWN'S URBAN DESIGN SPECIALIST FOR APPROVAL.

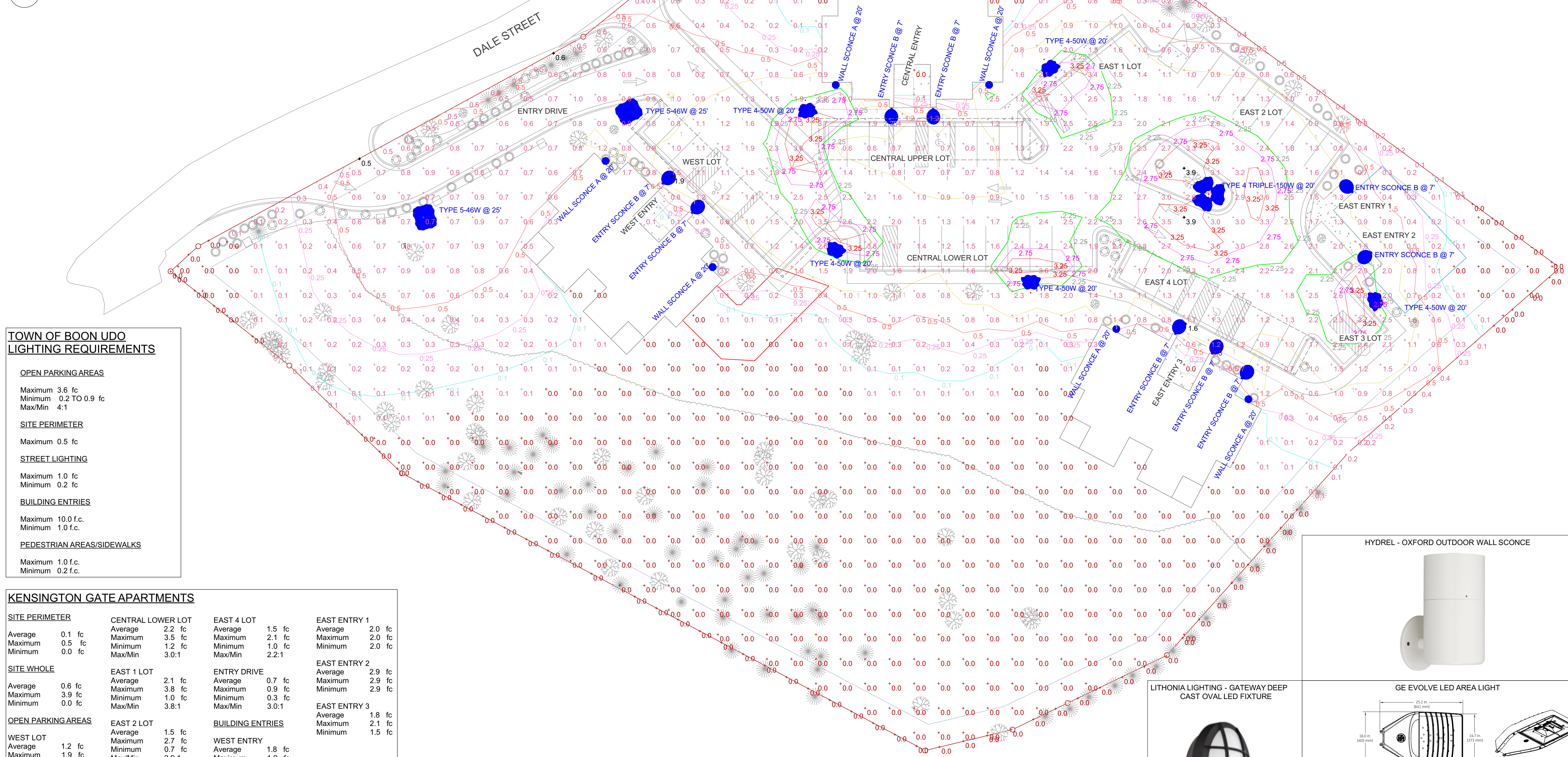
OPEN PARKING AREAS LIGHT FIXTURES:

- (2) GE EVOLVE LED AREA LIGHT - MODEL# EALS03_ D5SH740, FULL CUTOFF, (1) 25' POLE MOUNTED HEIGHT - 46WATTS, OR EQUAL.
- (6) GE EVOLVE LED AREA LIGHT - MODEL# EALS03_ CAAH740, FULL CUTOFF, (9) 20' POLE MOUNTED HEIGHT - 50WATTS, OR EQUAL.
- (6) HYDREL - OXFORD 9LED OUTDOOR WALL SCENCE 3000K DOWN LIGHTING - MODEL# OXFORD 9LED38 30K NFL, 20' WALL MOUNTED HEIGHT.
- (9) LITHONIA LIGHTING - GATEWAY DEEP CAST OVAL LED FIXTURE W/ POLYCARBONATE LENS LED WALLPACK - MODEL# VGO5C 25LED 3500K, 7' WALL MOUNTED HEIGHT, 38.2WATTS OR EQUAL.

- TYPE 5-46W @25'
- TYPE 4-50W @20'
- WALL SCENCE A @20'
- WALL SCENCE B @7'



SCALE: 1" = 20'



OPEN PARKING AREAS

Maximum	3.6 fc
Minimum	0.2 TO 0.9 fc
Max/Min	4:1

SITE PERIMETER

Maximum 0.5 fc

STREET LIGHTING

Maximum	1.0 fc
Minimum	0.2 fc

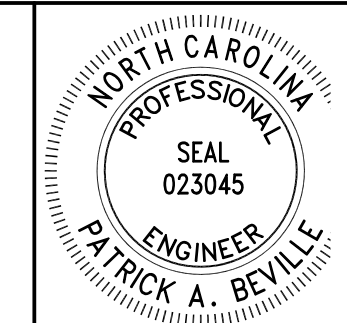
BUILDING ENTRIES

Maximum	10.0 f.c.
Minimum	1.0 f.c.

PEDESTRIAN AREAS/SIDEWALKS

Maximum	1.0 f.c.
Minimum	0.2 f.c.

<u>SITE PERIMETER</u>		CENTRAL LOWER LOT		EAST 4 LOT		EAST ENTRY 1	
Average	0.1 fc	Average	2.2 fc	Average	1.5 fc	Average	2.0 fc
Maximum	0.5 fc	Maximum	3.5 fc	Maximum	2.1 fc	Maximum	2.0 fc
Minimum	0.0 fc	Minimum	1.2 fc	Minimum	1.0 fc	Minimum	2.0 fc
		Max/Min	3:0:1	Max/Min	2:2:1		
<u>SITE WHOLE</u>		EAST 1 LOT		ENTRY DRIVE		EAST ENTRY 2	
Average	0.6 fc	Average	2.1 fc	Average	0.7 fc	Average	2.9 fc
Maximum	3.9 fc	Maximum	3.8 fc	Maximum	0.9 fc	Maximum	2.9 fc
Minimum	0.0 fc	Minimum	1.0 fc	Minimum	0.3 fc	Minimum	2.9 fc
		Max/Min	3:8:1	Max/Min	3:0:1		
<u>OPEN PARKING AREAS</u>		EAST 2 LOT		<u>BUILDING ENTRIES</u>		EAST ENTRY 3	
WEST LOT		Average	1.5 fc			Average	1.8 fc
Average	1.2 fc	Maximum	2.7 fc	WEST ENTRY		Maximum	2.1 fc
Maximum	1.9 fc	Minimum	0.7 fc	Average	1.8 fc	Minimum	1.5 fc
Minimum	0.9 fc	Max/Min	3:9:1	Maximum	1.9 fc		
Max/Min	3:0:1	EAST 3 LOT		Minimum	1.8 fc		
CENTRAL UPPER LOT		Average	2.7 fc	CENTRAL ENTRY			
Average	0.9 fc	Maximum	3.5 fc	Average	1.4 fc		
Maximum	2.1 fc	Minimum	1.5 fc	Maximum	1.5 fc		
Minimum	0.5 fc	Max/Min	2:3:1	Minimum	1.4 fc		
Max/Min	4:0:1						



**PATRICK A. BEVILLE PE, LEED AP
IONCON, PLLC P-0820**

2554 HWY 105
BOONE, NC 28607
(828) 264-8500
INFO@GOIONCON.COM



KENSINGTON GATE APARTMENTS
JOHN GRASINGER
KENSINGTON GATE APARTMENTS
40 GATEWAY DR #410
COONE, NC 28607
(828) 262-1767
GRASINGERJL@GMAIL.COM

LIGHTING COMPLIANCE PLAN

REVISION	BY	DATE
DATE	8/11/2020	
SCALE	AS NOTED	
DRAWN	MEB	
CHECKED	PAB	
JOB #	206007	

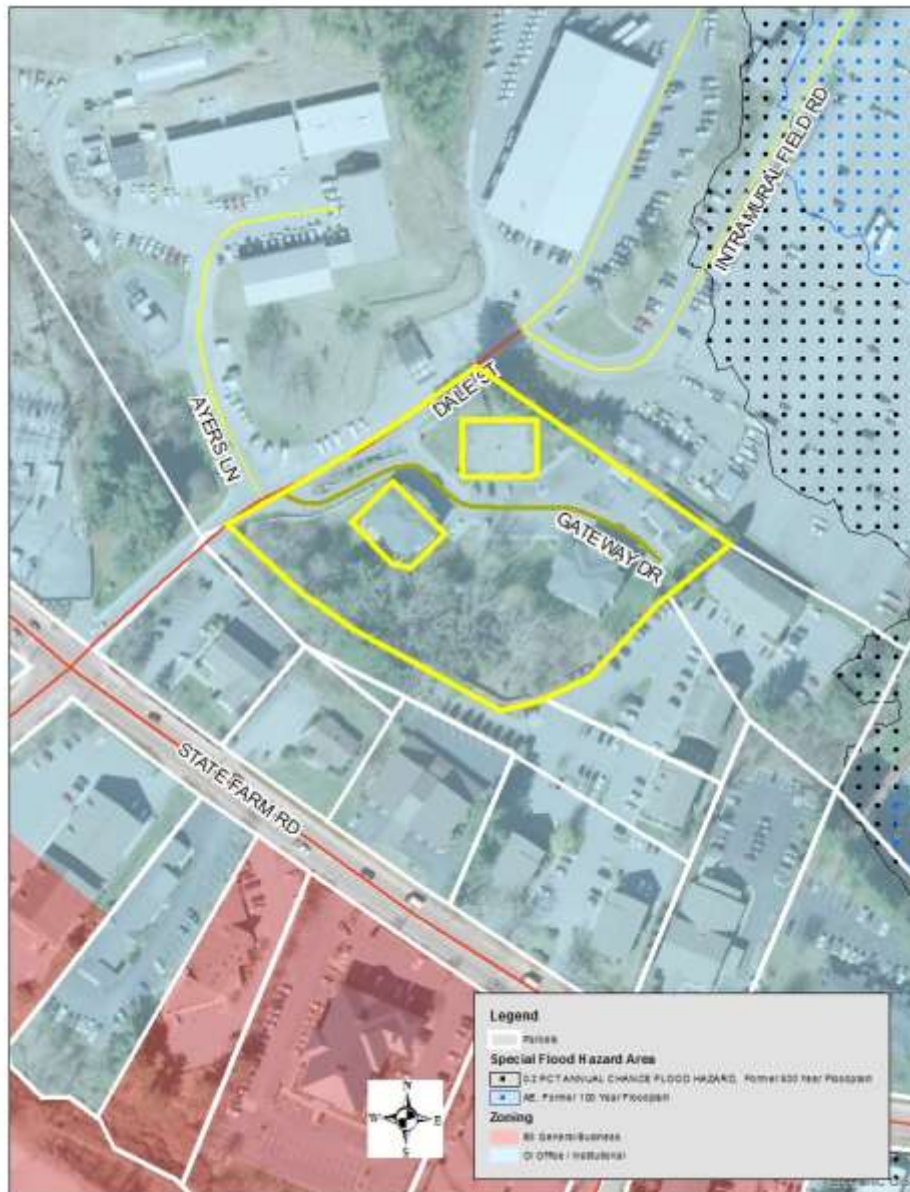
L-100

Packet Pg. 21

Communication: Case PL03547-020420 Lighting Plan (Case PL03547-020420 Kensington Gate - Conditional District Zoning Map Amendment)



Staff Report
Public Hearing
September 28, 2020
Case PL03547-020420 Kensington Gate Conditional District Zoning Map Amendment



Request

WF&G Development LLC, with the consent of the Kensington Gate property owners, has submitted a Conditional District Zoning Map Amendment for Kensington Gate at 140, 155, 180 & 189 Gateway Drive to be rezoned from O/I Office Institutional to Conditional District R5 55+ Housing Residential District with a site specific development plan for Use 1.17 Adult Living Community which would allow the construction of a third residential building within the development.

Parcel Information**Property Owners Information**

2910630872001	UNIT 101 BLDG 140 KENSINGTON GATE	W F AND G DEVELOPMENT LLC
2910630872002	UNIT 102 BLDG 140 KENSINGTON GATE	GILMORE, NANCY
2910630872003	UNIT 201 BLDG 140 KENSINGTON GATE	MILLER, DONALD CURTIS.,JACOBS, MARY
2910630872004	UNIT 202 BLDG 140 KENSINGTON GATE	W F AND G DEVELOPMENT LLC
2910630872005	UNIT 301 BLDG 140 KENSINGTON GATE	LEON, BARBARA A
2910630872006	UNIT 302 BLDG 140 KENSINGTON GATE	W F AND G DEVELOPMENT LLC
2910630872007	UNIT 401 BLDG 140 KENSINGTON GATE	W F AND G DEVELOPMENT LLC
2910630872008	UNIT 402 BLDG 140 KENSINGTON GATE	W F AND G DEVELOPMENT LLC
2910630767001	UNIT 101 BLDG 180 KENSINGTON GATE	BENKOSKY, TAMARA T,BENKOSKY, STEVEN A
2910630767002	UNIT 102 BLDG 180 KENSINGTON GATE	TODD, JAMES ALLEN
2910630767003	UNIT 201 BLDG 180 KENSINGTON GATE	NAYLOR, KERRY DWAYNE
2910630767004	UNIT 202 BLDG 180 KENSINGTON GATE	PILEGGE, WILLIAM
2910630767005	UNIT 301 BLDG 180 KENSINGTON GATE	ROBINSON, JOHN C. JR
2910630767006	UNIT 302 BLDG 180 KENSINGTON GATE	ROBINSON, JOHN C JR
2910630767007	UNIT 401 BLDG 180 KENSINGTON GATE	LEON HERMAN GINSBERG REVOCABLE TRUST
2910630767008	UNIT 402 BLDG 180 KENSINGTON GATE	HAMER, LOIS ANN
2910630767000	COMMON AREA KENSINGTON GATE	W F AND G DEVELOPMENT LLC
2910630872000	BLDG 2 KENSINGTON GATE	W F AND G DEVELOPMENT LLC
2910631991000	BLDG 3 FUTURE DEV KENSINGTON GATE	W F AND G DEVELOPMENT LLC

Address:	140, 155, 188 & 189 Gateway Drive
Use:	1.17 Adult Living Community
Size:	2.684 acres
Jurisdiction:	Town of Boone
Access:	Dale Street, Town Maintained
Corridor District:	No
Viewshed:	No
Watershed:	No
Special Flood Hazard:	No
Steep Slope:	No
Existing Zoning:	O/I Office Institutional
Requested Zoning:	Conditional District R5 55+ Housing Residential
Phasing:	1 phase
Vesting:	2 years

History

02-06-2003 Board of Adjustment issued a special use permit for a 3 building, 24 unit condominium project (condominiums for active seniors). At the time of approval the applicant was also granted a variance to for a temporary stream buffer encroachment. See Exhibit 1 – Meeting Minutes Excerpts.

Note: During the vesting period only Building 1 was constructed. The other two residential buildings were not constructed within the approved vesting period of 2 years and was required to go back to the Board for a new permit (see below) when the applicant was ready to proceed.

- 11-03-2005 Board of Adjustment issued a special use permit modification for the construction of the two remaining building with a four year vesting. See Exhibit 1 – Meeting Minutes Excerpts.
Note: the applicant completely constructed the second building and began but did not complete construction on the third building. The applicant has progressed to the point that the slab for the third building was constructed. The construction of the third building has now lost its vesting.
- 01-01-2014 Town of Boone Unified Development Ordinance was modified and multi-family residences were removed as an allowable use within the zoning district.
- 08-15-2019 Town Council was approached by Mr. Grasinger with Kensington Gates to discuss the issues with moving forward with the completion of the third building. Town Council voted to create a new residential zoning district as a possible solution to the overall issue. See Exhibit 1 – Meeting Minutes Excerpts.
- 12-16-2019 Town Council approved revisions to the UDO to create the R5 55+ Housing Residential Zoning District which is limited in the allowable uses, including Use 1.17 Adult Living Community.

Zoning District Analysis

The applicant is requesting approval for Conditional District R5 55+ Housing Residential zoning district with a site specific development plan for Use 1.17 Adult Living Community. Pursuant to UDO Subsection 14.05, 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 the existing zoning district, is limited to the authorized uses and the development standards mandated within that district, and may be subjected to conditions that make the development plan more desirable.

Note: A site specific development plan is defined in UDO Article 34 Definitions as “A plan which has been submitted to the Town by a landowner that describes with certainty the type and intensity of a use for a specific parcel or parcels of property, and includes the boundaries of the site; significant topographical and other natural features effecting development of the site; the location on the site of the proposed buildings, structures, and other improvements; the dimensions, including height, of the proposed buildings and other structures; and the location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.”

Use 1.17 Adult Living Community Definition from UDO Article 34 Definitions:

An age-restricted planned residential development, consisting of a building or group of buildings for independent living for persons who are fifty-five years of age or older (55+). Residents may be offered a variety of housing choices with shared common areas, from detached single-homes on a single lot to multi-family dwellings. Services may be provided and may include food service, social service and referral consultation, housekeeping assistance and central laundry. No licensed professional medical care or related service are directly provided by on-site staff.

Excerpts from UDO Article 14 Zoning District and Zoning Map on the O/I and B3 zoning districts

14.01 Residential Districts Established

- 14.01.01** Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

...

- 14.01.09** The R5 55+ Housing Residential District is established to provide a medium to high density area consisting of residential housing for persons who are 55+. The regulations for this district are designed and intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

...

14.02 Commercial Districts Established

- 14.02.01** The following commercial districts are hereby established: B1, B2, B3, OI, and WD. These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this Section.

...

- 14.02.05** The OI Office/Institutional District is established to provide a zoning district which promotes the development of moderately intensive office and institutional uses which are oriented toward the provision of services versus the sale of products. Appropriate small scale residential uses are allowed in this district to the point they support allowable office and institutional uses. The regulations for this district are designed and intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

	Adjacent Zoning	Adjacent Land Use
North	O/I Office Institutional	Public Colleges and Universities
East	O/I Office Institutional	Oak Summit: Medical and Business/Professional Office
South	O/I Office Institutional	Across drive to Oak Summit: Business/Professional Office, Multi-Family (possible 55+)
West	O/I Office Institutional	Public Colleges and Universities

Use Information

Current/Proposed Use: 1.17 Adult Living Community

Pursuant to UDO Section 15.07 Use 1.17 Adult Living Community is permissible in the R5 55+ Housing Residential Zoning District subject to a 300' transitional zone

Staff Note: The project has not triggered transitional zones, meaning the development is not within 300' of a protected low density residential zoning district.

Compliance with UDO Article 7, Subsection 7.05.02 Development which requires compliance with UDO

All new development must comply with all UDO requirements. Compliance of existing development with the requirements of the UDO shall be triggered by the costs of the proposed new development as compared to the total development value (building & land) in accordance with the tiered system set up in UDO Section 7.05. Note: the proposed development triggers the first and second tiers and will be required to bring the existing development into compliance with the following standards:

1. **Tier 1:** Repair, reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed ten percent (10%) of the value of the development shall require compliance with the following, to the extent practicable:
 - a. Bicycle parking in accordance with Section 24.09.
 - b. Lighting in accordance with Section 25.05.
2. **Tier 2:** Repair, reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed twenty-five percent (25%) of the value of the development shall require compliance with the following, to the extent practicable:
 - a. Solid waste and recycling containers pursuant to Section 22.13.
 - b. Signs pursuant to Article 26.
 - c. Color requirements in accordance with Subsection 25.02.05.
 - d. Landscape Standards pursuant to, with a priority given to shade tree installation.

Please see the second page of the applicant's site plans for details on proposed compliance.

Regulatory Standards Review

Intensity: Development in the R5 55+ district is required to meet a livability space requirement of .27. The applicant has indicated that they are in compliance with this requirement with a livability space of .71% (1.9 acres).

Setbacks: As proposed, the new building meets the setback requirements as listed in UDO Article 16 District Standards.

Building Height: The maximum building height in the R5 55+ zoning district is 4 stories/56'. The applicant has indicated that the new building meets this requirement with four stores and a height of 53.5'.

Appearance: The building elevations of the new buildings appear to meet the requirements of UDO Article 25. Details meeting the requirements of the UDO shall be submitted during zoning compliance.

Landscaping: As proposed, the applicant has noted that the existing landscape buffers will be supplemented to meet current ordinance requirements. Details meeting the requirements of the UDO shall be submitted during zoning compliance.

Parking: **Bicycle Parking:** The applicant has demonstrated bringing the site into compliance with bicycle parking requirements. Details meeting the requirements of the UDO shall be submitted during zoning compliance.

Number of Units	Number of Spaces Required	Number of Spaces Provided
24	Short-Term , 1 per 20 = 1 Long-Term, 1 per 10 = 2	Short-Term = 1 Long-Term = 6*

*Applicant used rate for Multi-Family units rather than rate for Use 1.17 Adult Living Community

Automobile Parking: Pursuant to UDO Section 24.01, all developments in all zoning districts shall initially and continually provide a sufficient number of permanent off-street motor vehicle and bicycle parking spaces, in compliance with this Article, to accommodate the residents, employees, customers, visitors and others who may spend time at that development.

Number of Units	Minimum Number of Spaces Required	Number of Spaces Provided
24	1 per unit = 24 .5 per unit (visitors) = 12 Total Required = 36	47

Other Review Comments**Public Works:****Services Division (Justin Stines, Facilities Maintenance Superintendent)**

Approved. Solid waste and recycling enclosure details shall be submitted for review during zoning compliance.

Utilities Division (Mike Trivette, Utility Services Technician)

Approved. Will need to be accessed for SDF and meter upgrade at Building Permit.

Fire Department (Amy Flieg, Fire Marshall)

Approved. Sprinkler and Standpipes will need to be noted on the Zoning detailed site plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

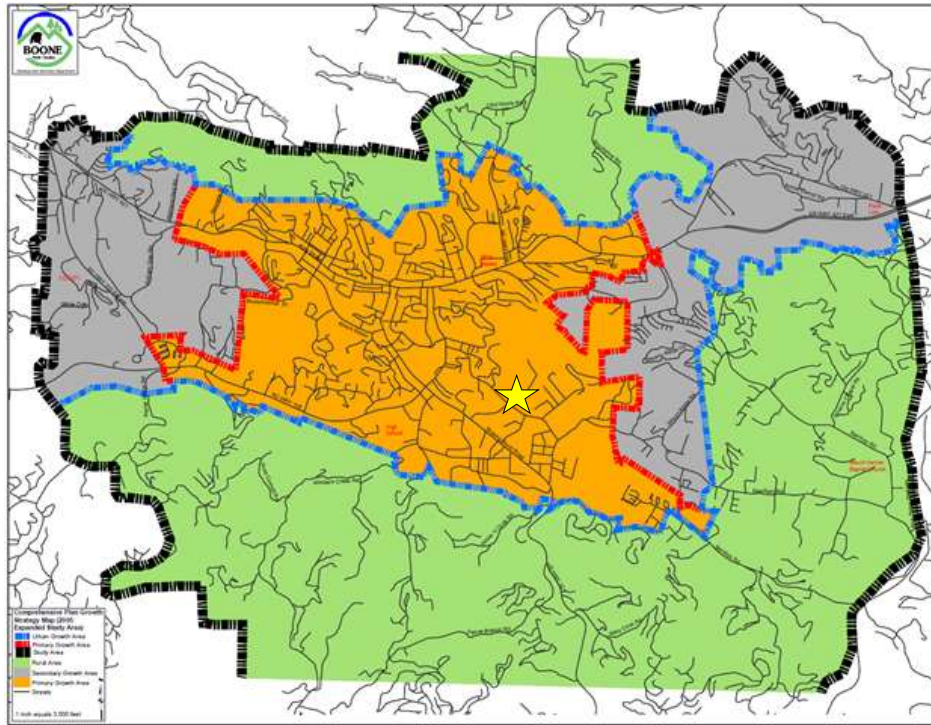
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

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

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

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

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



The 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 Economy

...

2.1.1 Economic Development

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

- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.
- ...
- ...

2.2.2 Utilities

- A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited.
- B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.
- C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.
- 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.
- E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.
- F. Area-wide cooperation and support shall be sought in bringing in alternative utility services to the Boone Area.
- G. Long range planning for a possible stormwater collection and treatment system shall be supported, including the development of financial and regulatory strategies.

...

2.3 THE COMMUNITY

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

2.3.1 Community Appearance

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

2.3.2 Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.

- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

...

Conclusion

Please see the applicant's attached exhibits. Staff has reviewed the application as presented for compliance with UDO standards. If approved, Staff recommends the following conditions:

1. Where there is a conflict between the application information and the plans (dated August 13, 2020) the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. 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 plans for review and approval necessary to issue Zoning and Building Permits.
4. Any other conditions agreed upon ...

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 September 4, 2020.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, Darrell Pulliam, 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 September 4, 2020 .

/s/ Darrell Pulliam

Darrell Pulliam, Building Inspector

PLANNING BOARD REPORT

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

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

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

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

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

TOWN COUNCIL ACTION

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

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

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

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

**Board of Adjustment
February 6, 2003
Meeting Minutes**

Board Members: Ethel Simpson, James Sanders, Diana Perry, Jerry Kirksey-Chair, Lee Stroupe, Richard Crepeau, Karen Byerly, Fred Hay, and Edward Brown-Alternate (Mr. Brown sat in on Cases ZV2003-2 and ZV2003-3.)

Staff: George Cole-Planning Supervisor, Christy Marsh-Planner, David Graham-Development Coordinator, Kim Tester-Board Secretary

Other: Sam Furgiele-Town Attorney

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VI. SU2002-11

John Grasinger has filed a request for a Special Use Permit to allow the construction of multi-family development pursuant to UDO Section 166 (b) and a Variance from UDO Section 200 *Floor Area Ratio* and Section 290 *Stream Buffers*. The property is located on Dale Street and is further identified as Watauga County PIN 2910-63-0765-000. George Cole, being duly sworn, presented the staff report. Mr. Cole noted a change in the plans for this case.

John Grasinger, being duly sworn, explained the two requested variances. He noted the first variance was to increase the floor area ratio to exceed ADA (Americans with Disabilities Act) requirements. He also noted the second variance request concerning encroachment into the stream buffer. He explained the encroachment would provide more area for turning into the complex.

Bill Dixon, being duly sworn, stated he is the architect for the project. He gave the board a packet of four drawings of the project. He stated the accessibility code requirements are minimum requirements.

Michael Trew, being duly sworn, stated he is the engineer for the project. He explained the stream buffer encroachment is temporary. He stated the fill would be added then vegetation would be installed. He reiterated the reason for the encroachment to be the safer access to the property. He further noted the reason for not relocating the gate is because of an existing hemlock hedge and historic trees the developer does not want to disturb.

A brief discussion ensued concerning the differences in the use of this property and a general office use.

With no further testimony, Chair Kirksey closed the public hearing.

The first vote was in consideration of the stream buffer encroachment variance request.

Vote #1

There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance;

Board Member Byerly moved this finding of fact has been met. Board Member Perry seconded the motion.

VOTE: Aye - All
Nay - None

The motion carries unanimously.

Vote #2

The hardship complained of is one suffered by the applicant rather than by neighbors or the general public;

Board Member Byerly moved this finding of fact has been met. Board Member Sanders seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

Vote #3

The hardship relates to the applicant's property, rather than to personal circumstances;

Board Member Simpson moved this finding of fact has been met. Board Member Perry seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

Vote #4

The hardship relates to the applicant's property, rather than a hardship shared by the neighborhood or resulting from the existence of nonconforming situations in the vicinity;

Board Member Byerly moved this finding of fact has been met. Board Member Sanders seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

Vote #5

The hardship is not a result of the applicant's own actions;

Board Member Byerly moved this finding of fact has been met. Board Member Perry seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

Vote #6

The variance will not substantially interfere with or injure the rights of others whose property would be affected by granting of the variance;

Board Member Byerly moved this finding of fact has been met. Board Member Crepeau seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

Vote #7

The variance will neither result in the extension of a nonconforming situation in violation of Article VIII nor authorize the initiation of a nonconforming use of land.

Board Member Perry moved this finding of fact has been met. Board Member Simpson seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

Board Member Crepeau moved to grant the variance with the condition that the applicant coordinate with the planning staff to make sure all soil erosion precautions are taken. Board Member Stroupe seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

The second vote was to the variance request to UDO Section 200 concerning the floor area ratios. Before the voting commenced, a discussion ensued between the board members and Mr. Furguele about defining the term, hardship.

Vote #1

There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance;

Board Member Perry moved this finding of fact has been met. Board Member Simpson seconded the motion.

VOTE: Aye - Board Members: Simpson, Sanders, Perry, Kirksey, Byerly, and Hay
 Nay - Board Members: Stroupe and Crepeau

The motion fails, and the variance request is denied.

Vote #1

Board Member Perry moved the application is complete. Board Member Crepeau seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

Chair Kirksey re-opened the public hearing so additional comments could be considered. Mr. Trew

stated the perimeter fence needs to be moved to the property line. He noted this was not reflected on the current plan. Chair Kirksey closed the public hearing.

Vote #2

Board Member Simpson moved the application complies with all applicable requirements of the Town of Boone Unified Development Ordinance. Board Member Perry seconded the motion.

VOTE: Aye - All
 Nay - None

The motion carries unanimously.

Vote #3

Board Member Stroupe moved to grant the special use permit with the staff recommended conditions, as well as, the change noted by Michael Trew. Board Member Crepeau seconded the motion. The conditions are listed as follows:

1. The project shall be consistent with the plan CONDOMINIUMS FOR ACTIVE SENIORS WF & G Development, LLC, prepared by Municipal Engineering Service Company, PA, dated 1-31-03. Minor modifications may be permitted to comply with the requirements of the UDO.
2. The applicant shall submit final plans that are consistent with the provisions of the Unified Development Ordinance.
3. Prior to issuance of a zoning compliance certificate and grading permit, a copy of a permit from the North Carolina Department of Environment and Natural Resources for the water line replacement shall be submitted.
4. Prior to issuance of a zoning compliance certificate and grading permit, a copy of a North Carolina Department of Environment and Natural Resources 401 permit or verification that the permit is not needed shall be submitted.
5. Prior to a certificate of occupancy for each phase, the infrastructure shall be complete to totally support the phase.
6. Prior to issuance of zoning compliance certificate and grading permit, a copy of deed restrictions pertaining to occupancy shall be submitted to the Planning and Inspections Department.
7. The perimeter fence be moved to the property line.

VOTE: Aye - All
 Nay - None

The motion carries unanimously, and the special use permit is granted.

...

**Board of Adjustment
November 3, 2005
Meeting Minutes**

Board Members:	Vice Chairman Rick Foster, Edward Brown, Dr. Richard Crepeau, Ron Darbo, Earl Keller, Allan Scherlen, Ethel Simpson, Lee Stroupe
Staff:	George W Cole, P.E., Planning Supervisor Jane Shook, Planner
Other:	Sam Furgiuele-Town Attorney

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SU2005-17 WF&G Developments-Special Use Permit

John Grasinger was sworn in.

Mr. Grasinger explained that the original project suffered delays due to legal matters and weather. Mr. Grasinger stated that he was asking to complete the original project as planned with a vesting of four years.

Discussion ensued as to any changes between the original plans approved and what WF&G is asking for now. Mr. Grasinger noted that due to a text amendment to the UDO, the square footage is within what is allowed.

Discussion ensued regarding the request for vesting.

Mr. Grasinger showed the Board elevations of the site and provided that the project is only for those fifty-five and older.

Mr. Raymond Smith was sworn in. Mr. Smith lives in the condominiums adjacent to the project and expressed concerns regarding the vesting and the occupants of the proposed development. Mr. Smith also expressed concerns about the age restrictions.

Vice Chairman Foster closed the public hearing at 10:20 and the Board moved into deliberation.

Board Member Keller discussed the request for vested rights and commented he would like to see three years.

Discussion ensued over the request for vested rights.

Board Member Crepeau made a motion seconded by Board Member Keller that the application is complete.

VOTE: Aye-All

Nay-None

The motion carried unanimously

Board Member Crepeau made a motion seconded by Board Member Scherlen that the application complies with all applicable requirements of the Town of Boone Unified Development Ordinance.

VOTE: Aye-All

Nay-None

The motion carried unanimously

Board Member Crepeau moved the project be approved subject to staff conditions with recommendation two changed to a vesting of three years. Conditions are as follows:

1. The permit is approved subject to an application for WF&G Development dated October 6, 2005 and plans CONDOMINIUMS FOR ACTIVE SENIORS PHASE 2 & 3 prepared by Municipal Engineering Services Company dated October 11, 2005. Where there is a conflict between the application information and the plans, the plans shall control. Minor modifications may be permitted to comply with the requirements of the UDO. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
2. This project is vested for a period of three years.
3. Prior to issuance of any building permits, availability fees must be paid in full for the entire project.

Board Member Simpson seconded the motion.

VOTE Aye – All
Nay – None

The motion carried unanimously

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MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
August 15, 2019

CALL TO ORDER

A regular meeting of the Boone Town Council was held on Thursday, August 15, 2019 at 6:00 p.m. in the Council Chambers located at 1500 Blowing Rock Road in Boone.

Mayor Rennie Brantz presided. Council members present included Mayor Pro-Tem Loretta Clawson, Lynne Mason, Sam Furguele, Connie Ulmer and Marshall Ashcraft. Staff present included Town Manager John Ward, Town Clerk Nicole Harmon, Public Works Director Rick Miller, Police Chief Dana Crawford, and Senior Planners Christy Turner and Marty Little. Town Attorney Allison Meade was also in attendance.

...

JOHN GRASINGER - KENSINGTON GATE SENIOR LIVING CONDOMINIUMS

Mr. Ward noted that he had invited Mr. Grasinger to appear at the meeting due to an issue that had arisen at the Kensington Gate 55+ community in Boone in that two of the three structures originally proposed had been built, but that new height limitations were impacting the final completion of the third structure. Mr. Grasinger confirmed that the project was a three-phase project, with the first building constructed in 2006 and the second in 2008. He added that with the market crash, the project was unable to move forward. Now that the market had recovered, he stated that he would like to move forward with the completion of the third building. Mr. Grasinger stated that in developing the buildings, historic trees had been left unharmed, the creek had been daylighted, and that the third building was ready to be built. He noted that he had spoken with Planning staff and the Town Manager and noticed that there was not a designation for buildings dedicated to the elderly population. Mr. Grasinger indicated he was looking for a new use to be allowed in the office and institutional zoning district. Mr. Furguele asked Mr. Grasinger

when the project was initially approved if he had vested rights for all three buildings and what the time period was. Mr. Grasinger answered that he thought the permit was valid for ten years and that they tried to keep the permit alive by doing small amounts of work. Mr.

Furgieuele asked other than multi-family buildings not being allowed in the O/I district, what was the problem with the height limitations. Mr. Grasinger answered that there was actually not a problem with the height restrictions, but the restriction of three stories or less was problematic. He added that the property owners association was running out of funding and that they needed to move forward with the third building in order to remain an affordable housing option to elderly residents in Boone. Mr. Furgieuele stated that he was not enthusiastic to add a use to the O/I zoning district, but believed the better solution was to create a special senior housing zoning district. He asked whether if this option was determined to be legal, if Mr. Grasinger would object to that approach. Mr. Grasinger indicated that he would not be opposed to this approach, and that he just wanted to complete the project for the owners in order to keep costs low. Mayor Pro-Tem Clawson felt that this was a great project and asked whether the neighbors had expressed any issues. Mr. Grasinger answered that the only issue he had heard was that one of the neighbors wanted an easement to cut some trees. In response to a comment by Mr. Furgieuele, Mr. Grasinger confirmed that additional buffering was installed during the initial construction and reiterated that no trees would come down with the construction of the third building. Mr. Furgieuele felt that Council should support the request by creating a new zoning district, to which Ms. Mason agreed. Ms. Meade asked whether the concept for the new zoning district would be to only allow this type of development geared toward the elderly population, with Mr. Furgieuele confirming that this would be the case. He then made a motion, which was seconded by Ms. Mason, to endorse the creation of a new zoning district for the single purpose of senior housing and to leave the details to staff.

RESULT: APPROVED [UNANIMOUS]

MOVER: Sam Furgieuele, Council Member

SECONDER: Lynne Mason, Council Member

AYES: Mason, Clawson, Furgieuele, Ulmer, Ashcraft

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:
PL04195-090820
Case Name:
Administrative Mechanisms Modifications

A. CONTACT INFORMATION

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

B. TEXT INFORMATION

Amendment is to:

Article(s): 2

Section(s): 2.01, 2.02, 2.03, 2.04, 2.05

Brief Description of Amendment (Attach Proposed Text):

Modify UDO Article 2 to reorganize, align text with NC General Statutes and to clean up language regarding board membership.

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

September 8, 2020
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: September 28, 2020

PC Meeting
Date: September 28, 2020

TC Meeting
Date: October 2020

Text Approved: ☐ Yes ☐ No

Notes:

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**STAFF REPORT
PUBLIC HEARING
SEPTEMBER 28, 2020**

Case PL04195-090820 Administrative Mechanisms Modifications - UDO Text Amendment

Request

Modify UDO Article 2 to reorganize, align text with NC General Statutes, and clean up language regarding board membership. Summary of modifications:

1. Creation of a “generally applicable” section to apply for all boards.
2. Text modified to create consistency within each board section.
3. Text modified to limit the number of terms that can be served by a Board of Adjustment member.
4. Text modified on how the Chair and Vice-Chair of the Board of Adjustment and the Planning Commission are selected. Note: process follows the 2018 Planning Commission’s recommendations.
5. Text modified to remove references to “ETJ” from the Historic Preservation Commission language.
6. Text modified to remove Town Council members as official members of the Historic Preservation Commission.
7. Text modified to create an Appalachian State University student position on the Community Appearance and Historic Preservation Commissions.

Proposed Ordinance Amendment

ORDINANCE #PL04195-090820

**AN ORDINANCE TO REVISE THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE (UDO)
RELATING TO ARTICLE 2 ADMINISTRATIVE MECHANISMS**

WHEREAS, the Town Council recognizes the need to reorganize UDO Article 2 Administrative Mechanisms for consistency between boards, to align the text with NC General Statutes and to create a Appalachian State University student position on the Community Appearance and Historic Preservations Commissions; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160A, Article 19; and

WHEREAS, this proposed UDO text amendment was duly noticed for public hearing; a public hearing was held with respect to the proposed amendment on September 28, 2020; and the Boone Planning Commission has had an opportunity to submit a written report to the Boone Town Council with respect to the proposed amendment;

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

SECTION 1. The following subsections of Article 1 of the Boone UDO are hereby amended as follows, with deletions and additions shown in **red** and **blue** respectively:

Article 2 Administrative Mechanisms

2.01 Board of Adjustment

2.01.01 The Board is a quasi-judicial body ~~which~~that acts on specified appeals, variances, major subdivision preliminary plat approval and special-use permit requests. Except for major subdivision preliminary plat approval, ~~the~~a decisions by the Board ~~represent~~constitutes the final decision ~~by~~of the Town.

2.01.02 Appointment and Terms of Board of Adjustment

A. ~~M~~Number of membership. There shall be a Board of Adjustment consisting of five (5) regular members and three (3) alternate members. Alternates shall serve on the Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a regular member. When serving in place of a regular member, an alternate member shall have all the powers and duties of a regular member.

B. Appointments, Avoidance of Conflicts of Interest. ~~All town m~~Members of the Board shall be appointed by the Town Council following the procedures ~~of § 35.01 of the set forth in Chapter 35 of the~~ Municipal Code.— In making appointments ~~to the Board~~, the Town Council shall consider the employment of current Board members, and their spouses, and shall strive to create such employment diversity upon the Board so as to minimize the likelihood that a conflict of interest with regard to a particular case will prevent the Board from assembling a quorum. Therefore, in order to be appointed to the Board, an applicant must provide the Town with information concerning his or her employment and that of his or her spouse, if any.

~~C. Term.~~ Regular members and alternates shall be appointed for three (3) year staggered terms, but may continue to serve until their successors have been appointed. Vacancies shall be filled for the unexpired terms only. ~~Members may be reappointed to successive terms without limitation.~~

C. Members may be appointed to no more than three successive terms. A former member may be reappointed following a one-year period of non-membership.

~~1.D.~~ **Residency requirement.** Members of the Board of Adjustment must be residents of the Town of Boone.

~~**D. Absences.**~~

~~1. Absences due to sickness, death or other emergencies of like nature shall be recognized as excused absences and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the Board. In the event of a long illness or other such cause for prolonged absence, however, as determined by the Administrator, the member shall be replaced; provided, however that Council may take specific action to excuse the absences and reappoint a member after being informed by the Administrator of the member's proposed or actual removal.~~

~~— For example, if a member misses six of twelve meetings during a twelve month period and two of the absences are due to the member's illness, the member will be recorded as having missed four of ten meetings.~~

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

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

~~2. Regular Board members shall be automatically removed for unexcused failure to attend three (3) consecutive meetings or for unexcused failure to attend fifty percent (50%) of the regular meetings in any twelve (12) month period. For example, if a member misses six (6) of twelve (12) meetings during a twelve month period and two (2) of the absences are due to the member's illness, the member will be recorded as having missed four (4) of ten (10) meetings. Alternate members shall likewise be removed for unexcused failure to attend or participate in three (3) consecutive meetings for which the member's attendance is requested.~~

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

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

E. Residency. All members must be residents within the Town corporate limits. If a regular or alternate member moves outside the Town limits, that shall constitute a resignation from the Board.

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

G. Removal. The Administrator or a member of the Town Council may propose removal of a member for good cause related to the performance of Board duties.

~~1. Before removal, the member shall be given an opportunity to appear before the Town Council to address the issues involved.~~

2.01.03 **Meetings of the Board of Adjustment**Procedure

A. Schedule: The Board shall conduct meetings in accordance with the meeting schedule adopted by Council, so long as there are items for its consideration, and it may schedule additional meetings ("continuation meetings" and "special meetings") as necessary, so long as all notice requirements are met. Regardless of whether or not a quorum of the Board is present, any duly advertised regular or special meeting may be continued to a later date ("continuation meeting") without additional notice and advertising if the date,

~~time, and location of the continuation meeting is adopted and announced by a majority of the members present.~~

~~B.A. **Rules of Procedure:**~~ The Board shall conduct its meetings in accordance with its duly adopted Rules of Procedure so long as they are not inconsistent with the provisions of this Ordinance or State law. The Rules of Procedure may address any of the following:

1. Scheduling and order of cases before the Board; and
2. Representation; and
3. Intervention of a person other than the applicant or appellant who has a special and substantial interest in the outcome of the case to fully participate as a party in the hearing; and
4. Pre-hearing procedures; and
5. Hearing procedures; and
6. Admissibility of evidence; and
7. Decision-making procedures; and
8. Length of meetings; and
9. Special meetings; and
10. Meeting decorum pursuant to Subsection 6.01.07(B); and
11. Such other matters as may be needed for the effective and proper functioning of the Board.

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

- ~~1. A meeting which is open to the public, except as to closed session conducted in accordance with the law for the reasons authorized by law.~~
- ~~2. Minutes of the meeting, a copy of which shall be provided, once approved by the Board, to the Town Clerk.~~

2.01.04 Board of Adjustment Chair and Vice-Chair~~Officers~~

A. In or about July of each year, the Board will accept and review applications from the current membership for Chair and Vice-Chair positions and forward a recommendation on these positions to Town Council. Upon receipt of the Board's recommendations, Council shall review the submitted applications and the Board recommendations before designating the Chair and the Vice-Chair. ~~Unless the Town Council designates the Chair and Vice-Chair of the Board, it shall retain the power to choose its own Chair and Vice-~~

~~Chair.~~ The ~~members~~ ~~people~~ so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms by the Town Council.

1. The Board shall designate the Chair and Vice-Chair of any subcommittee.

B. If neither the Chair nor the Vice-Chair are present, the presiding officer shall be elected by majority vote.

C. The Chair and Vice-Chair may take part in all deliberations and vote on all issues.

2.01.05 Powers and Duties of the Board of Adjustment

~~1.~~ The Board is a quasi-judicial body that shall hear and decide:

~~a.~~ A. Appeals from any order, decision, requirement, interpretation, or determination made by the Administrator, as provided in Article 6 Board of Adjustment Hearings.

~~b.~~ B. Applications for special-use permits, as provided in Article 6 Board of Adjustment Hearings.

~~c.~~ C. Applications for variances, as provided in Article 6 Board of Adjustment Hearings.

~~d.~~ D. Applications for major subdivision preliminary plat approval, as provided in Article 6 Board of Adjustment Hearings.

~~e.~~ E. Appeals of the grant or denial of an application for a Certificate of Appropriateness by the Historic Preservation Commission.

~~f.~~ F. Any other matter the Board is required to act upon by any other Town Ordinance.

~~A. Limitations on the Powers of the Board of Adjustment~~

~~1. No individual member of the Board shall purport to speak or act on behalf of the Board without action by the Board or authorization in the Board's duly adopted Rules of Procedure explicitly authorizing the member to speak or act on its behalf.~~

~~2. No individual member of the Board, or the Board itself, shall purport to speak or act on behalf of the Town without action by the Council explicitly authorizing the member or empowering or authorizing the Board to speak or act on its behalf.~~

~~3. Without an express grant of authority or explicit authorization by the Council, no individual member of the Board, or the Board itself, may direct Staff to take action requiring the expenditure of Town funds.~~

~~4. The Board shall not create any group external to its membership without the explicit approval and or appointment of the Town Council. When deemed appropriate the Town Council will appoint a group(s) to advise the Board on tasks assigned by the Town Council or its designee.~~

- ~~5. The Board may create subcommittees or working groups within its membership without explicit approval of the Town Council providing that these groups do not require ongoing resources. Where ongoing resources are requested the assignment of these resources must be approved by the Town Manager or his or her designee.~~

(Ord. PL00147-010417, 02-16-2017; Ord. PL01809-082218, 10-16-2018)

2.02 Planning Commission

- 2.02.01** The Planning Commission is an advisory board ~~which~~ that makes recommendations to Council on future growth and development issues that affect the Town. ~~The Planning Commission and advises Town Council concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604. reviews and makes recommendations to the Council pursuant to Subsection 2.02.06 with respect to proposed amendments to the UDO. In addition to or as part of its regular meeting schedule, the Planning Commission shall attend public hearings on proposed zoning text and map amendments scheduled by the Town Council.~~

2.02.02 Appointment and Terms of Planning Commission Members

- A. ~~Number of Members~~ Membership:** ~~There shall be a~~ The Planning Commission ~~consisting shall consist~~ of seven (7) members. One member shall be an Appalachian State University student.

~~Title I — Appointment of Members to the Planning Commission: Members of the Planning Commission shall be appointed by the Town Council following the procedures of § 35.01 of the Municipal Code.~~

- ~~B. Term:~~ Planning Commission m** Members shall ~~generally~~ be appointed for four (4) year staggered terms, but ~~members~~ may continue to serve until their successors have been appointed. ~~An~~ The Appalachian State University student member shall serve a term of one (1) year. Vacancies which occur for reasons other than the expiration of a term shall be filled as they occur only for the unexpired remainder of the term. .

- B.** Members may be appointed to no more than three successive terms. A former member may be reappointed following a one-year period of non-membership.

- ~~A.C.~~ Residency requirement.** Members of the Planning Commission must be residents of the Town of Boone.

~~C. Absences:~~

- ~~1. Absences due to sickness, death or other emergencies of like nature shall be recognized as excused absences and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the Board~~ Commission.

- ~~a. For example, if a member misses six of twelve meetings during a twelve-month period and two of the absences are due to the member's illness, the member will be recorded as having missed four of ten meetings.~~
 - ~~b. In the event of a long illness or other such cause for prolonged absence, as determined by the Administrator, the member shall be replaced.~~
 - ~~c. Council may take specific action to excuse the absences and reappoint a member after being informed by the Administrator of the member's removal.~~
- ~~2. Planning Commission members shall be automatically removed for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) of the regular meetings in any twelve month period.~~
- ~~— Commission members shall be automatically removed for unexcused failure to attend three (3) consecutive meetings or for unexcused failure to attend fifty percent (50%) of the regular meetings in any twelve (12) month period. For example, if a member misses six (6) of twelve (12) meetings during a twelve month period and two (2) of the absences are due to the member's illness, the member will be recorded as having missed four (4) of ten (10) meetings. Alternate members shall likewise be removed for unexcused failure to attend or participate in three (3) consecutive meetings for which the member's attendance is requested.~~
- ~~3. The Administrator shall notify in writing any member for whom one more absence will trigger removal.~~
- ~~4. The Administrator shall notify the member and Town Council when a member has exceeded the allowable number of unexcused absences.~~
- ~~**D. Residency:** All members must be residents within the Town corporate limits. If a resident member moves outside the Town limits, that shall constitute a resignation from the Planning Commission, effective upon the date a replacement is appointed by the Council.~~
- ~~**E. Resignation:** A member of the Planning Commission may resign by notifying the Mayor, Town Manager, or Administrator. A resignation shall be effective at the time a replacement member has been appointed unless the member declares a date certain in the resignation.~~
- ~~**F. Removal:** The Administrator or a member of the Town Council may propose removal of a member for any other good cause related to the performance of Board duties.~~
- ~~**A.** Before removal, the member shall be given an opportunity to appear before the Town Council to address the issues involved.~~

2.02.03 Meetings of the Planning Commission

- ~~**A. Schedule:** The Planning Commission shall conduct meetings in accordance with the meeting schedule adopted by Council, so long as there are items for its consideration,~~

~~and it may schedule additional meetings (“continuation meetings” and “special meetings”), as necessary, so long as all notice requirements are met. Regardless of whether or not a quorum of the Planning Commission is present, any duly advertised regular or special meeting may be continued to a later date (“continuation meeting”) without additional notice and advertising if the date, time, and location of the continuation meeting is adopted and announced by a majority of the members present.~~

~~1. The Planning Commission shall also attend any public hearings on proposed Ordinance amendments scheduled by Town Council.~~

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

~~1. In the absence of the Chair, the Vice Chair shall conduct any meeting of the Planning Commission, and in the absence of both officers, the Mayor may designate a person to act as Chair for the meeting in question or if no one is designated the Commission can elect a presiding officer by majority vote.~~

~~2. The agenda shall include only those matters within the responsibilities and powers of the Planning Commission as provided herein.~~

~~a. Absent an emergency matter, which can be placed upon the agenda by a unanimous vote of those present, only matters on the published agenda may be acted upon by the Commission.~~

~~b. Issues considered under agenda items entitled, “other matters” or similar language shall only be for information, and other items or issues for information may be added to the agenda by majority vote of those present.~~

~~3. Meetings of the Planning Commission or subcommittee shall proceed in the following order: adoption of an agenda, approval of the minutes, public comment (when public comment is to be accepted), unfinished business, new business, and informal discussion, and public comment, when public comment is to be accepted. By majority vote of the members in attendance, the order of business may be altered.~~

~~4. The business of the Planning Commission or subcommittee shall be conducted in such manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the Chair, and members of the Planning Commission or subcommittee shall be respectful to each other and shall avoid interrupting each other.~~

~~C. Open Meetings:~~ ~~The Planning Commission shall operate in compliance with the North Carolina Open Meetings law, codified as N.C. Gen. Stat. §§ 143-318.9 et seq. (hereafter, “the law”). At a minimum, all meetings of the Planning Commission or any~~

~~subcommittee, advisory group, or working group of the Commission, by whatever name or designation (hereafter referred to as a "subcommittee") shall require all of the following:~~

- ~~1. Notice of all official meetings, other than an emergency meeting, by posting of the date and time of the meeting at least 48 hours in advance on the bulletin Board for that purpose in Town Hall, unless a longer notice is required by this Ordinance or State law. If an agenda has been distributed to members of the Commission, it shall also be posted.~~
 - ~~a. An "official meeting" occurs whenever a regularly scheduled meeting of the Planning Commission or subcommittee occurs, whether or not a quorum is present, or a "special meeting" when a majority of the Planning Commission or subcommittee meet, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action, or otherwise transact public business.~~
 - ~~b. "Deliberate" includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision.~~
 - ~~c. An "emergency meeting" is one that concerns generally unexpected circumstances which require the immediate consideration of the Planning Commission or subcommittee. In the event of an emergency meeting, a local news medium must be notified prior to the meeting of the date, time and subject matter of the meeting.~~
 - ~~2. A meeting which is open to the public, except as to a closed session conducted in accordance with the law for a reason authorized by the law.~~
 - ~~3. Minutes of the meeting, a copy of which shall be provided to the Town Clerk, once they are approved by the Commission or subcommittee.~~
 - ~~a. Minutes of the Planning Commission or subcommittee shall be subject to revision and adoption by the group as a whole.~~
- ~~D. Speakers:~~** ~~At any meeting of the Planning Commission or subcommittee, if the meeting is opened for public comment, any person wishing to address the body or subcommittee shall state his or her name and whether or not he or she is a resident of the Town.~~
- ~~1. Speakers shall be recognized in the order in which they have signed up.~~
 - ~~2. Unless a different time limit is adopted by the Planning Commission or subcommittee, no member of the public shall be allowed to speak for more than five minutes.~~
 - ~~3. Should more than one person wish to make substantially the same comments regarding the same subject, or where a group of persons supports or opposes the~~

~~same positions, the presiding officer may require that all such persons designate a spokesperson for their group to address the Commission or subcommittee, and the presiding officer may allot a larger amount of time for the presentation of the group position by the spokesperson.~~

- ~~4. All persons addressing the Commission or subcommittee shall be treated respectfully by other persons in attendance at the meeting, and all speakers shall conduct themselves with proper decorum. Should any person present during a public comment period substantially interfere with the ability of a person offering public comment or engage in behavior which violates norms of accepted decorum, or should a person offering public comment engage in behavior which violates norms of accepted decorum, after warning such person(s) and, except in a situation where there is a risk of harm to any person present, providing such person(s) the opportunity to alter the behavior to bring it into conformity with norms of accepted decorum, the presiding officer may direct that such person(s) be removed from the meeting.~~

2.02.04 Quorum and Voting

~~A. A quorum is necessary for the Planning Commission to take official action.~~

- ~~1. A quorum shall consist of a majority of the members of the Commission. Vacant positions are not counted as members for purposes of calculating quorum. A member who is present shall be counted for purposes of quorum even if he or she is recused from voting.~~

~~B. All actions or recommendations of the Planning Commission or subcommittee are only effective or adopted upon majority vote of the members present, following a motion and second.~~

- ~~1. In the case of a divided vote on any question on which the Commission is required to act, the record shall include the vote of each member. When such action is to be reported to the Council, the committee, task force, or advisory body shall not only report the action or recommendation adopted, but the vote by which it was adopted.~~
- ~~2. Proxy voting is not allowed, but a member who cannot be physically present may participate in the meeting by electronic or telephonic means so long as the member can hear all deliberations and proceedings of the Commission, and the members of the Commission can hear the member.~~
- ~~3. A roll call vote shall be taken upon the request of any member.~~

2.02.05 Planning Commission ~~Officers~~ Chair and Vice-Chair

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

~~—~~ In or about July of each year, the Commission ~~will~~ shall accept and review applications from the current membership for Chair and Vice-Chair positions ~~in order to~~ and forward a recommendation on these positions to Council. Upon receipt of the Commission's recommendations, Council shall review the submitted applications and the Planning Commission recommendations before designating the Chair and the Vice-Chair. The ~~members~~ ~~people~~ so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only.

~~A.~~

1. The Commission shall designate the Chair and Vice-Chair of any subcommittee.

B. If neither the Chair nor the Vice-Chair are present, the presiding officer shall be elected by majority vote.

~~A.~~ C. The Chair and Vice-Chair may take part in all deliberations and vote on all issues.

2.02.06 Powers and Duties of the Planning Commission

A. The Planning Commission may:

1. Make studies of the area within its jurisdiction and surrounding areas; and
2. Determine objectives to be sought in the development of the study area; and
3. Prepare and adopt plans for achieving these objectives; and
4. Develop and recommend to the Council policies, Ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner. The Planning Commission shall not, however, have the power to "initiate" changes to this Ordinance, as the term "initiate" is used in, Section 9.02; and
5. Advise the Council concerning the use and amendment of means for carrying out plans; and
6. Make findings and recommendations to the Council concerning proposed zoning text and map amendments, as provided for and in compliance with Section 9.05; and
7. Review and either approve or deny proposed minor subdivision requests when a portion of the land to be subdivided lies within a Designated Water Supply Watershed District, based upon application of Articles 5 and 29 of this Ordinance; and
8. Perform any other related duties that the Council may direct.

B. Limitations on Powers of the Planning Commission

1. No individual member of the Planning Commission shall purport to speak or act on behalf of the Commission without action by the Commission explicitly authorizing the member to speak or act on its behalf; and

2. No individual member of the Planning Commission, nor the Planning Commission itself, shall purport to speak or act on behalf of the Town without action by the Council explicitly authorizing the member or empowering or authorizing the Commission to speak or act on its behalf; and
3. Without an express grant of authority or explicit authorization by the Council, no individual member of the Planning Commission, nor the Commission itself, shall direct Staff to take action requiring the expenditure of Town funds; and
4. The Planning Commission shall not create any group external to its membership without the explicit approval and or appointment of the Town Council. When deemed appropriate the Town Council will appoint a group(s) to advise the Planning Commission on tasks assigned by the Town Council or it's designee; and
- ~~5. The Planning Commission may create subcommittees or working groups within its membership without explicit approval of the Town Council providing that these groups do not require ongoing resources. Where ongoing resources are requested the assignment of these resources must be approved by the Town Manager or his or her designee.~~

2.02.07 Advisory Committees

- A. From time to time the Council may appoint one or more individuals to help the Planning Commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Council may appoint advisory committees to consider the thoroughfare plan, bikeway plans, community appearance plans, housing plans, economic development plans, etc. Such advisory committees shall be created and operate, unless otherwise designated by the Council, according to the procedures established under Municipal Code §§ 30.51, and 35.01, et seq.
 - B. Members of such advisory committees shall sit as nonvoting members of the Planning Commission when such issues are being considered, and they shall be invited to lend their talents, energies, and expertise to the Planning Commission. However, all formal recommendations of the Planning Commission to the Council shall be made by the Planning Commission itself.
- ~~1. As with Commission members, unless the Council takes specific action to excuse the absences and reappoints an advisory committee member after being informed by the Administrator of the member's removal, an advisory committee member shall be automatically removed for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) of the meetings within any twelve month period. Absences due to sickness, emergencies, or other exigencies death, or other emergencies of like nature shall be recognized as excused absences, and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the committee. For example, if a member misses six of twelve meetings during a twelve month period and two of the~~

~~absences are due to the member's illness, the member will be recorded as having missed four of ten meetings. In the event of a long illness or other such cause for prolonged absence, as determined by the Administrator and confirmed by the Council, the member shall be replaced. The Administrator shall notify in writing any member for whom one more absence will trigger removal. In addition, the Administrator or a member of the Council may propose removal of a member for any other good cause related to the performance of committee duties, but before removal on that basis, the member shall be given an opportunity to appear before the Council to address the issues involved.~~

- C. Nothing in this Section shall prevent the Council from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Council.

(Ord. PL00147-010417, 02-16-2017; Ord. PL001809-082218, 10-16-2018)

2.03 Community Appearance Commission

- 2.03.01** The Community Appearance Commission is an advisory board ~~which~~ that makes recommendations to Council on visual appearance, community beautification, and landscape development that affect the Town ~~and reviews development requests pursuant to Subsection 2.03.06.~~

2.03.02 Appointment and Terms of Community Appearance Commission Members

A. ~~Number of Membership:~~ There shall be a Community Appearance Commission ~~shall consist~~ consisting of seven (7) members. One member shall be an Appalachian State University student. ~~All members shall reside within the planning jurisdiction of the Town and shall be appointed by the Council.~~ To the extent qualified persons can be found, the majority of members shall have special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely related field.

A.B. ~~Terms: Community Appearance Commission m~~Members shall be appointed for three (3) year staggered terms, but may continue to serve until their successors have been appointed. ~~The Appalachian State University student member shall serve a term of one (1) year.~~ Members may be appointed to nor more than three (3) successive terms. Vacancies which occur for reasons other than the expiration of a term shall be filled as they occur only for the unexpired remainder of the term.

C. **Residency Requirement.** Members of the Community Appearance Commission must be residents of the Town of Boone.

~~A. **Members may continue to serve until their successors have been appointed.**~~

~~B. Vacancies which occur for reasons other than the expiration of term shall be filled as they occur for the unexpired remainder of the term.~~

~~A. Absences:~~

- ~~1. Absences due to sickness, death or other emergencies of like nature shall be recognized as excused absences and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the Board Commission.~~
 - ~~a. For example, if a member misses six of twelve meetings during a twelve-month period and two of the absences are due to the member's illness, the member will be recorded as having missed four of ten meetings.~~
 - ~~b. In the event of a long illness or other such cause for prolonged absence, as determined by the Administrator and confirmed by the Council, the member shall be replaced.~~
 - ~~c. Council may take specific action to excuse the absences and reappoint a member after being informed by the Administrator of the member's removal.~~
- ~~2. Community Appearance members shall be automatically removed for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) of the regular meetings in any twelve-month period.~~
- ~~3. The Administrator shall notify in writing any member for whom one more absence will trigger removal.~~
- ~~4. The Administrator shall notify the member and Town Council when a member has exceeded the allowable number of unexcused absences.~~

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

~~2.03.03 Meetings of the Community Appearance Commission~~

~~A. Schedule: The Community Appearance Commission shall conduct meetings in accordance with the meeting schedule adopted by Council, so long as there are items for its consideration, and it may schedule additional meetings ("continuation meetings" and "special meetings"), as necessary, so long as all notice requirements are met. Continuation meetings may be scheduled without additional advertising if the date, time, and location of the meeting is adopted and announced by the Community Appearance Commission at a duly advertised meeting.~~

~~B. Rules of Procedure: Since the Commission has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in~~

~~Article 6. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.~~

- ~~1. In the absence of the Chair, the Vice Chair shall conduct any meeting of the Community Appearance Commission, and in the absence of both officers, the Mayor may designate a person to act as Chair for the meeting in question or if no one is designated the Commission can elect a presiding officer by majority vote.~~
- ~~2. The agenda shall include only those matters within the responsibilities and powers of the Community Appearance Commission as provided herein.~~
 - ~~a. Absent an emergency matter, which can be placed upon the agenda by a unanimous vote of those present, only matters on the published agenda may be acted upon by the Commission.~~
 - ~~b. Issues considered under agenda items entitled, "other matters" or similar language shall only be for information, and other items or issues for information may be added to the agenda by majority vote of those present.~~
- ~~3. Meetings of the Community Appearance Commission or subcommittee shall proceed in the following order: adoption of an agenda, approval of the minutes, public comment (when public comment is to be accepted), unfinished business, new business, and informal discussion, and public comment, when public comment is to be accepted. By majority vote of the members in attendance, the order of business may be altered.~~
- ~~4. The business of the Community Appearance Commission or subcommittee shall be conducted in such manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the Chair, and members of the Community Appearance Commission or subcommittee shall be respectful to each other and shall avoid interrupting each other.~~

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

- ~~1. Notice of all official meetings, other than an emergency meeting, by posting of the date and time of the meeting at least 48 hours in advance on the bulletin board for that purpose in Town Hall, unless a longer notice is required by this Ordinance or State law. If an agenda has been distributed to members of the Commission, it shall also be posted.~~
 - ~~a. An "official meeting" occurs whenever a regularly scheduled meeting of the Community Appearance Commission or subcommittee occurs, whether or not a~~

~~quorum is present, or when a majority of the Community Appearance Commission or subcommittee meet, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action, or otherwise transact public business.~~

~~b. "Deliberate" includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision.~~

~~c. An "emergency meeting" is one that concerns generally unexpected circumstances which require the immediate consideration of the Community Appearance Commission or subcommittee. In the event of an emergency meeting, a local news medium must be notified prior to the meeting of the date, time and subject matter of the meeting.~~

~~2. A meeting which is open to the public, except as to a closed session conducted in accordance with the law for a reason authorized by the law.~~

~~3. Minutes of the meeting, a copy of which shall be provided to the Town Clerk, once they are approved by the Commission or subcommittee.~~

~~b. Minutes of the Community Appearance Commission or subcommittee shall be subject to revision and adoption by the group as a whole.~~

D. Speakers: ~~At any meeting of the Community Appearance Commission or subcommittee, if the meeting is opened for public comment, any person wishing to address the body or subcommittee shall state his or her name and whether or not he or she is a resident of the Town or ETJ.~~

~~1. Speakers shall be recognized in the order in which they have signed up.~~

~~2. Unless a different time limit is adopted by the Community Appearance Commission or subcommittee, no member of the public shall be allowed to speak for more than five minutes.~~

~~3. Should more than one person wish to make substantially the same comments regarding the same subject, or where a group of persons supports or opposes the same positions, the presiding officer may require that all such persons designate a spokesperson for their group to address the Community Appearance Commission or subcommittee, and the presiding officer may allot a larger amount of time for the presentation of the group position by the spokesperson.~~

~~4. All persons addressing the Community Appearance Commission or subcommittee shall be treated respectfully by other persons in attendance at the meeting, and all speakers shall conduct themselves with proper decorum. Should any person present during a public comment period substantially interfere with the ability of a person offering public comment or engage in behavior which violates norms of accepted decorum, or should a person offering public comment engage in behavior which~~

~~violates norms of accepted decorum, after warning such person(s) and, except in a situation where there is a risk of harm to any person present, providing such person(s) the opportunity to alter the behavior to bring it into conformity with norms of accepted decorum, the presiding officer may direct that such person(s) be removed from the meeting.~~

2.03.04 Quorum and Voting

~~A. A quorum is necessary for the Community Appearance Commission to take official action.~~

~~1. A quorum shall consist of a simple majority of the appointed members.~~

~~B. All actions or recommendations of the Community Appearance Commission are only effective or adopted upon majority vote of the members present, following a motion and second.~~

~~1. In the case of a divided vote on any question on which the Commission is required to act, the record shall include the vote of each member. When such action is to be reported to the Council or Planning Commission, the Community Appearance Commission shall not only report the action or recommendation adopted, but the vote by which it was adopted.~~

~~2. Proxy voting is not allowed, but a member who cannot be physically present may participate in the meeting by electronic or telephonic means so long as the member can hear all deliberations and proceedings of the Commission, and the members of the Commission can hear the member.~~

~~3. A roll call vote shall be taken upon the request of any member.~~

2.03.05 Community Appearance Commission ~~Officers~~ Chair and Vice-Chair

A. Unless the Town Council designates the Chair and Vice-Chair of the Community Appearance Commission, it shall retain the power to choose its own Chair and Vice-Chair. ~~The Community Appearance Commission shall designate the Chair and Vice-Chair of any subcommittees.~~ The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only.

~~A.1.~~ The Community Appearance Commission shall designate the Chair and Vice-Chair of any subcommittees.

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

~~A.C.~~ If neither the Chair nor the Vice-Chair are present, the presiding officer shall be elected by majority vote.

2.03.06 Powers and Duties of the Community Appearance Commission

A. The Community Appearance Commission may:

1. Make studies and recommend to the Council plans, goals, and objectives relating to the visual appearance, community beautification, landscape development, urban forest protection and redevelopment of the Town's planning area; and
2. Develop and recommend to the Council policies, Ordinances, administrative procedures, and other means for carrying out plans for community beautification in a coordinated and efficient manner.; and
3. Development educational programs and materials ~~which~~that inform the public on matters concerning community beautification and urban forest protection and other subjects as detailed in Section 2.03.06(A)(1); and
4. Coordinate and/or conduct special studies related to assigned responsibilities; and
5. Perform any other duty assigned by the Council ~~which~~that is authorized pursuant to N.C. Gen. Stat. § 160A-452.

B. Limitations on Powers of the Community Appearance Commission

1. No individual member of the Commission shall purport to speak or act on behalf of the Commission without action by the Commission explicitly authorizing the member to speak or act on its behalf; and
2. No individual member of the Commission, nor the Commission itself, shall purport to speak or act on behalf of the Town without action by the Council explicitly authorizing the member or empowering or authorizing the Commission to speak or act on its behalf; and
3. Without an express grant of authority or explicit authorization by the Council, no individual member of the Commission, nor the Commission itself, shall direct Staff to take action requiring the expenditure of Town funds; and
4. The Community Appearance Commission shall not create any group external to its membership without the explicit approval and or appointment of the Town Council. When deemed appropriate the Town Council will appoint a group(s) to advise the Community Appearance Commission on tasks assigned by the Town Council or its designee; and
5. ~~The Community Appearance Commission may create subcommittees or working groups within its membership without explicit approval of the Town Council providing that these groups do not require ongoing resources. Where ongoing resources are requested the assignment of these resources must be approved by the Town Manager or his or her designee.~~

(Ord. 20160224, 05-19-2016; Ord. 20160438, 03-16-2017; Ord. PL01809-082218, 10-16-2018)

2.04 Historic Preservation Commission

2.04.01 The Historic Preservation Commission is responsible for the inventory of historical, architectural and culturally significant properties within the Town of Boone corporate limits ~~and ETJ~~. The Historic Preservation Commission also makes recommendations to Council to promote, enhance and preserve the character and historic landmark or district in the Town's planning area. The Historic Preservation Commission operates pursuant to Subsection 2.04.06.

2.04.02 Appointment and Terms of Historic Preservation Members

A. ~~Number of Members~~ Membership: There shall be a Historic Preservation Commission consisting of ~~seven~~ **five (5) members**, ~~all appointed by the Town Council~~. One member shall be an Appalachian State University student.

~~1. All members must be residents of the Town's planning jurisdiction, with no fewer than five (5) member's residents of the Town and up to two (2) member's residents of the Town's extraterritorial planning jurisdiction (hereafter "ETJ").~~

~~2. Two (2) Town Council members shall serve on the Commission.~~

~~1. At least four (4) of the members~~ To the extent qualified persons can be found, the majority of the Commission shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields, and to the extent persons may be found with the stated qualifications, the Town Council shall seek to appoint two persons with significant experience or knowledge in historic preservation, one person with significant experience or knowledge in building construction, and one person with significant experience or knowledge in architecture. ~~The required special interest, experience or education for four members, and the specialized experience or knowledge to meet these goals may be held by a Town Council member or any other member of the Commission.~~

B. Appointment of Members of the Historic Preservation Commission: Members of the Historic Preservation Commission shall be appointed by the Town Council following the procedure of § 35.01 of the Municipal Code.

~~B.C.~~ Terms:

~~1. Other than Town Council Members, Historic Preservation Commission~~ ~~m~~Members shall be appointed for three (3) year staggered terms, but members may continue to serve until their successors have been appointed. The Appalachian State University student member shall serve a term of one (1) year. Vacancies which that occur for reasons other than the expiration of a term shall be filled as they occur for the unexpired remainder of the term.

~~1. Town Council members shall be appointed for one (1) year terms.~~

~~2. Vacancies which occur for reasons other than the expiration of term shall be filled as they occur only for the unexpired remainder of the term.~~

- ~~3.1. Except for Town Council members who may serve as many terms as appointed,~~
~~m~~Members may be appointed to no more than ~~two (2)~~three (3) successive terms,
 but a former member may be reappointed following a one-year period of non-
 membership.

~~C. Absences:~~

- ~~1. Absences due to sickness, death or other emergencies of like nature shall be recognized as excused absences and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the Commission.~~
 - ~~a. For example, if a member misses six of twelve meetings during a twelve month period and two of the absences are due to the member's illness, the member will be recorded as having missed four of ten meetings.~~
 - ~~b. In the event of a long illness or other such cause for prolonged absence, as determined by the Administrator and confirmed by the Council, the member shall be replaced.~~
 - ~~c. Council may take specific action to excuse the absences and reappoint a member after being informed by the Administrator of the member's removal.~~
- ~~2. Historic Preservation members shall be automatically removed for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) of the regular meetings in any twelve month period.~~
- ~~3. The Administrator shall notify in writing any member for whom one more absence will trigger removal.~~
- ~~4. The Administrator shall notify the member and Town Council when a member has exceeded the allowable number of unexcused absences.~~

D. Residency: All members of the Historic Preservation Commission must be residents within the Town corporate of the Town of Boone limits or ETJ. ~~If a resident member moves outside the the Town limits, of if an ETJ member moves outside the planning jurisdiction that shall constitute a resignation from the Historic Preservation Commission, effective upon the date a replacement is appointed by the Council.~~

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

~~2.04.03 Meetings of the Historic Preservation Commission~~

A. Schedule: ~~The Historic Preservation Commission shall conduct meetings in accordance with the meeting schedule adopted by Council, so long as there are items for its consideration, and it may schedule additional meetings ("continuation meetings" and~~

~~“special meetings”), as necessary, so long as all notice requirements are met. Continuation meetings may be scheduled without additional advertising if the date, time, and location of the meeting is adopted and announced by the Historic Preservation Commission at a duly advertised meeting.~~

~~**B. Rules of Procedure:** The Historic Preservation Commission shall conduct its meetings in accordance with its duly adopted rules of procedures so long as they are not inconsistent with the provisions of this Ordinance or State law, and the Commission shall comply with the requirements of Article 8. The Commission shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas. When exercising authority over any individual property in accordance with Sections 8.03 and 8.06 of this Ordinance, it shall conduct itself in a quasi-judicial manner.~~

- ~~1. In the absence of the Chair, the Vice Chair shall conduct any meeting of the Historic Preservation Commission, and in the absence of both officers, the Mayor may designate a person to act as Chair for the meeting in question or if no one is designated the Commission can elect a presiding officer by majority vote.~~
- ~~2. The agenda shall include only those matters within the responsibilities and powers of the Historic Preservation Commission as provided herein.~~
 - ~~a. Absent an emergency matter, which can be placed upon the agenda by a unanimous vote of those present, only matters on the published agenda may be acted upon by the Commission.~~
 - ~~b. Issues considered under agenda items entitled, “other matters” or similar language shall only be for information, and other items or issues for information may be added to the agenda by majority vote of those present.~~
- ~~3. Meetings of the Historic Preservation Commission or subcommittee shall proceed in the following order: adoption of an agenda, approval of the minutes, public comment (when public comment is to be accepted), unfinished business, new business, and informal discussion, and public comment, when public comment is to be accepted. By majority vote of the members in attendance, the order of business may be altered.~~
- ~~4. The business of the Historic Preservation Commission or subcommittee shall be conducted in such manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the Chair, and members of the Historic Preservation Commission or subcommittee shall be respectful to each other and shall avoid interrupting each other.~~

~~**C. Open Meetings:** At all times the Historic Preservation Commission shall conduct its meetings in compliance with the North Carolina Open Meetings law, codified as N.C. Gen. Stat. §§ 143-318.9 et seq. (hereafter, “the law”). At a minimum, all meetings of the Historic Preservation Commission or any subcommittee, advisory group, or working~~

~~group of the Commission, by whatever name or designation (hereafter referred to as a "subcommittee") shall require all of the following:~~

- ~~A. Notice of all official meetings, other than an emergency meeting, by posting of the date and time of the meeting at least 48 hours in advance on the bulletin board for that purpose in Town Hall, unless a longer notice is required by this Ordinance or State law. If an agenda has been distributed to members of the Commission, it shall also be posted.~~
- ~~A. An "official meeting" occurs whenever a regularly scheduled meeting of the Historic Preservation Commission or subcommittee occurs, whether or not a quorum is present, or when a majority of the Historic Preservation Commission or subcommittee meet, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action, or otherwise transact public business.~~
- ~~B. "Deliberate" includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision.~~
- ~~C. An "emergency meeting" is one that concerns generally unexpected circumstances which require the immediate consideration of the Historic Preservation Commission or subcommittee. In the event of an emergency meeting, a local news medium must be notified prior to the meeting of the date, time and subject matter of the meeting.~~
- ~~B. A meeting which is open to the public, except as to a closed session conducted in accordance with the law for a reason authorized by the law.~~
- ~~C. Minutes of the meeting, a copy of which shall be provided to the Town Clerk, once they are approved by the Commission or subcommittee.~~
- ~~A. Minutes of the Historic Preservation Commission or subcommittee shall be subject to revision and adoption by the group as a whole.~~

~~2.04.04 Quorum and Voting~~

- ~~A. A quorum is necessary for the Historic Preservation Commission to take official action.~~
- ~~1. A quorum shall consist of a simple majority of the appointed members.~~
- ~~B. All actions or recommendations of the Historic Preservation Commission are only effective or adopted upon majority vote of the members present, following a motion and second.~~
- ~~C. In the case of a divided vote on any question on which the Commission is required to act, the record shall include the vote of each member. When such action is to be reported to the Council or Planning Commission, the Historic Preservation Commission shall not only report the action or recommendation adopted, but the vote by which it was adopted.~~
- ~~D. Proxy voting is not allowed, but a member who cannot be physically present may participate in the meeting by electronic or telephonic means so long as the member can~~

~~hear all deliberations and proceedings of the Commission, and the members of the Commission can hear the member.~~

~~E. A roll call vote shall be taken upon the request of any member.~~

~~F.B. All members may vote on all matters considered by the Commission, regardless of the location of the property.~~

i. **Historic Preservation Commission ~~Officers~~ Chair and Vice-Chair**

A. ~~Unless the Town Council designates the Chair and Vice Chair of the Historic Preservation Commission, it shall retain the power to choose its own Chair and Vice Chair.~~ In or about July of each year, the Commission will accept and review applications from the current membership for Chair and Vice-Chair positions in order to forward a recommendation on these positions to Council. Upon receipt of the Commission's recommendations, Council shall review the submitted applications and the Historic Preservation Commission recommendations before designating the Chair and the Vice-Chair. The people so designated shall serve in these capacities for terms on one (1) year, with eligibility for unlimited re-appointment. Vacancies in these offices shall be filled for the unexpired terms only.

1. ~~The Historic Preservation~~ Commission shall designate the Chair and Vice-Chair of any subcommittees.

~~A.B.~~ If neither the Chair nor the Vice Chair are present, the presiding officer shall be elected by majority vote.

~~1. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for unlimited re-appointment.~~

~~2. Vacancies in these offices shall be filled for the unexpired terms only.~~

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

2.04.06 Powers and Duties of Historic Preservation Commission

A. The Historic Preservation Commission shall, in accordance with the procedures of Article 8 of this Ordinance, have the following powers:

1. Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance; and
2. Recommend to the Town Council areas to be designated by Ordinance as "Historic Districts;" modification of Historic District boundaries; and individual structures, buildings, sites, areas, or objects to be designated by Ordinance as "Landmarks"; and
3. Recommend to the Town Council criteria and procedures for the protection and preservation of Historic Districts and Landmarks; and

4. Recommend to the Town Council that designation of any area as an Historic District or part thereof, or designation of any building, structure, site, area, or object as a Landmark, be revoked or removed for cause; and
5. Conduct educational programs with respect to historic properties and districts within its jurisdiction, including but not limited to programs of recognition for significant historic properties, and programs to educate property owners of possible tax benefits associated with historic designation; and
6. Cooperate with the State, federal, and local governments in pursuance of the preservation and protection of areas and properties deemed to be of special significance in terms of their history, prehistory, architecture and /or culture, and contract, when authorized by the Town Council, with the State of North Carolina or the United States of America, or any agency of either for that purpose; and
7. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof, provided that no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof; and
8. Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan; and
9. Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, and identify and propose preservation alternatives to owners; and
10. Perform any other related duties that the Council may direct.

~~B. Limitations on Powers of the Historic Preservation Commission~~

- ~~1. No individual member of the Historic Preservation Commission shall purport to speak or act on behalf of the Commission without action by the Commission explicitly authorizing the member to speak or act on its behalf; and~~
- ~~2. No individual member of the Historic Preservation Commission, nor the Historic Preservation Commission itself, shall purport to speak or act on behalf of the Town without action by the Town Council explicitly authorizing the member or empowering or authorizing the Commission to speak or act on its behalf; and~~
- ~~3. Without an express grant of authority or explicit authorization by the Town Council, no individual member of the Historic Preservation Commission, nor the Commission itself, may direct Staff to take action requiring the expenditure of Town funds; and~~
- ~~4. The Historic Preservation Commission may not create committees, subcommittees, advisory groups or working groups, by whatever name denominated, without the explicit approval of the Town Council.~~

(Ord. PL01809-082218, 10-16-2018)

2.05 ~~Reserved~~ Generally-applicable provisions

2.05.01 The following provisions are applicable to every board and committee established under or this Article and to every subcommittee created by any such board or committee (collectively referenced in this section as “board”), except as specifically provided otherwise in the preceding sections, Article 6, or state law.

A. Appointment of Members: Members of each board shall be appointed by the Town Council pursuant to the procedures set forth at Chapter 35 of the Municipal Code.

B. Absences.

1. Board members shall be removed for unexcused failure to attend three (3) consecutive meetings or for unexcused failure to attend fifty percent (50%) of the regular meetings in any twelve (12) month period. For example, if a member misses six (6) of twelve (12) meetings during a twelve month period and two (2) of the absences are due to the member’s illness, the member will be recorded as having missed four (4) of ten (10) meetings. Alternate members shall be removed for unexcused failure to attend or participate in three (3) consecutive meetings for which the member’s attendance is requested.
2. The Administrator shall notify in writing any member for whom one more absence will trigger removal.
3. Absences due to sickness, emergencies, or other exigencies shall be recognized as excused absences and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the Board. For example, if a member misses six of twelve meetings during a twelve month period and two of the absences are due to the member’s illness, the member will be recorded as having missed four of ten meetings.
4. In the event of a long illness or other such cause for prolonged absence, as determined by the Administrator, the member shall be replaced.
5. The Administrator shall notify the member and Town Council when a member has exceeded the allowable number of unexcused absences.
6. Council may act to excuse absences in advance or to reappoint a member after being informed by the Administrator of the member's removal.

~~A.C.~~ Residency requirements. With respect to any board for which membership requires residency within the Town limits, a member who moves outside the Town limits shall be deemed to have resigned from the board effective upon the date a replacement is appointed by the Council.

ALTERNATIVE 1: With respect to the Board of Adjustment, a member who moves outside the Town limits shall be deemed to have resigned from the board effective upon the date a replacement is appointed by the Council. With respect to the Planning Commission

and Community Appearance Commission, a member who moves outside the Town limits shall be deemed to have resigned from the board effective immediately.

ALTERNATIVE 2: With respect to any board for which membership requires residency within the Town limits, a member who moves outside the Town limits shall be deemed to have resigned from the board effective immediately.

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

E. Removal. The Administrator or a member of the Town Council may propose removal of a member for good cause related to the performance of board duties. Before removal, the member shall be given an opportunity to appear before the Town Council to address the issues involved.

F. Meetings; meeting schedule. A board shall conduct meetings in accordance with the meeting schedule adopted by Council, so long as there are items for its consideration, and it may schedule additional meetings ("continuation meetings" and "special meetings"), as necessary, so long as all notice requirements are met. Regardless of whether or not a quorum of the board is present, any duly advertised regular or special meeting may be continued to a later date ("continuation meeting") without additional notice and advertising if the date, time, and location of the continuation meeting is adopted and announced by a majority of the members present.

G. Open Meetings: Every board shall operate in compliance with the North Carolina Open Meetings law, codified as N.C. Gen. Stat. §§ 143-318.9 et seq. (hereafter, "the law"). At a minimum, all meetings of any board shall require all of the following:

1. Other than for an emergency meeting, notice by posting of the date and time of the meeting at least 48 hours in advance on the bulletin Board for that purpose in Town Hall, unless a longer notice is required by this Ordinance or State law. If an agenda has been distributed to members of the board, it shall also be posted.
 - a. An "official meeting" occurs whenever a regularly scheduled meeting of a board occurs, whether or not a quorum is present, or whenever a majority of the board meets, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action, or otherwise transact public business.
 - b. "Deliberate" includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision.
 - c. An "emergency meeting" is one that concerns generally unexpected circumstances requiring the immediate consideration of the Board. In the event of an emergency meeting, a local news medium must be notified prior to the meeting of the date, time and subject matter of the meeting.

2. A meeting that is open to the public, except as to a closed session conducted in accordance with the law for a reason authorized by the law.
3. Minutes of the meeting, a copy of which shall be provided to the Town Clerk, once they are reviewed and approved by the board.

H. Speakers: When a board meeting includes a provision for public comment, any person wishing to address the board shall state his or her name and whether or not he or she is a resident of the Town. For clarification, this subsection does not apply to the Board of Adjustment, which is governed by its own Rules of Procedure and Article 6 herein; nor does this subsection apply to the Historic Preservation Commission when it is acting in its quasi-judicial capacity and is governed by its Rules of Procedures and Article 6 herein.

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

I. Meetings of Advisory Boards

1. **Meeting procedures.** When a board is meeting in an advisory capacity (rather than in a quasi-judicial role), it need not conduct its meetings in accordance with the quasi-judicial procedures set forth in Article 6. However, every board shall conduct its meetings so as to obtain necessary information and to promote the free and full exchange of ideas.
 - a. The agenda shall include only those matters within the responsibilities and powers of the board as provided herein.

- b. Absent an emergency matter, which can be placed upon the agenda by a unanimous vote of those present, only matters on the published agenda may be acted upon by the board.
- c. Issues considered under agenda items entitled, "other matters" or similar language shall only be for information, and other items or issues for information may be added to the agenda by majority vote of those present.
- d. Meetings of a board shall proceed in the following order: adoption of an agenda, approval of the minutes, public comment (when public comment is to be accepted), unfinished business, new business, and informal discussion. By majority vote of the members in attendance, the order of business may be altered.
- e. The business of every board shall be conducted in such manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the Chair, and members of the board shall be respectful to each other and shall avoid interrupting each other.

J. Quorum and Voting

- 1. A quorum is necessary for a board to take official action. A quorum shall consist of a majority of the members of the board. Vacant positions are not counted as members for purposes of calculating quorum. A member who is present shall be counted for purposes of quorum even if he or she is recused from voting.
- 2. All actions or recommendations of a board are only effective or adopted upon majority vote of the members present, following a motion and second.
- 3. In the case of a divided vote on any question on which the board is required to act, the record shall include the vote of each member. When such action is to be reported to the Council, the board shall not only report the action or recommendation adopted, but the vote by which it was adopted.
- 4. Proxy voting is not allowed, but a member who cannot be physically present may participate in the meeting by electronic or telephonic means so long as the member can hear all deliberations and proceedings of the board, and the members of the board can hear the member.
- 5. A roll call vote shall be taken upon the request of any member.

K. Limitations on Board and Board Member Powers

- 1. No individual member of a board shall purport to speak or act on behalf of the board without action by the board explicitly authorizing the member to speak or act on its behalf; and

2. No individual member of a board, nor the board itself, shall purport to speak or act on behalf of the Town without action by the Council explicitly authorizing the member or empowering or authorizing the board to speak or act on its behalf; and
3. Without an express grant of authority or explicit authorization by the Council, no individual member of a board, nor the board itself, shall direct Staff to take action requiring the expenditure of Town funds; and
4. A board shall not create any group external to its membership without the explicit prior approval and/or appointment of the Town Council; and
5. A board may not create a subcommittee or working group within its membership without explicit approval of the Town Council.

SECTION 2: This Ordinance shall be effective upon the date it is adopted by Town Council.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

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

2.3 THE COMMUNITY

...

2.3.4 Public Involvement

- A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.

- A.1 Offer continued support to the recently created Community Council. A number of appropriate issues for consideration by the committee are included among these implementation actions.

- A.2 Maintain and update a mailing list of architects, engineers, surveyors, landscape architects, realtors, builders, developers and contractors for notification and distribution of changes in Town policies and regulations.
- A.3 Encourage periodic articles in all available media outlets about land use decisions, how they are advertised, and how they are made. Continue school presentations by Town planning staff to explain land use and how it affects each citizen.
- A.4 Post all zoning change requests, special use and variance requests to the Town of Boone web site with date of application and date of impending and completed actions. Explore the possibility of providing links to the Town web site from local newspaper online editions in which the Town posts public notices.
- B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.
 - B.1 Prepare at least two small area or neighborhood plans within the year.
- C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.
- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.
 - D.1 Hold an annual Town Meeting to hear citizen concerns about growth and development and the progress made. In addition to the annual Town Meetings, consider special workshops, open houses and a newsletter or annual report to keep citizens involved and informed about the future of the town and the action being taken.

PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

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

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

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

TOWN COUNCIL ACTION

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

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

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

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