

**Town of Boone
Public Hearing
6:00 PM, Nov. 23, 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 Meeting Minutes by Town Council & Planning Commission**

September 28, 2020 Public Hearing Minutes

IV. Public Hearing

General Guidelines for Each Case Presented at Public Hearing

- i. Presentation of Cases**
 - ii. Questions by Town Council & Planning Commission**
 - iii. Public Comment**
 - iv. Discussions/Questions by Town Council and Planning Commission**
 - v. Public Hearing for Case is Closed**
- A. Case PL04175-083120 JAH, LLC General Use Zoning Map Amendement**

Case PL04175-083120 Application Information

Case PL04175-083120 Staff Report

Case PL04175-083120 Exhibit 1 Meeting Minutes Excerpt

Case PL04175-081320 Exhibit 2 Delmar Bungalows Plan

B. Case PL04269-100820 Pegasus Capital Partners General Use Zoning Map Amendment

Case PL04269-100820 Application Information

Case PL04269-100820 Plat

Case PL04269-100820 Staff Report

C. Case PL04303-102920 Tom and Joan McLaughlin General Use Zoning Map Amendment

Case PL04303-102920 Application

Case PL04303-102920 Staff Report

V. Adjournment of Town Council

VI. PLANNING COMMISSION

VII. Public Comment

VIII. Approval of Planning Commission Meeting Minutes

September 28, 2020 Planning Commission Meeting

IX. Planning Commission Consideration of Cases Heard at Public Hearing

X. Other Matters

XI. 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, SEPTEMBER 28, 2020, 6:00 P.M.
VIA WEBEX SOFTWARE**

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

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice Chair, Frank Venno, Chris Behrend, John Tippet, and Adam Zebzda (joined at 6:55 p.m.)

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

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: John Ward-Town Manager and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: John Grasinger, Connie Ginsberg, Bill Dixon, and Alan Crees

Call to Order

Mayor Brantz called the Town Council to order at 6:02 p.m. for the Public Hearing/Planning Commission meeting held via WebEx and Chair Shay called the Planning Commission to order at 6:02 p.m.

Approval of Meeting Minutes

Council Member Ulmer made a motion to approve the August 24, 2020 Public Hearing minutes as written. The motion was seconded by Mayor Pro Tem Clawson. Council Member Furguele noted his name was not shown in the list of attendees for the August 24, 2020 meeting although he was present and stated he had already made the Board Secretary aware of the omission.

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

Vice Chair Plaag made a motion to approve the August 24, 2020 Public Hearing minutes as written. The motion was seconded by Commission Member Tippet.

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

Case PL03547-020420 – Kensington Gate – Conditional District Zoning Map Amendment

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.

Ms. Shook presented the request as it was outlined in the meeting packet. She stated this project was originally granted a special use permit by the Board of Adjustment in 2003 to construct 3 buildings and only one building was completed within the vesting period. In 2005, the BOA granted a special use permit modification for the construction of the two remaining buildings with a four year vesting. The applicant completed a second building and poured the slab for the third building but was unable to complete that

building. Ms. Shook noted that the UDO was modified in 2014 and multi-family uses were no longer allowed in an OI zoning district.

Mr. Grasinger with WF&G Development LLC stated this was an adult living community for the older population. He explained that the 2008/2009 recession kept them from completing building 3 but felt it was now feasible to move forward.

Alan Crees, engineer for the project, stated he had been working with Mr. Grasinger since 2003 on this project. He stated that construction of the 3rd building would trigger Tier 2 requirements. Mr. Crees noted that bicycle parking was not required when the project was first approved but would now be required for the development under Tier 2. He stated he made a mistake when calculating the required number of bicycle parking spaces for the project, noting he used multi-family zoning calculations instead of adult living community calculations so there were 6 spaces shown on the plans instead of the 2 spaces that were actually required. Mr. Crees asked if it would be a problem to make that change. Ms. Shook replied that the change was being discussed during the hearing and should not be a problem but stated she would like to see more than 2 long term bicycle parking spaces for the project even though they were not technically required by the UDO. Mr. Crees stated they would meet or exceed the bicycle parking requirements.

Mr. Crees stated that the lighting plan would be in compliance with current requirements. He stated there was currently one dumpster on the development and they would be adding recycling containers as required. Mr. Crees noted that signage would comply with the Ordinance. The exterior building colors would be in the Town's neutral palette and would match the other buildings. Mr. Crees stated there was significant wooded area already on the property but they would be enhancing the landscape buffer to meet current requirements.

Vice Chair Plaag noted that the Town wanted to promote carbon neutrality and asked if Mr. Grasinger would accept a condition to place solar panels on the carport. Mr. Grasinger replied that he had studied the idea of solar but did not think the carport would get sunlight the entire day. Vice Chair Plaag stated that Google Maps showed the carport to be in an area that would get plenty of sunlight.

Council Member LaPlaca stated she was all for carbon neutrality but stated the payback for solar panels with the areas local utility companies was terrible. She felt that requiring the installation of solar panels without a good net metering plan in place was not reasonable.

Vice Chair Plaag stated he had a solar array on his house and he put it there because it was the right thing to do, not because he was going to save money. He stated that the Town was trying to encourage carbon neutrality and felt this was an excellent opportunity to help that happen. Chair Plaag stated if there was no demand on the utility companies, the payback would not change. Mr. Grasinger felt it would be difficult and expensive to add solar panels to the project.

Vice Chair Plaag asked what the structure to the east of the slab was and Mr. Grasinger replied that it was a temporary construction shed. Vice Chair Plaag asked if the structure would go away when building 3 was complete. Mr. Grasinger stated that it would be removed after construction.

Vice Chair Plaag noted the development was close to the ASU student parking lot and asked if they felt there would be a problem with students parking in the Kensington Gate parking spaces. Mr. Grasinger responded that they had had no problems with that so far and did not anticipate any in the future.

Connie Ginsberg, a resident of Kensington Gate, added that the development had gates but they had not had to use them because they had not had any issues.

Council Member Furgiuele asked why the lighting plan said that adjustments might be necessary. Mr. Crees replied that he placed that on the plan in case staff felt any changes needed to be made to the plan

during their review. Ms. Shook added that Brian Johnson, Urban Design Specialist, reviewed the lighting plan and felt it was in compliance with Ordinance requirements.

Council Member Furguele asked why there were 47 parking spaces listed instead of the 36 that were required. Mr. Grasinger replied that all of the parking spaces for the development were installed years ago and met the UDO requirements at the time. He stated they may need to repair some of the asphalt.

Council Member Furguele noted there were a number of the units that were owned by WF&G. Mr. Grasinger stated he lived in one of the units and the others were for sale. Council Member Furguele asked if those units were vacant. Mr. Grasinger stated that all but one of the units he owned were being rented and would be put up for sale as the current tenants moved out.

Council Member Furguele asked if they planned to install any hardwoods or shade trees. Mr. Grasinger replied that there were numerous large trees on the property and they would be enhancing the landscaping. Mr. Crees stated that they would be adding 6 large and 7 small deciduous trees.

Council Member Furguele asked if the new building would be built with the same materials as the other 2 buildings. Bill Dixon, architect for the project, replied that the building materials would be the same. Council Member Furguele asked if it was correct that there was no difference in what was presented to the Board of Adjustment and what was being presented currently. Mr. Dixon stated that was correct.

Commission Member Veno noted that the slab had been there for years and asked if it was in compliance with the building code and would it need to be inspected. Mr. Dixon replied that the slab was in good shape and was inspected at the time it was installed.

Mayor Brantz asked if access to the project was from Dale Street. Ms. Shook stated that was correct. Mayor Brantz asked for the time frame for completion of building 3. Mr. Grasinger replied that he would like to begin construction in the spring and hoped to finish in about a year. Mayor Brantz asked Mr. Grasinger if he had contacted the neighbors about his proposed project. Mr. Grasinger replied that the neighbors were commercial properties and ASU. He stated that he had not contacted them but noted he had not heard any opposition.

Council Member Ulmer asked how they would know that all 6 of the items mentioned in the staff report were done. Ms. Shook replied that bicycle parking, site lighting, trash and recycling containers, signs, exterior building color, and landscaping would be reviewed during the next step and then would be inspected by staff when the project was completed.

Council Member Furguele asked if bicycle parking had to be in compliance for the entire development. Ms. Shook replied that it did, noting 1 long term space was required for every 10 units and there were a total of 24 units in the development so 2 long term spaces would be required.

Mayor Brantz asked what was considered an active senior. Mr. Grasinger stated an active senior would be 55 or older and able to take care of themselves. He added that the development was also wheelchair accessible.

At 6:47 p.m. Mayor Brantz invited public comment.

Ms. Shook noted that Susie Navarro and Connie Ginsberg had signed up to speak but Ms. Navarro was not present at the meeting.

Ms. Ginsberg stated she loved living at Kensington Gate. She stated she could walk right out onto the greenway, there were trees that provided shade and protection, there was a good HOA, there were good neighbors, and it was an ideal location for seniors. Ms. Ginsberg noted that she and her husband were one of the first owners and she would like to see the development finished. She felt it would increase property values and be much prettier.

Chair Shay asked if the current units were owner occupied. Mr. Grasinger replied that the units owned by WF&G were being rented but it was the intention to sell those units and have them be owner occupied.

Mayor Pro Tem Clawson thanked Ms. Ginsberg for joining the meeting and providing her input.

Council Member Furguele felt that the issue of solar that was raised by Vice Chair Plaag was worth considering and should at least be encouraged. He also felt that 1 space per 10 units was not enough long term bicycle parking. Council Member Furguele noted that the location of Kensington Gate was ideal for riding bicycles on the greenway.

Mr. Grasinger felt it would be too difficult and expensive to install the solar panels.

Commission Member Zebzda joined the meeting at 6:55 p.m.

Ms. Meade read the following from the general statutes: Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site.

Council Member Furguele suggested a condition to reconstruct the parking lot with a permeable surface if reconstruction was necessary within the next 10 years. Council Member Ulmer asked if permeable materials were more expensive. Council Member Furguele replied that they were. He noted that the project was granted a variance by the Board of Adjustment to invade the stream buffer and the parking lot was right on the buffer. Council Member Furguele suggested that if the Town had adopted standards within the next 10 years regarding permeable surfaces, this development should conform to those standards.

Ms. Meade wished to clarify that Council Member Furguele was suggesting a condition that, if the Town develops permeable surface standards within the next 10 years and Mr. Grasinger reconstructed his parking lot in that timeframe, he must construct it with a permeable surface. Council Member Furguele stated that was what he was suggesting.

Mr. Grasinger stated he removed portion of the stream that were previously culverted and brought the stream back above ground. He felt that the development provided more than the permeable requirements now.

Vice Chair Plaag asked Mr. Grasinger if he would be willing to accept a condition to install the solar panels if efforts were made by the Town that led to a new net metering system that would allow him to recover his costs within 10 years. Mr. Grasinger replied that he did not see the benefit and felt technology would change over the next 10 years and offer something more feasible.

Vice Chair Plaag asked if the common areas would be conveyed to the HOA when all of the units were sold. Mr. Grasinger stated that was correct. He noted he would only be retaining the one unit he lives in.

Chair Shay asked what level of government had the ability to affect net metering. Ms. Meade replied that it would be the Utilities Commission or the General Assembly.

Chair Shay asked what the requirements were for sidewalks and the second entrance/exit. Ms. Shook stated that fire and building codes would have to be met for access. She noted that sidewalks were not required until Tier 3 was triggered.

Discussion ensued as to sidewalk requirements in the UDO. Ms. Shook noted there was some issues in Section 7.05 that warranted further examination of UDO requirements.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:18 p.m.

Case PL04195-090820 Administrative Mechanisms Modification – UDO Text Amendment

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.

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

Ms. Meade suggested the following change to the membership portion for the Planning Commission, Community Appearance Commission and the Historic Preservation Commission: One membership position shall be designated for an Appalachian State University student; provided more than one Appalachian State University student may be appointed to the Commission in the discretion of Town Council.

Council Member Furguele wished to clarify that there would be one student position that would serve a one year term, noting that any of the other regular positions on the Planning Commission could also be filled by students. Ms. Meade stated that was correct.

Ms. Meade suggested the following change to Section 2.02.02(A)Term: The designated Appalachian State University student member shall serve a term of one (1) year.

Ms. Shook noted that, although there had been direction to reduce the number of Community Appearance Commission members from 7 to 5, State statutes require Community Appearance Commissions to have 7 members. She added that, due to the level of interest in historic preservation, she would recommend leaving the Historic Preservation Commission’s membership at 7 as well.

Ms. Shook asked Ms. Meade to speak about in-town residency for board membership. Ms. Meade explained that it was clear that the Planning Commission and Community Appearance Commission required their members to be in-town residents that should be deemed resigned when they move out of town. The Board of Adjustment requirements were not that defined. Ms. Meade felt Board of Adjustment members should also be in-town residents but stated there was a question about whether they should be allowed to continue to serve after moving out of town if they are participating in an unfinished case. She noted the following options that were contained in the meeting packet for consideration:

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.

Council Member Furguele stated he felt strongly that the Board of Adjustment should be made up of only Town residents and was okay for a member to continue to serve if they were in the middle of a case.

Mayor Pro Tem Clawson agreed with Council Member Furguele.

Council Member Furguele referenced Section 2.01.05(F) and felt maybe there should be a period after the word act. Ms. Meade suggested that the sentence should read: Any other matter the Board is required to act upon by any other Town Ordinance or State law. Council Member Furguele was okay with that change.

Council Member Furguele referenced Section 2.05.01(F) and asked that the last sentence read: 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 announced by the Chair.

Ms. Meade suggested revising the last sentence in that section to read: Regardless whether or not a quorum of the board is present, any duly advertised regular or special meeting may be continue to a later date ("continuation meeting") without additional notice and advertising, if the date, time and location of the continuation meeting is announced by the Chair.

Council Member Furguele referenced Section 2.05.01(H)(3) and stated he had a problem with truncating public comment. Ms. Meade felt this applied to organized groups, such as POA's, who could designate a spokesperson. She suggested changing this from a requirement to a request.

Discussion ensued as to Section 2.05.01(J)(1). Ms. Meade recommended: Except as otherwise provided by this Ordinance or other law, 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..

Council Member Furguele referenced Section 2.05.01(J)(2) and suggested it read: Unless otherwise required by law or this Ordinance, all actions or recommendations of a board are only effective or adopted upon majority vote of the members present, following a motion and second.

Vice Chair Plaag noted that the selection and designation of Chair and Vice Chair by Town Council had been included in the HPC section and asked if that was an error. Ms. Shook explained that, due to the types of cases the Historic Preservation Commission would be handling, she felt that Council would want to make the final selection of Chair and Vice Chair for that committee as well. Vice Chair Plaag stated he had no objection to that procedure but felt the HPC should have knowledge of this change before it takes places. Ms. Shook stated she could attend the next Historic Preservation Commission meeting and explain the procedural change before it goes into effect. Vice Chair Plaag state he just did not want it to be a surprise to the Commission.

Vice Chair Plaag stated he would like for resignations to be effective immediately on Historic Preservation Commission. Ms. Meade replied that it was clear under State law that that was the case for HPC and CAC but the Board of Adjustment was not as clear.

Vice Chair Plaag noted, on the matter of HPC members, he felt it would be easier to obtain a quorum if there were 7 members on the Commission. He also felt that allowing 3 consecutive terms was a good idea and brought the HPC in line with other boards.

Council Member Furguele also supported the change to 3 consecutive terms for HPC.

Council Member Ulmer pointed out the following errors:

2.03.06(A)(3): The word Development should be Develop.

Comprehensive Plan Objective for Automobile Transportation: Should say at the expense of the town.

At 8:06 p.m. Mayor Brantz invited public comment.

Ms. Shook stated there was no one signed up to speak.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 8:07 p.m.

Adjournment of Town Council

Council Member LaPlaca made a motion for Town Council to adjourn at 8:07 p.m. The motion was seconded by Council Member Ulmer.

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 8:08 p.m. until 8:16 p.m.

Approval of Meeting Minutes

Commission Member Tippet made a motion to approve the August 24, 2020 Planning Commission meeting minutes as written. The motion was seconded by Vice Chair Plaag.

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

Case PL03547-020420 – Kensington Gate – Conditional District Zoning Map Amendment

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.

Commission Member Zebzda stated he had missed the majority of this case due to his late arrival to the meeting and would like to abstain from voting. Ms. Shook reminded everyone that abstentions counted as a positive vote.

Ms. Shook reminded Commission members that the applicant did not agree to any conditions at the public hearing. She asked if the Commission were going to further consider conditions to recommend to Council she would ask that the Commission to be thoughtful of how the condition was crafted. She referenced

the discussion about the reconstruction of the parking lot and noted that Staff would need guidance on what that would mean. She explained that most people would either apply a sealant or if they were repairing the parking lot the applicant would most likely mill the top layer of asphalt without disturbing the base. She noted the base for asphalt and the base for permeable surfaces was different and she would need to know what type of work would actually trigger any permeable requirements. She noted permits were not required for asphalt milling.

Vice Chair Plaag asked Ms. Shook if the Commission should be concerned that a building might remain vacant or underutilized when considering Conditional District requests. Ms. Shook stated no more than concerns with the viability of any other project or if there were to be a discussion about extended vesting. She note she would have to research the issue more and felt it would be a good training topic.

Chair Shay asked what the applicant would be able to do with the property if the Conditional District was not approved. Ms. Shook noted the property was zoned OI and due to the Ordinance change the current buildings were non-conforming. She noted that the applicant could building anything that was permissible in the O/I zoning district but the applicant would have to go back to the Board of Adjustment for a special use permit modification.

Commission Member Venio felt the project met the requirements of the UDO and expressed concern about imposing a condition to require solar panels. Vice Chair Plaag stated that he asked the applicant if he would be willing to accept a condition but was not trying to impose the condition. He added that just because this applicant did not want to install solar did not mean that the question should not be asked in all applicable instances.

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

Comprehensive Plan Policy 2.1.1 Economic Development

- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.

Comprehensive Plan Policy 2.3 The Community

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

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 2.3.2 Community Character

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

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

- E. Factors in determining preferred locations for high density residential development shall include: close proximity to 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.

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

The motion was seconded by Commission Member Tippet.

Vote: Aye – 5
Nay – None
Abstain – 1 (Zebzda)

The motion passed.

Ms. Shook stated that the applicant was not asked during the public hearing if he would accept the staff recommended conditions but noted the Town Council could ask that question when they do their final consideration of the case at their October meeting.

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 map and believes approval is reasonable and in the public interest because the completion of the project finishes a project that was delayed by the 2008 recession and meets a perceived need for senior housing in Boone that is presently lacking. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None
Abstain – 1 (Zebzda)

The motion passed.

Case PL04195-090820 Administrative Mechanisms Modification – UDO Text Amendment

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.

Ms. Shook outlined the changes that were discussed at the public hearing as follows:

- 2.01.05(F): Add *or State law* to the end of the sentence.
- 2.02.02(A): Should read *One membership position shall be an Appalachian State University student; provided more than one Appalachian State University student may be appointed in the discretion of Town Council.*
- 2.02.02((A)(Term): Should read *The designated Appalachian State University student member shall serve a term of one (1) year.*

- Reference to the ASU student position, membership and term, shall apply also apply to 2.03.02 and 2.04.02
- 2.03.06(A)(3): Change the word *Development* to *Develop*.
- 2.04.02(A): Leave HPC membership at 7.
- 2.04.02(C)(1): HPC members may serve 3 consecutive terms.
- 2.05.01(F): Change wording at the end to state that continuation meetings will be announced by the Chair.
- 2.05.01(H)(3): Change the word *require* to *request*.
- 2.05.01(J)(1): Change to read *Except as otherwise provided by this Ordinance or other law, a quorum shall consist of a majority of the members of the board.*
- 2.05.01(J)(2): Change to read *Unless otherwise required by law or this Ordinance, all actions or recommendations of a board are only effective or adopted upon majority vote of the members present, following a motion and second.*

Ms. Shook noted that the issue of residency requirement needed to be resolved.

Commission Member Zebzda asked if a Board of Adjustment member could remain on the Board and still get another person to fill that position. Ms. Shook replied that once the position is filled, it is filled and could not be held by two people.

Vice Chair Plaag felt strongly about choosing 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. Vice Chair Plaag stated he was unsure if someone living outside Town limits could be fair and impartial on decisions regarding cases located in a town where they no longer reside.

Commission Member Tippettt agreed with Vice Chair Plaag.

Chair Shay, Commission Members Venno and Behrend stated they also preferred Alternative 2.

Chair Shay stated she was comfortable with all of the revisions that had been made and suggested.

First Motion and Vote: Commission Member Zebzda 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 2.3.4 Public Involvement

- 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.
- 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.

The motion was seconded by Commission Member Venno, who wished to add:

Comprehensive Plan Policy 2.1.1 Economic Development

- 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.

Commission Member Zebzda accepted the amendment to his motion.

Chair Shay wished to add that the Planning Commission recommended 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.

Commission Members Zebzda and Veno accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Zebzda 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 it encourages public involvement in Town affairs, encourages student civic involvement as well, and encourages public service that assists in economic development. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Ms. Shook announced there would be a training session held at the October Planning Commission meeting.

Adjournment of Planning Commission

Vice Chair Plaag made a motion to adjourn the meeting at 9:21 p.m. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary

General Use Zoning Map Amendment Application

Town of Boone Planning & Inspections Department

680 W. King Street, Suite C ♦ Boone, North Carolina 28607

Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ Email: planning@townofboone.net ♦ www.townofboone.net



A. Required to be Submitted at Time of Application

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

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

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

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

B. Property Information

Street Address:

TBD Delmar St.

Watauga County Parcel Identification Number:

2910-69-5076-000 and approx. 2,997 sf portion of 2910-69-5102-000

Existing Zoning District(s): primary: CD 33 addition: B3

Proposed Zoning District(s): R1S

Adjacent Land Uses: N: B3

E: CD-R2

S: Delmar St. - B3

W: B3

Are there any existing variances or special use permits granted to the property? ☐ Yes ☐ No ☐ Unknown

If yes, describe: Conditional District Zoning - Book of Records 1576, Page1, Watauga County Public Registry

Total Land Area: Primary: 0.39 acres; addition: approx. 2,997 sf

C. Property Owner Information

Name:

JAH, LLC - John Hodges, Member-Manager

Complete Mailing Address (Street, City, Zip):

895 Laurel Fork Rd. Vilas, NC 28692

Phone Number:

828-773-0617

Email Address:

tdeal@dealmooseley.com

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

D. Applicant Signature and Property Owner Authorization

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

JAH, LLC - John Hodges, Member-Manager

Property Owner (Print)

John Hodges Member Manager 8-25-2026

Property Owner (Signature)

Date

WRITTEN AUTHORIZATION
for Rezoning Application

The undersigned, Kyle L. Sigmon, hereby authorizes JAH, LLC by and through its Member-Manager, John Hodges, to pursue a request to the Town of Boone for a General Use Map Amendment for a portion of the property of Sigmon located at 174 Old East King St. Boone, said real property having a tax parcel ID of 2910-69-5102-000. The portion of said property subject to the rezoning request is more particularly described as 2,997 sf of livability space to be sold, as shown on Figure 3, attached to the General Use Zoning Map Amendment Application submitted on behalf of JAH, LLC.



Kyle L. Sigmon



FILED Amy J. Shook
Register of Deeds, Watauga Co, NC
Fee Amt: \$26.00
NC Excise Tax: \$850.00

Bk 1979 Pg 899 (4)
Recorded: 06/29/2018 at 12:10:04 PM
Doc No: 669985 Kind: DEED



Excise Tax: \$ 850.00 ✓

Mail after recording to: DEAL, MOSELEY & SMITH, LLP, P.O. BOX 311, BOONE, NC 28607

PREPARED BY: James M. Deal, Jr., DEAL, MOSELEY & SMITH, LLP
ATTORNEYS AT LAW,
P. O. BOX 311
BOONE, NC 28607 Tel (828) 264-4734

Brief Description for the Index: 0.573 acres, New River Township
Tax Parcel I.D. #2910-69-5102-000

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED, made this 29 day of June, 2018, by and between,

BETTY FARTHING HODGES and wife, ROGER DALE HODGES

GRANTOR;

and,

KYLE SIGMON and wife, ELISE SIGMON

of 128 Stratford Lane, Boone, NC 28607

GRANTEE.



The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and

Bk 1979 Pg 900

Doc No: 669985 Kind: DEED

convey unto the Grantee in fee simple all that certain lot or parcel of land situated in NEW RIVER TOWNSHIP, WATAUGA COUNTY, NORTH CAROLINA, and more particularly described as follows:

--SEE ATTACHED "SCHEDULE A" FOR DESCRIPTION--

The property hereinabove described was acquired by Grantor in Book 1618, Page 882, Watauga County Registry.

A map showing the above described property is recorded in Plat Book _____ at Page _____.

All or a portion of the property herein conveyed ____ includes or ____ does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

This conveyance is made subject to any easements, rights of way, restrictions and matters of record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing the day and year first above written.

Betty Farthing Hodges (SEAL)
BETTY FARTHING HODGES

Roger Dale Hodges (SEAL)
ROGER DALE HODGES

Bk 1979 Pg 901

Doc No: 669985 Kind: DEED

ACKNOWLEDGMENT

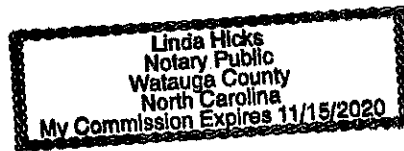
STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

I, a Notary Public of the County and State aforesaid, certify that BETTY FARTHING HODGES and wife, ROGER DALE HODGES, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this the 29 day of June, 2018.

{affix legible notarial stamp or seal *within the margins* below}

Linda Hicks
Linda Hicks Notary Public
 Notary's Printed or Typed Name

My Commission Expires: 11-15-2020

G:\Martha\REAL ESTATE\CLIENTS\Hodges-Sigmon Sellers Docs\Deed.wpd

Communication: Case PL04175-083120 Application Information (Case PL04175-083120 JAH, LLC General Use Zoning Map Amendment)

Bk 1979 Pg 902
Doc No: 669985 Kind: DEED

EXHIBIT A

Being all that tract of land containing 24,953 square feet or 0.573 acres by coordinates, lying on the South side of Old Highway 421, New River Township, Watauga County, North Carolina; bounded on the West by the lands of Harry David Bringham, (Deed Book 240, Page 946), on the North by Old U.S. Highway 421, on the East by the lands of Morris M. Gregger (Book of Records 131, Page 169), Charles B. Michael (Book of Records 364, Page 249), on the South by the North edge of right of way along Delmar Street and being more particularly described by courses and distances according to a survey performed 11-30-00 by Skyline Surveyors, P. A. Job # 320176.2 under the direction and supervision of C. Dean Howell, P.L.S. L-3938 as follows:

BEGINNING on an existing 1/2 inch iron pipe in the Northern edge of right of way along Delmar Street, said point of BEGINNING located South 83 degrees 23 minutes 26 seconds East 1071.03 feet from N.C.G.S. Grid monument (Hardcops) (N.A.D. 1983 N.= 909,220.8619', E.= 1,215,336.9430', the point of BEGINNING having a N.C.G.S. value of (no factor applied) N.= 909,097.5573', E.= 1,216,400.8410'; thence from the point of BEGINNING and along the dividing line between the property described herein (Book of Records 182, Page 299), and the aforesaid Bringham Property North 36 degrees 15 minutes 21 seconds East passing thru an existing 3/4 inch iron pipe at 122.62 feet, continuing 27.38 feet for a total distance of 150.00 feet to a P.K. nail set in the East bound lane of the Old U.S. Highway 421; thence South 55 degrees 05 minutes 50 seconds East 50.07 feet to a 5/8 inch iron rebar set in the gravel parking area of the 1 story frame dwelling located on the herein described property, said rebar being the Western most corner of the property described in (Deed Book 155, Page 055); thence along the Northern boundary of said Property North 85 degrees 04 minutes 45 seconds East 200.88 feet to an existing 5/8 inch iron rebar in the Western boundary line of the aforesaid Gregger Property; thence along said Western boundary South 34 degrees 35 minutes 01 seconds West passing thru a fence corner at 119.64 feet, continuing 9.02 feet for a total distance of 128.66 feet to a 5/8 inch rebar set in the Northern boundary line of the aforesaid Michael Property, at North 54 degrees 53 minutes 30 seconds West 241.41 feet from an existing 1/2 inch iron pipe; thence along said Northern boundary line of Michael North 55 degrees 05 minutes 50 seconds West 105.16 feet to a 5/8 inch iron rebar set; thence along the Western boundary line of Michael South 36 degrees 15 minutes 21 seconds West 150.00 feet to an existing iron in a Cherry tree at North 55 degrees 05 minutes 50 seconds West 249.79 feet from an existing 3/4 inch iron pipe in concrete; thence along the Northern edge of right of way along Delmar Street North 55 degrees 05 minutes 50 seconds West 99.91 feet to the point of BEGINNING.

LESS AND EXCEPT that certain portion of the above described property being conveyed to North Carolina Department of Transportation and being recorded in Book 1488 page 888 of the Watauga County North Carolina Public Registry.

The herein described property being subject to all rights of way and or easements of record if any.

Also conveyed herewith are non-exclusive well pump and maintenance rights referenced in the Deed recorded in Record Book 155 Page 55 Watauga County, North Carolina Public Registry.

FILED Amy J. Shook
Register of Deeds, Watauga Co, NC
Fee Amt: \$26.00

Bk 1979 Pg 903 (4)
Recorded: 06/29/2018 at 12:10:05 PM
Doc No: 669986 Kind: DEED



Excise Tax: \$0.00

Mail after recording to: ✓ DEAL, MOSELEY & SMITH, LLP, P.O. BOX 311, BOONE, NC 28607

PREPARED BY: James M. Deal, Jr., DEAL, MOSELEY & SMITH, LLP
ATTORNEYS AT LAW, 870 West King Street
BOONE, NC 28607 Tel (828) 264-4734

Brief Description for the Index:

NORTH CAROLINA NON-WARRANTY DEED

THIS DEED, made this 29 day of June, 2018, by and between,

BETTY FARTHING HODGES, f/k/a BETTY P. FARTHING and husband,

ROGER DALE HODGES,

GRANTORS

and

KYLE SIGMON and wife, ELISE SIGMON

of 128 Stratford Lane Boone, NC 28607,

GRANTEES.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of

Bk 1979 Pg 904
Doc No: 669986 Kind: DEED

which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple all that certain lot or parcel of land situated in NEW RIVER TOWNSHIP, WATAUGA COUNTY, NORTH CAROLINA, and more particularly described as follows:

SEE ATTACHED "EXHIBIT A"

THIS DOCUMENT HAS BEEN PREPARED WITHOUT TITLE EXAMINATION

The property hereinabove described was acquired by Grantor in Deed Book 1480, Page 146, Watauga County Registry.

A map showing the above described property is recorded in Plat Book ____ at Page ____.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

The Grantor makes no warranty, express or implied, as to title to the property hereinabove described.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

Betty Farthing Hodges (SEAL)
Betty Farthing Hodges /k/a Betty P. Farthing

R. Dale Hodges (SEAL)
Roger Dale Hodges

Bk 1979 Pg 905
Doc No: 669986 Kind: DEED

STATE OF NC

COUNTY OF Watauga

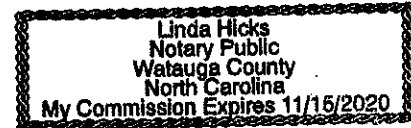
I, a Notary Public of the Country and City aforesaid, certify that Betty Farthing Hodges, f/k/a Betty P. Farthing and husband, Roger Dale Hodges, Grantors, personally appeared before me this day and acknowledged the execution of the foregoing instrument for the purposes therein expressed. Witness my hand and official stamp or seal, this 29 day of June, 2018.

My Commission Expires:

11-15-2020

Linda Hicks
Notary Public

(AFFIX SEAL - STAMP BELOW)



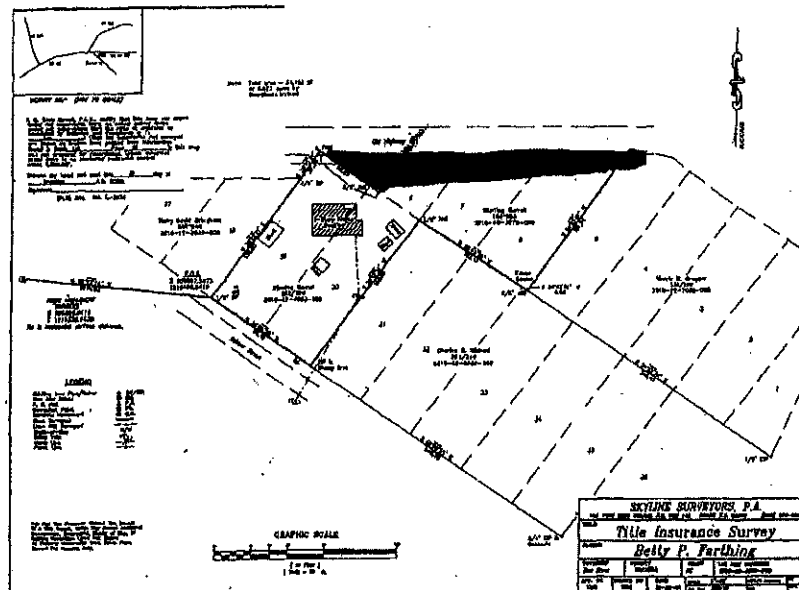
Bk 1979 Pg 906

Doc No: 669986 Kind: DEED

EXHIBIT A
NON-WARRANTY DEED

A triangular parcel of land, being all of the unclaimed and undeeded real property located south of the centerline of Old US Hwy 421, in the Perkinsville area of New River Township, Town of Boone, Watauga County, North Carolina, and lying north of the Northern property line of the Betty P. Farthing tract described in Record Book 611, page 620, Watauga County, North Carolina Public Registry, beginning at the northernmost corner of the Farthing tract (aka the NW corner of Lot 29, previously owned by SC Carroll in Deed Book 182, Page 299) and heading in an easterly direction for an approximate distance of 247.2 feet along the centerline of Old US Hwy 421, or as needed, to reach the NW corner of Lot 5, currently owned by Morris M. Gregger, of the Perkinsville addition to Boone as shown in Map Book 1, page 44, thence continuing south 34 degrees, 35 minutes, 01 seconds west, approximately 15.45 feet or as needed to reach the NE corner of the Farthing Tract at a 5/8 rebar, (previously owned by SC Carroll) in Deed Book 155, Page 55, and thence from the existing 5/8 inch rebar set in the western line of Lot 5 of the Gregger property and the NE corner of the Farthing Tract, thence south 85 degrees, 04 minutes, 45 seconds west, 200.88 feet to a 5/8 inch rebar set in the westernmost corner of the property described in Deed Book 155, Page 55, thence north 55 degrees, 05 minutes, 50 seconds west, 50.07 feet to the point of beginning marked by the P.K. nail set in the east bound lane of Old US Hwy 421 which is at or close to the NW corner of Lot 29 as shown in Map Book 1, Page 44, Watauga County, North Carolina Public Registry, and containing less than 1/2 acre more or less., as is illustrated by the dark highlighted area on the sketch attached below which is incorporated by reference herein as if set out in full.

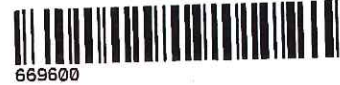
THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY LOCAL GOVERNMENT AGENCIES FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



THIS MAP MAY NOT BE A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE WITH
ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS AND HAS NOT BEEN REVIEWED
FOR COMPLIANCE WITH RECORDING
REQUIREMENTS FOR PLATS.

FILED Amy J. Shook
Register of Deeds, Watauga Co, NC
Fee Amt: \$26.00
NC Excise Tax: \$120.00

Bk 1977 Pg 717 (4)
Recorded: 06/18/2018 at 11:22:12 AM
Doc No: 669600 Kind: DEED



Excise Tax: \$120.00 ✓

Mail after recording to: DEAL, MOSELEY & SMITH, LLP, P.O. BOX 311, BOONE, NC 28607

PREPARED BY: J. TUCKER DEAL
DEAL, MOSELEY & SMITH, LLP
ATTORNEYS AT LAW,
P. O. BOX 311
BOONE, NC 28607 Tel (828) 264-4734

Brief Description for the Index: All of Phase II, Delmar Bungalows

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED, made this 13th day of June, 2018, by and between,

CHARLES BRYAN MICHAEL and wife, MARCIA MICHAEL

and

RUBY GWYN MICHAEL COSTNER, single

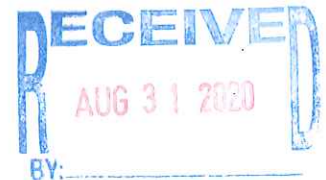
GRANTORS;

and,

JAH LLC, a North Carolina Limited Liability Company

of 895 Laurel Fork Rd Vilas, NC 28692,

GRANTEE.



Communication: Case PL04175-083120 Application Information (Case PL04175-083120 JAH, LLC General Use Zoning Map Amendment)

Bk 1977 Pg 718

Doc No: 669600 Kind: DEED

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey NEW RIVER TOWNSHIP, WATAUGA COUNTY, NORTH CAROLINA, and more particularly described as follows:

BEING all of Phase II, Delmar Bungalows as recorded in Plat Book 23, Page 66, Watauga County Registry.

The property hereinabove described was acquired by Grantor in Book 1721, Page 780 Watauga County, North Carolina Public Registry.

A map showing the above described property is recorded in Plat Book 23 at Page 66, Watauga County, North Carolina Public Registry.

All or a portion of the property herein conveyed __ includes or X does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

- 1.) Restrictions recorded in Book of Records 1618, Page 557, Watauga County Registry.
- 2.) Matters shown on plat recorded in Plat Book 23, Page 66, Watauga County Registry.
- 3.) Town of Boone Consent to Conditional District Zoning recorded in Book of Records 1576, Page 1, Watauga County Registry.

This conveyance is made subject to any easements, rights of way, restrictions and matters of record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing the day and year first above written.

Bk 1977 Pg 719

Doc No: 669600 Kind: DEED

Charles B Michael (SEAL)

Charles Bryan Michael

Marcia Michael (SEAL)

Marcia Michael

ACKNOWLEDGMENT

STATE OF NORTH CAROLINA

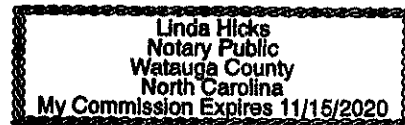
COUNTY OF Watauga

I, a Notary Public of the County and State aforesaid, certify that Charles Bryan Michael and wife, Marcia Michael, and Ruby Gwyn Michael Costner, Grantors, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this the 8th day of June, 2018.

{affix legible notarial stamp or seal *within the margins* below}Linda Hicks
Linda Hicks

Notary Public

Notary's Printed or Typed Name

My Commission Expires: 11-15-2020

Continued on next page

Bk 1977 Pg 720

Doc No: 669600 Kind: DEED

Ruby Gwyn Michael Costner (SEAL)
 Ruby Gwyn Michael Costner

ACKNOWLEDGMENT

STATE OF NORTH CAROLINA

COUNTY OF Rutherford

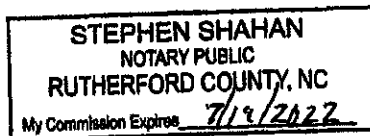
I, a Notary Public of the County and State aforesaid, certify that Ruby Gwyn Michael Costner, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this the 13 day of June, 2018.

{affix legible notarial stamp or seal *within the margins* below}

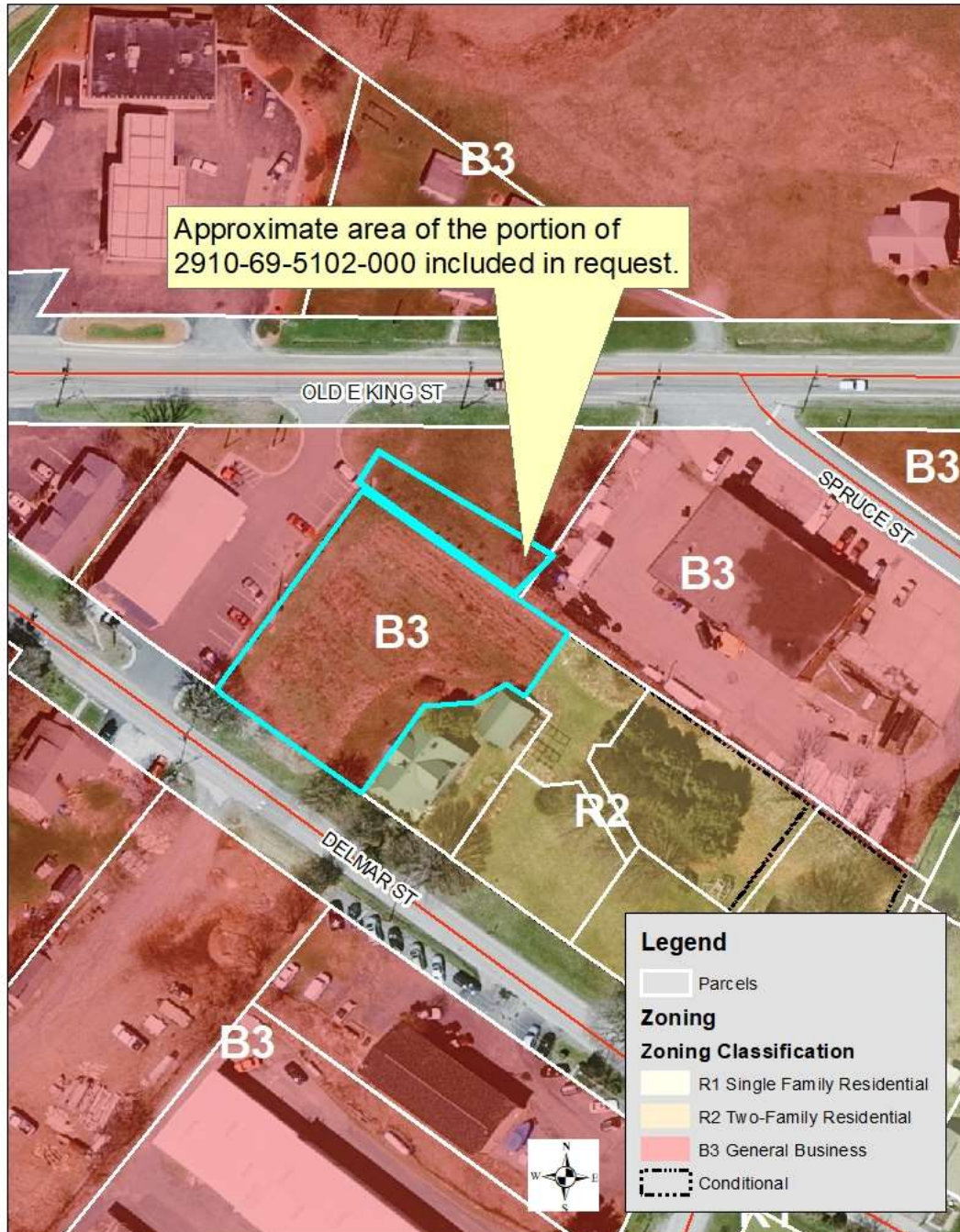
Stephen Shahan
 Stephen Shahan

Notary Public

Notary's Printed or Typed Name

My Commission Expires: 7/19/2022

STAFF REPORT
PUBLIC HEARING
November 23, 2020
CASE PL04175-083120 JAH, LLC- GENERAL USE ZONING MAP AMENDMENT



REQUEST

JAH, LLC has initiated the re-zoning of a .39-acre portion of parcel (Watauga County PIN 2900-69-5102-000) owned by JAH, LLC from Conditional District B3 to R1S, Small Home Residential and a 2,997 square foot portion of a parcel (2910-69-5102-000) zoned B3, General Business to R1S, Small Home Residential. The property is located on Delmar Street.

General Use Zoning Map Amendment Guidance

Pursuant to UDO Subsection 9.07.01, in deciding whether to adopt a proposed amendment to the UDO, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments, the Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. The Council shall only consider the impact of the proposed change on the public at large.

HISTORY

03-15-2011 Brian Mueller requested to rezone the properties from R-1 Single Family to Conditional District B-3 General Business and Conditional District R-2 Two-Family with a 5-year vesting period, for a 6 lot architecturally integrated minor subdivision. The phased project contains the following uses within the Conditional District B-3 (Use 29.0) Combination Use made up of (Use 1.111) single-family residences and (Use 3.120) office, operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use and the following uses within the Conditional District R-2 include (Use 1.111) single family residences and (Use 1.700) Home Occupations. See Exhibit 1 Meeting Minutes Excerpt and Exhibit 2 Delmar Bungalows Plan.

The following conditions were placed on the district:

1. Lot 1 and lot 2 requesting rezoning from R-1 to B-3. Transitioning to R-2 with lot 3 and restoring the old bungalow to an architectural-styled home then to lots 4, 5, and 6 that are solar single-family homes.
2. All large trees and key large shrubs will be utilized in the design of the home sites as indicated on the site plan dated February 21, 2011.
3. Requesting a recording of plat for the B-3 side of subdivision upon first sale and a recording of the R-2 side of the subdivision upon first sale.
4. Requesting an internal landscape between B-3 and R-2 reduced from 10' to 5'.
5. Requesting a 5-year vesting of project.
6. All lots will be in a POA to address infrastructure.
7. All new construction will be of the Appalachian Bungalow Architectural styling with the same styling found in other homes in the area, including hip roof porches, large gable dormers, living & storage under the roof area, timber brackets for eave supports, larger windows, exposed rafter tails and unique trim details. The building sciences will be fully expressed in the designs, green, sustainable and energy efficient.
8. Lot 1: 3901, sf, B-3, 32x40 2-story combination use building which are split with the businesses on the lower level and residences on the upper level. The businesses on the lower level will offer space for small appointment driven businesses like an accountant, massage therapist, acupuncture, day time and early evening business hours. One employee per business.
9. Lot 2: 5924, sf, B-3, 32x40 2-story combination use building with 30x40 single level. The combination

use buildings are split with the businesses on the lower level and residences on the upper level. The businesses on the lower level will offer space for small appointment driven businesses like an accountant, massage therapist, acupuncture, day time and early evening business hours. One employee per business.

10. Green Space 3867 sf, located between the B-3 and R-2 to add to buffering, picnic table area, fire ring and flat area for volley ball, frisbee, and other sports.
11. Lot 3 5543, sf, R-2, old single family home with garage.
12. Lot 4 3901 sf, R-2, 32x24 single family home, Home occupation.
13. Lot 5 7386, sf, R-2, 32x28 single family home, Home occupation.
14. Lot 6 4601, sf, R-2, 32x24 single family home, Home occupation.

Phasing

15. When the first B-3 lots 1 or 2 sell:
 - The B-3 plat will be recorded.
 - The storm water retention area will be installed.
 - The total parking area will be built.
16. When the first R-2 lots 4, 5, or 6 sell:
 - The R-2 plat will be recorded.
 - The storm water retention area will be installed.
 - The driveway will be finished for lot 6 if lot 5 sells.
17. Occupancy in the B-3 General Business portion is limited to no more than 2 unrelated.
18. Approval is subject to the site plan and supplemental information submitted bearing the received date of February 14, 2011. Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
19. Any commitments and representations concerning the proposed project made by the applicant or his representatives at the public hearing shall also become a condition of approval.
20. Applications and final plans shall be submitted that are in compliance with the provisions of the UDO and State Building Code.

Note: Since approval 3 Single-Family homes have been built on the R2 portion of the development.

ANALYSIS

Address:	No address assigned/174 Old E. King Street
Watauga County PIN:	2900-68-2176-000/2910-69-5102-000
Property Owner:	JAH, LLC and Kyle and Elise Sigmon
Total Lot size:	.46 acres
Jurisdiction:	Town of Boone
Access:	Delmar Street (Town Maintained)

SFHA:	No
Watershed District:	No
Corridor District:	Yes
NCD:	No
Viewshed:	No
Utilities:	Town water and sewer
Current Zoning:	B3, General Business, Conditional District/B3, General Business
Proposed Zoning:	R1S, Small Home Residential
Current Use:	Vacant/11.15, Other Personal Service Establishment

Zoning & Use of Adjacent Properties		
Zoning		Land Use (according to tax records)
North	B3 General Business	Other Personal Service Establishment
East	R2, Conditional District	Single-family Residential/Vacant
South	B3, General Business	Mixed Use
West	B3, General Business	Other Personal Service Establishment

ZONING ANALYSIS

...

ARTICLE 14 ZONING DISTRICTS AND ZONING MAP

...

14.01.03 The R1S Small Home Residential District is established to provide a medium density living area consisting of detached single-family dwellings at a higher density than other residential zoning districts. The regulations for this district are intended to maintain the essential character of traditional single-family neighborhoods while allowing new single-family dwellings at a higher density, which also may serve as a transition to higher density residential and nonresidential districts. ...

ARTICLE 15 DISTRICT USE REQUIREMENTS

15.07 Table of Principal Uses

Use #	Specific Use	R1S	Reference
1.01	Single-Family Dwelling	P	
1.02	Manufactured Home "Class A"		15.08
1.03	Manufactured Home "Class B"		15.08
1.04	Manufactured Home "Class C"		
1.05	Manufactured Home Park		15.09
1.06	Duplex (one duplex building per lot)		
1.07	Duplex (more than one duplex building per lot)		15.10
1.08	Townhouse (up to 30 bedrooms)		15.10
1.09	Townhouse (31-100 bedrooms)		15.10
1.10	Townhouse (> 100 bedrooms)		15.10
1.11	Multi-Family Dwelling (up to 30 bedrooms)		15.10
1.12	Multi-Family Dwelling (31-100 bedrooms)		15.10

Use #	Specific Use	R1S	Reference
1.13	Multi-Family Dwelling (> 100 bedrooms)		15.10
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)		15.11
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)		15.11
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)		15.11
1.17	Adult Living Community		
2.01	Family Care Home	L	15.13
2.02	Family Care Institutions		15.14
2.03	Halfway House, Category 1		15.14
2.04	Halfway House, Category 2		15.14
2.05	Residential Care Facility		
2.06	Fraternity or Sorority Dwelling		15.16
2.07	Boarding House		15.17
3.01	Home for Survivors of Domestic Violence		15.18
3.02	Shelter for Homeless, Category 1		15.19
3.03	Shelter for Homeless, Category 2		15.19
3.04	Bed and Breakfast, Category 1		15.20
3.05	Bed and Breakfast, Category 2		15.20
3.06	Vacation Rental		15.21
3.07	Motel		
3.08	Hotel		
4.01	Airport/Landing Strip		15.22
4.02	Heliport		15.22
4.03	Funeral Home Establishment		
4.04	Cemetery		
4.05	Post Office		
4.06	Post Office, Distribution		
4.07	Animal Sanctuary		
5.01	Government Cultural Facility		
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only		
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity		

Use #	Specific Use	R1S	Reference
5.04	Recreation Facility, Category 1		
5.05	Recreation Facility, Category 2		
5.06	Recreation Facility, Category 3		
5.07	Event Venue, Category 1		
5.08	Event Venue, Category 2		
5.09	Event Venue, Category 3		
5.10	Landfill		
5.11	Solid Waste Processing		
5.12	Police Substation		
5.13	Utility Facility, Town	L	15.23
5.14	Utility Facility, Government, Neighborhood	L	15.23
5.15	Utility Facility, Government, Regional		15.23
5.16	Government Facility		
6.01	Utility Facility, Neighborhood	L	15.23
6.02	Utility Facility, Regional		15.23
7.01	Small Wireless Collocation	L	15.25
7.02	Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole	L	15.24
7.03	Stealth Wireless Facility Attached to Existing Building or Structure	L	15.24
7.04	Non-stealth Wireless Facility Attached to Existing Building or Structure		15.24
7.05	Non-stealth Wireless Facility Collocation on Electrical Transmission Towers	L	15.24
7.06	Stealth Wireless Support Structure	S/L	15.24
7.07	Non-stealth Wireless Support Structure		15.24
7.08	Reserved		
7.09	Reserved		
7.10	Emergency Response Communication Antenna	P	
8.01	Religious Assembly, Category 1		
8.02	Religious Assembly, Category 2		
8.03	Religious Assembly, Category 3		
8.04	Club/Lodge, Category 1		

Use #	Specific Use	R1S	Reference
8.05	Club/Lodge Which Does Not Serve Alcohol		
9.01	Public colleges and universities		
9.02	Private colleges and universities		
9.03	Trade school		
9.04	High school		
9.05	Elementary school		
9.06	Boarding school		
9.07	College- or university-operated community enterprise		15.70
10.01	Child Daycare, Large		15.26
10.02	Child Daycare Center		15.26
10.03	Adult Daycare, Large		15.26
10.04	Adult Daycare Center		15.26
10.05	All Other Daycare		
11.01	Kennel		15.27
11.02	Veterinary Office/Hospital with Outdoor Kennels		15.27
11.03	Veterinary Office/Hospital without Outdoor Kennels		
11.04	Financial Institution $\leq 5,000 \text{ ft}^2$		
11.05	Financial Institution $> 5,000 \text{ ft}^2$		
11.06	Restaurant $\leq 2,500 \text{ ft}^2$ open to the public during 10 pm – 6 am		
11.07	Other Restaurants $\leq 2,500 \text{ ft}^2$		
11.08	Restaurant $> 2,500 \text{ ft}^2$ open to the public during 10 pm – 6 am		
11.09	Other Restaurants $> 2,500 \text{ ft}^2$		
11.10	Restaurant $\leq 3,500 \text{ ft}^2$ open to the public during 10 pm-6 am		
11.11	Other Restaurants $\leq 3,500 \text{ ft}^2$		
11.12	Bar		
11.13	ABC Store		
11.14	Personal Service Establishment open to the public during 10 pm-6 am		
11.15	Other Personal Service Establishments		
11.16	Retail Store up to 5,000 ft^2		

Use #	Specific Use	R1S	Reference
11.17	Retail Store more than 5,000 but less than 25,000 ft ²		
11.18	Retail Store 25,000 ft ² and greater		15.28
11.19	Reserved		
11.20	Business or Professional Office open to the public during 10 pm - am		
11.21	Other Business or Professional Office		
11.22	Medical Office, Category 1		
11.23	Medical Office, Category 2		
11.24	Medical Office, Category 3		
11.25	Medical Office, Category 4		
11.26	Hospital		
11.27	Medical Emergency Response		
11.28	Open Air Market, Recurring		15.29
11.29	Vehicle Sales and Service		15.30
11.30	Equipment Sales and Service		15.31
11.31	Moped Sales and Service		
11.32	Boat or Marine Craft Sales and Service		15.32
11.33	Impound Lot/Towing Service		15.33
11.34	Gas Station		
11.35	Car Wash		
11.36	Seasonal Retail Activities and Amusements		
12.01	Indoor Shooting Range		15.34
12.02	Outdoor Shooting Range		
12.03	Indoor Theater		
12.04	Outdoor Theater		
12.05	Event Venue, Category 1		
12.06	Event Venue, Category 2		
12.07	Event Venue, Category 3		
12.08	Campground and Recreational Vehicle Park		15.35
12.09	Coliseum		

Use #	Specific Use	R1S	Reference
12.10	Recreation Facility, Category 1		
12.11	Recreation Facility, Category 2		
12.12	Recreation Facility, Category 3		
12.13	Racetrack		
13.01	Garden, Community	L	15.36
13.02	Garden, Residential	L	15.37
13.03	Agricultural Operation Excluding Livestock		
13.04	Agricultural Operation Including Livestock		
13.05	Swine Farm		
13.06	Confined Animal Feeding Operation (CAFO)		
13.07	Custom Slaughterhouse		
13.08	Other Slaughterhouse		
13.09	Forestry	L	15.38
14.01	Microbrewery		15.39
14.02	Brewpub		15.39
14.03	Brewery/Distillery		15.40
14.04	Brewery/Distillery, Other		15.41
14.05	Winery Associated with a Vineyard		15.42
14.06	Winery		15.42
14.07	Winery, Other		
14.08	Extraction of Earth Materials		
14.09	Machine/Welding Shop		15.44
14.10	Manufacturing, Other		15.45
15.01	Parking Lot		15.46
15.02	Parking Structure		15.47
15.03	Park and Ride Lots		15.46
16.01	Self-Storage Facilities		15.48
16.02	Outdoor Storage		15.49
16.03	Warehouse		

Use #	Specific Use	R1S	Reference
16.04	Fuel Storage Facility		
16.05	Chemical Storage Facility		
17.01	Passenger Terminals		
17.02	Trucking or freight terminal $\leq 10,000$ ft ²		
17.03	Trucking or freight terminal $> 10,000$ ft ²		
18.01	Recycling Drop-off Station		15.49
18.02	Recycling and Salvage		15.49
18.03	Junkyard		
18.04	Private Landfill		
19.01	Electronic and Internet Gaming		15.50
19.02	Adult Establishments		15.51

15.07.01 Table of Accessory Uses

Use #	Accessory Use	R1S	Reference
A-1	Secondary suite	L	15.52
A-2	Home occupation	L	15.53
A-3	Accessory dwelling unit		15.54
A-4	Drive-through		15.55
A-5	Outdoor display		15.56
A-6	Outdoor storage		15.57
A-7	Outdoor dining		15.58
A-8	Automated teller machine (ATM)		
A-9	Automated teller machine (ATM), freestanding		15.59
A-10	Produce stand		15.60
A-11	Poultry		15.61
A-12	Livestock, small		15.62
A-13	Livestock, large		15.63
A-14	Bees	L	15.64
A-15	Garden, residential	L	15.65
A-16	Satellite receiving antennas less than 1 meter in diameter	P	
A-17	Satellite receiving antennas less than 2 meters in diameter		
A-18	Satellite receiving antennas 2 meters and greater in diameter		
A-19	Helistop		
A-20	Swimming pools, spas, and hot tubs	L	15.66
A-21	Caretaker's residence		15.67
A-22	Vehicular gate	L	15.68
A-23	Vehicle washing station		
A-24	Chemical storage facility		
A-25	Open air market, accessory		15.29

Use #	Accessory Use	R1S	Reference
A-26	Daycare, small	P	

15.07.03 Table of Temporary Uses

Use #	Temporary Use	R1S	Reference
T-1	Temporary care provider dwelling		15.69
T-2	Temporary construction or repair dwelling	L	15.69
T-3	Temporary construction trailer	L	15.69
T-4	Temporary mobile medical unit		15.69
T-5	Temporary classroom		15.69
T-6	Temporary portable storage containers	L	15.69
T-7	Temporary staging		15.69
T-8	Temporary non-fixed site event venue		15.69
T-9	Carrier on wheels (cow)	L	15.69
T-10	Yard sales	L	15.69
T-11	Itinerant merchant/peddler	L	15.69
T-12	Open air market, temporary		15.69
T-13	Temporary Use 9.01 Public Colleges and Universities		15.69

...

ARTICLE 16 DISTRICT STANDARDS

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16.01 Schedule of Land Use Intensity Regulations

...16.01.02 Intensity Table

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
Residential Zoning Districts						
R1S	5,000 sq. ft.	35 ft.	28 ft.	Refer to UDO Subsection 16.01.01 (C)	20 ft.	14 ft.

...

16.01.01 Unless otherwise specified, development in the following zones shall comply with the

intensity regulations indicated in the following Intensity Table.

...

C. In the R1S Zoning District, a maximum building footprint of 800 square feet is allowed, exclusive of decks, porches, steps, carports, and standalone garages (with no living space above or below). Buildings shall be oriented to the primary public way.

1. An attic story or a basement of no more than 400 square feet is permissible for a maximum of 1,200 square feet of total living space.
2. A garage within the building footprint is counted as living space for the purposes of calculating the 1,200 square foot limit.

16.08 Building Height

...

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

Zone	Height Limitation
R1S	1 Story with an attic story or a basement

...

2006 COMPREHENSIVE PLAN ANALYSIS

1.1 OVERALL OBJECTIVES FOR THE BOONE COMPREHENSIVE PLAN

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.

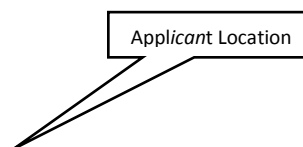
Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

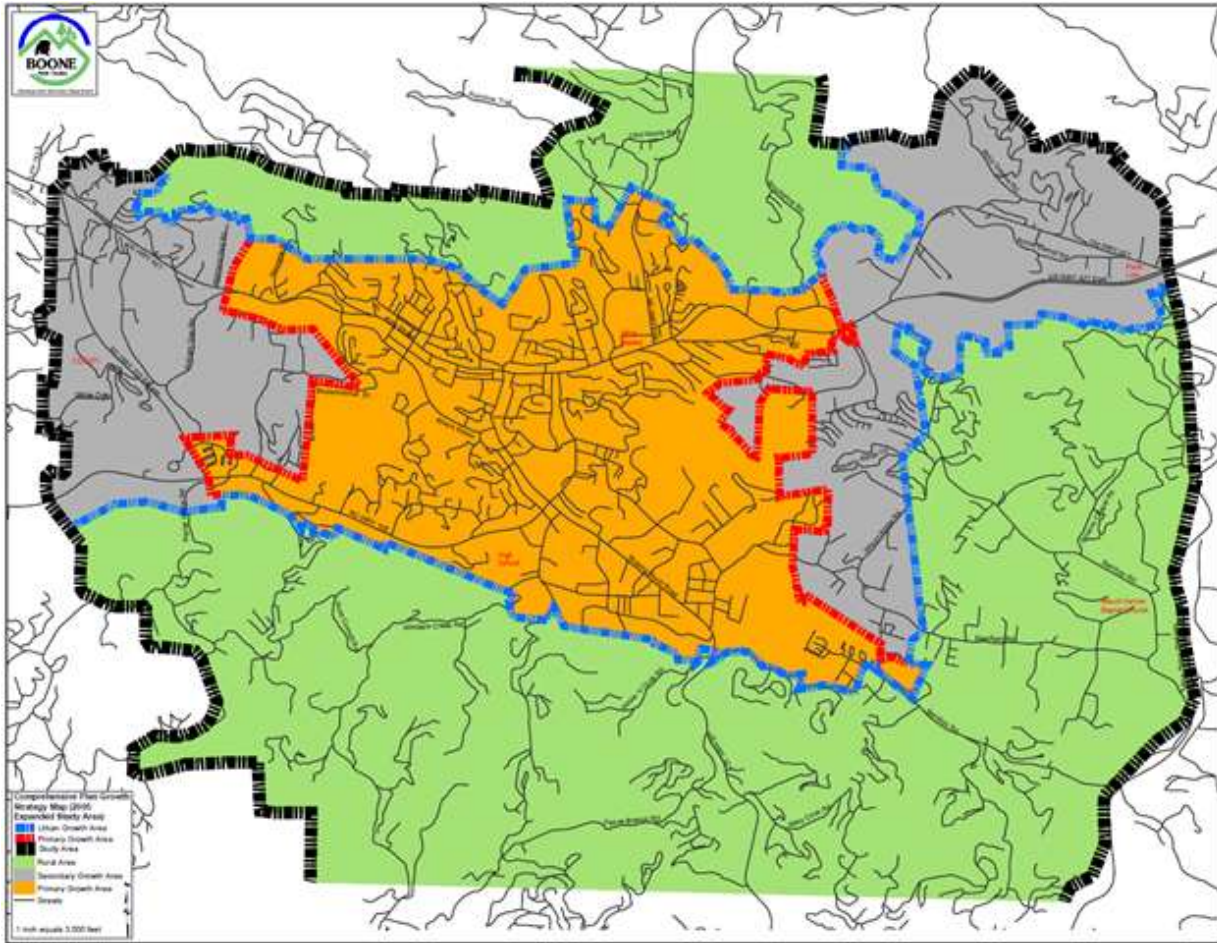
Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

1.2 GROWTH STRATEGY MAP

The annexation area is located within the **Rural Area**. 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.

The portion of the property located within the corporate limits (2901-81-9730-000) 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. See Growth Strategy Map:





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

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 Infrastructure

2.2.2 Utilities

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

2.3.2 Community Character

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

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 October 30, 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 October 30, 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]*:

Exhibit 1 Meeting Minute Excerpts

**SPECIAL PUBLIC HEARING
MEETING MINUTES **EXCERPT**
MONDAY, FEBRUARY 28, 2011
7:00 P.M.**

Boone Town Council: Mayor Loretta Clawson, Lynne Mason-Mayor Pro-Tem, Andrew Ball, Stephen Phillips, Jamie Leigh and Rennie Brantz

Boone Area Planning Commission: Chairperson Bunk Spann, Vice-Chairperson Eric Woolridge, Shawna Rhyne, Donald Dotson, Kimberly Marland, Greg Simmons, Terence Milstead, Tom Purpur and Jay Vincent

Planning Staff: Bill Bailey, Director of Planning and Inspections, David Graham, Development Coordinator, Christy Turner, Planner and Marlene Crosby, Board Secretary

Others: Greg Young-Town Manager and Sam Furguele-Town Attorney

...

CASE 20110059 Mueller, Brian – Conditional District Zoning Map Amendment

Brian Mueller has filed a Conditional District Zoning map request for property located at 183 Delmar Street (Watauga County PINs: 2910-68-5966-000 and 2910-68-6897-000). This request is to rezone the properties from R-1 Single Family to Conditional District B-3 General Business and Conditional District R-2 Two-Family with a 5 year vesting period. The phased project contains the following uses within the Conditional District B-3: (Use 1.111) Site-built or Modular Structures and (Use 3.120) Operations Designed to Attract Little or No Customer or Client Traffic other than employees of the entity operating the principal use; and the following uses within the Conditional District R-2: (Use 1.111) Site-built or Modular Structures and (Use 1.700) Home Occupations.

Mr. David Graham, Development Coordinator presented this case as outlined in the meeting packet. Mr. Graham said that this case involves a six-lot architecturally integrated subdivision and a request for a five year vesting period. Mr. Graham asked if there were any questions of the staff before Mr. Brian Mueller came to the podium.

Mayor Clawson asked Mr. Mueller to approach the podium and state his name, and she then said that he could proceed.

Mr. Mueller began his presentation by asking if there were any questions from the packet information. Mr. Mueller said that he did have a very enlightening neighborhood meeting the week before this special public hearing meeting. Mr. Mueller said he answered questions at the neighborhood meeting and this may be the reason no one came to speak at the special public hearing meeting. Mr. James Bates from the neighborhood was present at this meeting but he did

not speak. Mr. Mueller talked about the trees and driveways and location of the smaller homes and his effort to preserve the land. Mr. Mueller said with the design of these Delmar Bungalows he was able to provide the Town of Boone with affordable housing. He noted that he has a science and engineering type background that gave him the knowledge to create the proposed building plan. He said he would like to use this proposed plan as a template to look at the architect and design and utilization of infill property in the Town of Boone.

Planning Commission Chairperson Bunk Spann asked Mr. Mueller to expound on how the three solar homes and two solar duplexes are going to share the green space. He said the solar homes building space is relatively flat and allows for slab construction. He said he is offering these homes as turnkey projects. The homes will have an 8/12 pitch roof to allow for solar panels to be attached to them. He said that he has always lived in solar homes. He has chosen this area to live in because he has two children in school. He will be living in the older home and will renovate it. He said, in addition to designing the proposed solar homes, he has designed the landscaping buffers and window orientations. He has designed this proposed plan so that solar panels and radiant floors can be added later. Planning Commission Chairperson Spann asked what an Appalachian Bungalow is; and do you have an example of it. He said that the house he will be living in will have a hip roof and porches. Mr. Mueller further explained the outside elements he is adding to the home and will expose rafter tails because it is a less expensive way to build. Planning Commission Member Terence Milstead asked Mr. Mueller how he addressed the concerns of the neighbors. Mr. Mueller said that his vision is for the people to live above their businesses to reduce having to drive to work. Mr. Mueller said he is marketing the homes at \$165,000 to university professors and young couples that each makes around \$25,000 dollars a year. This cost also makes it more affordable for parents to purchase for their children that are university students. Mr. Mueller talked about what he had learned from the affordable housing task force and he designed these proposed homes from that information. Mr. Mueller said that this area for this proposed project is a well organized community that could handle the potential renters of these homes. Planning Commission Chairperson Spann asked Mr. Mueller to expound upon the older home at this area. Mr. Mueller said that he is renovating it and it is the home where Mr. Charles Michael's mother lived until 2003. This older home is in good shape and he will live in it and the home will remain on the site long term. Planning Commission Member Greg Simmons said the reason there are questions on this older house is in the past this home came before the board in a General District Rezoning case and testimony was given that said this home was a tear down because it would cost more to fix it up than it would to tear it down. Mayor Pro-Tem Lynne Mason asked Mr. Mueller since this proposed project is in a transitional zone to a single-family neighborhood would he be willing to stipulate to single-family residency occupancy standards which is no more than two unrelated people in a unit which supports family neighborhood living. Mr. Mueller asked for further explanation on the occupancy standards in the R-2 zoning districts.

Planning Commission Member Simmons asked Mr. Mueller why he settled on the additional B-3 zoning district. After meeting with the Planning and Inspections staff, Mr. Mueller said he learned it would not work to choose a different zoning option. Mr. Graham came to the podium to say that there is a density issue because of the square footage in the B-3 and B-2 zoning districts. Discussion ensued on other mixed use areas in the Town of Boone.

Mr. Mueller commented on the positive experience that he has had in working with the Planning and Inspections Department staff when working on this proposed project.

Planning Commission Member Simmons asked Mr. Mueller to expound on his vision of the mixed-use part of the proposed project in terms of planning for the residential portion. Mr. Mueller said he is looking for the type of business that has only one person come into their business at a time like an acupuncturist or accountant. He is suggesting a Murphy bed in the meeting room of the business space for guests. Mr. Mueller said there will be two very small bedrooms above the businesses or one bedroom with a workspace with only 1,000 square feet. Mr. Mueller talked about the beauty of this phased proposed property being flat and not having a lot of infrastructure. Mr. Mueller said his approach to marketing this proposed project is through pre sales. Mr. Mueller said the units with the apartment above them are not connected to the business below but they could be connected.

Council Member Andy Ball asked Mr. Mueller if he would be willing to add a stipulation to restrict it to no more than two unrelated persons per unit in the Conditional B-3 General Business and Conditioning District zoning portion of this proposed project. Mr. Mueller said yes he would be willing to make this stipulation. Mayor Pro-Tem Mason asked if he intends to sell or rent these units. Mr. Mueller said he wants to sell them. Mr. Mueller said that he hopes to market the homes at a starting price of \$165,000 without a garage. The garage can be added on for \$25, 000 at a later date. Mr. Mueller said that Mr. Ned Fowler with the Northwest Regional Housing Authority has some very interesting federal money out there and financial assessments can be made for potential clients.

Planning Commission Member Bob Cherry asked about the strange shape of the common green area and how one part of it looks like a gravel driveway. Mr. Mueller said that he had to create access to the green space. Planning Commission Chairperson Spann confirmed that there is no driveway running through the green space. Mr. Mueller said the driveway is part of the green space and it will not reduce the green space. Mr. Mueller said that everything presented on the plan has to do and it is a good plan. Planning Commission Chairperson Spann asked if he had received any input from the community that caused him to change his plan. Mr. Mueller said the community was looking forward to a coffee shop; however, parking is an issue. Mr. Mueller said it is 87 steps to the bus stop and he is promoting walking and riding bicycles for transportation.

Planning Commission Member Simmons talked about parking in the various areas around this proposed project. Mr. Mueller said he is mindful of light pollution in the proposed project. The community had a question on lighting at the neighborhood meeting.

Council Member Ball asked if in Lot 2, the proposed one story on the right hand side, if it will be a commercial space. Mr. Mueller said yes it will be and he does not know how many units will be built there at this time. Mr. Mueller said he was going to let the market drive how many units that will go into that space. Mr. Mueller explained what makes up the square footage in each unit in each structure.

Mr. Mueller said his market is the hospital employees and the young university professors. Council Member Ball asked Mr. Mueller to expound on why he asked for five-year vesting. Mr.

Mueller said he does not know what the future holds but everyone is optimistic. Planning Commission Member Vincent gave a sales figure for HUD homes in the county for around \$165,000 with two bedrooms and two bathrooms and they have zero lot lines.

Mayor Clawson asked Mr. James Bates if he wanted to speak because he was signed up to speak. Mr. Bates declined her offer to speak at this meeting. Mayor Clawson asked if there were others that wanted to speak for this case. There were no other speakers or questions for this case.

Mayor Clawson closed the public hearing for this case.

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Town of Boone
Planning Commission Meeting Minutes Excerpt
March 14, 2011
7 PM

Attendance:

Planning Commission Members: Chairperson Bunk Spann, Shawna Rhyne, Robert Cherry, Jay Vincent, Kimberly Marland, Greg Simmons, Kayla Malsbury, Terence Milstead, Tom Purpur and Brett Scantlin

Planning Staff: Bill Bailey-Director of Development Services, Jane Shook, Planner and Marlene Crosby, Board Secretary

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CASE 20110059 Mueller, Brian – Conditional District Zoning Map Amendment

Chairperson Spann opened the public hearing by asking for a vote from the commissioners. Member Milstead made a motion to open the public hearing, seconded by Member Scantlin.

Vote: Aye-All
Nay-None

The vote was unanimous.

Mr. Brian Mueller came to the podium to answer any questions by the commissioners or staff. Chairperson Spann asked Mr. Mueller when he had planned to break ground on this project. Mr. Mueller said that he is not planning to do anything until he gets a signed contract. Mr. Mueller said that he had just completed the plumbing in the existing house that he is currently living in. Chairperson Spann asked Mr. Mueller if he had any problems with the three conditions on page three of the staff report. Mr. Mueller read the conditions from the meeting packet and he said that he does not have a problem and he understood the occupancy regulations. Ms. Jane Shook, Planner explained the sub-division process that goes along with this project.

Discussion ensued on the tax records for this project. Discussion ensued on the current owner of this property.

Chairperson Spann closed the public hearing by asking for a vote from the commissioners. Member Vincent made a motion to close the public hearing, seconded by Member Malsbury.

**Vote: Aye-All
Nay-None**

The vote was unanimous.

Chairperson Spann opened the floor for questions. Member Simmons asked Ms. Shook for clarification on the square footage in the B-3 and B-2 zoning districts outlined in page two of the February 28, 2011 Special Public hearing meeting minutes. Ms. Shook gave an explanation from page five of the staff report. Member Simmons talked about the three conditions outlined in the staff report.

**Case 20110059 Mueller, Brian – Conditional District Zoning - Map Amendment
PLANNING BOARD REPORT**

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board. Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PLANNING BOARD RECOMMENDATIONS

First motion and vote:

Commission Member Milstead made a motion, seconded by Commission Member Scantlin, that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because it promotes mixed-use development and preserves the residential character of the existing neighborhood.

**Vote: Aye-All
Nay-None**

Second Motion and Vote:

Commission Member Purpur made a motion, seconded by Commission Member Vincent, to recommend approval because the application fits neatly into an area that has been problematic in the past, without requiring radical rezoning, the application promotes the 2030 Plan with higher density, the application is not objected to in the community and promotes the general welfare of the neighborhood and the Planning Commission recommends approval with the following conditions:

1. Include the conditions offered by Brian Mueller as submitted with his application (additional language added by the Planning Commission in red):
 - a. Located at 183 Delmar this new project will offer 3 solar home sites and 2 solar duplex sites all sharing a Green Space. Below are the conditions for the subdivision.

- b. Lot 1 and lot 2 requesting rezoned from R 1 to B 3. Transitioning to R 2 with lot 3 Restoring the old bungalow architectural styled home then to lots 4, 5, and 6 that are solar single family homes.
- c. All large trees and key large shrubs will be utilized in the design of the home sites (as indicated on the site plan date February 21, 2011).
- d. Requesting a recording of plat for the B 3 side of subdivision upon first sale. And a recording of the R 2 side of the subdivision upon first sale.
- e. Requesting lots be taxed when sold.
- f. Requesting an internal landscape between B 3 and R 2 reduced from 10' to 5'.
- g. Requesting a 5 year vesting of project.
- h. All lots will be in a POA to address infrastructure.
- i. All new construction will be of the Appalachian Bungalow Architectural styling. With the same styling found in other homes in the area, including, hip roof porches, large gable dormers, living & storage under the roof area, timber brackets for eave supports, larger windows, exposed rafter tails and unique trim details. The building sciences will be fully expressed in the designs, green, sustainable and energy efficient.
- j. Lot 1 3901 sf B 3, 32x40 2 story Duplex, the Duplex's are split with the business on the lower level and residence on the upper level. The businesses on the lower level will offer space for small appointment driven businesses like an account, massage therapist, acupuncture, day time and early evenings business hours. One employee per business.
- k. Lot 2 5924 sf B 3, 32x40 2 story Duplex with 30x40 single level, the Duplex's are split with the business on the lower level and residence on the upper level. The businesses on the lower level will offer space for small appointment driven businesses like an account, massage therapist, acupuncture, day time and early evenings business hours. One employee per business.
- l. Green Space 3867 sf, Located between the B 3 and R 2 to add to buffering, Picnic table area, fire ring and flat area for volley ball, Frisbee and other sports.
- m. Lot 3 5543 sf R 2, Old single family home with Garage
- n. Lot 4 3901 sf R 2, 32x24 single family home, Home occupation
- o. Lot 5 7386 sf R 2, 32x28 single family home, Home occupation
- p. Lot 6 4601 sf R 2, 32x24 single family home, Home occupation

Phasing

- q. When the first B 3 lots 1 or 2 sell:
 - The B 3 plat will be recorded.
 - The storm water retention area will be installed.
 - The total parking area will be built.
- r. When the first R 2 lots 4, 5, or 6 sell:
 - The R 2 plat will be recorded.
 - The storm water retention area will be installed.
 - The driveway will be finished for lot 6 of lot 5 sells.
- s. The intent is for balance in the building sequence of the duplex's and homes.
2. Occupancy in the B-3 General Business portion is limited to no more than 2 unrelated.
3. Approval is subject to the site plan and supplemental information submitted bearing the received date of February 14, 2011. Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
4. Any commitments and representations concerning the proposed project made by the applicant or his representatives at the public hearing shall also become a condition of approval.

5. Applications and final plans shall be submitted that are in compliance with the provisions of the UDO and State Building Code.

VOTE: **Aye – All**
 Nay – None

The vote was unanimous.

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MINUTES-REGULAR MEETING **Excerpt**

BOONE TOWN COUNCIL

MARCH 15, 2011

A regular meeting of the Boone Town Council was called to order at 6:30 p.m. on Tuesday, March 15, 2011, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Stephen Phillips, Jamie Leigh, Andy Ball, and Rennie Brantz. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kim Brown, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Police Chief Dana Crawford, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Human Resources Director Peri Moretz, Planning & Inspections Director Bill Bailey, and Planner Jane Shook.

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APPROVAL OF ZONING MAP REQUEST - BRIAN MUELLER CONDITIONAL DISTRICT REZONING Case 20110059 Brian Mueller Conditional District Rezoning - Request for Conditional District Rezoning for properties located at 183 Delmar Street, further identified as Watauga County PINs 2910-68-5966-000 and 2910-68-6897-000. The request is to rezone the properties from R-1 Single Family to Conditional District B-3 General Business and Conditional District R2 Two-Family with a 5-year vesting period. The phased project contains the following uses within the Conditional District B-3: Use 1.111 single-family residences and Use 3.120 operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use and within the Conditional District R-2: Use 1.111 single-family residences and Use 1.700 home occupations. Ms. Shook listed the conditions suggested by the applicant and by the Planning Commission regarding the request. Brief discussion ensued regarding condition 1.e. regarding the taxation of the lots when sold. Council Member Phillips made a motion to reopen the public hearing which was seconded by Council Member Brantz.

VOTE: Aye - 2 (Phillips, Brantz)

Nay - 3 (Leigh, Mason, Ball)

The motion failed.

Vote #1

Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved that the proposed amendment to the Town's zoning map is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it promotes mixed-

use development in a compatible, low-density, residential and commercial area and preserves the character and quality of life in an existing neighborhood; he also moved to approve a five-year vesting period and to include the following conditions (with the exemption of Condition 1.e.):

1. Conditions submitted by applicant Brian Mueller.
 - a. Located at 183 Delmar, this new project will offer three solar home sites and two solar duplex sites all sharing a green space. Below are conditions for the subdivision.
 - b. Lot 1 and Lot 2 requesting rezoning from R-1 to B-3. Transitioning to R-2 with Lot 3 and restoring the old bungalow to an architectural-styled home, then to Lots 4, 5, and 6 that are solar single-family homes.
 - c. All large trees and key large shrubs will be utilized in the design of the home sites (as indicated on the site plan dated February 21, 2011).
 - d. Requesting a recording of plat for the B-3 side of subdivision upon first sale and a recording of the R-2 side of the subdivision upon first sale.
 - ~~e. Requesting lots be taxed when sold.~~
 - f. Requesting an internal landscape between B-3 and R-2 reduced from 10' to 5'.
 - g. Requesting a 5-year vesting of project.
 - h. All lots will be in a POA to address infrastructure.
 - i. All new construction will be of the Appalachian Bungalow Architectural styling with the same styling found in other homes in the area, including hip roof porches, large gable dormers, living & storage under the roof area, timber brackets for eave supports, larger windows, exposed rafter tails and unique trim details. The building sciences will be fully expressed in the designs, green, sustainable and energy efficient.
 - j. Lot 1: 3901, sf, B-3, 32x40 2-story duplex. The duplexes are split with the business on the lower level and residence on the upper level. The businesses on the lower level will offer space for small appointment-driven businesses such as an accountant, massage therapist, acupuncturist, day time and early evening business hours. One employee per business.
 - k. Lot 2: 5924 sf, B-3, 32x40 2-story duplex with 30x40 single level. The duplexes are split with the business on the lower level and residence on the upper level. The businesses on the lower level will offer space for small appointment-driven businesses such as an accountant, massage therapist, acupuncturist, day time and early evening business hours. One employee per business.
 - l. Green Space 3867 sf, located between the B-3 and R-2 to add to buffering, picnic table area, fire ring and flat area for volleyball, frisbee, and other sports.
 - m. Lot 3 5543, sf, R-2, old single family home with garage.
 - n. Lot 4 3901 sf, R-2, 32x24 single family home, home occupation.
 - o. Lot 5 7386, sf, R-2, 32x28 single family home, home occupation.
 - p. Lot 6 4601, sf, R-2, 32x24 single family home, home occupation.
2. Occupancy in the B-3 General Business portion is limited to no more than 2 unrelated.
3. Approval is subject to the site plan and supplemental information submitted bearing the received date of February 14, 2011. Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
4. Any commitments and representations concerning the proposed project made by the applicant or his representatives at the public hearing shall also become a condition of approval.

5. Applications and final plans that are in compliance with the provisions of the UDO and State Building Code shall be submitted.

VOTE: Aye - All

Nay – None

Vote #2

Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to approve the proposed amendment to the Town's zoning map and believe approval is reasonable and in the public interest because it follows density and redevelop goals of the 2030 Master Plan and promotes the accessibility and general welfare of the neighborhood, to approve a five-year vesting period, and to approve the following conditions (with the exception of condition 1.e.):

1. Conditions submitted by applicant Brian Mueller.
 - a. Located at 183 Delmar, this new project will offer three solar home sites and two solar duplex sites all sharing a green space. Below are conditions for the subdivision.
 - b. Lot 1 and Lot 2 requesting rezoning from R-1 to B-3. Transitioning to R-2 with Lot 3 and restoring the old bungalow to an architectural-styled home, then to Lots 4, 5, and 6 that are solar single-family homes.
 - c. All large trees and key large shrubs will be utilized in the design of the home sites (as indicated on the site plan dated February 21, 2011).
 - d. Requesting a recording of plat for the B-3 side of subdivision upon first sale and a recording of the R-2 side of the subdivision upon first sale.
 - ~~e. Requesting lots be taxed when sold.~~
 - f. Requesting an internal landscape between B-3 and R-2 reduced from 10' to 5'.
 - g. Requesting a 5-year vesting of project.
 - h. All lots will be in a POA to address infrastructure.
 - i. All new construction will be of the Appalachian Bungalow Architectural styling with the same styling found in other homes in the area, including hip roof porches, large gable dormers, living & storage under the roof area, timber brackets for eave supports, larger windows, exposed rafter tails and unique trim details. The building sciences will be fully expressed in the designs, green, sustainable and energy efficient.
 - j. Lot 1: 3901, sf, B-3, 32x40 2-story duplex. The duplexes are split with the business on the lower level and residence on the upper level. The businesses on the lower level will offer space for small appointment-driven businesses such as an accountant, massage therapist, acupuncturist, day time and early evening business hours. One employee per business.
 - k. Lot 2: 5924 sf, B-3, 32x40 2-story duplex with 30x40 single level. The duplexes are split with the business on the lower level and residence on the upper level. The businesses on the lower level will offer space for small appointment-driven businesses such as an accountant, massage therapist, acupuncturist, day time and early evening business hours. One employee per business.
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 - m. Lot 3 5543, sf, R-2, old single family home with garage.
 - n. Lot 4 3901 sf, R-2, 32x24 single family home, home occupation.

- o. Lot 5 7386, sf, R-2, 32x28 single family home, home occupation.
- p. Lot 6 4601, sf, R-2, 32x24 single family home, home occupation.
- 2. Occupancy in the B-3 General Business portion is limited to no more than 2 unrelated.
- 3. Approval is subject to the site plan and supplemental information submitted bearing the received date of February 14, 2011. Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
- 4. Any commitments and representations concerning the proposed project made by the applicant or his representatives at the public hearing shall also become a condition of approval.
- 5. Applications and final plans that are in compliance with the provisions of the UDO and State Building Code shall be submitted.

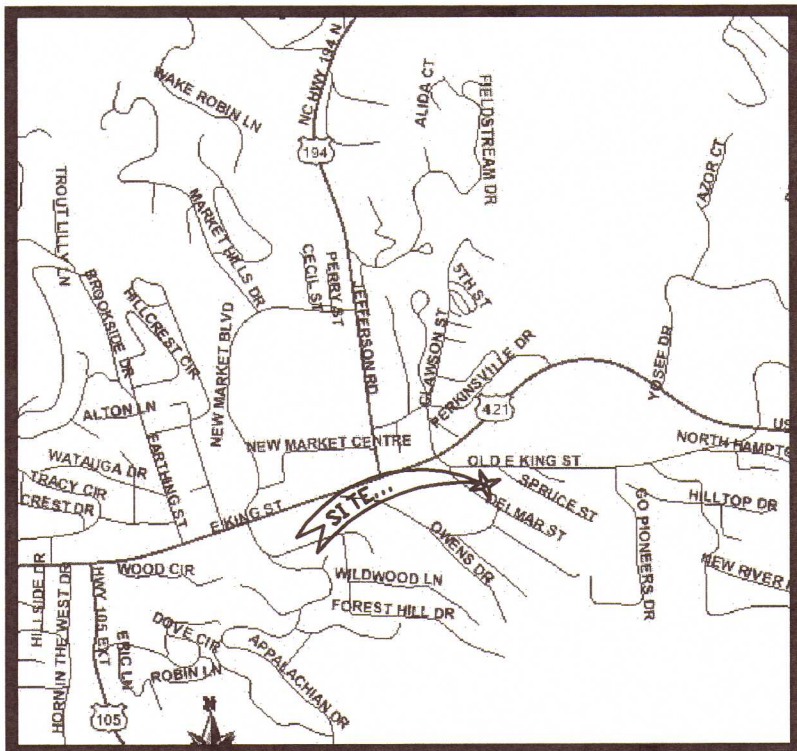
VOTE: Aye - All

Nay – None

Exhibit 2

LEGEND

- NIR • NEW IRON ROD SET
EIR • EXISTING IRON ROD
EIP • EXISTING IRON PIPE
• COMPUTED POINT
D.B. DEED BOOK
B.R. BOOK OF RECORDS
P.B. PLAT BOOK
CP • COMPUTED POINT
R/W RIGHT-OF-WAY
PP POWER POLE
OHPL OVERHEAD POWER LINE
— BOUNDARY LINES SURVEYED
--- BOUNDARY LINES NOT SURVEYED
- ⊙ SANITARY SEWER MANHOLE
WV WATER VALVE
⊕ WATER METER
⊕ FIRE HYDRANT
⊕ BICYCLE PARKING
⊕ HANDICAP PARKING



VICINITY MAP

INTENSITY FOR R-2 AREA (EXCLUDING GREEN AREA)

LOT DENSITY = TOTAL AREA/TOTAL LOTS
= 23750sf/4 LOTS
= 5937.5sf/LOT

INTENSITY RATIOS FOR B-3 AREA

FAR = TOTAL FLOOR AREA/TOTAL LOT AREA
= 7420 sf/17300sf
= 0.429 (= 0.429 MAXIMUM PERMITTED)
OSR = LOT AREA - BLDG FOOTPRINT/TOTAL LOT AREA
= (17300sf-3780sf)/17300sf
= 0.78 (> 0.71 MINIMUM PERMITTED)
LSR = OPEN SPACE - PARKING AND DRIVE/TOTAL OPEN SPACE
= (13540sf-5151sf)/13540sf
= 0.62 (> 0.27 MINIMUM PERMITTED)

LINE TABLE

LINE	LENGTH	BEARING
L1	7.50	N53°56'54"W
L2	4.50	N36°03'06"E
L3	8.68	N21°57'00"E
L4	8.00	S89°20'31"E

NORTH CAROLINA
WATAUGA COUNTY

I, A. BRIAN CHRISTIE, CERTIFY THAT THIS PLAT WAS DRAWN FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DEED DESCRIPTION RECORDED IN BOOK 1188, PAGE 737, AND BOOK 711, PAGE 237; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND AS NOTED; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000; THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

THIS IS A SURVEY OF AN EXISTING PARCEL OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 11TH DAY OF FEBRUARY, 2011 A.D.

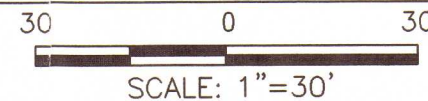
PROFESSIONAL LAND SURVEYOR
L-4265
LICENSE NUMBER

NOTES:

- SURVEYED WITHOUT BENEFIT OF ABSTRACT OR TITLE INSURANCE COMMITMENT. MAY BE SUBJECT TO EXCEPTIONS, EASEMENTS AND/OR RIGHT-OF-WAYS, RECORDED OR UNRECORDED.
- THE SUBJECT PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA ACCORDING TO FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 3710291000 J, EFFECTIVE DATE DECEMBER 3, 2009.
- THE TOTAL AREA TO BE SUBDIVIDED IS 1.031 ACRES (44,916 SQ-FT).
- CONTOURS SHOWN ARE AT 1 FOOT INTERVALS AND ARE BASED ON ASSUMED DATUM.

DEVELOPER:
BRIAN MUELLER

REVISIONS		DELMAR BUNGALOWS (AN ARCHITECTURALLY INTEGRATED SUBDIVISION)			ABC A B CHRISTIE SURVEYORS TEL 828-263-8005 PO BOX 406 - BOONE, NC 28607	
		TOWNSHIP: NEW RIVER	COUNTY: WATAUGA	DATE: 2/11/2011	SURVEYED BY: PT/CM	FIRM LICENSE NO. C-2452
		TOWN: BOONE	STATE: N.C.	ZONE: R-1	DRAWN BY: LM	DRAWING NO. 11002-1
		CHECKED & CLOSURE BY: A. BRIAN CHRISTIE, PLS.		TAX MAP: 2910-68-5966, 2910-68-6897		



PRELIMINARY PLAT
NOT FOR RECORDATION, CONVEYANCE, OR SALES

BETTY P. FARTHING
B.R. 611, PG. 620

BETTY P. FARTHING
B.R. 611, PG. 620

ZONE
B-3

ZONE
B-3

CREGGER CAPITAL INVESTMENTS, INC
B.R. 1345, PG. 318

JAMES D & JANET M BATES
B.R. 1173, PG. 161

ZONE
R-1

B.R. 611, PG. 620

FEB 14 2011

General Use Zoning Map Amendment Application

Town of Boone Planning & Inspections Department

680 W. King Street, Suite C • Boone, North Carolina 28607

Phone (828) 268-6960 • Fax (828) 268-6961 • Email: planning@townofboone.net • www.townofboone.net



A. Required to be Submitted at Time of Application

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

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

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

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

B. Property Information

Street Address:

220 MEADOWVIEW DRIVE

Watauga County Parcel Identification Number:

2910-32-6612-0000

Existing Zoning District(s): **R-3, B-3**

Proposed Zoning District(s): **B-3**

Adjacent Land Uses: N: **B-3**

E: **B-3**

S: **R-3**

W: **B-3**

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

☐ Yes ☒ No ☐ Unknown

If yes, describe:

Total Land Area: **1.492 acres**

C. Property Owner Information

Name:

PEGASUS CAPITAL PARTNERS, LLC

Complete Mailing Address (Street, City, Zip):

PO BOX 1967, BRISTOL, TN 37621

Phone Number:

(704) 615-8017

Email Address:

bwalters@friendshipauto.com

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

D. Applicant Signature and Property Owner Authorization

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

BRANDON WALTERS

Property Owner (Print)

Property Owner (Signature)

9/29/2020

Date

Official Use Only				
Permit Name: <u>Friendship Honda - General Use Zoning Map Amendment</u>				
Permit Number: <u>PL04269-100820</u>				
Date:	Fee: <u>\$340.00</u>	Receipt Number:	Method of Payment: ☐ Cash ☐ Check Number: _____	Paid By:

Official Use Only - Hearing/Decision Information

Public Hearing Meeting Date: 11-23-20

PC Meeting Date: 11-23-20

TC Meeting Date: 12-15-20 or 12-17-20

Date of APO Mailed Notification: _____

Date of Posted Notification: _____

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

S:\FORMS\PI_Forms_Current\Planning Forms\GenUseZMapAmend_07012019.docx

FILED Amy J. Shook
Register of Deeds, Watauga Co, NC
Fee Amt: \$26.00
NC Excise Tax: \$120.00

Bk 2005 Pg 60 (4)
Recorded: 12/06/2018 at 12:42:19 PM
Doc No: 674686 Kind: DEED



✓
RETURNED TO SHAUN LUNDY
AT THE TIME OF RECORDING

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$120.00

Parcel Identifier No. 2910-32-4544-000

Mail/Box to: Grantee

Prepared by: Moffatt & Moffatt, PLLC, P.O. Box 233-DTS, Boone, NC 28607

Brief description for the Index: 0.303 acres

THIS DEED made this ____ day of November 2018, by and between

<u>GRANTOR</u>	<u>GRANTEE</u>
Alan R. Skinner Sr. and wife, Elizabeth Jane Skinner 60 Snowy Egret Court Louisburg NC 27549	Pegasus Capital Partners, LLC, a North Carolina limited liability company P.O. Box 1967 Bristol, TN 37621

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot, parcel of land or condominium unit situated in the City of Boone, New River Township, Watauga County, North Carolina and more particularly described as follows:

See attached "Exhibit A", herein incorporated by reference.

PREPARED WITHOUT THE BENEFIT OF TITLE EXAMINATION; THE PREPARER OF THIS DOCUMENT IS NOT THE CLOSING AGENT AND THEREFORE IS NOT REQUIRED TO FILE IRS FORM 1099-S.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1831, Page 669.

All or a portion of the property herein conveyed ___ includes or X does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book ___, Page ___.

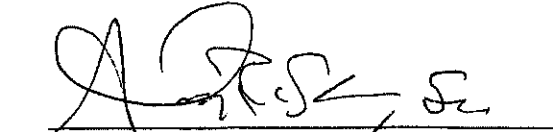
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

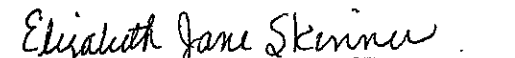
And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

1. Ad Valorem property taxes for the current year and subsequent years.
2. Any local, county, state or federal laws, ordinances, rules or regulations relating to zoning, environment, subdivision, occupancy, use, construction or development of the herein-described property, any improvements thereon or privileges and appurtenances thereto, including existing violations of said laws, ordinances, rules or regulations.
3. Any conditions, restrictions, easements, rights-of-way or other matters stated in or shown on the description of the herein-described property or recorded in Watauga County Public Registry.
4. Legal access to a public right of way from the property described herein.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK, SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.


 Alan R. Skinner Sr. (SEAL)


 Elizabeth Jane Skinner (SEAL)

STATE OF North Carolina
 COUNTY OF Wake

Personally, appeared before me, a Notary Public in and for said County and State, the within named Grantor(s), Alan R. Skinner Sr. and Elizabeth Jane Skinner, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged that he/she/they executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and seal, this the 26th day of November, 2018




 Notary Public

Notary's Name: Meredith Harrison

My Commission Expires: 7/5/2020

EXHIBIT A

Legal Description

BEGINNING on an iron stake in the Fred Greer line and corner to George Main, and runs thence with Greer line South 83° 51' West 21.27 feet to a concrete marker; thence South 60° 47' West 118.09 feet to an iron stake, corner to Greer and Main; thence South 11° 54' East 73.61 feet to an iron stake in the center of old mill race, corner to Main and Tom Councill; thence with said old mill race North 83° 53' East 130.20 feet to an iron stake, corner to Tom Councill and George Main; thence North 9° 35' West 119.71 feet to the **BEGINNING**, containing 0.303 acres, more or less. All according to plat and survey prepared by James A. Dugger, RLS, on February 13, 1965.

There is also conveyed herewith unto the grantees, their heirs and assigns a road right-of-way as contained in that certain instrument dated August 21, 1972 from George Main and wife, Ethel Main to Randall Cannon and wife, Janet M. Cannon and recorded in Book 132, Page 263, Watauga County Registry.

FILED Amy J. Shook
Register of Deeds, Watauga Co., NC
Fee Amt: \$26.00
NC Excise Tax: \$810.00

Bk 2005 Pg 55 (5)

Recorded: 12/06/2018 at 12:41:59 PM
Doc No: 674685 Kind: DEED



✓ RETURNED TO SHAUN LUNDY
AT THE TIME OF RECORDING

Excise Tax: \$ 810.00

Mail after recording to: PENN, STUART & ESKRIDGE, P.C.
c/o M. Shaun Lundy
804 Anderson Street
Bristol, TN 37620

PREPARED BY: Allen C. Moseley, DEAL, MOSELEY & SMITH, LLP
ATTORNEYS AT LAW,
P. O. BOX 311
BOONE, NC 28607 Tel (828) 264-4734

Brief Description for the Index:

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED, made this 20th day of November, 2018, by and between,

GEORGE W. MAINE, JR. and wife, CHRISTINE RAGENOVICH MAINE, a/k/a CHRISTINE

RAGENOVICH

GRANTORS;

and,

PEGASUS CAPITAL PARTNERS, LLC, A North Carolina Limited Liability Company

of P.O. Box 1967, Bristol, TN 37621, GRANTEE.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantors, for a valuable consideration paid by the Grantees, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and

convey unto the Grantee in fee simple all that certain lot or parcel of land situated in NEW RIVER TOWNSHIP, WATAUGA COUNTY, NORTH CAROLINA, and more particularly described as follows:

--SEE ATTACHED "SCHEDULE A" FOR DESCRIPTION--

THIS DOCUMENT HAS BEEN PREPARED WITHOUT TITLE EXAMINATION

The preparer of this document is not the disbursing agent and therefore is not required to file IRS Form 1099-S.

The property hereinabove described was acquired by Grantor in Book of Records 1961, Page 39, and Book of Records 2004, Page 830, Watauga County Registry.

A map showing the above described property is recorded in Plat Book _____, Page _____.

All or a portion of the property herein conveyed ____ includes or ____ does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

This conveyance is made subject to any easements, rights of way, restrictions and matters of record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing the day and year first above written.

****SIGNATURE PAGE ATTACHED****

George W. Maine, Jr. (SEAL)
George W. Maine, Jr.

Christine Ragenovich Maine (SEAL)
Christine Ragenovich Maine
a/k/a Christine Ragenovich

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

I, a Notary Public of the County and State aforesaid, certify that George W. Maine, Jr. and wife, Christine Ragenovich Maine, Grantors, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2018.

{affix legible notarial stamp or seal *within the margins* below}

See attached for CA wording
NOTARY PUBLIC

My Commission Expires: 7/21/19

California All-Purpose Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

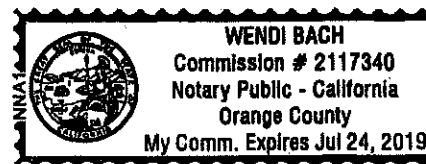
County of Orange

On 11/21/18 before me, Wendi Bach, notary public, personally appeared ***Christine Ragenovich, George W. Maine, Jr***, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Wendi Book (Seal)



Optional

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal of this reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: North Carolina General Warranty Deed

Document Date: November 21, 2018 # of Pages: _____

 Signer(s) Other Than Named Above:

"EXHIBIT A"**WATAUGA COUNTY****NORTH CAROLINA****Tract One:**

BEGINNING on an iron stake near southwest wingwall of bridge over Flannery Fork Creek and in west margin of Meadowview Drive, and runs thence leaving said road North 56° 02' West 18 feet to an iron stake; thence South 82° 19' East 269.90 feet to an iron stake located South 82° 19' East 21.27 feet from a concrete monument; thence South 11° 07' East 119.71 feet to an iron stake; thence North 87° 07' East 67 feet to an iron stake; thence North 08° 12' West 23.28 feet; thence North 87° 03' East 91.65 feet to an iron stake; thence North 88° 38' East 75.75 feet to an iron stake; thence North 88° 38' East 11 feet to a point in west margin of Meadowview Road; thence with west margin of said road North 9° 01' East 111.65 feet to the BEGINNING. All according to plat and survey by James A. Dugger, Surveyor, April 26, 1974.

Tract Two:

BEGINNING on an iron stake in the Bavarian Village line, corner to Randall Cannon, and runs thence leaving Bavarian Village line and with Cannon line North 11° 54' West 73.61 feet to an iron stake; thence leaving Cannon line South 60° 47' West 164.60 feet to an iron stake; thence South 48° 23' West 43.35 feet to an iron stake; thence South 73° 59' West 104.60 feet to an iron stake; thence South 15° 49' West 39.72 feet to an iron stake; thence North 72° 53' East 68 feet to an iron stake; thence North 82° 54' East 149 feet to an iron stake; thence North 84° 48' East 90.14 feet to the BEGINNING, containing .2513 acre, more or less, all according to plat and survey prepared by James A. Dugger, Surveyor, on June 7, 1974.

BEING the same property conveyed by G.W. Main and wife, Ethel H. Main to G.W. Maine, Jr. and wife, Mary K. Maine by deed dated August 23, 1974 and recorded in Deed Book 150, Page 528, Watauga County Register of Deeds.

Tract Three:

BEGINNING on a small white pine at the entrance of G.W. Main's road, leading to his garage and runs South 85° West 144-1/2 feet to a stake in Mrs. Emma Council line; thence a northeast course with her line 46 feet to a stake in the old mill race in G.W. Main's line; thence South 08° 12' East 23.28 feet to an iron thence North 87° 03' East 91.65 feet to an iron; thence North 88° 38' East 75.75 feet to an iron; thence North 88° 30' East 11.0 feet to an iron at edge of road; thence North 02° 51' East to an iron at edge of road; thence North 86° 43' East 23.0 feet to the BEGINNING.

Pegasus Capital Partners, LLC
(Portion of property to be rezoned)

BEGINNING on a magnetic nail located in the westerly right of way line of Meadowview Drive, said point having North Carolina Grid Coordinates (NAD 83) of: Northing=902,566.4915, Easting=1,213,846.0975; thence leaving said right of way line and along N/F Coley property (Deed Book 1463, Page 63) S86°22'17"W, 167.31 feet to a 1" conduit found, said point being a common corner with said N/F Coley property and in the line of N/F K. Partnership, LLC property (Deed Book 1791, Page 231); thence leaving said N/F Coley property and along said N/F K. Partnership, LLC property the following two (2) calls: N08°35'16"W, 40.27 feet to an iron rod found; thence S86°47'52"W, 48.88 feet; thence leaving said N/F K. Partnership, LLC property along the current zoning line (Zone B-3 & Zone R-3) crossing the Pegasus Capital Partners, LLC property (Deed Book 2005, Page 55; Plat Book 27, Page 267) N82°58'00"E, 224.89 feet to the westerly right of way line of said Meadowview Drive; thence along said right of way line S01°29'26"W, 54.06 feet to the point of **BEGINNING**, containing 0.193 acres or 8,418.1 square feet, more or less, and being all of that portion of property that is currently zoned R-3 of the Pegasus Capital Partners, LLC property as recorded at Plat Book 27, Page 267, in the Register of Deeds Office for Watauga County, NC and shown on revised survey prepared by Kevin R. Rasnick, P.L.S. License No. L-4504, dated October 05, 2020.

SURVEY NOTES:

1. NORTH BASED ON N.C. STATE PLANE GRID (N.A.D. 83) AS DETERMINED BY O.P.U.S. SOLUTION. NO N.C.G.S. HORIZONTAL CONTROL FOUND WITHIN 2000' OF SUBJECT PROPERTY. ALL DISTANCES ARE GROUND.

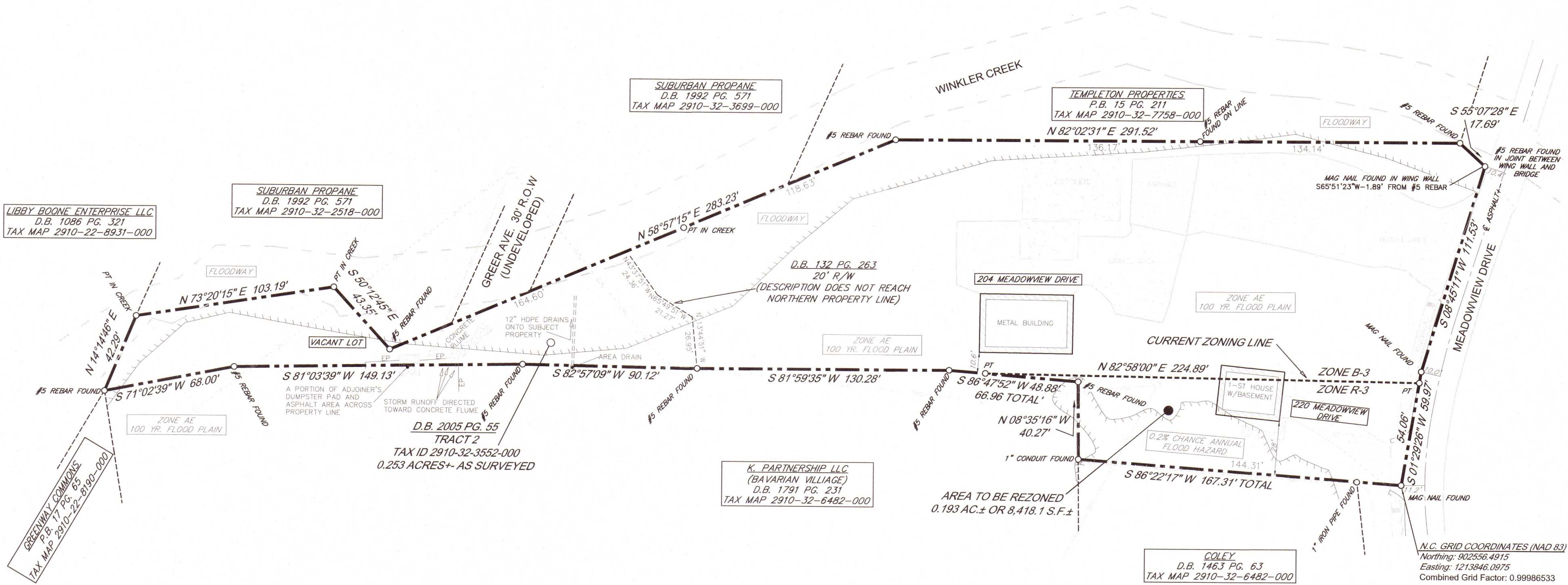
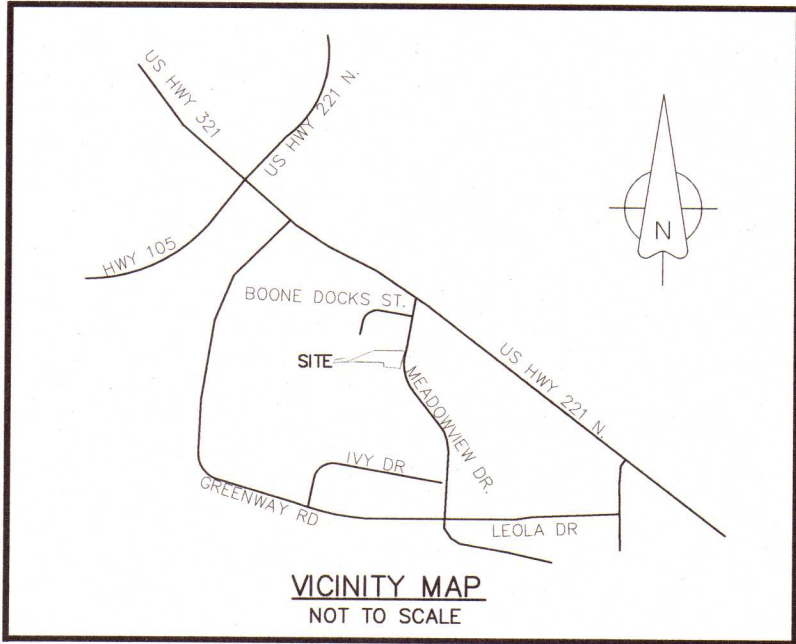
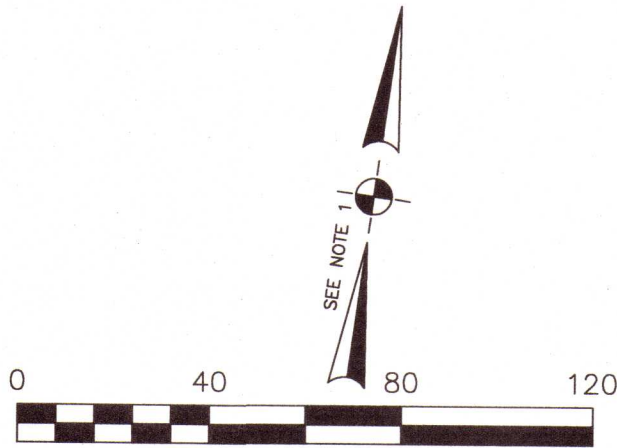
2. IT IS THE PURPOSE OF THIS PLAT TO COMBINE THE INDIVIDUAL PARCELS AS SHOWN.

3. RECORD DOCUMENTS DO NOT FORM A MATHEMATICAL CLOSURE.

4. ALL AREAS SHOWN ARE BY COORDINATE COMPUTATION METHOD.

5. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE ABSTRACT AND IS MADE SUBJECT TO ANY DISCREPANCIES WHICH MAY BE DISCLOSED BY A THOROUGH AND ACCURATE TITLE SEARCH. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

6. INFORMATION ON ALL UTILITIES AND UNDERGROUND STRUCTURES SHOWN ARE FROM SURFACE INDICATIONS AND ARE NOT NECESSARILY ALL OF THE EXISTING UTILITIES AND STRUCTURES. VERIFY EASEMENTS WITH UTILITY COMPANIES PRIOR TO CONSTRUCTION. THERE MAY BE ADDITIONAL EASEMENTS FOR UNDERGROUND UTILITIES.



SURVEYOR'S CERTIFICATE:

I, KEVIN R. RASNICK, HEREBY CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

I, KEVIN R. RASNICK CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY PERFORMED UNDER MY SUPERVISION (DEED DESCRIPTION AND OR REFERENCE PLAT RECORDED IN BOOK 132 PAGE 263, DEED BOOK 2005 PAGE 55, DEED BOOK 2005 PAGE 60 AND PLAT BOOK 27 PAGE 287); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK NA, PAGE NA; THAT THE RATIO OF PRECISION AS CALCULATED IS 1: 10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

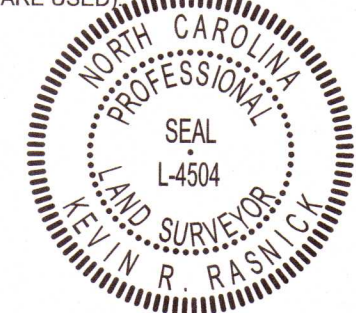
THAT THE GLOBAL POSITIONING SYSTEM (GPS) SURVEY AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE GPS (GNSS IF DUAL CONSTELLATIONS ARE USED):

CLASS OF SURVEY: A POSITIONAL ACCURACY 95%+
TYPE OF GPS FIELD PROCEDURE: RTK

DATES OF SURVEY: JANUARY 10, 2020
DATUM/EPOCH: NAD 83(2011) EPOCH 2010
PUBLISHED/FIXED-CONTROL USE: NGS OPUS
GEOID MODEL: GEOID18
COMBINED GRID FACTOR(S): 0.99986533
UNITS: US SURVEY FEET

WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS THE 30TH DAY OF JANUARY 2020.

Kevin R. Rasnick
KEVIN R. RASNICK, P.L.S. LICENSE-4504



FLOOD INFORMATION

BY GRAPHIC PLOTTING ONLY. AS SHOWN ON FACE OF PLAT, A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN ZONE AE, SPECIAL FLOOD HAZARD AREA AS PER FIRM PANEL 3710291000 HAVING AN EFFECTIVE DATE OF 12-3-2009. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR A VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

USE OF LAND WITHIN THE SPECIAL FLOOD HAZARD AREA IS SUBSTANTIALLY RESTRICTED BY THE FLOOD DAMAGE PREVENTION ORDINANCE OF THE TOWN OF BOONE.

LEGEND:

PT - CALCULATED POINT
IRN - #4 REBAR SET
N.C.D.O.T. - NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
R/W - RIGHT OF WAY
UTILITY POLE
LAND HOOK
EP - EDGE OF PAVEMENT
POINT OF BEGINNING
CENTERLINE
HIGH DENSITY POLYETHYLENE
BARBED WIRE FENCE
GAS LINE
OVERHEAD UTILITY LINE
WATER LINE
SANITARY SEWER LINE
STORM SEWER LINE
PROPERTY LINES
ADJOINING LINES
FLOODWAY/500 YEAR FLOOD PLAIN AS SHOWN

REVISIONS		
NO.	DATE	DESCRIPTION
1	10-05-2020	ADDED AREA TO BE REZONED



PROJECT:

ZONING
BOUNDARY PLAT

DEED BOOK 2005 PAGE 55
TAX PARCEL 2910-32-3552-000
TAX PARCEL 2910-32-6529-000
TAX PARCEL 2910-32-7526-000

DEED BOOK 2005 PAGE 60
TAX PARCEL 2910-32-4544-000

REFERENCE PLAT
PLAT BOOK 27, PAGE 267
TOTAL AREA TO BE REZONED
0.193 ACRES+ AS SURVEYED

OWNERSHIP INFORMATION:

PEGASUS CAPITAL PARTNERS, LLC
P.O. BOX 1967 BRISTOL, TN 37621

PROJECT LOCATION:

MEADOWVIEW DRIVE
TOWN OF BOONE
NEW RIVER TOWNSHIP
WATAUGA COUNTY, NC

DRAWING INFORMATION

SCALE: 1"=40'
SCALE GUIDE: []
DWG ISSUED: FEBRUARY 10, 2020
PROJ ADMIN: KRR
DRAWN BY: KRR
CHECKED BY: KRR

KEVIN R. RASNICK
LAND SURVEYOR
122 KEYSTONE DRIVE
BLOUNTVILLE, TN 37617
PHONE (423)335-9005
rasnicksurveying@outlook.com



STAFF REPORT
PUBLIC HEARING
November 23, 2020

CASE PL04269-100820 Pegasus Capital Partners, LLC- GENERAL USE ZONING MAP AMENDMENT



REQUEST

Pegasus Capital Partners, LLC has initiated the re-zoning of a .193-acre portion of parcel (Watauga County PIN 2910-32-6612-000) owned by Pegasus Capital Partners from General Use R3, Multi-family residential to B3, General Business (this is a split-zoned parcel). The property is located at 220 Meadowview Drive.

General Use Zoning Map Amendment Guidance

Pursuant to UDO Subsection 9.07.01, in deciding whether to adopt a proposed amendment to the UDO, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be

declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments, the Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. The Council shall only consider the impact of the proposed change on the public at large.

HISTORY

January 16, 2020- A Zoning Permit was issued for 204/206 Meadowview Drive for a change of Use 11.29, Vehicle Sales and Service.

ANALYSIS

Address:	220 Meadowview Drive The remaining portion of the parcel which is zoned B3, also contains buildings addressed as 204 and 206 Meadowview Drive.
Watauga County PIN:	2910-32-6612-000
Property Owner:	Pegasus Capital Partners, LLC
Total Lot size:	1.492 acres
Jurisdiction:	Town of Boone
Access:	Meadowview Drive (Town Maintained)
SFHA:	Yes
Watershed District:	No
Corridor District:	Partially on the B3 portion of the property, but not on the R3 portion.
NCD:	No
Viewshed:	No
Utilities:	Town water and sewer
Current Zoning:	R3, Multi-family Residential/B3, General Business
Proposed Zoning:	B3, General Business
Current Use:	Vacant/11.29 Vehicle Sales and Service

Zoning & Use of Adjacent Properties		
	Zoning	Land Use (according to tax records)
North	B3 General Business	Other Business or Professional Service Office/Impound Lot/Towing Service
East	R2, Conditional District	Multi-family Dwelling
South	B3, General Business	Other Business or Professional Office/Multi-family Dwelling
West	B3, General Business	Multi-family Dwelling/Utility Facility

ZONING ANALYSIS

...

ARTICLE 14 ZONING DISTRICTS AND ZONING MAP

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

ARTICLE 15 DISTRICT USE REQUIREMENTS

Use #	Specific Use	B3	Reference
1.01	Single-Family Dwelling		
1.02	Manufactured Home "Class A"		15.08
1.03	Manufactured Home "Class B"		15.08
1.04	Manufactured Home "Class C"		
1.05	Manufactured Home Park		15.09
1.06	Duplex (one duplex building per lot)		
1.07	Duplex (more than one duplex building per lot)		15.10
1.08	Townhouse (up to 30 bedrooms)		15.10
1.09	Townhouse (31-100 bedrooms)		15.10
1.10	Townhouse (> 100 bedrooms)		15.10
1.11	Multi-Family Dwelling (up to 30 bedrooms)		15.10
1.12	Multi-Family Dwelling (31-100 bedrooms)		15.10
1.13	Multi-Family Dwelling (> 100 bedrooms)		15.10
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)	L	15.11
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)	L ^{T125}	15.11
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)	L ^{T200}	15.11
1.17	Adult Living Community		
2.01	Family Care Home		15.13
2.02	Family Care Institutions		15.14
2.03	Halfway House, Category 1		15.14
2.04	Halfway House, Category 2		15.14
2.05	Residential Care Facility	pT300	
2.06	Fraternity or Sorority Dwelling		15.16
2.07	Boarding House	L	15.17
3.01	Home for Survivors of Domestic Violence		15.18
3.02	Shelter for Homeless, Category 1	L ^{T50}	15.19

Use #	Specific Use	B3	Reference
3.03	Shelter for Homeless, Category 2	L ^{T300}	15.19
3.04	Bed and Breakfast, Category 1		15.20
3.05	Bed and Breakfast, Category 2	L ^{T125}	15.20
3.06	Vacation Rental	L ^{T75}	15.21
3.07	Motel	p ^{T300}	
3.08	Hotel	p ^{T200}	
4.01	Airport/Landing Strip		15.22
4.02	Heliport		15.22
4.03	Funeral Home Establishment	P	
4.04	Cemetery	P	
4.05	Post Office	P	
4.06	Post Office, Distribution	P	
4.07	Animal Sanctuary		
5.01	Government Cultural Facility		
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only		
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity		
5.04	Recreation Facility, Category 1	P	
5.05	Recreation Facility, Category 2	P	
5.06	Recreation Facility, Category 3	p ^{T50}	
5.07	Event Venue, Category 1	P	
5.08	Event Venue, Category 2	P	
5.09	Event Venue, Category 3	p ^{T50}	
5.10	Landfill		
5.11	Solid Waste Processing		
5.12	Police Substation	P	
5.13	Utility Facility, Town	L	15.23
5.14	Utility Facility, Government, Neighborhood	L	15.23
5.15	Utility Facility, Government, Regional	L ^{T300}	15.23
5.16	Government Facility	P	

Use #	Specific Use	B3	Reference
6.01	Utility Facility, Neighborhood	L	15.23
6.02	Utility Facility, Regional	L ^{T300}	15.23
7.01	Small Wireless Collocation	L	15.25
7.02	Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole	L	15.24
7.03	Stealth Wireless Facility Attached to Existing Building or Structure	L	15.24
7.04	Non-stealth Wireless Facility Attached to Existing Building or Structure		15.24
7.05	Non-stealth Wireless Facility Collocation on Electrical Transmission Towers	L	15.24
7.06	Stealth Wireless Support Structure	L	15.24
7.07	Non-stealth Wireless Support Structure	L	15.24
7.08	Reserved		
7.09	Reserved		
7.10	Emergency Response Communication Antenna	P	
8.01	Religious Assembly, Category 1	P	
8.02	Religious Assembly, Category 2	P	
8.03	Religious Assembly, Category 3	P ^{T200}	
8.04	Club/Lodge, Category 1	P ^{T75}	
8.05	Club/Lodge Which Does Not Serve Alcohol		
9.01	Public colleges and universities		
9.02	Private colleges and universities		
9.03	Trade school		
9.04	High school		
9.05	Elementary school		
9.06	Boarding school		
9.07	College- or university-operated community enterprise		15.70
10.01	Child Daycare, Large	L	15.26
10.02	Child Daycare Center	L	15.26
10.03	Adult Daycare, Large	L	15.26
10.04	Adult Daycare Center	L	15.26

Use #	Specific Use	B3	Reference
10.05	All Other Daycare		
11.01	Kennel	L ^{T125}	15.27
11.02	Veterinary Office/Hospital with Outdoor Kennels	L ^{T125}	15.27
11.03	Veterinary Office/Hospital without Outdoor Kennels	P	
11.04	Financial Institution ≤ 5,000 ft ²	P	
11.05	Financial Institution > 5,000 ft ²	P	
11.06	Restaurant ≤ 2,500 ft ² open to the public during 10 pm – 6 am	p ^{T75}	
11.07	Other Restaurants ≤ 2,500 ft ²	P	
11.08	Restaurant > 2,500 ft ² open to the public during 10 pm – 6 am	p ^{T200}	
11.09	Other Restaurants > 2,500 ft ²	p ^{T125}	
11.10	Restaurant ≤ 3,500 ft ² open to the public during 10 pm-6 am		
11.11	Other Restaurants ≤ 3,500 ft ²		
11.12	Bar		
11.13	ABC Store	P	
11.14	Personal Service Establishment open to the public during 10 pm-6 am	p ^{T75}	
11.15	Other Personal Service Establishments	P	
11.16	Retail Store up to 5,000 ft ²	P	
11.17	Retail Store more than 5,000 but less than 25,000 ft ²	p ^{T200}	
11.18	Retail Store 25,000 ft ² and greater	L ^{T300}	15.28
11.19	Reserved		
11.20	Business or Professional Office open to the public during 10 pm - am	p ^{T75}	
11.21	Other Business or Professional Office	P	
11.22	Medical Office, Category 1	p ^{T300}	
11.23	Medical Office, Category 2	p ^{T125}	
11.24	Medical Office, Category 3	p ^{T125}	
11.25	Medical Office, Category 4	P	
11.26	Hospital		
11.27	Medical Emergency Response	p ^{T300}	
11.28	Open Air Market, Recurring	L ^{T75}	15.29

Use #	Specific Use	B3	Reference
11.29	Vehicle Sales and Service	L ^{T75}	15.30
11.30	Equipment Sales and Service	L ^{T125}	15.31
11.31	Moped Sales and Service	P	
11.32	Boat or Marine Craft Sales and Service	L ^{T75}	15.32
11.33	Impound Lot/Towing Service	L ^{T125}	15.33
11.34	Gas Station	p ^{T125}	
11.35	Car Wash	p ^{T125}	
11.36	Seasonal Retail Activities and Amusements	P	
12.01	Indoor Shooting Range	L ^{T75}	15.34
12.02	Outdoor Shooting Range		
12.03	Indoor Theater	P	
12.04	Outdoor Theater	p ^{T125}	
12.05	Event Venue, Category 1	P	
12.06	Event Venue, Category 2	p ^{T125}	
12.07	Event Venue, Category 3	p ^{T200}	
12.08	Campground and Recreational Vehicle Park	L ^{T200}	15.35
12.09	Coliseum	S ^{T300}	
12.10	Recreation Facility, Category 1	P	
12.11	Recreation Facility, Category 2	p ^{T50}	
12.12	Recreation Facility, Category 3	p ^{T200}	
12.13	Racetrack		
13.01	Garden, Community	L	15.36
13.02	Garden, Residential	L	15.37
13.03	Agricultural Operation Excluding Livestock		
13.04	Agricultural Operation Including Livestock		
13.05	Swine Farm		
13.06	Confined Animal Feeding Operation (CAFO)		
13.07	Custom Slaughterhouse		
13.08	Other Slaughterhouse		

Use #	Specific Use	B3	Reference
13.09	Forestry	L	15.38
14.01	Microbrewery	L ^{T125}	15.39
14.02	Brewpub	L ^{T125}	15.39
14.03	Brewery/Distillery	L ^{T125}	15.40
14.04	Brewery/Distillery, Other	L ^{T125}	15.41
14.05	Winery Associated with a Vineyard		15.42
14.06	Winery	L ^{T125}	15.42
14.07	Winery, Other		
14.08	Extraction of Earth Materials		
14.09	Machine/Welding Shop	L ^{T200}	15.44
14.10	Manufacturing, Other		15.45
15.01	Parking Lot	L	15.46
15.02	Parking Structure	L	15.47
15.03	Park and Ride Lots	L	15.46
16.01	Self-Storage Facilities	L ^{T75}	15.48
16.02	Outdoor Storage		15.49
16.03	Warehouse		
16.04	Fuel Storage Facility	p ^{T300}	
16.05	Chemical Storage Facility		
17.01	Passenger Terminals	p ^{T200}	
17.02	Trucking or freight terminal ≤ 10,000 ft ²	p ^{T125}	
17.03	Trucking or freight terminal > 10,000 ft ²		
18.01	Recycling Drop-off Station		15.49
18.02	Recycling and Salvage		15.49
18.03	Junkyard		
18.04	Private Landfill		
19.01	Electronic and Internet Gaming	S	15.50
19.02	Adult Establishments	S	15.51

...

15.07.01 Table of Accessory Uses**15.07.01 Table of Accessory Uses**

Use #	Accessory Use	B3	Reference
A-1	Secondary suite	L	15.52
A-2	Home occupation	L	15.53
A-3	Accessory dwelling unit	L	15.54
A-4	Drive-through	L	15.55
A-5	Outdoor display	L	15.56
A-6	Outdoor storage	L	15.57
A-7	Outdoor dining	L	15.58
A-8	Automated teller machine (ATM)	P	
A-9	Automated teller machine (ATM), freestanding	L	15.59
A-10	Produce stand		15.60
A-11	Poultry	L	15.61
A-12	Livestock, small	L	15.62
A-13	Livestock, large		15.63
A-14	Bees	L	15.64
A-15	Garden, residential	L	15.65
A-16	Satellite receiving antennas less than 1 meter in diameter	P	
A-17	Satellite receiving antennas less than 2 meters in diameter	P	
A-18	Satellite receiving antennas 2 meters and greater in diameter	S	
A-19	Helistop	S ^{T300}	
A-20	Swimming pools, spas, and hot tubs	L	15.66
A-21	Caretaker's residence	L	15.67
A-22	Vehicular gate	L	15.68
A-23	Vehicle washing station	P	
A-24	Chemical storage facility	P ^{T125}	
A-25	Open air market, accessory	L	15.29
A-26	Daycare, small	P	

15.07.03 Table of Temporary Uses

Use #	Temporary Use	B3	Reference
T-1	Temporary care provider dwelling	L	15.69
T-2	Temporary construction or repair dwelling	L	15.69
T-3	Temporary construction trailer	L	15.69
T-4	Temporary mobile medical unit	L	15.69
T-5	Temporary classroom	L	15.69

Use #	Temporary Use	B3	Reference
T-6	Temporary portable storage containers	L	15.69
T-7	Temporary staging	L	15.69
T-8	Temporary non-fixed site event venue	L	15.69
T-9	Carrier on wheels (cow)	L	15.69
T-10	Yard sales	L	15.69
T-11	Itinerant merchant/peddler	L	15.69
T-12	Open air market, temporary	L	15.69
T-13	Temporary Use 9.01 Public Colleges and Universities	L	15.69

ARTICLE 16 DISTRICT STANDARDS

...

16.01 Schedule of Land Use Intensity Regulations

...16.01.02 Intensity Table

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
Residential Zoning Districts						
B3	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.

...

16.08 Building Height

...

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

Zone	Height Limitation
B3	3 Stories/45' (primary)-4 stories/56' (secondary)

...

2006 COMPREHENSIVE PLAN ANALYSIS

1.1 OVERALL OBJECTIVES FOR THE BOONE COMPREHENSIVE PLAN

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.

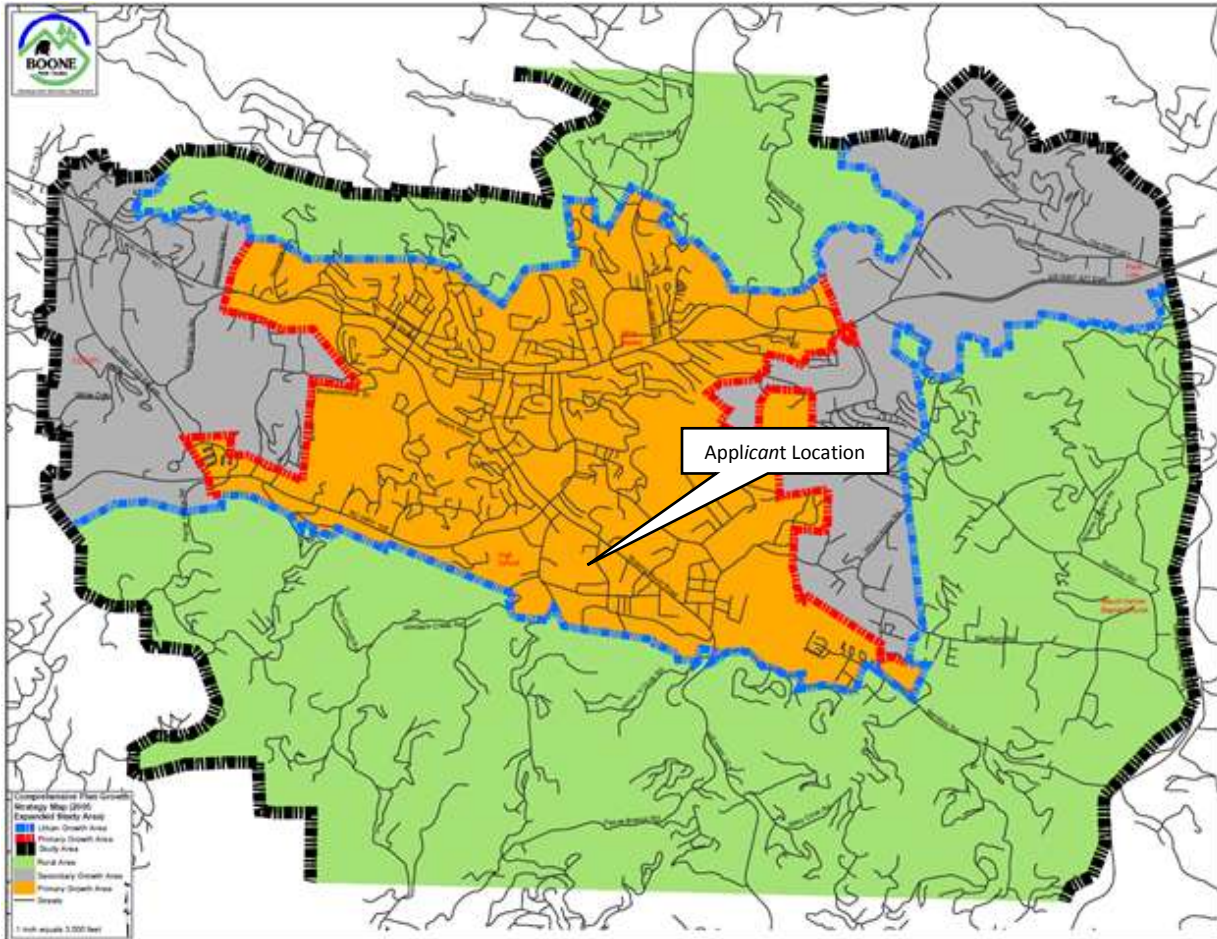
Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

1.2 GROWTH STRATEGY MAP

The annexation area is located within the **Rural Area**. 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.

The portion of the property located within the corporate limits (2901-81-9730-000) 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. See Growth Strategy Map:



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

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 Infrastructure

2.2.2 Utilities

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

2.3.2 Community Character

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

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 October 30, 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 October 30, 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]*:

General Use Zoning Map Amendment Application

Town of Boone Planning & Inspections Department

680 W. King Street, Suite C ♦ Boone, North Carolina 28607

Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ Email: planning@townofboone.net ♦ www.townofboone.net



A. Required to be Submitted at Time of Application

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

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

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

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

B. Property Information

Street Address:

Off off VFW Drive

Watauga County Parcel Identification Number:

2910-44-8938-000

Existing Zoning District(s): Unzoned

Proposed Zoning District(s): R1, Viewshed, NCD

Adjacent Land Uses: N: Single-family dwelling

E: Cemetery

S: Single-family dwelling

W: vacant

Are there any existing variances or special use permits granted to the property? ☐ Yes ☒ No ☐ Unknown

If yes, describe:

Total Land Area: .069

C. Property Owner Information

Name:

Thomas M. and Joan E. McLaughlin

Complete Mailing Address (Street, City, Zip):

229 VFW Drive, Boone, NC 28607

Phone Number:

Email Address:

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

D. Applicant Signature and Property Owner Authorization

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

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

Property Owner (Print)

Property Owner (Signature)

Date

Official Use Only				
Permit Name: McLaughlin, Tom and Joan – General Use Zoning Map Amendment				
Permit Number: PL04303-102920				
Date: 10/29/2020	Fee: NA	Receipt Number: NA	Method of Payment: ☐ Cash ☐ Check Number: _____	Paid By: NA

Official Use Only - Hearing/Decision Information

Public Hearing Meeting Date: November 23, 2020

PC Meeting Date: _____

TC Meeting Date: _____

Date of APO Mailed Notification: _____

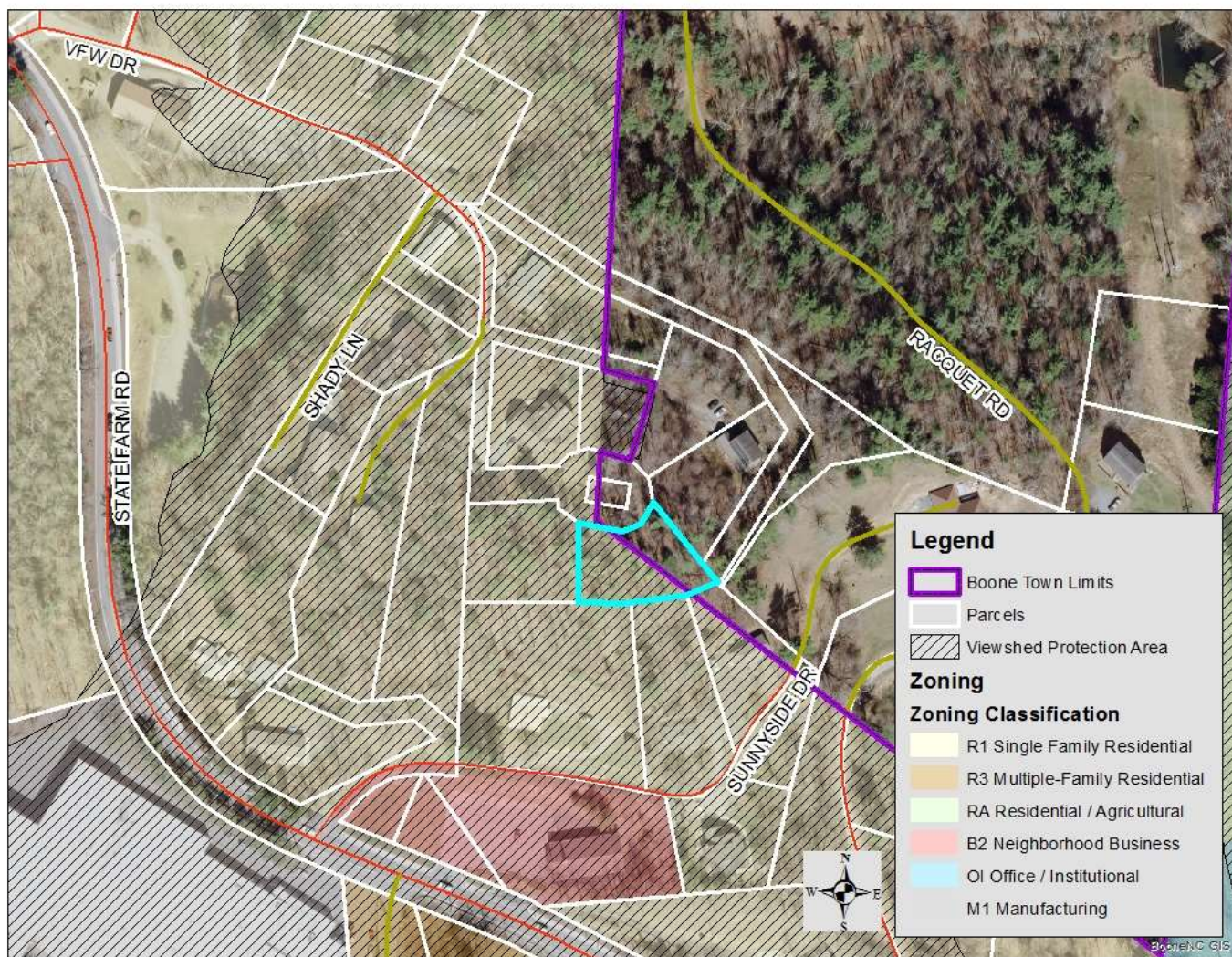
Date of Posted Notification: _____

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

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**STAFF REPORT
PUBLIC HEARING
NOVEMBER 23, 2020
CASE PL04303-102920 MCLAUGHLIN, THOMAS M AND JOAN E
GENERAL USE ZONING MAP AMENDMENT**



Request

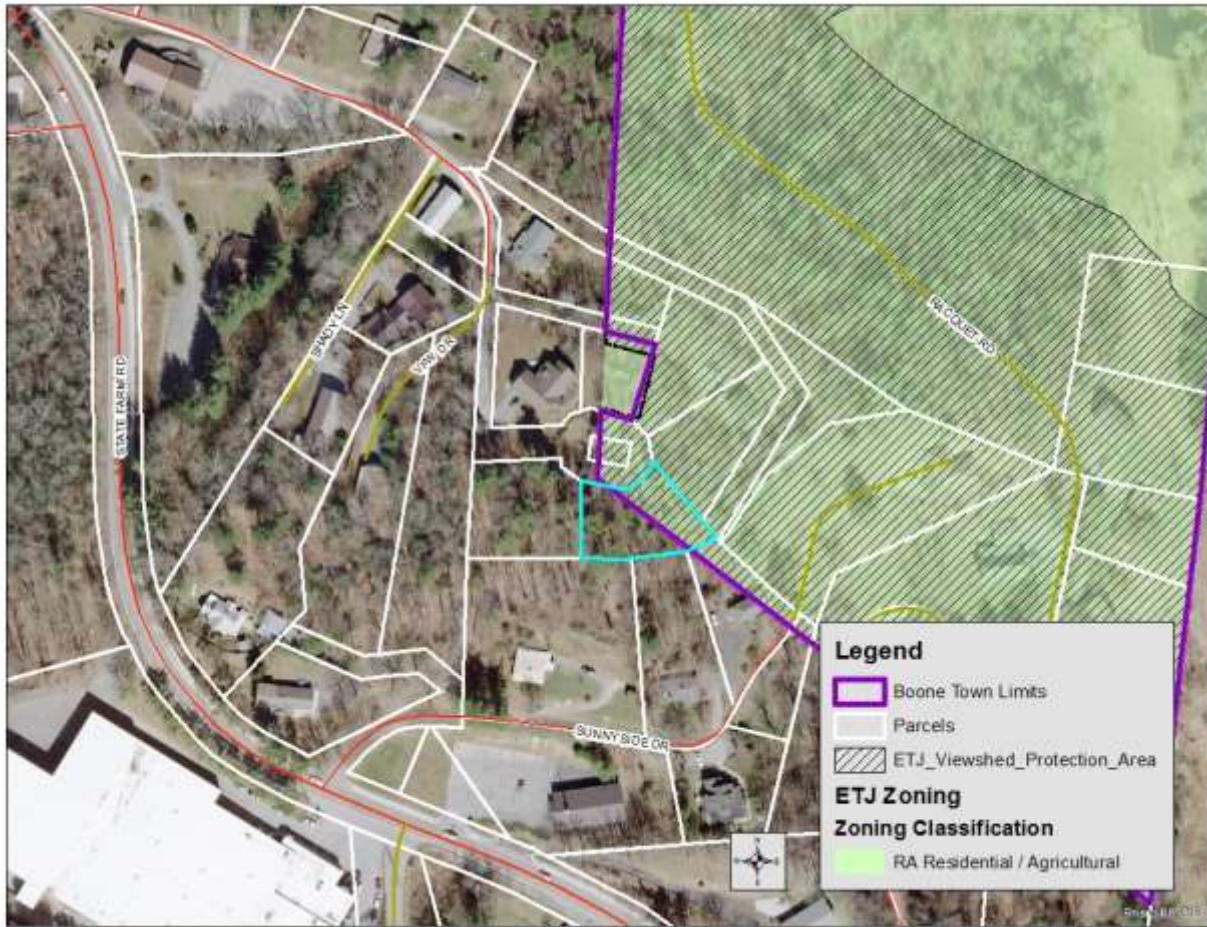
The Town of Boone has initiated the zoning of approximately 0.069 acres of property located off of the end of VFW Drive (portion of Watauga County PIN 2910-44-8938-000) owned by Thomas M and Joan E McLaughlin to R1 Single-Family Residential, Viewshed Protection Overlay, and Neighborhood Conservation District in conjunction with the property owner's request for annexation of the property.

General Use Zoning Map Amendment Guidance

Pursuant to UDO Subsection 9.07.01, in deciding whether to adopt a proposed amendment to the UDO, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments, the Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the

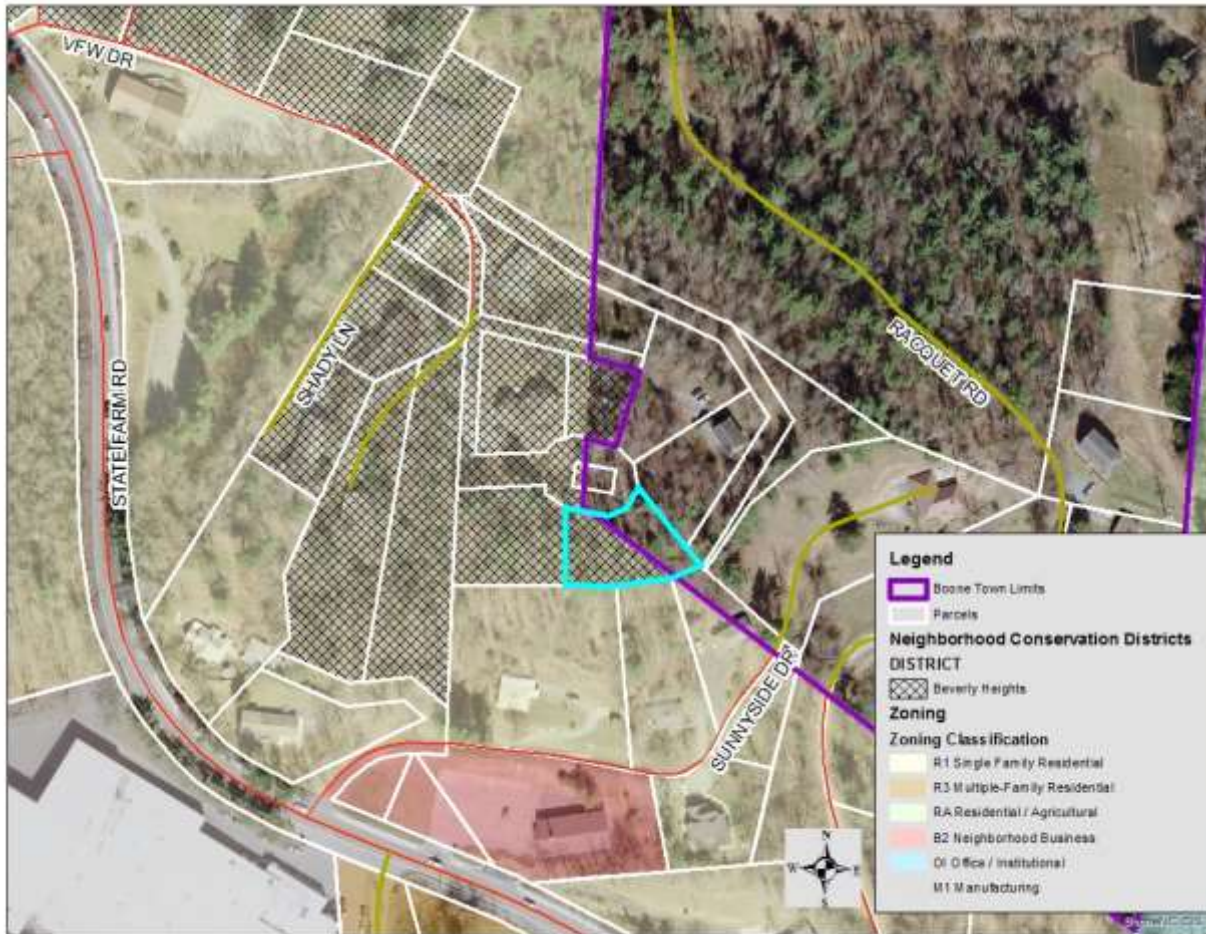
requested classification is more appropriate than the range of uses in the existing classification. The Council shall only consider the impact of the proposed change on the public at large.

HISTORY



- 1-10-2017: Town of Boone lost authority to exercise powers of extraterritorial jurisdiction. The subject property was previously zoned RA Residential Agriculture with Viewshed Protection overlay as part of Boone's ETJ.

Zoning Analysis of Annexation Area



Petitioner:	Thomas M McLaughlin and Joan E McLaughlin
Address:	Private drive access off VFW Drive
Watauga Co. PIN:	2910448938000
Use:	Currently vacant
Size:	total parcel: .377 acres; 0.069 acres to be zoned
Jurisdiction:	Watauga County
Access:	Private drive off VFW Drive
Viewshed:	Yes
Watershed:	No
SFHA:	No
Steep Slope:	No
Existing Zoning:	Not zoned
Previous Zoning:	RA Residential Agriculture & Viewshed (when in ETJ)
Vesting:	No

	Adjacent Zoning	Adjacent Land Use (Watauga Co. Tax Data)
North	Not zoned (Watauga County Jurisdiction), R1 Single-Family	Single-family dwelling
East	Not zoned (Watauga County Jurisdiction), R1 Single-Family	Cemetery
South	Not zoned (Watauga County Jurisdiction),	Single-family dwelling
West	R1 Single-Family	Vacant (other parcel owned by applicant)

Zoning Analysis for Annexed Property

Below are excerpts from the UDO regarding the district, use, intensity and height for the R1 Single-Family Zoning District and RA Residential Agriculture (existing and former zoning of parcel). All the surrounding parcels (including portions of the subject parcels) that are within the Town of Boone are currently zoned R-1.

Excerpt of ARTICLE 14 ZONING DISTRICTS AND ZONING MAP

...

14.01 Residential Districts Established

...

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

...

14.01.10 The RA Residential/Agricultural District is established as a district in which the principal use of the land is for low density residential and agricultural purposes. Low-density commercial and service uses which serve the day to day convenience needs of the surrounding area are permissible so long as the uses are of such nature as to minimize conflicts with the area they serve. These districts are intended to insure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment. The regulations for this district are designed and intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

...

14.09 Neighborhood Conservation District

14.09.01 Neighborhood Conservation Districts are established as overlay districts to stabilize and maintain a suitable low-density living environment for family life.

...

14.10 Viewshed Protection District

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

Excerpt of ARTICLE 15 DISTRICT USES

...

15.07 Table of Principal Uses

Use #	Specific Use	RA	R1	Reference
1.01	Single-Family Dwelling	P	P	
1.02	Manufactured Home “Class A”	L		15.08
1.03	Manufactured Home “Class B”	L		15.08
1.04	Manufactured Home “Class C”			
1.05	Manufactured Home Park			15.09
1.06	Duplex (one duplex building per lot)	P		
1.07	Duplex (more than one duplex building per lot)			15.10
1.08	Townhouse (up to 30 bedrooms)			15.10
1.09	Townhouse (31-100 bedrooms)			15.10
1.10	Townhouse (> 100 bedrooms)			15.10
1.11	Multi-Family Dwelling (up to 30 bedrooms)			15.10
1.12	Multi-Family Dwelling (31-100 bedrooms)			15.10
1.13	Multi-Family Dwelling (> 100 bedrooms)			15.10
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)			15.11
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)			15.11
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)			15.11
1.17	Adult Living Community			
2.01	Family Care Home	L	L	15.13
2.02	Family Care Institutions			15.14
2.03	Halfway House, Category 1			15.14
2.04	Halfway House, Category 2			15.14
2.05	Residential Care Facility			
2.06	Fraternity or Sorority Dwelling			15.16
2.07	Boarding House			15.17
3.01	Home for Survivors of Domestic Violence	L	L	15.18
3.02	Shelter for Homeless, Category 1			15.19
3.03	Shelter for Homeless, Category 2			15.19

Use #	Specific Use	RA	R1	Reference
3.04	Bed and Breakfast, Category 1	L	S ^{T50}	15.20
3.05	Bed and Breakfast, Category 2			15.20
3.06	Vacation Rental	L ^{T75}		15.21
3.07	Motel			
3.08	Hotel			
4.01	Airport/Landing Strip	S ^{T300}		15.22
4.02	Heliport	S ^{T300}		15.22
4.03	Funeral Home Establishment			
4.04	Cemetery	P	P	
4.05	Post Office			
4.06	Post Office, Distribution			
4.07	Animal Sanctuary	S ^{T300}		
5.01	Government Cultural Facility			
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	S	S	
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity			
5.04	Recreation Facility, Category 1	P		
5.05	Recreation Facility, Category 2	P	P	
5.06	Recreation Facility, Category 3	P ^{T50}	S	
5.07	Event Venue, Category 1			
5.08	Event Venue, Category 2			
5.09	Event Venue, Category 3			
5.10	Landfill			
5.11	Solid Waste Processing			
5.12	Police Substation	P	P	
5.13	Utility Facility, Town	L	L	15.23
5.14	Utility Facility, Government, Neighborhood	L	L	15.23
5.15	Utility Facility, Government, Regional	L ^{T300}		15.23
5.16	Government Facility	P		
6.01	Utility Facility, Neighborhood	L	L	15.23
6.02	Utility Facility, Regional	L ^{T300}		15.23

Use #	Specific Use	RA	R1	Reference
7.01	Small Wireless Collocation	L	L	15.25
7.02	Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole	L	L	15.24
7.03	Stealth Wireless Facility Attached to Existing Building or Structure	L	L	15.24
7.04	Non-stealth Wireless Facility Attached to Existing Building or Structure			15.24
7.05	Non-stealth Wireless Facility Collocation on Electrical Transmission Towers	L	L	15.24
7.06	Stealth Wireless Support Structure	S/L	S/L	15.24
7.07	Non-stealth Wireless Support Structure			15.24
7.08	Reserved			
7.09	Reserved			
7.10	Emergency Response Communication Antenna	P	P	
8.01	Religious Assembly, Category 1	P	P	
8.02	Religious Assembly, Category 2	P ^{T125}	P ^{T125}	
8.03	Religious Assembly, Category 3	P ^{T200}		
8.04	Club/Lodge, Category 1			
8.05	Club/Lodge Which Does Not Serve Alcohol	P		
9.01	Public colleges and universities			
9.02	Private colleges and universities			
9.03	Trade school			
9.04	High school			
9.05	Elementary school			
9.06	Boarding school			
9.07	College- or university-operated community enterprise			15.70
10.01	Child Daycare, Large	L		15.26
10.02	Child Daycare Center			15.26
10.03	Adult Daycare, Large	L		15.26
10.04	Adult Daycare Center			15.26
10.05	All Other Daycare			
11.01	Kennel	L ^{T125}		15.27
11.02	Veterinary Office/Hospital with Outdoor Kennels	L ^{T125}		15.27

Use #	Specific Use	RA	R1	Reference
11.03	Veterinary Office/Hospital without Outdoor Kennels	P		
11.04	Financial Institution ≤ 5,000 ft ²			
11.05	Financial Institution > 5,000 ft ²			
11.06	Restaurant ≤ 2,500 ft ² open to the public during 10 pm – 6 am			
11.07	Other Restaurants ≤ 2,500 ft ²			
11.08	Restaurant > 2,500 ft ² open to the public during 10 pm – 6 am			
11.09	Other Restaurants > 2,500 ft ²			
11.10	Restaurant ≤ 3,500 ft ² open to the public during 10 pm-6 am			
11.11	Other Restaurants ≤ 3,500 ft ²			
11.12	Bar			
11.13	ABC Store			
11.14	Personal Service Establishment open to the public during 10 pm-6 am			
11.15	Other Personal Service Establishments			
11.16	Retail Store up to 5,000 ft ²			
11.17	Retail Store more than 5,000 but less than 25,000 ft ²			
11.18	Retail Store 25,000 ft ² and greater			15.28
11.19	Reserved			
11.20	Business or Professional Office open to the public during 10 pm - am			
11.21	Other Business or Professional Office			
11.22	Medical Office, Category 1			
11.23	Medical Office, Category 2			
11.24	Medical Office, Category 3			
11.25	Medical Office, Category 4			
11.26	Hospital			
11.27	Medical Emergency Response			
11.28	Open Air Market, Recurring	L ^{T75}		15.29
11.29	Vehicle Sales and Service			15.30
11.30	Equipment Sales and Service			15.31
11.31	Moped Sales and Service			
11.32	Boat or Marine Craft Sales and Service			15.32

Use #	Specific Use	RA	R1	Reference
11.33	Impound Lot/Towing Service			15.33
11.34	Gas Station	p ^{T125}		
11.35	Car Wash			
11.36	Seasonal Retail Activities and Amusements	P		
12.01	Indoor Shooting Range	L ^{T75}		15.34
12.02	Outdoor Shooting Range			
12.03	Indoor Theater			
12.04	Outdoor Theater	p ^{T200}		
12.05	Event Venue, Category 1			
12.06	Event Venue, Category 2			
12.07	Event Venue, Category 3			
12.08	Campground and Recreational Vehicle Park	L ^{T200}		15.35
12.09	Coliseum			
12.10	Recreation Facility, Category 1	p ^{T125}		
12.11	Recreation Facility, Category 2	p ^{T125}		
12.12	Recreation Facility, Category 3	p ^{T200}		
12.13	Racetrack			
13.01	Garden, Community	L	L	15.36
13.02	Garden, Residential	L	L	15.37
13.03	Agricultural Operation Excluding Livestock	P		
13.04	Agricultural Operation Including Livestock	P		
13.05	Swine Farm			
13.06	Confined Animal Feeding Operation (CAFO)			
13.07	Custom Slaughterhouse	P		
13.08	Other Slaughterhouse			
13.09	Forestry	L	L	15.38
14.01	Microbrewery			15.39
14.02	Brewpub			15.39
14.03	Brewery/Distillery			15.40
14.04	Brewery/Distillery, Other			15.41

Use #	Specific Use	RA	R1	Reference
14.05	Winery Associated with a Vineyard	L ^{T125}		15.42
14.06	Winery			15.42
14.07	Winery, Other			
14.08	Extraction of Earth Materials			
14.09	Machine/Welding Shop			15.44
14.10	Manufacturing, Other			15.45
15.01	Parking Lot			15.46
15.02	Parking Structure			15.47
15.03	Park and Ride Lots	L		15.46
16.01	Self-Storage Facilities	L ^{T125}		15.48
16.02	Outdoor Storage			15.49
16.03	Warehouse			
16.04	Fuel Storage Facility			
16.05	Chemical Storage Facility			
17.01	Passenger Terminals			
17.02	Trucking or freight terminal ≤ 10,000 ft ²			
17.03	Trucking or freight terminal > 10,000 ft ²			
18.01	Recycling Drop-off Station	L ^{T300}		15.49
18.02	Recycling and Salvage			15.49
18.03	Junkyard			
18.04	Private Landfill			
19.01	Electronic and Internet Gaming			15.50
19.02	Adult Establishments			15.51

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Excerpt from ARTICLE 16 DISTRICT STANDARDS

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16.01 Schedule of Land Use Intensity Regulations

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16.01.02 Intensity Table

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
RA	20,000 sq. ft	100 ft.	80 ft.	.65	20 ft.	18 ft.

No Public Water & Sewer Available						
RA Public Water Available	15,000 sq. ft.	80 ft.	64 ft.	.65	20 ft.	18 ft.
RA Public Water & Sewer Available	10,000 sq. ft.	65 ft.	52 ft.	.65	20 ft.	14 ft.
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.

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16.08 Building Height

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

Zone	Height Limitation
R1, R1A, RR, R2, R4, RA	3 stories

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TOWN DEPARTMENTAL ANALYSIS FOR ANNEXATION REVIEW**Public Works – Utilities Division (M. Trivette, Utility Services Technician)**

Review complete. Property owner will be responsible to make utility connections at the end of Town maintenance at VFW Drive.

Public Works – Services Division (J. Stines, Facilities Maintenance Supervisor)

Review complete. Property owner will be responsible to bring all Sanitation, Recycling, and other special collections to the Public Right of Way at the end of VFW Dr.

Fire Department (A. Flieg, Fire Marshal)

Review complete (can provide Town Services)

Police Department (Major Robbins)

Review complete (can provide Town Services)

2006 COMPREHENSIVE PLAN ANALYSIS**1.1 OVERALL OBJECTIVES FOR THE BOONE COMPREHENSIVE PLAN (p. 15):**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

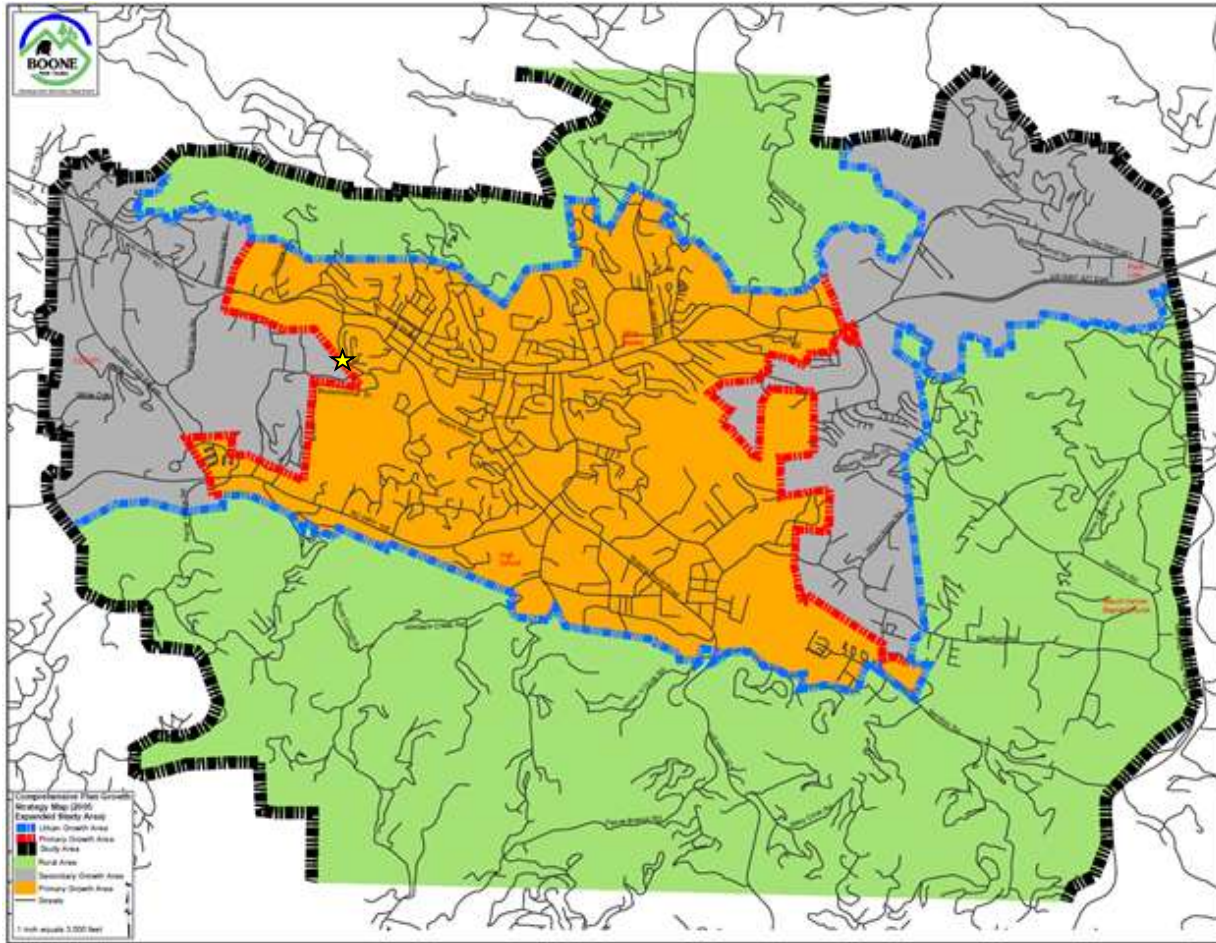
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

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

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

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

1.2 GROWTH STRATEGY MAP (p. 17):



The 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 and actions which in staff's opinion have a bearing on the request. Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight.

2.1 Economy (page 21)

2.1.1 Economic Development

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

- A.1** Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
- A.2** Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.
- A.3** Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.
- A.4** Balance the benefits of economic development projects with special concern for environmental quality issues.
- B.** New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C.** The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D.** Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
 - D.1** Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.
 - D.2** Urge the resolution of the clean-up process of the 482 State Farm Road site so as to render the building suitable for use as soon as possible.
 - D.3** Pursue annually at least one joint public-private venture that will benefit the community at large.
- E.** The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
 - E.1** Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.
- F.** New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G.** The Town shall support the development of new business parks.
 - G.1** Identify suitable property for possible business park development.
- H.** The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
 - H.1** Assist business recruitment and expansion efforts by providing demographic and market data and development information to potential developers and business prospects. Direct such interested parties, by referral through the Economic Development Director, to identified locations in the community.
 - H.2** Include economic development as a specific point of discussion by the recently created Community Council.
 - H.3** Continue to support the Economic Development Commission as the lead economic development agency in the county. Continue to support and work with the Committee of 100, Chamber of

Commerce, Tourism Development Authority, High Country Host, Broyhill Institute for Business Development, High Country Council of Governments, Caldwell Community College and Technical Institute, JobLink and others on issues of economic benefit to the whole community.

- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
 - J.1 Encourage the growth of a student internship program between area businesses, ASU and Caldwell Community College and Technical Institute as a means of providing training for Boone area citizens.
 - J.2 Actively pursue workforce training through ASU and Caldwell Community College and Technical Institute to meet existing needs of current employers and make efforts to develop the skills necessary for higher paying jobs.
 - J.3 Support careers education programs in the public schools.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.
 - K.1 Support local agencies and institutions efforts in the development of programs and services providing for the needs of the growing retiree population.

2.2 Infrastructure

2.2.2 Utilities (page 49)

- A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited.
- B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.
 - B.1 Continue to monitor water consumption at the Boone Water Treatment Plan with an eye toward planning for expansion of the facility when appropriate.
- C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.
- D. Water and sewer services shall not be extended to properties in the Rural Area (outside the Urban Growth Area). Exceptions to this policy may include the provision of services to other local governments, cooperative agreements on major economic development initiatives, and extensions needed to address imminent public health problems or related environmental hazards.
 - D.1 Establish revised written water and sewer service extension policies consistent with the designated growth area on the Growth Strategy Map of this plan. Coordinate with the County in assessing water and sewer needs in the areas of the county that are already facing significant development pressures, and that are supportive of an organized, planned growth strategy.
- E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.
 - E.1 Establish an incentive program to encourage development within the Urban Growth Area.

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

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

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

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

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2.3 Community

2.3.2 Community Character (page 75)

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

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

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

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

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

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

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

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

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

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

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

2.3.3 Housing & Neighborhoods (page 79)

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

- A.1** As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.
- A.2** Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.
- A.3** Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.
- A.4** Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.
- A.5** Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.
- A.6** Implement a residential zoning enforcement policy based on the task force analysis above.
- B.** Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
 - B.1** Update the Town's standards for subdivision street layouts, emphasizing circulation between neighborhoods and the ability of pedestrians and bicyclists to travel on back streets throughout the town.
 - B.2** To the extent federal and state funding programs will allow, seek and apply for at least one grant to provide for bicycle paths to connect residential areas with commercial and university districts.
- C.** Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
 - C.1** Amend the zoning map and development regulations to prevent residential uses from locating adjacent to existing developments and other uses which may have characteristics which cannot be effectively mitigated.
- D.** Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
 - D.1** Continue to evaluate opportunities in the zoning ordinance for flexibly designed and located single-family and multi-family residential developments.
 - D.2** Establish ongoing relationships with ASU's departments of Geography and Planning, Appropriate Technology, and Sustainable Development to develop, enhance, and implement efforts toward creating affordable housing, appropriate infill development, neighborhood livability standards, and design standards for multi-family development. This should include attention to lighting, bike and pedestrian pathways, and federal, state, and local funding sources.
- E.** Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.

- E.1** Review the zoning ordinance for the appropriate placement of high density housing near urban activity centers that are coordinated with transit system stops.
- F.** The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
 - F.1** To the extent the federal and state funding programs will allow, seek and apply for at least one grant to provide for low to moderate income housing.
- G.** Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H.** The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

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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 October 29, 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 October 30, 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]*:

**PUBLIC HEARING MINUTES
MONDAY, SEPTEMBER 28, 2020, 6:00 P.M.
VIA WEBEX SOFTWARE**

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

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice Chair, Frank Venio, Chris Behrend, John Tippet, and Adam Zebzda (joined at 6:55 p.m.)

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

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: John Ward-Town Manager and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: John Grasinger, Connie Ginsberg, Bill Dixon, and Alan Crees

Call to Order

Mayor Brantz called the Town Council to order at 6:02 p.m. for the Public Hearing/Planning Commission meeting held via WebEx and Chair Shay called the Planning Commission to order at 6:02 p.m.

Approval of Meeting Minutes

Council Member Ulmer made a motion to approve the August 24, 2020 Public Hearing minutes as written. The motion was seconded by Mayor Pro Tem Clawson. Council Member Furguele noted his name was not shown in the list of attendees for the August 24, 2020 meeting although he was present and stated he had already made the Board Secretary aware of the omission.

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

Vice Chair Plaag made a motion to approve the August 24, 2020 Public Hearing minutes as written. The motion was seconded by Commission Member Tippet.

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

Case PL03547-020420 – Kensington Gate – Conditional District Zoning Map Amendment

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.

Ms. Shook presented the request as it was outlined in the meeting packet. She stated this project was originally granted a special use permit by the Board of Adjustment in 2003 to construct 3 buildings and only one building was completed within the vesting period. In 2005, the BOA granted a special use permit modification for the construction of the two remaining buildings with a four year vesting. The applicant completed a second building and poured the slab for the third building but was unable to complete that

building. Ms. Shook noted that the UDO was modified in 2014 and multi-family uses were no longer allowed in an OI zoning district.

Mr. Grasinger with WF&G Development LLC stated this was an adult living community for the older population. He explained that the 2008/2009 recession kept them from completing building 3 but felt it was now feasible to move forward.

Alan Crees, engineer for the project, stated he had been working with Mr. Grasinger since 2003 on this project. He stated that construction of the 3rd building would trigger Tier 2 requirements. Mr. Crees noted that bicycle parking was not required when the project was first approved but would now be required for the development under Tier 2. He stated he made a mistake when calculating the required number of bicycle parking spaces for the project, noting he used multi-family zoning calculations instead of adult living community calculations so there were 6 spaces shown on the plans instead of the 2 spaces that were actually required. Mr. Crees asked if it would be a problem to make that change. Ms. Shook replied that the change was being discussed during the hearing and should not be a problem but stated she would like to see more than 2 long term bicycle parking spaces for the project even though they were not technically required by the UDO. Mr. Crees stated they would meet or exceed the bicycle parking requirements.

Mr. Crees stated that the lighting plan would be in compliance with current requirements. He stated there was currently one dumpster on the development and they would be adding recycling containers as required. Mr. Crees noted that signage would comply with the Ordinance. The exterior building colors would be in the Town's neutral palette and would match the other buildings. Mr. Crees stated there was significant wooded area already on the property but they would be enhancing the landscape buffer to meet current requirements.

Vice Chair Plaag noted that the Town wanted to promote carbon neutrality and asked if Mr. Grasinger would accept a condition to place solar panels on the carport. Mr. Grasinger replied that he had studied the idea of solar but did not think the carport would get sunlight the entire day. Vice Chair Plaag stated that Google Maps showed the carport to be in an area that would get plenty of sunlight.

Council Member LaPlaca stated she was all for carbon neutrality but stated the payback for solar panels with the areas local utility companies was terrible. She felt that requiring the installation of solar panels without a good net metering plan in place was not reasonable.

Vice Chair Plaag stated he had a solar array on his house and he put it there because it was the right thing to do, not because he was going to save money. He stated that the Town was trying to encourage carbon neutrality and felt this was an excellent opportunity to help that happen. Chair Plaag stated if there was no demand on the utility companies, the payback would not change. Mr. Grasinger felt it would be difficult and expensive to add solar panels to the project.

Vice Chair Plaag asked what the structure to the east of the slab was and Mr. Grasinger replied that it was a temporary construction shed. Vice Chair Plaag asked if the structure would go away when building 3 was complete. Mr. Grasinger stated that it would be removed after construction.

Vice Chair Plaag noted the development was close to the ASU student parking lot and asked if they felt there would be a problem with students parking in the Kensington Gate parking spaces. Mr. Grasinger responded that they had had no problems with that so far and did not anticipate any in the future.

Connie Ginsberg, a resident of Kensington Gate, added that the development had gates but they had not had to use them because they had not had any issues.

Council Member Furgiuele asked why the lighting plan said that adjustments might be necessary. Mr. Crees replied that he placed that on the plan in case staff felt any changes needed to be made to the plan

during their review. Ms. Shook added that Brian Johnson, Urban Design Specialist, reviewed the lighting plan and felt it was in compliance with Ordinance requirements.

Council Member Furgiuele asked why there were 47 parking spaces listed instead of the 36 that were required. Mr. Grasinger replied that all of the parking spaces for the development were installed years ago and met the UDO requirements at the time. He stated they may need to repair some of the asphalt.

Council Member Furgiuele noted there were a number of the units that were owned by WF&G. Mr. Grasinger stated he lived in one of the units and the others were for sale. Council Member Furgiuele asked if those units were vacant. Mr. Grasinger stated that all but one of the units he owned were being rented and would be put up for sale as the current tenants moved out.

Council Member Furgiuele asked if they planned to install any hardwoods or shade trees. Mr. Grasinger replied that there were numerous large trees on the property and they would be enhancing the landscaping. Mr. Crees stated that they would be adding 6 large and 7 small deciduous trees.

Council Member Furgiuele asked if the new building would be built with the same materials as the other 2 buildings. Bill Dixon, architect for the project, replied that the building materials would be the same. Council Member Furgiuele asked if it was correct that there was no difference in what was presented to the Board of Adjustment and what was being presented currently. Mr. Dixon stated that was correct.

Commission Member Veno noted that the slab had been there for years and asked if it was in compliance with the building code and would it need to be inspected. Mr. Dixon replied that the slab was in good shape and was inspected at the time it was installed.

Mayor Brantz asked if access to the project was from Dale Street. Ms. Shook stated that was correct. Mayor Brantz asked for the time frame for completion of building 3. Mr. Grasinger replied that he would like to begin construction in the spring and hoped to finish in about a year. Mayor Brantz asked Mr. Grasinger if he had contacted the neighbors about his proposed project. Mr. Grasinger replied that the neighbors were commercial properties and ASU. He stated that he had not contacted them but noted he had not heard any opposition.

Council Member Ulmer asked how they would know that all 6 of the items mentioned in the staff report were done. Ms. Shook replied that bicycle parking, site lighting, trash and recycling containers, signs, exterior building color, and landscaping would be reviewed during the next step and then would be inspected by staff when the project was completed.

Council Member Furgiuele asked if bicycle parking had to be in compliance for the entire development. Ms. Shook replied that it did, noting 1 long term space was required for every 10 units and there were a total of 24 units in the development so 2 long term spaces would be required.

Mayor Brantz asked what was considered an active senior. Mr. Grasinger stated an active senior would be 55 or older and able to take care of themselves. He added that the development was also wheelchair accessible.

At 6:47 p.m. Mayor Brantz invited public comment.

Ms. Shook noted that Susie Navarro and Connie Ginsberg had signed up to speak but Ms. Navarro was not present at the meeting.

Ms. Ginsberg stated she loved living at Kensington Gate. She stated she could walk right out onto the greenway, there were trees that provided shade and protection, there was a good HOA, there were good neighbors, and it was an ideal location for seniors. Ms. Ginsberg noted that she and her husband were one of the first owners and she would like to see the development finished. She felt it would increase property values and be much prettier.

Chair Shay asked if the current units were owner occupied. Mr. Grasinger replied that the units owned by WF&G were being rented but it was the intention to sell those units and have them be owner occupied.

Mayor Pro Tem Clawson thanked Ms. Ginsberg for joining the meeting and providing her input.

Council Member Furguele felt that the issue of solar that was raised by Vice Chair Plaag was worth considering and should at least be encouraged. He also felt that 1 space per 10 units was not enough long term bicycle parking. Council Member Furguele noted that the location of Kensington Gate was ideal for riding bicycles on the greenway.

Mr. Grasinger felt it would be too difficult and expensive to install the solar panels.

Commission Member Zebzda joined the meeting at 6:55 p.m.

Ms. Meade read the following from the general statutes: Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site.

Council Member Furguele suggested a condition to reconstruct the parking lot with a permeable surface if reconstruction was necessary within the next 10 years. Council Member Ulmer asked if permeable materials were more expensive. Council Member Furguele replied that they were. He noted that the project was granted a variance by the Board of Adjustment to invade the stream buffer and the parking lot was right on the buffer. Council Member Furguele suggested that if the Town had adopted standards within the next 10 years regarding permeable surfaces, this development should conform to those standards.

Ms. Meade wished to clarify that Council Member Furguele was suggesting a condition that, if the Town develops permeable surface standards within the next 10 years and Mr. Grasinger reconstructed his parking lot in that timeframe, he must construct it with a permeable surface. Council Member Furguele stated that was what he was suggesting.

Mr. Grasinger stated he removed portion of the stream that were previously culverted and brought the stream back above ground. He felt that the development provided more than the permeable requirements now.

Vice Chair Plaag asked Mr. Grasinger if he would be willing to accept a condition to install the solar panels if efforts were made by the Town that led to a new net metering system that would allow him to recover his costs within 10 years. Mr. Grasinger replied that he did not see the benefit and felt technology would change over the next 10 years and offer something more feasible.

Vice Chair Plaag asked if the common areas would be conveyed to the HOA when all of the units were sold. Mr. Grasinger stated that was correct. He noted he would only be retaining the one unit he lives in.

Chair Shay asked what level of government had the ability to affect net metering. Ms. Meade replied that it would be the Utilities Commission or the General Assembly.

Chair Shay asked what the requirements were for sidewalks and the second entrance/exit. Ms. Shook stated that fire and building codes would have to be met for access. She noted that sidewalks were not required until Tier 3 was triggered.

Discussion ensued as to sidewalk requirements in the UDO. Ms. Shook noted there was some issues in Section 7.05 that warranted further examination of UDO requirements.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:18 p.m.

Case PL04195-090820 Administrative Mechanisms Modification – UDO Text Amendment

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.

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

Ms. Meade suggested the following change to the membership portion for the Planning Commission, Community Appearance Commission and the Historic Preservation Commission: One membership position shall be designated for an Appalachian State University student; provided more than one Appalachian State University student may be appointed to the Commission in the discretion of Town Council.

Council Member Furguele wished to clarify that there would be one student position that would serve a one year term, noting that any of the other regular positions on the Planning Commission could also be filled by students. Ms. Meade stated that was correct.

Ms. Meade suggested the following change to Section 2.02.02(A)Term: The designated Appalachian State University student member shall serve a term of one (1) year.

Ms. Shook noted that, although there had been direction to reduce the number of Community Appearance Commission members from 7 to 5, State statutes require Community Appearance Commissions to have 7 members. She added that, due to the level of interest in historic preservation, she would recommend leaving the Historic Preservation Commission’s membership at 7 as well.

Ms. Shook asked Ms. Meade to speak about in-town residency for board membership. Ms. Meade explained that it was clear that the Planning Commission and Community Appearance Commission required their members to be in-town residents that should be deemed resigned when they move out of town. The Board of Adjustment requirements were not that defined. Ms. Meade felt Board of Adjustment members should also be in-town residents but stated there was a question about whether they should be allowed to continue to serve after moving out of town if they are participating in an unfinished case. She noted the following options that were contained in the meeting packet for consideration:

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.

Council Member Furguele stated he felt strongly that the Board of Adjustment should be made up of only Town residents and was okay for a member to continue to serve if they were in the middle of a case.

Mayor Pro Tem Clawson agreed with Council Member Furguele.

Council Member Furguele referenced Section 2.01.05(F) and felt maybe there should be a period after the word act. Ms. Meade suggested that the sentence should read: Any other matter the Board is required to act upon by any other Town Ordinance or State law. Council Member Furguele was okay with that change.

Council Member Furguele referenced Section 2.05.01(F) and asked that the last sentence read: 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 announced by the Chair.

Ms. Meade suggested revising the last sentence in that section to read: Regardless whether or not a quorum of the board is present, any duly advertised regular or special meeting may be continue to a later date ("continuation meeting") without additional notice and advertising, if the date, time and location of the continuation meeting is announced by the Chair.

Council Member Furguele referenced Section 2.05.01(H)(3) and stated he had a problem with truncating public comment. Ms. Meade felt this applied to organized groups, such as POA's, who could designate a spokesperson. She suggested changing this from a requirement to a request.

Discussion ensued as to Section 2.05.01(J)(1). Ms. Meade recommended: Except as otherwise provided by this Ordinance or other law, 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..

Council Member Furguele referenced Section 2.05.01(J)(2) and suggested it read: Unless otherwise required by law or this Ordinance, all actions or recommendations of a board are only effective or adopted upon majority vote of the members present, following a motion and second.

Vice Chair Plaag noted that the selection and designation of Chair and Vice Chair by Town Council had been included in the HPC section and asked if that was an error. Ms. Shook explained that, due to the types of cases the Historic Preservation Commission would be handling, she felt that Council would want to make the final selection of Chair and Vice Chair for that committee as well. Vice Chair Plaag stated he had no objection to that procedure but felt the HPC should have knowledge of this change before it takes places. Ms. Shook stated she could attend the next Historic Preservation Commission meeting and explain the procedural change before it goes into effect. Vice Chair Plaag state he just did not want it to be a surprise to the Commission.

Vice Chair Plaag stated he would like for resignations to be effective immediately on Historic Preservation Commission. Ms. Meade replied that it was clear under State law that that was the case for HPC and CAC but the Board of Adjustment was not as clear.

Vice Chair Plaag noted, on the matter of HPC members, he felt it would be easier to obtain a quorum if there were 7 members on the Commission. He also felt that allowing 3 consecutive terms was a good idea and brought the HPC in line with other boards.

Council Member Furguele also supported the change to 3 consecutive terms for HPC.

Council Member Ulmer pointed out the following errors:

2.03.06(A)(3): The word Development should be Develop.

Comprehensive Plan Objective for Automobile Transportation: Should say at the expense of the town.

At 8:06 p.m. Mayor Brantz invited public comment.

Ms. Shook stated there was no one signed up to speak.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 8:07 p.m.

Adjournment of Town Council

Council Member LaPlaca made a motion for Town Council to adjourn at 8:07 p.m. The motion was seconded by Council Member Ulmer.

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 8:08 p.m. until 8:16 p.m.

Approval of Meeting Minutes

Commission Member Tippet made a motion to approve the August 24, 2020 Planning Commission meeting minutes as written. The motion was seconded by Vice Chair Plaag.

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

Case PL03547-020420 – Kensington Gate – Conditional District Zoning Map Amendment

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.

Commission Member Zebzda stated he had missed the majority of this case due to his late arrival to the meeting and would like to abstain from voting. Ms. Shook reminded everyone that abstentions counted as a positive vote.

Ms. Shook reminded Commission members that the applicant did not agree to any conditions at the public hearing. She asked if the Commission were going to further consider conditions to recommend to Council she would ask that the Commission to be thoughtful of how the condition was crafted. She referenced

the discussion about the reconstruction of the parking lot and noted that Staff would need guidance on what that would mean. She explained that most people would either apply a sealant or if they were repairing the parking lot the applicant would most likely mill the top layer of asphalt without disturbing the base. She noted the base for asphalt and the base for permeable surfaces was different and she would need to know what type of work would actually trigger any permeable requirements. She noted permits were not required for asphalt milling.

Vice Chair Plaag asked Ms. Shook if the Commission should be concerned that a building might remain vacant or underutilized when considering Conditional District requests. Ms. Shook stated no more than concerns with the viability of any other project or if there were to be a discussion about extended vesting. She note she would have to research the issue more and felt it would be a good training topic.

Chair Shay asked what the applicant would be able to do with the property if the Conditional District was not approved. Ms. Shook noted the property was zoned OI and due to the Ordinance change the current buildings were non-conforming. She noted that the applicant could building anything that was permissible in the O/I zoning district but the applicant would have to go back to the Board of Adjustment for a special use permit modification.

Commission Member Venio felt the project met the requirements of the UDO and expressed concern about imposing a condition to require solar panels. Vice Chair Plaag stated that he asked the applicant if he would be willing to accept a condition but was not trying to impose the condition. He added that just because this applicant did not want to install solar did not mean that the question should not be asked in all applicable instances.

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

Comprehensive Plan Policy 2.1.1 Economic Development

- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.

Comprehensive Plan Policy 2.3 The Community

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

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 2.3.2 Community Character

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

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

- E. Factors in determining preferred locations for high density residential development shall include: close proximity to 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.

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

The motion was seconded by Commission Member Tippet.

Vote: Aye – 5
Nay – None
Abstain – 1 (Zebzda)

The motion passed.

Ms. Shook stated that the applicant was not asked during the public hearing if he would accept the staff recommended conditions but noted the Town Council could ask that question when they do their final consideration of the case at their October meeting.

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 map and believes approval is reasonable and in the public interest because the completion of the project finishes a project that was delayed by the 2008 recession and meets a perceived need for senior housing in Boone that is presently lacking. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – None
Abstain – 1 (Zebzda)

The motion passed.

Case PL04195-090820 Administrative Mechanisms Modification – UDO Text Amendment

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.

Ms. Shook outlined the changes that were discussed at the public hearing as follows:

- 2.01.05(F): Add *or State law* to the end of the sentence.
- 2.02.02(A): Should read *One membership position shall be an Appalachian State University student; provided more than one Appalachian State University student may be appointed in the discretion of Town Council.*
- 2.02.02((A)(Term): Should read *The designated Appalachian State University student member shall serve a term of one (1) year.*

- Reference to the ASU student position, membership and term, shall apply also apply to 2.03.02 and 2.04.02
- 2.03.06(A)(3): Change the word *Development* to *Develop*.
- 2.04.02(A): Leave HPC membership at 7.
- 2.04.02(C)(1): HPC members may serve 3 consecutive terms.
- 2.05.01(F): Change wording at the end to state that continuation meetings will be announced by the Chair.
- 2.05.01(H)(3): Change the word *require* to *request*.
- 2.05.01(J)(1): Change to read *Except as otherwise provided by this Ordinance or other law, a quorum shall consist of a majority of the members of the board.*
- 2.05.01(J)(2): Change to read *Unless otherwise required by law or this Ordinance, all actions or recommendations of a board are only effective or adopted upon majority vote of the members present, following a motion and second.*

Ms. Shook noted that the issue of residency requirement needed to be resolved.

Commission Member Zebzda asked if a Board of Adjustment member could remain on the Board and still get another person to fill that position. Ms. Shook replied that once the position is filled, it is filled and could not be held by two people.

Vice Chair Plaag felt strongly about choosing 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. Vice Chair Plaag stated he was unsure if someone living outside Town limits could be fair and impartial on decisions regarding cases located in a town where they no longer reside.

Commission Member Tippettt agreed with Vice Chair Plaag.

Chair Shay, Commission Members Venno and Behrend stated they also preferred Alternative 2.

Chair Shay stated she was comfortable with all of the revisions that had been made and suggested.

First Motion and Vote: Commission Member Zebzda 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 2.3.4 Public Involvement

- 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.
- 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.

The motion was seconded by Commission Member Venno, who wished to add:

Comprehensive Plan Policy 2.1.1 Economic Development

- 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.

Commission Member Zebzda accepted the amendment to his motion.

Chair Shay wished to add that the Planning Commission recommended 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.

Commission Members Zebzda and Veno accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Zebzda 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 it encourages public involvement in Town affairs, encourages student civic involvement as well, and encourages public service that assists in economic development. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Ms. Shook announced there would be a training session held at the October Planning Commission meeting.

Adjournment of Planning Commission

Vice Chair Plaag made a motion to adjourn the meeting at 9:21 p.m. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary