Town of Boone
Public Hearing
6:00 PM, Nov. 26, 2018
Council Chambers, 1500 Blowing Rock Road

The appearance times contained within this agenda are approximate and are subject to change at any time. No agenda item will be started after 10:30 p.m. Remaining items will be addressed at a continuation meeting or will be tabled until the next available meeting.

I. Call to Order - Town Council

II. Call to Order - Planning Commission

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

September 24, 2018 Public Hearing Minutes

IV. Case PL02068-110118 College or University-Operated Community Enterprise - UDO Text Amendment

Case PL02068-11012018 College or University Operated Community Enterprise - Planning Application

Case PL02068-11012018 College or University Operated Community Enterprise - Staff Report

V. Transitional Zone Discussion

Transitional Zone Research - Past Case History

VI. Other Matters

VII. Adjournment of Town Council

VIII. Approval of Planning Commission Meeting Minutes

October 22, 2018 Planning Commission Meeting Minutes

IX. Consideration of Cases Heard at the Public Hearing

X. Other Matters

XI. Adjournment

PUBLIC HEARING MINUTES
MONDAY, SEPTEMBER 24, 2018 AT 6:00 P.M.

COUNCIL MEMBERS: Mayor Rennie Brantz, Mayor Pro-Tem Loretta Clawson, Marshall Ashcraft, Sam Furgiuele, Connie Ulmer, and Lynne Mason

PLANNING COMMISSION MEMBERS: Chair Elizabeth Shay**,** Vice-Chair Eric Plaag, Chris Behrend, Nancy LaPlaca, Michael Sanchez and Frank Veno

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections and Marlene Crosby-Board Secretary

OTHERS PRESENT: Allison Meade-Town Attorney

CALL TO ORDER
Mayor Brantz called the Town Council to order at 6:00 p.m.

Chair Shay called the Planning Commission to order at 6:01 p.m.

APPROVAL OF MINUTES
Mayor Pro-Tem Clawson made a motion, seconded by Council Member Furgiuele for Town Council to approve the July 23, 2018 Public Hearing minutes as written.

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

Commission Member Sanchez made a motion, seconded by Commission Member Veno to approve the July 23, 2018 Public Hearing minutes as written.

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

CASE PL01806-082218 BROWNSFIELDS AGREEMENT DISCLOSURE – UDO TEXT AMENDMENT
Ms. Shook presented this case as outlined in the meeting packet. She noted that she had included along with the Staff report for this case a copy of the North Carolina Brownfields Redevelopment Toolbox.

Ms. Shook pointed out this proposed text change is only for new construction.

Council Member Mason pointed out that the Brownfields Agreement Disclosure began in 1997.

Discussion ensued on placing possible conditions on projects in Brownfields areas. Vice-Chair Plaag asked if a condition can be placed on a permit that at any time the recipient of the permit is required to notify the Town that funding has been received. Ms. Shook said she would need to consult with Ms. Allison Meade, Town Attorney on this question. Ms. Meade said that we can ask the applicant to inform the Town but there is probably not a mechanism for enforcement. Ms. Meade thought it was all right to add

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to the disclosure language. Council Member Mason noted that the State has a mechanism to notify the Town. Ms. Shook noted that the State did notify the Town for the Standard at Boone.

Mayor Brantz asked if there is a list of properties that qualify and Ms. Shook said they do not keep a list. Ms. Shook said the Staff had previously provided the Council with a link to the North Carolina Brownsfield program website.

Council Member Furgiuele asked Ms. Shook how many properties in Boone are in deferral of taxes as a result of the agreements. Ms. Shook said she did not know how many but there are some that are eligible to take advantage of it. She said they are not eligible until they complete the project.

Council Member Furgiuele asked Ms. Shook how many developers have disclosed that they are building in a Brownfield area. Ms. Shook said the Riverswalk and Village at Glen Wilde on State Farm Road disclosed that they were developing on Brownsfield properties.

Council Member Furgiuele asked Ms. Shook if at the Riverswalk the contamination spread beyond the boundaries of the one property. Ms. Shook indicated that she did not know the answer though she did confirm the three properties were aggregated into one property. Council Member Furgiuele questioned whether the applicant should be allowed to combine the properties when not all the properties were contaminated. Ms. Meade said she does not have the answer without researching it. Council Member Furgiuele said this topic might need to be further discussed because if the tax relief should only be for the contaminated lot and creating larger tracts of land, he said this would be counterproductive to the interest of the Town.

Discussion ensued about other sites in the Town which may have had contamination.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:13 p.m.

CASE PL01808-082218 TOWN COUNCIL SELECTION OF CHAIR AND VICE-CHAIR – UDO TEXT AMENDMENT

Ms. Shook presented this case as outlined in the meeting packet.

Ms. Meade suggested adding the same language in UDO Subsection 2.02.05(B) regarding the Planning Commission to the Board of Adjustment.

Vice-Chair Plaag asked the Council what their motivation was to ask for a change to the proposed text amendment in terms of the designation. Council Member Furgiuele explained that there have been times that Chairs have served for multiple terms. Council Member Furgiuele said he would like to see new members appointed from time to time for the chair and vice-chair positions to give other members an opportunity to serve in these positions on Town boards.

Vice-Chair Plaag asked about the limitation on the number of terms of service on the Planning Commission but not on the Board of Adjustment.

Mayor Brantz said that he agrees with Council Member Furgiuele but he is concerned with the criteria for the Council to select these positions, especially if the Council does not know the people applying for these positions. Mayor Brantz asked if there was a way for the Council to receive information on the board

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applicants. Council Member Furgiuele said it might be prudent to interview the interested candidates to make sure they know the board procedures and to see if they are willing to take the time to attend the board meetings. Council Member Furgiuele said he would take this same position on the Historic Preservation Commission once they began to issue Certificates of Appropriateness. Council Member Furgiuele further explained that it is the conditional district zoning process that concerns him in relation to selection of the chair and vice-chair positions.

Chair Shay stated her concerns of the Council being mandated to select the chair and vice-chair. She said that she could not see the Council making the selection with the way the Planning Commission is supposed to function.

Vice-Chair Plaag stated that he shares the same concern as Chair Shay, he said he feels if the Council makes the selection, it opens them up politically to a possible accusation that they hand-picked a chair or vice-chair.

Council Member Furgiuele said he would not be against another amendment that lays out some considerations that should be taken.

Ms. Shook pointed out that the UDO text already allows the Council to designate a chair and vice-chair positions.

Council Member Mason noted that the text should be clear on the process for the chair and vice-chair positions and to take into consideration that the Planning Staff may have recommendation for someone to serve in these positions. Ms. Shook said that the Planning Staff would need Council to give them direction on how they want the process setup.

It was the consensus of the Council to further discuss the proposed text amendment at their October 2018 Council meeting to decide on a process for selecting chairs and vice-chairs. Ms. Shook noted that the change would not take effect until January 2019, when the chairs and vice-chairs are selected.

Member Veno asked about the charge of the chair and vice-chairs. Ms. Shook explained that Roberts Rules which is located in the Town Code should be followed. She said that rules for the Board of Adjustment are located in the UDO.

Council Member Ulmer stated that she felt like this is power issue as to who decides the chair and vice-chairs. Vice-Chair Plaag noted that he does not feel it is a power dynamic at all, it is how can we best perform the charge that we have been given as a non-political body as an advisory body. He further explained that he is aware that the Planning Commission serves at the pleasure of the Council.

Council Member Furgiuele talked about the Municipal Code and the Council has the appointment authority of every chair and vice-chair.

Vice-Chair Plaag said he is somewhat comforted by learning the reasoning of the Council for the changes in the proposed text amendment but he is still concerned about the items he explained earlier.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:35 p.m.

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CASE PL01809-082218 BOARD/COMMISSION MEETING SCHEDULES – UDO TEXT AMENDMENT

Ms. Shook presented this case as outlined in the meeting packet.

Council Member Furgiuele explained that he felt the proposed change to the boards was made to the boards due to workload on the Planning Staff. He noted that a huge amount of hours was devoted to staffing all of the Town meetings. He noted that the changes to text were warranted.

Council Member Furgiuele pointed out that a lot of the time the meeting quorums are met because of the attendance of the Council Liaisons. He said some of the Council Members felt that they should not vote or be counted toward the meeting quorums. He said he felt that the number of meetings should be reduced if possible. Mayor Brantz was in agreement with Council Member Furgiuele regarding reducing the number of meeting unless they are needed.

Council Member Mason said there needs to clarification on the process for special meetings.

Discussion ensued on special meetings. Council Member Furgiuele said he would like to see the Council schedule a special public hearing based on when the Planning Commission can be in attendance. Council Member Mason said she would like to see the language revised to make it clearer that the Planning Staff lets the Council know, when a public hearing needs to be scheduled.

Vice-Chair Plaag talked about the COA process that the Historic Preservation Commission members will soon be doing. He explained the state-statutory requirement for the COA application to be considered and he talked about the possibility of needing to call a special meeting, if they receive a COA application and if the HPC meets on an every other month schedule. He also asked what happens if a quorum is not met. Ms. Shook said it depends on the when the 60 days starts. Ms. Meade said once the HPC starts the COA application process, Council may consider changing the HPC meetings to a monthly schedule which would take care of this issue. Council Member Furgiuele said because the Town has not had experience with the COA applications, there might be a low number of applications to consider which could be reviewed and then consideration could be given to the HPC meeting schedule.

Ms. Meade and Ms. Shook explained the workload of the Planning Staff on the different boards and committees. Ms. Shook further explained that there is still some Planning Staff work to do, when a meeting is cancelled there are notifications that are sent out.

Council Member Furgiuele asked how many Board of Adjustment meeting that have been cancelled this year. Ms. Shook said three meetings.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:46 p.m.

CASE PL01810-082218 REDUCTION OF PENALTIES BY BOARD OF ADJUSTMENT

Ms. Shook presented this case as outlined in the meeting packet.

Council Member Furgiuele said he is in favor of the proposed text amendment but he is concerned about the proposed language stating “gravity of the violation”. He noted that without guidance he finds the language too vague. He said some items in the UDO are more important than others and we should try to differentiate between them. He said he feels it is a decision that should not be made case by case.

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Mayor Brantz asked about the determination of penalties. Ms. Shook explained that UDO Article 12 contains the information on penalties.

Ms. Meade said she agrees that the proposed language regarding the "gravity of the situation" should be removed.

Council Member Mason explained that the reason that Council requested that this proposed text amendment be reviewed was to obtain clearer language for the Board of Adjustment to follow, when they have to review a case that involves penalties. Council Member Furgiuele explained that as a result of the Council review of Town boards and the change to Town meeting schedules, the Council wanted this proposed text amendment to be reviewed to reduce unfair penalties in a particular case.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:51 p.m.

OTHER MATTERS

There were no other matters discussed at this hearing.

ADJOURNMENT OF TOWN COUNCIL

Council Member Mason made a motion, seconded by Mayor Pro-Tem Clawson to adjourn the Council at 6:51 p.m.

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

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Rennie Brantz, Mayor **Marlene Crosby, Board Secretary**

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Elizabeth Shay, Planning Commission Chair

Chair Shay opened the Planning Commission meeting at 7:00 p.m.

APPROVAL OF PLANNING COMMISSION MEETING MINUTES

Vice-Chair Plaag made a motion, seconded by Commission Member LaPlaca to approve the August 27, 2018 Planning Commission meeting minutes as written.

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

CASE PL01806-082218 BROWNFIELD AGREEMENT DISCLOSURE – UDO TEXT AMENDMENT

Ms. Jane Shook, Director of Planning and Inspections, presented this case as outlined in the meeting packet.

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Vice-Chair Plaag confirmed that the Planning Commission can make recommendations to change the language of the proposed text, if they wanted to. Vice-Chair Plaag showed concern for either the Town being blind-sighted by a property tax hit that could affect the Town's budget. He said it would be helpful, if there was some mechanism in the Unified Development Ordinance or another Town document where it is made clear to the applicant that the Town should be notified. Ms. Shook noted that the Planning Commission can make a recommendation to Council for an additional amendment for the modification and to make a change to the text as it is proposed for this case. He noted that the Town Attorney said there could not be enforcement placed on the applicant. Vice-Chair Plaag said he does not have opposition to the proposed text, he just felt it would not be enough to just change the text. Ms. Shook said the County does notify the jurisdiction and there are additional notifications throughout the process.

First Motion and Vote:

Vice-Chair Plaag made a motion, seconded by Commission Member Sanchez, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because: Comprehensive Plan Update 1.1 which outlines the objectives for the Boone Comprehensive Plan, specifically, Environmental Quality, address and monitor growth factors and activities that contribute to water, air, light, and noise pollution; 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; 2.1.1 Economic Development (H) the Town shall promote coordination of economic development resources with the appropriate institutions and agencies, regional coordination and interaction among the areas with a shared economic interest shall be encouraged.

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

Second Motion and Vote:

Commission Member Sanchez made a motion, seconded by Commission Member LaPlaca that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning ordinance and believes approval is reasonable and in the public interest because it is a Brownfield site that is under used property that would be better used for public development.

Ms. Shook explained that the proposed text is not concerning a specific Brownfield site. She said this is a text amendment that would require the applicant at the time of application to disclose whether they have or if they intend to enter into a Brownfield agreement with the State's Brownfield program.

Vote: Aye – (LaPlaca, Sanchez)
Nay – (Behrend, Plaag, Shay, Veno)
The motion failed.

Discussion ensued on creating another motion specific to the proposed text for this case. Chair Shay explained that the motion should not be related to a specific Brownfield site but to the agreement disclosure. Commission Member Veno requested that the proposed text amendment be read aloud during the meeting. Chair Shay noted that the purpose of the proposed text amendment is to help with knowing about future projects and how that may affect Town revenue.

2nd Motion and Vote:

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Commission Member LaPlaca made a motion, seconded by Commission Member Behrend, that the Planning Commission recommends approval of the proposed amendment to the Town's zoning ordinance and believes approval is reasonable and in the public interest because of the character of the area and it proposes to use underutilized properties.

Vice-Chair Plaag said in addition to the reasons stated by Commission Member LaPlaca, he would add that also allows the Town to better coordinate its resources and promote economic development as a result of the advance notice.

Commission Member Veno added that it supports Comprehensive Plan policies such as economic development and environmental quality that were outlined in the first motion.

Commission Member LaPlaca and Commission Member Behrend accepted the friendly amendments made to the proposed recommendations to this case.

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

Vice-Chair Plaag made a motion, seconded by Commission Member Sanchez that the Council explore additional procedural requirements as part of the permit process and internal staff notifications to ensure that a notifying party actually sees their notice reach the appropriate Council members and Staff offices that need to be aware of that potential future tax implication. In addition as part of the permitting process, he recommends that there be some language that strongly encourages notification by permit holder who pursues Brownfield designation after the permit has been issued.

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

CASE PL01808-082218 TOWN COUNCIL SELECTION OF CHAIR AND VICE-CHAIR – UDO TEXT AMENDMENT Ms. Jane Shook Director of Planning and Inspections presented this case as outlined in the meeting packet. Ms. Shook explained that in October of 2018 the Council is going to discuss considerations on selecting a Chair and Vice-Chair and the discussion is to not necessarily change the text.

Vice-Chair Plaag talked about his concern for the motivation and rational for the proposed text amendment and he asked Chair Shay to explain her concern for the proposed text amendment. Chair Shay said she is not very concerned about the Council selecting Chairs and Vice-Chairs but she thinks there should be a process for doing so that looks for certain qualities in each new Chair and Vice-Chair. Chair Shay said that this topic merits more discussion. Vice-Chair Plaag agreed with Chair Shay.

Vice-Chair Plaag talked about his experience of being a part of other non-town committees and how the Chairs of those committees were not always best suited for said position.

Chair Shay asked Ms. Shook about the creating motions, when there is not a lot of information to reference in the comprehensive plan to support the motions. Ms. Shook said the Planning Commission

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would need to determine if the proposed text amendment was consistent or not consistent. Ms. Shook noted that sometimes there is not a clear cut comprehensive policy that covers a specific text amendment.

Vice-Chair Plaag talked about making the terms a certain amount of time and there being a limit on how many times someone can serve. He said that 2.3.4 Public Involvement could be used to justify the proposed text amendment even though it is missing shifting the burden to the Council to pick the Chair or Vice-Chair. He said this is somewhat contrary to these sections at the same time. He said he did not feel comfortable making a motion.

Commission Member Behrend asked if proposed language could be added that the Planning Commission possibly be able to later object to a Chair or Vice-Chair selection made by the Council. Vice-Chair Plaag said it might be that the Planning Commission have the option to recommend a Chair or Vice-Chair and Council approve it.

Chair Plaag asked Ms. Shook if there would need to be an additional text amendment if there is an additional recommendation that the Council consider a system that allows for Planning Commission feedback on Council's selection or if the Planning Commission make a selection for the Council's approval, he asked would this be in the UDO as text or an internal mechanism. Ms. Shook noted that was a change in the proposed language and that she would need to consult with the Town Attorney on whether those changes could be made during this process or if it would warrant a new hearing.

Commission Member Veno noted that he and others are not comfortable with the proposed text amendment. He suggested leaving the discussion with Council since they will be discussing it at their October 2018 meeting.

Commission Member LaPlaca noted that she is comfortable with the proposed text amendment.

Vice-Chair Plaag suggested making a motion to table the case since it is going before the Council for discussion. He further suggested an additional motion to outline the alternatives that have been discussed at this meeting which puts it back on Council to make the decision. He said if there is no action on what has been proposed within the 30 days, it will go to Council. Ms. Shook said if the Planning Commission tables this case, it will be rescheduled to their next meeting. She further explained that if the Planning Commission does not take action on this case at the next meeting, the Council can take action on it.

Motion and Vote:

Vice-Chair Plaag made a motion, seconded by Commission Member Veno, to table this case specifically to encourage the Council to explore the process at their October meeting on how the chair and vice-chair would be selected. He noted that the Planning Commission would be interested in knowing this prior to making a recommendation on the case.

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

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CASE PL01809-082218 BOARD/COMMISSION MEETING SCHEDULES –UDO TEXT AMENDMENT

Ms. Jane Shook Director of Planning and Inspections presented this case as outlined in the meeting packet.

Discussion ensued on the Comprehensive Plan Policies that supported the following motions and votes. Commission Member Veno felt that Comprehensive Plan Policy 2.3.4 Public Involvement supported the following motion and votes.

First Motion and Vote:

Commission Member Veno made a motion, seconded by Commission Member LaPlaca, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because it is supported by Comprehensive Plan Policy 2.3.4 which allows for public involvement in the process.

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

Second Motion and Vote:

Commission Member Veno made a motion, seconded by Commission Member Behrend, that the Planning Commission recommends approval of the proposed amendment to the Town's zoning ordinance and believes that approval is reasonable and in the public interest because it is supported by Comprehensive Plan Policy 2.3.4 which allows for public involvement in the process.

Vice-Chair Plaag wanted to add that it provides the Town with greater flexibility in terms of meeting the needs of the public as suggested by Comprehensive Plan Policy 2.3.4. Commission Member Veno and Commission Member Behrend accepted this friendly amendment.

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

CASE PL01810-082218 REDUCTION OF PENALTIES BY BOARD BY ADJUSTMENT

Ms. Jane Shook Director of Planning and Inspections presented this case as outlined in the meeting packet. Ms. Shook reminded the Planning Commission that one Council member and the Town Attorney agreed that the proposed language in UDO Subsection 6.04.08(B)(1) "the gravity of the violation" be removed.

Discussion ensued on the proposed text amendment. Ms. Shook explained that Section 12.07 lays out the daily and civil penalties. Ms. Shook stated there are seven specific penalties and the penalties are all $100.00 per day except there is a daily penalty of $200.00 for occupancy and $500.00 for grading in a designated floodway.

Ms. Shook explained that the proposed text amendment is to help give guidance to the Board of Adjustment on civil penalties.

Vice-Chair Plaag said that he felt that Comprehensive Plan Policy 2.3.4(A) is relevant because this mechanism of allowing people to appeal a statutory fine that is imposed upon them giving them an opportunity to give dialog regarding possible extenuating circumstances that the Town did not know

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about which aligns with there being public involvement concerning land use and development. Vice-Chair Plaag questioned if Comprehensive Plan Policy 2.3.4(C) would be relevant. Ms. Shook noted that it was her opinion this text may was not related to the implementation tools that is being talked about that section.

First Motion and Vote:

Vice-Chair Plaag made a motion, seconded by Commission Member Sanchez, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans that are applicable because of Comprehensive Plan Policy 2.3.4, specifically 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.

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

Second Motion and Vote:

Vice-Chair Plaag made a motion, seconded by Commission Member Behrend that the Planning Commission recommends approval of the proposed amendment with the Town's Zoning ordinance with exception specifically to recommend removal of the text in UDO Subsection 6.04.08(B)(1) in the proposed amendment regarding the gravity of the violation and the Planning Commission believes that approval with that exclusion is reasonable and in the public interest because the proposed text amendment is at its core about fairness in the penalty structure and allows for there to be dialog about extenuating circumstances including circumstances that are created by the Town that amplify those penalties in as outlined in Section 6.04.08(B)(5).

Commission Member Behrend asked about the gravity of the violation. She said she would like to see more explanation or more definition of what gravity means so the Board of Adjustment can make a consistent finding. Vice-Chair Plaag said if this motion is passed by the Planning Commission, he could see a third motion made asking Council to explore a mechanism to consider gravity issues to be better defined.

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

Motion and Vote:

Commission Member Behrend made a motion, seconded by Commission Member LaPlaca, that a definition be added to the text regarding the gravity of a violation to help the Board of Adjustment make consistent findings.

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

TRANSITIONAL ZONE DISCUSSION

Ms. Shook began the presentation of this topic by giving a brief explanation of transitional zones work.

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Ms. Shook referred to UDO Article 6.02.02 Transitional Zones. Ms. Shook told the Planning Commission that they were being asked to discuss if there were any regulations that could be added that would allow the applicant for multi-family mixed-use projects to be allowed by right even though the may have triggered exempt from triggering transitional zones and , such as if the applicant agreed to a reduction of height.

Ms. Shook pointed out that the Board of Adjustment can place conditions on a project, even if the applicant does not agree to it and the conditions have to be related to the project. She said the Council can only place conditions on an applicant under the conditional district process, if the applicant agrees to them.

Ms. Shook said in the meeting packets is every case that has had transitional zones and their approvals.

Ms. Shook opened the floor for the Planning Commission to begin discussion on this topic.

Vice-Chair Plaag asked about the Dollar General special use permit and said this case has the most requirements attached to it. He talked about the annoying sound of trash dumpsters being emptied at early hours and awakening the neighborhoods. He suggested creating a financial incentive for developers to include this as a requirement. Ms. Shook said in general conditions should be enforceable. She said the reason this condition was written as "a good faith effort" is because sometimes the applicant is not able to choose when the trash is picked up. Vice-Chair Plaag talked about enforcement and the noise ordinance and he said if it is interpreted as it is written, there should not be any trash picked up before a certain time. Ms. Shook said if this is an issue overall, the Town Code would need to be reviewed rather than the UDO.

Ms. Shook said that the Planning Staff can look into specific cases for the Planning Commission regarding requirements, if requested by the Planning Commission.

Vice-Chair Plaag said that every development with any change in elevation should have storm water retention requirements as a result of the history of Boone. Ms. Shook said every new project is required to have storm water retention for the 25 year storm. She said the Planning Staff is preparing additional modifications in an environmental packet for Council's review. She said that currently the developer needs to capture any new impervious area in a new development. She said that the Planning Staff would want this requirement in every new project not just a project that triggers a transitional zone.

Vice-Chair Plaag asked if the Planning Staff could create a list of conditions of the most common things they have seen as a result of reviewing cases with transitional zones. Ms. Shook gave the following list of common conditions: parking, landscaping buffers, design requirements, noise impacts, and external balconies with staircases.

Ms. Shook explained that there is not a set time frame for the Planning Commission to make recommendations on this topic. She noted there is not a requirement to take action on this agenda item at this meeting.

It was the consensus of the Planning Commission to have further discussion with the Council on this agenda item.

Motion and Vote:

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Vice-Chair Plaag made a motion, seconded by Commission Member Sanchez, to request a joint-meeting with Council to share to get Council's feedback on what the Council wants to solve by incorporating certain requirements within transitional zones.

Ms. Shook explained that one of the Council members had been approached by a member of the community regarding other things that can be done to make a project by right versus having to go through the Board of Adjustment process to reduce costs incurred through the BOA process.

Commission Member LaPlaca left the meeting at 8:23 p.m.

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

Ms. Shook said she can meet with any members of the Planning Commission that need help on transitional zones.

Vice-Chair Plaag referred to the Greenway Cove case on page 102 and 103 in the meeting packet. He asked what the enforcement mechanism was for the items that did not take place in number seven of the approved conditions. Ms. Shook noted that this particular condition was not able to be met because NCDOT did not allow the light.

Ms. Shook explained that the Council meeting minutes for the transitional zone cases can be accessed online at the town's website: www.townofboone.net.

OTHER MATTERS
There were no other matters discussed at this meeting.

ADJOURNMENT OF PLANNING COMMISSION
Member Behrend made a motion, seconded by Vice-Chair Plaag to adjourn the meeting at 8:27 p.m.

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

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Elizabeth Shay, Planning Commission Chair **Marlene Crosby, Board Secretary**

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Planning Application - UDO Text Amendment

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

Official Use Only
Case Number: PL0206811012018
Case Name: College or University-Operated Community Enterprise

A. CONTACT INFORMATION

Applicant: Town of Boone Company:

Address: PO Drawer 192, Boone , NC 28607

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

B. TEXT INFORMATION

Amendment is to:

Article(s): 15, 34

Section(s): 15.07, 15.70 and 34.01

Brief Description of Amendment (Attach Proposed Text):

In October 2018, Town Council approved the drafting of language to create a use that would allow college or university operated community enterprises within the B1 Central Business zoning district.

C. APPLICANT SIGNATURE:

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

Jane Shook, P&I Director	Jane Shook, P&I Director	November 1, 2018
Applicant (Print)	**Applicant Signature**	**Date**

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
09/25/2017	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting Date: November 26, 2018

PC Meeting Date: November 26, 2018

TC Meeting Date: December 18th or 20th

Text Approved: ❑ Yes ❑ No

Notes:

Communication: Case PL02068-11012018 College or University Operated Community Enterprise - Planning Application (Case PL02068-110118

STAFF REPORT
PUBLIC HEARING
NOVEMBER 26, 2018
CASE PL02068-11012018 COLLEGE OR UNIVERSITY OPERATED COMMUNITY ENTERPRISE
UDO TEXT AMENDMENT

Request

Request to modify UDO Articles 15and 34 for the creation of Use 9.07 College or University- Operated Community Enterprise with supplemental regulations. Amendment may also be made to other Articles to conform them to changes made in these Articles.

Proposed Amendment

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration.

15.70 College or University-Operated Community Enterprise

A. College or university-operated community enterprises may be allowed within the B1 zoning district subject to the following regulations:

1. The activities involved in the use must be the same as or closely similar to, and clearly compatible with, those of uses allowed as of right in the zoning district.
2. The organization operating the community enterprise shall clearly demonstrate that the enterprise is dedicated to meeting the civic, cultural, or informational needs of the community as a whole as opposed to the needs of the college or university alone.
3. No lot containing a college- or university-operated community enterprise shall be located within 1,000 feet of another lot containing a college- or university community enterprise.
4. The use must be conducted pursuant to a lease between the applicant and a private owner.
5. Signage is allowed subject to the zoning district requirement of UDO Article 26.

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Article 34 Definitions

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Community Enterprise
An enterprise dedicated to meeting the civic, cultural, or informational needs of the community.

…

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15.07.03 Table of temporary uses.

Use #	Principal Use	Zoning Districts																	Reference
		Low Density				Medium to High Density Residential				Commercial/Industrial					Education				
		RA	R1	R1A	RR	R2	R4	MH	R3	OI	B1	B2	B3	M1	U1	E1	E2	E3	
9.0 Education																			
9.01	Public colleges and universities														PT200	PT200	PT200		
9.02	Private colleges and universities															PT200	PT200		
9.03	Trade school																	PT200	
9.04	High school																	PT200	
9.05	Elementary school																	PT200	
9.06	Boarding school																		
9.07	College or university community enterprise										P								15.70

Communication: Case PL02068-11012018 College or University Operated Community Enterprise - Staff

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

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.

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2.1.5 Downtown

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

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

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

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

E. Public and private development decisions in the downtown area shall exhibit a special concern for maintaining the intensive, pedestrian oriented character of the district.

F. The maintenance and revitalization of downtown Boone, as well as planning for its future development, will reflect the realities and qualities befitting its geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services.

2.3 THE COMMUNITY

2.3.2 Community Character

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

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.

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PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

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

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

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

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TOWN COUNCIL ACTION

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

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

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

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

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Transitional Zone Research
Prepared by Planning & Inspections
September 2018

Existing Text in Unified Development Ordinance (UDO)

Article 6 Board of Adjustment Hearings

…

6.02.02 Transitional zones.

A. Transitional zones are hereby established and may apply to the procedures and evidence required for development in any existing zoning districts. The land within a transitional zone may be used as permitted in the underlying district, but only pursuant to the procedures and standards applicable to these zones, as created under this section.

B. Transitional zones attach to each R1, R1A, RR, R2, and RA district, (hereinafter, "the protected district") without regard to the current uses in that district. They are established for the purpose of creating special protections for residents of protected districts from the potential adverse impacts of certain potentially incompatible nearby development, based upon the legislative finding that the general requirements of this ordinance have not been sufficient to protect the residents of such protected districts from the adverse consequences of such developments and that the variety of circumstances which may need to be ameliorated in the face of such development are not amenable to a "one size fits all" approach.

C. The location of a transitional zone shall be determined as follows.

1. For designated development in an adjacent zone, the transitional zone shall be measured from the closest point of the area used or disturbed for the development to the boundary of any protected district as measured from all points along that boundary, the nearest point controlling applicability of this subsection.

2. For development subject to transitional zones within the protected districts, the transitional zone shall be measured from the closest point of the area used or disturbed for the development to the boundary of any protected lot, the nearest point controlling applicability of this subsection.

D. The size of the transitional zone varies with the type of development proposed. The following are the transitional zones as shown in the Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses:

1. T50: transitional zone equal to 50 feet;
2. T75: transitional zone equal to 75 feet;
3. T125: transitional zone equal to 125 feet;
4. T200: transitional zone equal to 200 feet; and
5. T300: transitional zone equal to 300 feet.

E. Whenever a permit is sought to authorize development within a transitional zone, and any area used or disturbed for the development will be located within the pertinent transitional zone, a special use permit is required. If any portion of the area used or disturbed for the development falls within the transitional zone the standards of this Section shall apply to the entire development. The Board may deny the application if the requirements of this section are not met, or it may place

Communication: Transitional Zone Research - Past Case History (Transitional Zone Discussion)

reasonable conditions on the development, in addition to such conditions as may otherwise be reasonably imposed, specifically designed to mitigate the potential impacts identified herein.

1. Exemption. Development within an approved industrial park shall not be subject to the requirements of Subsection 6.02.02.

F. In addition to all other requirements of this ordinance which pertain to the proposed development, including but not limited to those relating to the location and placement of structures, the type and quantity of landscape buffering, the type and location of lighting, and the size of setbacks, in order to meet the requirements of this section, the applicant must also show:

1. That the planned development will effectively and to the greatest degree reasonably possible, mitigate the impacts of the proposed development upon the protected district, including but not limited to:
   a. Noise impacts;
   b. Light impacts; and
   c. Any other predictable negative effect, including but not limited to:
      i. Negative visual effects;
      ii. Negative traffic effects; and
      iii. Negative health effects.

G. Because of the variable topography and characteristics of particular tracts of land within the town's zoning jurisdiction, the solutions incorporated into the development plan by the applicant must be tailored to specifically address the characteristics of the particular location in relation to the protected district. Only if an applicant can demonstrate by clear and convincing evidence that the normal requirements of the ordinance are themselves sufficient to protect the protected district may the application be approved without additional measures being incorporated into the site specific development plan.

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History

11-16-2010: Originally adopted November 16, 2010. Was limited on how the transitional zone was applied:

[1] For a proposed large scale retail development, or a multi-family development containing ten units or more, the transitional zone is three hundred feet (300') from the boundary of the protected district as measured from all points along that boundary.

[2] For a proposed small scale retail development within a B-1 district, or a multi-family development containing fewer than five units, the transitional zone is seventy-five feet (75') from the boundary of the protected district as measured from all points along that boundary.

[3] For a proposed small scale retail development other than within a B-1 district, a multi-family development containing between five units and nine units, and any other commercial development, the transitional zone is one-hundred-and-fifty feet (150') from the boundary of the protected district as measured from all points along that boundary.

Communication: Transitional Zone Research - Past Case History (Transitional Zone Discussion)

12-16-2013: Modified with adoption of revised UDO, effective January 1, 2014. Additional transitional zones created and applied to uses based upon the use and the zoning district the use was allowed in. Same text that is followed today.

06-18-2015: Transitional zone language modified to exempt development within an approved Industrial Park since the location of the park is vetted carefully before approval of location (only 1 within the Town of Boone).

Transitional Zone Cases – Board of Adjustment

04-07-2011 **SU20110010 Dollar General – Special Use Permit:** Mr. Allen Brawley is requesting a Special Use Permit in accordance with Unified Development Ordinance Section 198 *Transitional Zones* for the construction of a Dollar General store (use 2.120) located at the corner of East King Street and Forest Hills Drive (Watauga County PIN 2910-48-1392-000). In addition, a Variance to UDO Section 290 [c][2] is requested for a buffer zone encroachment above the 10% allowed by the ordinance. This property is zoned B-3 General Business. Approved subject to the following conditions:

1. The applicant must hire an arborist to look after the safety of significant trees on the neighbors' property.
2. Signs must be posted stating No Trespassing During Non-business Hours.
3. The monument sign shall be architecturally consistent with the building using consistent building materials.
4. Deliveries shall not be made before 8:00 a.m., between 2:00-4:00 p.m., and after 8:00 p.m.
5. A good faith effort should be made by the applicant to arrange for dumpster pick-up at a time not before 8:00 a.m. or after 8:00 p.m.
6. Regarding stormwater treatment and retention, bioretention in the form of rain gardens or rain ponds will be the first priority specifically around the rip rap area in the northeastern corner of the property. As a second alternative, a hybrid approach utilizing both bioretention and underground storage with the bioretention being the area of rip rap in the northwestern portion of the property.
7. Where there is a conflict between the application information (bearing a received date January 7, 2011) and the plans (bearing the received date of March 24, 2011 by Henson Foley), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
8. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
9. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
10. A Town of Boone driveway permit shall be obtained prior to final zoning approval.
11. An executed encroachment agreement for all improvements within NCDOT right-of-way shall be submitted to the Planning & Inspections Department prior to final zoning approval.

12. All applicable permits required by the state shall be obtained prior to final zoning approval.

05-05-2011: **SU20110142 Beacon Towers, LLC – Special Use Permit:** Jason Gaston on behalf of Beacon Towers, LLC is requesting a Special Use Permit per Unified Development Ordinance Section 198 *Transitional Zones,* for the construction of an access road within the Town of Boone Extra Territorial Jurisdiction to a telecommunication tower site located in Watauga County's planning jurisdiction off of 112 Nellis Townsend Road (PIN 2900-71-1703-000). Approved subject to the following conditions:

1. The road must be at least 12' in width.
2. "No Trespassing" signs must be posted.

SU20110144 Temple of the High Country – Special Use Permit: Jason Gaston on behalf of the Temple of the High Country is requesting a Special Use Permit in accordance with Unified Development Ordinance Section 198 *Transitional Zones,* for the construction of the Temple of the High Country (use 5.200) located between West King Street and Poplar Grove Road (PIN 2900-69-3831-000). Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated April 8, 2011) and the plans (bearing the received date of April 8, 2011 by Valor Engineering), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. NCDOT driveway permits shall be obtained prior to final zoning approval.
5. All applicable permits required by the state shall be obtained prior to final zoning approval.
6. The Poplar Grove Road entrance will be gated and a key or code will be provided to the Fire Department for access during emergencies.
7. The applicant will consult with Blake Brown to determine feasibility of sidewalk installation or payment of fee in-lieu. If sidewalk installation is determined to be feasible, NCDOT standards must be met.

06-02-2011: **SU20110143 Greenway Cove – Special Use Permit**: Faison Kuester on behalf of Kuester Greenway Cove, LLC is requesting a Special Use Permit per Unified Development Ordinance Section 166 *Use of the Designations Z and S in the Table of Permissible Uses* and Section 198 *Transitional Zones,* for the construction of a 28 unit apartment building (use 1.330) located at 176 & 152 Winklers Meadow Road (PINs 2910-12-6210-000 & 2910-12-7202-000). Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated September 2, 2011) and the plans (bearing the received date of October 14, 2011 by Landworks Design Group, P.A.), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.

Communication: Transitional Zone Research - Past Case History (Transitional Zone Discussion)

2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. A Town of Boone driveway permit shall be obtained prior to final zoning approval.
5. All necessary water and sewer service approvals must be obtained and associated water and sewer fees paid prior to final zoning approval.
6. Plan page L-101 shall be amended to show a termination of the hedge line at the trout buffer line or the tree buffer line, whichever is legally allowed.
7. The applicant shall make a good faith effort to secure a traffic control device to stop traffic at the crosswalk on Winkler's Creek Road. If NCDOT does not allow a stop device, alert lighting shall be installed. If NC DOT does not allow alert lighting, pedestrian crossing signage shall be installed.
8. The applicant shall be required to keep the Planning Staff informed of NCDOT conversations and requirements.

07-07-2011: **SU20110271 Temple of the High Country – Special Use Permit Modification:** Jason Gaston, on behalf of the Temple of the High Country, is requesting a Special Use Permit Modification to SU20110144 in accordance with Unified Development Ordinance Section 198 Transitional Zones for the construction of additional parking for the proposed Temple of the High Country (use 5.200) to be located between West King Street and Poplar Grove Road and further identified as Watauga County PIN 2900-69-3831-000. Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated June 3, 2011) and the plans (bearing the date of June 20, 2011 by Valor Engineering), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. NCDOT driveway permits shall be obtained prior to final zoning approval.
5. All applicable permits required by the state shall be obtained prior to final zoning approval.
6. Lighting that is required for the additional parking area have a switch.
7. To the extent that prior features of the plan and original conditions are not specifically modified by the approval, those plan features and original conditions shall remain in full force and effect.

10-06-2011: **SU20110332 Boy Scout Troop 109 – Special Use Permit:** David R. Jones on behalf of Boone United Methodist Church is requesting a Special Use Permit in accordance with Unified Development Ordinance Section 166 Use of the Designations Z and S in the Table of Permissible Uses and Section 198 Transitional Zones for the purpose of developing the property with a Boy Scout assembly facility. The proposed project is

located off of Hidden Valley Circle on property zoned R3 Multiple-Family Residential and further identified as Watauga County PIN 2911-30-5956-000. Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated July 8, 2011) and the plans (bearing the received date of July 8, 2011 and revised SP-1 dated September 26, 2011 as submitted and modified by additional written comments also dated September 26, 2011 by David R. Jones Architecture), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. A Town of Boone driveway permit must be obtained prior to final zoning approval.
5. The building shall be limited to Boy Scout activities only.
6. Place signage at the entrance on Hidden Valley Circle stating that access is for handicap parking or as deemed necessary by the applicant.
7. Provide screening along the handicap ramp.
8. Provide additional evergreen buffer on the Hidden Valley Circle side of the property.

12-01-2011: **SU20110481 Greenway Cove Apts.- Special Use Permit:** Faison Kuester on behalf of Kuester Greenway Cove, LLC is requesting a Special Use Permit in accordance with UDO Section 166 *Use of the Designations Z and S in the Table of Permissible Uses* and Section 198 *Transitional Zones,* for the construction of a 20 unit apartment complex (use 1.330) located at 176 & 152 Winklers Meadow Road (Watauga County PINs 2910-12-6210-000 & 2910-12-7202-000). Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated September 2, 2011) and the plans (bearing the received date of October 14, 2011 by Landworks Design Group, P.A.), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. A Town of Boone driveway permit shall be obtained prior to final zoning approval.
5. All necessary water and sewer service approvals must be obtained and associated water and sewer fees paid prior to final zoning approval.
6. Plan page L-101 shall be amended to show a termination of the hedge line at the trout buffer line or the tree buffer line, whichever is legally allowed.
7. The applicant shall make a good faith effort to secure a traffic control device to stop traffic at the crosswalk on Winkler's Creek Road. If NCDOT does not allow a stop device, alert lighting shall be installed. If NC DOT does not allow alert lighting, pedestrian crossing signage shall be installed.

Communication: Transitional Zone Research - Past Case History (Transitional Zone Discussion)

8. The applicant shall be required to keep the Planning Staff informed of NCDOT conversations and requirements.

03-01-2012: **SU20110670 King Street Mixed Use Project-Special Use Permit:** Mr. Jason Gaston is requesting a Special Use Permit in accordance with Unified Development Ordinance (UDO) Section 198 *Transitional Zones,* for the purpose of constructing a mixed use project (use 29.100) consisting of 30 apartments and a restaurant. In addition, variances to UDO Sections 205 [c] and 346[e] are being requested. The proposed project is to be located at 492 West King Street (Watauga County PIN 2900-88-9767-000). Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated January 6, 2012) and the plans (bearing the received date of January 10, 2012 by Valor Engineering), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. A NCDOT driveway permit shall be obtained prior to final zoning approval.
5. All necessary water and sewer service approvals must be obtained and associated water and sewer fees paid prior to issuance of a certificate of occupancy.
6. A resolution must be made regarding the driveway access that will allow the applicant to develop as proposed, before a building permit is issued.
7. Lease agreements must have language that tenants have to provide proof that they have obtained a long term parking space if they have a car.
8. Signage regarding no on-site, tenant, or restaurant parking on adjoining property must be provided.
9. Leases must provide move in and move out times that are staggered by unit.
10. A good faith effort must be made to coordinate restaurant delivery times to best avoid peak traffic hours.

SU20120045 Blue Ridge Electric Addition-Special Use Permit: Mr. Glenn Grubb, on behalf of Blue Ridge EMC, is requesting a Special Use Permit Modification per Unified Development Ordinance (UDO) Section 81 *Amendments to and Modification of Permits* and UDO Section 166 [a] *Use of the Designations Z and S in the Table of Permissible Uses* for the purpose of constructing a warehouse addition (use 4.300) and a community room. The proposed project is to be located at 2431 US Highway 421 South (Watauga County PIN 2921-20-2861-000). Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated February 2, 2012) and the plans (bearing the received date of February 2, 2012 by McGill Associates), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.

Communication: Transitional Zone Research - Past Case History (Transitional Zone Discussion)

3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. All applicable water and/or sewer service approvals must be obtained and associated water and sewer fees paid prior to issuance of a certificate of occupancy.
5. Bicycle and motorcycle parking must be installed.

06-07-2012: **SU20120262 Blue Ridge Electric-Special Use Permit Modification:** Glenn Grubb, on behalf of Blue Ridge EMC, is requesting a Special Use Permit Modification per UDO Section 198 *Transitional Zones* for the purpose of constructing an equipment and vehicle storage yard (use 10.310). The proposed project is to be located at 2491 Old US Highway 421 South (Watauga County PIN 2921-20-2861-000). Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated May 8, 2012) and the plans (bearing the received date of May 10, 2012 by McGill Associates), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. All applicable water and/or sewer service approvals must be obtained and associated water and sewer fees paid prior to issuance of a certificate of occupancy.
5. A preliminary tree survey must be submitted. If insignificant deviations from the plan are required, Staff may use discretion. If significant deviations from the plan are required, the applicant must petition the Board of Adjustment.
6. Stormwater detention requirements must be met.

07-05-2012: **SU20120335 Recess Skate & Snow-Special Use Permit:** John Paul Pardy is requesting a Special Use Permit per UDO Section 198 *Transitional Zones* for the purpose of establishing an accessory skateboarding ramp. In addition, a setback variance to UDO Section 207 [a] is being requested. The property is located at 1158 Highway 105 (Watauga County PIN 2910-13-3631-000). Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated June 6, 2012) and the information packet (bearing the received date of June 8, 2012), the information packet shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. A 1 ½' Variance was granted and is applicable only for the skateboard ramp.
5. Vegetation at the rear of the property must be retained as a buffer unless it is verified by Staff as diseased.

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6. The skateboard ramp will operate only during daylight hours.
7. The fence behind the property must be retained. If the fence is not on this property and it is removed, it must be replaced on this property in a similar size and opacity.
8. The ramp will be locked during non-daylight hours.

12-06-2012: **SU20120678,** Caldwell Community College and Technical Institute, 372 Community College Drive, Special Use Permit Modification, for construction of a building containing six classrooms. Approved subject to the following conditions:

1. The permit is approved subject to the Special Use Permit application dated November 9, 2012 and associated site plan prepared by Cort Architectural Group bearing the received date November 9, 2012.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a bases for a stop work order and/or permit revocation if violated.
3. Bicycle parking in accordance with UDO Section 355 shall be provided for the proposed project.
4. A lighting plan be approved by Staff.

02-07-2013: **SU20130022,** Jerry Butler, 302 Faculty Street (Watauga County PIN 2910-14-2972-000), Special Use Permit and Variance, for construction of a 5 unit 18 bedroom apartment complex. Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated January 10, 2013) and the plans (bearing the received date of January 24, 2013 by Municipal Engineering Services Company P.A.), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the UDO and the Town Code.
4. A Town of Boone driveway permit shall be obtained prior to final zoning approval.
5. All necessary water and sewer service approvals must be obtained and associated water and sewer fees shall be paid in accordance with Town policies.
6. The vegetative buffer in the R-1 portion of the property must be enhanced with evergreens.
7. The vegetative buffer in the R-1 portion of the property must be continually monitored to maintain the integrity of the buffer for the Transitional Zone for sound and light pollution and deficiencies must be remediated.
8. Outside lighting in the patio area, if required, must be low wattage and directed downward to shield them from the neighboring property.
9. The outdoor recreation area must be buffered on sides facing other properties with some type of evergreen shrubs.
10. No trees can be removed on neighboring property without permission of the neighboring property owner.

04-04-2013: **SU20130086,** Mountaineer Village, LLC, Yosef Drive (Watauga County PINs 2911-81-8013-000, 2911-80-4475-000), Special Use Permit Modification to construct 2 additional multi-family apartments.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (bearing the received date of February 8, 2013 by Municipal Engineering), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
3. All necessary water and sewer service approvals must be obtained.
4. All associated water and sewer fees paid prior to issuance of a certificate of occupancy.
5. Any and all repairs, patches or replacement to Yosef Drive or adjacent sidewalk shall be done in accordance with Town of Boone standards.
6. The applicant in consultation with the Public Works Director will comply with Section 91 of the Town Code and/or UDO Section 363[e].
7. Prior to any construction activity the applicant shall hire a geotechnical engineer whom among other things will determine the impact of the proposed building additions on the existing retaining walls as well as evaluate the subsurface soil conditions. Applicant agrees to comply with an implement the recommendations of the geotechnical engineer.
8. Applicant will show on the submitted engineering plans the type and size of the proposed water and sewer service lines. Applicant understands that the Town of Boone will only accept ownership and maintenance of the water meters. Applicant will provided the necessary easements for the water meters and insure access rights to the Town for meter maintenance and repair. The proposed water and sewer service taps will be made at the owner's expense.
9. Applicant will incorporate into its final plans the recommendations and requirements of the Fire Marshal. Furthermore, if deemed necessary, the applicant will have the gym facility sprinkled.
10. Any commitments and/or representations concerning the proposed project made by the applicant or its representatives at the public hearing shall also become a condition of the permit.
11. The applicant will either pay fee in-lieu or build a sidewalk.
12. The applicant must provide staff with a traffic analysis in order to determine if a traffic impact analysis is necessary. If a traffic impact analysis is deemed necessary the applicant must provide one and comply with any changes to the plan the traffic impact analysis requires.
13. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.

05-02-2013: **SU20130160,** Walgreens, 114 and 166 West King Street (PIN: 2910088308000) Special Use Permit pursuant to UDO, Section 198 Transitional Zones. The applicant is also

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requesting landscape buffer Variances to UDO Section 363 Buffer and Screen Requirements and Section 366 Screening Along Streets.

DENIED

10-03-2013: **SU20130563,** John Winkler is requesting a Special Use Permit Modification to the King St. Mixed Use Project Special Use Permit #20110670, 492 West King Street to modify the site specific development plan including modification of allowed commercial uses.

Approved subject to the following conditions:

1. Where there is a conflict between the application information (dated September 6, 2013) and the plans (bearing the received date of September 9, 2013 by Valor Engineering), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans and specifications shall be submitted that are in compliance with the provisions of the UDO, Building Code and other provisions of the Town Code.
4. All conditions of approval from the original special use permit (20110674) not modified, remain in effect.
5. A NCDOT driveway permit and stormwater encroachment agreement shall be obtained prior to final zoning approval.
6. A Town of Boone stormwater encroachment agreement shall be obtained prior to final zoning approval.
7. Signage regarding no on-site tenant, or office/retail parking on adjoining property must be provided. (restaurant removed and replaced by office/retail)
8. A good faith effort must be made to coordinate office/retail delivery times to best avoid peak traffic hours. (restaurant removed and replaced by office/retail)
9. HVAC equipment must be moved either to ground level or as close to the front of the building on the roof as possible with a screen structure behind the units.
10. Add landscaping on the sides and back of the building near the staircases to the extent reasonable possible.

02-06-2014: **SU20130721,** Jim Lambert, on behalf of Zaxby's, is requesting a Special Use Permit pursuant to UDO Section 198 Transitional Zones for use 8.400, Restaurant Use on property located on Hwy 105 Ext. (Watauga County PINs 2910-36-3013-000 & 2910-35-3919-000).

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans prepared by James J. Carter, P.E. with Carter Engineering Consultants, Inc. (bearing a received date of December 9, 2013 including Exhibit 13 & 14 entered into evidence on February 2, 2014), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.

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3. If required, the Community Appearance Commission (CAC) may need to approve a redesign based upon conditions as listed in Section 393.
4. The entire existing stormwater pipe should be assessed for functionality.
5. Final plans shall be submitted that are in compliance with all provisions of the UDO and other provisions of the Town Code.
6. A Town of Boone Driveway Permit must be issued prior to the issuance of a Zoning Permit.
7. The applicant will be required to install sidewalks along the length of Beverly Heights Avenue or pay a fee in-lieu as required in UDO Section 243.
8. The applicant must resolve concerns from the Public Works Department regarding access onto Beverly Heights Drive.
9. Replace deciduous trees with all evergreen trees so that there is more continual buffering of the sound year round on the northeastern quadrant of the site where most of the landscape buffer is occurring.
10. Implement all of the traffic recommendations in the Traffic Impact Analysis.

01-08-2015: **SU20140616,** John Winkler is requesting a Special Use Permit for Use 1.11 Multi-Family Dwelling to construct an apartment building at 347 Oak Street containing 20 units; this development is subject to a transitional zone; the applicant is also requesting 2 variances from UDO Subsection 15.10.01(B)(2) to reduce roof top livability space and UDO Subsection 15.10.03(D) to reduce the amount of livability space designated for exclusive use of ground floor units.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (dated received August 8, 2014 with Sheet C-1 dated received August 27, 2014 and as amended by Exhibit 3 & 4), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Revised plans meeting the requirements of the Town Code, UDO and other applicable plans shall be submitted for review and approval.
4. A NCDOT driveway permit and stormwater encroachment agreement shall be obtained prior to final zoning approval.

SU20140671, Sean Spiegelman, on behalf of Boone Lumber Co., is requesting a modification of Special Use Permit SU2005-14 for the inclusion of Use 14.06 Winery at 275 Daniel Boone Drive. This development is also subject to a transitional zone.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (dated received November 7, 2014), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.

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3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.

06-04-2015: **SU20150236,** Robert de Camara on behalf of MMI Land Trust, Patrick Herndon Land Trust and John R. Herndon has applied for a Special Use Permit at 340 Herndon Lane for Use 3.06 Vacation Rental. This development is subject to a transitional zone.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (dated received April 28, 2015), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit for a Zoning Permit demonstrating compliance with the Town of Boone Unified Development Ordinance.
4. Maintain and retain all existing vegetation on the property as it is with the exception of an allowance to maintain a sight line across the top of the trees towards their view of the Town of Boone.
5. Occupancy of the vacation rental is restricted to no more than 8 adults.

07-09-2015: **SU20150317,** Randy Dixon of RAB Partners, LLC is requesting a Special Use Permit with an extended 3 year vesting on property owned by Anna Greene at and near 141 Marich Lane and on property owned by Charles and Kathie Billing at 379 Perkinsville Drive for Use 1.13 Multi-Family Dwelling (> than 100 bedrooms) and use 11.19 Other Business or Professional Office. This project is proposed to be constructed in 4 phases and contains a clubhouse, and 9 multi-family buildings which contain 184 units (276 bedrooms). The development triggers Transitional Zone requirements pursuant to UDO Subsection 6.02.02.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (dated received June 4, 2015), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The application shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable plans for review and approval necessary to issue Zoning and Building Permits.
4. The applicant is required to work with the Town of Boone Public Works Department to redesign the site access to minimize the safety concerns listed in the Special Use Permit Staff Report.
5. The applicant is required to work with the Town of Boone Fire Department to address all concerns listed in the Special Use Permit Staff Report.

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6. The applicant is required to address all recommendations as listed in the Traffic Impact Analysis prepared by JM Teague Engineering, PLLC for this development (received date of June 2, 2015).
7. *If vesting is extended:* The project is approved with a 3 year vesting period.
8. The applicant is to work with and cooperate with Town staff to provide for a safe and healthy intersection for vehicles and pedestrians at the entrance to the development.
9. The applicant will work with and cooperate with Town staff to submit a revised traffic impact analysis to the Town's satisfaction.

01-20-2016: **20150885,** Jason Gaston is requesting a Special Use Permit on property owned by Anna Greene at 130 Green Street for Use 1.11 Multi-Family Dwelling (up to 30 bedrooms). This project contains 30 units. The development triggers Transitional Zone requirements pursuant to UDO Subsection 6.02.02.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (site plans and building elevations dated received January 8, 2016), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable plans for review and approval necessary to issue Zoning and Building Permits.

02-04-2016: **20150792,** David Linzey is requesting a Special Use Permit to for properties located at 1600 & 1710 NC HWY 105 as well as the vacant intervening parcels identified as Watauga County PINs: 2900-83-7350-000, 2900-83-8357-000, and 2900-83-9229-000 for the Animal Emergency Clinic Site Expansion. The applicant is requesting to construct a new building between 1600 & 1710 NC HWY 105 for Use 11.02 Veterinary Office/Hospital with Outdoor Kennels and to be allowed to use the buildings at 1600 and 1710 NC HWY 105 for any of the following uses: 11.01 Kennel, 11.02 Veterinary Office/Hospital with Outdoor Kennels, 11.03 Veterinary Office/Hospital without Outdoor Kennels, 11.04 Financial Institution ≤ 5,000 ft^2, 11.12 Personal Service Establishment open to the public during 10 pm and 6 am, 11.13 Other Personal Service Establishments; 11.14 Retail Store up to 5,000 ft^2, 11.18 Business or Professional Office open to the public during 10 pm and 6 am, 11.19 Other Business or Professional Office, 11.21 Medical Office Category 2, 11.22 Medical Office Category 3, 11.23 Medical Office Category 4, 11.34 Seasonal Retail Activities and Amusements, 12.10 Recreation Facility Category 1, 14.01 Microbrewery, 14.02 Brewpub, 14.03 Brewery/Distillery, 14.06 Winery.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (Cover Sheet dated received on November 24, 2015, Sheets C-2 through C-6 dated received October 26, 2015), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.

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2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable plans for review and approval necessary to issue Zoning and Building Permits.
4. The applicant shall incorporate turnarounds within the vehicular surface areas to satisfy the requirements of the Town of Boone Fire Department.
5. The chain link fence surrounding the dog run and dog park must be earth tone in color.

01-05-2017: **20160825,** Raken Shah of Milan Real Estate, LLC is requesting a Special Use Permit for a hotel (TownePlace Suites by Marriott, Use 3.08), to be located at 2240 Blowing Rock Road on property owned by Waltson Assoc. Pursuant to UDO Subsection 6.02.02 this project has triggered compliance with transitional zones.

Approved subject to the following conditions:

06-07-2018: **Z01452-042618,** Jason Gaston, P.E., with Valor Engineering has applied for a Special Use Permit for a mixed-use development on property owned by Orange Avenue Auto Sales, Inc. located at 275 East King Street (Watauga County PIN 2910-18-9207-000). The applicant has requested Use 1.15 Multi-Family in Mixed Use (42 1-bedroom apartments) and 4,924 square feet of commercial uses containing Use 11.07 Other Restaurants ≤ 2,500 ft^2, Use 11.13 Other Personal Service Establishments and Use 11.14 Retail Store up to 5,000 ft^2 and Use 11.18 Other Business or Professional Office.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (site plan dated received May 30, 2018 and building elevations dated received April 26, 2018), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed development made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.

Transitional Zone Cases – Town Council

05-02-2011: Watauga County has filed a Zoning Map Amendment Petition for Conditional District Zoning for property located 300 Go Pioneers Drive (2910-88-3456-000) to modify the existing site specific development plan for the Conditional District O/I Office Institutional

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zoning to the existing High School site to include the addition of an Alpine Tower (to be located to the south of the soccer field) and an Indoor Training Facility (located to the north of the softball field). In addition, the proposed modification triggers the requirements for Transitional Zones in accordance with Unified Development Ordinance Section 198.

Approved subject to the following conditions:

1. Approval is subject to the site plan and supplemental information submitted bearing the received date of April 1, 2011 (Building Elevation received date April 18, 2011). Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
2. Applications and final plans shall be submitted that are in compliance with the provisions of the UDO, Town Code and State Building Code.
3. All commitments in the letter bearing the received date of April 19, 2011 from John Turner shall be adhered to. (See Exhibit A)
4. The HVAC/mechanical equipment is to be oriented, as much as practical, away from the existing R1 neighbors to the NE of the indoor training facility.

08-01-2011: **CASE 20110320 MOUNTAINEER CROSSING CONDITIONAL DISTRICT REZONING:** Mountaineer Crossing LLC has filed a Zoning Map Amendment Petition for Conditional District Zoning for property owned by the Estate of Helen Yount (Watauga County PINs: 2900-91-4847-000 and 2900-92-5257-000) and Mountaineer Crossing LLC (140 High School Drive. Watauga County PIN: 2900-92-2628-000). This request is that the property be placed in Conditional District B-3 General Business, Conditional District R-3 Multiple-Family and Conditional District R-A Residential Agriculture. The site specific plan for the property indicates a single story commercial building (Use 2.0) and a four story mixed use-building in which the ground floor contains commercial uses and the upper floors contains multi-family (Combination Use 29.1000) within in the Conditional District B-3 General Business portion of the property. The project also contains two multi-family apartments (Use 1.330), one 3-story and one 4-story, within the Conditional District R-3 Multiple-Family portion of the project. The remaining undeveloped property has been requested to be placed in Conditional District R-A Residential Agriculture for passive recreation for the development along with a conservation easement. Portions of the property are located within the Viewshed. In addition, the proposed development triggers the requirements for Transitional Zones in accordance with Town of Boone Unified Development Ordinance Section 198.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans and supplemental information (bearing a received date of August 5, 2011), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.

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4. Based upon comments from the Fire Department, efforts shall be made to reduce the slope of the driveway while meeting all requirements of the UDO so long as the location of the driveway does not change.
5. That the Conditional District Map Amendment approval be conditioned on the zoning and annexation of the property outside corporate limits.

11-07-2011: **CASE 20110573:** Watauga County has filed a Zoning Map Amendment Petition for Conditional District Zoning for property located 300 Go Pioneers Drive (2910-88-3456-000). to modify the existing site specific development plan for the Conditional District O/I Office Institutional zoning to the existing High School site to include the addition of a wind turbine, which is proposed to be located between the football and soccer fields which also triggers the requirements for Transitional Zones in accordance with UDO Section 198.

Approved subject to the following conditions:

1. Approval is subject to the site plan and supplemental information submitted bearing the received date of October 24, 2011. Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
2. 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.
3. Applications and final plans shall be submitted that are in compliance with the provisions of the UDO, Town Code and State Building Code.

05-07-2012: **Case 20120200:** Watauga County has filed a Zoning Map Amendment Petition for Conditional District Zoning for 300 Go Pioneers Drive (Watauga County PIN: 2910-88-3456-000) to modify the existing site specific development plan for the Conditional District O/I Office Institutional zoning to the existing Watauga High School site to include the addition of a 20 foot x 40 foot picnic shelter (to be located next to the tennis courts). In addition, the modification triggers the requirements for transitional zones in accordance with UDO Section 198.

Approved subject to the following conditions:

1. Approval is subject to the site plan bearing the received date of April 20, 2012 and structure elevations bearing the received date of April 5, 2012 and project narrative bearing the received date of April 17, 2012. Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
2. 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.
3. Applications and final plans shall be submitted that are in compliance with the provisions of the UDO, Town Code and State Building Code.

08-06-2012: **Case 20120403**: Wayne Clawson, Joy Clawson, Dana Clawson, &Milton Greene (on behalf of Anna Greene) have filed a Conditional District Map amendment to rezone approximately 22.29 acres of property (which includes the Clawson Mobile Home Park) located at and near 170 Clawson Street, 140 and 141 Marich Lane (Watauga County PINs: 2911610160000, 2911603647000, 2911602100000, 2911608808000). The request is to rezone all/portions of the properties from R-3 Multiple Family Residential and MH Manufacture Home Park to Conditional District R-3 Multiple Family with a site specific

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plan for a phased project for Use 1.330 Multi-family apartments (10 buildings with 266 units containing 546 bedrooms) with an extended vesting of five years.

Denied

12-10-2012: **CASE 20120683** United Developers, Conditional District Map Amendment, at and near 170 Clawson Street, Watauga Co. PINs: 2911610160000, 2911603647000, 2911602100-000, request to rezone all/portions of the properties owned by Wayne & Dana Clawson from R-3 Multiple Family Residential & MH Manufacture Home Park to Conditional District R-3 Multiple Family, for 72 apartments, containing 180 bedrooms. Applicants are requesting a 3 year vesting.

Approved subject to the following conditions:

1. Approval is subject to the following:
   a. Zoning Map Amendment Petition Conditional District Zoning, dated received 11-13-2012 "Watauga Green-Preliminary Development Plans for Conditional Use Zoning Application" Sheets 1-4 prepared by Moore Rile Architects PA, dated received 11-13-2012 (portion of the applicants first submittal)
   b. "Mitigation of Development in the Transitional Zone" narrative, prepared by Mercer Design Group, dated received 11-21-2012
   c. "Transportation Impact Analysis (TIA) Prepared for United Developers, Inc.-Watauga Green" prepared by Davenport Transportation Consulting, dated received 11-26-2012
   d. "Watauga Green-Preliminary Development Plans for Conditional Use Zoning Application" REVISED site plans, prepared by Mercer Design Group, dated received 11-27-2012
   e. "Responses to comments on staff report for Watauga Green, Boone, NC" letter, prepared by Marvin Mercer, P.E, dated received 11-27-2012
   f. "Re: Affordable Housing" letter, prepared by James Smith, dated received 11-27-2012
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. The applicant shall work with the Town of Boone to ensure that all recommendations from the submitted "Transportation Impact Analysis, Prepared for United Developers, Inc.: Watauga Green, Boone, NC" are completed prior to the issuance of a certificate of occupancy.
5. The vesting for the project be given 3 years.
6. The applicant shall install sidewalks along Clawson Street to the intersection of Perkinsville Drive.
7. All concerns as listed in the "Review Comments" in Case 20120683 Watauga Green/United Developers Conditional District Map Amendment Staff Report will be satisfied.

05-13-2013: United Developers have filed a Conditional District map modification for property owned by Wayne Clawson and Dana Clawson located at and near 170 Clawson Street

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(Watauga County PINs: 2911610160000, 2911603647000, 2911602100000). The request is to modify the parking for the approved Watauga Green multi-family project.

Approved subject to the following conditions:

1. The applicant in the original public hearing for this matter said the target was one space to one and one-half space per unit. This alternative request does not go outside that original statement.
2. The applicant could have perused other parking strategies that would have resulted in many as 180 spaces in a project that is located very close to other amenities. This was a responsible and reasonable request.
3. It is the Town's responsibility to provide the reasonable assistance for the success of the project being grant funding from NCFHA and testimony presented at the public hearing indicates that this change will be viewed positively by the Finance authority.
4. Reference staff conditions 1, 2, 3 found on page eight of the staff report:
   A. Approval is subject to the following:
      1. Zoning Map Amendment Petition Conditional District Zoning, dated 4-29-13.
      2. "Watauga Green-Preliminary Development Plans for Conditional Use Zoning Application" Sheet C-2, dated received 4-29-13.
   B. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop-work order and/or permit revocation if violated.
   C. All conditions of the original approval (Case 20120683) are still applicable.

06-02-2014: **CASE 20140049** Standard at Boone LLC is requesting Conditional District Map Amendment approval to zone property to Conditional District B3 General Business for a site specific development plan for a mixed-use project containing commercial and multi-family uses to be located at: 784, 862, 862-B Blowing Rock Road; 299, 311, 325, 339 Faculty Street, and 3 vacant parcels (Watauga County PINs: 2910146823000, 2910147495000 and 2910148386000).

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (bearing a received date of April 17, 2014), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. The Town of Boone will be given the necessary easements for public sidewalks which leave existing street right of way.
5. All driveway permits shall be obtained prior to the issuance of a Zoning Permit.
6. The project must be in compliance with UDO Article 15, Subsection 15.10.02 (limits phasing for the single-use multi-family building.)
7. The applicant must submit appropriate documentation for the CLOMR for the relocation and opening of Boone Creek prior to the issuance of a Zoning Permit.

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8. Along Blowing Rock Road the area between the road and the building shall consist of curb and gutter, five foot sidewalks next to the curb and gutter and pavers between sidewalk and building which also includes landscape area. Landscaping will be coordinated with planning staff.
9. The addition of educational signage describing improvements to Boone Creek along Faculty Street providing it does not affect the flood study.
10. The bike lane details provided by the Department of Transportation for Highway 321.
11. There will be no balconies located on the Faculty Street side of the Faculty Street building.

08-04-2014: **Case 20140372** The Church of Jesus Christ of Latter Day Saints, Conditional District Map Amendment, 604 Poplar Grove Rd, rezone property to R3 Multiple-Family Residential for a phased site specific plan to expand the building and parking lot, subject to a 125' transitional zone, and applicants are requesting 5 year vesting;

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (Sheets CDR- 1 and CDR-2 bearing a received date of July 25, 2014, and Sheet SLP bearing a received date of July 2, 2014), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Vesting is extended for five years.
4. Revised plans meeting the requirements of the Town Code, UDO and other applicable plans shall be submitted for review and approval.

02-02-2015: **Case 20140748** Southern States Co-Operative Inc. and G& B Oil Company Inc. have requested to rezone 178 S. Water Street, 190 and 208 Poplar Grove Road from B1 Central Business to Conditional District B1 Central Business with a site specific development plan for a mixed-use project (River's Walk) containing approximately 16,647 square feet of commercial area and 145 apartments.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (bearing a received date of January 26, 2014), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. The Town of Boone will be given the necessary easements for public sidewalks which leave existing street right-of-way.
5. All driveway permits shall be obtained prior to the issuance of a Zoning Permit.

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6. Applicant demonstrate adequate parking for the development.
7. Applicant build the courtyard as demonstrated on the drawing submitted by Bill Dixon on February 9, 2015, at the Planning Commission meeting.
8. The applicant provide an easement for an eight-foot minimum greenway along Boone Creek through the development property.

11-02-2015: **Case 20150700** - Hunter Coffey has filed a Conditional District Zoning Map Amendment Petition for property owned by Jazz Baby Holdings, LLC to rezone 280 Queen Street from O/I Office Institutional to B1 Central Business with a site specific development plan for Use 11.19 Professional Office.

Approved subject to the following conditions:

1. Where there is a conflict between the application information, the applicant's narrative and the plans (dated received Sept. 25, 2015), the plans and narrative shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable plans for review and approval necessary to issue Zoning and Building Permits.

01-06-2015: **Case 20150697** Todd Rice has filed a Conditional District Zoning Map Amendment Petition for two properties owned by MET Holdings, LLC at 475 Blowing Rock Road to rezone from B2 Neighborhood Business to B3 General Business with a site specific development plan for a mixed-use building consisting of 24 efficiency apartments (Use 1.15 Multi-Family Dwelling in Mixed Use (31-100 bedrooms) and 2,658 square feet of retail (Use 11.15 Retail Store more than 5, 000 but less than 25, 000 ft2).

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (dated received December 11, 2015), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable plans for review and approval necessary to issue Zoning and Building Permits.
4. The applicant is required to work with the Public Works Department to reconfigure the meter system needed for the development.
5. A minimum of six commercial parking spaces is required and no minimum is set for the residential parking spaces.
6. Courtyard as designed and presented to the Planning Commission on January 11,

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2016, contingent on NCDOT approval.

7. The applicant will provide the Black powdered coated fence as proposed by the applicant to the Planning Commission on January 11, 2016, because the proposed project will result in safer traffic patterns and the redevelopment of the currently outdated unattractive site.
8. The applicant will provide additional lighting to the side near the Parthenon and other commercial properties.

06-06-2016: **Case 20160136 Rivers Walk Planned Development Zoning Map Amendment:** Jeff Githens with McKinley Boone, LLC has filed a Zoning Map Amendment Petition for a planned development consisting of a mixed-use building containing both residential and commercial uses, including a parking deck for properties located at 178 South Water Street, 190 and 208 Poplar Grove Road. The residential portion will contain 119 dwelling units with 380 bedrooms; with the following uses proposed to be allowed for the commercial portion of the building :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, 11.12 Personal Service Establishment open to the public during 10 pm – 6 am, 11.13 Other Personal Service Establishments, 11.14 Retail Store up to 5,000 ft^2, 11.15 Retail Store more than 5,000 but less than 25,000 ft^2, 11.18 Business or Profession Office open to the public during 10 pm – 6 am, 11.19 Other Business or Professional Office, 11.23 Medical Office, Category 4, 12.10 Recreation Facility, Category 1, and 14.02 Brewpub.

Denied

11-28-2016: **Case 20160566**: Hunter Coffey on behalf of Watauga County Farm Bureau Insurance has filed a Planning Permit Application for a Conditional District Zoning Map Amendment to rezone 135 and 169 State Farm Road from B3 General Business and R1 Single-Family Residential to Conditional District B3 General Business subject a site specific development plan for Use 11.19 Other Business or Professional Office.

Approved subject to the following conditions:

1. Where there is a conflict between the application information and the plans (site plans and architectural plans bearing a received date of Sept. 9), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans and permit applications shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. The applicant shall install a hedge row of evergreens along the eastern property line. This buffer shall be 10’ to 12’ tall at time of installation.
5. The applicant shall allow access to the Miller's lower driveway from the Farm Bureau parking lot as shown on the "as built" site plan.

01-23-2017: **Case 20160796 King and College Mixed-Use Planned Development:** Robert Flannigan has filed a Zoning Map Amendment Petition for a planned development consisting of a mixed-use building containing both residential (64 bedrooms), commercial uses and a parking

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garage along with a separate a townhouse building for properties located at and near 302 W. King Street (Watauga County PINs: 2900988588000 and 2900988402000). The building will contain 60dwelling units with 60 bedrooms; with the following uses proposed to be allowed for the commercial portion of the building: Use 11.21 Medical Office Category 2. The Townhouse building will contain 2 dwelling units with 4 bedrooms.

Approved subject to the following conditions:

1. Where there is a conflict between the applicant information and the plans (site plans and architectural plans bearing a received date of Jan. 13, 2017), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of Town Code.
4. No more than two unrelated persons are allowed to live in the townhouse portion of the proposed development.
5. The applicant will work with the Town to implement the appropriate sidewalk material in accordance with the downtown sidewalk plans.
6. The applicant be provided flexibility to work with the Town and neighbors related to fencing locations and type.
7. The applicant will fund traffic calming speed humps along Wallace Circle as determined appropriate by Public Works prior to the CO being issued.
8. The applicant shall construct a guard rail along Campus Ridge Drive in accordance with the Traffic Analysis Report.
9. The applicant will agree that they will petition to join the MDS (Municipal Service District) to be effective two (2) years following the year in which the CO is issued.

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PLANNING COMMISSION MEETING MINUTES
MONDAY, OCTOBER 22, 2018 AT 6:00 P.M.
IN TOWN COUNCIL CHAMBERS

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chairperson, Eric Plaag-Vice Chairman, Frank Veno, Michael Sanchez, James Hedrick, Chris Behrend, and Nancy LaPlaca

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

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CALL TO ORDER
Chairperson Shay called the meeting to order at 6:00 p.m.

ADOPTION OF AGENDA
Vice Chairman Plaag made a motion, seconded by Commission Member Sanchez to adopt the agenda as written.

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

APPROVAL OF PLANNING COMMISSION MEETING MINUTES
Vice Chairman Plaag made a motion, seconded by Commission Member Veno to approve the September 24, 2018 Planning Commission meeting minutes as written.

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

CASE PL01808-082218
The Town of Boone has initiated a UDO Text Amendment to require Council to select the Chair and Vice-Chair of the Board of Adjustment and Planning Commission.

Ms. Shook noted that, at the September 24, 2018 meeting, Planning Commission voted to table this case in order for Town Council to further discuss the proposed process. Ms. Shook noted that Council had a long discussion and suggested the following:

- Board members who are interested in becoming Chair or Vice Chair of the Planning Commission or Board of Adjustment must submit an application which to Staff who would then forward the applications to Town Council for consideration.
- On the application the applicant would commit to having or commit to obtaining an understanding or knowledge of State Law, the UDO, the Comprehensive Plan, Roberts Rules of Order, and commit to upholding the Comprehensive Plan and the regulations associated with text and map amendment requests.

Ms. Shook noted that Council was interested in hearing the Planning Commission's feedback on the proposed text and process.

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Vice Chairman Plaag felt that the Planning Commission should consider the applications first and then make their recommendation to Town Council of who should be appointed.

Vice Chairman Plaag questioned a few items contained in the staff report and it was determined that the updated staff report had not been placed in the packet. Ms. Shook stated that the updated report contained minor changes.

Vice Chairman Plaag wished to note that there seemed to be a conflict between the Town Code and the UDO regarding subcommittees and felt it should be made clear whether or not Town Council had to appoint subcommittees or if Committee members could appoint subcommittees themselves.

Chairperson Shay stated she did not feel she was qualified to be the Chair of the Planning Commission based on the requirements to uphold the Comprehensive Plan suggested by Town Council because she felt that though she agreed with portions of the document that she felt that it did need to be updated. Vice Chairman Plaag felt the requirements meant that, in their role, they should use the Comprehensive Plan to fulfill their duties as Commission members.

Commission Member Behrend asked how the applicant would be tested to make sure they had the knowledge required to qualify as a Chair or Vice Chair. Ms. Shook explained that the Council wanted Chairs and Vice Chairs to understand the importance and responsibilities of the positions. Commission Member Behrend felt that making the statement that that you would be responsible did not really mean anything and could just be empty words.

Vice Chairman Plaag asked where the applicant's pledge of responsibility would be documented. Ms. Shook stated there would be documentation in the Town Council minutes when they considered the applications.

Vice Chairman Plaag stated there was some question about whether the Town Council or the Board/Commission itself should make the selections. He felt the Board should review the applications first and make recommendations to Town Council for their approval. Vice Chairman Plaag noted this approach would seem less like a power grab and more like cooperation between the Boards and Town Council. Commission Members Hedrick and Sanchez agreed with Vice Chairman Plaag and Commission Member Sanchez added that he thought this suggestion was a good middle ground.

Commission Member Veno asked if it was true that Town Council currently had the right to name Chairs and Vice Chairs. Ms. Shook stated that was correct but noted that Council had not exercised that right.

Vice Chairman Plaag suggested that, if multiple applications were submitted, Planning Commission should vote on the applications and then recommend to Town Council the applicant who received the most votes.

Chairperson Shay questioned having Town Council choose and then giving Board members veto power. Ms. Shook stated that Town Council did discuss that option but that did not choose that route for the process but noted the Planning Commission was open to make recommendations back to the Town Council who had expressed interest in hearing from the Planning Commission.

Vice Chairman Plaag felt that having the Planning Commission make recommendations to Town Council for Chair and Vice Chair was the most democratic way of handling the situation and would be more in line with how the Planning Commission worked as a recommending board.

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First Motion and Vote

Vice Chairman Plaag made a motion that the proposed amendment to the Town's zoning ordinance is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it is not in comportment with Comprehensive Plan policy 2.3.4 (A) *Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.* The proposed amendment is also not consistent with UDO Section 2.02.01 which specifies that the Planning Commission reviews and makes recommendations to the Town Council pursuant to Section 2.02.06 and specifically in that section it is not consistent with UDO Section 2.02.06 (A)(4) which lists the powers and duties of the Planning Commission as including the role of developing and recommending to the Council policies, ordinances, administrative procedures, and other means of carrying out plans in a coordinated and efficient manner. The proposed amendment is also not consistent with UDO Section 2.02.05 (B) which indicates that the Chair and Vice Chair may take part in all deliberations and vote on all issues. The motion was seconded by Commission Member Behrend. Chairperson Shay wished to amend the motion to strike reference to Comprehensive Plan policy 2.3.4 (A) because she felt the public involvement concerns were not really affected by this issue. Vice Chairman Plaag stated he was okay with that and also wished to strike the reference he had made to UDO Section 2.02.05 (B) because it was circular to cite that since it is the section they are trying to revise. Ms. Shook pointed out that this would remove the only reference made to the Comprehensive Plan policies. Chairperson Shay suggested replacing 2.3.4 (A) with 2.3.4 (D). Vice Chairperson Plaag and Commission Member Behrend accepted the amendments.

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

Second Motion and Vote

Commission Member Hedrick made a motion that the Planning Commission recommends denial of the proposed amendment to the Town's zoning ordinance and believes denial is reasonable and in the public interest because the amendment as proposed is not in alignment with Comprehensive Plan policy 2.3.4 (D) and UDO Section 2.02.06 (A)(4). Commission Member Behrend seconded the motion. Vice Chairman Plaag wished to amend the motion to add the proposed amendment has a chilling effect on both the function and purpose of the Planning Commission and does not encourage democratic participation of the community in advisory boards related to Town Council. Chairperson Shay wished to amend the amendment to say this had the potential to cause a chilling effect. Commission Members Hedrick and Behrend accepted the amendments.

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

Motion

Vice Chairman Plaag made a motion the Planning Commission recommends to Town Council that the proposed UDO text amendment be revised and resubmitted to the Planning Commission for consideration to state that both the Chair and Vice Chair of the Planning Commission will be selected in two phases. The first phase to consist of the Planning Commission reviewing applications as already proposed by Town Council. The Planning Commission will then discuss and vote on those applications and based upon those

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votes through an internal procedure to be determined at a later date, Planning Commission will make a recommendation to Town Council regarding both Chair and Vice Chair for the coming one-year term with a similar procedure recommended for the Board of Adjustment. The second phase would then consist of Town Council reviewing that recommendation voting on that recommendation. The motion was seconded by Commission Member Sanchez. Chairperson Shay wished to amend the motion to add that Planning Commission wishes to note that they see value in having stated requirements for knowledge and commitment for Chair and Vice Chair and also appreciate having a lower threshold for regular Planning Commission members in order to encourage the widest possible participation. Vice Chairman Plaag and Commission Member Sanchez accepted the amendment.

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

OTHER MATTERS

Ms. Shook noted that the regular December Planning Commission meeting would fall on December 24, 2018 and may need to be rescheduled. She stated this could be decided at the November Public Hearing.

Ms. Shook updated the Commission on Council's approval of the three text amendments heard at the September Public Hearing and also noted the request for a joint meeting regarding Transitional Zones will be scheduled at the November Public Hearing.

Commission Member LaPlaca announced that she was resigning from the Planning Commission. She stated that with her work schedule and also being in the Sustainability Committee she just did not have enough time to devote to Planning Commission. Ms. Shook thanked Ms. LaPlaca for her service on the Commission.

ADJOURNMENT

Vice Chairman Plaag made a motion to adjourn the meeting at 6:54 p.m. The motion was seconded by Commission Member Veno.

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

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Elizabeth Shay, Planning Commission Chairperson **Brenda Henson, Board Secretary**

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