

**Town of Boone
Public Hearing
6:00 PM, Nov. 28, 2022
Remote Meeting Via WebEx**

**This meeting will be held using video conferencing software (WebEx).
Information on how to watch or participate in the meeting is included on page
3 of this agenda.**

- I. Call to Order - Town Council**
- II. Call to Order - Planning Commission**
- III. Moment of Silence**
- IV. Approval of Public Hearing Minutes by Town Council and Planning Commission**

September 26, 2022 Public Hearing Minutes

Public Hearing Guidelines for Each Case Presented

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

- V. Case PL05918-07222 Watauga County Jail - Local Historic Landmark**

Case PL05918-072222 Application

Case PL05918-072222 Staff Report

Case PL05918-072222 Staff Report Exhibit 1 - Local Landmark
Designation Report

Case PL05918-072222 Staff Report Exhibit 2 - HPC Advisory Meeting
Minutes Excerpt, June 7, 2022

Case PL05918-072222 Staff Report Exhibit 3 - SHPO Review Letter and Supporting Documents

Case PL05918-072222 Staff Report Exhibit 4 - HPC Advisory Meeting Minutes Excerpt, September 6, 2022

Case PL05918-072222 Staff Report Exhibit 5 - HPC Advisory Meeting Minutes Excerpt, October 4, 2022

VI. Cases PL06130 and PL06131-100422 Dinh General Use Zoning Map Amendment

Cases PL06130- & PL06131-100422 Application Information

Cases PL06130- & PL06131-100422 Staff Report

VII. Case PL06142-101122 Junaluska NCD General Use Zoning Map Amendment

Case PL06142-101122 Staff Report

Case PL06142-101122 Exhibit 1 NCD Annual Notification Letter

Case PL06142-101122 Exhibit 2 Caring for Our Neighborhood Brochure

Case PL06142-101122 Exhibit 3 NCD Vehicle Residential Parking Registration Form

VIII. Case PL05781-061322 Signs - UDO Text Amendment

Case PL05781-061322 Application

Case PL05781-061322 Staff Report

IX. Case PL06245-110922 Single- and Two-Family Nonconformities - UDO Text Amendment

Case PL06245-110922 Application

Case PL06245-110922 Staff Report

X. Adjournment of Town Council

Planning Commission Meeting

XI. Public Comment

XII. Approval of Planning Commission Meeting Minutes

September 28, 2022 Special Planning Commission Meeting Minutes

XIII. Planning Commission Consideration of Cases Heard at Public Hearing**XIV. Other Matters****XV. Adjournment of Planning Commission****WEBEX VIDEO CONFERENCING INFORMATION**

Watch or Participate in Meeting: Individuals who wish to watch the meeting or speak during public comment can do so through WebEx either online or by phone. To do so, please email Jane Shook, Director of Planning & Inspections at jane.shook@townofboone.net or call in at 828-268-6960 and you will be provided with an email invitation to the meeting. All requests for participation must be completed by 5:00 p.m. on the day of the meeting. Participants should complete the instructions provided in the emailed meeting invite to be included in public participation.

Staff will moderate the WebEx session to ensure all participants have an opportunity to speak. Individuals who require user assistance registering or joining the WebEx event on the day/night of the meeting can call 828-268-6960 for support.

**TOWN COUNCIL AND PUBLIC HEARING MINUTES
MONDAY, SEPTEMBER 26, 2022, 6:00 PM
1500 BLOWING ROCK ROAD AND VIA WEBEX SOFTWARE**

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

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

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Christy Turner-Senior Planner, Brandon Wise-Environmental Planner, Jessica Mitchell-Long Range/Special Projects Planner, and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: Amy Davis-Town Manager, Allison Meade-Town Attorney, Jimmy Isaacs-Fire Chief, Rick Miller-Public Works Director, and Andy LeBeau-Police Chief

Call to Order

Mayor Futrelle called the Town Council to order at 6:02 p.m. to conduct a brief Town Council meeting prior to the start of the Public Hearing.

Moment of Silence

A moment of silence was observed.

Proclamation in Honor of Hispanic Heritage Month

TOWN OF BOONE PROCLAMATION IN HONOR OF HISPANIC HERITAGE MONTH

WHEREAS, each year, the United States observes National Hispanic Heritage Month by celebrating the culture, heritage, and countless contributions of those whose ancestors were indigenous to North America as well as those who came from Spain, Mexico, the Caribbean, Central America, and South America; and

WHEREAS, what began in 1968 as Hispanic Heritage Week under President Lyndon Johnson was expanded by President Ronald Reagan in 1988 to cover a 30-day period starting on September 15 and ending on October 15; and

WHEREAS, the date September 15 is significant because it is the anniversary of independence for the Latin American countries of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. Additionally, Mexico and Chile celebrate their independence days on September 16 and September 18, respectively; and

WHEREAS, this year's theme, "Unidos: Inclusivity for a Stronger Nation" encourages all voices to be represented and reinforces the need to ensure diverse voices and perspectives are welcomed in decision-making processes, thereby helping to build stronger communities and a stronger nation; and **WHEREAS**, the Mayor and Town of Boone Council recognizes and honors the many ways that Hispanic Americans, Latinos, Latinas, and Latinx-identifying people enrich the fabric of our town and strengthen Boone's culture while also rededicating ourselves to address the lack of equal access to opportunity that many still face; and

WHEREAS, we celebrate the advocacy and outreach of Q'Pasa Appalachia and Immigrant Justice Coalition (Coalición de Justicia para Inmigrantes) in promoting a visibly diverse, equitable and inclusive Boone community; and

WHEREAS, we reaffirm that diversity is one of our greatest strengths. We also acknowledge the Hispanic, Latino, Latina and Latinx leaders who have stayed in the struggle for equal justice to ensure that everyone can contribute their talents and have the opportunity to thrive; and

WHEREAS, Hispanics continue their rich tradition of significant and diverse contributions to the cultural, educational, economic and political vitality of the Town of Boone;

NOW, THEREFORE, BE IT RESOLVED, that on this 28th day of September 2022, the Town of Boone Mayor and Council do hereby proclaim September 15th – October 15th, 2022, as Hispanic Heritage Month and encourage all residents to celebrate our unique and vibrant history and recommit ourselves to a shared future of healthy, peaceful, safe, and sustainable communities for all.

Consideration of Purchase of Rescue Truck

Mr. Jimmy Isaacs presented a request for a waiver of bidding requirements in order to utilize terms and pricing of a contract between Four Guys Fire Trucks and the North Carolina Sheriffs' Association fire apparatus contract for the purchase of a rescue truck at a cost of \$699,957. Mr. Isaacs noted that the price would increase by \$24,000 on October 1, 2022.

Council Member Roseman made a motion to approve the waiver of bidding requirements. Mayor Pro Tem Tugman seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

At the conclusion of Town Council business, Chair Shay called the Planning Commission to order at 6:12 p.m. for the Public Hearing/Planning Commission meeting. Chair Shay recognized and welcomed new Planning Commission member Scott Boyd.

Approval of Meeting Minutes

Council Member Roseman made a motion to approve the August 22, 2022, Public Hearing minutes as written. The motion was seconded by Council Member Carter.

Vote: Aye – All
Nay – None

The motion passed.

Vice-Chair Plaag made a motion to approve the August 22, 2022, Public Hearing minutes as written. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

PUBLIC HEARING

Mayor Futrelle stated that, due to the number of requests for public comment, there would be a limit of two minutes per speaker. He asked that any prepared statements or handouts be provided to the board secretary.

Ms. Jane Shook, Director of Town of Boone Planning & Inspections, reviewed the guidelines for each case presented at the public hearing.

Case PL05995-081822 Hampton, Barney – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of property on West Donnie's Drive (Watauga County PIN: 2829-18-8754-000) owned by Barney and Delores Hampton to RA Residential Agricultural or R1 Single-Family Residential. Zoning is to coincide with the property owner's voluntary annexation of the property. A Voluntary Annexation Petition from Barney and Delores Hampton requesting the Town to annex 1.004 acres contiguous to the Town of Boone primary corporate limits has been submitted and processed. The parcel is currently vacant. By direction of Town Council during the consideration of the annexation petition, zoning of the property is to be either RA Residential Agriculture or R1 Single-Family Residential with WS-IV Watershed Areas Protected Area (WS-IV-PA).

Mr. Mike James, Senior Planner with Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet.

Ms. Allison Meade, Town Attorney, noted that neighboring zoning was RA. She asked how those RA zoned properties were being used. Mr. James replied that they all appeared to be used as single-family dwellings.

Vice-Chair Plaag asked if there were any existing non-conformities on the subject property. Mr. James stated there no existing non-conformities and noted that the property was vacant. Vice-Chair Plaag stated that the GIS map seemed to indicate there was a section of asphalt road or driveway on Mr. Hampton's property. He questioned if there would be four houses served by a single driveway.

Mr. Barney Hampton stated he and his wife Delores owned the property and it was part of the Keller Acres Subdivision. Mr. Hampton's nephew, Mr. Terry Lentz, explained that West Donnie's Drive in front of Mr. Hampton's property was two lanes wide for about half the distance of the property. He stated that Mr. Hampton's driveway would come off of the area of road that was two lanes wide.

Council Member Roseman stated that GIS showed two driveways to the left of Mr. Hampton's property and two driveways to the right of his property. Mr. Lentz explained that West Donnie's Drive basically ended at the two lane portion of the road in front of Mr. Hampton's property and became a driveway for the two houses on the left.

Vice-Chair Plaag asked if Mr. Hampton was aware that it would be at his expense to extend water and sewer to his property. Mr. Lentz replied that Mr. Hampton was aware he would have to pay those costs.

Council Member Roseman noted that R1 was more restrictive than RA. She asked Mr. Hampton if he would be accepting of the more restrictive zoning should Town Council decide to zone the property R1 instead of RA. Mr. Hampton replied that he was fine with an R1 zoning designation, noting he just wanted to put his house on the property.

With no public comment, Mayor Futrelle closed the public hearing for this case at 6:36 p.m.

PL05764-060822 Yates Family Properties – Conditional District Zoning Map Amendment

Yates Family Properties LLC is requesting a Conditional District Zoning Map Amendment to rezone property located at the end of Chase Hill Drive (Watauga County PIN: 2920-00-9240-000) from R3 Multi-Family Residential to R1 Single Family Residential with a site-specific plan for a major architecturally integrated subdivision of 15 single-family lots (Use 1.01 – Single-family Residential). The applicant is proposing an architecturally-integrated major subdivision of 15 single-family home sites and accompanying amenities on an extension of Chase Hill Drive. The requested Conditional District Approval will also include subdivision plat approval.

Mr. Mike James, Senior Planner with Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet. Mr. James noted that the requested 15 lot subdivision would have

to be decreased to 14 lots due to the fact that he had forgotten to include the impervious area in the calculations. He noted that roughly half of the property's 7.577 acres was located in the floodway and there would be no development there. Mr. James added that some of the property contained special flood hazard area and wetlands. He stated that, due to watershed regulations, there could be no more than two single-family dwelling units per acre.

Vice-Chair Plaag asked if the subdivision plat had been modified to reflect the decrease from 15 to 14 lots. Mr. James replied that it had not yet been modified and suggested that be a condition of approval.

Council Member George asked what could be built on the property under its current R3 zoning. Mr. James stated that a 30-bedroom apartment could be built without triggering transitional zone requirements. Mayor Pro Tem Tugman asked why there could only be 30 bedrooms for multi-family when there could be more like 45 bedrooms for single-family. Mr. James explained that more bedrooms could be allowed for multi-family with the approval of a special use permit.

Vice-Chair Plaag asked if Chase Hill Drive was 19' wide or 9' wide. Mr. James replied that the street was 19' wide. However, there was an area at the end of the street that was much more narrow. In order for the Town to take over the new portion of the street, Mr. James explained that Mr. Yates would be responsible for widening the 9' wide section and extending the street to meet Town standards. Vice-Chair Plaag asked if there was a deeded right-of-way for Chase Hill Drive to be a Town street. Mr. James deferred that question to the applicant.

Ms. Chelsea Garrett, attorney for the applicant, began by stating they had only learned of the decrease in the number of lots last week. Mr. Allen Yates, the property owner and applicant, stated he would rather have 15 lots, but indicated his willingness to reduce the number to 14, if necessary.

Ms. Garrett stated that this request would down-zone the property from R3 to R1, it would further the goals of the Comprehensive Plan, and it would place single-family homes near other single-family homes, townhomes, and condos. She added that the proposed development would create a much less negative impact than what could go there if the property remained zoned as R3.

Jason Gaston, civil engineer for the project, stated that due to the wetlands, streams, floodway, and floodplain, there would only be about 2.5 acres disturbed for the build-out.

Ms. Garrett noted that this would be an architecturally integrated subdivision that would have restrictions and a POA. She stated that the lot sizes and setbacks would be locked-in. Council Member Roseman asked if all of the houses would look the same or be cookie cutter. Ms. Garrett stated she would let Mr. Yates address that question.

Mr. Gaston explained that Mr. Yates could develop the architecturally integrated subdivision by grading only the road and have each individual lot owner grade their lot, or he could do mass grading, which would include grading the road and each lot. Mr. Gaston stated that he designed the plan to provide the largest design possible, which was the mass grading scenario. He explained that the road would be on fill dirt in the floodplain and the lots would be approximately 2.5' above base flood elevation so there would be no need for flood insurance. Mr. Gaston noted that a traffic impact analysis was not triggered with this development. He stated that traffic would increase by roughly 144 trips per day and 14 trips during peak hours. Mr. Gaston suggested the possibility of installing traffic humps and having a 20 mph speed limit on Chase Hill Drive. He noted that if the subject property was not located in a watershed protection area, there could be 40 lots on the property.

Adam Williams, environmental consultant with Brushy Fork Environmental Consulting, stated that all aquatic areas would be avoided, there would be no filling of the wetlands, and there would be no culvert

or stream extensions. Mr. Williams noted that there would be a small amount of disturbance in the stream buffer however, it would be well below the 10% allowed by the Town's ordinance.

Mr. Yates stated he had owned the subject property for over three years and it was not an easy property to develop. He noted that there was a need for residential housing in Boone and he would like to create a beautiful neighborhood with this subdivision.

Ms. Garrett asked Mr. Yates about the road and he replied that there was a 45' right-of-way for the road construction. She asked if the subdivision would be gated. Mr. Yates replied that it would not. Ms. Garrett asked if there would be a POA. Mr. Yates stated there would and added that there would be a lot of greenspace to maintain. Ms. Garrett asked Mr. Yates if he planned to sell the lots and he replied that he did plan to sell them.

Commission Member Behrend asked why the homes would not have to have flood insurance. Mr. Gaston replied that the homes would be raised above the base flood elevation.

Vice-Chair Plaag referred to the 500-year flood zone and noted that he had seen it flood several times in a 500-year flood area since he moved to Boone. He asked if it was correct the lots 1, 2, 3, 9, 10, 11, 12, 13, 14, and 15 would be located in some type of flood zone. Mr. Garrett stated that was correct. Vice-Chair Plaag asked if the developer would pay for search and rescue efforts when the land was flooded.

Vice-Chair Plaag felt there was a lack of detail in the neighborhood meeting summary. He asked if there had been any commitments made in the neighborhood meeting that were not included in the information contained in the meeting packet. Mr. Yates responded that there were not.

Council Member Roseman asked about water issues for abutting properties. Mr. Gaston replied that he had designed the stormwater system to take the development's water and the neighboring property's water to the river by utilizing diversion swales.

Council Member George asked who would maintain the swales. Mr. Gaston felt that would be the responsibility of the POA. Council Member George asked if there would be any impacts to the stream during construction. Mr. Williams replied that there would be temporary and minimal disturbance during construction, but there should be no permanent impact.

Council Member Carter asked about putting the houses on stilts instead of fill dirt. Mr. Gaston replied that neither one was good in the floodway, but noted that stilts created areas for obstructions.

Vice-Chair Plaag asked if the houses would have basements, in particular the house on lot 3. Mr. Gaston stated that due to the elevation of lot 3 there would have to be a crawl space wall. Vice-Chair Plaag suggested that lot 3 could be removed from the subdivision plat in the reduction to 14 lots due to the challenges it presented.

Mayor Futrelle called a break in the meeting from 8:09 p.m. until 8:25 p.m. Ms. Meade left the meeting during the break.

Ms. Garrett asked Mr. Williams if the proposed subdivision would be the least impactful proposal for the property. Mr. Williams replied that if everyone did their jobs there would be minimal impacts to the environment.

Ms. Garrett asked Mr. Yates what the neighbors had asked him to address. Mr. Yates stated the neighbors had gutters that were causing erosion on their bank that they wanted him to fix. He offered that the neighbors could extend their gutters down the slope to his swale so that it could collect their water. Mr. Yates stated there was also a request for a fence along one of the neighbor's property. He noted that he might possibly agree to help pay for the fence if the neighbor wanted to build one on their own property.

At 8:34 p.m. Mayor Futrelle invited public comment. He reminded everyone of the two-minute time limit for comments.

Mr. Chris Azar of 138 Village Drive requested additional time because he would be speaking for several others in the neighborhood. Mayor Futrelle allowed Mr. Azar five minutes. Mr. Azar presented several documents to Council and Commission members who were present containing concerns and photos (**on file**). He also presented a petition signed by neighbors opposing the development (**on file**). Mr. Azar expressed concern with increased traffic on a road that was not adequate to handle additional traffic due to the width and condition of the road. He noted that a much larger development had been proposed on this property in 2008 but it was denied because of the concerns of the neighborhood. Mr. Azar stated that the Village on the Green was 15' higher than Mr. Yates' property, their bank was deemed as a landslide hazard area by the Army Corp. He also expressed concern with flooding.

Mr. James Edwards of 327 Chase Hill Drive stated he supported rezoning the property from R3 to R1. He noted that Chase Hill Drive was only 9' wide in front of his property and it was very difficult to pass. Mr. Edwards expressed concern regarding flooding and drainage. He also expressed concern that individual builders for the individual lots would not build in the same fashion, which could cause problems. Mr. Edwards felt that an increase in the elevation of the property would alter the flow of the water and possibly cause the fill dirt to wash away.

Mr. Jim Lane of 268 Chase Hill Drive stated that the road was in disrepair, partly due to poor stormwater management. He felt that the increased traffic of construction vehicles would be dangerous to those traveling or walking along Chase Hill Drive. Mr. Lane asked who would pay for damages caused by the construction. He asked that the development be denied.

Ms. Rosie Bentley asked to give her time to speak to Mr. Azar. Mr. Azar stated that the goals of the ordinance should be met so that the concerns of the residents were met. He added that there would be noise and light impacts to the neighborhood, as well as water runoff. Mr. Azar stated that Chase Hill Drive needed to have waterproof manholes.

Mr. Jayjit Roy of 334 Chase Hill Drive asked if cars from the new development would park on Chase Hill Drive if there was flooding in their new subdivision. Mr. Roy stated that the neighborhood was not against all development.

Ms. Kelly Williams of 212 Carriage Lamp Court stated she had lived there since 2018 and there had been several flooding episodes. She expressed concern with additional flooding and additional traffic on a narrow road. Ms. Williams noted that a neighbor had recently counted cars on Chase Hill Drive and there were 100-150 cars during peak hours. She stated that the speed limit on Chase Hill Drive was 25 mph.

Ms. Rosie Bentley of 235 Kellwood Drive spoke for Ms. Lydia Bentley. She stated that traffic was a major concern. She noted that she also owned property on Carriage Lamp Court where she was experiencing erosion of the homes foundation.

Ms. Dacia Trethewey of 174 Carriage Lamp Court expressed concern with flooding. She felt that 14 homes on the subject property was too many. Ms. Trethewey noted that she had looked into streambank restoration near her home and it was going to cost \$20,000.

Ms. Elizabeth Underwood, the Executive Director of the New River Conservancy, stated she appreciated the downzoning of the property from R3 to R1 and any efforts to mitigate impacts. She requested that the houses located in the floodplain be built on stilts, that best management practices be utilized, that there be a riparian buffer, and that there be minimal tree cutting in the floodplain.

Ms. Kayla Smith did not wish to speak.

Ms. Lisa Houser did not wish to speak.

Dinora or David Hernandez did not speak.

Mr. Sam Bergin of 180 Chase Hill Drive asked when the specs for the subdivision would be available. He stated he would like to know if there would be 800 square foot houses or 4,000 square foot houses. Mr. Bergin asked if Town Council took the size of the homes into consideration before approval of the Conditional District.

Mayor Futrelle stated he appreciated all of the comments.

Ms. Garrett wished to address some of the comments. She noted that Mr. Yates was willing to explore the idea of placing the houses located in the floodplain on stilts versus using fill dirt. Ms. Garrett stated there was also no objection to having a POA. She added that Mr. Yates was agreeable to a condition that there be a Best Management Practice (BMP) agreement. Ms. Garrett stated that covenants would be created. She asked everyone not to compare this development to previously proposed developments and cautioned everyone not to assign responsibility to Mr. Yates for existing issues in the neighborhood.

Council Member Carter noted that the subject property was located downstream from the properties in the flooding pictures that were presented by neighbors. He stated he was less concerned about flooding issues after hearing the information presented this evening. Council Member Carter expressed more concern with traffic and the widening of Chase Hill Drive.

Council Member George asked where the landslide hazard map came from that Mr. Azar spoke about. Mr. Brandon Wise, Environmental Planner with Town of Boone Planning & Inspections, replied that the map was done by NCDEQ using drones. He noted that development of the subdivision would not touch the bank that was deemed a landslide hazard, so there should be no effect or hazard.

Vice-Chair Plaag asked if the road into the development would be public or private. Ms. Garrett replied that the road would be dedicated to the Town so it would be public and would have to be constructed to meet Town standards. Vice-Chair Plaag stated he had been researching the property during the break and was unable to locate any type of easement or dedication of Chase Hill Drive to the Town.

Mr. Rick Miller, Public Works Director, explained that whether or not the road had been deeded to the Town, the Town had accepted the road as a Town road. He stated that Juniper was a private road, Kellwood was a State road, and Chase Hill was a Town road. Mr. Miller added that Chase Hill Drive met Town standards until you got to the end where the road narrowed and ended.

Vice-Chair Plaag felt that adding more water downstream would affect flooding upstream.

Mr. Roy stated he lived at the end of Chase Hill Drive and the road widening would directly affect his property. He asked who would be responsible for the cost of the widening. Ms. Garrett replied that the developer would be responsible for the costs.

Mayor Pro-Tem Tugman stated she understood Mr. Yates' desire to develop and utilize his property. She stated that she also understood the concerns of the neighborhood because this was a vulnerable area.

Council Member Roseman asked Mr. Yates if he would be willing to decrease the development from 14 lots to 10 lots. Mr. Yates replied that the loss of lot 15 would already cost him \$200,000 - \$300,000 so he would prefer to remain a 14-lot subdivision in order to be more monetarily feasible.

An audience member asked why the subdivision was not being built as affordable housing. Mayor Pro Tem Tugman replied that affordable housing in the Town was very difficult to develop. She noted that 44% of the land inside the Town of Boone was not taxable, so land was at a premium.

Council Member George stated that whether or not the development was affordable housing, the concerns of traffic and flooding would be the same.

Ms. Shook noted that, for the sake of time, Case PL05781-061322 Signs – UDO Text Amendment would be tabled until the November public hearing. She stated it was now 10:00 p.m., there was still one more case to be heard at the public hearing, and Planning Commission was still scheduled to meet after the hearing. Ms. Shook explained that the Barney Hampton zoning case was time sensitive as a decision on his annexation was scheduled for the first Town Council meeting in October. She asked if Planning Commission could consider making a recommendation on that case this evening and consider scheduling a special meeting to consider the remaining cases. There was discussion by Planning Commission members regarding dates to schedule a special meeting. It was decided to hold a special Planning Commission meeting on Wednesday, September 28, 2022 at 6:30 p.m. via WebEx to make recommendations on all of the cases presented at this public hearing.

With no further comments, Mayor Futrelle closed the public hearing for the Yates case at 10:11 p.m.

Case PL05979-081222 Portofino Hotel – Conditional District Zoning Map Amendment

River Street Ventures, LLC has submitted a Conditional District Zoning Map Amendment application for property located at 970 Rivers Street (Watauga County PINs: 2900-78-7965-000, 2900-78-6979-000, and 2900-79-7027-000) to rezone the property B1 Downtown Core with a site-specific development plan for a two story, 20 room hotel (Use 3.09 Hotel, Small) and Use 15.01 (Parking Lot).

Vice-Chair Plaag stated he would be recusing himself from this case because he had participated in quasi-judicial action on this project as a member of the Historic Preservation Commission.

Ms. Christy Turner, Senior Planner with Town of Boone Planning & Inspections, presented the case as it was outlined in the meeting packet.

Mr. Jim Deal, attorney for the applicant, noted that the height of the current Café Portofino building was 19' and they would like to build the new hotel building to 21.8' with a parapet. Because of the increase in building height, they were required to apply for a Conditional District.

Council Member Roseman asked if it was correct that the parking lot would not have access onto Howard Street. Mr. Deal stated that was correct. Council Member Roseman asked if the parking would be for hotel guests only. Mr. Gaston replied that there would be parking for the hotel as well as parking for some of Mr. Winkler's existing businesses. Council Member Roseman asked if there would be signage designating parking spaces. Mr. Deal stated there would be signage for hotel parking. He added that monitoring the parking would be challenging.

Mr. Deal stated that the maximum height allowed in the B1 Downtown Core was 33' and they were only proposing a height of 21.8'. He noted that this project had already been through numerous Town boards and meetings. Mr. Deal stated that, because of the trout buffer, they would not be able to demolish the Café Portofino building after October 15. If they were unable to meet that timeline, they would have to wait until after April 15, 2023 to take the building down.

It was noted that Town Council was not scheduled to make a final decision on this case until their next Town Council meeting on October 12, 2022, which would only leave a few days to demolish the building. Mr. Wise noted that they could remove the portions of the building that were located in the trout buffer before October 15 and then continue with the remainder of the building demolition afterwards.

Mr. Gaston stated that the building could not be removed until a no-rise certification was obtained, which was a process that had not been started because they were waiting to make sure the project was approved. Therefore, demolition of the building could not begin before October 15 regardless.

Mr. Brent Davis, architect for the project, explained the design of the building and materials that would be used. He noted the building would be a steel frame construction with a brick façade and white framed windows. Mr. Davis stated there may also be enough space for a small landscape strip along the front of the building. He added that the appearance of the building would be in keeping with the desires of the Historic Preservation Commission.

Council Member George asked what was being done to the stream. Mr. Deal replied that their intent was to get the building and any trash out of the stream and restore the streambank. Council Member George asked if the public parking would be paid parking. Mr. Deal stated they had not made any kind of determination on that yet.

Commission Member Veno asked how many parking spaces would be designated for the hotel. Mr. Gaston replied that the UDO required 1.25 parking spaces per room and they would be providing 25 hotel parking spaces.

Mr. John Winkler, property owner and applicant, stated he owned two small boutique hotels in Blowing Rock and they had found that the hotel parking spaces were only full on Friday, Saturday, and Sunday.

Chair Shay stated there was another case recently regarding hotel parking issues. She asked Ms. Shook to speak about parking. Ms. Shook stated that minimum or maximum parking was sometimes an issue, but noted that some hotels had demonstrated they did not have a need for as many parking spaces.

Chair Shay asked if there would be demolition and new construction in the floodway or the floodplain. Mr. Deal replied that there would be demolition but no new construction in the floodway. Chair Shay asked about the flood maps. Mr. Wise replied that the most current flood maps were from 2009. He stated they were scheduled to be updated soon but he was unsure when that would actually happen.

Mayor Pro Tem Tugman asked if there would be any work to the culverts. Mr. Gaston replied that they were not planning to replace or change the culverts with this project. Mayor Pro Tem Tugman asked about stormwater drains. Mr. Gaston stated there would be curb cuts to direct stormwater.

Mr. Gaston noted that there would be more greenspace with this development. He stated that a landscape strip along the front of the building would be anywhere from 1.3' – 2.5' wide and there would be a 5' sidewalk.

Mr. Deal noted that no one showed up to their neighborhood meeting.

With no public comment, Mayor Futrelle closed the public hearing for this case at 10:53 p.m.

Council Member George made a motion to table the sign ordinance case until the November public hearing. Mayor Pro Tem Tugman seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Adjournment of Town Council

Mayor Pro Tem Tugman made a motion to adjourn the Town Council at 10:55 p.m. The motion was seconded by Council Member Carter.

Vote: Aye – All
Nay – None

The motion passed.

Tim Futrelle, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

At 11:03 p.m. Chair Shay announced that the Planning Commission meeting would be continued on Wednesday, September 28, 2022 at 6:30 p.m. via WebEx.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary

Local Historic Landmark Application

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607

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



A. Required to be Submitted at Time of Application

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

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

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

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

B. Requested Hearing – See latest published Meeting Schedule for dates

Date of requested hearing: _____

C. Property Information

Street Address: 142 Burrell St., Boone, NC 28607

Watauga County Parcel Identification Number: 2900-79-5419-000

Existing Zoning District(s): B1DC

Total Land Area: _____

Are there any existing variances, or other site-specific approvals granted to the property? ☐ Yes ☐ No ☐ Unknown

If yes, describe: _____

D. Applicant Information

Name: Town of Boone

Complete Mailing Address (Street, City, Zip): _____

Phone Number: _____ Email Address: _____

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

E. Property Owner Information

Name:

Samuel F. Furguele, Jr., and Peggy Mendel Furguele

Complete Mailing Address (Street, City, Zip):

169 Gragg St., Boone, NC 28607

Phone Number: _____ Email Address: _____

F. Landmark Information

Proposed Landmark Name: Watauga County Jail

Period of Significance: 1889-1927

Provide a narrative, under separate cover, that describes how the proposed landmark meets the Town's criteria for Landmark Designation. Areas of importance shall include, but are not limited to:

Time-period of significance

Historic function or use

Significant events that occurred at, around, or resulted in the proposed landmark

Important persons associated with the proposed landmark

Detailed-description of the physical characteristics of the proposed landmark, including the architectural style and materials used

A list of significant exterior architectural features that should be protected

A detailed description of the property

Description of the current conditions of the proposed landmark and whether it has maintained its historical integrity in terms of location, design, materials, etc.

See Watauga County Jail Local Landmark
Designation Report for more information

G. Applicant Signature and Property Owner Authorization

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.

Samuel F. Furguele, Jr.
Peggy MENDEL FURGUELE
Property Owner (Print)

Property Owner (Signature)

10/5/22
Date

Official Use Only

Permit Name: Watauga County Jail - Local Landmark Designation

Permit Number: PL05918-072222

Date:

Fee:

\$0.00

Receipt
Number:

Method of Payment:

☐ Cash

☐ Check

Number: _____

Paid By:

Public Hearing Meeting Date:

11-28-2022

PC Meeting Date:

11-28-2022

TC Meeting Date:

12-14-2022 OR 12-28-2022

Date of APO Mailed Notification:

Date of Posted Notification:

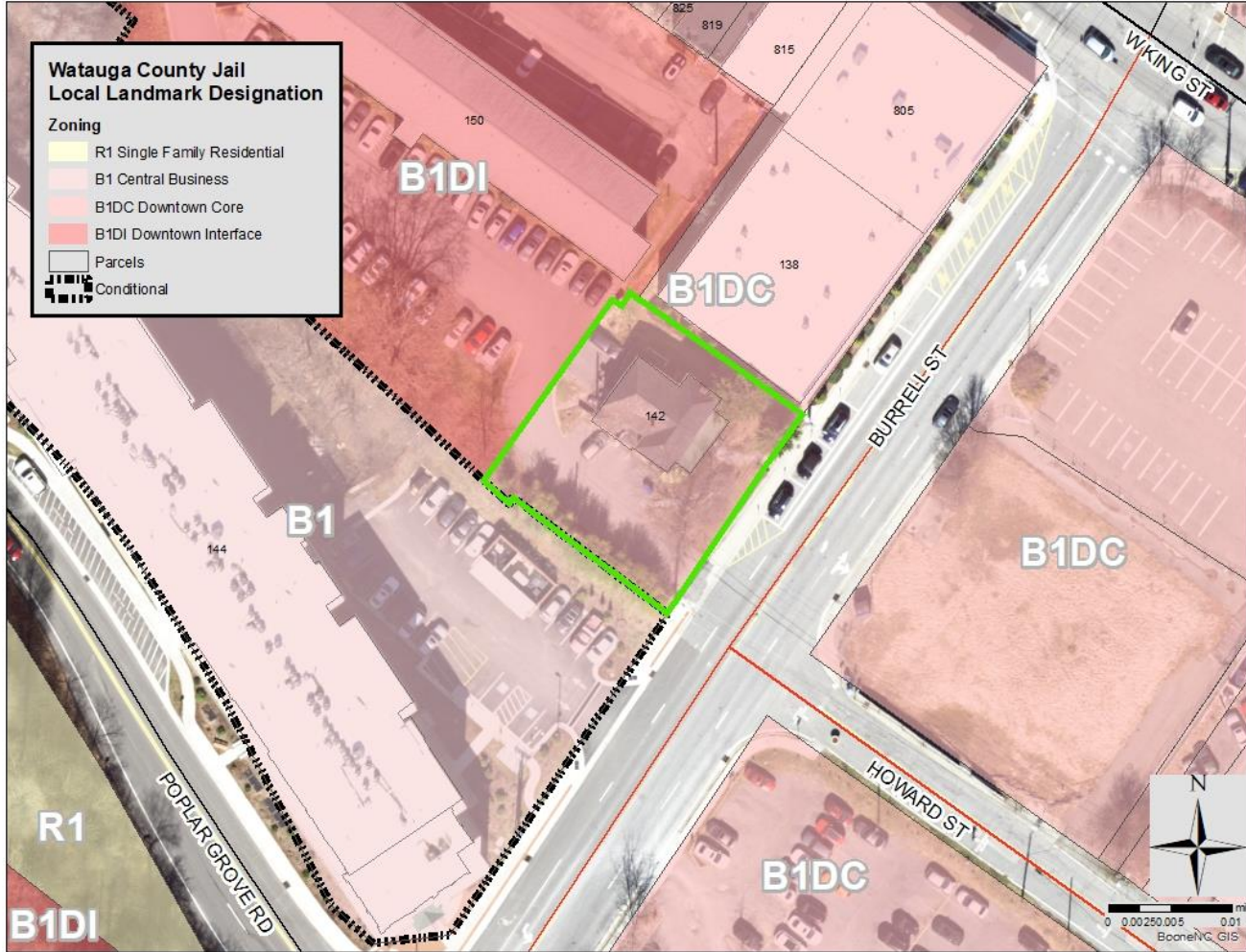
Request Approved: ☐ Yes ☐ No

If yes, date request sent to GIS:

S:\FORMS\PI_Forms_Current\Planning Forms\LocalHistoricLandmark_07012021.docx



Staff Report
Public Hearing
November 28, 2022
Case PL05918-072222 Watauga County Jail Local Historic Landmark Designation
General Use Zoning Map Amendment



Request

The Town of Boone, with permission from property owners, Sam and Peggy Furgieue, has filed a Local Historic Landmark Application to designate the property at 142 Burrell Street, (Watauga County PIN: 2900-79-5419-000) as a local historic landmark. The subject property is outlined in green on the map above. The property is in use currently as Proper Restaurant.

Note: Historic landmark designation is processed as a general use zoning map amendment to the Town’s official Zoning Map.

History

- 10-21-2022 This property was rezoned from B1 Central Business district to B1 Downtown Core with Downtown Boone Local Historic District overlay.
- 06-07-2022 The Town of Boone Historic Preservation Commission (HPC) presented an initial draft report on the Watauga County Jail property. The HPC members discussed the report and made a motion to

Communication: Case PL05918-072222 Staff Report (Case PL05918-072222 Watauga County Jail - Local Historic Landmark)

present the draft designation report to Council for their consideration and approval, after their approval, send the draft report on to the North Carolina State Historic Preservation Office (SHPO) for their review. (See Staff Report Exhibit 1, Landmark Designation Report, final revised report October 2022)

- 06-07-2022 The HPC made a motion for the Town Council to recommend approval of the report to send to the North Carolina State Historic Preservation Office (SHPO) (See Staff Report Exhibit 2, HPC Advisory meeting minutes, June 7, 2022)
- 07-13-2022 Town Council approved of the HPC's request for consideration of the report and approval for Staff to send the report to SHPO.
- 07-22-2022 Staff sent to designation report to the SHPO for comment pursuant to NC General Statute 160D-946.
- 08-20-2022 Planning Staff received official written comment from the SHPO on the local historic landmark designation report. (See Staff Report Exhibit 3, Review Letter from SHPO and supporting documentation)
- 09-06-2022 The HPC discussed comments from the SHPO and made a motion to recommend designation of the Watauga County Jail as a local historic landmark for the reasons described in the submitted report and discussed at the September 6, 2022 HPC Advisory meeting. (See Staff Report Exhibit 4, HPC Advisory meeting minutes, September 6, 2022).
- 10-04-2022 The HPC discussed regulatory standards for this property. The HPC suggested for the standards to be the existing historic district (Downtown Boone Local Historic District) standards and the Secretary of the Interior's Standards for Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (as Staff and the HPC refers to as the Secretary of the Interior's Standards for Rehabilitation) until such time as the HPC writes standards for each landmark within the district. The ordinance is to contain this language. (See Staff Report Exhibit 5, HPC Advisory meeting minutes, October 4, 2022).

Parcel Information

Case:	PL05918-072222
Property Owners:	Samuel F. Furgieuele, Jr., and Peggy Mendel Furgieuele
Watauga County PIN:	2900-79-5419-000
Address:	142 Burrell St., Boone, NC, 28607
Size:	0.22 acres
Jurisdiction:	Town of Boone
Access:	Burrell Street, Town Maintained
Corridor District:	No
Viewshed:	No
Watershed:	No
Special Flood Hazard:	No
Steep Slope:	No
Current Zoning:	B1DC Downtown Core, Downtown Boone Local Historic District Overlay
Use:	11.07 Other Restaurant

	Adjacent Zoning	Adjacent Land Use
North	B1DC Downtown Core; Downtown Boone Local Historic District Overlay	Multi-Family, Restaurant
East	B1DC Downtown Core; Downtown Boone Local Historic District Overlay	Hotel, Multi-Family Dwelling in Mixed Use, Restaurant
South	Conditional District B1 Central Business	Multi-Family Dwelling in Mixed Use
West	B1DI Downtown Interface	Multi-Family Dwelling

Planning Staff Analysis

The Town of Boone is requesting approval for Local Historic Landmark designation for the property owners. Pursuant to UDO Subsection 8.02.01 the Council may adopt, amend or repeal Ordinances designating one or more historic landmarks. No property shall be recommended for designation as a historic landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

Each property designated as a landmark shall be identified in the Ordinance, along with the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the Council deems necessary. For each building, structure, site, area, or object so designated as a historic landmark, the Ordinance shall require that the waiting period set forth in this Article be observed prior to its demolition. For each designated landmark, the Council may also provide for a suitable sign on the property indicating that the property has been so designated, and if the owner consents, the sign shall be placed upon the property. Otherwise, the sign shall be placed on a nearby public right-of-way.

Designation of historic landmarks is also regulated by NC General Statutes 160D, Part 4 Historic Preservation. Specifically, 160D-946 sets forth the process for landmark designation as follows:

Requirement	Watauga County Jail Compliance
The Department of Cultural Resources, acting through the State Historic Preservation Officer, shall, upon request of the department or at the initiative of the preservation commission, be given an opportunity to review and comment upon the substance and effect of the designation of any landmark pursuant to this Part. Any comments shall be provided in writing. If the Department does not submit its comments or recommendation in connection with any designation within 30 days following receipt by the Department of the investigation and report of the preservation commission, the commission and any governing board	1. HPC reviewed and recommend approval of original request for local landmark designation on June 7, 2022 (See Exhibit 2, HPC Advisory meeting minutes). 2. Planning Staff sent the report to NC State Historic Preservation Office on July 22, 2022 for review & comment following Town Council approval on July 13, 2022. 3. Planning Staff received official comment from NC State Historic Preservation Office on August 20, 2022. (See Exhibit 3, Review letter from SHPO and supporting documents)

shall be relieved of any responsibility to consider such comments.	
The preservation commission and the governing board shall hold a joint legislative hearing or separate legislative hearings on the proposed regulation. Notice of the hearing shall be made as provided by G.S. 160D-601. [requirements for Public Hearing to amend Zoning Ordinance or Zoning Map].	Public Hearing with the Historic Preservation Commission, the Planning Commission and Town Council scheduled for Monday, November 28, 2022. PC expected to make recommendations on November 28, 2022 or a further date specified on this date.
Following the hearings, the governing board may adopt the regulation as proposed, adopt the regulation with any amendments it deems necessary, or reject the proposed regulation.	To be scheduled for Council consideration in December 14, 2022.

CERTIFICATE OF APPROPRIATENESS

From and after the designation of a landmark, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such landmark or within such district until after an application for a Statement of Conformity (SOC) for minor work or a Certificate of Appropriateness (COA) for major work has been approved as detailed in UDO Article 8 Historic Preservation Procedures.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

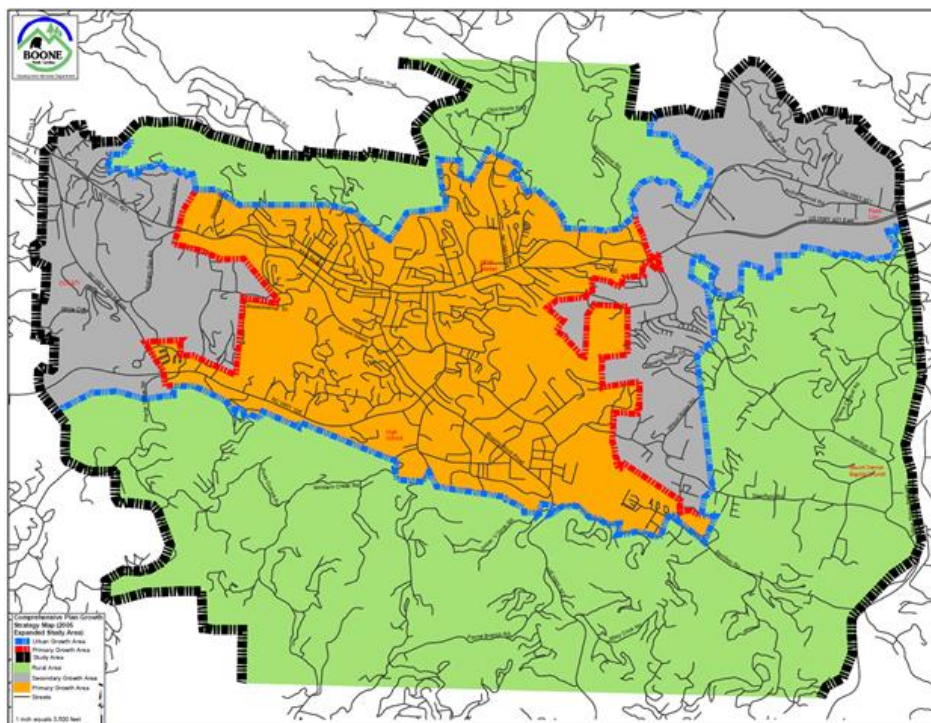
Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

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

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

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

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



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

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

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

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

2.1 Economy

...

2.1.1 Economic Development

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

...

- 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.

...

- 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.

...

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.

...

2.3.4 Public Involvement

- A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.
- B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.
- C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.
- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.

Certificate of Mailing

I, Brenda Henson, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on November 7, 2022.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, Darrell Pulliam, certify that the subject property was posted as required in Article 9, Subsection 9.03.03(B)(2) of the Town of Boone UDO on November 7, 2022.

/s/ Darrell Pulliam

Darrell Pulliam, Building Inspector

PLANNING COMMISSION REPORT

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

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

Note 1

Vote 2: The Planning Commission recommends ☐ **approval** OR ☐ **denial** of Ordinance #PL05918-072222 and believes ☐ **approval** OR ☐ **denial to designate the properties as local historic landmarks** is reasonable and in the public interest because:

Note 2

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

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

TOWN COUNCIL ACTION – Adoption of Ordinance

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Town Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

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

Note 1

Vote 2: The Town Council ☐approves OR ☐denies the Ordinance # PL05918-072222 to the Town's Zoning map and believes ☐approval OR ☐denial to designate the property as a local historic landmark is reasonable and in the public interest because:

Note 2

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

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

Ordinance PL05918-072222

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

WHEREAS, the Planning Commission has received the request to amend the Official Zoning Map of the Town of Boone, North Carolina to designate the parcel identified below as a Local Historic Landmark

Address: 142 Burrell Street

Watauga County PIN: 2900-79-5419-000

Property Owner: Samuel F Furgieue, Jr., and Peggy Mendel Furgieue

WHEREAS, the Town of Boone has created the Boone Historic Preservation Commission (“HPC”) as a historic preservation commission having the authority to exercise, within the planning jurisdiction of the Town, all powers and duties conferred by Part 4 of Chapter 160D of the North Carolina General Statutes; and

WHEREAS, the HPC duly adopted (i) rules of procedure and (ii) principles and guidelines for the alteration, restoration, relocation, or demolition of properties designated as landmarks at its regular meeting held January 12, 2016; and

WHEREAS, the HPC issued a Landmark Designation Report on June 7, 2022, recommending designation of the Property as a historic landmark; and

WHEREAS, as set forth in detail in the Landmark Designation Report, the HPC has determined that the Property is of special significance in terms of its historical and architectural importance, and possesses integrity of design, setting, workmanship, materials, feeling and association; and

WHEREAS, the Landmark Designation Report was submitted to the State Historic Preservation Office (“SHPO”) of the North Carolina Department of Cultural Resources for review and comment; and

WHEREAS, the SHPO has reviewed the Landmark Designation Report and issued a letter of comment dated August 20, 2022, in which it noted that the Properties are significant for its association with the early correctional institution history of Watauga County from 1889 to 1927; and

WHEREAS, the Boone Historic Preservation Commission held a duly-noticed public hearing on November 28, 2022, with respect to this ordinance and designation of the Property as a historic landmark as contemplated herein, and following said hearing voted to confirm its recommendation that the Town Council designate the Property as a historic landmark; and

WHEREAS, the Boone Town Council held a duly-noticed public hearing November 28, 2022 with respect to this ordinance and designation of the Property as a historic landmark as contemplated herein; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing and the information contained in the HPC’s Landmark Designation Report; and

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

WHEREAS, the Boone Town Council finds that the Property is of special historical, architectural, and cultural significance, and possesses integrity of design, setting, workmanship, materials, feeling and/or association, as described by the Brief Statement of Significance in the Local Landmark Designation Report as:

The Watauga County Jail is significant at the local level under Criterion A in the areas of Politics/Government, Law, and Social History for its association with the early correctional institution history of Watauga County from 1889 to 1927. The fourth of Watauga County’s early jails, it is the only extant, nineteenth-century, governmental building within the county’s boundaries. The Watauga County Jail was in use at a key transition point in Boone’s history during the early 1920s, when Boone rapidly and radically transformed from a sleepy, backcountry, county

seat to a vibrant commercial and tourist hub in northwestern North Carolina. Indeed, it was the success of Boone's booming economy and the area's rapid growth that ushered in the end of the building's use as the local jail.

The Watauga County Jail retains an impressive degree of exterior integrity, given its changes in ownership and function since the 1920s. The jail retains its general original form and appearance, and in those few cases where newer exterior materials have been applied, the original materials are known to survive underneath. While there are also important interior elements that are reflective of the Watauga County Jail's period of significance, these elements tend to be mere vestiges of the original interior layout and design, and modern alterations of and damage to some of these elements have had an adverse impact on their integrity. While these interior elements are noted here for their historical importance, the proposed local landmark designation applies only to the exterior elements of the building.

The property to be designated includes the entire current parcel containing the Watauga County Jail, including the steps and pathway leading from the Burrell Street sidewalk to the front porch, the driveway access located to the southwest of the building, and the two small parking areas to the southwest and northwest of the building; and

WHEREAS, the Boone Town Council finds the Property's preservation should be encouraged and ensured, NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1: The Boone Town Council hereby designates the property at 142 Burrell Street, Watauga County PIN: 2900-79-5419-000 (Case PL05918-072222), known as "Watauga County Jail" as a Local Historic Landmark.

Section 2: A sign designating the Watauga County Jail may be placed on the property or in a nearby right of way designating the properties and Local Landmark Designations.

Section 3: The review process provided by Article 8 and Appendix D of the Town's Unified Development Ordinance ("UDO") shall be observed prior to demolition, alteration, rehabilitation, restoration, or removal of any exterior elements of the designated Property. As the period of significance of the Watauga County Jail is 1889 to 1927 and the period of significance for the historic district is 1918 to 1964, the guiding standards for the property, at the time of adoption, will be the existing district standards, UDO Appendix D, and broadly, the Secretary of the Interior's Standards for Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, until such time as the Boone Historic Preservation Commission writes standards for the individual landmark and those standards are officially approved.

Section 4: In the event relocation, demolition or destruction of the Property is authorized as provided by law, such action may be delayed up to 365 days as provided by Article 8 and Appendix D of the UDO and NC General Statutes 160A-400.14.

Section 5: This ordinance shall be effective as of the date of its adoption.

WHEREAS, in accordance with the procedures set forth in the Town of Boone Unified Development Ordinance, the Commission and Council met to consider the proposed amendment on November 28, 2022; and

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

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

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

Adopted this the ____th day of _____, 2022.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

BOONE HISTORIC PRESERVATION COMMISSION
Local Landmark Designation Report, Final Draft

WATAUGA COUNTY JAIL

**142 BURRELL STREET
BOONE, NC**



Prepared by
Dr. Eric Plaag, Carolina Historical Consulting, LLC
June 23, 2022

**Cover Image: Watauga County Jail as a restaurant, October 2021,
image courtesy of Eric Plaag**

**Local Historic Landmark Designation Report
Watauga County Jail
Boone, Watauga County, North Carolina**

I. General information

1. Common and Historical Property Names

Watauga County Jail

2. Physical Address or Location

142 Burrell St., Boone, NC 28607

*3. Tax Parcel Identification Number (PIN)**

2900-79-5419-000 (Jail Building)

4. Current Owner(s) Name(s)

Samuel F. Furguele, Jr., and Peggy Mendel Furguele

5. Current Owner(s) Mailing Address(es)

169 Gragg St., Boone, NC 28607

6. Appraised Value of the Property (a copy of the most recent tax card will suffice)

\$347,500 combined; \$128,800 (Building) and \$218,700 (Land)

7. Date of Construction

1889

8. Historical Significance

Areas of Significance: Criterion A: Politics/Government, Law, and Social History

Period of Significance: 1889-1927

II. Brief Statement of Significance

The Watauga County Jail is significant at the local level under Criterion A in the areas of Politics/Government, Law, and Social History for its association with the early correctional institution history of Watauga County from 1889 to 1927. The fourth of Watauga County's early jails, it is the only extant, nineteenth-century, governmental building within the county's boundaries. The Watauga County Jail was in use at a key transition point in Boone's history during the early 1920s, when Boone rapidly and radically transformed from a sleepy, backcountry, county seat to a vibrant commercial and tourist hub in northwestern North Carolina. Indeed, it was the success of Boone's booming economy and the area's rapid growth that ushered in the end of the building's use as the local jail.

The Watauga County Jail retains an impressive degree of exterior integrity, given its changes in ownership and function since the 1920s. The jail retains its general original form and appearance, and in those few cases where newer exterior materials have been applied, the original materials are known to survive underneath. While there are also important interior elements that are reflective of the Watauga County Jail's period of significance, these elements tend to be mere vestiges of the original interior layout and design, and modern alterations of and damage to some of these elements have had an adverse impact on their integrity. While these interior elements are noted here for their historical importance, the proposed local landmark designation applies only to the exterior elements of the building.

The property to be designated includes the entire current parcel containing the Watauga County Jail, including the steps and pathway leading from the Burrell Street sidewalk to the front porch, the driveway access located to the southwest of the building, and the two small parking areas to the southwest and northwest of the building.

III. Architectural Description¹

The former Watauga County Jail is a classic example of a Folk Victorian-style home adapted to rural institutional needs. Originally "T" shaped in design, with a hipped roof on its two-story main block that resembles an I-house and a hipped roof, two-story, rear (west) extension, the building is constructed of six-course, common bond, red brick that was kilned by builder William Stephens of Mayfield, Kentucky, on site. Sturdy brick pilasters separate the three main bays of the front (east) façade and are present at the corners, with the east elevation terminating in a quadruple-tier, English bond, corbelled cornice that is interrupted at irregular intervals by brick brackets. Stunted brackets are centered on the pilasters, while a pair of elongated brackets frames each window opening of the second floor. A second, alternating corbel line separates the first and second floors but is mostly

¹ This architectural description is taken largely from Eric W. Plaa, "Comprehensive Architectural Survey of Downtown Boone, North Carolina, Final Report," February 2021, Revised September 2021, (Boone, NC: Carolina Historical Consulting, LLC, 2021), 93-96, with some minor revisions to architectural descriptions reflecting present conditions and new information.

obscured by the front porch. The roof is clad in metal arranged in a shingle pattern that may be original to the building.



Detail crop from a 1905 postcard showing the south elevation of the Watauga County Jail from the southwest. A shed-style, angled bracket appears to be visible projecting from the east elevation of the jail, suggesting the presence of a front porch as early as 1905. Image courtesy of the Bobby Brendell Postcard Collection, Digital Watauga Project.

A large, one-story porch runs three-quarters of the width of the first floor of the east elevation. Some past accounts of this house have suggested that the house did not originally have a front porch, but images from circa 1905 (Bob-Bre-02-117) and 1915 (Bob-Bre-02-114) clearly show a porch of this approximate massing was present relatively early in the building's history. A wooden, one-story porch is also visible on this building on the 1928 Sanborn map of Boone. By 1940, this porch was supported by four tapered, wooden posts rising from square, brick piers with cement caps (Dav-Wyk-01-007). At that time, the roof of this porch was a stunted, flat-topped hip of metal in a shingle pattern, capped by a wooden balustrade on three sides. The area underneath the porch appears to have also been a wooden floor resting on a brick foundation with a centered, three-step, concrete stoop with low brick cheek walls. It's possible that this Craftsman-influenced version of the porch was an updated form completed as part of renovations known to have taken place in 1926.

By the late 1980s, the wooden balustrade was removed, and by the early 2000s the flat portion of the porch roof had been built up and clad in standing seam metal. The area



Detail crop from a 1915 postcard showing the south and east elevations of the Watauga County Jail from the southeast. A hipped-roof porch clearly appears to be visible projecting from the east elevation of the jail, confirming the presence of a front porch as early as 1915. Image courtesy of the Bobby Brendell Postcard Collection, Digital Watauga Project.

underneath the porch, meanwhile, was enclosed several years ago using salvaged material from a 1920s Blowing Rock home to create a three-season porch; as part of this change, the brick piers and wooden posts disappeared as supports for the porch roof, although the brick porch foundation, steps, and cheek walls remain. A cut-stone pathway trimmed by a cut-stone, low cheek wall extends to a small set of concrete stairs with concrete cheek walls and iron banisters that descend to the sidewalk on present-day Burrell Street; this walkway and cheek wall feature dates at least to 1940. Meanwhile, a native stone retaining wall in a random rubble pattern used to descend along the Burrell Street (then Water Street) sidewalk and wrap into the driveway area at the southeast corner of the property. This stone retaining wall also dated to at least 1940, and a portion of it survives at the upper end of the driveway. The remainder was either covered or removed and replaced with a poured concrete retaining wall. A wrought iron fence—possibly salvaged from

elsewhere and not installed until sometime between 1988 and the 2002 resurvey—forms a perimeter around much of the



Detail crop showing Louise Wyke Russell (L) and an unidentified man sitting on the stone wall in front of the Watauga County Jail building during the 1930s. Image courtesy of the David Wyke Collection, Digital Watauga Project.

front yard of the Jail. Just to the northwest of the retaining wall, on the lawn southeast of the house, is a patio composed of concrete block pavers with a brick perimeter line.² The center bay of the first floor of the east elevation contains an entrance with a single, eight-light, wooden door with a transom above; this transom was originally divided into two horizontal lights but now is a single light. The north and south bays each contain a tall, narrow, four-over-four, wooden window with a brick rowlock sill. This general configuration is repeated on the second floor of the south elevation. The north and center bays each contain a tall, narrow, four-over-four, double-hung sash, wooden window identical to the ones found on the first floor, each with a brick, rowlock lintel. The south bay, however, has a four-over-four, double-hung sash, wooden window that is substantially shorter than the other two on the second floor for reasons that are unclear. It possesses a brick header lintel and has been this size since at least 1940, but irregular brickwork in the area above the window suggests that this opening may have been changed at some point between 1889 and 1940.



The Watauga County Jail underwent significant renovations in 1985 and 1986 following its acquisition by Don and Mary Dunlap. This image, taken near the completion of renovations, shows the building circa March 1986. Image from the *Watauga Democrat*, courtesy of the Historic Boone Collection, Digital Watauga Project.

² For all past survey documentation in a single folder, see WT0067 Watauga County Jail, Architectural Survey File, North Carolina State Historic Preservation Office, Asheville ("Western") Office.



Circa 1982 image showing the south porch prior to its enclosure. Image courtesy of the NC SHPO.

The south elevation of the main block repeats many of the details of the east elevation, including the quadruple-tier, English bond, corbelled cornice and the six-course, common bond brick for the main masonry, and stunted brick brackets are found near each corner below the roofline. Window openings contain long and narrow, four-over-four, double-hung sash, wooden windows with aluminum storms and are arranged symmetrically with two openings on each floor. Here, though, lintels are an intriguing double-tier comprised of angled sailors capped by a band of brick rowlocks, while sills are brick rowlocks. A coal

chute is visible at the lower end of the elevation. The corbelled cornice treatment wraps from the south elevation of the main block onto the south portion of the west elevation of the main block, but this wall is otherwise featureless.

The south elevation of the west extension, meanwhile, reveals two symmetrically spaced, four-over-four, double-hung sash, wooden windows with aluminum storms and brick rowlock lintels and sills on the second floor. The image from circa 1905, when this part of the building was still being used as a jail, shows no window openings on the second floor of the west extension, suggesting that these were added when the building was converted to a residence in the 1920s. The first floor of the south elevation of the west extension, meanwhile, has been almost entirely obscured by a wooden, enclosed porch addition clad in weatherboard and covered with a hipped, metal roof in a shingle pattern. A large kitchen exhaust vent occupies a portion of the roof. This porch area was a relatively early addition to the building, as it is visible on the 1928 Sanborn map illustration of the property, but the present owner indicates that a restaurant tenant enclosed the once-open south porch several years ago, probably in 2002, when the resurvey images showed that the open porch was just beginning to be enclosed. Two large door openings along the original brick wall of the south elevation of the west extension (one of which was originally a double window opening, based on 2002 survey images) are still visible from the interior and provide access to this enclosed porch area. Meanwhile, a tall but narrow, brick boiler stack rises from the joint between the west face of the main block roof and the south face of the west extension roof. A third chimney visible in the 1905 photograph along the south face of the west extension roof—probably in service to the former kitchen—is no longer extant.

The west elevation of the west extension includes a single, modern, storm door entry to the enclosed wooden porch on the south elevation. The remainder of the west elevation of the west extension, however, is almost entirely featureless, consisting purely of the six-course, common bond brick with the same corbelled cornice treatment and thus preserving the original, completely windowless design of this west extension that served as jail space. Reports from past surveys suggest these walls range in thickness from twelve to eighteen inches, no doubt because this area served as the enclosure for prisoners of the jail. The north elevation of the west extension continues the English bond and corbelled cornice treatments found elsewhere. At the north end of the west extension is a large, steel staircase rising to the north entrance to the second floor apartment. This north elevation entrance is intriguing, as it appears to contain an iron, cased opening within which sits a modern doorframe and door. It's possible that this iron casing may have been salvaged from one of the jail spaces inside, given that the 1986 survey images clearly show this opening as a four-over-four, double-hung sash window. A defect in His-Boo-1-19-001 (1907), which offers the best pre-1927 view of this side of the building, obscures this part of the building, so it cannot be confirmed, but it appears that this opening may have been an early access point to the upper story of the jail area. To the east of this doorway is a tall, narrow, four-over-four, double-hung sash, wooden window with an aluminum storm and header lintel. The east end of the first floor of the west extension, meanwhile, features a tall, narrow, four-over-four, double-hung sash, wooden window with an odd, Adams-style, brick rowlock lintel and brick rowlock sill. The brick above this window has clearly been altered, as the original sailor lintel for the original opening here is still hanging out of place

about two feet above the Adams-style lintel over the window. To the west of this is a former opening, even larger than the window but now bricked in, suggesting that it may have been a doorway at one time. This doorway is visible in the 2002 survey images, at which time the exterior steel balcony was self-contained, with no staircase descending to the rear. Meanwhile, the 1986 survey images show this now-sealed opening as a four-over-four, double-hung sash window with the same odd lintel issues as the window immediately to the east.



Circa 1982 survey image showing the north elevation prior to the addition of the steel balcony and staircase, with both northwest corner windows intact. Image courtesy of the NC SHPO.

The north end of the west elevation of the main block, meanwhile, is featureless aside from the corbelled cornice, English bond, and brick stunted bracket treatments found elsewhere. The north elevation of the main block continues these features and includes one tall, narrow, four-over-four, double-hung sash, wooden window with brick rowlock sills and angled sailor lintels on both the first and second floor at the west end of the elevation. A rectangular, interior chimney stack with concrete cap rises above the center of this north elevation.

While the interior of the former Watauga County Jail has been much altered since its use as a jail ceased in 1927, a number of important design elements remain in the interior. Many of the original interior brick walls associated with the rear jail space are up to 18 inches

thick, purportedly to make escape much more difficult, and these walls survive to this day. In addition, the steel doorjamb and lintel of the doorway leading into the jail area on the first floor is still intact. During renovations in 1986, a new buyer removed stucco from the walls in the first-floor jail cell area and uncovered decades of graffiti from former inmates; while much of this original graffiti survives, uncovering these historic artifacts allowed the various college students and fraternity members who lived in the building over the next fifteen years to add their own graffiti to the mix.

Other notable changes to the interior include the repeated reconfiguration of what was the original interior staircase. Now no longer extant, this staircase descended from the second floor, south to north, in undated survey images (possibly 1988) taken during the building's use as a fraternity house. This stair configuration was still intact at the time of the 2002 survey, suggesting that it was removed for the building's renovation into a restaurant shortly thereafter. Prior to 1988, however, as indicated in a floor plan displayed in undated (1982?) survey notes, the staircase originally rose from east to west at the center of the house, then turn to the south for a short rise to the second floor. At that time, the second floor apartment offered an interior arrangement that was completely different from what is found today, and it has been altered on at least two occasions since then.

The former Watauga County Jail was added to the North Carolina State Historic Preservation Office's Study List in 1984. It is currently under evaluation for nomination to the National Register of Historic Places. The property is at significant risk from planned, large-scale developments immediately to the south and east.

III. Historical Background

The Watauga County Jail in a Politics/Government, Law, and Social History Context

The North Carolina legislature first created Watauga County in 1849. The county's first jail, built for \$400 by a Mr. Dammons, was located on the lot at the northwest corner of Howard and Depot Streets. According to early county historian John Preston Arthur, this first building was of brick with a steel cage built inside, but the locally kilned brick was so poor in quality that inmates quickly figured out how to erode the brick around the windows and doorways to escape. A few years later, a second jail was built, this time using white pine logs erected by Elisha Green, with the original cage moved to the interior of this new jail. Union troops burned that jail building during Stoneman's Raid in March 1865. Following the American Civil War, Jack Horton—who had built the original Watauga County Courthouse that would burn in 1873—received the contract to construct a third jail on the same site as the first two. Two stories in height, this new jail was also of heavy logs.³ It stood for many years past its use as a jail, until it was finally demolished in 1908.⁴

³ John Preston Arthur, *A History of Watauga County, North Carolina*, (Richmond: Everett Waddey Co., 1915), 126-27.

⁴ "Local News," *Watauga Democrat*, June 11, 1908: 3.

The county's fourth jail was built in 1889 on land acquired by the Watauga County Commissioners for \$200 from Thomas J. Coffey and his wife Mollie E. Coffey, and William C. Coffey and his wife Carrie L. Coffey. Described as being on Lot 6 from the original 1849 plat of the Town of Boone, this parcel faced on what was then called Burnsville Street (present-day Burrell Street), totaled "one half acre, more or less," and ran from King Street all the way to the then-unnamed street we now know as Poplar Grove Road, sometimes called Burnsville Road.⁵ Completed in December 1889 by William Stephens (1870-1945) of Mayfield, Kentucky (*Watauga Democrat*, May 22, 1889, sometimes reported in error as William Stephenson of Mayesville, Kentucky), for \$5,000, the Watauga County Jail is Boone's only surviving local government building from the nineteenth century.⁶ Like many small-town jails of the period, this building was actually a mixed-use space, with both floors of the rear half of the building being used for jail purposes and the front half set aside for the residence of the jailer and his family. Sources disagree on how the jail spaces were divided. Survey records from the early 1980s indicate that the women's quarters were on the first floor, while men's quarters were on the second floor, but a later survey narrative suggests that "the men's cell was downstairs" and "the women and the jailer were housed upstairs."⁷

By 1925, local disdain for the condition of the 1889 jail reached a fever pitch, heightened in part by local racist sentiment and a focus on segregation during this period in Boone, following a report from the local court's grand jury that viciously critiqued the existing jail:

We have visited the jail and find it inadequate to meet the present needs of the county, being entirely too small, badly arranged, being no provision to keep the whites and colored separate, they having to use the same toilet. The water works are out of commission, having to flood the stool by hand, and the sanitary conditions it does not appear could be worse, being dark, sunlight excluded, with very little ventilation, appearing to us more like an ancient dungeon than like a modern prison. The female department we find a little more sanitary, but being heated only by an oil stove and lighted only by an oil lamp, and being shut off from ventilation and having no water system. We find the only way for a bath in either department is no better than an ordinary wash basin.

We recommend that the jail and lot upon which it stands be sold at the discretion of the county commissioners and the proceeds be applied on the building of a new and modern jail, the new site to be back of the court house,

⁵ T. J. Coffey and wife Mollie E., and W. C. Coffey and wife Carrie L., to J. E. Finley, W. W. Presnell, and Joseph Mast, County Commissioners, May 22, 1889, Deed Book N, Page 47, Watauga County Register of Deeds. All subsequent deed records are from this source unless otherwise noted. On Burnsville Road, see Arthur, *Watauga County*, 147.

⁶ *Watauga Democrat*, May 22, 1889: 3; "Actions of the Board of Co. Commissioners," *Watauga Democrat*, December 5, 1889: 2; Arthur, *Watauga County*, 127.

⁷ WT0067 Watauga County Jail.

on the county's property, and we further recommend that the old jail be given immediate attention.⁸

In response, the Watauga County Commissioners voted to sell bonds totaling \$60,000 for the construction of a new jail. Noting that the old "jail has long been a disgrace to the county," the *Watauga Democrat* announced that "the present jail property, which is valuable, will be sold as a whole, not even the building is to be torn down."⁹ In December 1926, county officials moved forward with the sale of the 1889 jail building, conveying a roughly 78' X 229' lot—presumably the remainder of the original jail lot, which had been subdivided in 1895—to T. S. Watson for \$6,000.¹⁰ The long edge of this land ran along what was then known as Jail Street (present-day Burrell Street) from the rear (southwest) boundary of the E. F. Lovill Law Office parcel at the west corner of King and Jail Streets to approximately the south corner of the present property. That same month, Sheriff L. M. Farthing appointed Poly Wyke as a deputy sheriff for Boone township and announced that Wyke would be moving into the old jail, "the new one not being ready for occupancy by quite a good deal," apparently as a result of bad weather hampering W. H. Gragg's efforts to complete the new jail.¹¹

Additional Historic Context

As noted above, W. H. Gragg was contracted to complete the new jail. Once the 1889 jail closed two years later, many of the interior jail-related elements were disassembled and sent elsewhere. In March 1927, for example, an article in the *Watauga Democrat* proclaimed that "the cage and equipment of the old Watauga County jail will be moved to Blowing Rock and installed as the town jail." Mayor G. F. Sudderth of Blowing Rock explained that his town purchased the equipment "to save the expense of taking minor offenders to the county seat."¹² All that was left behind was the aforementioned door casing of the northeast jail room on the first floor and the graffiti that adorned the walls of that cell.

Other changes appear to have been made to the interior as well. Following T. S. (Thomas Sherman) Watson's purchase of the property in 1926, Watson apparently renovated the

⁸ "Grand Jury Asks for New Prison," *Watauga Democrat*, April 2, 1925: 1. As a testament to heightened race conflict during the mid-1920s in Boone, it should be noted that the Ku Klux Klan ran advertisements in the *Watauga Democrat* in late 1924, offering a reward for the capture of an individual; hired a Linville River Railway excursion train from Boone to accommodate Boone citizens flocking to Johnson City for a Klan rally in November 1924; and held a "grand parade and march in full regalia" in the streets of Boone on July 23, 1925. By 1926, the former courtroom in the 1875 courthouse had been renamed "Ku Klux Klan Hall." See "\$50—Reward--\$50," *Watauga Democrat*, November 13, 1924: 1; "Local Happenings," *Watauga Democrat*, November 27, 1924: 5; "Local Klansmen Will Stage Celebration," *Watauga Democrat*, July 9, 1925: 1; and "Notice," *Watauga Democrat*, April 8, 1926: 5.

⁹ "\$60,000.00 Prison Will Be Erected," *Watauga Democrat*, May 21, 1925: 1.

¹⁰ S. C. Eggers, et al, County Commissioners, to T. S. Watson, December 4, 1926, Deed Book 36, Page 263. For the subdivision of the jail lot and sale of the northernmost portion along King Street, see W. F. Coffey, Chairman of the Board of Commissioners, to J. C. Fletcher and E. F. Lovill, September 16, 1895, Deed Book S, Page 349.

¹¹ "Local Affairs," *Watauga Democrat*, December 2, 1926: 5.

¹² Quotations from "Happenings in and about Blowing Rock," *Watauga Democrat*, March 31, 1927: 1.

building for use as a boarding house, which was operated under the management of a Mrs. Hall of Ashe County.¹³ Watson fell ill in early 1928 and was hospitalized at Lenoir.¹⁴ Following his death on February 10, 1928, his wife Susan V. Watson, was named as administratrix of his estate.¹⁵ Forced by the local probate court to sell the jail property to raise funds for outstanding debts, Susan Watson relied on S. C. Eggers, the local county commissioner, to auction the property, which occurred on August 18, 1928. The auction included not only the jail house but also eight lots located around the jail. The jail house was described as “rebuilt so as to make one of the most modern homes in the city. The house is of brick construction and is in excellent repair and is modern.”¹⁶ M. C. Cook was the winning bidder at \$3,865, acquiring the jail and four of the eight lots—Lots 7, 8, 9, and 10—as part of his bid.¹⁷ Curiously, the jail lot in this instance was described as just 129 feet in length along Jail Street, the northern portion (Lots 3, 4, 5, and 6) having been sold separately to A. W. Hodgson on the same date.¹⁸

Like Watson’s, Cook’s ownership of the building was startlingly brief. In August 1929, M. C. Cook and his wife Geneva sold Lots 7, 8, 9, and 10 to G. W. Sebastian (sometimes spelled “Sebastin”), a local minister, and his wife.¹⁹ Just two months later, the Sebastians sold Lot 7—“the lot upon which is located the brick building known as the old Jail Building”—to George N. Cook.²⁰ The Cooks (George, who also apparently went by “Niley G.,” and his wife Maude) apparently also operated the building as a boarding house, as evinced by several local articles noting that various new residents in Boone were staying there temporarily.²¹ The Cooks held onto the property until 1937, when they sold Lot 7 to nineteen-year-old Louise Wyke, daughter of David Pinkney Wyke and Ethel Agnes (Aldridge) Wyke.²² Several months later, Louise Wyke also acquired Lots 8 and 9 of the old jail tract from D. L. Wilcox and his wife Florence.²³ A short time later, a blurb appeared in the *Watauga Democrat* announcing that “David Wyke, local grocery merchant, has purchased the old jail property and is thoroughly remodeling the building, which will be, when completed, one of the

¹³ “Local Affairs,” *Watauga Democrat*, May 19, 1927: 4.

¹⁴ “Local Affairs,” *Watauga Democrat*, February 9, 1928: 4.

¹⁵ “Thomas S. Watson,” Caldwell, February 1928, Ancestry.com, *North Carolina, US, Death Certificates, 1909-1976*, database online, (Provo, UT: Ancestry.com Operations, Inc., 2007); “Notice of Administration,” *Watauga Democrat*, March 8, 1928: 8.

¹⁶ “Auction Sale of Lands,” *Watauga Democrat*, August 9, 1928: 5.

¹⁷ S. C. Eggers, Commissioner, to M. C. Cook, September 1, 1928, Deed Book 37, Page 188. This parcel was described as consisting of “Lot numbers 7, 8, 9, and 10 in the old Watauga County Jail tract, which is of record in the office of the Register of Deeds for Watauga County, North Carolina.” This plat has not yet been located.

¹⁸ S. C. Eggers, Commissioner, to A. W. Hodgson, September 1, 1928, Deed Book 37, Page 471. This parcel was described as consisting of “Lot numbers 3, 4, 5, and 6, in the plat of the old Watauga County Jail property.”

¹⁹ M. C. Cook and Geneva Cook to G. W. Sebastian and M. E. Sebastian, August 9, 1929, Deed Book 38, Page 527

²⁰ Rev. G. W. Sebastian and M. E. Sebastian to George N. Cook, October 7, 1929, Deed Book 39, Page 12.

²¹ For examples, see “Local Affairs,” *Watauga Democrat*, January 23, 1930: 6; and “Palmer Increases Population by 13,” *Watauga Democrat*, April 19, 1934: 1.

²² Niley G. Cook and Maude Cook to Louise Wyke, January 1, 1937, Deed Book 46, Page 432. David Pinkney Wyke’s mother, named Louisa (Hodges) Wyke, died in 1894.

²³ D. L. Wilcox and Florence Wilcox to Louise Wyke, September 13, 1937, Deed Book 47, Page 393.

modern homes of the town.”²⁴ In December 1940, Louise Wyke sold the property (Lots 7, 8, and 9) to her parents, who continued to live in the house until Ethel Wyke sold the property back to her daughter, by that time known as Louise (Wyke) Russell, in 1981.²⁵



This October 2021 image shows various graffiti applied to the east wall of the first floor jail area by a combination of early twentieth-century prisoners and late twentieth-century fraternity brothers, among others. Image by Eric Plaag.

Louise Wyke Russell held the property for a relatively short period of time, selling it to a local developer, Donald B. Dunlap, and his wife Mary M. Dunlap, in December 1985.²⁶ Shortly thereafter, the Dunlaps completed some renovations to the building—primarily updating of electricity and similar infrastructure—before renting it out as a fraternity house. As part of the renovations, the Dunlaps removed stucco from the walls of the first floor jail cell area, thus exposing graffiti left by various prisoners on the exposed brick during the building’s use as a jail. As a result, the subsequent fraternity tenants added their

²⁴ “Local Affairs,” *Watauga Democrat*, January 21, 1937: 5.

²⁵ See Louise Wyke (Single) to D. P. Wyke and Ethel Wyke, December 17, 1940, Deed Book 56, Page 378; and Ethel Wyke to Louise Wyke Russell, July 22, 1981, Deed Book 211, Page 1142.

²⁶ Louise W. Russell to Donald B. Dunlap and Mary M. Dunlap, December 6, 1985, Book of Record 28, Page 59.

own graffiti to the same walls, essentially obliterating the integrity of the walls as a chronicle of its jailhouse residents.²⁷

In 1989, the Dunlaps officially transferred the Jail property to Don Dunlap Construction, Inc., including the Jail lot (0.22) and approximately 1.08 acres of land located to the northwest, as depicted on Dunlap's subdivision plat for the property created in August 2000.²⁸ By that point, the Jail was in serious danger of being demolished as Dunlap pursued plans to erect a large student housing building on the lot to the northwest of the Jail. Fortunately, local residents Samuel F. Furgiuele, Jr., and his wife Peggy Mendel-Furgiuele convinced Dunlap to sell them the Jail property in August 2000 in the interest of preserving local history.²⁹ Thereafter, the Jail building was renovated once again to house a restaurant (the Old Jail Restaurant). The building is presently home to Proper Southern Dining, another restaurant.

IV. Historical Significance

The Watauga County Jail is significant at the local level under Criterion A in the area of in the areas of Politics/Government, Law, and Social History for its association with the early correctional institution history of Watauga County from 1889 to 1927. The fourth of Watauga County's early jails, it is the only extant, nineteenth-century, governmental building within the county's boundaries, and it remains a popular local symbol of Boone's early history as a sleepy county seat prior to Boone's rapid commercial development in the 1920s shortly after the arrival of the Linville River Railway connection in 1918.³⁰ The pressures of that commercial development, coupled with ongoing concerns about the safety and suitability of the Watauga County Jail for a modernizing county seat, prompted local officials to secure funding and community support for construction of a new jail behind the 1905 Watauga County Courthouse about a block away on King Street. In many respects, the old jail was a victim of Watauga County's early twentieth-century emergence as a commercial hub in the mountains of northwest North Carolina.

The jail's transformation into a boarding house first, then a permanent family residence, following its decommissioning as a jail in 1927 also fits the prevailing pattern in Boone during this period to encourage the adaptive reuse of historic structures. Other examples

²⁷ For information on the Dunlaps' renovations, see Jeni Gray, "Old Watauga Jail Soon to Have New Life, Look, and 'Guests,'" [Watauga Democrat], undated clipping [March 19, 1986, 6A] in WT0067 Watauga County Jail, Architectural Survey File, North Carolina State Historic Preservation Office, Asheville ("Western") Office. For a description of the damage caused by fraternity residents, see Betsy Lawson, "Abandoned, Abused, and Adapted: Old Buildings of Watauga County," paper for History 4575 course at Appalachian State University, included in WT0067 Watauga County Jail.

²⁸ Donald B. Dunlap and Mary M. Dunlap to Don Dunlap Construction, Inc., March 15, 1989, Book of Record 118, Page 41. For the subdivision plat, see Municipal Engineering Services, Inc., Subdivision Plat prepared for Don Dunlap Construction, Inc., August 15, 2000, Plat Book 15, Page 117.

²⁹ Don Dunlap Construction, Inc., to Samuel F. Furgiuele and Peggy Mendel-Furgiuele, August 15, 2000, Book of Record 582, Page 156.

³⁰ For a discussion of the impact of the Linville River Railway's arrival on the development of Boone, as well as the Watch Boone Grow campaign of the early 1920s, see Plaag, "Comprehensive Architectural Survey," 33-51.

included the conversion of the former Boone Methodist Church, located opposite the 1905 courthouse, into a retail establishment in the early 1920s; adaptive reuse of the 1875 courthouse, located at the northwest corner of King and Water Streets, into the home of the Watauga County Bank and later into a meeting hall; and the repurposing of the original tack and harness operation and stables of the Coffey brothers, located on the south side of King opposite the J. Walter Jones Building (presently Mast General Store), into a cheap annex for the Critcher Hotel in the early twentieth century. By 1950, most of these repurposed nineteenth-century buildings of old Boone were gone. Today, other than a few residences on the north side of King, the Watauga County Jail is the lone survivor of Boone's old, pre-1920s downtown, and it is the only known governmental resource from nineteenth-century Watauga County that still stands.

The Watauga County Jail retains an impressive degree of exterior integrity, given its changes in ownership and function since the 1920s. The jail retains its general original form and exterior appearance, and in those few cases where newer exterior materials have been applied, the original materials are known to survive underneath. While there are also important interior elements that are reflective of the Watauga County Jail's period of significance, these elements tend to be mere vestiges of the original interior layout and design, and modern alterations of and damage to some of these elements have had an adverse impact on their integrity. While these interior elements are noted here for their historical importance, the proposed local landmark designation applies only to the exterior elements of the building. In short, the Watauga County Jail, taken as a whole, retains a startlingly high degree of integrity in terms of design, setting, workmanship, materials, feeling, and association.

V. Property Included in the Local Landmark Designation

The property to be designated includes the parcel containing the original Watauga County Jail, which essentially consists of the land that for many decades was referred to as "the jail lot" in deed references. The Watauga County Jail remains at its original site and has undergone minimal exterior alterations in the years since it ceased functioning as the county jail.

VI. Bibliography/Source Citations

Ancestry.com, *North Carolina, US, Death Certificates, 1909-1976*, database online, (Provo, UT: Ancestry.com Operations, Inc., 2007

Arthur, John Preston. *A History of Watauga County, North Carolina*. Richmond: Everett Waddey Co., 1915.

Bobby Brendell Postcard Collection. Digital Watauga Project.

David Wyke Collection. Digital Watauga Project.

Digital Watauga Project. Online. Available at <http://digitalwatauga.org/>.

Historic Boone Collection. Digital Watauga Project.

Plaag, Eric W. *Comprehensive Architectural Survey of Downtown Boone, North Carolina, FINAL REPORT*. Boone, NC: Boone Historic Preservation Commission, February 2021.

Revised September 2021.

Watauga County Register of Deeds.

Watauga Democrat.

WT0067 Watauga County Jail. Architectural Survey File. North Carolina State Historic Preservation Office, Asheville ("Western") Office.

VII. Photographs

Eric Plaag took the attached images during a resurvey of the property on October 4, 2021.



WT0067_142BurrellSt_10-21_EP-001.JPG



WT0067_142BurrellSt_10-21_EP-002.JPG



WT0067_142BurrellSt_10-21_EP-003.JPG



WT0067_142BurrellSt_10-21_EP-004.JPG



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WT0067_142BurrellSt_10-21_EP-007.JPG



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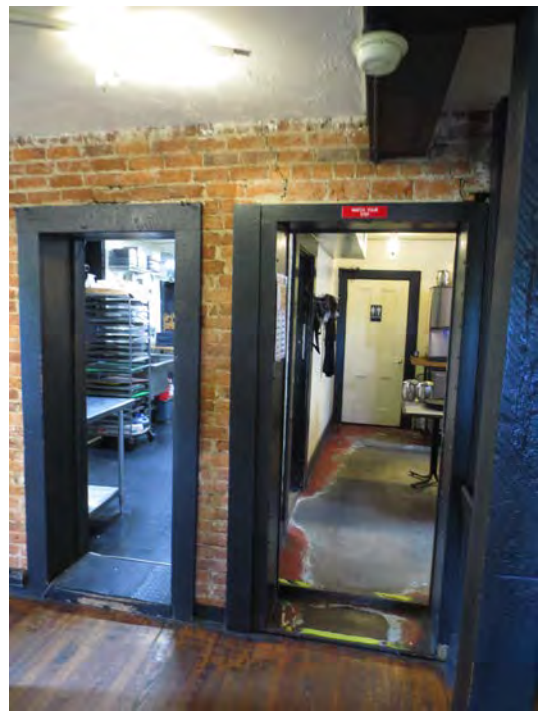
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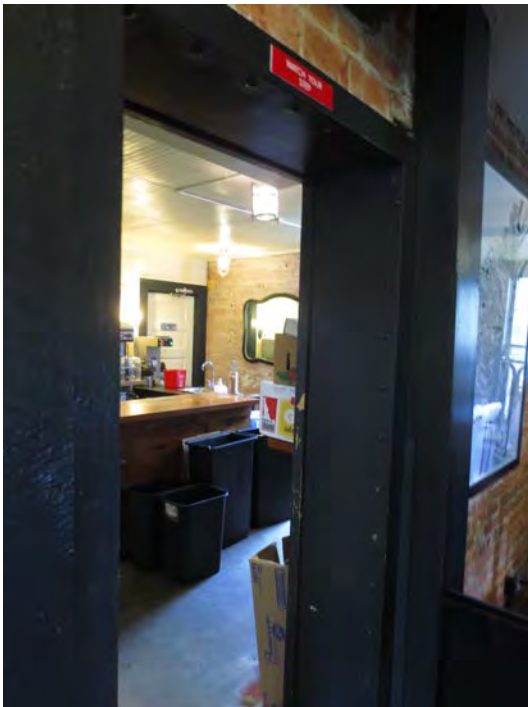
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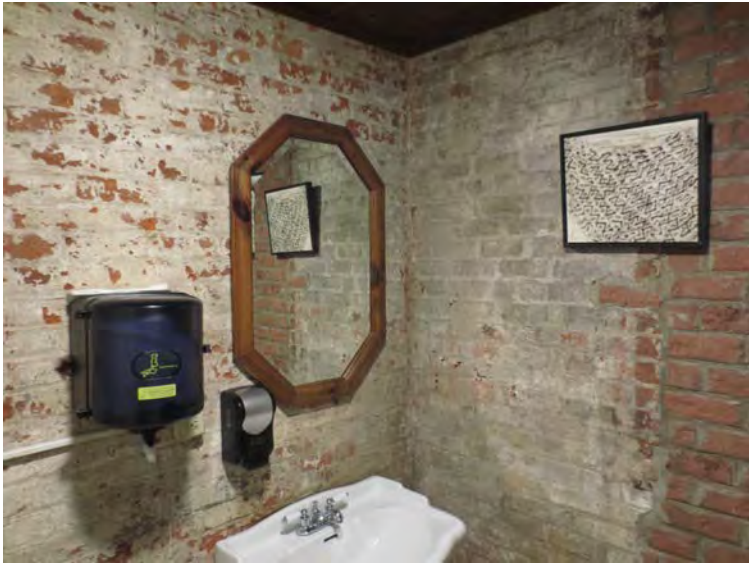
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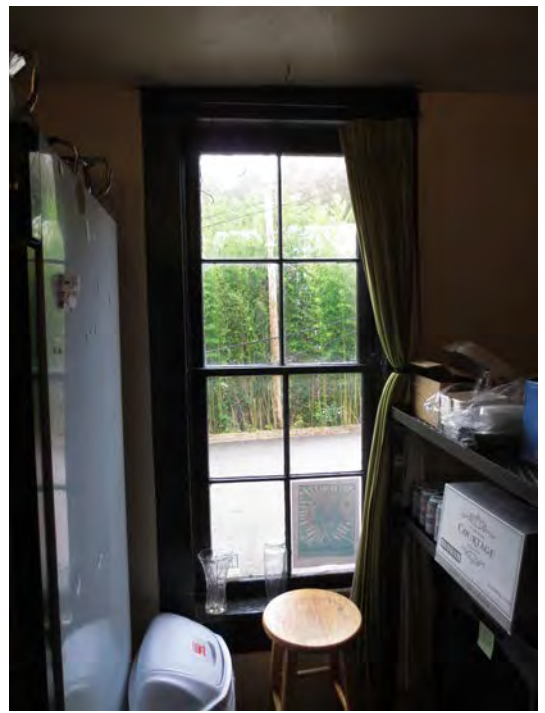
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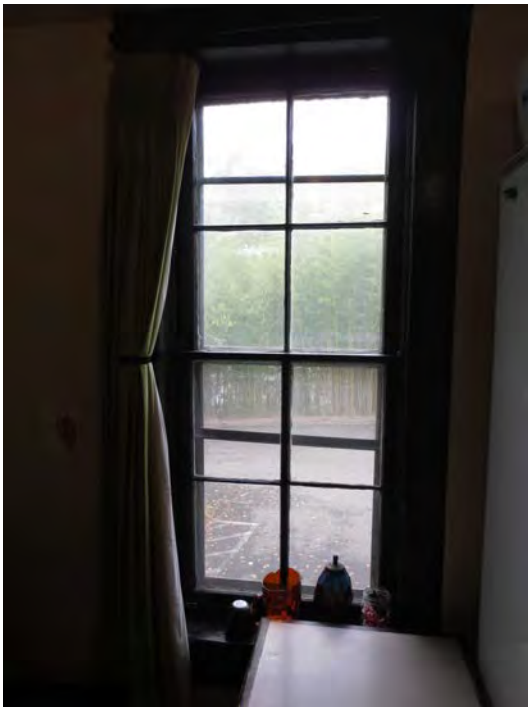
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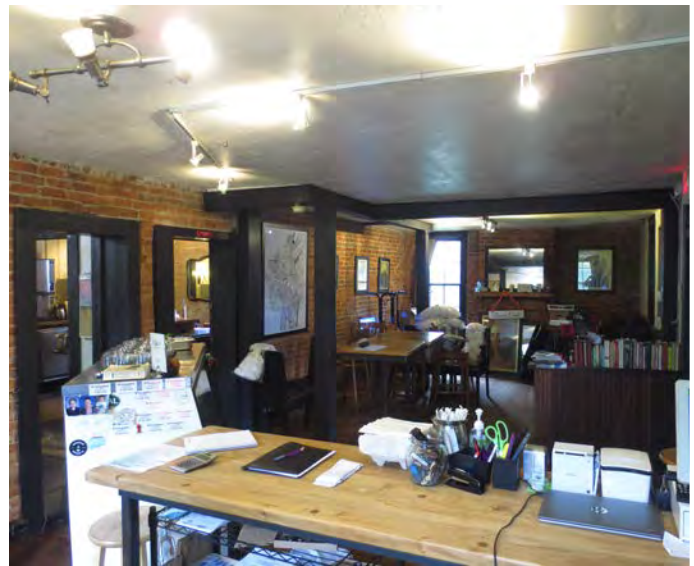
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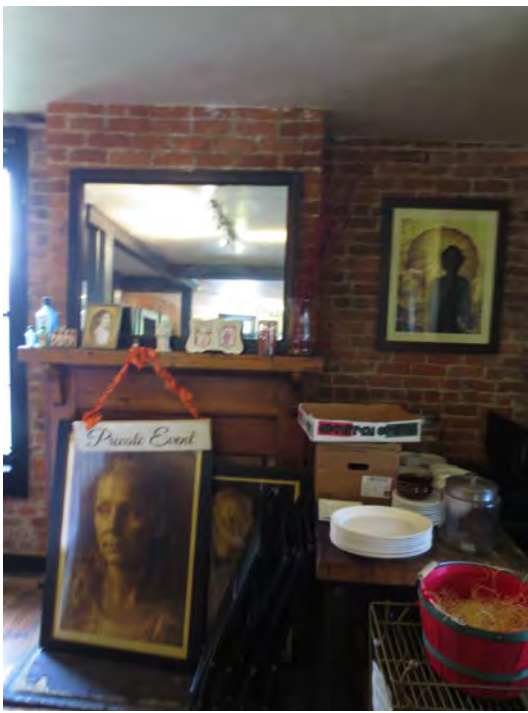
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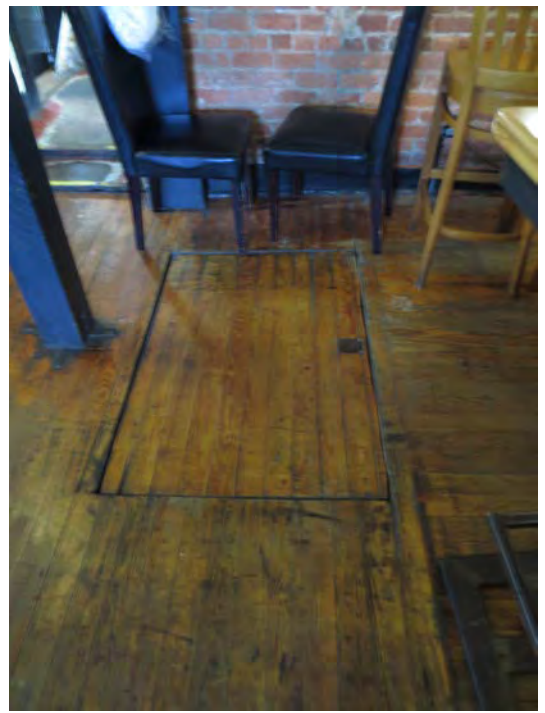
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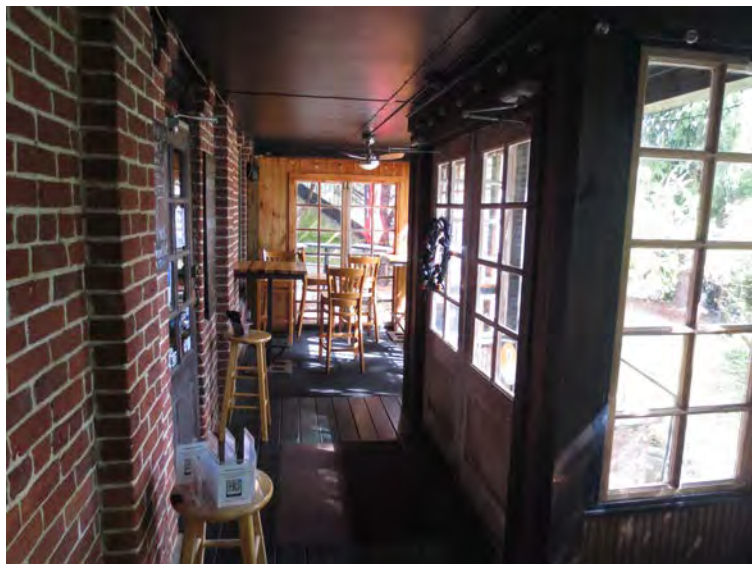
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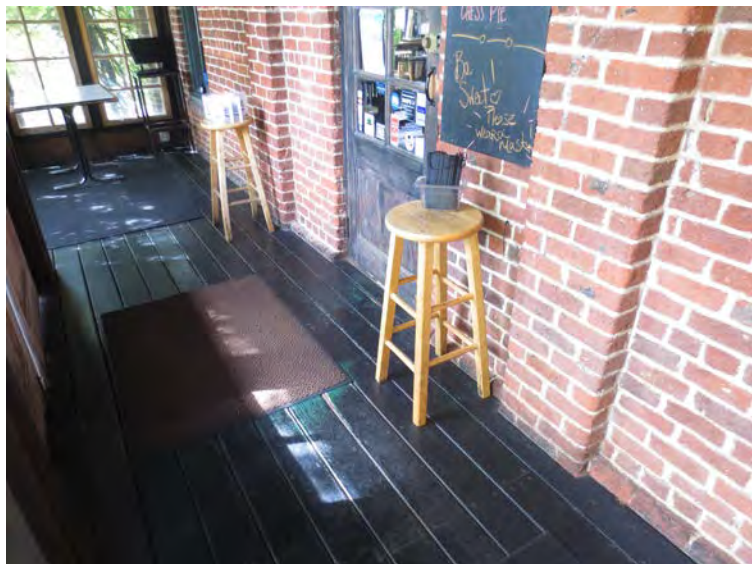
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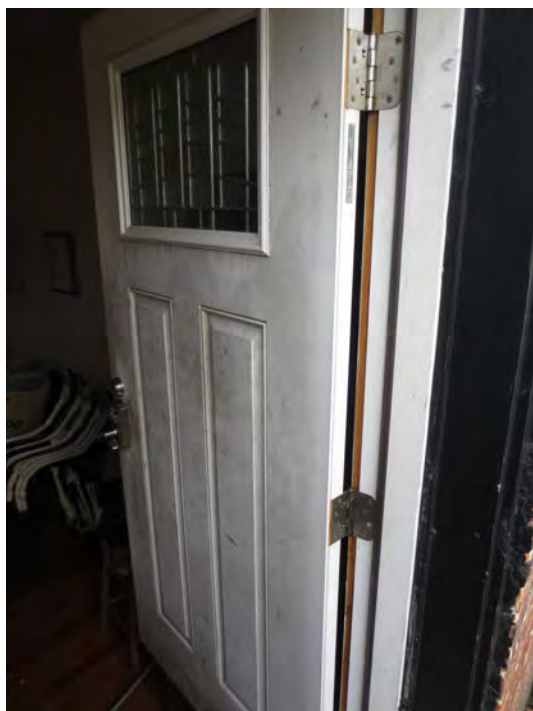
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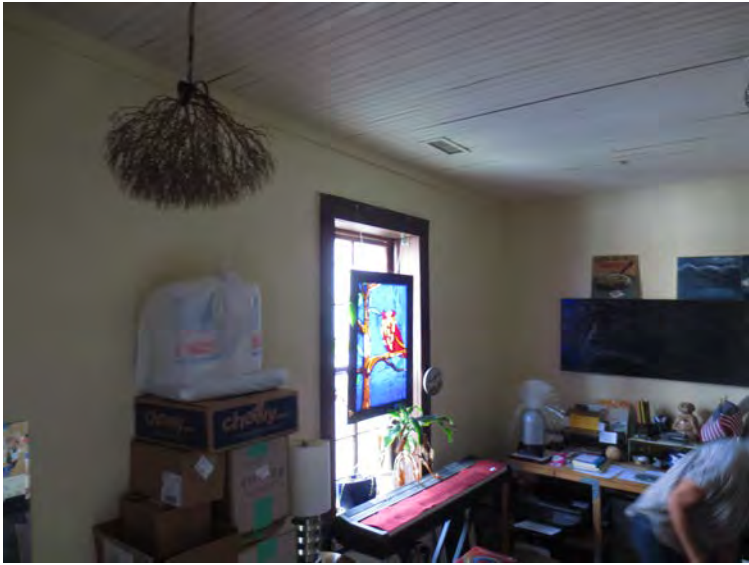
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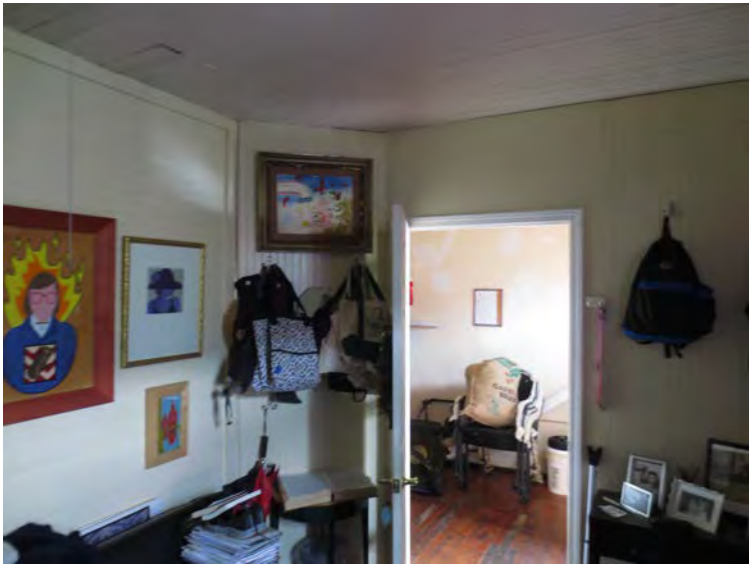
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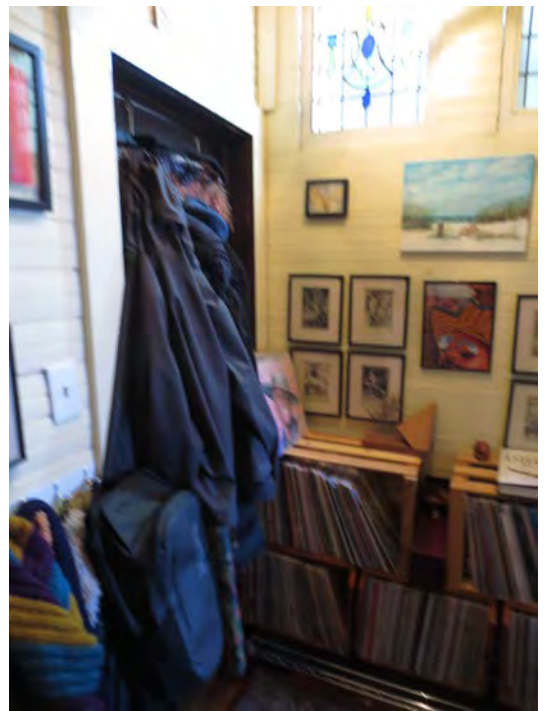
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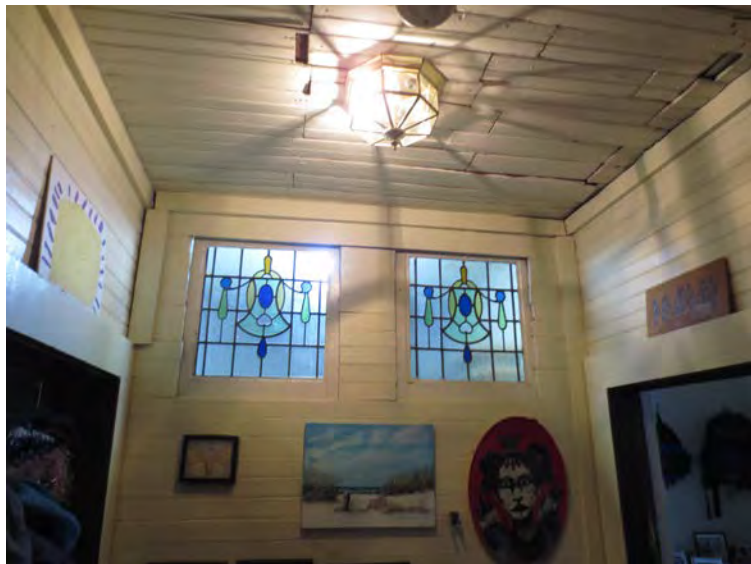
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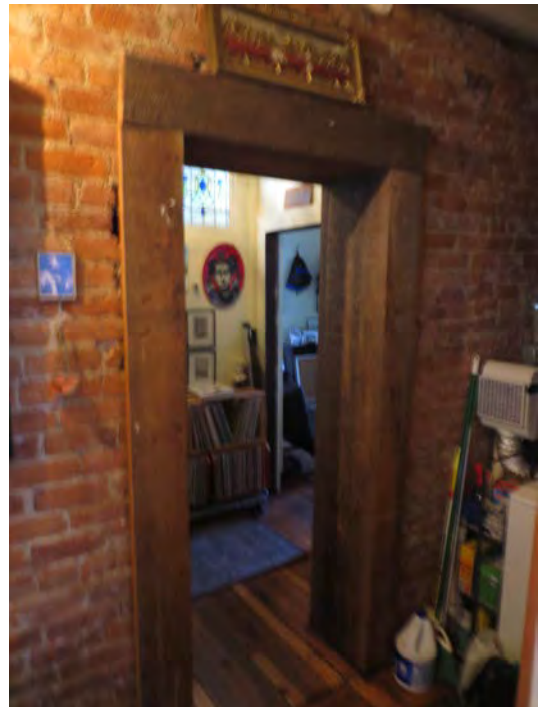
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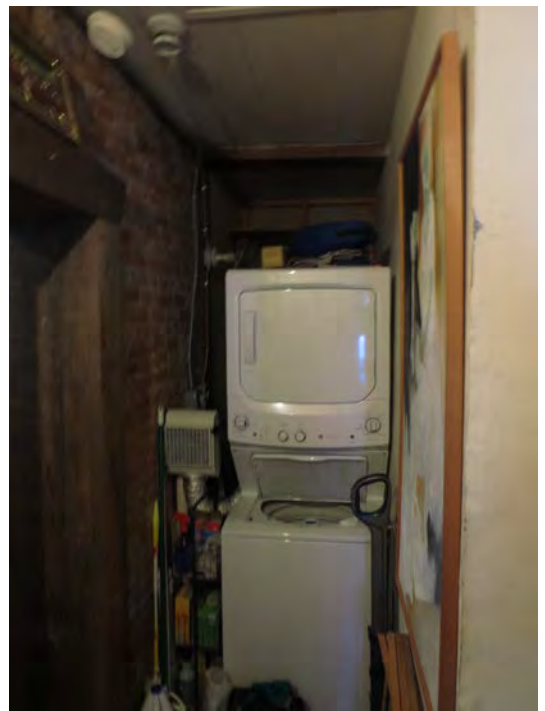
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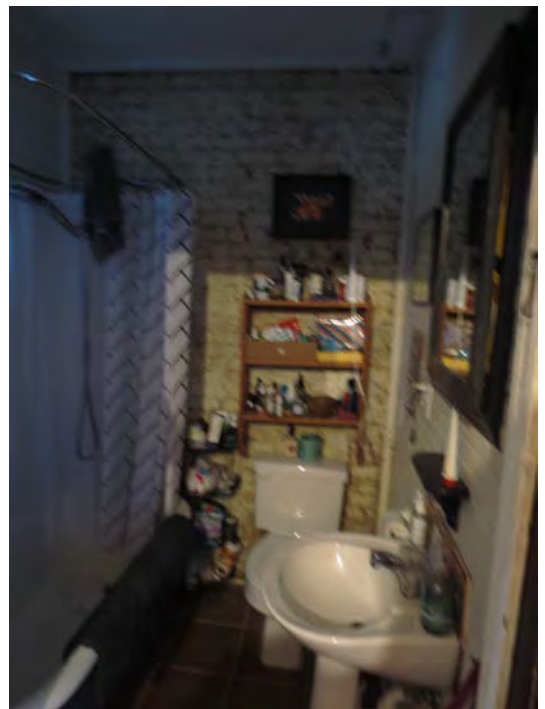
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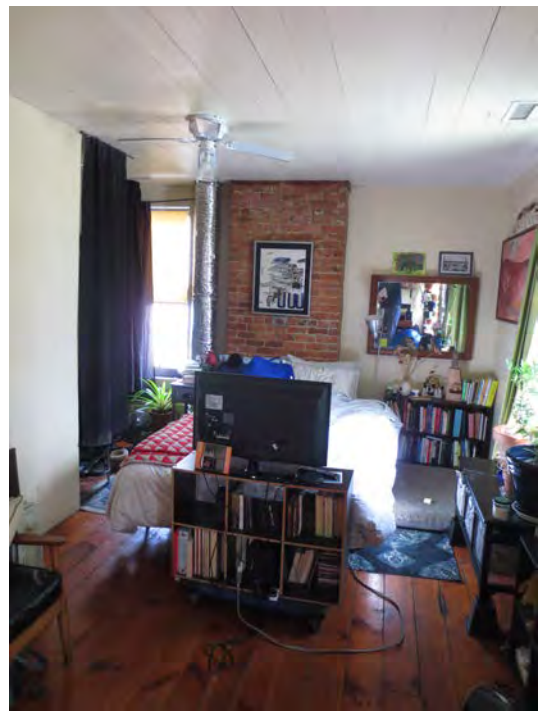
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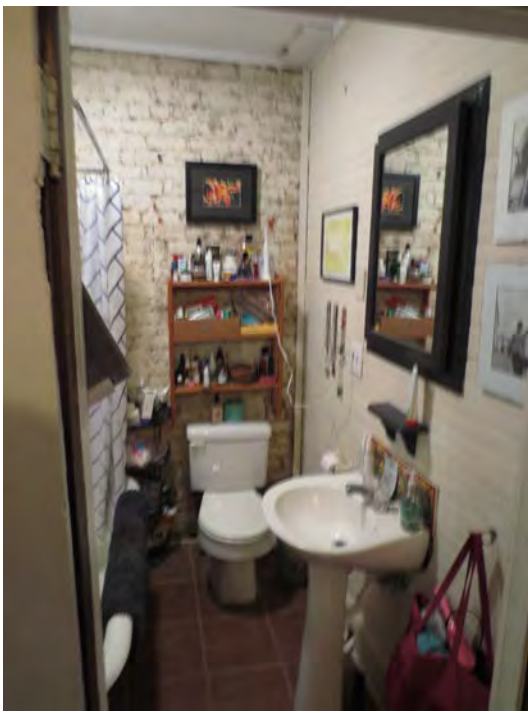
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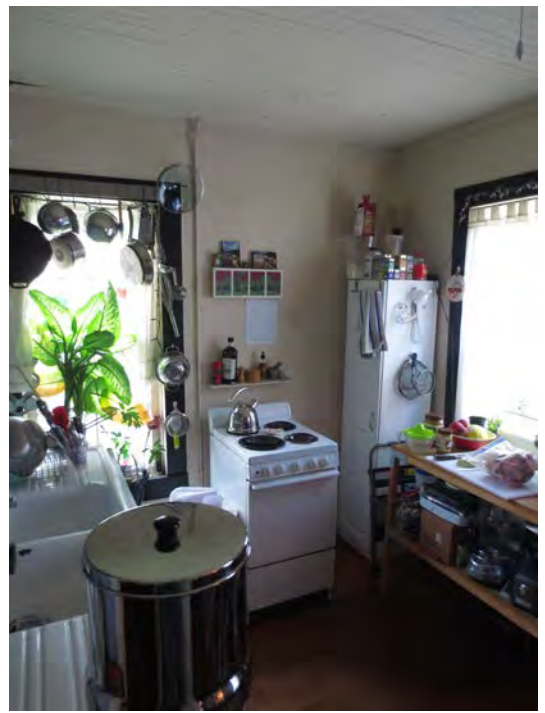
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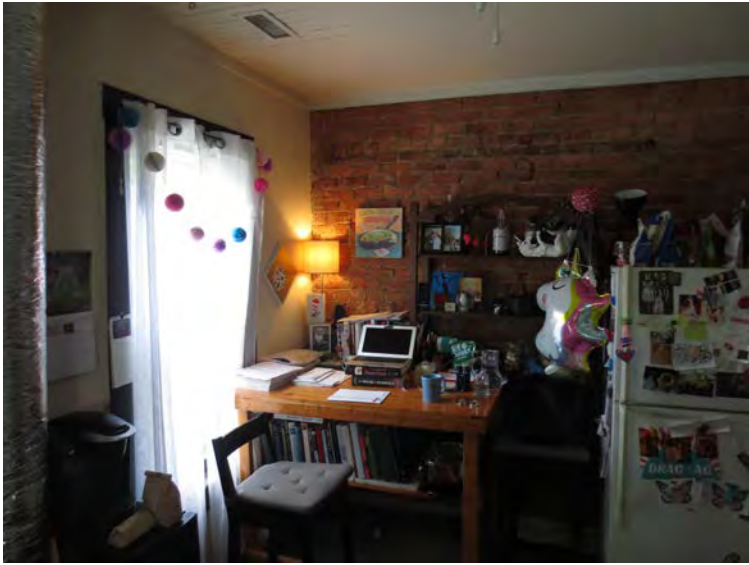
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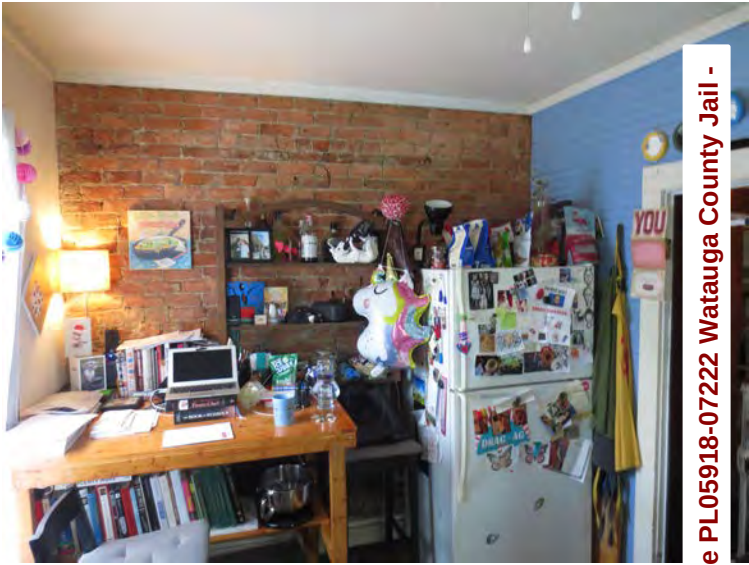
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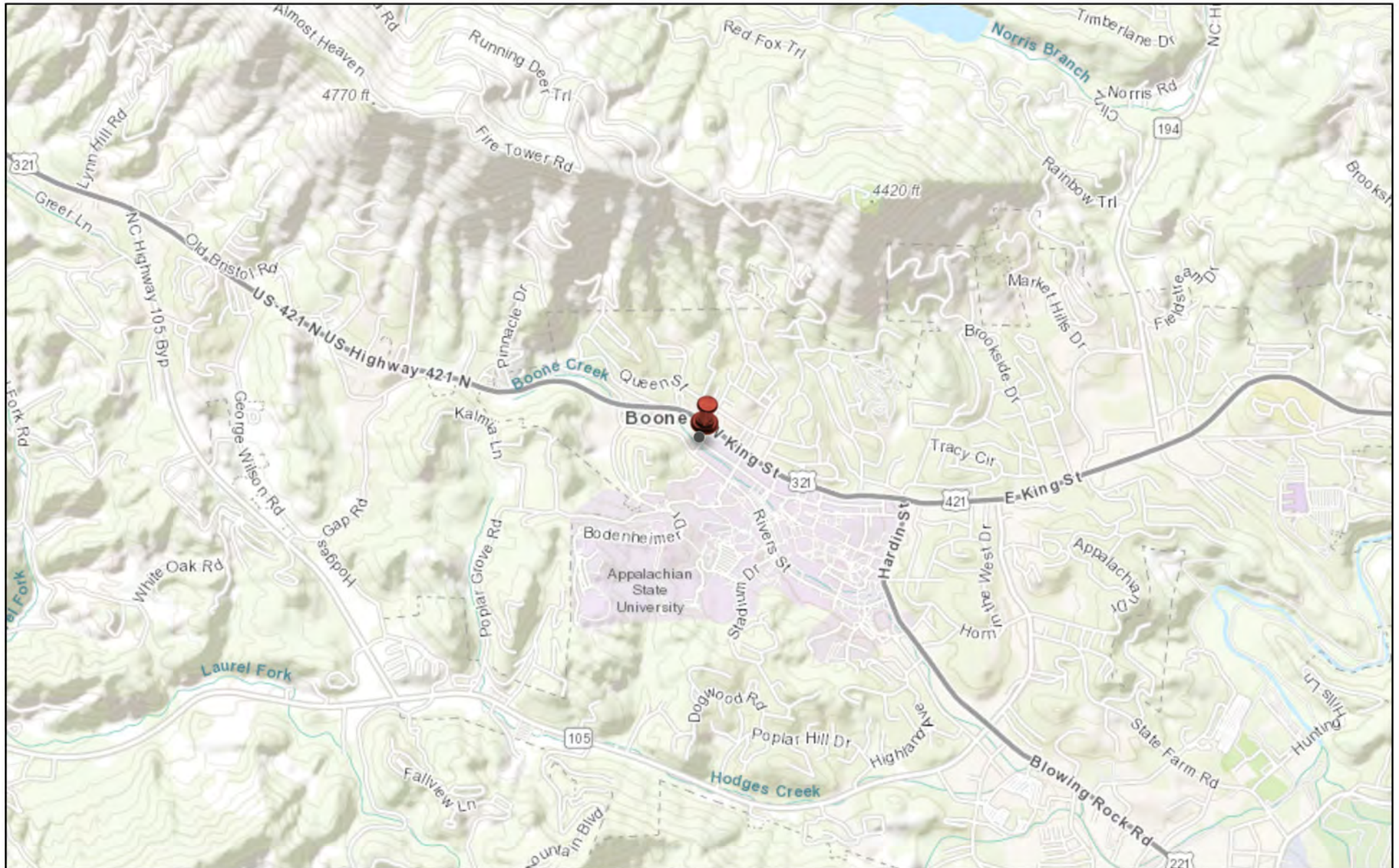


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Local Historic Landmark Location Map



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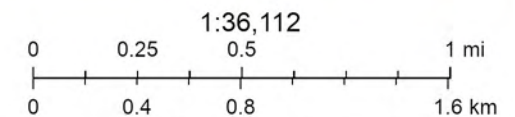
WT0067 Watauga County Jail
 142 Burrell St.
 Boone, Watauga County, NC

 **WT0067 Watauga County Jail**
 36.219428, -81.686729

DATUM=WGS84

Watauga County Jail--Local Landmark Designation Report, October 2022, Final Revised Report

Map created by Eric Plaag
 Carolina Historical Consulting, LLC
 June 23, 2022

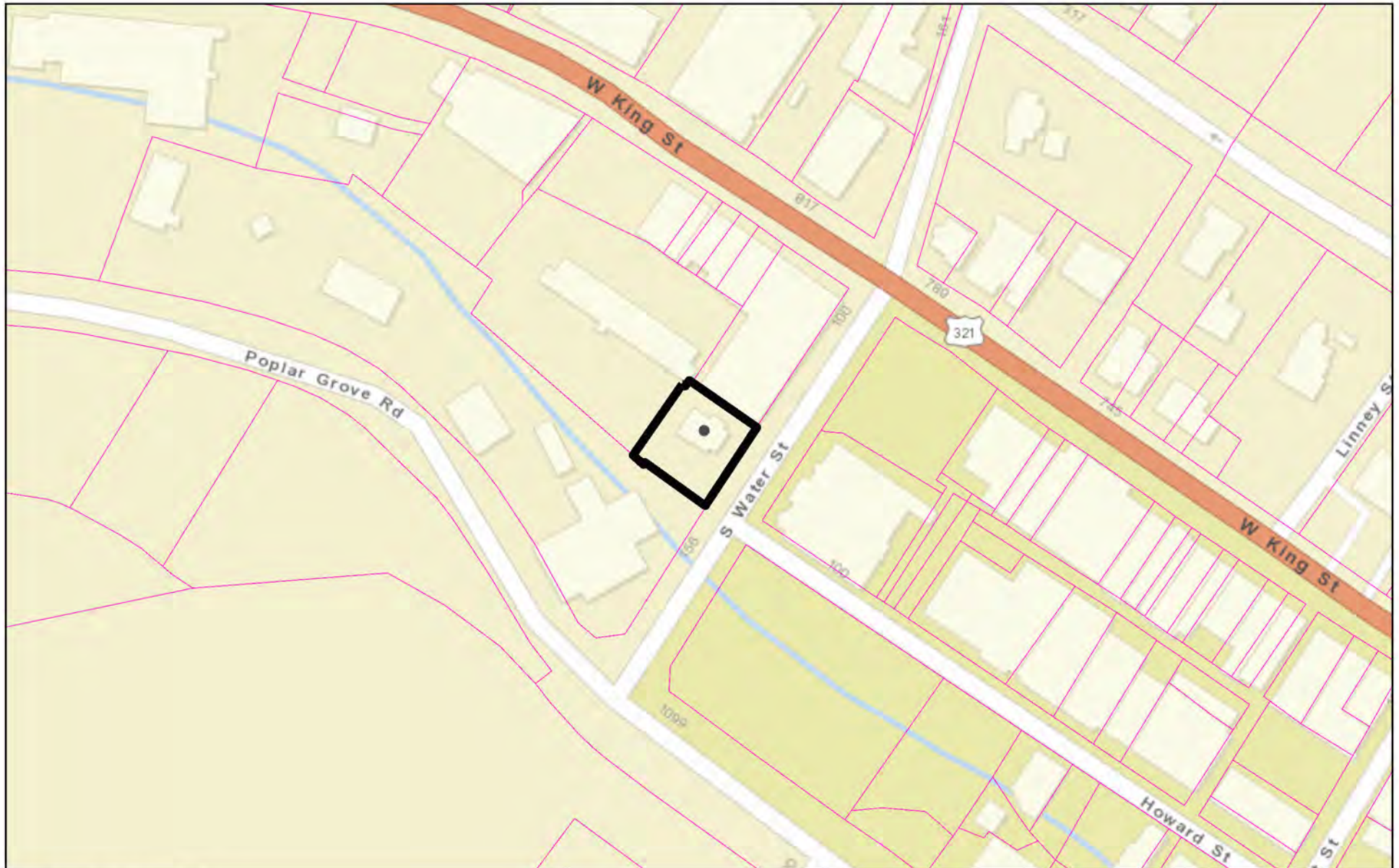


State of North Carolina DOT, Tennessee STS GIS, Esri, HERE, Garmin, USGS, NGA, EPA, USDA, NPS

North Carolina State His

Participating NC Counties, NCCGIA, NC OneMap, US EPA | Esri, HERE | State of North Carolina DOT, Tennessee STS GIS, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, M

Local Historic Landmark Boundary Map



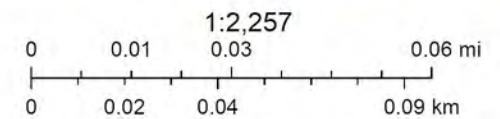
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WT0067 Watauga County Jail
142 Burrell St.
Boone, Watauga County, NC

Map created by Eric Plaag
Carolina Historical Consulting, LLC
June 23, 2022
Watauga County Jail--Local Landmark Designation Report, October 2022, Final Revised Report

Parcels

Local Historic
Landmark Boundary
Watauga County Jail--Local Landmark Designation Report, October 2022, Final Revised Report



State of North Carolina DOT, Esri, HERE, Garmin, GeoTechnologies, Inc.,
Intermap, NGA, USGS, Participating NC Counties, NCCGIA, NC OneMap,

North Carolina State Historical Society

Participating NC Counties, NCCGIA, NC OneMap, US EPA | Esri, HERE | State of North Carolina DOT, Esri, HERE, Garmin, GeoTechnologies, Inc.

Packet Pg. 77

PARID: 2900795419000

FURGUIELE, SAMUEL F JR, MENDEL FURGUIELE,
PEGGY

142 BURRELL ST

Parcel

ParID	2900795419000
Tax Year	2022
SITUS Address	142 BURRELL ST
City, State, Zip	BOONE , NC , 28607
Unit #	
Unit Description	
NBHD	05C6 - DOWNTOWN BOONE BUSINESS
Class	CO - COMMERCIAL
Land Use Code	C21 - RESTAURANT
Living Units	2
CAMA Acres	.22
Zoning	BOB1 - BOB1
Map #	2900-79-5419-000

Jan 1 Values

Land Value.	240,600
Building Value	136,760
=====	=====
Appraisal Total	377,360
Exemptions or Exclusions	0
Land Deferred Value	
	=====
Taxable Total	377,360

Owner Mailing

Tax Year	2022
Sequence Number	0
Owner Number	1571717
Owner	FURGUIELE, SAMUEL F JR MENDEL FURGUIELE, PEGGY
Mailing Address	169 GRAGG ST
City, State, Zip	BOONE NC 28607

Legal Description

Township	05 - BOONE
City Code	
Jurisdiction (Tax Code District)	MS1 - MUNICIPAL SERVICE DIST
Unit Desc	
Unit #	
Book	582
Page	156
Legal Desc 1	PROPER
Deeded Acres	0.22

Sale Date	Book	Page	Sale Price	Grantor	Grantee
17-AUG-00	582	156	145,000		FURGIUELE, SAMUEL F JR

**TOWN OF BOONE
HISTORIC PRESERVATION COMMISSION
EXCERPT MEETING MINUTES
JUNE 7, 2022, 3:00 p.m.
WebEx Video Conferencing**

Historic Preservation Commission Members in Attendance:

Chair Eric Plaag, Vice-Chair Bettie Bond, Rennie Brantz, and Chuck Watkins

Council Liaisons: Virginia Roseman

Town Staff in Attendance:

Jane Shook-Director of Planning & Inspections, Jessica Mitchell-Long-Range/Special Projects Planner, Christy Turner-Senior Planner, and Marlene Crosby-Board Secretary

Others in Attendance: Allison Meade-Town Attorney and Mark Freed-Director of Cultural Resources

Project Updates by HPC Members

Watauga County Jail Local Landmark Designation Report

Chair Plaag pointed out that the draft report was in the meeting packet and asked the HPC if they had any proposed changes. Ms. Mitchell pointed out a few minor grammar changes in the draft report. Chair Plaag noted that he would make those corrections, and get it to Ms. Mitchell in the next ten days. Since no other proposed changes were made, he asked the HPC to make a motion to present the draft designation report to Council for their consideration for approval and, after their approval, send the draft report on to SHPO for their review. Ms. Turner confirmed that SHPO has a 30-day review period.

Motion and Vote:

Vice-Chair Bond made a motion, seconded by Member Brantz for the HPC, to recommend that the draft Watauga County Jail Local Landmark Designation report be presented to Town Council for approval, and the draft report would be sent to the State Historic Preservation Office (SHPO) for their 30-day review.

Vote:

Aye – All

Nay – None

The motion passed.



Exhibit 3

**North Carolina Department of Natural and Cultural Resources
State Historic Preservation Office**

Ramona M. Bartos, Administrator

Governor Roy Cooper
Secretary D. Reid Wilson

Office of Archives and History
Deputy Secretary Darin J. Waters, Ph.D.

August 20, 2022

Jessica Mitchell
Long Range/Special Projects Planner
Town of Boone, NC

Via email: Jessica.Mitchell@townofboone.net

RE: Proposed Designation of the **Watauga County Jail, 142 Burrell St., Boone, Watauga County.**

Dear Ms. Mitchell:

Thank you for the report we received on the proposed designation of the Watauga County Jail. We have reviewed the report and offer the following comments in accordance with North Carolina General Statute 160D-946.

According to the report, the Watauga County Jail is of special local significance because of its association with the early correctional institution history of Watauga County and because it is the only extant, nineteenth century government building in Watauga County.

We have shared our concern with staff regarding the character altering changes to the front facade that have diminished the architectural integrity. However, the report is thorough and well written and should provide the Boone Historic Preservation Commission and the Town Council adequate information to determine if the property has the requisite special significance for landmark designation.

Local landmark designation means the community recognizes the property is worthy of preservation because of its special significance to the local community. Any substantial changes in design, materials, and appearance of the property would be subject to the design review procedures of the preservation commission.

Thank you for the opportunity to comment on the report. Please note, our comments are advisory only and therefore, non-binding. Once the governing board has received a recommendation from the Boone Historic Preservation Commission, it should proceed in the same manner as would otherwise be required for an amendment to the zoning ordinance. Once the decision has been made, please return a completed copy of the enclosed form to our office.

This letter serves as our comments on the proposed designation of the Watauga County Jail. Please contact me at 919-814-6576 should you have any questions about our comments.

Sincerely,

A handwritten signature in black ink that reads "Kristi Brantley". The signature is written in a cursive, flowing style.

Kristi Brantley
Local Preservation Commissions/CLG Coordinator

CC: Commission Chair

Enclosure

Jessica Mitchell - EXTERNAL EMAIL - Watauga County Jail HPO Comments

From: "Brantley, Kristi" <kristi.brantley@ncdcr.gov>
To: Jessica Mitchell <jessica.mitchell@townofboone.net>
Date: 8/20/2022 10:28 PM
Subject: EXTERNAL EMAIL - Watauga County Jail HPO Comments
Cc: "Cathey, Jennifer" <jennifer.cathey@ncdcr.gov>
Attachments: WT0067_HPO formal Review.pdf; WT0067_REQUEST FOR DESIGNATION CONFIRMATION.docx

Jessica,

Attached is a copy of a letter written in response to the proposed designation of the **Watauga County Jail, 142 Burrell St., Boone, Watauga County**. Please share a copy with your Commission Chair.

Also attached is a copy of the designation confirmation form for the property. If the ordinance is adopted to designate the property, please return a completed copy of the confirmation form to me with the date the ordinance was adopted.

Architectural Survey Coordinator Beth King reviewed the report and offers the following comments:

This is a thorough report.

My concern is the three-season porch, which covers a substantial portion of the façade and was added to the jail after it was placed on the Study List (1984). Although there is some debate about whether the jail had a porch when first constructed in 1889, photographs demonstrate a porch was in place by 1905, well within the proposed period of significance (1889-1927). The enclosure of the porch created a significant impact to the historic materials, workmanship, and design of the building and also affects feeling. Based on these alterations, I do not recommend local landmark designation of the Watauga County Jail at this time.

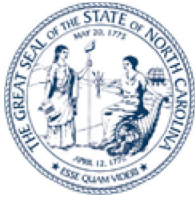
Would the owners be open to removing the recent porch and possibly replacing it with an open porch sympathetic to one present during the period of significance?

Beth also recommended, because of the substantial change to the façade, the highly altered interior, and the large addition to one side of the rear wing, the applicants should talk with our National Register Preservation Specialist Hannah Beckman Black before pursuing National Register listing.

Please let me know if you have any questions.

Best,

Kristi



Kristi Brantley

CLG/Local Government Coordinator
NC State Historic Preservation Office
NC Dept. of Natural and Cultural Resources
Phone: [\(919\) 814-6576](tel:(919)814-6576)
kristi.brantley@ncdcr.gov

109 East Jones Street | 4617 Mail Service Center | Raleigh, NC 27699-4617

#StayStrongNC

Learn more @ nc.gov/covid19

And don't forget your Ws! Wear. Wait. Wash.

WEAR a face covering.

WAIT 6 feet apart from other people.

WASH your hands often.



REQUEST FOR DESIGNATION CONFIRMATION

To: Jessica Mitchell, Boone Historic Preservation Commission
From: Kristi Brantley, Local Preservation Commissions/CLG Coordinator
Date: August 20, 2022

When the local governing board has concluded its action on the designation ordinance for the **Watauga County Jail, 142 Burrell St., Boone, Watauga County**, please inform me via either:

1. the form below, mailed to me at 4617 Mail Service Center, Raleigh, NC 27699-4617,
2. the form below, emailed to me at kristi.brantley@ncdcr.gov, or
3. call me at 919-814-6576 with the information requested below.

Also, please let me know of any provisions in the ordinance that are different from those specified in the report (such as boundaries). Thank you for your cooperation.

To: Kristi Brantley, Local Preservation Commissions/CLG Coordinator
From: Boone Historic Preservation Commission
Date: _____

The designation ordinance for the **Watauga County Jail, 142 Burrell St., Boone, Watauga County**, has been adopted by the local governing board.

Yes _____ **No** _____ **Date of Designation** _____

Ordinance provisions different from designation report:

**TOWN OF BOONE
HISTORIC PRESERVATION COMMISSION
EXCERPT MEETING MINUTES
SEPTEMBER 6, 2022, 3:00 p.m.
WebEx Video Conferencing**

Historic Preservation Commission Members in Attendance:

Chair Eric Plaag, Vice-Chair Bettie Bond, Chuck Watkins, and James Sharp

Council Liaisons: Virginia Roseman

Town Staff in Attendance:

Jane Shook-Director of Planning & Inspections, Jessica Mitchell-Long-Range/Special Projects Planner, Christy Turner-Senior Planner, and Marlene Crosby-Board Secretary

Others in Attendance: Amy Davis-Interim Town Manager, Ms. Paige Henderson-Downtown Boone Development Coordinator, Mark Freed-Director of Cultural Resources, and JC Feimster

Watauga County Jail Local Landmark Designation

Chair Plaag began discussing the topic and noted he thought there was a misunderstanding regarding the Basic Local Landmark Designation Process flowchart, which can be addressed later in this meeting.

Ms. Mitchell talked about the response from SHPO regarding the submittal for the landmark designation of the Watauga County Jail. She said the SHPO's review was completed within the 30-day window. She said Staff felt that the greatest concern from the review was the comments that SHPO made on the façade of the building. She said the Staff would like feedback from the HPC on the response from SHPO.

Chair Plaag read the comments in the meeting packet by Architectural Survey Coordinator, Ms. Beth King. He pointed out that the HPC was not recommending this property for landmark designation based on its architecture, but on its association with patterns of history. He said this information was overlooked in the review of the designation report. He explained a different standard discussed at length in the National Register guiding bulletins between properties nominated for their architecture significance under Criterion C and properties nominated under Criterion A or B.

Chair Plaag pointed out that Ms. King may have potentially an argument in terms of the building's ability to communicate its association with its period of significance about the interior of the building. He said the changes to the interior of the building are not dramatic. He said the jailhouse elements are missing from the interior of the building, there are no bars on the windows, and we do not see other elements of the jail infrastructure in the building. He said that the interiors of buildings are not considered with local landmark designation, unless the owner explicitly requests the interior be designated. He further stated the significance of the building is considered based on the exterior appearance of the building. He noted that the Boone Post Office's interior was considered part of its designation because the Town wanted the lobby designated as well. He said that any discussion of missing jailhouse elements is irrelevant and should be removed from this discussion because we are not asking for interior designation.

Chair Plaag talked about the exterior of the building; he said historically, the building had a porch, from very early in its period of significance, which has not changed. He said the design of the porch has changed, and many of the things on the porch are reversible. He said there are sufficient historical images to show the more craftsman-style porch that was originally, or at least during the period of significance, on this

building. He said if the owners were inclined to go back, they could accomplish that relatively easily. He thought no other exterior elements had been removed or disturbed to impact the building's ability to convey its historical significance. He said he included this information in the designation report that was submitted to SHPO for their review, but it was mentioned in the response from SHPO.

Vice-Chair Bond shared her thoughts on the Watauga County Jail House. She said the jail house is one of the anchors of the Howard Street Project. She said it was important to the Town to have this building recognized as historically significant.

Chair Plaag referred to and read comments made in the SHPO letter dated August 20, 2022, from Ms. Kristi Brantley, which stated the comments are "advisory only" and "non-binding." He explained that the process for local landmark designation is to get feedback from the SHPO. He said if they have concerns about the property's eligibility, those concerns are not binding upon the Town. He felt this is where the misunderstanding about the said flow chart occurred.

Discussion ensued on the flow chart. Chair Plaag referred to the flowchart in the meeting packet and read the item, "Does the report establish the property's historical significance and fully account for its condition/degree of integrity?" He said the report establishes the significance, condition, and degree of integrity. He said the HPC has a difference of opinion with the SHPO, and, specifically with Ms. King, about the integrity level. He said that from this point, the HPC could, or could not, recommend landmark designation after receiving feedback from the SHPO. He concluded that it is then up to the Council to know that there is simply a disagreement in the interpretation of the SHPO, which seems to be applying national registry standards, to a local historic landmark request, and they are not the same standards.

Member Sharp asked if there are landmarks at the Town, County, or Regional scale where comparable efforts have been successful that could be presented to Council to help carry the landmark designation through, even with contradictory feedback from the SHPO. Chair Plaag explained that in the Town, the landmarks designated are the Downtown Boone Post Office, the Linney House and the Linney Law Office, and the Blue Ridge Tourist Court. He noted that these were approved without objection from SHPO. He further noted that the Blue Ridge Tourist Court motel and its related buildings were added as landmarks, and at that time, they did not retain their original appearance. He said that roof lines are important on the National Registry. He said the annex, the tourist court, and the motel all had built up additions that resembled hats that helped with the water intrusion at the property, and those hats were still there. He said the owner intended to remove the hats, but that had not been done when the landmark designation was made and encouraged without objection by the SHPO. He said he thought Ms. King's question was interesting regarding the owner being open to removing or correcting the porch. He suggested Staff could contact the owner and ask if they were open to correcting the porch. He said it is not binding and not required to remove that element to secure a landmark designation. He said he did not feel good about that being the standard by which we evaluate whether this is appropriate or not. He said the better way to evaluate it by is whether what has been done reversible. He stated that with this case, he said the answer is yes, it is reversible, and possible to restore this porch's original appearance at some later date.

Chair Plaag said that on a regional level, he does not know of another 19th Century jailhouse building that survives in any of our Northwest North Carolina counties, with the possible exception of Wilkes County. He explained that it is not known if it is considered or designated as a local landmark for Wilkes County, and it would be a surviving building at the rear of the Wilkes Courthouse.

Ms. Mitchell clarified that in talking with Staff, she wanted to present this to the HPC based on the comments made by SHPO for HPC feedback, prior to contacting the owner. She stated that Staff is aware that the porch on the building is used for the owners' restaurant operation. She explained that the conversation by the HPC clarified the landmark process.

Member Watkins said it is useful to remember that the exhibits stopped at Winston-Salem in the old North Carolina Museum of History, and did not represent areas further west. He said the only way in which the western part of the state was represented was through the subject of folk art. He said he felt that local landmark designation should be left up to the community because it knows best what is important. He thought the jail was remarkable, not so much for its alterations, but because it survived in complete a state as it has. He further stated he supports this building as a local landmark designation, whether the owner wants to correct the porch or not.

Motion and Vote:

Chair Plaag made a motion, seconded by Member Watkins, to recommend designation of the Watauga County Jail building, presently known as the Proper Restaurant and located on Burrell Street, as a local historic landmark, not only for the reasons listed in the report that was submitted to the State Historic Preservation Office (SHPO), but for the following reasons including:

- The building's association with patterns of history,
- The property being evaluated based on the exterior appearance and not the interior appearance, and as such, the missing jailhouse elements mentioned by SHPO are irrelevant to the decision,
- The building having no other exterior elements removed to impact the building's elements of significance
- Existing landmark properties within the Town of Boone being successfully accepted as landmarks with alterations to the properties,
- There are no other known and existing jail buildings regionally of such significance, and
- The building as a local landmark property would represent the western area of the state with a historic building.

Chair Plaag continued with the motion to request that Staff, upon presenting this to Council, will include the meeting minutes from September 6, 2022, or an accurate summary of the discussion by HPC members explaining our rationale.

Ms. Mitchell added discussion to the motion in which she explained that a map amendment is needed for a local landmark designation. She said the map amendment includes a public hearing process, which is generally a joint meeting with Town Council, Planning Commission, and in this case, the HPC. She continued that the next public hearing is scheduled for November 28, 2022. Chair Plaag requested that this case be the first on the public hearing agenda. Ms. Mitchell said the Staff would consider Chair Plaag's said request, and decide if that is possible depending on the other cases.

Chair Plaag asked Staff if, at this point in time, the property owners have been informed that their property has been considered for a landmark designation. He noted that it is good practice to have the property owners aware of the process, especially before the public hearing process. He requested that Staff contact the property owners to make sure they still favor the landmark designation. He also requested that Staff remind the property owners of the property tax abatement benefit that is available with a landmark designation. Ms. Mitchell said that based on the discussion at this meeting, the Staff would make it a priority to contact the property owners.

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

Chair Plaag reiterated that this motion recommends designation of the property as a local landmark and begins the process to schedule the case for a public hearing.

**TOWN OF BOONE
HISTORIC PRESERVATION COMMISSION
EXCERPT MEETING MINUTES
October 4, 2022, 3:00 p.m.
WebEx Video Conferencing**

Historic Preservation Commission Members in Attendance:

Chair Eric Plaag, Vice-Chair Bettie Bond, Chuck Watkins, and James Sharp

Council Liaisons: Virginia Roseman

Town Staff in Attendance:

Jane Shook-Director of Planning & Inspections, Jessica Mitchell-Long-Range/Special Projects Planner, Marlene Crosby-Board Secretary, and Mark Freed – Director of Cultural Resources

Others in Attendance: Shea Bruer and JC Feimster

REVIEW OF REMAINING WORK PLAN

Ms. Mitchell said the following items are remaining on the work plan based on a past activities list she gathered for the Certified Local Government (CLG) application: obtaining the Certified Local Government (CLG) status, the Hayes-Bryan-Greene Cemetery Historical Marker and the Council Store Historical Marker, Watauga County Jail local landmark designation, the Boone Cemetery Interpretative panels, the local landmark designation reports for the R.L. Clay (Rivers) House and the Jones House, the Boone's Street Project, Boone Cemetery Survey. She stated that Planning Staff are working on finishing up on those markers and the Watauga County Jail local landmark designation. Chair Plaag mentioned that the Boone Cemetery Survey was paused for the historic district work, and he has the Boone Cemetery Survey on his personal work plan to complete. He also mentioned that there were several of the Boone Streets left to complete.

Discussion ensued on topics for the HPC to work on in 2023. Chair Plaag asked if there were any other landmark designations beyond the two previously mentioned. Ms. Mitchell asked what year that would have been discussed. Chair Plaag said that the HPC created a work-plan list in possibly late 2020 or early 2021. Ms. Mitchell said she would try to locate that list in the minutes. Vice-Chair Bond mentioned that they had discussed Founders Hall, and Chair Plaag added that building was on their list to evaluate. Ms. Mitchell asked about the Boone Cemetery footstone information for markers. Chair Plaag added there was discussion to put a row of stones dividing the cemetery into two sections, and getting stones for the sites in the historic black section of the cemetery. He added that the Junaluska Heritage Association has taken on the footstones project, and the other project was abandoned. Vice-Chair Bond added that the dividing stones project was abandoned because of problems with mowing, and the Austin & Barnes Funeral Home was helpful before identifying where to get stones.

Chair Plaag encouraged the HPC to think of projects that the HPC has not addressed yet. He told the HPC that there are a lot of historical resources in Boone, and asked the HPC to think of another part of town they would like to take up as a potential survey. He mentioned that the Blair Farm is on the National Register, but it is not a local historic landmark. He also mentioned the Gragg House on Gragg Street. He asked the HPC if a neighborhood has rich architectural resources that the HPC would want to see surveyed. He said the HPC might want to ask the Council for funding to do this type of survey.

Chair Plaag said that behind the scenes, Dr. Kristen Deathridge had asked him if there was anything that her class could work on because she taught a course where students could work on an architectural survey. He said that over the last several semesters, she has done preliminary surveys on Grand Boulevard and started the process on the Cherry Park neighborhood, including Dale Street, Westbrook Drive, Eastbrook Drive, and Cherry Drive. He asked the HPC if they might want to work on these. He asked the HPC to come back to the next HPC advisory session with some ideas of things that should be made a priority. Ms. Mitchell added that in the past, the HPC had discussed Grand Boulevard and Cherrybrook Street as other historic districts, if the HPC wanted to add these to their 2023 work plan.

Chair Plaag said that the HPC has learned about the historical marker process and the temperature of Council and the community. He asked if it was time for our community to work on things like the former courtroom in the 1875 Court House being renamed Ku Klux Klan Hall. He asked if it is time to deal with the active recruitment of a Klan parade through Downtown Boone. He asked the HPC about future historical markers, for example, what kind of things they wanted to acknowledge or celebrate as a community.

Vice-Chair Bond said that since the Mount Lawn Cemetery has been privately purchased, the new owners are seeking their 501-3C status. She said Dr. Deathridge might want her students to survey their cemetery. Chair Plaag said that the HPC had identified other cemeteries that could be surveyed. He asked the HPC if they wanted to contact those cemetery owners to see if they could be surveyed by either the HPC or Dr. Deathridge's class.

STAFF UPDATES

...

Ms. Mitchell gave the status of the Watauga County Jail for local landmark designation. She said this case is scheduled to be heard on Monday, November 28, 2022, at 6 p.m., at the Public Hearing/Planning Commission meeting. She noted that the HPC was required to attend for the public hearing as part of the landmark designation process. She said the Planning Staff does not foresee an issue placing this agenda item near the top of the Public Hearing/Planning Commission meeting agenda. Ms. Shook confirmed that the Town will still use WebEx for this meeting. Ms. Shook told the HPC to plan a virtual meeting.

Chair Plaag asked Ms. Mitchell if she had reached out to the property owners of the Watauga County Jail property, Mr. and Mrs. Sam Furgiuele, to make sure they were on board with their property being considered for a landmark designation. Ms. Mitchell said that she hoped to contact them this week.

Ms. Mitchell presented the question regarding standards for designated local landmarks. She explained that the most recent local historic landmark was the Blue Ridge Tourist Court property in which the ordinance included UDO Article 8 and the Secretary of the Interior's Standards for Rehabilitation. She asked the HPC since the Watauga County Jail property is the first historic landmark designation since the historic district was approved, if it would be the HPC's recommendation to include Appendix D with consideration that it is known what the historic district's period of significance is. She continued that the Watauga County Jail's period of significance is between 1889 and 1927, so it does fall within that period of significance of the district. She the property's period of significance is towards the beginning of the district's period of significance. She asked if this is still enough to consider it underneath the historic district standards, and if the HPC wants the ordinance to include UDO Article Eight and Appendix D as the guiding standards for the property. Chair Plaag said that ideally, with all landmark properties, the HPC needs to write standards for each landmark. He said that technically we are supposed to have separate

standards specific to each property, even if the landmark property is within the district and listed individually as a landmark. He suggested that Planning Staff lists the period of significance in the ordinance from 1889 to 1927, and the guiding standards, for now, would be the existing district standards along with the Secretary of the Interior's Standards for Rehabilitation, broadly speaking, and until a revised set of standards is approved by Council. Ms. Mitchell said this was a question Planning Staff came across thinking about the property, especially considering materials and the property's period of significance.

General Use Zoning Map Amendment Application

Town of Boone Planning & Inspections Department

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

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



A. Required to be Submitted at Time of Application

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

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

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

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

B. Property Information

Street Address:

173 Honespun Hills Rd

Watauga County Parcel Identification Number:

2900450179000 & 2900452302000

Existing Zoning District(s): Business

Proposed Zoning District(s): Residential

Adjacent Land Uses:

N: _____

E: _____

S: _____

W: _____

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

☐ Yes ☐ No ☐ Unknown

If yes, describe: _____

Total Land Area: _____

C. Property Owner Information

Name:

Tin Trong Dinh & An Thi Truong Ngo

Complete Mailing Address (Street, City, Zip):

173 Honespun Hills Rd

Phone Number:

828 215 6867

Email Address:

tue.khuong18@gmail.com

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

D. Applicant Signature and Property Owner Authorization

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

Tin Trong Dinh

[Signature]

10/03/2022

An Thi Truong Ngo

[Signature]

10/03/2022

Property Owner (Print)

Property Owner (Signature)

Date

Official Use Only				
Permit Name: Dinh, Tim Truong - Gen Use RZ Map Amendment				
Permit Number: PL06130-100422 + PL06131-100422				
Date: 10-3-2022	Fee: \$374.00	Receipt Number: 522169	Method of Payment: ☒ Cash ☐ Check Number: _____	Paid By: Tim Truong Dinh

Official Use Only - Hearing/Decision Information

Public Hearing Meeting Date: 11-28-2022

PC Meeting Date: 11-28-2022

TC Meeting Date: 12-14-2022 or 12-28-2022

Date of APO Mailed Notification: _____

Date of Posted Notification: _____

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

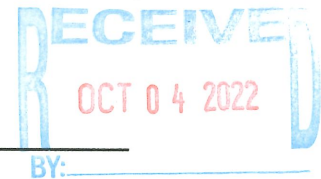
S:\FORMS\PI_Forms_Current\Planning Forms\GenUseZMapAmend_07012019.docx

Bk 1943 Pg 638 (2)
Recorded: 10/23/2017 at 10:55:27 AM
Doc No: 663068 Kind: DEED



663068

✓
RETURNED TO AT THE
TIME OF RECORDING:
TIN TRONG DINH



NORTH CAROLINA GIFT DEED

INSTRUMENT PREPARED BY: THOMAS G. McMURRAY, Esq.
Appalachian Law Center
756 West King St.
Boone, NC 28607
(Without benefit of title search or title opinion)

Mail to: TIN TRONG DINH
173 Homespun Hills Rd
Boone, NC 28607

EXCISE TAX: NONE - GIFT

BRIEF DESCRIPTION: 173 Homespun Hills Rd, Boone, NC

PARCEL NUMBER(S): 2900 4501 79000

THIS DEED made and entered this, the 5th day of OCTOBER, 2017,
by and between:

<u>GRANTORS</u>	<u>GRANTEES</u>
NGUYEN NGOC TANG, and son TIN TRONG DINH, as Tenants in Common.	TIN TRONG DINH, and sister AN NGO, each a one-half undivided interest as Tenants in Common. 173 Homespun Hills Rd Boone, NC 28607

This deed made for the purpose of creating a gift deed to the Grantees.

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

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

BEING all of Lot 1, containing .347 acres, and all of Lot 2, containing .309 acres, as shown on Map or Plat entitled "Replat of Lots 48 through 59, Block "A", Section One, Eggers Subdivision" dated February 10, 2005 prepared by

Cyrus L. Cole, PLS No. L-1287, and recorded in Plat Book 18, Page 193 of the Watauga County, North Carolina Public Registry, reference to which is hereby made for a more complete description of the property.

Same being those identical lands conveyed to Grantors by deed dated March 2, 2015 and recorded in Watauga County Registry Book No. 1793; Pages 207-210 on the 2nd day of March, 2015.

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

And the Grantors covenant with the Grantees, that Grantors have done nothing to impair such title as Grantors received, and Grantors will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantors, except for the following exceptions hereinafter stated:

- A) Taxes for the current and subsequent years.
- B) All other matters, liens, easements and encumbrances of record.

IN WITNESS WHEREOF, the Grantors have hereunto set their hand and seal, the day and year first above written.

GRANTORS:

Nguyen N Tang (Seal)
NGUYEN NGOC TANG

Tin Trong Dinh (Seal)
TIN TRONG DINH

STATE OF NORTH CAROLINA

ACKNOWLEDGMENT

COUNTY OF AVERY

I, Thomas G. McMurray, a Notary Public of the County and State aforesaid, certify that **Nguyen Ngoc Tang, and son, Tin Trong Dinh** as Grantors, personally appeared before me this day and acknowledged to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

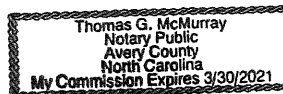
WITNESS my hand and official stamp or seal, this 5th day of OCTOBER 2017.

[Signature]

Notary Public Signature

Printed Name: Thomas G. McMurray

My commission expires: 3/30/2021



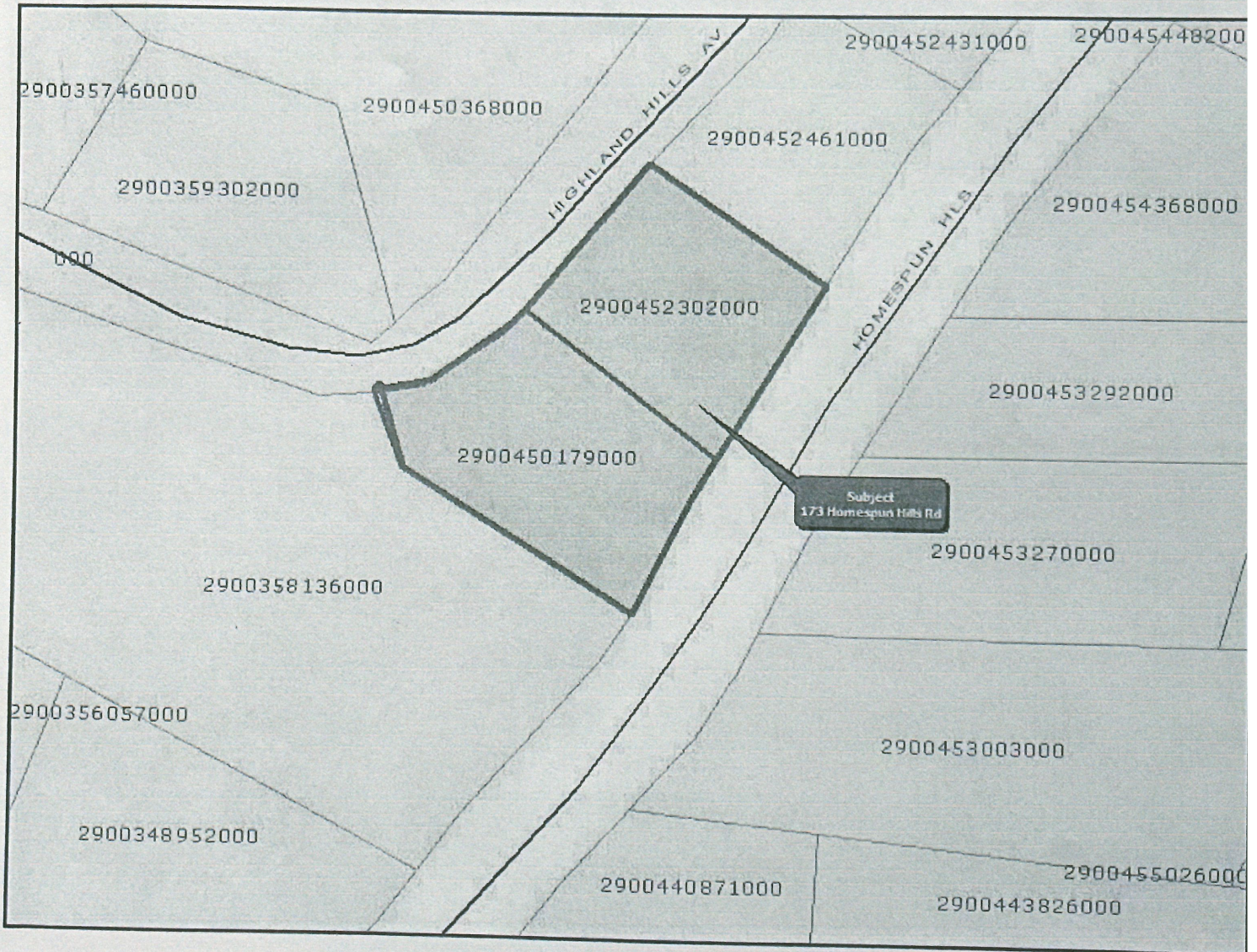
County Map

Client			
Property Address	173 Homespun Hills Rd		
City	Boone	County	Watauga
		State	NC
Client		Zip Code	28607

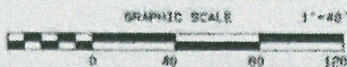
RECEIVE

OCT 04 2022

BY: _____



Communication: Cases PL06130- & PL06131-100422 Application Information (Cases PL06130 and PL06131-100422 Dinh General Use Zoning



Certificate of Approval for Recording or Re-recording Subdivisions Which are not Regulated by Existing Subdivision Regulations

This survey represents a re-survey of property as shown in Plat Book 3, Page 19, and does not require the approval of the Town Council of the Town of Boone for the following reason:

The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resulting lots are equal to or exceed the minimum standards set forth in the Town of Boone Unified Development Ordinance.

2-14-05 John Shook
Date Planning Director

Certificate of Ownership

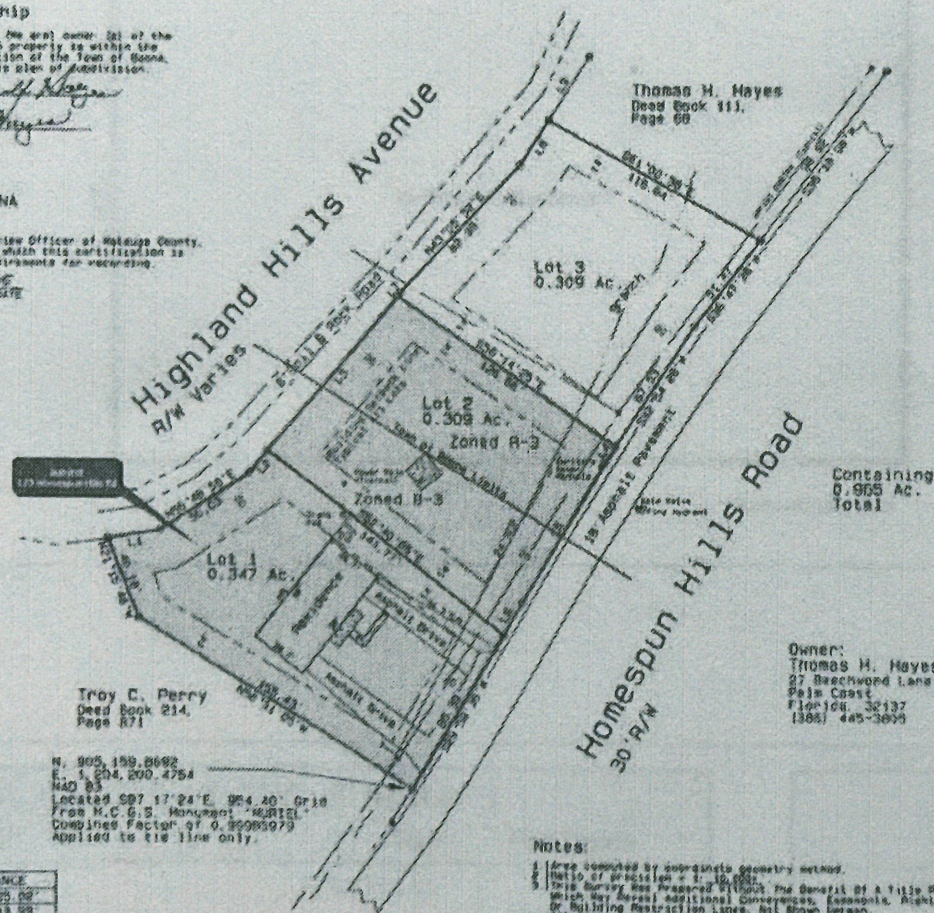
I, the undersigned, certify that I am the real owner of the property described herein, which property is within the subdivision regulation jurisdiction of the Town of Boone, and that I have properly signed this plan of subdivision.

2-17-05 Thomas H. Hayes
Date
2-17-05 Pauline B. Hayes
Date

**STATE OF NORTH CAROLINA
COUNTY OF WATAUGA**

I, Charles H. Hayes, Mayor of the Town of Boone, certify that the map or plan to which this certification is affixed meets all statutory requirements for recording.

2-17-05
RECORDATION DATE



Containing
0.965 Ac.
Total

Owner:
Thomas H. Hayes
27 Beechwood Lane
Palm Coast
Florida 32137
(386) 445-3000

N. 905.150.8692
E. 1,204.250.4754
MAD 83
Located SD 17 17' 24" E. 904.40' Gr 10
from M.C.S. Monument "MAD 83"
Combined Factor of 0.9999979
Applied to tie line only.

LINE	BEARING	DISTANCE
1	N 79° 46' 04" E	25.00
2	N 40° 01' 30" E	13.99
3	N 40° 01' 30" E	95.28
4	E 30° 54' 00" W	3.67
5	S 69° 59' 30" W	77.00
6	S 69° 59' 30" W	17.55
7	S 40° 01' 30" E	2.44
8	N 32° 25' 17" E	25.00
9	E 30° 28' 17" E	30.12

Notes:

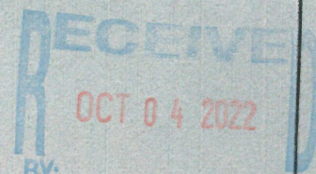
1. Area computed by geometric geometry method.
2. Ratio of precision = 1:10,000.
3. This survey was prepared without the benefit of a title report, which may reveal additional Conveyances, Easements, Rights-of-Way, or Building Restriction Lines, not shown herein.
4. 1) Property Owner's Name taken from current Tax Records only.
5. 2) Denotes 3/4" from plat set.
6. 3) Denotes iron found.
7. 4) Denotes not set.
8. 5) Tax Parcel ID: 2000-02-0170-020
2000-02-1000-000

**NORTH CAROLINA
WATAUGA COUNTY**

Filed for registration on the _____ day of _____, 2008, at _____, and registered in the Office of the Register of Deeds of Watauga County, North Carolina on the _____ day of _____, 2008, in Book _____ of Page _____.

Wanda C. Scott

By _____
Deputy Register of Deeds



Replat of
Lots 48 through 59
Block "A"
Section One
EGGERS SUBDIVISION

Plat Book 3, Page 19
New River Township
Watauga County
North Carolina
Deed Reference
Deed Book 111, Page 68
Deed Book 253, Page 364

Certificate of Accuracy

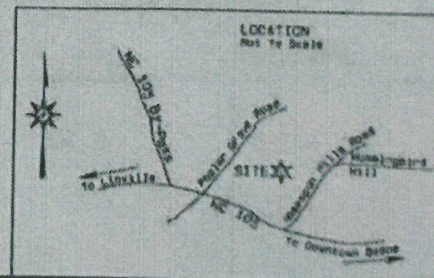
I, Cyrus L. Cole, Professional Land Surveyor, certify that this plat was drawn from an actual survey made under my supervision on the _____ day of _____, 2008, and registered in Book _____, Page _____, that the boundaries as surveyed are shown as horizontal lines plotted from information as shown that the ratio of precision as calculated by latitude and departure is 1:10,000. That this plat conforms to G.S. 42-39 as amended, that this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.

Witness my hand and official seal this 11th day of February, 2008.

Cyrus L. Cole
Professional Land Surveyor
North Carolina Registration No. L-12087

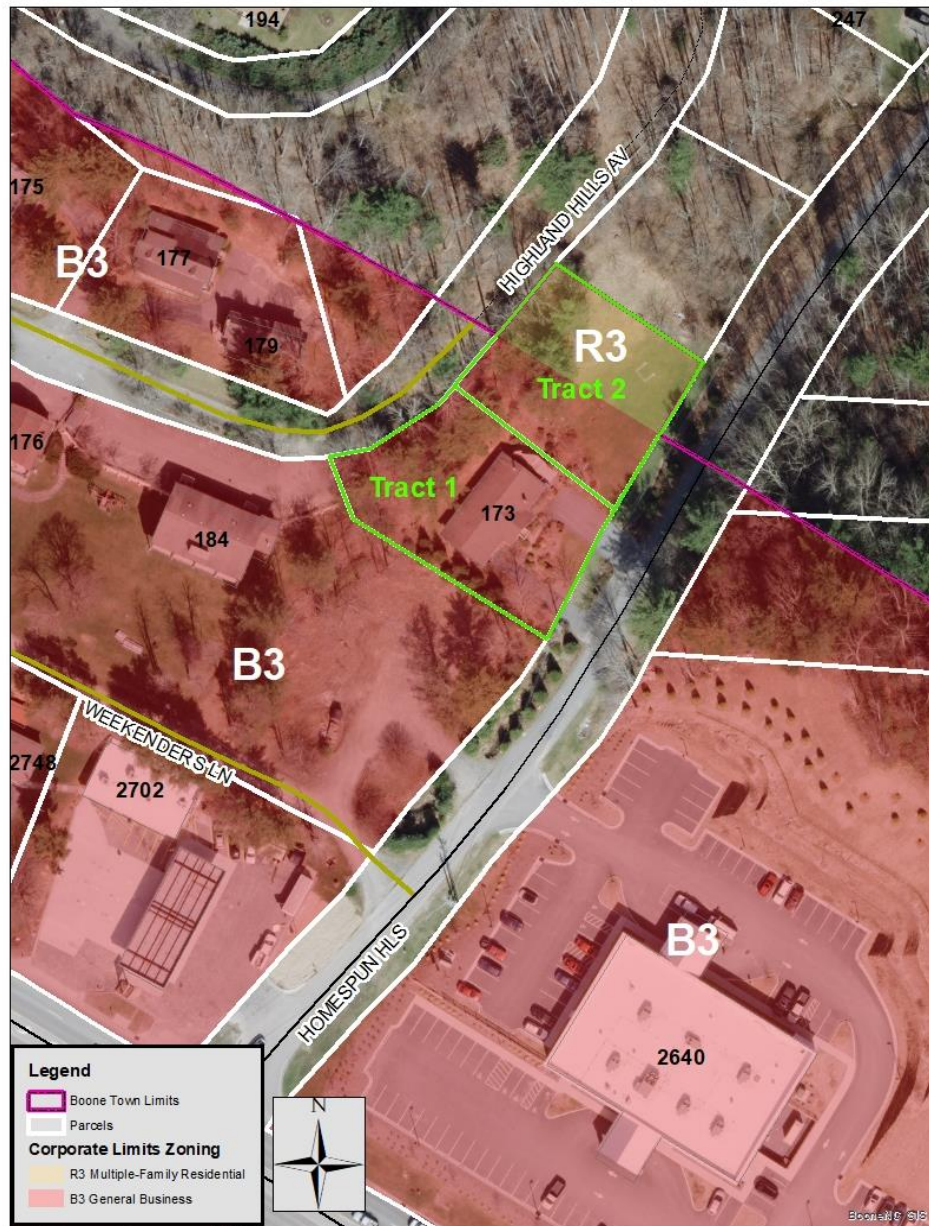


Survey By
LESLIE COLE, P.L.S., P.A.
C-2087
Cyrus L. Cole, P.L.S.
L-12087
156 Scene-A-Rama Drive
Boone, N.C. 28607
(828) 252-2009
dcolec@val.com



FILED John Shook
By _____
Deputy Register of Deeds

Staff Report
Public Hearing
November 28, 2022
Cases PL6131-100422 & PL06131-100422 Dinh, Tim Trong
General Use Zoning Map Amendment



REQUEST

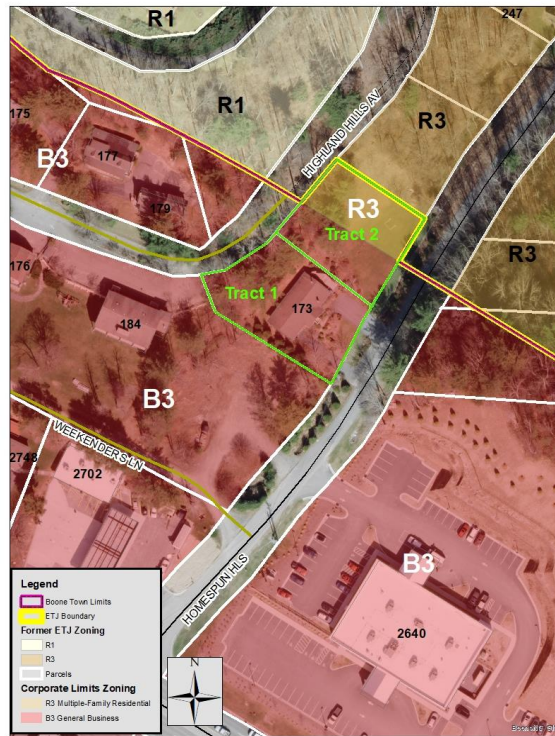
Tim Trong Dinh has submitted a General Use Zoning Map Amendment application to rezone 2 parcels off of Homespun Hills as follows:

1. Tract 1: 173 Homespun Hills from B3 General Business to R1 Single-Family Residential
2. Tract 2: Watauga County PIN: 2900-45-2302-000 (vacant) from B3 General Business/R3 Multiple-Family to R1 Single Family Residential

The subject properties are outlined in green on the map above.

HISTORY

- 6-30-2008 The property labeled as “tract 2” was voluntarily annexed into the Town of Boone by a former property owner. At the time of annexation, the parcel was split-zoned B3/R3.
- 1-10-2017 Town of Boone lost authority to exercise power of extraterritorial jurisdiction. Former ETJ area being shown to show relation of parcel to former zoning districts in the ETJ.

**ZONING ANALYSIS**

	173 Homespun Hills	Watauga Co. PIN: 2900-45-2302-000
Petitioner	Tim Trong Dinh	Tim Trong Dinh
Address	173 Homespun Hills	Off Homespun Hills
Watauga County PIN	2900-45-0179-000	2900-45-2302-000
Use	1.01 Single Family Residential	Vacant
Size	.35 Acres	.31 Acres
Jurisdiction	Town of Boone	Town of Boone
Access	Homespun Hills	Homespun Hills
Viewshed	No	No
Watershed	No	No
SFHA	No	No
Steep Slope	Yes	Yes
Very Steep Slope	Yes	Yes
Existing Zoning	B-3 General Business	No Zoning has bee assigned
Previous Zoning	B-3 General Business andCorridor District Overlay	B3 General Business/R3 Multiple Family and Corridor Overlay District
Requested Zoning	R-1 Single Family Residential	R-1 Single-Family Residential

Analysis of Adjacent Zoning

	Adjacent Zoning	Adjacent Land Use (Watauga Co. Tax Data)
North	Not zoned (Watauga County's jurisdiction)	Vacant
East	B-3 General Business	Medical Office-Category 4/Other Business or Professional Office
South	B-3 General Business	Multi-family Dwelling Units
West	B-3 General Business	Multi-Family Residential

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

Excerpt of ARTICLE 14 ZONING DISTRICTS

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14.05 R1 Single-Family Residential District

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

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14.10.01 R3 Multiple-Family Residential District

14.10.01 The R3 Multiple-Family Residential District is established to provide a high-density area consisting of three or more dwelling units per lot plus limited service use. The regulations for this district are intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

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14.21 B-3 General Business District

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

Excerpts from UDO Appendix B

Excerpt of B1.01 Complete Table of Principal Uses

Use #	Specific Use	R1	R3	B3	Reference
1.0 Household Living					
1.01	Single-Family Dwelling	P			
1.02	Manufactured Home "Class A"				15.01
1.03	Manufactured Home "Class B"				15.01
1.04	Manufactured Home "Class C"				
1.05	Manufactured Home Park				15.02
1.06	Duplex (one duplex building per lot)		P		
1.07	Duplex (more than one duplex building per lot)		L		15.03
1.08	Townhouse (up to 30 bedrooms)		L ^{T50}		15.03
1.09	Townhouse (31-100 bedrooms)		L ^{T75}		15.03
1.10	Townhouse (> 100 bedrooms)		L ¹²⁵		15.03
1.11	Multi-Family Dwelling (up to 30 bedrooms)		L ^{T125}		15.03
1.12	Multi-Family Dwelling (31-100 bedrooms)		L ^{T200}		15.03
1.13	Multi-Family Dwelling (> 100 bedrooms)		L ^{T300}		15.03
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)			L	15.04
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)			L ^{T125}	15.04
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)			L ^{T200}	15.04
1.17	Adult Living Community		p ^{T300}		
2.0 Group Living					
2.01	Family Care Home	L	L		15.06
2.02	Family Care Institutions				15.07
2.03	Halfway House, Category 1				15.07
2.04	Halfway House, Category 2				15.07
2.05	Residential Care Facility			p ^{T300}	
2.06	Fraternity or Sorority Dwelling		S ^{T300}		15.09
2.07	Boarding House		L	L	15.10
3.0 Transient Living					
3.01	Home for Survivors of Domestic Violence	L			15.11
3.02	Shelter for Homeless, Category 1		L ^{T50}	L ^{T50}	15.12
3.03	Shelter for Homeless, Category 2		L ^{T300}	L ^{T300}	15.12
3.04	Bed and Breakfast, Category 1	S ^{T50}			15.13
3.05	Bed and Breakfast, Category 2			L ^{T125}	15.13
3.06	Vacation Rental		L ^{T75}	L ^{T75}	15.14
3.07	Homestay Rental	L	L	L	15.05
3.08	Motel			p ^{T300}	
3.09	Hotel, Small			P	
3.10	Hotel, Large			p ^{T200}	
3.11	Hotel, extended stay			p ^{T300}	
4.0 Institutional					
4.01	Airport/Landing Strip				15.15
4.02	Heliport				

Use #	Specific Use	R1	R3	B3	Reference
4.03	Funeral Home Establishment			P	
4.04	Cemetery	P	P	P	
4.05	Post Office			P	
4.06	Post Office, Distribution				
4.07	Animal Sanctuary				
5.0 Government Uses					
5.01	Government Cultural Facility			P	
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	S		P	
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity			P	
5.04	Recreation Facility, Category 1		P	P	
5.05	Recreation Facility, Category 2	P		P	
5.06	Recreation Facility, Category 3	S	P	pT50	
5.07	Event Venue, Category 1		P	P	
5.08	Event Venue, Category 2		S	P	
5.09	Event Venue, Category 3			pT50	
5.10	Landfill				
5.11	Solid Waste Processing				
5.12	Police Substation	P		P	
5.13	Utility Facility, Town	L		L	15.16
5.14	Utility Facility, Government, Neighborhood	L	P	L	15.16
5.15	Utility Facility, Government, Regional		L	L ^{T300}	15.16
5.16	Government Facility		L	P	
6.0 Non-Government Utility Facility					
6.01	Utility Facility, Neighborhood	L	L	L	15.16
6.02	Utility Facility, Regional			L ^{T300}	15.16
7.0 Wireless Communication					
7.01	Small Wireless Collocation	L	L	L	15.18
7.02	Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole	L	L	L	15.17
7.03	Stealth Wireless Facility Attached to Existing Building or Structure	L	L	L	15.17
7.04	Non-stealth Wireless Facility Attached to Existing Building or Structure				15.17
7.05	Non-stealth Wireless Facility Collocation on Electrical Transmission Towers	L	L	L	15.17
7.06	Stealth Wireless Support Structure	S/L	L	L	15.17
7.07	Non-stealth Wireless Support Structure		L	L	15.17
7.08	Emergency Response Communication Antenna	P	P	P	
8.0 Assembly					
8.01	Religious Assembly, Category 1	P	P	P	
8.02	Religious Assembly, Category 2	pT125	pT125	P	
8.03	Religious Assembly, Category 3			pT200	
8.04	Club/Lodge, Category 1			p ^{T75}	
8.05	Club/Lodge Which Does Not Serve Alcohol			P	
9.0 Education					
9.01	Public colleges and universities				
9.02	Private colleges and universities				
9.03	Trade school				

Use #	Specific Use	R1	R3	B3	Reference
9.04	High school				
9.05	Elementary school				
9.06	Boarding school				
9.07	College- or university-operated community enterprise				15.63
9.08	College- or university-operated child daycare center				15.19
10.0 Daycare					
10.01	Child Daycare, Large		L	L	15.19
10.02	Child Daycare Center			L	15.19
10.03	Adult Daycare, Large		L	L	15.19
10.04	Adult Daycare Center			L	15.19
10.05	All Other Daycare				
11.0 General Sales and Service					
11.01	Kennel			L ^{T125}	15.20
11.02	Veterinary Office/Hospital with Outdoor Kennels			L ^{T125}	15.20
11.03	Veterinary Office/Hospital without Outdoor Kennels			P	
11.04	Financial Institution ≤ 5,000 ft ²			P	
11.05	Financial Institution > 5,000 ft ²			P	
11.06	Restaurant ≤ 2,500 ft ² open to the public during 10 pm – 6 am			p ^{T75}	
11.07	Other Restaurants ≤ 2,500 ft ²			P	
11.08	Restaurant > 2,500 ft ² open to the public during 10 pm – 6 am			p ^{T200}	
11.09	Other Restaurants > 2,500 ft ²			p ^{T125}	
11.10	Restaurant ≤ 3,500 ft ² open to the public during 10 pm-6 am				
11.11	Other Restaurants ≤ 3,500 ft ²				
11.12	Bar				
11.13	ABC Store			P	
11.14	Personal Service Establishment open to the public during 10 pm-6 am			p ^{T75}	
11.15	Other Personal Service Establishments			P	
11.16	Retail Store up to 5,000 ft ²			P	
11.17	Retail Store more than 5,000 but less than 25,000 ft ²			p ^{T200}	
11.18	Retail Store 25,000 ft ² and greater			L ^{T300}	15.21
11.19	Reserved				
11.20	Business or Professional Office open to the public during 10 pm - am			p ^{T75}	
11.21	Other Business or Professional Office			P	
11.22	Medical Office, Category 1			p ^{T300}	
11.23	Medical Office, Category 2			p ^{T125}	
11.24	Medical Office, Category 3			p ^{T125}	
11.25	Medical Office, Category 4			P	
11.26	Hospital				
11.27	Medical Emergency Response			p ^{T300}	
11.28	Open Air Market, Recurring			L ^{T75}	15.22
11.29	Vehicle Sales and Service			L ^{T75}	15.23
11.30	Equipment Sales and Service			L ^{T125}	15.24
11.31	Moped Sales and Service			P	
11.32	Boat or Marine Craft Sales and Service			L ^{T75}	15.25

Use #	Specific Use	R1	R3	B3	Reference
11.33	Impound Lot/Towing Service			L ^{T125}	15.26
11.34	Gas Station			p ^{T125}	
11.35	Car Wash			p ^{T125}	
11.36	Seasonal Retail Activities and Amusements			P	
11.37	Electric-Vehicle Charging Station			L	15.65
12.0 Recreation & Entertainment Uses					
12.01	Indoor Shooting Range			L ^{T75}	15.27
12.02	Outdoor Shooting Range				
12.03	Indoor Theater			P	
12.04	Outdoor Theater			p ^{T125}	
12.05	Event Venue, Category 1			P	
12.06	Event Venue, Category 2			p ^{T125}	
12.07	Event Venue, Category 3			p ^{T200}	
12.08	Campground and Recreational Vehicle Park			L ^{T200}	15.28
12.09	Coliseum			S ^{T300}	
12.10	Recreation Facility, Category 1			P	
12.11	Recreation Facility, Category 2			p ^{T50}	
12.12	Recreation Facility, Category 3			p ^{T200}	
12.13	Racetrack				
13.0 Agriculture					
13.01	Garden, Community	L		L	15.29
13.02	Garden, Residential	L		L	15.30
13.03	Agricultural Operation Excluding Livestock				
13.04	Agricultural Operation Including Livestock				
13.05	Swine Farm				
13.06	Confined Animal Feeding Operation (CAFO)				
13.07	Custom Slaughterhouse				
13.08	Other Slaughterhouse				
13.09	Forestry	L	L	L	15.31
14.0 Manufacturing					
14.01	Microbrewery			L ^{T125}	15.32
14.02	Brewpub			L ^{T125}	15.32
14.03	Brewery/Distillery			L ^{T125}	15.33
14.04	Brewery/Distillery, Other				15.34
14.05	Winery Associated with a Vineyard				15.35
14.06	Winery			L ^{T125}	15.35
14.07	Winery, Other				
14.08	Extraction of Earth Materials				
14.09	Machine/Welding Shop			L ^{T200}	15.37
14.10	Manufacturing, Other				15.38
15.0 Parking					
15.01	Parking Lot			L	15.39
15.02	Parking Structure		L ^{T125}	L	15.40
15.03	Park and Ride Lots			L	15.39

Use #	Specific Use	R1	R3	B3	Reference
16.0 Storage					
16.01	Self-Storage Facilities			L ^{T75}	15.41
16.02	Outdoor Storage				15.42
16.03	Warehouse				
16.04	Fuel Storage Facility			p ^{T300}	
16.05	Chemical Storage Facility				
17.0 Transportation					
17.01	Passenger Terminals			p ^{T200}	
17.02	Trucking or freight terminal ≤ 10,000 ft ²			p ^{T125}	
17.03	Trucking or freight terminal > 10,000 ft ²				
18.0 Waste Related Uses					
18.01	Recycling Drop-off Station				15.42
18.02	Recycling and Salvage				15.42
18.03	Junkyard				
18.04	Private Landfill				
19.0 Particular Activities Which Pose Particular Concern About Public Health					
19.01	Electronic and Internet Gaming			S	15.43
19.02	Adult Establishments			S	15.44

Excerpt of B1.02 Complete Table of Accessory Uses

Use #	Accessory Use	R1	R3	B3	Reference
A-1	Secondary suite	L	L	L	15.45
A-2	Home occupation	L	L	L	15.46
A-3	Accessory dwelling unit		L	L	15.47
A-4	Drive-through			L	15.48
A-5	Outdoor display			L	15.49
A-6	Outdoor storage			L	15.50
A-7	Outdoor dining			L	15.51
A-8	Automated teller machine (ATM)			P	
A-9	Automated teller machine (ATM), freestanding		L	L	15.52
A-10	Produce stand				15.53
A-11	Poultry	L	L	L	15.54
A-12	Livestock, small	L	L	L	15.55
A-13	Livestock, large				15.56
A-14	Bees	L	L	L	15.57
A-15	Garden, residential	L	L	L	15.58
A-16	Satellite receiving antennas less than 1 meter in diameter	P	P	P	
A-17	Satellite receiving antennas less than 2 meters in diameter			P	
A-18	Satellite receiving antennas 2 meters and greater in diameter			S	
A-19	Helistop			S ^{T300}	
A-20	Swimming pools, spas, and hot tubs	L	L	L	15.59
A-21	Caretaker's residence			L	15.60
A-22	Vehicular gate	L	L	L	15.61

Use #	Accessory Use	R1	R3	B3	Reference
A-23	Vehicle washing station		P	P	
A-24	Chemical storage facility			P ^{T125}	
A-25	Open air market, accessory	L	L	L	15.22
A-26	Daycare, small	P	P	P	
A-27	Limited structure to enable recreational use of open rooftops		L ^{T300}	L ^{T300}	14.03.07(G) 14.19.06(H)(8)(d)
A-28	Solar Energy System	L	L	L	15.64
A-29	Electric-Vehicle Charging Station	L	L	L	15.65

Excerpt of B1.03 Complete Table of Temporary Uses

Use #	Temporary Use	R1	R3	B3	Reference
T-1	Temporary family care structure	L	L	L	15.62
T-2	Temporary construction or repair dwelling	L	L	L	15.62
T-3	Temporary construction trailer	L	L	L	15.62
T-4	Temporary mobile medical unit			L	15.62
T-5	Temporary classroom			L	15.62
T-6	Temporary portable storage containers	L	L	L	15.62
T-7	Temporary staging			L	15.62
T-8	Temporary non-fixed site event venue			L	15.62
T-9	Carrier on wheels (cow)	L	L	L	15.62
T-10	Yard sales	L	L	L	15.62
T-11	Itinerant merchant/peddler	L	L	L	15.62
T-12	Open air market, temporary			L	15.62
T-13	Temporary Use 9.01 Public Colleges and Universities			L	15.62

Excerpt of B1.04 Complete Intensity Table

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
Residential Zoning Districts						
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
R3	20,000 sq. ft.	80 ft.	64 ft.	.40	20 ft.	13 ft.
Commercial/Industrial Zoning Districts						
B3	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.

Excerpt of B1.05 Complete Building Height Table

Zone	Height Limitation
R1, R1A, RR, R2, R4, RA	3 stories
R3	3 stories
B3	3 stories/45' (primary)-4 stories/56' (secondary)

Excerpt of B1.06 Complete Occupancy Table

Occupancy Regulation	Zoning District
One family or up to 2 unrelated Note: a dwelling occupied by a family (but not unrelated persons) may also have one (1) roomer.	R1 Single-Family Residential R1S Small Home Residential R1A Single-Family Residential with Accessory Dwelling RR Residential Rehabilitation R2 Two-Family Residential R4 Two-Family Residential/Manufactured Housing R5 55+ Housing Residential RA Residential Agriculture MH Manufactured Housing B1 Downtown Interface B1 Downtown Core B2 Neighborhood Business O/I Office Institutional E2 Educational
One family or up to 4 unrelated Note: a dwelling occupied by a family (but not unrelated persons) may also have one (1) roomer.	R3 Multiple-Family B3 General Business M1 Manufacturing

2006 COMPREHENSIVE PLAN ANALYSIS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

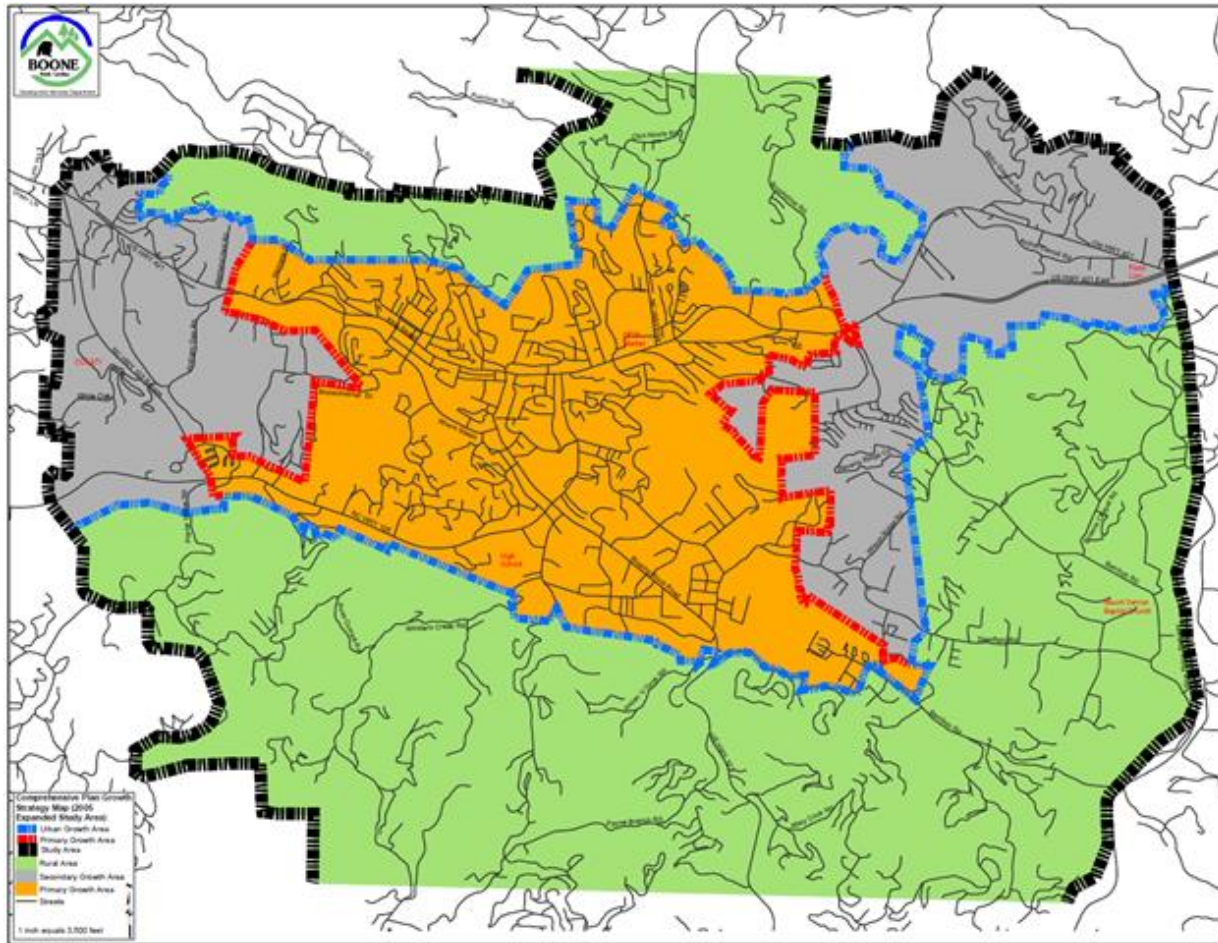
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

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

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

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

1.2 GROWTH STRATEGY MAP (p. 17):



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

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

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

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

2.1 Economy (page 21)

2.1.1 Economic Development

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

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

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

A.3 Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.

A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.

2.3 Community

2.3.2 Community Character (page 75)

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

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

2.3.3 Housing & Neighborhoods (page 79)

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

A.1 As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.

A.2 Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.

A.3 Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.

A.4 Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.

A.5 Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.

A.6 Implement a residential zoning enforcement policy based on the task force analysis above.

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

C.1 Amend the zoning map and development regulations to prevent residential uses from locating adjacent to existing developments and other uses which may have characteristics which cannot be effectively mitigated.

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

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

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PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL06130-100422/PL06131-100422 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

TOWN COUNCIL ACTION – Adoption of Ordinance

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

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

Note 1

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

Note 2

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

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

Ordinance PL06130-100422/PL6131-100422

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

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

Address	Watauga Co. PIN	Property Owner	Proposed Zoning
173 Homespun Hills Dr.	2900-45-0179-000	Tin Trong Dinh	R1 Single Family Residential
Vacant	2900-45-2302-000		

WHEREAS, in accordance with the procedures set forth in the Town of Boone Unified Development Ordinance, the Commission and Council met to consider the proposed amendment on November 28, 2022; and

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

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

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

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

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

Adopted this 14th day of December, 2022

The Honorable Tim Futrelle, Mayor

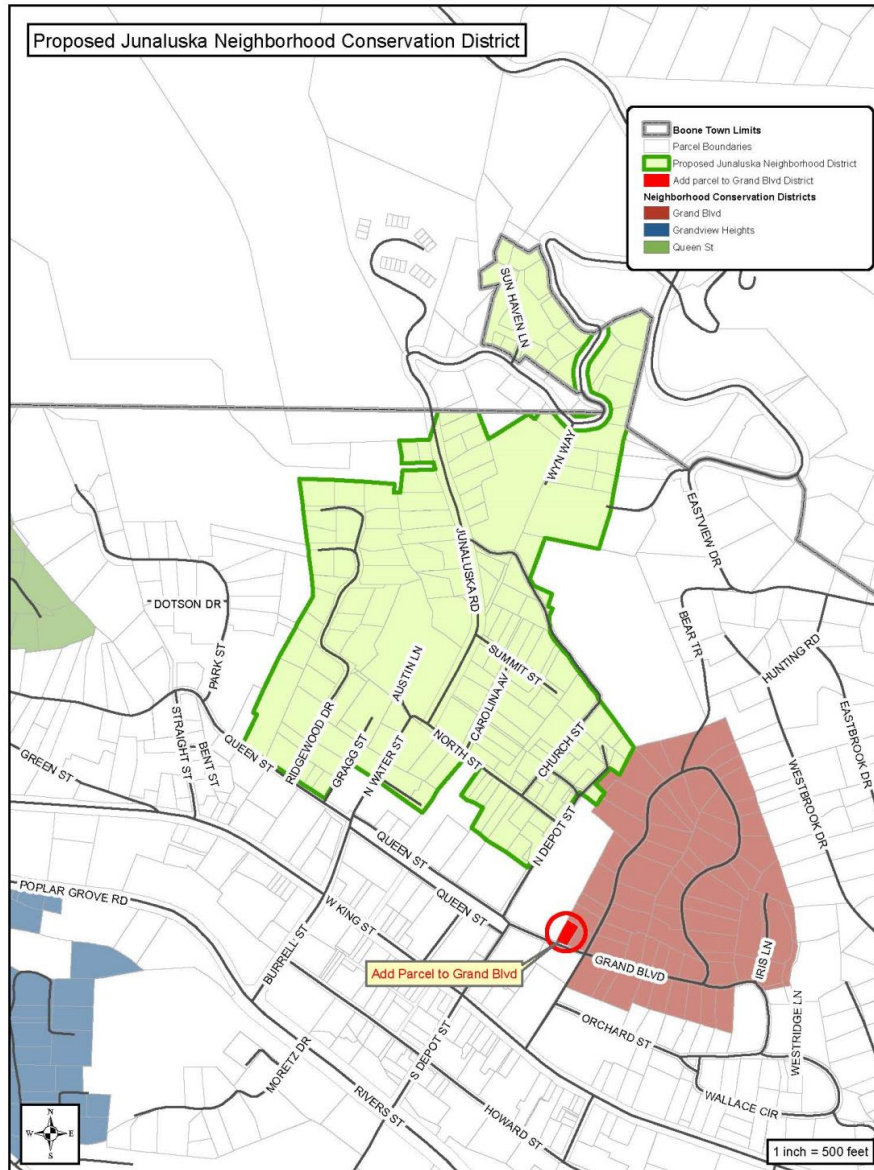
Attest:

Nicole Harmon, Town Clerk

STAFF REPORT

NOVEMBER 28, 2022

CASE PL06142-101122 JUNALUSKA NEIGHBORHOOD CONSERVATION DISTRICT OVERLAY
GENERAL USE ZONING MAP AMENDMENT



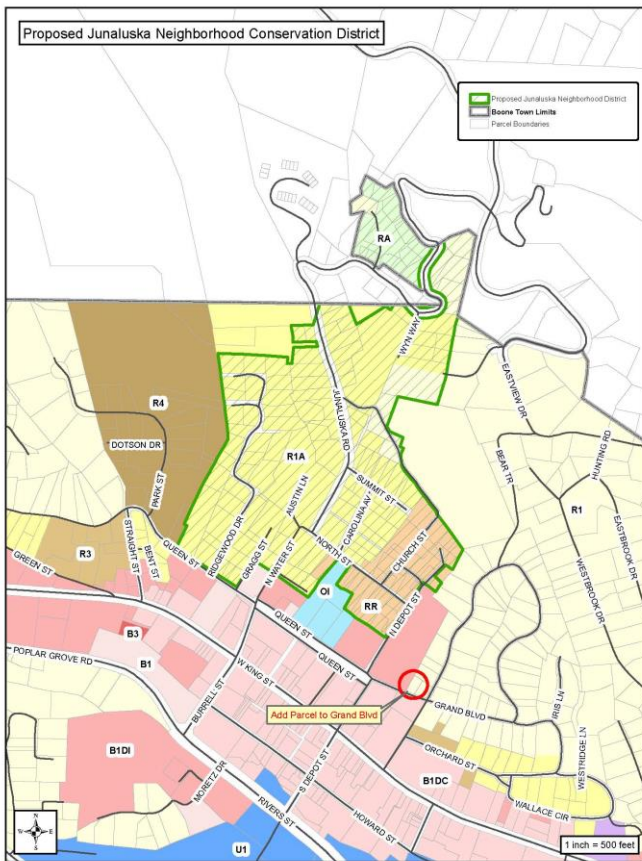
REQUEST

The Town of Boone has initiated a General Use Zoning Map Amendment to apply a Neighborhood Conservation District (NCD) zoning overlay district to 161 properties located in the “Junaluska” area. This includes properties in the Alexander Dr., Carolina Ave., Church Sts, Eastview Dr., Gragg St., North St., N. Depot St., N. Water St., Ridgewood Dr., Summit St., Sun Haven Ln., Tremont St., Queen St., and Wyn Way areas. Please see Exhibit A on page 11 of this report for detailed property owner information.

ANALYSIS

The Neighborhood Conservation District (NCD) is considered a zoning overlay district. Overlay districts are those zoning districts that overlap one or more general use districts and contain standards in addition to the underlying general use standards. Where requirements conflict, overlay district standards supersede general use district standards.

General use districts are those in which a variety of uses are permitted. The general use districts that exist within the proposed NCD are shown on the map below (boundary outlined in green).



Zoning District Descriptions:

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

The **R1A Single-Family Residential with Accessory Dwelling District** is established to provide a low-density living area consisting of single-family dwellings with or without subordinate, accessory dwellings. The regulations for this district are intended to maintain the essential character of a single-family neighborhood but allow for the establishment of accessory dwellings which are clearly subordinate to the single-family dwelling. The regulations for this district are designed to secure for the persons who reside there a

comfortable, healthy, safe, aesthetically pleasing and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

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

NCD Standards

The NCD overlay standards are set forth in UDO Section 14.41 as detailed below:

14.41 Neighborhood Conservation Districts

- 14.41.01** Neighborhood Conservation Districts are established as overlay districts to stabilize and maintain a suitable low-density living environment for family life.
- 14.41.02** Neighborhood Conservation Districts shall be depicted on the Town's Official Zoning Map, which will be posted at the Town's Planning and Inspections Department and on the Town of Boone's website.
- 14.41.03** The requirements of all rental property within Neighborhood Conservation Districts shall be as follows:
- A.** All tenants of rental property must complete and file a Residential Parking Registration Form with the Administrator. Tenants must provide personal identification, vehicle registration, and proof of residency within a designated Neighborhood Conservation District.
 - B.** Tenants meeting eligibility requirements will be issued parking stickers for their vehicle(s) for the appropriate neighborhood district which must be permanently attached to eligible vehicles. Annual renewal and nominal fees are required.
 - C.** No more than two unrelated persons per dwelling unit will be issued parking stickers.
 - D.** Owners of rental property residing more than fifty (50) miles from Boone must designate in writing a local managing agent residing within Watauga County that will be responsible for all matters concerning occupancy of such rental property, and must provide the Administrator with the agent's name, address and telephone number.
 - E.** Owners or local managing agents of rental property must notify tenants of applicable Neighborhood Conservation District requirements.

Excerpt of B1.06 Occupancy Table

Occupancy Regulation	Zoning District
One family or up to 2 unrelated Note: a dwelling occupied by a family (but not unrelated persons) may also have one (1) roomer.	R1 Single-Family Residential R1S Small Home Residential R1A Single-Family Residential with Accessory Dwelling RR Residential Rehabilitation R2 Two-Family Residential R4 Two-Family Residential/Manufactured Housing R5 55+ Housing Residential RA Residential Agriculture MH Manufactured Housing B1 Downtown Interface B1 Downtown Core B2 Neighborhood Business O/I Office Institutional E2 Educational

Neighborhood Conservation District/Caring for Our Neighborhoods Program

1. Mailed Annual Notice

The Town of Boone Planning and Inspections Department, in coordination with the Town Police and Public Works Departments, annually publishes a brochure with neighborhood related content that is distributed by mail along with an “Annual Neighborhood Conservation District Notification”. Please see Exhibits 1 and 2 for a copies of the most recent notification mailed in June 2022, and the current brochure for the Grand Boulevard area.

If approved, the new properties would be added to the annual notification list and a brochure for the area would be created similar to the brochures made for the 7 other existing NCD’s (Beverly Heights area, Blanwood Drive area, Forest Hills Drive area, Grand Boulevard area, Grandview Heights area, Queen/Green Street area, and Stadium Drive area).

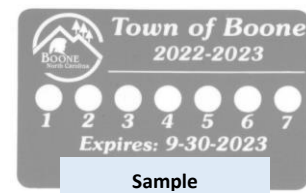
2. Neighborhood Walks

Though deferred during the pandemic, the Planning and Inspections Departments, for several years coordinated a neighborhood walk in the fall of each year. Participants of the walk include teams made up of Town Staff from the Planning and Public Works Departments and Council members. The Police Department is notified and often will do a tour of the neighborhood during the walk.

During these walks, the teams go to door to door in each NCD and distribute packets that contain the neighborhood brochure, a magnet with important Town numbers, and other Town promotional items. During that time, Staff answers any questions, takes notes of any neighborhood concerns, distributes vehicle registration applications or stickers if necessary.

3. Parking Stickers

Upon receipt of a completed Neighborhood Conservation District Residential Parking Registration Form (Exhibit 3), and after verifying the address and the number of stickers already issued, the Planning and Inspections Department issues a parking sticker to the tenant which is to be adhered to the back of the vehicle.



4. Housing, Neighborhoods, & Occupancy Information Webpage

The Planning and Inspections Department hosts a “Housing, Neighborhoods, & Occupancy Information” webpage which contains information on NCDs, occupancy limitations, minimum housing, etc. From this page residents can file an online “violation/concern” to be reviewed and investigated by the Planning and Inspections Department (and forwarded to any other department as needed).

[Housing, Neighborhoods, & Occupancy Information | Boone, NC \(townofboone.net\)](https://www.townofboone.net/housing-neighborhoods-occupancy-information)

2006 COMPREHENSIVE PLAN ANALYSIS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

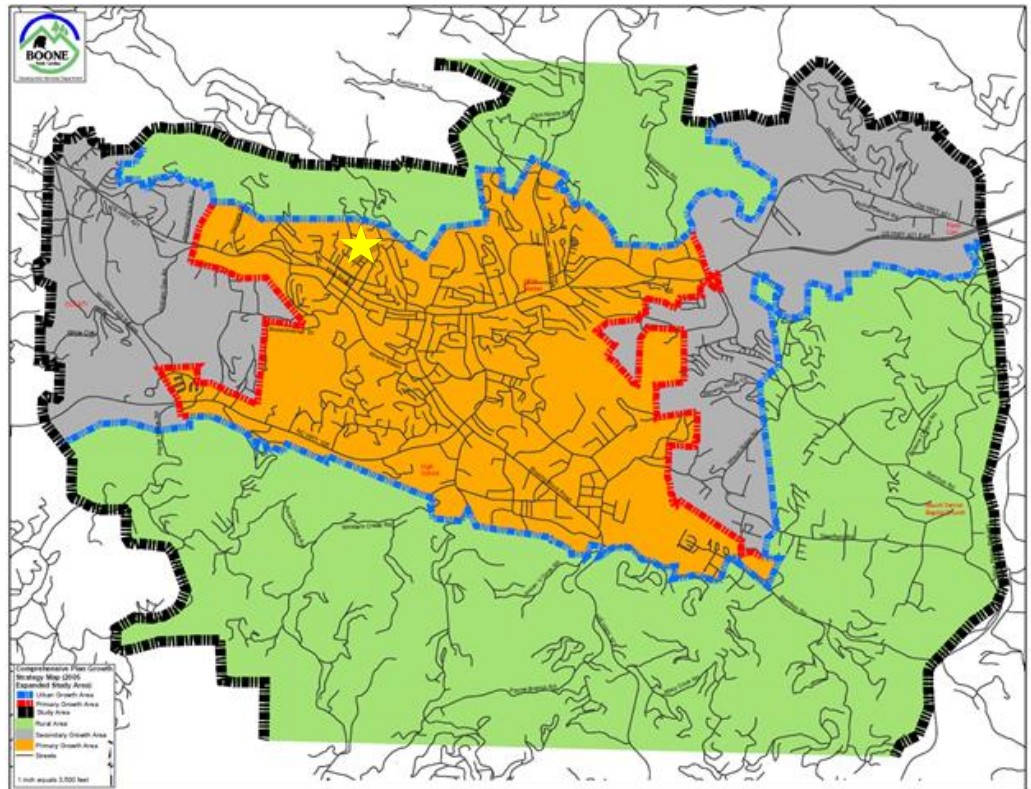
Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

1.2 GROWTH STRATEGY MAP (p. 17):

The area is largely located within the Primary Growth area (see yellow star on map above).

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

The Secondary Growth Area is that portion of the urban growth area where urban level



services can be provided, but on a lower priority basis than in the primary growth area.

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

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

2.1 Economy (page 21)**2.1.1 Economic Development**

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

2.3 Community**2.3.2 Community Character (page 75)**

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

2.3.3 Housing & Neighborhoods (page 79)

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- A.1 As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.
- A.2 Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.
- A.3 Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.
- A.4 Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.
- A.5 Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.
- A.6 Implement a residential zoning enforcement policy based on the task force analysis above.

...

Certificate of Mailing

I, Brenda Henson, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on November 8, 2022.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, Brandon Wise, certify that the subject property was posted as required in Article 9, Subsection 9.03.03(B)(2) of the Town of Boone UDO on November 8, 2022.

/s/ Brandon Wise

Brandon Wise, Environmental Planner

PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL06142-101122 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

TOWN COUNCIL ACTION - Adoption of Ordinance

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently.

Ordinance PL06142-101122

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

WHEREAS, Town has identified in Comprehensive Plan policies that the protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community; and

WHEREAS, the Boone Town Council held a duly-noticed public hearing November 28, 2022 with respect to this rezoning request; and

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

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

NOW, THEREFORE, BE IT RESOLVED as follows:

- SECTION 1.** The Boone Town Council hereby approves and adopts the modifications to the Town Zoning Map as set forth herein in Exhibit A.
- SECTION 2.** All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.
- SECTION 3.** This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the 14th day of December, 2022.

Attest:

The Honorable Tim Futrelle, Mayor

Nicole Harmon, Town Clerk

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

Note 1

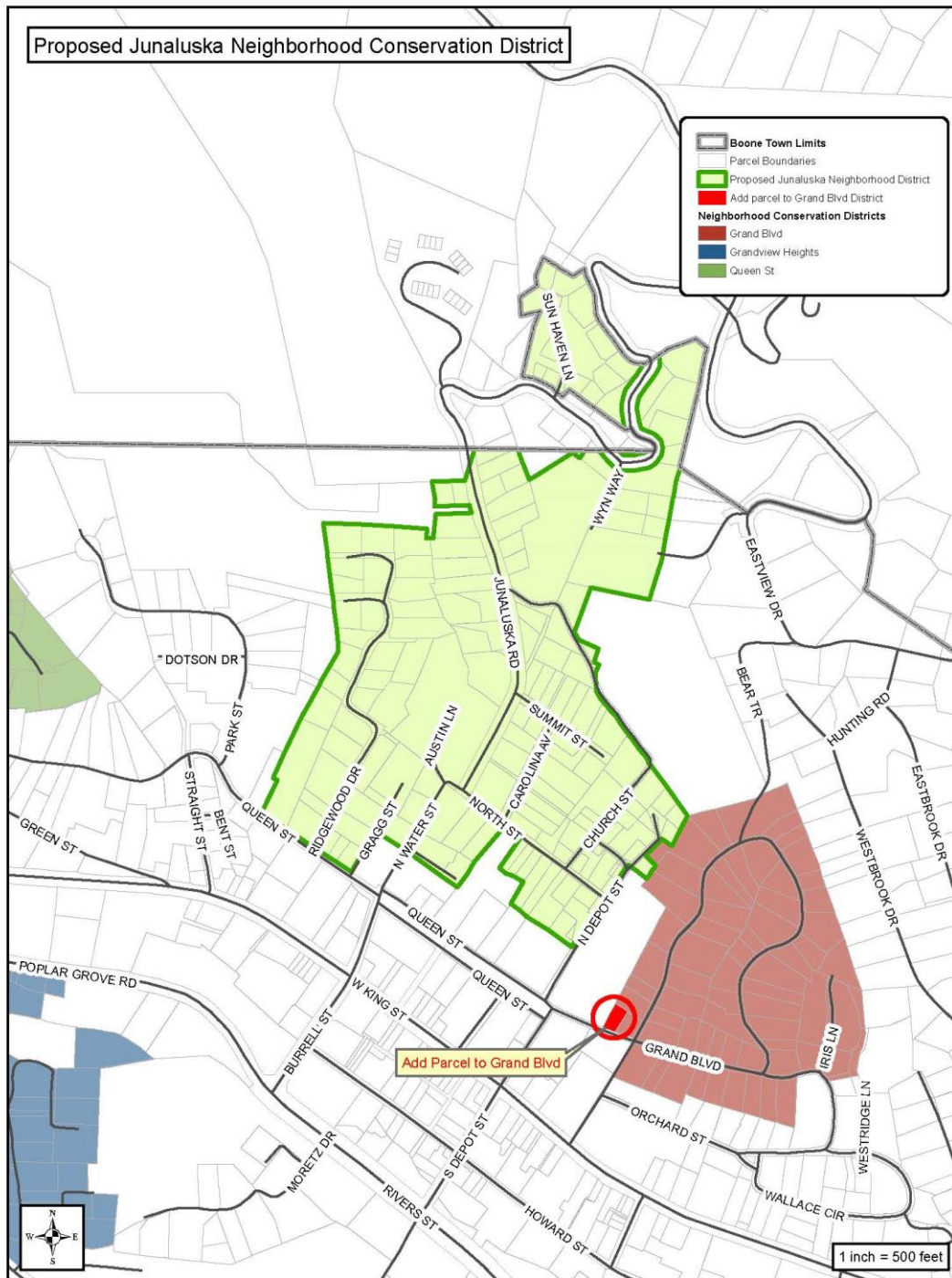
Vote 2: The Town Council ☐approves OR ☐denies Ordinance PL06142-101122 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

Exhibit A



Property Owner Name	Property Address*	Property Owner Name	Property Address*
A & R MOUNTAIN PROPERTIES, LLC	2901807034000	FOLK, DANA L.,FOLK, JESSIE H.	344 CHURCH ST
A&R MOUNTAIN PROPERTIES, LLC	2901807002000	FOX, AGNES-MARIE LORRAINE	289 JUNALUSKA RD
ARMSTRONG, WILLIAM HENRY JR	168 SUN HAVEN LN	FULKERSON, DON ALAN	152 CAROLINA AVE
BALL, BRITTANY NICOLE	132 TREMONT DR	FURGIUELE, SAMUEL F JR,MENDEL FURGIUELE, PEGGY	169 GRAGG ST
BANNER, NELL	344 JUNALUSKA RD	FURGIUELE, SAMUEL F,FURGIUELE, PEGGY	2901707443000
BARBOUR, WILLIAM JOHNSTON JR	311 RIDGEWOOD DR	GAGNON, TREVOR M	123-/131 GRAGG ST
BATES, JAMES D,BATES, JANET M	286 RIDGEWOOD DR	GAGNON, TREVOR M.	151 GRAGG ST
BATES, JAMES D,BATES, JANET M	298 RIDGEWOOD DR	GARNIER, JAMES P	339 RIDGEWOOD DR
BATES, NATHAN	308 RIDGEWOOD DR	GARRISON, FLOYD H,GARRISON, CHARLOTTE E	2901804901000
BOONE MENNONITE BRETHREN CHURCH	2901806101000	GERBER, LESLIE E,GERBER, ANN MOORE	137-/141 SHANTI WAY
BOONE TOWN OF	354 CHURCH ST	GLATZ, GREGORY J,GLATZ, JESSYKA R	145 NORTH ST
BOONE TOWN OF	2901807088000	GOINS, JAMES A.,GOINS, ANDREA L.	2901807232000
BORHMAN, RICHARD J,BORHMAN, JEAN A	360 QUEEN ST	GOINS, JAMES AND LOUISE	122 TREMONT DR
BOWMAN, CHANETTA	143 CHURCH ST	GREENE, ANDREW,GREENE, ELIZABETH	213-/215 NORTH ST
BRANCH, JOSEPH R	109-/117 GRAGG ST	GREER, RUTH S	199 NORTH ST
CALLOWAY, AMANDA KAYE	227 N WATER ST	GRIMES, JOSEPH HENRY SR,GRIMES, CAROLYN M	137 WYN WAY
CIANCA, JAMES P	117 ALEXANDER DR	GRIMES, JOSEPH HENRY SR,GRIMES, CAROLYN M	145 WYN WAY
CLAYBORN, JONITA LYNN	114 NORTH ST	GRIMES, LARRY JOSEPH	125 SUMMIT ST
CLAYBURN, JONITA LYNN	2900896985000	GRIMES, MARIE M	335 JUNALUSKA RD
CLONTZ, JAMES	275 RIDGEWOOD DR	GRIMES, ROSIE B MRS (HEIRS)	360 JUNALUSKA RD
COLES, TONIA	336 JUNALUSKA RD	GRIMES, SHARRON L	337 JUNALUSKA RD
COLES, WALTER E. AND SANDRA P.	263 JUNALUSKA RD	HARMON, JERRY M	110 SUMMIT ST
COLES, WALTER E. AND SANDRA P.	275 JUNALUSKA RD	HATTON, MORRIS AND ALMA	137 NORTH ST
COLES, WANDA GAIL	334 JUNALUSKA RD	HERRELL, JOSEPH	2901809115000
DAVID, FRANK BETHEA V	175 RIDGEWOOD DR	HILL, JORDAN	2901813288000
DIXON, WILLIAM MAX JR, TRUSTEE,THE WILLIAM MAX DIXON, JR. REVOCABLE LIV	110-/40/50 AUSTIN LN	HIXSON, KIMBERLY E	122-124 CAROLINA AVE

Property Owner Name	Property Address*	Property Owner Name	Property Address*
DIXON, WILLIAM MAX JR, TRUSTEE,THE WILLIAM MAX DIXON, JR. REVOCABLE LIV	2901800502000	HIXSON, KIMBERLY E	136 CAROLINA AVE
ELLIS, JULIAN B,ELLIS, MARY SUE H	175 JUNALUSKA RD	HOFSESS, BROOKE ANNE,HOFSESS, DUSTIN EARL	727 JUNALUSKA RD
ESTEP, BRADLEY EUGENE,ESTEP, CARLA ELAINE	261 RIDGEWOOD DR	HORTON, BARRY DAVID,HORTON, INGRID	130 NORTH ST
EVERETT, ROBINSON O JR	647 JUNALUSKA RD	HORTON, DAVID	2901806014000
FALVO, ROBERT JOSEPH,SEMPER, MADELIN	255 N WATER ST	HORTON, GREGORY,HORTON, THERESA	185-/223 CHURCH ST
FERRELL, JEREMY C	765 JUNALUSKA RD	HORTON, SAM JR AND PEGGY M	309 JUNALUSKA RD
FLOYD GARRISON ENTERPRISES INC	218 JUNALUSKA RD	HORTON, TANIA DANIELLE.	560 JUNALUSKA RD
FLOYD GARRISON ENTERPRISES INC	224 JUNALUSKA RD	JACKSON, ROBERTA H	127 WYN WAY
FLOYD GARRISON ENTERPRISES INC	233 JUNALUSKA RD	JACKSON, ROBERTA,HAGLER, ANTHONY	320 NORTH DEPOT ST
FLOYD GARRISON ENTERPRISES INC	235 JUNALUSKA RD	JOHNSON, A GEORGE, LIFE ESTATE,JOHNSON, EULA D, LIFE ESTATE	219 JUNALUSKA RD
JOHNSON, A GEORGE, LIFE ESTATE,JOHNSON, EULA D, LIFE ESTATE	2901802866000	PERRYBUILT HOMES, LLC	2901910701000
JOHNSON, EULA D	221 JUNALUSKA RD	PITTS, TAYLOR MORRISON	127 SUN HAVEN LN
JOHNSON, ROSA	2901806049000	PK PROPERTIES NC, LLC	112 ALEXANDER DR
KESSLER, JORDAN	135 CHURCH ST	PLAAG, ERIC W,PLAAG, TERESA S	703 JUNALUSKA RD
KIRKPATRICK, ELIZABETH	2901807031000	PLAAG, ERIC,PLAAG, TERESA	2901910902000
KLEIN, JEANA EVE,SCHURMAN, MARK ANDREW	120 SUN HAVEN LN	PLAAG, GARY	2901819926000
LAMICHHANE, NIRAJ,PANDEY, SABINA	288 RIDGEWOOD DR	POHL, KEITH,POHL, SHANNON	2901705118000
LAMONT, ELLEN CLAIRE	164 CAROLINA AVE	PRICE, MARILYN	176 SUMMIT ST
LATHAN, GERALD FIELDS, TRUSTEE,THE LATHAN JOINT REVOCABLE LIVING TRUST	153 SUMMIT ST	RAY, NELL W,RAY, GENE L	108-/118 TREMONT DR
LATHAN, GERALD FIELDS, TRUSTEE,THE LATHAN JOINT REVOCABLE LIVING TRUST	2901806536000	RAY, NELL W,RAY, GENE L	2901808230000
LONGEVITY RENTALS LLC	2900896492000	RECK, GREGORY G,NEAVES, CHRISTAL C	234-/244 N WATER ST
MACK, KAROLYN J	214 NORTH ST	RIKARD, MARY KATHERINE,PRICE, PHILLIP CHARLES	140 ALEXANDER DR

Property Owner Name	Property Address*	Property Owner Name	Property Address*
MARC & LOUISE FREEMAN REVOCABLE TRUST	2901805759000	ROBERTSON, JOHN F,ROBERTSON, AMY R W	2901808012000
MC GEE, M JEAN	2901716215000	ROBINSON, RYAN GUY,ROBINSON, NICOLE BAUMAN	129 RIDGEWOOD DR
MCQUEEN, CLARA W	159-/165 NORTH ST	RS FUNERAL HOLDINGS, INC	215 N DEPOT ST
MCQUEEN, CLARA W	2901803006000	RS FUNERAL HOLDINGS, INC	2900895726000
MCQUEEN, CLARA W	2901803063000	S C AND S FUTURE,INC.	105 SUMMIT ST
MCQUEEN, REX DANIEL	153 NORTH ST	SHERRILL, JOHN T AND TERESA	132 JUNALUSKA RD
MIDDLESWORTH, MARK	173 CAROLINA AVE	SHEW, MICHAEL G,SHEW, DAWNE J	348 RIDGEWOOD DR
MIDGETT, ARA E. III,MIDGETT, VALERIE	211 WATER ST	SLADE, J DANIEL	110 RIDGEWOOD DR
MIDGETT, ARA E. III,MIDGETT, VALERIE	212 WATER ST	SMYTH, CHARLES VARDELL	2901827041000
MITCHELL, TERRI DENISE	300 JUNALUSKA RD	SPARKS, JOHN PRESTON	152 JUNALUSKA RD
MOREHOUSE, WINIFRED VICTORIA	125 SUN HAVEN LN	SUMFINK, LLC	126 ALEXANDER DR
MUELLER, G H S,MUELLER, ANN R	153 RIDGEWOOD DR	TAIT, ADRIAN D.,TAIT, HEIDI R.	595 EASTVIEW DR
NC DISTRICT OF MENNONITE BRETHREN CHURCH	121 CHURCH ST	TESTER, CATHERINE H,TESTER, WELCH KENNETH JR	150 CHURCH ST
NC DISTRICT OF MENNONITE BRETHREN CHURCH	161 CHURCH ST	VITALE, ANGELA L.,VITALE, BARRY E.	103 NORTH ST
NELSON GILL, LAURIE J	206 RIDGEWOOD DR	VITALE, BARRY	127 NORTH ST
NELSON GILL, LAURIE J	2901708651000	VITALE, BARRY	162 NORTH ST
NEOFOTIS, ALEXANDRA	288 JUNALUSKA RD	VITALE, BARRY	2901804078000
NOLT, TODD ANDREW,NOLT, JESSICA ANN	174 CAROLINA AVE	VITALE, BARRY E,VITALE, ANGELA L	115 NORTH ST
NOLT, TODD,NOLT, JESSICA	114 CAROLINA AVE	WARLICK, JOHN H JR,WARLICK, DOTTIE F	130 ALEXANDER DR
NOLT, TODD,NOLT, JESSICA	2901803137000	WATAUGA YOUTH NETWORK	2901816198000
PATTERSON, DIANDRA LYNN	117 WYN WAY	WATERWORTH, ALEX,WATERWORTH, ERIC	227 RIDGEWOOD DR
PERRY, CHARLES W JR	135 SUN HAVEN LN	WATERWORTH, ALEXANDER E	233 RIDGEWOOD DR
PERRYBUILT HOMES, LLC	2901816928000	WATERWORTH, ALEXANDER E	2901706568000
PERRYBUILT HOMES, LLC	2901819881000	WATTS, RONALD PRESTON	159 GRAGG ST
WEEKAPAug GROVE PROPERTY OWNERS ASSOC	2901826105000		
WELLINGTON, GEORGE WILLIAM	314 JUNALUSKA RD		
WHITE, MINNIE	336 NORTH DEPOT ST		

Property Owner Name	Property Address*	Property Owner Name	Property Address*
WHITE, MINNIE	2901808271000		
WHITTINGTON, DONNA LYNN	580 JUNALUSKA RD		
WHITTINGTON, MARCELLA	184-186 CHURCH ST		
WILSON, THOMAS CALVIN AND WIFE	175 SUMMIT ST		
WINKLER, WILLIAM LEE JR	131 SUMMIT ST		
WINKLER, WILLIAM LEE JR	2901806714000		
WOOLLASTON, RALPH ANDREW	161 ALEXANDER DR		
WOOLLY BEAR LAIRS LLC	113 SUMMIT ST		
WOOLLY BEAR LAIRS LLC	2901804770000		
WOWAC, LLC	2901707785000		
WRIGHT PROPERTIES OF BOONE LLC	408 QUEEN ST		
WRIGHT, ZACHARY HAYES	250 RIDGEWOOD DR		
YOGI MONTUCKY, LLC	2901825398000		
YOUNG, JOHN GAY,AMADO, ROSE MARIE	231 NORTH DEPOT ST		

*Properties with no tax address available are identified by Watauga County Parcel Identification Number

Town of Boone



June 24, 2022

«TXACCTNAME»
 «TXADDRESS»
 «TXADDRESS2»
 «TXCITYST» «TXZIP»

RE: ANNUAL NEIGHBORHOOD CONSERVATION DISTRICT NOTIFICATION

Dear Property Owner:

In 2005, Boone Town Council created Neighborhood Conservation District (NCD) zoning overlays to promote public health, safety and welfare; to stabilize and maintain a suitable low-density living environment for family life; and to maintain and preserve the value of existing property. According to our records, your property at «PROPADDRESS» is located in a NCD.

Please see below for detailed information on NCDs included updated information on residential occupancy controls within the Town of Boone:

1. **Parking Sticker Requirements:** Every **tenant** living within a NCD must file, *free of charge*, a completed NCD Residential Parking Registration Form with the Planning and Inspections Department each year or as soon as possible after the lease begins. Tenants issued a parking sticker(s) for their vehicle(s) for the appropriate NCD must permanently attach stickers to vehicle(s).

Tenants may submit the NCD Residential Parking Form (found online, see QR code on page 2) at the Planning and Inspections Office. Our office is located at 680 W. King Street, Suite C (basement level of Downtown Post Office). Additional information required with the application includes personal identification (such as a Driver's License or Government issued ID), vehicle registration, and proof of residency. The Planning and Inspection Department office hours are from 8 a.m. – 5 p.m., Monday – Friday.

PLEASE NOTE: If you do not have tenants or rent your property you are NOT required to file a NCD Residential Parking Registration Form. This requirement is for tenants only, not property owners.

2. **Residential Occupancy Controls:** Occupancy is limited to one family or up to two unrelated persons. Note: a dwelling occupied by a family (but not unrelated persons) may also have one (1) roomer.

A "family" means individuals related by blood, marriage, domestic partnership, or adoption occupying a premise and living as a single, non-profit housekeeping unit, which may include live-in help but does not include roomers or boarders. A "single, non-profit housekeeping unit" means individuals who live and cook together, as with or similar to a traditional family, on a single lease if renting the premises. The following individuals may constitute a family: a single person or a couple that is married or are domestic partners; that person's or persons' children, parents, siblings, grandparents, great-grandparents, grandchildren, or great-grandchildren; and the spouses of any of the foregoing persons.

“Domestic partners” means two persons who are both at least 18 years of age, are each other’s sole domestic partner, have a common residence, and intend to maintain a common residence together indefinitely. “Child” and “children” shall for these purposes include a biological, foster, step- or adopted child, legal ward or other legal dependent, or other person who is or has been in a child-parent relationship with an adult in the family. The term “family” shall not be construed to include a fraternity or sorority, club, rooming house, group of students rooming together, institutional group, or the like.

“Unrelated” individuals are persons who are not members of the same family as defined above. For clarification, cousins are deemed “unrelated” for purposes of these occupancy regulations unless part of a single housekeeping unit that includes a parent, grandparent, or great-grandparent of one of the cousins.

3. **Notification Requirements:** Owners or local managing agents of rental property must notify tenants of applicable NCD requirements.
4. **Local Managing Agent:** Owners of rental property residing more than 50 miles from Boone must designate in writing a local managing agent residing within Watauga County that will be responsible for all matters concerning occupancy of such rental property. Owners must also provide the Administrator with the agent’s name, address and telephone number.

Enforcement: The Town of Boone enforces the NCD regulations on a year-round basis. No landlord or owner may escape liability for an occupancy violation based upon a claimed lack of knowledge of the violation unless:

1. the lease of the property includes a provision which authorizes the landlord to terminate the lease early if the tenant violates the occupancy or zoning rules of the Town; and
2. the landlord takes prompt action to terminate the lease and/or the tenants’ occupancy on property when an occupancy violation has been confirmed by the Planning and Inspections Department.

Otherwise, an owner, tenant, or occupant who possess an interest in real or personal property, who participates in, assists, directs, causes, allows, maintains, or is otherwise responsible for any situation contrary to the requirements of the Town of Boone Unified Development Ordinance (UDO) shall be liable for violations of the UDO.

Fines: Fines for violations of a NCD regulation are \$100.00 a day, per violation. Fines for violation of occupancy regulations are \$200.00 a day, per violation.

More Information: Please use the QR Code attached to the bottom of this letter to review the “Housing, Neighborhoods, & Occupancy Information” page on the Town of Boone Planning and Inspections website for more information including online access to the NCD Parking Registration Form and area-specific NCD brochures.

If you have any questions regarding this letter, please contact the Planning and Inspections Department at: (828) 268-6960 or send an email to planning@townofboone.net.

Respectfully,

Town of Boone Planning and Inspections Department



Contact for all items below: Boone Police Department, 828-268-6900

Speed Limits

The speed limit for your neighborhood is 20 miles per hour.

On-Street Parking

On-street parking is prohibited in the Town of Boone except in marked spaces in the downtown area. Violators may be towed or given a citation.

Animal Control

Any dog not kept on the property of the dog’s owner and not on a leash or under physical restraint is prohibited within the Town of Boone.

Noise

Unreasonable or unusually loud noise, defined as any noise that will disturb a reasonable person is prohibited. Violations should be reported to the Boone Police Department, though a complaint does not have to be filed for the Police to respond. Fines begin at \$100.00 and can increase to \$500.00. Landlords will be held liable after the first violation if they do not include a noise clause in their lease.

Use the following QR Code to access the Boone Police Department website:



Welcome to Boone!

Boone is a thriving community that is blessed with assets that are not available to most other communities of this size.

Boone has a broad spectrum of housing opportunities that meet the needs of the many people who call Boone home. We are especially proud of our numerous residential neighborhoods and have taken steps to preserve the quality of life for all residents, whether they are property owners or renters.

The purpose of this brochure is to provide information to residents about the services and regulations in the Town of Boone designed to preserve quality of life. We ask that you partner with us to care for our neighborhoods by following these guidelines.

Sincerely,
Tim Futrelle, Mayor



Town of Boone
Planning & Inspections
680 W. King St., Suite C
Boone, North Carolina 28607

Phone: 828-268-6960
Web: www.townofboone.net

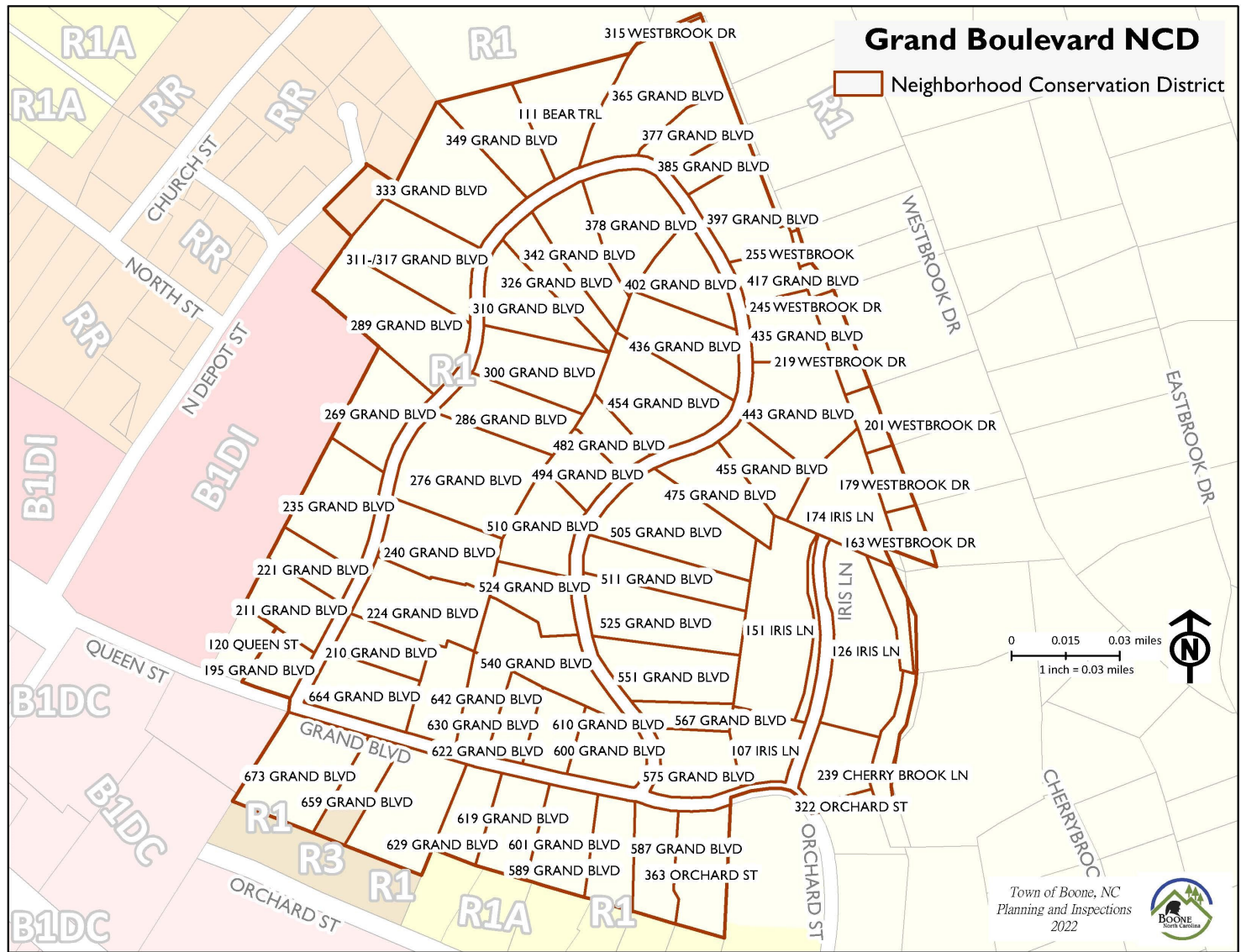


Neighborhood Conservation District



Caring for Our Neighborhoods

Bear Trail
Grand Boulevard
Iris Lane
Orchard Street



Contact for all items below: Boone Public Works, 828-268-6230

Recycling & Trash

Curbside trash pickup for your neighborhood is provided every Thursday morning. Recycling pickup is provided every other week on the same day as trash. Please ensure recycling & trash is placed in the proper containers, and placed curbside no earlier than Wednesday evening at dusk or by 6:00 a.m. the morning of service. All containers and uncollected trash must be removed from the curb and to a proper storage location no later than 9:00 a.m. on Friday. Violators of these requirements may be subject to a civil penalty of \$100.00 per day per each violation.

Debris, Leaf & Junk Pickup

Each residential property is provided the following residential services:

1. 3 free yard debris, brush leaf or junk pickup during the calendar year.
2. Free community leaf pickup from October 18th-December 17th.
3. One Christmas tree pickup per property during the first 2 weeks of January.

Pickups exceeding those mentioned above will be charged according to the Town's current rate schedule.

Community Improvement Standards

The Town prohibits the accumulation and storage of trash and litter, noxious growth, and accumulation of junked vehicles. Please report violations to the Town of Boone Public Works Department.

Contact for all items below: Boone Planning and Inspections, 828-268-6960

Occupancy

The Town of Boone limits the number of people who live in a dwelling-unit in this neighborhood to one family or two unrelated. Violators may be subject to a fine of \$200.00 per day per violation. Please use the QR Code below to access the Town of Boone Planning and Inspections website for more information. (Click the "Housing, Neighborhoods, and Occupancy" button, followed by selecting the "Occupancy Limitations" tab).

Short-Term Rentals

In December 2021, the Boone Town Council modified and created new regulatory standards for short-term rentals (homestay or vacation rentals) of dwelling units within the Boone corporate limits. Please use the QR Code below to access the Town of Boone Planning and Inspections website for more information. (Click the "Short-Term Rentals" button).

Neighborhood Conservation District (NCD)

A portion of this neighborhood is within a Neighborhood Conservation District (see map). Every tenant (not property owner) must file a NCD Residential Parking Registration Form to receive a neighborhood parking sticker. Violators of this requirement may be subject to a fine of \$100.00 per day per violation. Please use the QR Code below to access the Town of Boone Planning and Inspections website for more information. (Click the "Housing, Neighborhoods, and Occupancy" button, followed by selecting the "Neighborhood Conservation Districts" tab).

Minimum Housing Standards

The purpose of the Town's [Minimum Housing Code](#) is to insure the health, safety and welfare of the citizens within the Town of Boone's jurisdiction. The Town of Boone ensures compliance by either encouraging voluntary compliance or by following enforcement procedures set forth in the Town Code. Please use the QR Code below to access the Town of Boone Planning and Inspections website for more information. (Click the "Housing, Neighborhoods, and Occupancy" button, followed by selecting the "Minimum Housing" tab).

Parking

The Town of Boone prohibits the parking of more than four vehicles between the front of the house/duplex and the street. Violators may be subject to a fine of \$100.00 per violation.

Use the following QR Code to access the Boone Planning & Inspections website:



Use the following QR Code to access the Boone Public Works website:



Neighborhood Conservation District Residential Parking Registration Form

Town of Boone Planning & Inspections Department

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

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



A. Required to be Submitted at Time of Registration.

Failure to provide the info required on this application may delay issuance of the requested registration.

- ☐ Personal identification (driver's license, etc.)
- ☐ Vehicle registration. Note: A separate form must be filled out for each vehicle you own or park at the address.
- ☐ Proof of residency (copy of rental agreement, lease, letter from landlord, etc.)
- ☐ If applicable, when 2 or more persons claim to be related, proof in form of birth certificate showing a common parent or grandparent must be provided.
- ☐ If applicable, owners of rental property residing more than 50 miles away from Boone, must designate a local managing agent residing within Watauga County that will be responsible for all matter concerning occupancy. Please see [Section E](#).

B. Property & Property Owner Information

Street Address:

Unit:

Property Owner Name:

Property Owner Complete Mailing Address (Street, City, Zip):

Property Owner Phone Number:

Property Owner Email Address:

C. Tenant Information

Tenant Name:

Complete Mailing Address (Street, City, Zip)

Phone Number:

Email Address:

Driver License Info (State & #)

D. Vehicle Information

Make:

Model:

Year:

Color:

License Tag#

State:

E. Local Managing Agent (Required when property owner lives over 50 miles away from Boone)

Managing Agent Name:

Complete Mailing Address (Street, City, Zip):

Phone Number:

Email Address:

F. Tenant Signature

I am a resident of the dwelling unit (residence) named above and understand that I live in a low density residential neighborhood. I understand that no more than two (2) unrelated persons may occupy this dwelling unit. If I violate this regulation, I am in violation of the Town of Boone Unified Development Ordinance and will be subject to a fine of \$200.00 per day. In addition, by violating the Town of Boone Unified Development Ordinance I am committing a Class 3 misdemeanor and I am subject to prosecution in the NC court system. I hereby certify that I have received and read a copy of the Town of Boone Conservation District Regulations and agree to abide by them and that all information I have provided is truthful and correct.

Tenant (Print)	Tenant (Signature)	Date
Official Use Only		
Staff Confirmation: ☐ Form fully completed and information has been verified (proof of id, registration, lease) ☐ Verified number of parking stickers issued at this address. (Including the request, there should be no more than 1 other issued sticker unless one of the two tenants owns multiple cars. ☐ Verified any claims of related tenants (birth certificates, etc.) ☐ Verified whether or not a local managing agent is required. If so, that one has been provided.		
Neighborhood Conservation District (Select One): ☐ (1) Blanwood Drive NCD ☐ (2) Forest Hill Drive NCD ☐ (3) Grand Boulevard NCD ☐ (4) Grandview Heights NCD ☐ (5) Stadium Drive NCD ☐ (6) Green/Queen Streets NCD ☐ (7) Beverly Heights NCD		
Permit Number:	Sticker Number:	

S:\FORMS\PI_Forms_Current\Zoning Forms\NCD_ParkingRegistration_09012019.docx

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:
PL05781-061322
Case Name:
Signs

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____

Address: 567 West King Street

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

B. TEXT INFORMATION

Amendment is to:

Article(s): 26, 34

Section(s): _____

Brief Description of Amendment (Attach Proposed Text):

The Town of Boone has proposed amendments to UDO Article 26 Signs and Article 34 Definitions to revise and modernize sign regulations. Amendments may also be made to other Articles to conform them to changes made in this case

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

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

June 13, 2022
Date

Official Use Only

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

Hearing/Decision Information

Public Hearing Meeting
Date: 09/26/2022

PC Meeting Date: _____

TC Meeting Date: _____

Text Approved: ☐ Yes ☐ No

Notes: _____

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

Communication: Case PL05781-061322 Application (Case PL05781-061322 Signs - UDO Text Amendment)



STAFF REPORT
PUBLIC HEARING
SEPTEMBER 26, 2022

Case PL05781-061322 Signs - UDO Text Amendment

Request

The Town of Boone has proposed amendments to UDO Article 26 Signs and Article 34 Definitions to revise and modernize sign regulations. Numerous changes have been made to the regulations in order to be compliant with statutory requirements, case law and the need to modernize the language. Staff and the Town Attorney will provide additional details during the presentation of the case at the public hearing.

Please note, amendments may also be made to other Articles to conform them to changes made in this case.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.
 - A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.
 - A.2 Adopt analytically sound, technically based hillside development regulations to preserve natural beauty.
 - A.3 Support the Arts Council, Jones House, ASU and others in attracting quality cultural events to Boone.
 - A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.

...

2.3 THE COMMUNITY

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

2.3 THE COMMUNITY

2.3.1 Community Appearance

- A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged.
 - A.1 Establish minimum architectural design standards for commercial development throughout the Town.

..

- D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.

D.1 Conduct a review of the Town's sign regulations with the goal to have a long term policy consistent with the appearance of the High Country, including greater use of ground signs and directory signs.

2.3.2 Community Character

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

PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL05558-030922 within in Exhibit A and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

TOWN COUNCIL ACTION – Adoption of Ordinance

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

ORDINANCE # PL05781-061322

**AN ORDINANCE TO REVISE ARTICLES 23 AND 34 OF THE TOWN OF BOONE UNIFIED DEVELOPMENT
ORDINANCE RELATING TO SIGNS**

WHEREAS, the Boone Town Council desires to revise and modernize the requirements for signs;
and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on March 26, 2022 with respect to this ordinance; and

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

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

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

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

SECTION 1. Articles 26 and 34 of the Town of Boone Unified Development Ordinance (“UDO”) is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in ~~red~~ and blue respectively:

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

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

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

Adopted this the 12th day of October, 2022.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

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

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance # PL05558-030922 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

Communication: Case PL05781-061322 Staff Report (Case PL05781-061322 Signs - UDO Text Amendment)

EXHIBIT A**Article 7 Nonconformities**

...

7.05 Nonconforming Situation**7.05.01 Alteration of a Nonconforming Situation:**

- A. Subject to Subsection 7.05.06, a nonconforming structure may be altered so long as no new nonconformity is created nor existing nonconformity increased.

7.05.02 Development ~~requiring~~ ~~which requires~~ compliance with UDO:

- A. Cost of development as referenced herein shall be measured by adding together the costs ~~which~~ ~~that~~ will be incurred in all development activity as proposed, together with the development activity other than normal maintenance and repair that has been permitted within the prior thirty-six (36) months.
- B. All new structures or portions of structures must comply with all Ordinance requirements. However, when a nonconforming structure is destroyed or damaged by fire, flood, wind, other act of God, the structure may be repaired or restored to its original dimensions and conditions as long as the structure is not located in a Floodway or Special Flood Hazard Area, a building permit for the repair or restoration is issued within one (1) year and the structure is occupied within two (2) years of the date the building permit is issued.
 - 1. A nonconforming structure damaged by other cause to such extent that repair, reconstruction or restoration is expected to cost more than fifty percent (50%) of the total value of the structure, must be removed.
- C. Compliance of existing development with the requirements of the Ordinance shall be triggered by the costs of proposed new development (excluding any costs associated with improvements made due to compliance with this Section) in accordance with the following tiers. The Administrator may require certification of the new development by a competent professional. The following tiers are cumulative in effect:
 - 1. **Tier 1:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed ten percent (10%) of the value of the development shall comply with the following, to the extent practicable:
 - a. Bicycle parking in accordance with Section 24.09.
 - b. Landscape improvements pursuant to Section 31.09 Screening Along Streets with a priority given to large deciduous trees.

2. **Tier 2:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed twenty-five percent (25%) of the value of the development shall comply with the following, to the extent practicable:
 - a. Solid waste and recycling containers pursuant to Section 22.13.
 - b. Signs pursuant to Article 26.
 - c. Color requirements in accordance with Subsection 25.02.05.
 - d. Lighting in accordance with Section 25.05.
 - e. Landscape improvements pursuant to Section 31.06 Buffer and Screen Requirements with a priority given to large deciduous trees.
3. **Tier 3:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed fifty percent (50%) of the value of the development shall require compliance with the following, to the extent practicable:
 - a. Drainage and stormwater requirements pursuant to Article 21.
 - b. Pedestrian circulation and sidewalk requirements pursuant to Section 23.08.
 - c. Parking requirements pursuant to Article 24.
 - d. All other requirements of Article 25 Community Appearance Standards.
 - e. All other requirements of Article 31 Landscape Standards.
 - f. Corridor District requirements pursuant to Article 14.
4. **Tier 4:** Reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed seventy-five (75%) of the value of the development shall require compliance with all requirements of the UDO unless compliance is impossible, provided this section shall not require replacement of or substantial change to a façade that is in good condition.

(Ord. PL04727-050721, 07-01-2021)

...

Article 26 Signs

~~26.01 General Regulation of Signs~~

~~26.01.01 Location Requirements: No signs shall be located in or overhang any right-of-way, including alleys and sidewalks, except for government signs. All signs shall be set back a minimum of one (1) foot from the right of way in all zoning districts except the "B1" Central Business District.~~

~~26.01.02 Vision Obstructions: No signs shall create any vision obstructions onto a public right of way, alley, sidewalk, adjacent drive or private drive entering onto a street. Signs or floodlights~~

~~erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property as defined in N.C. Gen. Stat. § 136-32.2 are also prohibited.~~

26.01.03 — Landscaping Requirements: ~~Freestanding signs must be placed in a landscaped area which is at least three feet (3') in width and at least the length of the greatest dimension of the sign. Curbing, railroad ties, bricks, fencing and/or other suitable vehicular barrier shall enclose the landscaped area.~~

26.01.04 — Construction Signs: ~~Signs may be two-sided, non-illuminated and shall not exceed thirty-two square feet (32 ft²) and may be placed on premise. They shall be removed no later than seven (7) days after completion of the project.~~

26.01.05 — Attached Sign Limitations: ~~Attached signs shall not project higher than the building soffit or eave height and shall not extend beyond the edge of any wall or other surface to which they are mounted (this does not refer to projecting signs).~~

26.01.06 — Copy Area: ~~The area of a sign shall be measured according to the following rules as applicable:~~

~~**A.** In the case of freestanding, projecting, canopy or marquee signs, area consists of the entire surface area on which copy could be placed. The supporting structure or bracing of a sign shall not be counted as a part of the sign area unless such structure or bracing is made part of the signs message. Where a sign has two (2) display faces back to back, the area of only one face shall be considered as the sign area. When a sign has more than one display face, all areas which can be viewed simultaneously shall be considered the sign area. All signs are limited to two (2) faces.~~

~~**B.** In the case of a sign (other than freestanding, projecting, canopy or marquee) whose message is fabricated together with the background which borders or frames the message, sign area shall be the total area of the entire background.~~

~~**C.** In the case of a sign (other than freestanding, projecting, canopy or marquee) whose message is applied to a background which provides no border or frame, sign area shall be computed by continuous rectilinear lines, or a circle or an ellipse enclosing the extreme limits of the letters, writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display used to differentiate the sign from the backdrop or structure against which it is placed.~~

26.01.07 — Freestanding Signs: ~~All freestanding signs shall follow the following criteria:~~

~~**A.** No freestanding sign shall be placed less than forty feet (40') from another freestanding sign.~~

~~**B.** Freestanding signs shall be located on the same lot as the business being advertised.~~

~~**C.** All freestanding signs, support structures and required landscaping areas shall be at least one foot (1') from any right-of-way or easement.~~

~~26.01.08 — **Lighting:** Interior lighting for signs, where permitted, shall not exceed eleven (11) watts per bulb (the standard industry size). In the case of the use of exterior lighting by floodlights, such lights must comply with N.C. Gen. Stat. § 136-32.2.~~

~~26.01.09 — **Changeable Copy:** Signs in the B2, B3 zones and projecting theater marquees in the B1 zones may contain changeable copy; however, in no case shall the changeable copy portion of the sign exceed fifty percent (50%) of the total sign area. Copy which changes through mechanical, digital, electronic, or manual means may change or alternate no more than once every sixty (60) minutes.~~

~~26.01.10 — **Awning, Canopy, Projecting and Suspended Signs:** Awning, canopy projecting and suspended signs may be no less than eight feet (8') at their lowest point above any sidewalk.~~

~~26.01.11 — All signs must be placed in accordance with Section 98 of the Boone Town Code.~~

~~26.02 Signs Which Do Not Require a Permit~~

~~26.02.01 — No zoning permit is necessary for these signs, provided they are not prohibited in this Article and provided that they comply with the conditions described herein.~~

~~A. — Informational signs displayed for the direction or convenience of the public. Such signs shall not exceed four square feet (4 ft²) in area and may be illuminated.~~

~~B. — Directional signs are permitted provided that they do not exceed four square feet (4 ft²) in area and three feet (3') in height.~~

~~C. — Gasoline pump signs that are non-illuminated giving information such as self-service instructions, price, type of fuel, etc., shall be permitted on gasoline pumps. These may contain the trade name or emblem, but they shall not exceed beyond the side of the gasoline pump and not more than one foot (1') above it. In addition, establishments that sell gasoline shall be allowed one (1) price sign (or two (2)) if the station is located on corner property which displays price only, and does not exceed four square feet (4 ft²) in area. This sign shall be in addition to the signs permissible in the district in which said gas station is located.~~

~~D. — Time and temperature signs are limited to one sign with alternating cycles. This sign may be in addition to other permitted signs. It may not contain any advertising other than the name or logo of the business and it must comply with all requirements of the district in which it is located.~~

~~E. — Drive through window signs are permitted as either a freestanding sign or attached wall sign. Such signs may not exceed twenty-eight square feet (28 ft²) and should not generally be visible from the front of the restaurant. If a freestanding menu sign is used, such sign may not exceed eight feet (8') in height. No more than two (2) drive through signs are permitted for each business.~~

~~F. — Little League sponsorship signs are permitted at the Optimist Club fields for the Little League Season (April through October). The signs may not exceed twenty-four square~~

feet (24 ft²) and must be uniform in dimension. The copy on the temporary sign is limited to the name of the sponsoring business and its logo.

~~G. Business Directory Signs: Signs, other than signs permitted under 26.12.01, that are not illuminated may be placed on buildings to identify the tenants within. Such signs shall contain no advertising other than business name and/or logo and shall not exceed one (1) square foot per sign, per business.~~

~~H. Temporary Signs, other than Agricultural Signs, Community Event Signs, inflatable signs and Farmer's Market Signs.~~

~~I. Political Signs~~

~~J. Subdivisions, multi-family residential developments, and mobile home parks may display one sign announcing the name of the development at each entrance. The sign copy is limited to the name of the development only and may be freestanding or placed on the entrance wall of the development. The sign may be illuminated and the size may not exceed thirty square feet (30 ft²) in area, or eight feet (8') in height.~~

(Ord. 20140385, 08-21-2014)

~~26.03 Signs Excluded from Regulation~~

~~26.03.01~~ The following signs and/or displays shall be exempt from the regulations of this Article. These exemptions do not relieve an applicant from obtaining a building permit pursuant to the North Carolina Building Code:

~~A. A government sign, when approved or duly authorized by the governmental entity's governing body.~~

~~B. Trade names and graphics customarily painted on newspaper and soft drink dispensers, as well as delivery trucks.~~

~~C. Publicly owned memorial/historical tablets or signs.~~

~~D. Living Sign~~

~~E. Bench Signs located on private property~~

~~26.04 Prohibited Signs~~

~~26.04.01~~ The following signs are prohibited:

~~A. Abandoned Signs~~

~~B. Flashing, blinking, or scrolling signs or signs with intermittent lights~~

~~C. Portable Signs~~

~~D. Roof Signs~~

~~E. Rotating Signs~~

~~F. Sidewalk Signs~~

~~G. Snipe Signs~~~~H. Inflatable Signs, other than those permitted under the Temporary Sign Regulations of Section 26.16.10.~~~~I. Signs imitating or resembling official traffic or government signs or signals~~~~J. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign(s). Vehicles or trailers which display signs must move to perform only business-related activities at least every forty-eight (48) hours to obtain exemption from this requirement.~~~~K. Temporary Signs except those in Section 26.16.~~~~L. Trademarks, emblems, pictures, etc. displayed in a three (3) dimensional nature.~~~~M. Pavement marking of any kind, except for traffic control.~~~~N. Offensive Signs as defined by N.C. Gen. Stat. § 19-1.1.~~~~O. Signs which obstruct views of other signs, other property, or sight into public rights-of-way.~~~~P. Billboards or off premise advertising, except off-premise community event signs.~~~~Q. Signs placed in public right-of-way~~~~R. Signs placed which obstruct public safety~~~~S. Fence wraps displaying signage when affixed to perimeter fencing at a construction site until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. No fence wrap may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.~~~~T. Any sign(s) which does not comply with regulations of this Ordinance.~~~~(Ord. PL04727-050721, 07-01-2021)~~~~**26.05 Signs Permitted in the R1, R1S, RA, RR, R1A, R2, R4 and MH Districts**~~~~**26.05.01** The residential districts provide for a quiet environment and sound neighborhoods. While some service-oriented businesses are allowed, the general usage is for family life. The intent of this Section is therefore to provide for a limited use of signs which are generally not illuminated and which will preserve the family-oriented character of neighborhoods.~~~~**26.05.02** One sign at each entrance announcing the name of a subdivision, residential development or mobile home park is allowed.~~~~**A.** The sign copy is limited to the name of the development only.~~~~**B.** The sign may be freestanding or placed on the entrance wall of the development.~~

~~C. The sign may not exceed thirty square feet (30 ft²) in area, or eight feet (8') in height.~~

~~D. The sign may be illuminated.~~

~~**26.05.03** Any Use 5.2 Churches, Synagogues and Temples is permitted two signs from the following categories: attached or freestanding.~~

~~A. Freestanding signs may not exceed thirty square feet (30 ft²) in area, or eight feet (8') in height.~~

~~B. Attached signs may not exceed an area equal to one square foot (1 ft²) of sign area per linear foot of the building frontage. The maximum square footage for an attached sign is thirty square feet (30 ft²).~~

~~C. Signs may be illuminated.~~

(Ord. PL03171-000319, 12-16-2019)

~~**26.06 Signs Permitted in the R3 District**~~

~~**26.06.01** The R3 District is established to provide a medium density area consisting of three or more family dwelling units plus limited service use.~~

~~**26.06.02 Advertising Signs**~~

~~A. Two signs allowed per premise that may be chosen from the following categories: attached, freestanding, canopy, or projecting. In no case may both signs be from the same category. Painted wall signs are prohibited.~~

~~B. Attached and freestanding signs may not exceed sixteen square feet (16 ft²) in area per sign.~~

~~C. Freestanding signs may not exceed ten feet (10') in height.~~

~~D. Projecting signs may not exceed eight square feet (8 ft²) in area per sign.~~

~~E. Awning signs may not exceed twenty five percent (25%) of the area of the awning. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of the size of the awning.~~

~~F. Signs which are attached to the face or side of an awning may not exceed twelve inches (12") in height and no support structures shall be visible.~~

~~**26.07 Signs Permitted in the B1 District**~~

~~**26.07.01** The B1 district has diverse shops in close proximity to one another, and is oriented primarily to daytime pedestrian use. Flower boxes, benches, shake shingle roofs and natural plantings lend the area a distinctive mountain village appearance. Leisurely shopping is encouraged. The intent of this Section is therefore, to promote the downtown as a shopping and gathering place and to enhance the village atmosphere. The use of wooden signs is encouraged, so as to contribute to the warmth, friendliness and natural beauty of the area.~~

26.07.02 — Each business is permitted two (2) signs chosen from the following categories: attached, canopy, or projecting. In no case may both signs be in the same category. Painted wall signs are prohibited in the B1 zone. Signs may be illuminated. Businesses are also allowed one sign from the following:

A. — A projecting sign which may contain the name of the business and any logo which the business chooses to adopt. The sign may not exceed four square feet (4 ft²) in size. It shall display only the name of the business and/or buildings which it is attached to and the building and/or business logo or logos and no more than one (1) per building.

B. — A freestanding sign which may be a maximum size of two feet (2') by two feet (2'), and the bottom of said sign shall display only the name of the business and/or building which it is located in front of, and the building and/or business logo or logos and no more than one (1) sign per building.

26.07.03 — Attached signs shall not exceed an area equal to the greater of sixteen square feet (16 ft²) or one-half square foot ($\frac{1}{2}$ ft²) of sign area per linear foot of building frontage. For example, buildings which are thirty-two feet (32') across the front or less may have a sixteen (16) square feet attached sign. If the building is larger than thirty-two feet (32') across the front the permitted size would be determined by the formula, one-half square foot ($\frac{1}{2}$ ft²) per linear foot of building. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of building size.

26.07.04 — Projecting signs may not exceed sixteen square feet (16 ft²) in area.

26.07.05 — Awning signs shall not exceed twenty-five percent (25%) of the area of the awning. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of the size of the awning. Signs which are attached to the face or side of an awning may not exceed twelve inches (12") in height and no support structures shall be visible.

26.07.06 — Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 27.15.

26.07.07 — Projecting Theater Marquees: Theaters which choose to use a projecting theater marquee are only allowed to have the signage as permitted in Section 27.13.

26.08 Signs Permitted in the B2 District

26.08.01 — The neighborhood business district provides a variety of commercial services. It is oriented to vehicular traffic as well as pedestrian traffic. The signs allowed in this area permit an efficient means of information transfer consistent with the size of the streets and speed of the traffic.

26.08.02 — Advertising Signs

A. — Signs may be illuminated.

- ~~B. Each business is permitted two signs. They may be chosen from the following categories: attached, freestanding, canopy, projecting. In no case may the signs be of the same category except that a business may have two (2) attached signs.~~
- ~~C. Attached signs shall not exceed an area equal to one square foot (1 ft²) of sign area per linear foot of building frontage. For example, a building which is fifty feet (50') across the front may have a fifty square foot (50 ft²) attached sign. The maximum allowable square footage of attached sign is eighty square feet (80 ft²) regardless of building size.~~
- ~~D. Freestanding signs shall not exceed thirty square feet (30 ft²) in area and twenty feet (20') in height.~~
- ~~E. Projecting signs may not exceed sixteen square feet (16 ft²) in area.~~
- ~~F. Awning signs shall not exceed twenty-five percent (25%) of the area of the awning. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of the size of the awning. Awning signs may be attached at the face of, side of, or under the awning. Signs which are attached to the face or side of awning may not exceed twelve inches (12") in height.~~
- ~~G. Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 26.15.~~

~~26.09 Signs Permitted in the B3 District~~

~~26.09.01 The B3 districts are located on all major access roads to Boone. It is on these roads that the visitor receives a first impression of the Town. It is the intent of this Ordinance to allow the visitor to locate business establishments easily and quickly and yet not to allow signs which might interfere with views of the scenic mountains. The B3 districts provide a variety of services primarily oriented toward vehicular traffic. Because vehicles in this area travel at speeds up to 45 m.p.h., it is important to ensure that signs are clear, distinct and readable in a brief space of time. The requirements identify establishments quickly and easily.~~

~~26.09.02 Advertising Signs~~

- ~~A. Signs may be illuminated.~~
- ~~B. Each business is permitted two (2) signs which may be of any type, however, no more than one canopy sign per business.~~
- ~~C. Freestanding signs shall not exceed fifty square feet (50 ft²) in area and twenty feet (20') in height.~~
- ~~D. No freestanding sign shall be placed less than forty feet (40') from another freestanding sign.~~
- ~~E. Projecting signs may not exceed sixteen square feet (16 ft²).~~

~~F. Awning signs shall not exceed twenty five percent (25%) of the area of the awning. The maximum allowable square footage is forty eight square feet (48 ft²) regardless of the size of the awning. Awning signs may be attached to the awning at the face of, side of, or under the awning. Signs which are attached to the face or side of the awning may not exceed twelve inches (12") in height and no support structures shall be visible.~~

~~G. Attached signs and painted wall signs may not exceed an area equal to one square foot (1 ft²) of sign area per linear foot of the building frontage. For example, a building which is fifty feet (50') across the front may have a fifty square foot (50 ft²) attached or painted wall sign. The maximum square footage of attached or painted wall sign is 120 square feet, regardless of building size.~~

~~H. Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 26.15.~~

~~26.10 Signs Permitted in the M1 District~~

~~26.10.01 The manufacturing district in Boone is limited to currently existing industrial uses. Each use shall be permitted one advertising sign.~~

~~26.10.02 Advertising Signs~~

~~A. The sign may be attached or freestanding.~~

~~B. The sign may be illuminated.~~

~~C. Attached signs may not exceed an area equal to one square foot (1 ft²) per linear foot of building frontage and not exceed 120 square feet.~~

~~D. Freestanding signs may not exceed fifty square feet in size and twenty feet (20') in height.~~

~~26.10.03 In addition to signage permitted by Section 26.10.02 A, the industrial district shall be permitted a directory sign which announces the name of the industrial park and all businesses located within the park. Directory Signs may be freestanding and shall conform to the following requirements:~~

~~A. Directory Sign.~~

~~1. The freestanding directory sign shall not exceed fifty square feet (50 ft²) in area.~~

~~2. The height of the directory sign shall not exceed twenty feet (20').~~

~~26.10.04 Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 26.15.~~

~~26.11 Signs Permitted in the OI District~~

~~26.11.01 The Office Institutional zoning district provides a variety of office, institutional and commercial services. The signs allowed in this area permit an efficient means of information transfer consistent with the size of the streets and speed of the traffic.~~

26.11.02 Advertising Signs

- ~~A. Signs may be illuminated.~~
- ~~B. Each office/institution/business is permitted two signs. They may be chosen from the following categories: attached, freestanding, canopy, or projecting. In no case may the signs be of the same category except that an office/institution/business may have two (2) attached signs. Painted wall signs are not permitted in the OI district.~~
- ~~C. Attached signs shall not exceed an area equal to one square foot (1) of sign area per linear foot of building frontage. For example, a building which is fifty feet (50') across the front may have a fifty square foot (50 ft²) attached sign. The maximum allowable square footage of an attached sign is sixty-four square feet (64 ft²), regardless of building size.~~
- ~~D. Freestanding signs shall not exceed thirty square feet (30 ft²) in area and ten feet (10') in height.~~
- ~~E. Projecting signs may not exceed sixteen square feet (16 ft²) in area.~~
- ~~F. Awning signs shall not exceed twenty-five percent (25%) of the area of the awning. The maximum allowable square footage is forty-eight square feet (48 ft²) regardless of the size of the awning of the awning. No signs may be attached to the awning support structures. Signs which are attached to the face or side of an awning may not exceed twelve inches (12") in height.~~
- ~~G. Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 26.15.~~

26.12 Shopping Centers and Malls

26.12.01 Directory Signs: A shopping center or mall shall be permitted a directory sign. Directory signs may be attached or freestanding and shall conform to the area requirements as follows:

- ~~A. In the B1 district, the permitted area of an attached directory sign shall not exceed the greater of twenty square feet (20 ft²) or one-half square foot (½ ft²) per linear foot of total frontage of the building to a maximum of forty-eight square feet (48 ft²). Freestanding directory signs shall not exceed twenty square feet (20 ft²) in area and ten feet (10') in height.~~
- ~~B. In the B2 district, the permitted area of an attached directory sign shall not exceed one square foot (1 ft²) per linear foot of frontage of the building to a maximum of eighty square feet (80 ft²). A freestanding directory sign shall not exceed forty-eight square feet (48 ft²) in area, and twenty feet (20') in height.~~
- ~~C. In the B3 district, an attached directory sign shall not exceed one square foot (1 ft²) per linear foot of building frontage to a maximum of 120 square feet. A freestanding directory sign shall not exceed the greater of fifty square feet (50 ft²) in area or ten square~~

feet (10 ft²) in area for each 150 linear feet of arterial road frontage of the lot in which it is located. The height of the directory sign shall not exceed twenty feet (20').

~~D. In the R3 district, directory signs shall conform to the requirements set forth in Section 26.06.~~

~~E. When a shopping center or mall has in excess of 400 feet on an arterial road(s) and consists of more than five (5) acres, one (1) directory sign per arterial road upon which it fronts is permitted.~~

~~F. When a development utilizes parking control devices as regulated by Boone Town Code Chapter 73 Towing, the name of the building or business shall be prominently visible from the entrance of the controlled parking area.~~

~~26.12.02 Entrances to interior malls may be identified by an attached sign in addition to the other sign permitted to the business establishment. Such signs shall be attached to the building over the entrances or beside the entrances only. The signs shall not exceed four square feet (4 ft²) in the B1 district, eight square feet (8 ft²) in the B2 district and sixteen square feet (16 ft²) in the B3 district.~~

~~26.12.03 Signs for tenants within shopping centers, malls and unified business establishments shall meet the following requirements:~~

~~A. Businesses within shopping centers, malls and unified business establishments are permitted two (2) signs from the following categories: attached, canopy, and projecting. In the B3 district, painted wall signs are also permitted.~~

~~B. If the business has an exterior frontage in the commercial development of eighty linear feet (80 lf) or more, the business may be permitted a freestanding sign as one (1) of its two (2) permitted signs. All signs permitted by this Section must meet all regulations contained in Section 26.01 as they pertain to the district in which they are located. Area of attached and painted wall signs shall be computed by the linear building frontage feet of each individual establishment.~~

(Ord. 20140385, 08-21-2014)

~~26.13 Marquee Sign Regulations~~

~~26.13.01 The following regulations shall apply solely to marquee signs other than a historical reconstruction of a projecting theater marquee.~~

~~A. Except where a projecting theater marquee is utilized pursuant to this Section, theaters, museums, auditoriums and other entertainment facilities are permitted one (1) changeable copy marquee in addition to their two (2) permitted signs.~~

~~B. Marquee signs shall conform to the applicable sign requirements for the district in which they are located, however the area of the marquee sign shall be permitted an increase in size up to an additional 100% provided that one of the other signs to which the~~

~~business is entitled is reduced in size. The percentage of increase in area shall be equal to the reduction in area of the other permitted sign.~~

~~C. If the marquee is a freestanding sign, the height of the marquee may not be increased over that permitted in the zone in which it is located.~~

~~**26.13.02** The following regulations shall apply solely to a historical reconstruction of a projecting theater marquee:~~

~~A. A projecting theater marquee shall be allowed only in the B1 Central Business District.~~

~~B. No portion of a projecting theater marquee shall be less than eight feet (8') above grade nor higher than sixteen feet (16').~~

~~C. A projecting theater marquee and supporting structures shall not extend over the edge of any sidewalk or into any street right-of-way absent an encroachment agreement authorizing such incursion by the Town.~~

~~D. The projecting theater marquee shall only be attached to the building in which the theater is located and must be above an entrance to the theater. No projecting theater marquee sign shall be wider than the building to which it is attached.~~

~~E. Signage may be installed directly upon the vertical face or faces of a projecting theater marquee with the following conditions:~~

~~1. Channel letters may extend above such vertical face or faces provided that the letter height is restricted to twelve inches (12") in height.~~

~~2. No sign may extend below such vertical face or faces with the exception of lighting elements. All lighting elements shall meet the requirements of Subsection 26.13.02(B) above.~~

~~3. The changeable copy portions of a projecting theater marquee shall not exceed fifty percent (50%) of the total area of all faces and comply with Section 27.01.~~

~~4. All other signage attached to a projecting theater marquee may not exceed 20 percent (20%) of the total area of all faces.~~

~~F. A projecting theater marquee may include the use of flashing, scrolling, or intermittent lights subject to the following conditions:~~

~~1. The flashing, scrolling, blinking, or intermittent lights may only be in operation during the time the theater is open to the public and prohibited between the hours of 11 p.m. to 7 a.m.~~

~~2. Light fixtures on the projecting theater marquee do not have to meet the requirement for full cut-off fixtures as required in Subsection 25.05.02.~~

~~G. Encroachment: Where a projecting theater marquee extends over a public sidewalk or other public property, an executed encroachment agreement approved by the Boone~~

~~Council shall be required prior to issuance of any sign permit for a projecting theater marquee.~~

~~H. A projecting theater marquee may be constructed either as part of a new structure or as an addition to an existing structure as follows:~~

- ~~1. Site-specific plans and specifications must be submitted from a registered North Carolina licensed structural engineer demonstrating that the projecting theater marquee complies in all ways with appropriate code provisions of the Town and the State of North Carolina, including but not limited to, materials, drainage, roof strength, bracing and anchorage.~~
- ~~2. A final certification from the registered North Carolina licensed structural engineer shall be required stating that the projecting theater marquee complies with all appropriate code provisions of the Town and the State of North Carolina and that the projecting theater marquee has been constructed according to their submitted design.~~

~~(Ord. 20160501, 09-15-2016)~~

~~26.14 Home Occupation Signs~~

~~26.14.01 The following regulations shall apply solely to home occupation signs.~~

- ~~A. Home occupation signs are permitted in the R1, R1A, RA, R2, R3, R4, MH, B1, B2, and B3 districts.~~
- ~~B. The sign may not be illuminated.~~
- ~~C. The sign must be an attached sign mounted flat on the building.~~
- ~~D. The sign may not exceed four square feet (4 ft²) in size.~~

~~26.15 Exceptions and Modifications~~

~~26.15.01 Where a business establishment elects to erect only one (1) sign on premises, and that sign is to be an attached sign, the permitted area of this sign may be increased as follows:~~

- ~~A. The permitted area of an attached sign may be increased by fifty percent (50%).~~
- ~~B. The attached sign permitted by this Section shall meet all other applicable requirements regarding placement, lighting, permit procedures, etc., of this Ordinance.~~
- ~~C. In the event that the business should desire a second sign after the attached sign allowed by this Section is erected, no permit for the additional sign shall be issued until the attached sign meets the size requirements of the district in which it is located as specified in Section 26.01.~~

~~26.15.02 Where a business establishment is set back from its major road by 200 feet or more, the permitted size of the attached signs may be increased by ten percent (10%) plus an additional~~

ten percent (10%) for each fifty feet (50') of distance in excess of 200 feet to a maximum of 100% increase provided that:

- ~~A. This increase shall apply to attached signs only.~~
- ~~B. This increase shall apply to only one of the two permitted signs.~~
- ~~C. The attached sign must meet all other applicable requirements regarding placement, lighting, permit procedures, etc. as it pertains to the district in which it is located.~~
- ~~D. If the business has a freestanding sign this increase shall not apply.~~
- ~~E. If a business is set back from its major access road by 200 feet or more and has only one sign, the business may choose the modifications of size permitted by this Subsection 26.15.01 or 26.15.02, but may not combine the allowances provided by the two Subsections.~~

26.15.03 ~~Businesses may erect more than the two (2) allowed signs upon obtaining Staff approval provided that:~~

- ~~A. The additional signs must be attached or projecting signs.~~
- ~~B. The combined area of all signs must be less than or equal to the permitted area by type of sign. For example, if a ninety square foot (90 ft²) attached sign is permitted, then the business may have two (2) forty five square feet (45 ft²) attached signs or three (3) thirty square feet (30 ft²) signs.~~
- ~~C. The maximum number of additional signs allowed is three (3).~~
- ~~D. The additional signs are not illuminated.~~
- ~~E. The applicant shall submit a drawing of the proposed locations of the additional signs and meet all applicable requirements.~~

26.15.04 ~~Businesses in the B2, B3, M1, and OI districts who chose to use a ground sign instead of a freestanding sign may increase the maximum square footage of that sign by thirty five percent (35%).~~

26.15.05 ~~Businesses located in the B1 district may erect a ground/monument sign provided that:~~

- ~~A. All applicable requirements of Section 26.01 are met, and;~~
- ~~B. A minimum of forty feet (40') (setback) is provided between any building and a ground/monument sign, and;~~
- ~~C. No ground/monument sign shall exceed sixteen square feet (16 ft²) in area with no horizontal or vertical dimension exceeding six feet (6'), and except as allowed Subsection 26.15.05 below, and;~~
- ~~D. A business located 100 feet or more from King Street may erect a freestanding sign with a maximum area of twenty five square feet (25 ft²) and a maximum height of six feet (6').~~
- ~~E. No sign shall be placed in a public right of way.~~

~~26.15.06~~ Corner Lots: Businesses located on a corner lot may be permitted one additional attached sign to those otherwise permitted herein.

~~26.15.07~~ Signs for developments subject to Boone Town Code Chapter 73 Towing.

~~A.~~ Parking control warning signs shall comply with the requirements of Boone Town Code Chapter 73 Towing.

~~B.~~ Parking control warning signs do not require sign permits.

~~C.~~ All developments subject to this subsection shall comply with one of the following requirements, as applicable:

~~1.~~ A building(s) with a single business shall prominently display the name of the business.

~~2.~~ Shopping Center/Mall developments shall follow the regulations set forth in 26.12.01(F).

~~D.~~ All signs shall be clearly visible from the controlled parking spaces.

(Ord. 20140385, 08-18-2014)

~~26.16 Temporary Sign Regulations~~

~~26.16.01~~ Temporary signs must conform to all regulations of this Section not otherwise superseded by this Article. No type of temporary sign, other than an agricultural sign whose placement is approved by the North Carolina Department of Transportation, may be placed in the public right of way. Temporary signs, other than agricultural signs, inflatable signs and community event signs, shall not be required to obtain a sign permit.

~~26.16.02~~ **Community Event Signs:** Community event signs are permitted for public agencies, schools, churches, civic fraternal organizations or similar non-commercial organizations, or for commercial events when approved by the Boone Town Council.

~~A.~~ Signs for non-commercial community events may be erected provided that:

~~1.~~ Such groups shall be non-profit corporations or associations organized and operated for charitable purposes that are licensed as non-profit groups with the North Carolina Secretary of State.

~~2.~~ Any fund being raised by the community event must be used for charitable or non-profit purposes.

~~3.~~ All community events must occur within Watauga County. A community event that does not occur within Watauga County may receive permission to display signs with the approval of the Boone Town Council.

~~4.~~ A Community Event Sign Permit Application must be completed by the sponsor of the event and approved by the Administrator. The sponsor must organize all aspects of a community event. A representative of the organization must sign the permit

application and will be jointly responsible with the organization for ensuring that the regulations are followed.

~~B. Signs for commercial community events may be erected, provided that:~~

- ~~1. An application is properly completed and delivered to the Town of Boone Planning and Inspections Department at least forty-five days before the event.~~
- ~~2. The event is approved by the Boone Town Council as a “community event”.~~
- ~~3. As determined by the Boone Town Council, the event provides a significant economic benefit to the Town as a whole, and portrays or places the Town of Boone in a positive light.~~
- ~~4. The event is open to all citizenry of the Town of Boone and its planning jurisdiction.~~
- ~~5. The event has received the written endorsement of a non-profit group whose mission includes promoting the economic vitality of Boone, such as, but not limited to, the Downtown Business Development Association, the Boone Chamber of Commerce, or the High Country Host.~~
- ~~6. The sponsor of the event has completed a Community Event Sign Permit Application and paid the appropriate fee, and the application is approved by the Planning and Inspections Department. A representative of the organization must sign the permit application and will be jointly responsible with the organization for ensuring that these regulations are followed.~~

~~C. All community events, whether non-commercial or commercial are subject to the following requirements:~~

- ~~1. Each community event is allowed to display no more than twelve (12) off-premise signs that do not exceed four square feet (4 ft²) in an area and four feet (4') in height. Only one (1) sign per lot is allowed with the permission of the landowner or registered agent. One (1) off-premise banner and one (1) banner at the event site are allowed. Each banner may not exceed twenty-four square feet (24 ft²).~~
- ~~2. A community event may display allowable signage annually.~~
- ~~3. The signs are not illuminated.~~
- ~~4. The signs may not be displayed earlier than seven (7) days prior to the event and must be removed within forty-eight (48) hours after the event.~~

~~D. An event which does not take place in Watauga County may still be designated a “community event” when the event is approved by the Boone Town Council based upon a determination that the event nevertheless significantly contributes to the economic vitality and heritage of Boone.~~

~~E. The Boone Town Council recognizes the following as community events:~~

~~The Highland Games~~

~~The Blowing Rock Celtic Festival~~

~~Trade Days~~

~~Watauga High School Project Graduation~~

~~Boone Bluegrass Festival~~

~~Gospel Singing Jubilee~~

~~Sugar Grove Music Festival~~

~~Wooly Worm Festival~~

26.16.03 — Political Sign: ~~Political signs are permitted in accordance with Section 26.17.~~

26.16.04 — Real Estate Sign: ~~A real estate sign is a temporary sign advertising the real estate upon which the sign is located as being for rent, lease, open house or sale. Real estate signs are permissible subject to the following regulations:~~

~~A. Real estate signs advertising property for sale, lease or rent shall adhere to the following regulations:~~

~~1. Only one (1) sign per lot is allowed.~~

~~2. The sign shall not be illuminated.~~

~~3. Area and Height Requirements:~~

Zoning District	Maximum Area	Maximum Height
Residential Zoning Districts	4 ft²	5 ft.
B1 Central Business	4 ft²	
Remaining Zoning Districts	20 ft²	8 ft.

~~4. The real estate sign shall be removed within forty-eight (48) hours after the property closing.~~

~~B. Open House Residential Real Estate Sign: Open house residential real estate signs shall be subject to the following requirements:~~

~~1. There shall be no more than one on-premise and two (2) total off-premise open house residential real estate signs for any open house event. These signs must include the realtor's phone number or the homeowner's address and the street address where the event is taking place.~~

~~2. Off-premise signs may be in place only from 8 a.m. on Saturday to 8 p.m. on Sunday.~~

~~3. Off-premise signs shall not exceed three square feet (3 ft²) in area and two feet (2') in height.~~

~~4. Such signs shall not be illuminated.~~

5. ~~Only one on-site sign per lot is allowed with the permission of the landowner, registered agent or tenant.~~

26.16.05 ~~Yard Sale Sign:~~ ~~Yard sale signs are permitted as temporary signs provided that the signs adhere to the following criteria:~~

- ~~A. No more than three (3) signs per event are allowed.~~
- ~~B. Two (2) signs may be placed off premise from the location of the event on private property with the landowner or registered agent's consent.~~
- ~~C. The signs may remain in place for forty-eight (48) hours only.~~
- ~~D. Such signs shall serve as directional aids and text on such signs shall be limited to Yard Sale or Garage Sale and an arrow.~~
- ~~E. Signs shall be placed out of the street right-of-way and no signs will be placed on utility poles.~~
- ~~F. The signs shall not be illuminated.~~
- ~~G. Signs are limited in size to four square feet (4 ft²) in area and must list the phone number of the event organizer on the back.~~

26.16.06 ~~Newly Established Business:~~ ~~Businesses which are newly established or have changed locations may display a temporary sign provided that:~~

- ~~A. The size of any such sign is not in excess of twenty-four square feet (24 ft²) in area.~~
- ~~B. The sign may be displayed for a period of thirty (30) days. This thirty-day period may begin no earlier than fifteen (15) days prior to the opening date of the business and not later than thirty (30) days after the certificate of occupancy is issued by the building inspector.~~
- ~~C. Only one (1) such sign is allowed per premise; however, this one sign may be used in addition to other permitted signs.~~

26.16.07 ~~Special Sales and Promotions:~~ ~~Temporary signs as defined by advertising special sales and promotions by merchants and other profit-making concerns may be erected in addition to other permitted signs provided:~~

- ~~A. The size of such sign shall not exceed twenty-four square feet (24 ft²).~~
- ~~B. The signs are not illuminated.~~
- ~~C. The signs are displayed for a period of ten (10) days only.~~
- ~~D. Only one (1) sign per premise is allowed.~~
- ~~E. An interval of thirty (30) days shall separate each event.~~

26.16.08 ~~Agricultural Signs:~~ ~~Agricultural signs are subject to the following criteria:~~

- ~~A. A permit must be applied for by delivery of a completed application and payment of such fee as established by the Boone Town Council, no less than forty five (45) days prior to the first day of display. The application for a permit must state the dates of the exposition, festival or event in question. Only one (1) fee shall be due for each separate exposition, festival or event in question;~~
- ~~B. Signs must comply with all North Carolina Department of Transportation requirements, including those requirements as to location and placement, and the applicant is responsible for compliance with DOT requirements and with the requirements of this Ordinance;~~
- ~~C. Off-premises signs may only be placed with the permission of the person with the legal authority to grant such permission. There may be no more than fifteen (15) off-premises agricultural signs within the planning jurisdiction of the Town for each exposition, festival or event;~~
- ~~D. Signs may be permitted for a maximum of six (6) weeks, must be fixed in place for the duration of the exposition, festival or event, and must be removed by the applicant within forty eight (48) hours of the conclusion of the exposition, festival or event;~~
- ~~E. All signs relating to a particular agricultural exposition, festival or event must be uniform in shape and color. Any designs must be complementary. Each sign must be stable and must be properly secured to its location;~~
- ~~F. Signs may not exceed twenty eight square feet (28 ft²), but may be comprised of a large sign with smaller signs attached, which smaller signs direct the public to particular locations participating in the exposition, festival or event;~~
- ~~G. Agricultural signs may not be illuminated.~~

26.16.09 Farmer's Market Sign Regulations

- ~~A. A permit must be applied for by delivery of a completed application and payment of such fee as established by the Boone Town Council, no less than ten days prior to the first day of operation. The application for a permit must state all dates the farmer's market will operate during the calendar year in question, and must disclose the name and address of the sponsoring non-profit organization. The person signing the application is jointly responsible with the sponsoring organization for compliance with this Article. Only one fee shall be due for each calendar year of operation of a farmer's market.~~
- ~~B. A farmer's market may display no more than eight (8) off-premise signs that do not exceed four square feet (4 ft²) in area and four feet in height (4'). Only one (1) sign is permitted per lot, and off-premises signs may be posted only with the permission of the person with the legal authority to grant such permission.~~
- ~~C. Farmer's market signs may not be illuminated.~~

~~D. Farmer's market signs may be displayed only during daylight hours on each day of operation.~~

~~E. Signs must comply with all relevant North Carolina Department of Transportation requirements as to location and placement, and the applicant is responsible for compliance with DOT requirements.~~

26.16.10 Inflation Signs: ~~Inflation signs may be temporarily displayed in a B3 zoning district subject to the following conditions:~~

~~A. Only one (1) inflation sign may be displayed per tax parcel, and no more than one (1) inflation sign per business or event, even if the business or event is located on multiple tax parcels.~~

~~B. An inflation sign may be displayed for a period of seven (7) continuous days, an interval of thirty (30) days shall separate each event for which the sign is displayed. In addition, the inflation sign may be displayed for no more than three (3) separate events in any calendar year.~~

~~C. Any inflation sign must be set back and away from any pedestrian or vehicular right of way, any utility poles, above ground utility lines and any other hazardous structure, at least the vertical distance from the ground to the top of the sign when it is displayed at its maximum height, plus ten feet (10').~~

~~D. An inflation sign may not obstruct visibility for vehicular traffic.~~

~~E. Any inflation sign must be secured to the ground in conformity with the manufacturer's specifications.~~

~~F. No inflation sign may be displayed in such a way that the top of the sign is more than twenty five feet (25') above the ground level.~~

~~G. Inflation signs shall not be illuminated.~~

~~H. No inflation sign may exceed 400 cubic feet when fully inflated.~~

~~I. The applicant shall submit a certification that the inflation sign will be erected and displayed in conformance with this Section and the manufacturer's specifications.~~

{Ord. 20140384, 08-18-2014; Ord. PL04727-050721, 07-01-2021}

~~26.17 Political Sign Regulations~~

26.17.01 ~~The following regulations shall apply solely to political signs, posters, etc.:~~

~~A. No signs shall be placed in a public right of way.~~

~~B. No signs shall be placed on public utility poles, telephone poles, parking meter poles or any other sign or sign support structure erected by a duly constituted governmental body.~~

~~C. No signs shall be placed on roofs nor painted on roofs.~~

- ~~D. Any political sign which is determined to be a hazard or infringement to the public health, safety and welfare is prohibited.~~
- ~~E. Portable signs shall not be allowed for political uses.~~
- ~~F. Political Signs may be placed on private property with the consent of the landowner or their authorized agent.~~
- ~~G. Except for legal billboards, no political sign shall be larger than sixteen square feet (16 ft²).~~
- ~~H. Political signs may be displayed no sooner than sixty (60) days before any election. All political signs must be removed within forty eight (48) hours after each election.~~

(Ord. PL04727-050721, 07-01-2021)

~~26.18 Maintenance and Relocation of Signs~~

~~26.18.01 All sign supports, braces, poles, wires, and anchors thereof shall be kept in good repair. They shall be maintained in safe condition, free from deterioration, missing parts, and peeling paint. Any sign not in compliance with these standards shall be deemed a nuisance and the following action may be taken.~~

- ~~A. The Administrator shall give written notice to the owner specifying the sign indicated and telling what needs to be done to bring the sign into compliance.~~
- ~~B. The owner of the sign shall respond to the notice within two (2) weeks and shall have sixty (60) days to complete said repairs. Additional time shall be granted by the Administrator only upon delay of parts when it has been clearly shown that the parts have been ordered.~~
- ~~C. Failure to complete repairs in the specified time shall result in the Administrator causing the sign to be repaired, removed or altered at the expense of the owner(s). Costs of removal or repair, court costs and attorney fees incurred by the Town shall be assessed against the owner(s), to be collected by the Town in an action in the nature of a debt.~~
- ~~D. In the event a sign is damaged in excess of fifty percent (50%) of its reproduction value, such sign shall be restored or repaired only in compliance with the provisions of this Ordinance.~~

~~26.18.02 Signs for which a sign permit has been issued may be relocated in conformance with the regulations of this Article upon notification of the Administrator. Signs which are nonconforming may not be relocated except upon removal of all non-conforming features of the sign.~~

~~26.19 Obsolete and Abandoned Sign Regulations~~

~~26.19.01 Signs or parts of signs which advertise or pertain to a business, product, service, commodity, event, activity, or purpose which no longer exists or that has not been in use for ninety (90) days or more shall be deemed to be an abandoned sign. Signs which are associated with~~

~~seasonal business such as ski shops, Horn in the West, etc., shall not be considered obsolete or abandoned provided there is clear intent to continue in the coming season.~~

- ~~A. Obsolete or abandoned signs are prohibited and shall be removed by the owner or his agent within thirty (30) days of termination of the business, activity, event, etc.~~
- ~~B. Failure to remove such signs or parts of signs shall result in written notice from the Administrator. Failure to comply with these terms shall result in the sign being removed at the owner(s) expense. Costs of removal or repair, court costs and attorney fees incurred by the Town shall be assessed against the owner(s), to be collected by the Town in an action on the nature of the debt.~~

~~26.20 Permanent Off-Premise Signs in Easements~~

~~26.20.01~~ ~~Permanent off-premise signs in access easements shall be permissible subject to the following requirements and limitations:~~

- ~~A. Application required: No permanent off-premise sign may be placed or displayed in an access easement area until a permit authorizing its display is issued.~~
 - ~~1. The applicant must submit a certified copy of the instrument creating the easement with the application. The access easement area must be the only available and planned access for the development requesting the permanent off premise sign. The Administrator may require that the applicant provide a signed statement from an attorney that such easement confers upon the applicant the right to display a sign within the easement if the Administrator is unsure of the scope of the rights created by the easement. Unless the easement affords rights to display a sign for the full potential life of the development, it will be considered legally insufficient.~~
- ~~B. No permit for a sign which will be displayed or located within an access easement may be issued unless there are no roads contiguous with the lot upon which the development is located, or the access easement in which the sign is to be located is the only available and planned vehicular access to the aforementioned lot.~~
- ~~C. The only sign which may be permitted for display in an off-premise easement is a ground mounted/monument sign which must meet all dimensional, separation, location, and lighting requirements of this Article for a ground mounted/monument sign in the zoning district in which it will be placed or the development is located, whichever is more restrictive, unless any such requirement is explicitly superseded by this Section.~~
 - ~~1. For residential developments, including multi-family developments, all signs subject to this Section shall be limited to no more than thirty square feet (30 ft²) of sign face.~~
- ~~D. Limitations on the number of signs allowed: Only one (1) permanent off-premise sign will be allowed on a lot which is subject to an access easement which also allows a permanent off-premise sign (further known as the hosting lot). The permanent off-premise sign shall count as one of the free-standing signs (not including directory signs) allowed for the hosting lot. Furthermore, if at the time of application, existing signs on the hosting lot have either a~~

~~combined square footage that meets/exceeds the maximum square footage allowed, or meet/exceed the maximum number of freestanding signs allowed, the applicant must provide a written declaration from the owner or occupant of the hosting lot indicating which sign(s) will be removed. If any signs are required to be removed, this shall be done prior to the issuance of the permit for the permanent off-premise sign.~~

26.01 Applicability

26.01.01 All signs constructed, installed, modified, moved, painted or replaced shall comply with the standards of this Article, whether such signs do or do not require a sign permit.

26.01.02 Signs shall only be placed on private property with the permission of the owner, whether such signs do or do not require a sign permit.

26.01.03 Any sign permitted by these regulations may display or publish a noncommercial message, whether such signs do or do not require a sign permit.

26.01.04 No sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure. The regulations of this Article are not intended to favor commercial speech over constitutionally-protected political or noncommercial speech. A sign containing a noncommercial message may be substituted for any sign containing a commercial message that is allowed by the regulations of this article.

26.01.05 Transitional Provisions

- A.** Subject to Subsection 7.05.02(C)(2), all permanent signs legally erected prior to **October 12, 2022** may remain in place and in use, subject to the requirements set forth in Subsection 7.05.02(C)(2).
- B.** All violations of this Article in effect prior to **October 12, 2022** shall remain violations of the Ordinances of the Town and all penalties and enforcement remedies set forth hereunder shall be available to the Town as though the violation were a violation of this Article. However, if the effect of this Article is to make a sign that was formerly nonconforming become conforming, then enforcement action shall cease.

26.02 Permit and Inspections Required

26.02.01 Unless otherwise specified, the construction, installation, modification, movement, or replacement of any sign requires a sign permit.

26.02.02 All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building and Electrical Codes.

26.02.03 Except for temporary signs, upon notification of completion by the applicant, the Planning and Inspections Department shall make a final inspection of the sign to verify compliance with the permit and all applicable codes.

26.03 Maintenance

26.03.01 All permanent signs shall be maintained in good structural condition, firmly affixed to the ground, a building, or other support structure by direct attachment, and in compliance with all building and electrical codes.

26.03.02 The following maintenance activities do not require a sign permit:

- A.** Normal maintenance and repair of a sign, including such activity as painting, cleaning, and similar activities.
 - 1. Exception: The following activities are not considered normal maintenance or repair: structural changes, changes in the electrical components of the sign, an increase in any sign dimension, or changes in the location of a sign.
- B.** Changing or replacing the sign face within an existing sign structure so long as no electrical or structural changes are made to the sign structure and the size of the sign face is not increased.
- C.** Changing the copy of a changeable message component of a sign.

26.04 Enforcement; Removal of Certain Signs

26.04.01 Enforcement of this Article is addressed in Article 12 Enforcement.

26.04.02 Any temporary sign deemed to create a traffic hazard or otherwise pose a threat to public safety shall be removed at the direction of the Administrator.

26.04.03 Any temporary sign placed in the public right-of-way in violation of this Article shall be deemed a public nuisance and may be seized by the enforcement official or other representative of the Town, and the person owning or placing the sign may be charged both with a violation of this chapter and with the cost of removing and disposing of the sign.

26.04.04 Within ninety (90) days after a permanent sign becomes an abandoned sign, it shall be the responsibility of the property owner to remove the discontinued sign and any associated sign structure and to patch and conceal any and all damage to any property resulting from the removal of the discontinued sign and associated sign structure, if any. The removal of a discontinued sign shall include all sign support components, angle irons, poles, and other remnants of the discontinued sign, which are not currently in use, or proposed for immediate reuse as evidenced by a sign permit application for a permitted sign.

Staff Note: Consider revising to either allow the sign structure longer or not required to be removed. In many instances, the new tenant will either replace all signage or utilize the sign structure and its components.

26.04.05 Materials

- A. Unless otherwise specified, permanent signs shall be constructed of brick, wood or simulated wood, stone, concrete, metal, plastic, or high-density urethane (HDU) foam board or similar durable foam construction.
- B. Unless otherwise specified awning signs may also be constructed of durable weather resistant material such as canvas, nylon, or vinyl-coated fabric held taut between sign framework.
- C. Unless otherwise specified, temporary signs shall be made of canvas, nylon, vinyl-coated fabric or similar weatherproof materials

26.05 Prohibited

26.05.01 Signs that are not expressly allowed under these regulations are prohibited. Without limiting the foregoing, the following sign and sign structures are specifically prohibited:

- A. Abandoned signs
- B. Balloons, pennants, streamers
- C. Animated, flashing, blinking, or scrolling signs or signs with intermittent lights
- D. Portable signs
- E. Roof signs
- F. Rotating signs
- G. Snipe signs
- H. Inflatable signs

Staff Note: Previously inflatable signs were allowed due to a local business who used to annually put up an inflatable hot air balloon in support of project graduation. Staff feels like this is a good time to assess this type of signage and if it should be allowed.

- I. Signs imitating or resembling official traffic or government signs or signals
- J. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign(s). Vehicles or trailers that display signs must be operated for bona fide business purposes at least every forty-eight (48) hours during weekdays to be exempted from this provision.
- K. Temporary signs except those allowed per Section 26.06
- L. Trademarks, emblems, pictures, etc. displayed in a three (3) dimensional nature
- M. Pavement marking of any kind, except for traffic control
- N. Offensive Signs as defined by N.C. Gen. Stat. § 19-1.1
- O. Billboards or off-premise advertising
- P. Signs placed in the public right-of-way (whether Town- or state-maintained)

Q. Signs that threaten public safety (for example, by blocking egress to the public way)

R. Any sign(s) that does not comply with regulations of this Ordinance

26.06 Signs Not Requiring a Permit

26.06.01 Notwithstanding any other provisions of this ordinance, no sign permit is required for the following signs; provided, that any such sign shall conform to any applicable standards set forth in this article:

A. A-Frame Signs: A-frame signs provided they meet the following requirements:

1. Allowed for all uses within all zoning districts.

Staff Note: Staff was previously directed by a prior Council to allow A-frame signage. Since that time the new Historic District standards were adopted and A-frame signs or sidewalks signs are not allowed in the Downtown Boone Local Historic District as evidence by the Section on Design Standards for Historic Streetscapes, Landscapes, Monuments, and Other Resources in the District, specially, Section 8.1 under Signage, found on page 111 which states “Sandwich boards, other temporary street signage, seating, and/or merchandise shall not be placed upon the public ways of the District or otherwise impede the pedestrian or traffic flow on those public ways.”

Additionally, this section regulates seating which the Town has worked to install in the downtown area and sidewalk sales which the Town Code permits.

§ 96.002 OBSTRUCTIONS PROHIBITED.

(A) Except as otherwise authorized by statute, ordinance (including this chapter), and/or in writing by the Town Council, or as required by the performance of some function authorized or mandated by a statute or ordinance, no person(s) may congregate, stand, sit or lie on a public way in a manner that would intentionally obstruct or cause to be obstructed pedestrian traffic or prevent the free ingress and egress by members of the public to and from private or public buildings, memorials, parks or parking lots adjacent to or accessed by public way within the town. Also, no person may intentionally obstruct a public way within the town by placing or leaving any object(s) within the traveled portion of the public way, except as authorized by this chapter. A situation maintained in violation of this section is hereby declared to be a public nuisance and is subject to the provisions of § [96.010](#) herein.

(B) *Exceptions.*

(1) *Construction.* The foregoing prohibitions shall not apply to temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in accordance with § 96.005.

(2) *Limited exception for temporary sidewalk sales.* Partial obstruction of a public sidewalk for a sidewalk sale is permissible only under the following conditions:

(a) The obstruction takes place only during daylight hours.

(b) The sidewalk is only partially obstructed in a manner that does not seriously inconvenience the public or threaten the public safety; in any event, a minimum four-foot width of sidewalk must be left clear and unimpeded for pedestrians. For purposes of this section, an obstruction shall be understood to include any employee(s) who occupy the sidewalk in connection with the sale.

(c) The person or entity conducting the sidewalk sale is authorized to do so by the fee owner(s) of the property on which the sale is being held.

(3) Temporary sidewalk sales may be prohibited on specific days by proclamation issued by the Mayor according to law or by resolution adopted by the Town Council.

2. One (1) A-frame sign is permitted per building entrance regardless of the number of tenants.
 3. The A-frame sign shall be placed within ten feet (10') of the building entrance.
 4. In accordance with Town Code § 96.002, a minimum unobstructed sidewalk clearance of four-foot (4') in width must be left clear and unimpeded for pedestrians.
 5. A-frames signs shall not interfere with pedestrians (including egress paths to public way) or vehicular surface areas.
 6. The A-frame sign is limited to six square feet (6 sq. ft.) in area per side and four feet (4') in height.
 7. Illumination of such signs is prohibited and the sign is prohibited from having any type of electronic component.
 8. A-frame signs shall be used while the establishment is open to the public only and shall be stored indoors at any other time.
- B. ATM Signs:** ATM signs provided total signage may not exceed fifteen square feet (15 sq. ft.) in area per machine.
- C. Bench Signs:** Bench Signs provided they meet the following requirements:
1. Shall be located on private property zoned R3, B1, B2, B3, OI, WD, M1, U1, E1, E2, or E2.
 2. The size of the sign may not exceed fifteen square feet (15 sq. ft.).
 3. Signage shall not extend beyond any dimension of the bench.

- D. Building Identification Signs:** Signs that identify buildings and that are permanently integrated in a building's facade with etching, embossing and/or engraving and provided that they do not exceed 5% of the total façade on which they are placed.
- E. Construction Signs:** Temporary construction signs provided they meet the following requirements:
1. The sign is posted on a lot currently under construction pursuant to a valid zoning or building permit.
 2. Only one non-illuminated sign with a maximum of two (2) sides per lot is permissible.
 3. The sign must be removed upon issuance of a certificate of occupancy for all construction at that site.
- F. Fence Wraps:** Fence wraps displaying signage when affixed to perimeter fencing at a construction site provided they meet the following requirements:
1. Such fence wraps are allowed until a certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever time period is shorter. After such period has elapsed, the signage must be removed or covered.
 2. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.
- G. Government Sign:** A duly authorized temporary or permanent government sign.
- H. Historical plaques or markers** approved by a governmental entity or the National Registry of Historic Places or similar bona fide authority empowered to recognize historic places or structures
- I. Home Occupation Signs:** A permanent non-illuminated wall sign that may not exceed four square feet (4 sq. ft.).
- J. Living Sign:** A non-illuminated sign constructed of living materials such as shrubs, trees, and/or flowers.
- K. Logos:** Logos, labels, and trademarks located on mechanical equipment, solid waste or recycling containers, newspaper and soft drink dispensers, gas station pumps, and similar equipment are not regulated by this Article.
- L. Parking-control Warning Signs:** Parking Parking-control warning signs shall comply with the requirements of Boone Town Code § 73 Towing.
1. A building(s) with a single-establishment shall prominently display the name of the establishment.
 2. Shopping Center/Mall developments shall follow the regulations set forth in 26.12.01(F).

3. All signs shall be clearly visible from the controlled parking spaces.

M. Political Signs In the Public Right of Way: Political signs are permitted in the public right of way only to the extent such signs comply with the requirements as to size and time of posting set forth at N.C. General Statute § 136-32, as such may be re-codified or amended from time to time. For the definition of political signs as used herein, see N.C. General Statute § 136-32(c).

1. Such signs may not exceed 864 square inches in area per display face and two faces per sign and may not be higher than 42" above the edge of the pavement of the road.
2. Such signs may only be placed with the permission of the property owner fronting the right of way where the sign is to be placed.
3. In all cases, the property owner and the political candidate shall be equally responsible for the removal of the signs within 48 hours after the election.
4. Any political sign that remains in a right-of-way maintained by the town more than 30 days after the election is to be deemed unlawfully placed and abandoned property, and any person may remove and dispose of such political sign without penalty.

N. Pushcart Signs: Signs contained on vendor push carts that do not exceed fifteen square feet (15 sq. ft.) in area per push cart.

O. Real Estate Signs: A real estate sign advertising the real estate upon which the sign is located as being for rent, lease, open house or sale. Real estate signs are permissible subject to the following regulations:

1. Only one (1) sign per lot is allowed.
2. The sign shall not be illuminated.
3. Area and Height Requirements:

Zoning District	Maximum Area	Maximum Height
Residential Zoning Districts	4 ft ²	5 ft.
B1 Zoning Districts	4 ft ²	
Remaining Zoning Districts	20 ft ²	8 ft.

4. The real estate sign shall be removed within forty-eight (48) hours after the property closing.
5. Open House Residential Real Estate Sign: Open house residential real estate signs shall be subject to the following requirements:
 - a. There shall be no more than one on-premise and two (2) total off-premise open house residential real estate signs for any open house event. These signs must

include the realtor's phone number or the homeowner's address and the street address where the event is taking place.

- b. Off-premise signs may be in place only from 8 a.m. on Saturday to 8 p.m. on Sunday.
- c. Off-premise signs shall not exceed three square feet (3 sq. ft.) in area and two feet (2') in height.
- d. Such signs shall not be illuminated.

P. Temporary Decorations: Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday/celebration.

Q. Temporary Signs:

1. General Regulations:

- a. Temporary signs shall either attach securely to a structure or shall be securely ground-mounted.
- b. Temporary signs shall not be illuminated.
- c. Temporary signs are not permitted in public rights of way except as provided at subsection 26.06.01(M).
- d. Temporary signs are not permitted within 11 feet of the edge of pavement of any roadway or alley.
- e. Temporary signs may not be or mounted upon trees, utility poles, traffic control signs, lights, or devices in any place or manner prohibited by the provisions herein, or upon a portable sign structure.

2. On-Premises Advertising Temporary Signs

- a. Each parcel or each tenant, in a multi-tenant commercial development is allowed to display one on-premise advertising temporary sign, subject to the following conditions:
 - i. Each tenant in a multi-tenant development is only allowed to display a freestanding temporary sign in compliance with this section if their building fronts the street the sign is located on^[AM1].
 - ii. Maximum size per sign is twenty-four square feet (24 sq. ft.).
 - iii. Temporary signs are limited to a display period of fourteen (14) consecutive days and there shall be a thirty (30) days between display periods^[AM2].

3. Off-Premises Advertising Temporary Signs.

[Alternative 1]

- a. Off-premises advertising temporary signs are prohibited.

[Alternative 2]

- a. Each parcel or each tenant of a multi-tenant development may display one off-premises commercial message temporary signs, subject to the following conditions:
 - i. The sign is limited to four square feet in area and no more than three feet in height.
 - ii. The sign may be posted for display no earlier than 3:00 p.m. of a Friday, or before 3:00 p.m. of the day before a designated holiday, and displayed until 6:00 p.m. on that immediately following Sunday or on that designated holiday.

4. Noncommercial Message Temporary Signs.

- a. Noncommercial message temporary signs are allowed without limitation, provided that any such sign (i) may not exceed 16 square feet in area and (ii) may not be located within any public right of way, closer than 11 feet from the edge of the pavement of any roadway or alley, or within the site triangle at street intersections as set forth at Chapter 96 of the Town Code.
- b. Noncommercial messages are messages and emblems that do not function to direct attention to or promote a business, product, service, event, or activity, either on-site or off-site. Examples of noncommercial messages include, but are not limited to, signs advocating a public issue, recommending a candidate for office, and personal messages.

R. Temporary Use Signs: Temporary signs shall be allowed in conjunction with lawfully established temporary uses in all districts. Such signs must be located on the parcel on which the temporary use is occurring and may be attached or freestanding subject to the following:

- 1. Temporary uses may be permitted up to two signs.
- 2. These signs shall not exceed a cumulative total of XX square feet (xx sq. ft.) in area.
- 3. Signs for temporary uses are allowed for the duration of the temporary use.

S. Umbrella Signs: Umbrella signs used in connection with outdoor seating provide they meet the following requirements:

- 1. The signs shall be painted or printed on the umbrella.
- 2. Umbrellas shall not be erected at an acute angle for the purpose of serving as signage.
- 3. Umbrella signs shall be located on the umbrella itself and shall not be suspended from or otherwise hang from an umbrella.

4. Signage shall not be illuminated.

T. Vehicle Signs: Vehicle signs, unless such signs are used in a manner prohibited hereinafter, provided they meet the following requirements;

1. Vehicles must be operated in the normal course of business and may include the name of the owner or business;
2. Signage when affixed or painted onto vehicles and equipment and the like, are exempt from regulation, provided that, when not being so operated, such vehicles are parked or stored in areas appropriate to their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent feasible.
3. All such vehicles must have current and valid registration and inspection.
4. Vehicles or equipment that display signs must move to perform only business-related activities at least every forty-eight (48) hours.

26.07 General Requirements for Signs

26.07.01 Sign Area

- A.** The sign area includes the area within a single, continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustration, or ornamentations, together with any material or color forming an integral part of the display or differentiating the sign from the background to which it is placed. Structural supports with no sign copy shall not be included in the sign area. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence onto which the sign face or letters are placed shall be calculated in the sign area.
- B.** Where a sign has two (2) sign areas back to back, the area of only one side shall be considered as the sign area. The maximum angle of a double-faced sign is 45 degrees, except for signs located on corner lots in which case the angle may be 90 degrees.
- C.** All signs are limited to two (2) sides.
- D.** Option for Window Signage Calculation: For calculating maximum area of window signs, the window area is calculated as a continuous surface until divided by an architectural or structural element. Mullions are not considered an element that divides window area.

Staff Note: The Town has not regulated any signage placed on the interior of windows. Staff has noticed an increase of both “window signage” and the use of neon colored lights. Staff asks for direction on whether or not additional regulation on this type of signage should occur.

26.07.02 Sign Height

- A. Freestanding: Sign height is measured from the base of the sign at the ground to the highest point of the sign, including any attachments.

Staff Note, Option #2 : The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases where the normal grade is below grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street.

- B. Attached: Attached signs shall not project higher than the building soffit or eave height.

26.07.03 Vertical Clearance

- A. For attached signs, vertical clearance is measured as the vertical distance measured from the ground directly below the sign to the lowest point of the sign. Any sign encroaching onto a sidewalk may be no less than eight feet (8') at the lowest point from the lowest point of the sign as measured to the sidewalk underneath.

26.07.04 Sign Setback

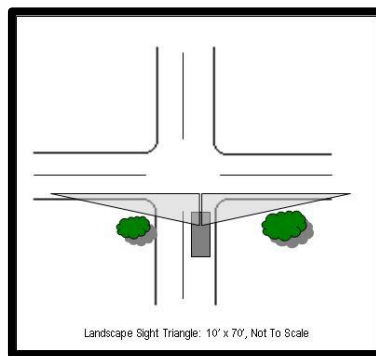
- A. A sign setback of at least one foot (1') is required from any easement, property line, or right-of-way. This setback is measured from the applicable easement, property line, or right-of-way to the closest component of the sign or sign structure.

26.07.05 Location

- A. Signs shall be located on the same lot/building as the use being advertised unless a permanent off-premise sign in an access easement is permitted subject to the following requirements:
1. Application required: No permanent off-premise sign may be placed or displayed in an access easement area until a permit authorizing its display is issued.
 2. No permit for a sign that will be displayed or located within an access easement may be issued unless there are no roads contiguous with the lot upon which the development is located, or the access easement in which the sign is to be located is the only available and planned vehicular access to the aforementioned lot.
 3. The applicant must submit a certified copy of the instrument creating the easement with the application. The access easement area must be the only available and planned access for the development requesting the permanent off-premise sign. The Administrator may require that the applicant provide a signed statement from an attorney that such easement confers upon the applicant the right to display a sign within the easement if the Administrator is unsure of the scope of the rights created

by the easement. Unless the easement affords rights to display a sign for the full potential life of the development, it will be considered legally insufficient.

4. The only sign that may be permitted for display in an off-premise easement is a ground mounted/monument sign which must meet all dimensional, separation, location, and lighting requirements of this Article for a ground mounted/monument sign in the zoning district in which it will be placed or the development is located, whichever is more restrictive, unless any such requirement is explicitly superseded by this Section.
 5. Limitations on the number of signs allowed: Only one (1) permanent off-premise sign will be allowed on a lot which is subject to an access easement which also allows a permanent off-premise sign (further known as the hosting lot). The permanent off-premise sign shall count as one of the free-standing signs (not including directory signs) allowed for the hosting lot. Furthermore, if at the time of application, existing signs on the hosting lot have either a combined square footage that meets/exceeds the maximum square footage allowed, or meet/exceed the maximum number of freestanding signs allowed, the applicant must provide a written declaration from the owner or occupant of the hosting lot indicating which sign(s) will be removed. If any signs are required to be removed, this shall be done prior to the issuance of the permit for the permanent off-premise sign.
- B.** Signs may be located in a required building setback or landscaped streetyard or buffer. If a sign is located in a required setback it shall not be otherwise located so as to obstruct pedestrian or vehicular traffic.
- C.** To ensure that signs do not constitute a traffic hazard, a sight triangle ten feet (10') by seventy feet (70') will be observed at all intersections of driveways/streets with adjacent streets (see diagram below).



- D.** No sign shall be located in or overhang any easement or right-of-way for public use, including alleys and sidewalks.

1. Exempted from this requirement are any signs within a B1 zoning district. These signs shall first obtain an encroachment agreement authorizing such incursion in accordance with Chapter 96 of the Boone Town Code.
 - a. An encroachment agreement shall be required for any replacement of signs that do not have an encroachment agreement.

26.07.06 Audio Components

- A. Audio components are prohibited as part of any sign, except for drive-through signs where the audio component is designed, located, shielded, and directed to prevent detection from surrounding properties.

26.07.07 Changeable/Digital Copy

- A. Up to 50% of a permissible principal sign permitted in Section 26.08 may contain changeable/digital copy subject to the regulations herein.
- B. Only one of the two allowable signs may contain changeable/digital copy.
- C. No such sign can be placed within 100 feet of a residential zoned property except for non-residential uses along a major traffic corridor, collector, or arterial street as defined in Article 34.
- D. A sign with a changeable/digital copy shall contain additional information so the sign is not completely blank if the changeable message area is removed.
- E. For electronic message signs, the maximum brightness is limited to 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunset and sunrise. The sign shall have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise. No sign may display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver or result in a nuisance to a driver.
 1. Applicants shall submit a certification from the sign manufacturing confirming compliance with the standards set forth above.
- F. Images and messages displayed in changeable/digital copy area must be complete in themselves, without continuation in content to the next image or message or to any other sign. The image shall be static with all animation, streaming video, flashing, scrolling, fading, and other illusions of motion otherwise prohibited.
- G. Any sign containing changeable/digital copy located on a local historic landmark or within a local historic district must obtain a Certificate of Appropriateness from the Historic

Preservation Commission as outline in UDO Article 8 prior to the issuance of a new sign permit.

- H. Changeable copy messages hours may change or alternate every sixty (60) seconds.

26.07.09 Illumination

- A. Where permitted, permanent signs may be internally or externally illuminated. In no case shall a temporary sign be illuminated.
- B. Lighting for permanent signs shall be consistent throughout a project, unless otherwise permitted within a Master Sign Plan, in which there is a variety of façade design and building types.
- C. All external illumination of a sign shall concentrate the illumination upon the printed area of the sign face.
- D. The use of blinding, flashing, moving, rotating, intermittent, or otherwise distracting lighting is prohibited.
- E. All sign illumination, both external and internal, shall be designed, located, shielded, and directed to prevent the casting of glare or direct light upon rights-of-way and surrounding properties, and prevent the distraction of motor vehicle operators or pedestrians in the rights-of-way.
- F. Internal illumination shall be allowed for certain types of permanent signs within the following zoning districts: B1 Downtown, B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, WD Wellness District, and Education districts.
 - 1. Cabinets may be utilized, provided all electrical wiring is contained within the cabinet or support structure. Sign copy must be translucent and all background materials must be opaque.
 - 2. Channel letters may be utilized, provided all electrical wiring is contained within the building wall or within/on a raceway.

26.08 Signs Requiring a Permit

26.08.01 All principal signs shall require a permit, and are divided into three subcategories: attached, freestanding, and accessory.

- A. Accessory signs shall require a permit, unless otherwise noted. Accessory sign copy is not included in principal sign calculations.

26.08.02 Number of Signs Allowed

- A. Each establishment is permitted two (2) principal signs. In no case may both signs be of the same type, except for wall signs in compliance with Subsection 26.08.04(D)(3).
 - 1. Exception 1:

2. Exception 2: Tenants within a multi-tenant development are permitted two (2) attached signs. Please see Subsection Though the development overall will be allowed a tenant directory sign in compliance with Subsection 26.08.04(E.),

- B.** Each development is permitted the use of accessory signs in accordance with the guidelines set forth herein.

Table of Permanent Signs										
Principal										
Zoning Districts:	Residential	R3	B1	B2	B3	O/I	M1	WD	Educational	Reference
ATTACHED										
Awning/Canopy	L	L	L	L	L	L	L	L	L	26.08.04(A)
Marquee			L		L				L	26.08.04(B)
Projecting	L	L	L	L	L	L	L	L	L	26.08.04(C)
Wall	L	L	L	L	L	L	L	L	L	26.08.04(D)
Painted Wall					L		L			26.08.04(E)
FREESTANDING										
Monument	L	L	L	L	L	L	L	L	L	26.08.05(C)
Pole		L		L	L	L	L	L	L	26.08.05(D)
Accessory										
Directional	L	L	L	L	L	L	L	L	L	26.08.06(A)
Incidental	L	L	L	L	L	L	L	L	L	26.08.06(B)
Menu Board		L	L	L	L	L	L	L	L	26.08.06(C)
Suspended	L	L	L	L	L	L	L	L	L	26.08.06(D)
Tenant Directory	L	L	L	L	L	L	L	L	L	26.08.06(E)
Window	L	L	L	L	L	L	L	L	L	26.08.06(F)

26.08.03 Master Sign Plans

- A.** A Master Sign Plan is required for all residential subdivisions, multi-family and townhouse developments, non-residential subdivisions, and all multi-building and multi-tenant commercial developments before any permanent signs and their components may be erected.
1. All owners, tenants, subtenants and purchasers of individual units within the development shall comply with the approved Master Sign Plan.
 2. Residential developments that have only one (1) entrance sign, and have no other signs, shall not be required to submit a Master Sign Plan.
- B.** A Master Sign Plan Application shall include all of the following:
1. The location of each principal and accessory sign.
 2. Sign type, size, height, materials, color, illumination, and landscaping (if applicable) for each principal or accessory sign.

3. Computations of the total sign areas demonstrating compliance with all other sections of this Article.
 4. Allocation of permitted wall sign area among tenants in proportion to the overall building frontage as set forth in Subsection 26.08.04(D).
- C. All lighting and landscaping elements of signs within a Master Sign Plan shall be consistent throughout the development, unless explicitly specified within the plan.
 - D. Amendments to approved plans. A Master Sign Plan may be amended via application submitted by the owner of the property, or an agent, tenant, or contract purchaser specifically authorized by the owner. The application must include written authorization from all owners affected by the proposed amendment(s). If an association for the property exists, then the association shall provide written authorization for all owners within the development.
 - E. After approval of, or amendment to, a Master Sign Plan, no permanent sign shall be erected except in accordance with such plan.
 - F. Master Sign Plans shall be enforced in the same way as any other provision in this Article.
 - G. In the case of any conflict between a provision of an approved Master Sign Plan and one (1) or more provisions of this Article, the Master Sign Plan shall control.

26.08.04 Attached Permanent Sign Types.

A. Awning/canopy signs.

1. On a single-tenant property one (1) awning or canopy sign is allowed only in lieu of all other attached signage permitted on the wall the awning is attached that abuts a public or private street or right-of-way. Tenants occupying spaces with facades abutting multiple streets are permitted one awning or canopy sign per façade.
2. Sign copy on any awning or canopy sign surface is limited to 25% of the total surface area including any valances, not to exceed forty-eight square feet (48 sq. ft.).
3. A canopy is permitted a sign face attached to and located above the top of the canopy with a maximum height of twenty-four inches (24").
4. Signs may be externally illuminated only.

B. Marquee signs.

1. A marquee sign shall be allowed for theaters, museums, auditoriums, and other entertainment facilities in addition to the two allowable principal signs, subject to the following requirements:
 - a. Marquee signs shall conform to the applicable sign requirements for the district in which they are located, however the area of the marquee sign shall be permitted an increase in size up to an additional 100% provided that one of the

other signs to which the establishment is entitled is reduced in size. The percentage of increase in area shall be equal to the reduction in area of the other permitted sign.

2. The following regulations shall apply solely to a historical reconstruction of a projecting theater marquee:
 - a. A projecting theater marquee shall be allowed only in the B1 Downtown Core.
 - b. No portion of a projecting theater marquee shall be less than eight feet (8') above grade nor higher than sixteen feet (16').
 - c. A projecting theater marquee and supporting structures shall not extend over the edge of any sidewalk or into any street right-of-way absent an encroachment agreement authorizing such incursion by the Town.
 - d. The projecting theater marquee shall only be attached to the building in which the theater is located and must be above an entrance to the theater. No projecting theater marquee sign shall be wider than the building to which it is attached.
 - e. Signage may be installed directly upon the vertical face or faces of a projecting theater marquee with the following conditions:
 - i. Channel letters may extend above such vertical face or faces provided that the letter height is restricted to twelve inches (12") in height.
 - ii. No sign may extend below such vertical face or faces with the exception of lighting elements. All lighting elements shall meet the requirements of Subsection 26.13.02(B) above.
 - iii. The changeable copy portions of a projecting theater marquee shall not exceed fifty percent (50%) of the total area of all faces and comply with Section 27.01.
 - iv. All other signage attached to a projecting theater marquee may not exceed 20 percent (20%) of the total area of all faces.
 - f. A projecting theater marquee may include the use of flashing, scrolling, or intermittent lights subject to the following conditions:
 - i. The flashing, scrolling, blinking, or intermittent lights may only be in operation during the time the theater is open to the public and prohibited between the hours of 11 p.m. to 7 a.m.
 - ii. Light fixtures on the projecting theater marquee do not have to meet the requirement for full cut-off fixtures as required in Subsection 25.05.02.
 - g. Encroachment: Where a projecting theater marquee extends over a public sidewalk or other public property, an executed encroachment agreement

approved by the Boone Council shall be required prior to issuance of any sign permit for a projecting theater marquee.

- h. A projecting theater marquee may be constructed either as part of a new structure or as an addition to an existing structure as follows:
 - i. Site-specific plans and specifications must be submitted from a registered North Carolina licensed structural engineer demonstrating that the projecting theater marquee complies in all ways with appropriate code provisions of the Town and the State of North Carolina, including but not limited to, materials, drainage, roof strength, bracing and anchorage.
 - ii. A final certification from the registered North Carolina licensed structural engineer shall be required stating that the projecting theater marquee complies with all appropriate code provisions of the Town and the State of North Carolina and that the projecting theater marquee has been constructed according to their submitted design.

C. Projecting signs.

- 1. Projecting signs shall be erected so that the sign is perpendicular to the building wall on which they are attached. In cases where a projecting sign has two sign faces that are not perpendicular, the interior angle formed between faces shall be sixty (60) degrees or less.
- 2. The maximum area for a projecting sign is eight square feet (8 sq. ft.) in the R3 Multi-family residential zoning district, and sixteen square feet (16 sq. ft.) in all other zoning districts.
- 3. Projecting signs shall not project more than four foot (4") from any building on which they are attached.
- 4. Projecting signs shall be centered over, or located near, the principal doorway.
- 5. Projecting signs may be externally or internally illuminated.

D. Wall signs.

- 1. Wall signs shall be erected so that the sign is attached flush against and parallel to the exterior wall or surface of a building. Where a wall sign utilizes channel letters for interior lighting, a raceway may separate the sign from the wall provided that all electrical components of the sign are housed within the raceway, and the raceway does not extend more than six (6) inches from the face of the wall or surface of the building.
- 2. The maximum area for wall signs shall be determined by a ratio of allowable square feet of sign area per linear foot of building frontage, as measured by 26.01.04(C). In no case may a wall sign in any district exceed the maximum, as listed in the table below:

Zoning District	Ratio	Maximum Area (square feet)
Residential districts (residential uses)		4 sq. ft.
Residential districts (non-residential uses)		16 sq. ft.
Residential districts (non-residential uses on major traffic corridors, arterial or collector streets)	0.5:1	48 sq. ft.
R3 Multi-family residential		16 sq. ft.
B1 Downtown Core	0.5:1	48 sq. ft.
B1 Downtown Interface	1:1	80 sq. ft.
B2 Neighborhood Business	1:1	80 sq. ft.
B3 General Business	1:1	120 sq. ft.
O/I Office/Institutional	1:1	64 sq. ft.
M1 Manufacturing	1:1	120 sq. ft.
WD Wellness district	1:1	80 sq. ft.
Education districts	1:1	64 sq. ft.

3. Wall signs may be placed on either the primary or secondary façade, but allowable size calculations shall be measured along the primary façade. Where a establishment elects to have two (2) wall signs, one shall be placed on the primary façade and the other on a secondary façade. The two (2) signs may be equal in size, but in no case may the secondary façade sign be larger than the primary façade sign. The sum of the area of the two (2) wall signs shall not exceed the allowable square footage defined in 26.02.04(F)2.
4. No portion of a wall sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.
5. Wall signs may be externally or internally illuminated.

E. Painted wall signs.

1. Painted wall signs shall be allowed on secondary façades in the B3 General Business zoning district, provided they meet the requirements of 26.02.04(F)3.

2. Painted wall signs may be externally illuminated.

26.08.05 Freestanding Permanent Signs.

- A.** Maximum area and height of freestanding signs can be found in Table 26.08.05 below.
- B.** No freestanding sign shall be placed less than forty feet (40') from another freestanding sign unless no other option is available.
- C.** Freestanding signs must be placed in either:
 1. A landscaped streetyard or buffer that meets current standards; or
 2. A landscaped area that is at least three feet (3') in width and the least the length of the greatest dimension of the sign.

D. Multi-Tenant Developments

1. In lieu of a separate freestanding sign per individual tenant, multi-tenant developments are allowed a freestanding multi-tenant directory monument sign that is approximately fifty percent (50%) larger than the size of a monument sign for a single establishment (for most zoning districts). See Table 26.08.04 for more detail.
 - a. Exception: Tenants in a multi-tenant development will be allowed to have a freestanding sign if the establishment has an exterior building frontage in the development of eighty linear feet (80 lf) or more. In the instance the exterior frontage requirement has been met, then the establishment may be permitted a freestanding sign as one (1) of its two (2) permitted signs along the street that the building frontage is located along.

E. Monument Signs.

1. The maximum size of a monument sign is approximately thirty-five percent (35%) larger than it's allowed (if applicable) pole/pylon sign to incentivize the use of monument signs.
2. Developments shall be allowed additional monument signs at secondary entrances for the general public provided that:
 - a. The height of the monument sign located at the secondary entrance shall not exceed four feet (4') in height.
 - b. The maximum area of the monument sign located at the secondary entrance shall not exceed 50% of the maximum area of the freestanding sign located at the primary entrance.
 - c. The monument sign located at the secondary entrance does not front the same linear public or private street as the freestanding sign located at the primary entrance.
 - d. All other requirements for monument signs are met.

Table 26.08.05

Zoning District	Pole/Pylon Signs Maximums		Monument Signs ¹ Maximum Area/Height Maximums		Multi-Tenant Directory Monument Signs ² Maximums	
	Area (Square Feet)	Height (Feet)	Area (Square Feet)	Height (Feet)	Area (Square Feet)	Height (Feet)
Residential districts (residential uses)			30	6	30	6
Residential districts (non- residential uses)			30	6	30	6
Residential districts (non- residential uses on major traffic corridors, arterial or collector streets)			41	6	62	6
B1 Downtown Core			16	4	16	4
B1 Downtown Interface			41	4	41	4
B2 Neighborhood Business	30	20	41	6	62	6
B3 General Business	50	20	68	6	102	8
O/I Office/Institutional	30	20	41	6	62	8
M1 Manufacturing	50	20	68	6	102	8
WD Wellness district	30	20	41	6	62	8
Education districts	50	20	68	6	102	8

26.08.06 Accessory Signs**A. Directional signs.**

1. Directional signs shall be allowed for all uses in association with vehicle and pedestrian entrances, parking areas, and general wayfinding. They may be attached or freestanding, but may not exceed four (4) square feet in area.
2. Attached directional signs are subject to the following requirements:
 - a. Shall be limited to wall signs.
 - b. Shall be attached flush against and parallel to the exterior wall or surface of a building.
 - c. No portion of the sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.

- d. Attached directional signs may be externally illuminated.
- 3. Freestanding directional signs are subject to the following requirements:
 - a. May not exceed three feet (3') in height outside of any required site triangle and may not exceed two feet (2') within any required site triangle.
 - b. Freestanding directional signs may be externally or internally illuminated in the B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, M1 Manufacturing; and externally illuminated in all other districts.

B. Incidental signs.

- 1. Incidental signs shall be allowed in all districts provided they contain no logo or on-premise advertising. They may be attached or freestanding, but may not exceed four (4) square feet in area.
- 2. Attached incidental signs are subject to the following requirements:
 - a. Shall be limited to wall signs.
 - b. Shall be attached flush against and parallel to the exterior wall or surface of a building.
 - c. No portion of the sign may extend above, below, or beyond the edge of the wall or surface on which it is attached.
 - d. Attached incidental signs may be externally or internally illuminated.
- 3. Freestanding incidental signs are subject to the following requirements:
 - a. May not exceed three (3) feet in height outside of any required site triangle and may not exceed two feet (2') within any required site triangle.
 - b. Freestanding incidental signs may be externally or internally illuminated in the B2 Neighborhood Business, B3 General Business, O/I Office/Institutional, M1 Manufacturing; and externally illuminated in all other districts.

C. Menu Boards.

- 1. In the B1 zoning districts, each building entrance may have one walk-up menu board, subject to the following requirements:
 - a. The menu board must be located inside a display box, permanently mounted adjacent to the building entrance.
 - b. The display box shall not exceed eight (8) square feet in area.
 - c. The display box shall be appropriate in size, location, and design to the character and architectural detail of the building.
 - d. The display box may be externally illuminated, or internally illuminated utilizing full cut-off fixtures within the display box.

2. In the remaining zoning districts, where allowed, uses that utilize a drive-thru or walk-up service may erect one (1) menu board for each drive-thru or walk-up lane or window. Menu boards may be attached or freestanding, subject to the following requirements:
 - a. Attached menu boards shall be limited to wall signs, which shall be attached flush against and parallel to the exterior wall or surface of a building, with no portion of the sign extending above, below, or beyond the edge of the wall or surface on which it is attached and shall not exceed fourteen square feet (14 sq. ft.).
 - b. Freestanding menu boards shall not exceed eight (8) feet in height, must be placed within an approved landscaped area, and shall be set back one (1) foot from interior lot lines and shall not exceed twenty-eight square feet (28 sq. ft.) in area.
 - c. Each drive-thru menu boards shall not exceed twenty-eight (28) square feet.
 - d. Menu boards shall not be legible from any public street.
 - e. Menu boards may be externally or internally illuminated.

D. Suspended Signs

1. Suspended signs shall be allowed under canopies and along pedestrian arcades provided that they are attached in a secure manner, with brackets and mounting devices maintained and in good repair. Signs shall be mounted so that the method of installation is concealed to the extent practical.
2. The maximum area for a suspended sign shall not exceed four (4) square feet in all districts.
3. Unless specifically authorized by an encroachment agreement approved by the Town Council, no suspended sign may overhang a public street or public sidewalk.
4. Suspended signs may not be illuminated.

E. Tenant directory wall signs.

1. Developments with more than one tenant shall be permitted to install a tenant directory wall signs subject to the requirements herein.
 - a. Each building with multiple tenants is allowed a tenant directory sign at each entrance into the building.
 - b. Tenant directory signs shall be attached flush against and parallel to the exterior wall or surface of a building, with no portion of the sign extending above, below, or beyond the edge of the wall or surface on which it is attached.
 - c. Tenant directory signs may not be illuminated.

F. Window signs.

1. Window signs are limited to the ground floor only in the R3 Multi-Family, B1 Downtown, and B2 Neighborhood Business zoning districts. All other commercial uses in all other zoning districts are permitted for window signs up to and including the second story.
2. The total window sign area, whether temporary or permanent, is limited to no more than 25% of the surface of each window area, including transparent areas of doors and entryways.
3. Window signs may be internally or naturally illuminated. No external illumination is permitted.

Article 34 Definitions

34.01 Definition of Terms

...

A-Frame Sign

A temporary sign ordinarily in the shape of the letter “A” or some variation thereof, which is displayed on the ground, not permanently attached to the ground, and usually two-sided, generally connected at the top and separated at the bottom.

...

Abandoned Sign

Sign or parts of signs ~~which~~that advertise or pertain to a business, product, service, commodity, event, activity, or purpose which no longer exists, is not maintained or that has not been in use for ninety (90) days or more. Signs ~~which~~that are associated with seasonal ~~business~~establishment such as ski shops, Horn in the West, etc. shall not be considered abandoned or obsolete provided there is clear intent to continue in the coming season.

...

~~Agricultural Sign~~

~~A temporary sign posted to direct the public to an agricultural exposition, festival or event, as those terms are described, when such exposition, festival or event is taking place within the corporate or planning limits of the Town, or within Watauga County. An agricultural exposition, festival or event is an event which involves at least ten separate participants involved in the cultivation of land, who for a period of time not exceeding six weeks per year, provide tours and/or on-site sales or samples of agricultural products resulting from that cultivation to area tourists.~~

...

Animated Sign.

A sign that uses moving or changing lights to depict action, movement, or the optical illusion of movement of part of the sign structure, sign, or pictorial segment, or including the movement of any illumination or the flashing or varying of light intensity to create a special effect or scene.

...

Attached Sign

Any sign attached to, applied on, or supported by any part of a building, including, but not limited to, a wall, window, or projecting sign, or a sign on a canopy, awning or marquee.

~~A sign which is mounted flush to a building wall.~~

...

Awning

A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

Awning/Canopy Sign

Sign that is part of, or attached to, an awning, canopy or other fabric, plastic or structural protective cover over a door, window, entrance or outdoor service area.

...

Banner

A temporary sign made of fabric or any non-rigid material with or without no enclosing framework.

...

Bench Sign

A sign located on the surface of a bench. ~~The size of the bench is limited to seventy inches (70") in length and thirty-six inches (36") in height.~~

...

Billboard

A sign identifying advertising and/or directing the public to an business establishment, merchandise, service, entertainment or product ~~which~~that is located at a place other than the property on which such sign is located. These signs are also known as off-premise outdoor advertising signs.

...

~~**Canopy Sign**~~

~~Sign that is part of, or attached to, an awning, canopy or other fabric, plastic or structural protective cover over a door, window, entrance or outdoor service area.~~

...

Changeable/Digital Copy Sign

Sign on which copy~~The portion of a sign that allows for~~ changes through mechanical, electronic, digital or manual means ~~and reader boards with changeable letters.~~

...

Community Event Signs

An annual temporary sign, other than a commercial sign, posted to direct patrons to community events for public agencies, schools, churches, civic fraternal organizations or similar non-commercial organizations, or an annual temporary sign posted to direct patrons to a commercial event, when that event, as determined by the Boone Town Council, provides a significant economic benefit to the Town as a whole, is open to all citizenry of the Town of Boone and its planning jurisdiction, portrays the Town of Boone in a positive light, and which has received the written endorsement of a non-profit group whose mission includes promoting the economic vitality of Boone such as, but not limited to, the Downtown Business Development Association, the Boone Chamber of Commerce, or the High Country Host.

...

Construction Sign

A ~~sign whose message is limited to (i) identification of architects, engineers, contractors, and/or other persons involved with the construction project and/or (ii) or to the name of the building being constructed, the intended purpose of the building and/or the expected completion date~~ sign identifying an architect, engineer, contractor, subcontractor, financial institution, material supplier, etc., participating in construction on the property where the sign is located.

...

Directional Sign

A sign giving directions, instructions, or facility information. ~~The sign(s) may contain the name or logo of an establishment, but no advertising copy.~~ Examples include “parking”, “exit”, “enter” or “parking-control warning” signs.

Directory Sign

A sign listing the names of more than one business, activity or professional office conducted within a building, group of buildings or commercial center.

...

Double-Faced Sign

A sign with two copy faces.

...

Drive-Through Window Sign

An attached or freestanding sign listing choices and prices. The sign also allows communication between the consumer and business.—

...

Farmer’s Market Sign

~~A temporary sign posted to direct the public to a farmer's market when such farmer's market is taking place within the corporate or planning limits of the Town. A "farmer's market" is a one-day event which can take place from week to week, but in the aggregate no more than two days each week, which involves individual participants selling retail products, at least fifteen of whom sell products which derive from the cultivation of land, and which takes place under the sponsorship of a non-profit organization.~~

...

Freestanding Sign

A sign supported by a sign structure placed in the ground ~~which is~~ and wholly independent of any building, fence, vehicle, or object other than the sign structure for support.

...

Gasoline Pump Sign

Signs ~~which are~~ normally associated with the sale of gasoline including the price, self-service, etc. information contained on the pump.

...

Governmental Entity

The Town and its departments, the Watauga County Board of Education, Watauga County, the State of North Carolina and its departments, and the United States of America and its departments.

...

Government Sign

Any temporary or permanent sign erected and maintained by a governmental entity.

...

Ground Mounted Sign/Monument Sign

A freestanding sign that is less than six feet (6') in height.

...

~~Height (of a sign)~~

~~The vertical distance measured from the highest point of the sign to the lowest point of surface grade beneath the sign.~~

...

Home Occupation Sign

A sign permitted in association with a legitimate home occupation conducted on the premises of the dwelling unit occupied by the operator of the ~~business~~ establishment.

...

~~Identification Sign~~

~~A sign whose copy is limited to the name and address of a building, institution, person and/or activity or occupation being identified.~~

Illegal Sign

A sign ~~which~~that does not meet the requirements of this Ordinance.

Illuminated Sign

A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

...

Inflatable Sign

A sign or figure filled with air or gas to enlarge said sign or figure.

Informational Sign

A sign that informs the public of goods, facilities or services available on the premises, e.g., credit card sign or sign indicating hours of ~~business~~operation.

...

Little League Sign

Sponsorship signs placed at the Optimist Club field.

...

Living Sign

A non-illuminated sign constructed of living materials such as shrubs, trees, and/or flowers.

...

Marquee

A sign of a theater, auditorium, fairground or museum or similar venue which advertises ~~present~~current and/or scheduled events with the th~~Sign structure. Any structure which supports, has supported or is capable of supporting a sign, including any decorative cover for said sign structure.~~e use of changeable text.

...

Menu Board Sign

An attached or freestanding sign listing choices and prices.

...

Monument Sign

A freestanding sign supported permanently upon the ground by a continuous base flush to the ground.

...

Noncommercial Message

Messages and emblems that do not function to direct attention to or promote a business, product, service, event, or activity, either on-site or off-site. Examples of noncommercial messages include, but are not limited to, signs advocating a public issue, recommending a candidate for office, and personal messages.

...

Nonconforming Sign

A sign that was lawfully constructed but does not conform to current size, height, location, design, construction, or other requirements of this Ordinance.

...

Off-Premise Advertising/Sign

~~A sign which that does not pertain to the use of the premises on which it is located.~~ A sign directing attention to or promoting a business, product, service, event, or activity that is not sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located.

...

On-Premise Advertising/Sign

~~A sign which that pertains to the use of the premises on which it is located.~~ A sign directing attention to or promoting a business, product, service, event, or activity that is sold, produced, manufactured, furnished, or conducted at the site upon which the sign is located.

...

Painted Wall Sign

A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas.

...

Parking-Control Warning Sign

A sign that informs the public that the parking lot or parking structure is subject to parking-control.

...

Permanent Sign

Any sign ~~which~~ that, when installed, is intended for permanent use. Any sign with an intended use in excess of twelve (12) months from the date of installation, unless otherwise stated, shall be deemed a permanent sign.

...

Pole/Pylon Sign

A sign ~~which~~ that is permanently affixed to the ground by a pole or other structure and which is not part of the building.

...

Political Sign

A temporary sign used in connection with a local, state, national election or referendum.

Portable Sign

A sign mounted on a frame or chassis, designed to be easily relocated, and not meant to be ~~permanently~~ affixed to buildings, poles, or the ground.

...

Projecting Sign

A sign ~~which is~~ attached to a building wall with the face of the sign perpendicular to the building wall.

...

Pushcart Sign

...

Real Estate/for Sale/Open House/or Lease Sign

A ~~temporary~~ sign advertising the real estate upon which the sign is located as being for rent, lease, open house or sale.

...

Roof Sign

Any sign erected or constructed wholly upon and over the roof of any building and supported solely on the roof structure.

...

Rotating Sign

A sign ~~which~~ that turns ~~around~~ on an axis.

...

~~Sidewalk Sign~~

~~A temporary sign placed on the sidewalk during regular business hours.~~

Sign

Any object, device, display, structure, or part thereof, situated outdoors, which is used ~~solely~~ to advertise, identify, display, direct, or visually attract attention to an object, person, establishment, institution, organization, business, product, service, event or location by any means, including but not limited to words, letters, figures, designs, symbols, fixtures, streamers, balloons, pennants, air driven devices, colors, illuminated or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields.

Sign Copy

The wording and/or symbols on a sign surface in either permanent or changeable form.

Sign Face

The area of a sign on which copy is placed.

Sign Structure

Any structure ~~which~~ that supports, has supported or is capable of supporting a sign, including any decorative cover for said sign structure.

Sign Maintenance

~~The cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.~~

...

Snipe Sign

A temporary sign or poster affixed to a tree, public utility pole, fence, etc.

...

Suspended Sign

A sign ~~which is~~ suspended from the underside of a horizontal plane surface, such as a canopy or marquee, and which is supported by such surface.

...

Tenant Directory Sign

A sign listing the names of more than one establishment, activity or professional office conducted within a building, group of buildings or commercial center.

...

Temporary Decoration

Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday/celebration.

...

Temporary Sign

~~A sign or advertising display constructed of cloth, canvas, fabric, plastic, paper, plywood or other light material that is used only temporarily and is not permanently mounted.~~

...

~~Time and Temperature Sign~~

~~Signs which display only time and temperature in alternate light cycles.~~

...

~~Yard Sale Sign~~

~~A sign directing the public to the occasional non-business sale of secondhand household and other goods incidental to household uses.~~

Wall Sign

A sign ~~which is~~ mounted flush to a building wall.

...

Window Sign

A sign ~~which is permanently~~ painted on, ~~permanently~~ attached to or designed to be visible through a window, excluding displays of merchandise.

Planning Application - UDO Text Amendment

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

Official Use Only

Case Number:
Case PL06245-110922
Case Name:
Single-Family & Two-Family
Nonconforming Uses

A. CONTACT INFORMATION

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

B. TEXT INFORMATION

Amendment is to:

Article(s): Article 7
Section(s): 7.03 Nonconforming Use

Brief Description of Amendment (Attach Proposed Text):

Modify UDO Section 7.03 to create exceptions for certain single- and two-family uses.

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

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

11/09/2022
Date

Official Use Only

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

Hearing/Decision Information

Public Hearing Meeting
Date: November 28, 2022
PC Meeting Date: November 28, 2022
TC Meeting Date: December 14, 2022
Text Approved: ☐ Yes ☐ No
Notes:

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

Communication: Case PL06245-110922 Application (Case PL06245-110922 Single- and Two-Family Nonconformities - UDO Text Amendment)



Staff Report
Public Hearing
November 28, 2022

Case PL06245-110922 Single- and Two-Family Nonconforming Use Exception UDO Text Amendment

Request

The Town proposes an amendment to the Town of Boone Unified Development Ordinance (UDO) to modify UDO Section 7.03 regarding nonconforming uses to create exceptions for certain single- and two-family uses.

Analysis

In January 2014, the UDO was revised to limit the construction of residential uses in commercial districts, in order to not penalize commercial businesses in terms of setbacks, landscape buffers and height restrictions, when locating in an appropriate business district. This was accomplished by removing all residential uses with the exception of mixed-use multi-family uses from those commercial districts. UDO Subsection 7.03.05 states, “A nonconforming use that ceases operations for any reason for a period of 180 days within any twelve (12) month time period may not be reestablished. Any subsequent use of such land must be a permitted use.”

The unintended consequence of this action now means that when any existing single-family or two-family dwellings use in a commercial zoning district is discontinued or changed to another use (example an office), the use can no longer revert back to the residential use.

CONFORMITY TO ADOPTED PLANS

2006 Comprehensive Plan Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.1 Economy (page 21)

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

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

...

2.3 Community

2.3.2 Community Character (page 75)

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

2.3.3 Housing & Neighborhoods (page 79)

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
 - A.1 As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.
 - A.2 Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.
 - A.3 Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.
 - A.4 Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.
 - A.5 Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.
 - A.6 Implement a residential zoning enforcement policy based on the task force analysis above.

PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance # PL06245-110922 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

TOWN COUNCIL ACTION – Adoption of Ordinance

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

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

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance #PL06245-110922 and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

ORDINANCE # PL06245-110922

**AN ORDINANCE TO REVISE THE
TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, the Boone Town Council desires to modify the requirements within the Unified Development Ordinance to protect existing single-family dwellings; and

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

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

SECTION 1. Article 7 of the Town of Boone Unified Development Ordinance (“UDO”) is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in ~~red~~ and blue respectively:

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

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

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

Adopted this the 14th day of December, 2022.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon, Town Clerk

EXHIBIT A**Article 7 Nonconformities**

...

7.03 Nonconforming Use

7.03.01 A nonconforming use may continue indefinitely unless discontinued as described in Section 7.03.05.

7.03.02 Extension or Enlargement of a Nonconforming Use:

- A.** No increase in the volume, frequency or intensity of a nonconforming use is allowed.
- B.** A nonconforming use may not be expanded, enlarged, or extended to occupy a greater area of land or floor area.
 - 1. A single-family dwelling (Use 1.01) may expand floor area of a principal structure but may not expand the footprint.
- C.** A nonconforming use may not be relocated, in whole or in part, to another portion of the subject lot.

7.03.03 Repair, Maintenance, and Change in Equipment:

- A.** Normal repair and maintenance may be performed to allow the continuation of a nonconforming use.
- B.** A change in equipment may be allowed as long as it does not result in an increase or expansion of activity.

7.03.04 Change of Use:

- A.** Any change of use may only be to a permissible use.
- B.** For an existing development, a change of use from one that does not trigger transitional zone standards to one that does trigger transitional zone standards may only be authorized pursuant to approval of a special use permit or a Conditional District zoning map amendment.
- C.** All other changes of use that do not involve any new development do not require increased compliance with current Ordinance standards.
- D.** All changes of use that involve new development are governed by Section 7.05.

7.03.05 Discontinuance of Nonconforming Use:

- A.** A nonconforming use that ceases operations for any reason for a period of 180 days within any twelve (12) month time period may not be reestablished. Any subsequent use of such land must be a permitted use. However, when a use is involuntarily discontinued because an essential structure is destroyed or damaged by fire, flood, wind, other act of God, the use shall not be considered discontinued so long as a building permit for the repair or restoration is issued within six (6) months and the use is resumed within twelve

(12) months of the date the development permit is issued. For nonconforming structures see Section 7.05.

7.03.06 Nonconforming Use Exception: Any existing building legally permitted at any time as either: 1.01 Single-Family Dwelling, 1.02 Manufactured Home "Class A", 1.03 Manufactured Home "Class B", or 1.06 Duplex (one duplex building per lot), that is made nonconforming by a change in the permissible use table or by town initiated zoning map change, may continue to operate or be replaced indefinitely regardless of any cease in operation. Additionally, the building may revert back to its former residential use, and property owners are allowed to make improvements to the dwelling or the lot so long as the requirements for the improvements follow the dimensional standards set forth for the zoning district the use is located in.

**SPECIAL PLANNING COMMISSION MEETING MINUTES
WEDNESDAY, SEPTEMBER 28, 2022, 6:30 PM
VIA WEBEX**

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

TOWN STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Christy Turner-Senior Planner, Brandon Wise-Environmental Planner, Rick Miller-Public Utilities Director, and Brenda Henson-Board Secretary

OTHERS PRESENT: Chelsea Garrett, Allen Yates, Jason Gaston, Tucker Deal, and John Winkler

Call to Order

Chair Shay called the special Planning Commission meeting, held via WebEx and continued from the September 26, 2022 Planning Commission meeting, to order at 6:31 p.m.

Ms. Jane Shook, Director of Planning and Inspections, asked the Planning Commission to consider changing the order of the agenda to hear the Portofino Hotel case to be the second case heard due to the amount of time anticipated to address the Yates case.

Vic-Chair Plaag made a motion to move the Portofino Hotel case to be the second case heard. Commission Member Veno seconded the motion.

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

Approval of Planning Commission Meeting Minutes

Commission Member Tippet made a motion to approve the August 22, 2022 Planning Commission meeting minutes as written. Commission Member Warren seconded the motion.

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

Case PL05995-081822 Hampton, Barney – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of property on West Donnie's Drive (Watauga County PIN: 2829-18-8754-000) owned by Barney and Delores Hampton to RA Residential Agricultural or R1 Single-Family Residential. Zoning is to coincide with the property owner's voluntary annexation of the property. A Voluntary Annexation Petition from Barney and Delores Hampton requesting the Town to annex 1.004 acres contiguous to the Town of Boone primary corporate limits has been submitted and processed. The parcel is currently vacant. By direction of Town Council during the consideration of the annexation petition, zoning of the property is to be either RA Residential Agriculture or R1 Single-Family Residential with WS-IV Watershed Areas Protected Area (WS-IV-PA).

Chair Shay asked if the properties surrounding Mr. Hampton were zoned RA or R1. Mr. Mike James, Senior Planner with Town of Boone Planning and Inspections, replied that all of the surrounding properties that were located inside the Town's jurisdiction were zoned RA.

Vice-Chair Plaag noted that when the other surrounding properties currently located in the county were located in the ETJ, they were zoned RA. He stated that RA zoning allowed uses such as slaughter houses. He recommended the more restrictive R1 zoning instead of RA.

Commission Member Tippettt agreed with Vice-Chair Plaag. He stated that the surrounding properties were being used as single-family residences, so R1 made the most sense.

Commission Member Warren stated he supported zoning the property as R1.

First Motion and Vote: Commission Member Tippettt made a motion that the proposed amendment to the Town's zoning map to R1 is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

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

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

C.1 Amend the zoning map and development regulations to prevent residential uses from locating adjacent to existing developments and other uses which may have characteristics which cannot be effectively mitigated.

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

Vice-Chair Plaag seconded the motion.

Vote: Aye – All

Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippettt made a motion that the Planning Commission recommends approval of Ordinance PL05995-081822 and believes approval is reasonable and in the public interest because the adjacent, existing land uses are all single-family residential. Vice-Chair Plaag seconded the motion.

Vote: Aye – All

Nay – None

The motion passed and approval was recommended.

Case PL05979-081222 Portofino Hotel – Conditional District Zoning Map Amendment

River Street Ventures, LLC has submitted a Conditional District Zoning Map Amendment application for property located at 970 Rivers Street (Watauga County PINs: 2900-78-7965-000, 2900-78-6979-000, and 2900-79-7027-000) to rezone the property B1 Downtown Core with a site-specific development plan for a two story, 20 room hotel (Use 3.09 Hotel, Small) and Use 15.01 (Parking Lot).

Vice-Chair Plaag stated he would be recusing himself from this case because he had participated in quasi-judicial action on this project as a member of the Historic Preservation Commission. Vice-Chair Plaag then muted himself and turned off the video to his screen.

Commission Member Veno stated he went by the property and looked underneath the building. He felt that, due to the condition of the building, it was time for it to go. Commission Member Veno stated that he liked the appearance of **the proposed project and was in favor of approval.**

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

Comprehensive Plan Policy 2.1.1 Economic Development

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

Comprehensive Plan Policy 2.1.2 Commercial Development

- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.

Comprehensive Plan Policy 2.1.5 Downtown

- A. A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.
- B. The Town, in concert with the downtown property owners and merchants, shall encourage public and private efforts to develop and publicize adequate and appropriately designed off-street parking lots in the downtown area.
- 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.

Commission Member Warren seconded the motion.

Vote: Aye – 6

Nay – None

Recused – 1 (Plaag)

The motion passed.

Second Motion and Vote: Commission Member Veno made a motion that the Planning Commission recommends approval of Ordinance PL05979-081222 and believes approval is reasonable and in the public interest because the plans presented will enhance the area greatly and mitigate environmental issues. Commission Member Behrend seconded the motion.

Vote: Aye – 6

Nay – None

Recused – 1 (Plaag)

The motion passed and approval was recommended.

Vice-Chair Plaag rejoined the meeting.

Case PL05764-060822 Yates Family Properties – Conditional District Zoning Map Amendment

Yates Family Properties LLC is requesting a Conditional District Zoning Map Amendment to rezone property located at the end of Chase Hill Drive (Watauga County PIN: 2920-00-9240-000) from R3 Multi-Family Residential to R1 Single Family Residential with a site-specific plan for a major architecturally integrated subdivision of 14 single-family lots (Use 1.01 – Single-family Residential). The applicant is proposing an architecturally-integrated major subdivision of 14 single-family home sites and accompanying amenities on an extension of Chase Hill Drive. The requested Conditional District Approval will also include subdivision plat approval.

Chair Shay noted that Planning Commission members should have received an email containing a digital version of the handouts and written statements presented at the Public Hearing on September 26. Vice-Chair Plaag asked Ms. Shook to share on the screen the photos of flooding in the neighborhood as well as the landslide hazard map that showed a high probability of a landslide on the slope behind some of the houses joining the subject property. Some Planning Commission members indicated they had not had an opportunity to review the items in the email. The took a few moments to review.

Chair Shay asked if R1 and R3 zoning had different stormwater requirements. Mr. Brandon Wise, Environmental Planner with Town of Boone Planning and Inspections, explained that pre and post run-off had to be the same and this was not different in and R1 or R3 zone. Chair Shay asked about impervious area in an R3 zone. Mr. Wise replied that R3 property with a watershed designation allowed development up to 24% of the total land area. Ms. Shook added that the use changed watershed requirements, not the zoning.

Commission Member Behrend stated she drove down Chase Hill Drive and she did not see how the road could be widened without taking a lot of property. She felt that the proposed development would cause an increase in traffic and would be a hindrance to the neighborhood. Ms. Shook noted that the road would be widened within the right-of-way.

Commission Member Tippet stated he also went to Chase Hill Drive. He noted that the road narrowed in front of existing houses. He asked if the road was currently paved up to Mr. Yates' property. Mr. Mike James, Senior Planner with Town of Boone Planning and Inspections, replied that the pavement did not currently go all the way to Mr. Yates' property. He explained that Mr. Yates would have to build an extension to the end of the existing Chase Hill Drive that would meet town standards. Ms. Shook added that there was discussion at the Public Hearing regarding extending the street. She stated that Mr. Rick Miller, Public Works Director, had indicated that Chase Hill Drive was a town street and the applicant was aware that he would have to pay the costs associated with the extension.

Vice-Chair Plaag noted that the original layout of Chase Hill Drive was as a private street. He stated that GIS still showed the street as private, not Town. Vice-Chair Plaag added that, although Mr. Miller said Chase Hill Drive was a town street that had been maintained by the town for 20 years, there was no formal

easement recorded. Vice-Chair Plaag noted that the 45' easement to the applicant's property exceeded the town's right-of-way width. Ms. Shook responded that the town's GIS mapping showed Chase Hill Drive as a town street. She explained that streets that were dedicated to the town were not always recorded. Mr. Miller added that Chase Hill Drive was on the town's Powell Bill map and the town received funds from the state for the road. He stated that Mr. Yates could not build whatever he wanted for the road, noting that it had to meet town standards.

Chair Shay stated she felt a property owner had the right to develop their property. Even though Mr. Yates had requested a downzoning of the property, she was still concerned with the density and flooding in the area. Chair Shay added that it was not Mr. Yates' responsibility to right the wrongs of others.

Vice-Chair Plaag stated that the property owner had the responsibility to not add issues to an already vulnerable situation. He noted that Mr. Yates bought the property in 2019. Because Mr. Yates was a Watauga County native and realtor, Vice-Chair Plaag felt that Mr. Yates should have known the history of the area. Vice-Chair Plaag stated that he had lived in the area for 11 years and had studied the flooding in Watauga County. He expressed concern with the forecast for Hurricane Ian in that it could be somewhat like the flood of 1940. Vice-Chair Plaag stated he had witnessed at least two 500-year flooding events since moving to Boone. He noted that the flooding photos presented by neighboring property owners indicated there had been several 100-year flooding events. Vice-Chair Plaag felt it was careless and reckless to place homes in a floodplain. He expressed concern about possible landslides and felt that fill dirt in the floodplain would increase flooding. Vice-Chair Plaag stated he was strongly opposed to the proposed development.

Chair Shay stated she took Mr. Yates at his word that he wanted to build something beautiful, but she was conflicted.

Commission Member Behrend stated she was also concerned with flooding and agreed with Vice-Chair Plaag's comments.

Commission Member Tippet stated he agreed with Vice-Chair Plaag except he was not a hard no. He added that he would prefer to have nothing at all developed on the property. Commission Member Tippet suggested that the town look into the possibility of buying the property to preserve. He noted that if Mr. Yates' request was denied he could develop the property as R3 with higher density.

Commission Member Veno felt that if the developer wanted to develop the property as R3, he would have to go through the same process. Commission Member Veno stated he was not as concerned with traffic because he saw a crane and tree cutting trucks on that street today. He did feel that construction noise could be disturbing to the neighborhood for years. Commission Member Veno stated that he did quite a bit of research for this case about watersheds and he still did not know a lot about them. He noted that a 100 or 500-year flooding event would still happen regardless of whether or not this subdivision was approved. Commission Member Veno expressed concern that the new houses would likely flood. He stated he would reluctantly vote to deny the project. Commission Member Veno asked about a manhole he saw on Chase Hill Drive. Mr. Miller replied that the manhole was the main sewer outfall for the area and it was located on the subject property.

Commission Member Warren echoed the same issues and Vice-Chair Plaag and Commission Member Veno. He stated that reading the letters from the neighbors caused him to think more seriously about flooding. Commission Member Warren added that he was leaning toward denying the project.

Vice-Chair Plaag stated that, during the public hearing, Elizabeth Underwood with the New River Conservancy strongly recommended placing the homes in the floodplain on stilts instead of using fill dirt. Vice-Chair Plaag suggested, if approved, there be a condition that piers be utilized to elevate the homes

in the floodplain instead of using fill dirt. Mr. Wise, noted that the preferred term was to “elevate” the homes since elevation could occur in a variety of manners including piers or crawl spaces.

Ms. Chelsea Garrett, attorney for the applicant, stated Mr. Yates would be willing to elevate the homes located in the floodplain.

Mr. Jason Gaston, engineer for the project, noted that lots 2, 3, 14, and 15 were located in the 100-year floodplain and they could do piers there. However, he noted that there would not be as much stormwater control with the homes on stilts. Mr. Gaston added that those homes would have to get flood insurance and provide their own stormwater systems.

Vice-Chair Plaag asked which lots were located in the 500-year floodplain. Mr. Gaston replied that lots 4, 5, 6, and 7 were not located in the 500-year floodplain.

Vice-Chair Plaag asked if the applicant would be willing to elevate the homes in both the 100 and 500-year floodplains. Mr. Yates asked Vice-Chair Plaag why he preferred elevating the homes over placing fill dirt. Vice-Chair Plaag replied that it was because of Ms. Underwood’s concerns of using fill in the floodplain. He stated that erosion of the fill dirt could undercut the pads and cause environmental concerns in the trout stream. Vice-Chair Plaag felt that elevating the homes would provide more mitigation.

Mr. Yates stated he was unsure of the cost comparison between elevation and fill. Mr. Gaston stated that the fill dirt would be more compacted and stable than the existing soils on site. He added that, due to the method of deposition, the soils existing on site would be looser and more susceptible to erosion than properly compacted fill dirt. Mr. Yates stated he would be willing to set aside a certain amount from each home or lot sell to help start a fund with the neighbors for stream restoration.

Ms. Shook stated that the Planning Commission could make a recommendation for approval or denial of the Conditional District to Town Council and suggest conditions they felt were appropriate. However, the applicant might still need some time to consider the implications of the suggested conditions. She felt the applicant would have time for this consideration before Council made their final decision.

Ms. Shook asked Mr. Gaston to clarify if the road and driveway pads were proposed to be elevated with fill dirt and compacted. She asked how this would be affected if the homes were elevated on piers instead of fill. Mr. Gaston replied that the road was proposed to be elevated with fill and he would recommend that the driveway pads also be elevated. Ms. Shook noted she wanted to ensure that the Planning Commission understood that the road would still be elevated with the current design if the homes were elevated rather than placed on fill.

Vice-Chair Plaag suggested that the road and parking pads not be elevated on fill dirt on lots 4-7. He again asked for a condition that all of the houses be elevated that were located in either the 100 or 500-year floodplain. Commission Member Veno was agreeable with Vice-Chair Plaag’s suggestions, but did not feel that they would alleviate the environmental issues.

Vice-Chair Plaag stated that Planning Commission was a recommending body and Town Council could either accept Planning Commission’s recommendation or reject it and vote however they chose. He explained that even if Planning Commission recommended denial, they could still suggest conditions that might help mitigate some issues if Town Council decided to approve the request.

Chair Shay stated she was uncomfortable limiting a property owner’s ability to develop their property. She added that she did not see traffic as a huge concern. However, Chair Shay was concerned with the flooding issue.

Ms. Shook asked Mr. Wise if there was a base flood elevation for the 500-year floodplain. Mr. Wise replied that there was not. He felt that any elevation in the 500-year floodplain would likely follow the base flood

elevation requirements of the 100-year floodplain. Mr. Wise noted that the Town of Boone does not regulate the 500-year floodplain, only the 100-year floodplain and the floodway. He added that, after a little research, he found that the road was not required to be elevated, but it was preferred.

Vice-Chair Plaag suggested another condition that a retaining wall be constructed behind lots 4-13 because they were adjacent to a landslide hazard area. Mr. Yates replied that there had been no slope issue there for 30 years other than the erosion that was being caused by the neighboring property owners' gutter drains, which he had offered to let them extend to run into his swale. Mr. Yates did not feel that a retaining wall would correct the landslide hazard.

Mr. Gaston noted that the area in question was on the neighboring property and was considered a steep slope. He asked if Vice-Chair Plaag was requesting that they build a retaining wall on someone else's property. Vice-Chair Plaag replied that the retaining wall could be built on Mr. Yates' property along the affected area. Mr. Garrett replied that lots 4, 5, 6, and 7 would have some cut slopes and they could do a retaining wall there.

Ms. Shook asked how tall the retaining wall would be. Mr. Gaston approximated the wall to be 7.5' if they had to lower the road. Ms. Shook asked how all of the suggested changes would affect the stormwater. Mr. Gaston replied that the stormwater would definitely be changed. He stated they might have to have a smaller detention pond just for the road and each lot might have to have individual stormwater management. Ms. Shook noted that she wanted to ensure that the Planning Commission understood the overall impacts of the requested conditions to the final design.

Ms. Garrett offered as a condition that Mr. Yates would set aside \$1,000 at closing for each lot sold to address community issues, as well as place in the POA covenants that each property owner has to contribute \$25 per month for maintenance projects.

First Motion and Vote: Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning map is not consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is in direct contradiction to:

Comprehensive Plan Policy 2.1.1 Economic Development

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

Comprehensive Plan Policy 2.2.5 Environmental Health

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

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

E. Development which preserves the natural features of the site, including existing topography, streams and significant trees and vegetation, shall be reflected in the Town's Development Standards.

F. Recognizing the economic and environmental costs of commercial and residential stormwater runoff, innovative stormwater management techniques such as permeable sidewalks, driveways, and parking areas shall be encouraged.

Comprehensive Plan Policy 2.3.2 Community Character

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

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.

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

Commission Member Warren seconded the motion.

Commission Member Tippet expressed concern that Mr. Yates could develop this property as multi-family without board approval. He asked that the town identify areas like this for possible acquisition to help protect and the environment. Ms. Shook noted that this topic was something Town Council was currently considering.

Vote: Aye – All

Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Plaag made a motion that the Planning Commission recommends denial of the proposed amendment to the town zoning map and believes denial is reasonable and in the public interest because the proposed development is likely to exacerbate flooding conditions in this area, endanger the safety and well-being of residents upstream from this project, endanger the safety and well-being of residents of the proposed project, and create environmental conditions that could be destructive to the adjacent tributary of the East Fork of the New River, which is not only a dedicated trout stream but is also a source for the Town of Boone's drinking water. Furthermore, completion of this project is likely to increase costs for Boone taxpayers as a result of flooding-related emergency services and is generally not in keeping with the stated goals in the Comprehensive Plan. The motion was seconded by Commission Member Behrend.

Vote: Aye – All

Nay – None

The motion passed and denial was recommended.

Planning Commission members discussed conditions they would like to place if Town Council decided to approve the request.

Motion and Vote

Vice-Chair Plaag made a motion that, if Town Council approves the requested Conditional District, the following conditions be placed on the approval:

1. Within the development, any lots located in the 100 year floodplain and the 500 year floodplain shall not have the road and parking pads be built on fill dirt.
2. For areas of steep slope on the property, the applicant shall utilize a retaining wall where there is currently landslide hazard area as determined by the North Carolina Geological Survey.

Commission Member Behrend seconded the motion.

Vote: Aye – All

Nay – None

The motion passed.

Motion and Vote

Chair Shay made a motion that, given increasing development pressure and changing conditions, Planning Commission recommends that Town Council take advantage of this case to consider tools that may address the challenges our community and property owners face, such as transfer of development rights to redirect development away from sensitive areas, low-impact development, inclusionary zoning, partnerships between developers and existing neighborhoods, and other potentially useful strategies. Commission Member Tippet seconded the motion. Vice-Chair Plaag wished to amend the motion to have Town Council include this particular parcel in their consideration. Chair Shay and Commission Member Tippet accepted the amendment.

Vote: Aye – All

Nay – None

The motion passed.

Other Matters

Ms. Shook stated that the text amendment case for signs would be placed on the November Public Hearing agenda. She noted that there would be a couple of other large cases on that agenda.

Commission Member Veno asked if it would be possible for Planning Commission members to receive some training on watersheds. Vice-Chair Plaag agreed with Commission Member Veno, noting that it would be good for members to have more knowledge on this topic. Ms. Shook replied that she would research the opportunities and put it on the workplan.

Vice-Chair Plaag felt there was a lack of details in neighborhood meeting notes and asked if staff could request for details before placing those notes in the meeting packets. Ms. Shook replied that staff would discuss this internally.

Adjournment

Vice-Chair Plaag made a motion to adjourn the meeting at 9:14 p.m. Commission Member Tippet seconded the motion.

Vote: Aye – All

Nay – None

The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary