

**Town of Boone
Special Meeting
6:00 PM, Apr. 22, 2024
Town Council Chambers
1500 Blowing Rock Road**

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

Public Hearing

- I. Call to Order (Town Council & Planning Commission)**
- II. Moment of Silence**

Public Hearing Guidelines

- A. Presentation of Case by Staff/Applicant*
 - B. Discussion/Questions by Town Council and Planning Commission*
 - C. Public Comment*
 - D. Discussion/Questions by Town Council and Planning Commission*
- III. Case A24-0242: RR Building Height - UDO Text Amendment**
 - Case A24-0242 Application
 - Case A24-0242 Staff Report
- IV. Case A24-0070 Transitional Zone/Neighborhood Protection - UDO Text Amendment**
 - Case A24-0070 Application
 - Case A24-0070 Staff Report

V. Case PL05640-040822 Lighting- UDO Text Amendment

Case PL05640-040822 Application

Case PL05640-040822 Staff Report

Case PL05640-040822 Staff Report Exhibit 1 - Meeting Minutes Excerpts

VI. Adjournment of Town Council

Planning Commission

VII. Discussion of Cases Heard at the Public Hearing

VIII. Other Matters

IX. Adjournment

Planning Application - UDO Text Amendment

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

Official Use Only

Case Number:
A24-0242
Case Name:
RR Building Height

A. CONTACT INFORMATION

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

B. TEXT INFORMATION

Amendment is to:

Article(s): 14

Section(s): 14.08, B1.05

Brief Description of Amendment (Attach Proposed Text):

UDO text amendment modify building height in the RR zoning district.

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

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

04/05/2024
Date

Official Use Only

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

Hearing/Decision Information

Public Hearing Meeting
Date: 04/22/2024

PC Meeting Date: _____

TC Meeting Date: _____

Text Approved: ☐ Yes ☐ No

Notes: _____

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Communication: Case A24-0242 Application (Case A24-0242: RR Building Height - UDO Text Amendment)



Staff Report
April 22, 2024

Case A24-0242 RR Residential Rehabilitation Building Height - UDO Text Amendment

Request

Town of Boone Unified Development Ordinance text amendment to modify the maximum building height in the Residential Rehabilitation zoning district.

Case A24-0242 (this case) is a companion text amendment to Case A24-0073 RR to Compact Neighborhood. Case A24-0073 was heard at the March public hearing, and the Planning Commission has made a recommendation of approval with recommendations. Case A24-0073 is scheduled to be heard by Council on May 8, 2024. During the public hearing for this case, it was agreed that an amendment to modify the building height for the district was needed and that it should be sent to the April 22, 2024 special public hearing.

Please see below for a summary of the number of stories based upon Watauga County tax information for the RR zoned properties:

Use	Stories	Number
Single-Family	1	16
	1 with basement	7
	3	1
Two-Family	1 with basement	1
	1.5 with basement	1
Religious Assembly	1 with bell tower	1

Note: Tax cards do not provide actual building height in feet.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan

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

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

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

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

2.3.2 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.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

2.3.3 Housing and Neighborhoods

- 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.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

PLANNING BOARD REPORT/RECOMMENDATIONS

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

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

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance #A24-0242 within Exhibit A and ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

TOWN COUNCIL 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:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance #A24-0242 to the Town’s zoning ordinance and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

Ordinance

ORDINANCE # A24-0242

AN ORDINANCE TO REVISE THE UNIFIED DEVELOPMENT ORDINANCE TO MODIFY THE RESIDENTIAL REHABILITATION MAXIMUM BUILDING HEIGHT

WHEREAS, the Boone Town Council desires to modify the requirements for the Residential Rehabilitation zoning district, and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on April 22, 2024 with respect to this ordinance; and

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

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

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

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

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

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

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

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

Adopted this the 22nd day of May, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon-Church, Town Clerk

Communication: Case A24-0242 Staff Report (Case A24-0242: RR Building Height - UDO Text Amendment)

Exhibit A**Article 34 Definitions**

...

Attic Story

~~Any~~A habitable story situated ~~wholly or partly in the~~within a building's roof ~~to be used for living space~~framing and accessed by an interior fixed stairway.

...

Basement

That portion of a building that is ~~partially or completely~~more than 50% below grade.

...

Story

Unless specified otherwise, a story above-grade on all sides of a building and not including attic stories.

...

Article 14 Districts and Uses

...

14.03.07 Building Height

- A. The height of a building shall be the vertical distance measured from the average elevation of the finished grade at the primary façade of the building to the highest point of the building except as provided herein.
- B. "Stories" as used herein refers to the number of heated, habitable floors above grade at the primary facade. Where both stories and heights are listed, the building can have no more than the listed number of stories, and also may not exceed the specified height in feet.

...

14.08 RR Residential Rehabilitation District

...

Staff Note: The standards below do not reflect the changes proposed in Case A24-0073 RR to CN as they have not yet been approved. Staff has provided in the blue highlighted text the standards that were proposed to be changed. Staff used the R1S height standards as a guide for the recommended changes. Staff would like to discuss at the public hearing if a maximum height needs to be similarly set.

14.08.03 R1C Development Standards

- A. Minimum Gross Land Area: 6,000 square feet (see UDO Subsection 14.03.02)
- B. Minimum Lot Width: 70 feet (see UDO Subsection 14.03.03)
- C. Minimum Street Frontage: 56 feet (see UDO Subsection 14.03.04)
- D. Minimum Livability Space: .48 (see UDO Subsection 14.03.05)
- E. Minimum Setbacks (see UDO Subsection 14.03.06)
 - 1. Street: 20 feet

Case A24-0073 Modifications

- A. Gross Land: No change
- B. Min. Lot Width: 35 ft.
- C. Min. Street Frontage: 28 ft.
- D. Min. Livability Space: .27
- E. Min. Setbacks
 - 1. Street: No Changed
 - 2. Interior: 10 ft.
- F. Max. Building Height- No Change

2. Interior: 13 feet

- F. Maximum Building Height: ~~3 stories~~ 1 story/ ? feet (may include an attic story and a basement).

B1.05 Complete Building Height Table

Zone	Height Limitation
R1, R1A, R2, R4, RA	3 stories
R1S	1 story with an attic story or a basement /25'; Refer to Subsection 14.06.03(F)
RR	1 story/2; Refer to Subsection 14.08.03(F)
R3	3 stories
R5	4 stories/56'
MH	35'
B1-DC, B1-DI	Refer to Subsection 14.19.04(F)
B2	3 stories/40'
B3	3 stories/45' (primary)-4 stories/56' (secondary)
OI	4 stories/67'
WD	Refer to Section 14.23(F)
M1	67'
E1, E2, E3	3 stories/45' (primary)-5 stories/67' (secondary)
E4	2 stories
U1	Refer to Subsection 14.29.03(C)

Planning Application - UDO Text Amendment

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

Official Use Only

Case Number:
A24-0242
Case Name:
Transitional Zone/Neighborhood Protection

A. CONTACT INFORMATION

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

B. TEXT INFORMATION

Amendment is to:

Article(s): 1, 4, 6, 7, 9, 14, 15, 24, 31, 34, Appendix B
Section(s): 1.29, 1.30, 1.31, 4.07, 6.01, 6.02, 7.03, 9.09, 14.02, 14.03, 14.29, 15.48, 15.49, 15.51, 15.66, 15.67, 24.01, 24.03, 24.09, 31.01-31.06, 34.01, B1.01, B1.02, B1.03

Brief Description of Amendment (Attach Proposed Text):

UDO text amendment modify building height in the RR zoning district.

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

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

02/07/2024
Date

Official Use Only

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

Hearing/Decision Information

Public Hearing Meeting
Date: 04/22/2024
PC Meeting Date: _____
TC Meeting Date: _____
Text Approved: ☐ Yes ☐ No
Notes: _____

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Communication: Case A24-0070 Application (Case A24-0070 Transitional Zone/Neighborhood Protection - UDO Text Amendment)



**Staff Report
Public Hearing
April 22, 2024**

Case A24-0070 Transitional Zone/Neighborhood Protections – UDO Text Amendment

REQUEST	1
COMPANION TEXT AMENDMENTS	2
TRANSITIONAL ZONE TEXT HISTORY	3
TRANSITIONAL ZONE CASE HISTORY AND CONDITIONS OF APPROVAL.....	3
PLANNING BOARD REPORT/RECOMMENDATIONS	22
TOWN COUNCIL ADOPTION – ADOPTION OF ORDINANCE.....	23
ORDINANCE #A24-0070	24
REMOVAL OF REFERENCES TO “TRANSITIONAL ZONES”	25
IDENTIFICATION, STRENGTHENING, AND CREATION OF “NEIGHBORHOOD PROTECTION” STANDARDS	30
REVISIONS RELATED TO THE TABLES OF PRINCIPAL, ACCESSORY, AND TEMPORARY USES	61

Request

Staff has been requested to modify the current transitional zone process requiring board approval (if a transitional zone was triggered) to create administrative standards that apply to all projects adjacent to protected residential areas. The intent of the amendment is to create, revise, and strengthen neighborhood protection provisions within the Unified Development Ordinance (UDO) to ensure compatibility between development intensities and to improve effectiveness and clarity in the application of standards.

The proposed “Neighborhood Protection” standards would be assessed for all development projects adjacent to residentially zoned properties and should assist in ensuring compatibility with neighboring residentially zoned properties in terms of scale/height, landscaping, noise, lighting, and traffic. Consistently-applied standards should provide clarity and consistency to residents, developers and staff.

The proposed Neighborhood Protection standards are based on a review of conditions tied to transitional zone mitigation in past cases as well as Staff’s experience when working with Council, the Town Attorney, and other boards on mitigation strategies. Since adoption, the Board of Adjustment has heard 38 special use permits with transitional zone mitigation with only 1 denial, and the Planning Commission/Town Council have heard 23 conditional district zoning map amendments with transitional zone mitigation, with only 4 denials. (Note that denials are not necessarily related to transitional zone mitigation.) Please see page 5 of this report for more detail.

As part of this consideration, Council also undertook a careful review of UDO Appendix B’s Table of Principal Uses, Accessory Uses, and Temporary Uses to examine which uses are appropriately permitted

as of right, permitted only with a special use permit, permitted with a conditional district zoning map amendment, or prohibited.

Companion Text Amendments

In addition to the text changes included in this report, Staff believes there are two existing text amendment cases that are currently underway that could be considered as companion pieces for neighborhood protection. See below for details:

1. Case A23-0053 Lighting Standards

Staff Note/Status: Current text amendment has been to 2 public hearings. Staff is presenting changes based upon the comments from the Planning Commission, Council's last discussion on the text, and additional concerns highlighted by either Staff or the Town Attorney. Staff proposed that this text be sent back to public hearing to include "neighborhood protection" standards.

This text amendment is proposed to both modernize (align standards with current lighting technology) and to expand regulation on lighting standards to capture any adverse impacts not currently mitigated under current standards.

Neighborhood Protection: Upon further review, while evaluating the draft text for "neighborhood protection", we may consider additional regulation on height of pole- or building-mounted exterior lights when within a certain distance of residentially zoned properties and could consider additional restrictions on timing, so long as the lighting isn't required for public safety.

2. Case A24-0077 Transportation Impact Analysis (TIA)

Staff Notes/Status: The Public Works and Planning and Inspections Staff have been working with a transportation consultant on this text. We are close to having a draft ready for review. At this time, neither the Town Attorney nor Council have had an opportunity to review this draft. However, Staff has included this text as a potential "companion amendment" as the Staff predicts the changes to have naturally built-in neighborhood protection based upon the revisions. Please see below for a summary of proposed changes.

A text amendment to revise and expand the Town's current TIA standards will soon be brought to public hearing. Aa transportation impact analysis is a tool used to evaluate the incremental impacts of a proposed development on the surrounding transportation infrastructure and may include recommendations on mitigating those impacts to maintain safe traffic and transportation operations. Required TIAs will take a multimodal perspective to evaluate bicycle, pedestrian, and vehicular transportation modes.

Neighborhood Protection: Staff is proposing a new process in which a consultant selected by the Town will conduct the traffic impact analysis with the applicant paying for all costs. Currently, applicants hire their own consultants and current language provides little to no guidance on analysis content or mitigation requirements. Staff believes the new process will help ensure an unbiased report for a development impact to the area transportation network plus ensure that any mitigation requirements are clearly outlined prior to any approval.

Transitional Zone Text History

- 11-16-2010:** Originally adopted November 16, 2010. Was limited on how the transitional zone was applied:
1. For a proposed large scale retail development, or a multi-family development containing ten units or more, the transitional zone is three hundred feet (300') from the boundary of the protected district as measured from all points along that boundary.
 2. For a proposed small scale retail development within a B-1 district, or a multi-family development containing fewer than five units, the transitional zone is seventy-five feet (75') from the boundary of the protected district as measured from all points along that boundary.
 3. For a proposed small scale retail development other than within a B-1 district, a multi-family development containing between five units and nine units, and any other commercial development, the transitional zone is one-hundred-and-fifty feet (150') from the boundary of the protected district as measured from all points along that boundary.
- 12-16-2013:** Modified with adoption of revised UDO, effective January 1, 2014. Additional transitional zones created and applied to uses based upon the use and the zoning district the use was allowed in. Same text that is followed today.
- 06-18-2015:** Transitional zone language modified to exempt development within an approved Industrial Park since the location of the park is vetted carefully before approval of location (only 1 within the Town of Boone).

Transitional Zone Case History and Conditions of Approval

Staff Note: The following cases triggered a transitional zone and required a board approval. The cases are listed chronologically by board and include all cases since the adoption of the transitional zone provisions. The date, a brief description of the case, and any conditions beyond standards conditions are listed below. Standards conditions include:

1. *Where there is a conflict between the application information (dated September 6, 2013) and the plans (bearing the received date of September 9, 2013 by Valor Engineering), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.*
2. *Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.*
3. *Final plans and specifications shall be submitted that are in compliance with the provisions of the UDO, Building Code and other provisions of the Town Code.*
4. *Any other condition requiring compliance with existing standards or permitting.*

Board of Adjustment

- 04-07-2011** **SU20110010**, Mr. Allen Brawley is requesting a Special Use Permit in accordance with Unified Development Ordinance Section 198 *Transitional Zones* for the construction of a Dollar General store (use 2.120) located at the corner of East King Street and Forest Hills Drive (Watauga County PIN 2910-48-1392-000). In addition, a Variance to UDO Section

290 [c][2] is requested for a buffer zone encroachment above the 10% allowed by the ordinance. This property is zoned B-3 General Business.

Approved subject to the standards conditions plus:

1. The applicant must hire an arborist to look after the safety of significant trees on the neighbors' property.
2. Signs must be posted stating No Trespassing During Non-business Hours.
3. The monument sign shall be architecturally consistent with the building using consistent building materials.
4. Deliveries shall not be made before 8:00 a.m., between 2:00-4:00 p.m., and after 8:00 p.m.
5. A good faith effort should be made by the applicant to arrange for dumpster pick-up at a time not before 8:00 a.m. or after 8:00 p.m.
6. Regarding stormwater treatment and retention, bioretention in the form of rain gardens or rain ponds will be the first priority specifically around the rip rap area in the northeastern corner of the property. As a second alternative, a hybrid approach utilizing both bioretention and underground storage with the bioretention being the area of rip rap in the northwestern portion of the property.
7. An executed encroachment agreement for all improvements within NCDOT right-of-way shall be submitted to the Planning & Inspections Department prior to final zoning approval.
8. All applicable permits required by the state shall be obtained prior to final zoning approval.

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

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

SU20110144, Jason Gaston on behalf of the Temple of the High Country is requesting a Special Use Permit in accordance with Unified Development Ordinance Section 198 *Transitional Zones*, for the construction of the Temple of the High Country (use 5.200) located between West King Street and Poplar Grove Road (PIN 2900-69-3831-000). NCDOT driveway permits shall be obtained prior to final zoning approval. Approved subject to the standards conditions plus:

1. The Poplar Grove Road entrance will be gated and a key or code will be provided to the Fire Department for access during emergencies.
2. The applicant will consult with Blake Brown to determine feasibility of sidewalk installation or payment of fee in-lieu. If sidewalk installation is determined to be feasible, NCDOT standards must be met.

06-02-2011 SU20110143, Faison Kuester on behalf of Kuester Greenway Cove, LLC is requesting a Special Use Permit per Unified Development Ordinance Section 166 *Use of the Designations Z and S in the Table of Permissible Uses* and Section 198 *Transitional Zones*, for the construction of a 28 unit apartment building (use 1.330) located at 176 & 152

Winklers Meadow Road (PINs 2910-12-6210-000 & 2910-12-7202-000). Approved subject to the standards conditions plus:

1. Plan page L-101 shall be amended to show a termination of the hedge line at the trout buffer line or the tree buffer line, whichever is legally allowed.
2. The applicant shall make a good faith effort to secure a traffic control device to stop traffic at the crosswalk on Winkler's Creek Road. If NCDOT does not allow a stop device, alert lighting shall be installed. If NC DOT does not allow alert lighting, pedestrian crossing signage shall be installed.
3. The applicant shall be required to keep the Planning Staff informed of NCDOT conversations and requirements.

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

1. Lighting that is required for the additional parking area have a switch.

10-06-2011 SU20110332, David R. Jones on behalf of Boone United Methodist Church is requesting a Special Use Permit in accordance with Unified Development Ordinance Section 166 Use of the Designations Z and S in the Table of Permissible Uses and Section 198 Transitional Zones for the purpose of developing the property with a Boy Scout assembly facility. The proposed project is located off of Hidden Valley Circle on property zoned R3 Multiple-Family Residential and further identified as Watauga County PIN 2911-30-5956-000. Approved subject to the standards conditions plus:

1. The building shall be limited to Boy Scout activities only.
2. Place signage at the entrance on Hidden Valley Circle stating that access is for handicap parking or as deemed necessary by the applicant.
3. Provide screening along the handicap ramp.
4. Provide additional evergreen buffer on the Hidden Valley Circle side of the property.

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

1. Plan page L-101 shall be amended to show a termination of the hedge line at the trout buffer line or the tree buffer line, whichever is legally allowed.
2. The applicant shall make a good faith effort to secure a traffic control device to stop traffic at the crosswalk on Winkler's Creek Road. If NCDOT does not allow a stop device, alert lighting shall be installed. If NC DOT does not allow alert lighting, pedestrian crossing signage shall be installed.
3. The applicant shall be required to keep the Planning Staff informed of NCDOT conversations and requirements.

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

1. A resolution must be made regarding the driveway access that will allow the applicant to develop as proposed, before a building permit is issued.
2. Lease agreements must have language that tenants have to provide proof that they have obtained a long-term parking space if they have a car.
3. Signage regarding no on-site, tenant, or restaurant parking on adjoining property must be provided.
4. Leases must provide move in and move out times that are staggered by unit.
5. A good faith effort must be made to coordinate restaurant delivery times to best avoid peak traffic hours.

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

1. Bicycle and motorcycle parking must be installed.

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

1. A preliminary tree survey must be submitted. If insignificant deviations from the plan are required, Staff may use discretion. If significant deviations from the plan are required, the applicant must petition the Board of Adjustment.
2. Stormwater detention requirements must be met.

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

1. Vegetation at the rear of the property must be retained as a buffer unless it is verified by Staff as diseased.
2. The skateboard ramp will operate only during daylight hours.
3. The fence behind the property must be retained. If the fence is not on this property and it is removed, it must be replaced on this property in a similar size and opacity.
4. The ramp will be locked during non-daylight hours.

- 12-06-2012** **SU20120678**, Caldwell Community College and Technical Institute, 372 Community College Drive, Special Use Permit Modification, for construction of a building containing six classrooms. Approved subject to the standard conditions plus:
1. Bicycle parking in accordance with UDO Section 355 shall be provided for the proposed project.
- 02-07-2013** **SU20130022**, Jerry Butler, 302 Faculty Street (Watauga County PIN 2910-14-2972-000), Special Use Permit and Variance, for construction of a 5 unit 18-bedroom apartment complex. Approved subject to the standard conditions plus:
1. The vegetative buffer in the R-1 portion of the property must be enhanced with evergreens.
 2. The vegetative buffer in the R-1 portion of the property must be continually monitored to maintain the integrity of the buffer for the Transitional Zone for sound and light pollution and deficiencies must be remediated.
 3. Outside lighting in the patio area, if required, must be low wattage and directed downward to shield them from the neighboring property.
 4. The outdoor recreation area must be buffered on sides facing other properties with some type of evergreen shrubs.
 5. No trees can be removed on neighboring property without permission of the neighboring property owner.
- 04-04-2013** **SU20130086**, Mountaineer Village, LLC, Yosef Drive (Watauga County PINs 2911-81-8013-000, 2911-80-4475-000), Special Use Permit Modification to construct 2 additional multi-family apartments. Approved subject to the standard conditions plus:
1. Any and all repairs, patches or replacement to Yosef Drive or adjacent sidewalk shall be done in accordance with Town of Boone standards.
 2. The applicant in consultation with the Public Works Director will comply with Section 91 of the Town Code and/or UDO Section 363[e].
 3. Prior to any construction activity the applicant shall hire a geotechnical engineer whom among other things will determine the impact of the proposed building additions on the existing retaining walls as well as evaluate the subsurface soil conditions. Applicant agrees to comply with an implement the recommendations of the geotechnical engineer.
 4. Applicant will incorporate into its final plans the recommendations and requirements of the Fire Marshal. Furthermore, if deemed necessary, the applicant will have the gym facility sprinkled.
 5. The applicant will either pay fee in-lieu or build a sidewalk.
 6. The applicant must provide staff with a traffic analysis in order to determine if a traffic impact analysis is necessary. If a traffic impact analysis is deemed necessary the applicant must provide one and comply with any changes to the plan the traffic impact analysis requires.
- 05-02-2013** **SU20130160**, Walgreens, 114 and 166 West King Street (PIN: 2910088308000) Special Use Permit pursuant to UDO, Section 198 Transitional Zones. The applicant is also requesting landscape buffer Variances to UDO Section 363 Buffer and Screen Requirements and Section 366 Screening Along Streets. **DENIED**
- 10-03-2013** **SU20130563**, John Winkler is requesting a Special Use Permit Modification to the King St. Mixed Use Project Special Use Permit #20110670, 492 West King Street to modify the site

specific development plan including modification of allowed commercial uses. Approved subject to the standard conditions plus:

1. Signage regarding no on-site tenant, or office/retail parking on adjoining property must be provided. (restaurant removed and replaced by office/retail)
2. A good faith effort must be made to coordinate office/retail delivery times to best avoid peak traffic hours. (restaurant removed and replaced by office/retail)
3. HVAC equipment must be moved either to ground level or as close to the front of the building on the roof as possible with a screen structure behind the units.
4. Add landscaping on the sides and back of the building near the staircases to the extent reasonable possible.

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

1. If required, the Community Appearance Commission (CAC) may need to approve a redesign based upon conditions as listed in Section 393.
2. The entire existing stormwater pipe should be assessed for functionality.
3. The applicant will be required to install sidewalks along the length of Beverly Heights Avenue or pay a fee in-lieu as required in UDO Section 243.
4. The applicant must resolve concerns from the Public Works Department regarding access onto Beverly Heights Drive.
5. Replace deciduous trees with all evergreen trees so that there is more continual buffering of the sound year round on the northeastern quadrant of the site where most of the landscape buffer is occurring.
6. Implement all of the traffic recommendations in the Traffic Impact Analysis.

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

1. A NCDOT driveway permit and stormwater encroachment agreement shall be obtained prior to final zoning approval.

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

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

1. Maintain and retain all existing vegetation on the property as it is with the exception of an allowance to maintain a sight line across the top of the trees towards their view of the Town of Boone.

2. Occupancy of the vacation rental is restricted to no more than 8 adults.

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

1. The applicant is required to work with the Town of Boone Public Works Department to redesign the site access to minimize the safety concerns listed in the Special Use Permit Staff Report.
2. The applicant is required to work with the Town of Boone Fire Department to address all concerns listed in the Special Use Permit Staff Report.
3. The applicant is required to address all recommendations as listed in the Traffic Impact Analysis prepared by JM Teague Engineering, PLLC for this development (received date of June 2, 2015).
4. *If vesting is extended*: The project is approved with a 3 year vesting period.
5. The applicant is to work with and cooperate with Town staff to provide for a safe and healthy intersection for vehicles and pedestrians at the entrance to the development.
6. The applicant will work with and cooperate with Town staff to submit a revised traffic impact analysis to the Town's satisfaction.

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

02-04-2016 **20150792**, David Linzey is requesting a Special Use Permit to for properties located at 1600 & 1710 NC HWY 105 as well as the vacant intervening parcels identified as Watauga County PINs: 2900-83-7350-000, 2900-83-8357-000, and 2900-83-9229-000 for the Animal Emergency Clinic Site Expansion. The applicant is requesting to construct a new building between 1600 & 1710 NC HWY 105 for Use 11.02 Veterinary Office/Hospital with Outdoor Kennels and to be allowed to use the buildings at 1600 and 1710 NC HWY 105 for any of the following uses: 11.01 Kennel, 11.02 Veterinary Office/Hospital with Outdoor Kennels, 11.03 Veterinary Office/Hospital without Outdoor Kennels, 11.04 Financial Institution ≤ 5,000 ft², 11.12 Personal Service Establishment open to the public during 10 pm and 6 am, 11.13 Other Personal Service Establishments; 11.14 Retail Store up to 5,000 ft², 11.18 Business or Professional Office open to the public during 10 pm and 6 am, 11.19 Other Business or Professional Office, 11.21 Medical Office Category 2, 11.22 Medical Office Category 3, 11.23 Medical Office Category 4, 11.34 Seasonal Retail Activities and Amusements, 12.10 Recreation Facility Category 1, 14.01 Microbrewery, 14.02 Brewpub, 14.03 Brewery/Distillery, 14.06 Winery. Approved subject to the standard conditions plus:

1. The applicant shall incorporate turnarounds within the vehicular surface areas to satisfy the requirements of the Town of Boone Fire Department.
2. The chain link fence surrounding the dog run and dog park must be earth tone in color.

- 01-05-2017** **20160825**, Raken Shah of Milan Real Estate, LLC is requesting a Special Use Permit for a hotel (TownePlace Suites by Marriott, Use 3.08), to be located at 2240 Blowing Rock Road on property owned by Waltson Assoc. Pursuant to UDO Subsection 6.02.02 this project has triggered compliance with transitional zones. Approved subject to the standard conditions.
- 06-07-2018** **201452-042618**, Jason Gaston, P.E., with Valor Engineering has applied for a Special Use Permit for a mixed-use development on property owned by Orange Avenue Auto Sales, Inc. located at 275 East King Street (Watauga County PIN 2910-18-9207-000). The applicant has requested Use 1.15 Multi-Family in Mixed Use (42 1-bedroom apartments) and 4,924 square feet of commercial uses containing Use 11.07 Other Restaurants ≤ 2,500 ft², Use 11.13 Other Personal Service Establishments and Use 11.14 Retail Store up to 5,000 ft² and Use 11.18 Other Business or Professional Office. Approved subject to the standard conditions.
- 02-07-2019** **202057-103018**, Seth Norris, with Perkinsville Baptist Church, Inc. has applied for a Special Use Permit to expand the existing Perkinsville Baptist Church facilities (Use 8.02) on property owned by Perkinsville Baptist Church, Inc., located at 274 Perkinsville Drive (Watauga County PINs 2911-50-4180-000, 2910-59-7823-000, 2911-50-4269-000, 2911-50-8107-000 and 2911-50-7310-000). The proposed expansion includes new facilities, expanded parking, and related site improvements. The map provided above shows the location of the subject parcel (selected in blue). A Special Use Permit modification is required because the development triggered a 125' transitional zone required with Use 8.02, Religious Assembly-Category 2. Approved subject to the standard conditions plus:
1. The Zaitzows, the church, and the Planning Staff will come to an agreement regarding the aesthetics and location of the fence.
 2. The schedule of phasing shall be consistent with the plan submitted.
 3. There shall be a total vesting of 5 years for the project.
- 202139-120418**, Reggie Perry, with Reggie Perry, Inc. has applied for a Special Use Permit for an additional building to expand and Vehicle Sales and Service (Use 11.29) project on property owned by Reggie Perry, Inc., located at 243 Daniel Boone Drive (Watauga County PIN 2910-58-9708-000). A Special Use Permit is required because the development triggered a 75' transitional zone required with Use 11.29, Vehicle Sales and Service. Approved subject to the standard conditions.
- 08-01-2019** **202801-062619**, Andrew Mason of Lost Province Brewing Company, LLC has submitted a Zoning Permit Application for a Special Use Permit Modification to allow Use 14.06 Winery at 289 Daniel Boone Drive (Watauga County PIN: 2910-68-1675-000). This development is subject to a 125' transitional zone. Approved subject to the standard conditions plus:
1. Outdoor seating is permitted only under the portico of the building as the portico existed as of August 1, 2019.
 2. Overflow parking shall be made available for tasting room customers per the representations made by the property owner at the hearing, including but not limited

to the 4 spaces adjacent to the west side of the nearby building on the property known as 311 Daniel Boone Drive.

3. Service and delivery vehicles serving applicant's business may not park on Daniel Boone Drive at any time.
4. The applicant shall encourage employees and customers to take a right-hand turn out of the business (directly to the light at 421 and Daniel Boone Drive) by means including, but not necessarily limited to, social media, its website, signage posted inside and/or outside the tasting room, and signage posted at or along the parking lot drive.
5. The tasting room shall operate no later than 10:00pm.
6. There shall be no outdoor live music, nor other artificial noise emanating from outside the building.
7. There shall be no more than twenty (20) seats for tasting room customers, including both inside and outside seating.
8. There shall be no outdoor storage.
9. The tasting room shall not be operated at such times as the Studio K dance studio is operating.

10-03-2019 **Z02883-071919**, Jason Gaston, P.E., with The Forum on East King Street, LLC has applied for a Special Use Permit Modification to add an additional use, Medical Office Category 4, Use 11.25. The Forum on East King, LLC is located at 275 East King Street (Watauga County PIN 2910-18-9207-000). Approved subject to the standards conditions.

01-13-2020 **Z02974-08919**, Robert High, with Robert High Development, Inc. has applied for a Special Use Permit to construct a multi-story building with interior access for a climate controlled self-storage facility (Use 16.01) on property owned by Sky Country, LLC., located near the intersection of E. King Street and New Market Boulevard (Watauga County PINs 2910-48-1866-000, 2910-49-1025-000, and 2910-49-2133-000). The proposed project also includes a proposed connector road between Chestnut Drive and New Market Boulevard. Approved subject to the standard conditions plus:

1. The applicant is to implement the recommendations made by the traffic engineer, namely: design connector road and intersection according to Town of Boone standards and ensure adequate sight distance free of any obstructions along line of sight on New Market Boulevard at New Market Centre/Proposed Connector Road. Design intersection according to Town of Boone standards on Chestnut Drive at the Proposed Connector Road. Design intersection according to Town of Boone standards on the Proposed Connector Road at the Western Site Access. Design site access and connector road according to Town of Boone standards on the Proposed Connector Road at the Eastern Site Access. Provide pedestrian and bicycle accommodations by installing a new sidewalk along the frontage of the site along Chestnut Drive and the Proposed Connector Road and a signed bike route and sharrows along the Proposed Connector Road from Chestnut Drive to New Market Boulevard.
2. The applicant is to implement the recommendations made by the engineer who inspected the existing stormwater infrastructure, namely: remove the debris from

Drop Inlet/Junction Box #2 and extend the inlet of Drop Inlet/Junction Box #3 to the ground surface and provide a manhole ring and cover for access.

- 05-06-021** **Z04460-012021**, Jason Gaston with Valor Enterprises, LLC has requested a Special Use Permit to construct a new multi-family development on a previously undeveloped lot accessed off East King Street/US Highway 421. The development is for Use 1.12 Multi-family Dwelling (31-100 bedrooms). The development is proposed to include 2 buildings with a total of 24 1-bedroom apartments and 24 2-bedroom apartments for a total of 72 bedrooms. The parcel is currently owned by Truist Bank. The development is permitted by right subject to a 200' transitional zone that has been triggered by the R-A zoning of Hampton Estates development (to the South) and the conditional district R-2 zoning of an undeveloped parcel (to the South and East). Approved subject to the standards conditions plus:
1. The fence must be maintained in the future. Trees must also be maintained so that they grow and remain healthy.
 2. Provide accessible trash cans or waste receptacles along the trail for litter and pet waste.
 3. Explore options for trees on the south slope, other than pines.
- 04-07-2022** **Z04413-121720**, Randy Dixon with SLD II, LLC has requested a Special Use Permit to expand the Skyline Terrace mixed-use development with a two-phase construction of four new buildings. The expansion extends west and south from the existing development and will front Perkinsville Drive as well as Clawson Street. The expansion takes place on nine lots (parcels for expansion are highlighted in green as shown on the map above) and consists of five buildings, 2 three single-use multi-family residential buildings and two mixed-use multi-family buildings with commercial areas at the street level. Approved subject to the standards conditions plus:
1. The applicant will increase the landscape buffer by planting trees every 20 feet instead of every 30 feet.
 2. The applicant will meet with the Town and NCDOT to discuss any possible measures that may be taken to mitigate the level of service and poor operating conditions at the affected intersections identified in the Traffic Impact Analysis provided as part of the application.
 3. Business tenants of the development may not be open for business with the public between the hours of midnight and 6 am.
- 12-01-2022** **Z05996-081822**, Doug Benoit with Arista Development, LLC has submitted a Special Use Permit application for Use 11.34 Gas Station on property owned by John W. Hodges III and Sky Country LLC located at the corner of East King Street and Chestnut Street (Watauga County PINs 2910-48-0637-000 and 2910-48-1866-000 (portion)). The proposed development includes a convenience store/retail building plus a canopy with 12 fueling positions. Approved subject to the standard conditions plus:

1. The applicant shall work with the Town of Boone regarding landscaping on the corner of Chestnut Drive and Norman Cheek Boulevard to help maximize noise reduction to the extent recommended by the Town.

03-02-2023 **Z06150-101222**, Four Seasons Apartments Inc., has submitted a Special Use Permit application to change the use of the dwelling unit at 503 Blowing Rock Road from Use 1.01 Single-Family Dwelling to Use 3.06 Vacation Rental. This dwelling is located on the same parcel as the Four Seasons Apartments multi-family development. Approved subject to the standard conditions plus:

1. If the existing tree buffer along the north and east, which the applicant/property owner does not control, falls or gets cut down, the property owner will install an evergreen shrubbery buffer to the extent that their property allows. This should be installed in consultation with Town staff regarding an ample noise reducing buffer.

04-06-2023 **Z0648-021723**, Nicole Rezvani has submitted a Special Use Permit application to change the use of the dwelling unit at 221 Jefferson Road from Use 1.01 Single-Family Dwelling to Use 3.06 Vacation Rental. Approved subject to the standard conditions plus:

1. If there are over any period of time two or more accidents involving tenants backing out from the property, or if there are two or more incidents (such as near-accidents) that result in reports/complaints being made to the Town or to law enforcement involving tenants backing out from the property, the property owner agrees that, in consultation with town staff, the owner will establish a means or method to avoid such accidents or incidents in the future. Such means or methods might include, by way of example only, the creation of an additional driveway area on the property to allow a three-point turn area so that vehicles may exist the property in a forward-facing, rather than backing, position.

05-04-2023 **Z06382-010323**, Elizabeth Phillips of E Properties LLC has submitted a Special Use Permit application to change the use of the dwelling unit at 248 Ivy Drive from Use 1.01 Single-Family Dwelling to Use 3.06 Vacation Rental. Approved subject to the standard conditions plus conditions:

1. The applicant will work with Town staff to ensure the proper species and location of landscaping is installed to minimize noise and lighting effects on the neighboring R1 property that triggered the transitional zone.

1-04-2024 **A23-0432**, Heather Joyner of Appalachian OZ Fund LLC has submitted a Special Use Permit application to change the use of 2 of the 8 apartments in the structure at 197 Oak Street from Use 1.11 Multi-Family Dwelling (up to 30 bedrooms) to Use 3.06 Vacation Rental. Approved subject to the standard conditions plus:

1. The applicant shall add plantings to the buffers for mitigation purposes if required by the Town staff.

A23-0532, AppSouth, LLC has submitted a Special Use Permit application to change the use of both dwelling units of the duplex at 211 Misty Lane to Use 3.06 Vacation Rental. Approved subject to the standard conditions plus:

1. The applicant shall maintain the Misty Lane identification signage.
2. The applicant shall install a Dead End Road sign at the entrance of Misty Lane.
3. The applicant shall notify potential vacation guests of the character and condition of Misty Lane as it relates to slope, width, and curves.
4. The applicant shall make any buffer improvements recommended by the Town's environmental specialist in regards to mitigating negative effects of noise and light.

Town Council

05-02-2011 **20110133**, Watauga County has filed a Zoning Map Amendment Petition for Conditional District Zoning for property located 300 Go Pioneers Drive (2910-88-3456-000) to modify the existing site specific development plan for the Conditional District O/I Office Institutional zoning to the existing High School site to include the addition of an Alpine Tower (to be located to the south of the soccer field) and an Indoor Training Facility (located to the north of the softball field). In addition, the proposed modification triggers the requirements for Transitional Zones in accordance with Unified Development Ordinance Section 198. Approved subject to the standard conditions plus:

1. All commitments in the letter bearing the received date of April 19, 2011 from John Turner shall be adhered to. (See Exhibit A)
2. The HVAC/mechanical equipment is to be oriented, as much as practical, away from the existing R1 neighbors to the NE of the indoor training facility.

08-01-2011 **20110320**, Mountaineer Crossing LLC has filed a Zoning Map Amendment Petition for Conditional District Zoning for property owned by the Estate of Helen Yount (Watauga County PINs: 2900-91-4847-000 and 2900-92-5257-000) and Mountaineer Crossing LLC (140 High School Drive. Watauga County PIN: 2900-92-2628-000). This request is that the property be placed in Conditional District B3 General Business, Conditional District R-3 Multiple-Family and Conditional District R-A Residential Agriculture. The site specific plan for the property indicates a single story commercial building (Use 2.0) and a four story mixed use-building in which the ground floor contains commercial uses and the upper floors contains multi-family (Combination Use 29.1000) within in the Conditional District B-3 General Business portion of the property. The project also contains two multi-family apartments (Use 1.330), one 3-story and one 4-story, within the Conditional District R-3 Multiple-Family portion of the project. The remaining undeveloped property has been requested to be placed in Conditional District R-A Residential Agriculture for passive recreation for the development along with a conservation easement. Portions of the property are located within the Viewshed. In addition, the proposed development triggers the requirements for Transitional Zones in accordance with Town of Boone Unified Development Ordinance Section 198. Approved subject to the standard conditions plus:

1. Based upon comments from the Fire Department, efforts shall be made to reduce the slope of the driveway while meeting all requirements of the UDO so long as the location of the driveway does not change.

2. That the Conditional District Map Amendment approval be conditioned on the zoning and annexation of the property outside corporate limits.

- 11-07-2011** **20110573**, Watauga County has filed a Zoning Map Amendment Petition for Conditional District Zoning for property located 300 Go Pioneers Drive (2910-88-3456-000). to modify the existing site specific development plan for the Conditional District O/I Office Institutional zoning to the existing High School site to include the addition of a wind turbine, which is proposed to be located between the football and soccer fields which also triggers the requirements for Transitional Zones in accordance with UDO Section 198. Approved subject to the standard conditions.
- 05-07-2012** **20120200**, Watauga County has filed a Zoning Map Amendment Petition for Conditional District Zoning for 300 Go Pioneers Drive (Watauga County PIN: 2910-88-3456-000) to modify the existing site specific development plan for the Conditional District O/I Office Institutional zoning to the existing Watauga High School site to include the addition of a 20 foot x 40 foot picnic shelter (to be located next to the tennis courts). In addition, the modification triggers the requirements for transitional zones in accordance with UDO Section 198. Approved subject to the standard conditions.
- 08-06-2012** **2012040**, Wayne Clawson, Joy Clawson, Dana Clawson, & Milton Greene (on behalf of Anna Greene) have filed a Conditional District Map amendment to rezone approximately 22.29 acres of property (which includes the Clawson Mobile Home Park) located at and near 170 Clawson Street, 140 and 141 Marich Lane (Watauga County PINs: 2911610160000, 2911603647000, 2911602100000, 2911608808000). The request is to rezone all/portions of the properties from R-3 Multiple Family Residential and MH Manufacture Home Park to Conditional District R-3 Multiple Family with a site specific plan for a phased project for Use 1.330 Multi-family apartments (10 buildings with 266 units containing 546 bedrooms) with an extended vesting of five years. **Denied**
- 12-10-2012** **20120683** United Developers, Conditional District Map Amendment, at and near 170 Clawson Street, Watauga Co. PINs: 2911610160000, 2911603647000, 2911602100-000, request to rezone all/portions of the properties owned by Wayne & Dana Clawson from R-3 Multiple Family Residential & MH Manufacture Home Park to Conditional District R-3 Multiple Family, for 72 apartments, containing 180 bedrooms. Applicants are requesting a 3 year vesting. Approved subject to the standard conditions plus:
1. Approval is subject to the following:
 - a. Zoning Map Amendment Petition Conditional District Zoning, dated received 11-13-2012 "Watauga Green-Preliminary Development Plans for Conditional Use Zoning Application" Sheets 1-4 prepared by Moore Rile Architects PA, dated received 11-13-2012 (portion of the applicants first submittal)
 - b. "Mitigation of Development in the Transitional Zone" narrative, prepared by Mercer Design Group, dated received 11-21-2012
 - c. "Transportation Impact Analysis (TIA) Prepared for United Developers, Inc.- Watauga Green" prepared by Davenport Transportation Consulting, dated received 11-26-2012
 - d. "Watauga Green-Preliminary Development Plans for Conditional Use Zoning Application" REVISED site plans, prepared by Mercer Design Group, dated received 11-27-2012
 - e. "Responses to comments on staff report for Watauga Green, Boone, NC" letter, prepared by Marvin Mercer, P.E, dated received 11-27-2012

- f. "Re: Affordable Housing" letter, prepared by James Smith, dated received 11-27-2012
2. The applicant shall work with the Town of Boone to ensure that all recommendations from the submitted "Transportation Impact Analysis, Prepared for United Developers, Inc.: Watauga Green, Boone, NC" are completed prior to the issuance of a certificate of occupancy.
3. The vesting for the project be given 3 years.
4. The applicant shall install sidewalks along Clawson Street to the intersection of Perkinsville Drive.
5. All concerns as listed in the "Review Comments" in Case 20120683 Watauga Green/United Developers Conditional District Map Amendment Staff Report will be satisfied.

05-13-2013

United Developers have filed a Conditional District map modification for property owned by Wayne Clawson and Dana Clawson located at and near 170 Clawson Street (Watauga County PINs: 2911610160000, 2911603647000, 2911602100000). The request is to modify the parking for the approved Watauga Green multi-family project. Approved subject to the standard conditions plus:

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

06-02-2014

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

1. Along Blowing Rock Road the area between the road and the building shall consist of curb and gutter, five-foot sidewalks next to the curb and gutter and pavers between sidewalk and building which also includes landscape area. Landscaping will be coordinated with planning staff.
2. The addition of educational signage describing improvements to Boone Creek along Faculty Street providing it does not affect the flood study.
3. The bike lane details provided by the Department of Transportation for Highway 321.

4. There will be no balconies located on the Faculty Street side of the Faculty Street building.

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

1. Vesting is extended for five years.

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

1. The Town of Boone will be given the necessary easements for public sidewalks which leave existing street right-of-way.
2. All driveway permits shall be obtained prior to the issuance of a Zoning Permit.
3. Applicant demonstrate adequate parking for the development.
4. Applicant build the courtyard as demonstrated on the drawing submitted by Bill Dixon on February 9, 2015, at the Planning Commission meeting.
5. The applicant provides an easement for an eight-foot minimum greenway along Boone Creek through the development property.

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

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

1. The applicant is required to work with the Public Works Department to reconfigure the meter system needed for the development.
2. A minimum of six commercial parking spaces is required and no minimum is set for the residential parking spaces.
3. Courtyard as designed and presented to the Planning Commission on January 11, 2016, contingent on NCDOT approval.
4. The applicant will provide the Black powdered coated fence as proposed by the applicant to the Planning Commission on January 11, 2016, because the proposed project will result in safer traffic patterns and the redevelopment of the currently outdated unattractive site.
5. The applicant will provide additional lighting to the side near the Parthenon and other commercial properties.

- 06-06-2016** **20160136**, Jeff Githens with McKinley Boone, LLC has filed a Zoning Map Amendment Petition for a planned development consisting of a mixed-use building containing both residential and commercial uses, including a parking deck for properties located at 178 South Water Street, 190 and 208 Poplar Grove Road. The residential portion will contain 119 dwelling units with 380 bedrooms; with the following uses proposed to be allowed for the commercial portion of the building :11.06 Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am, 11.07 Other Restaurants ≤ 2,500 ft², 11.08 Restaurant > 2,500 ft² open to the public during 10 pm – 6 am, 11.09 Other Restaurants > 2,500 ft², 11.12 Personal Service Establishment open to the public during 10 pm – 6 am, 11.13 Other Personal Service Establishments, 11.14 Retail Store up to 5,000 ft², 11.15 Retail Store more than 5,000 but less than 25,000 ft², 11.18 Business or Profession Office open to the public during 10 pm – 6 am, 11.19 Other Business or Professional Office, 11.23 Medical Office, Category 4, 12.10 Recreation Facility, Category 1, and 14.02 Brewpub.
Denied
- 11-28-2016** **20160566**, Hunter Coffey on behalf of Watauga County Farm Bureau Insurance has filed a Planning Permit Application for a Conditional District Zoning Map Amendment to rezone 135 and 169 State Farm Road from B3 General Business and R1 Single-Family Residential to Conditional District B3 General Business subject a site specific development plan for Use 11.19 Other Business or Professional Office. Approved subject to the standard conditions plus:
1. The applicant shall install a hedge row of evergreens along the eastern property line. This buffer shall be 10' to 12' tall at time of installation.
 2. The applicant shall allow access to the Miller's lower driveway from the Farm Bureau parking lot as shown on the "as built" site plan.
- 01-23-2017** **20160796**, Robert Flannigan has filed a Zoning Map Amendment Petition for a planned development consisting of a mixed-use building containing both residential (64 bedrooms), commercial uses and a parking garage along with a separate a townhouse building for properties located at and near 302 W. King Street (Watauga County PINs: 2900988588000 and 2900988402000). The building will contain 60dwelling units with 60 bedrooms; with the following uses proposed to be allowed for the commercial portion of the building: Use 11.21 Medical Office Category 2. The Townhouse building will contain 2 dwelling units with 4 bedrooms. Approved subject to the standard conditions plus:
1. No more than two unrelated persons are allowed to live in the townhouse portion of the proposed development.
 2. The applicant will work with the Town to implement the appropriate sidewalk material in accordance with the downtown sidewalk plans.
 3. The applicant be provided flexibility to work with the Town and neighbors related to fencing locations and type.
 4. The applicant will fund traffic calming speed humps along Wallace Circle as determined appropriate by Public Works prior to the CO being issued.
 5. The applicant shall construct a guard rail along Campus Ridge Drive in accordance with the Traffic Analysis Report.
 6. The applicant will agree that they will petition to join the MDS (Municipal Service District) to be effective two (2) years following the year in which the CO is issued.

- 01-28-2019** **PL02128-112918**, Martha Rice with MET Holdings, LLC has filed a Zoning Permit Application to modify an existing Conditional District Zoning Map Amendment approval granted for property located at 475/485 Blowing Rock Road in 2015. The original approval allowed the rezoning of the properties from B2 Neighborhood Business to B3 General Business with a site-specific development plan for a mixed-use building consisting of 24 efficiency apartments (Use 1.14 Multi-Family Dwelling in Mixed Use (up to 30 bedrooms) and 2,658 square feet of retail (Use 11.16 Retail Store up to 5,000 ft²). At this time, MET Holdings, LLC is requesting to modify the original approval to also allow the following uses within the commercial portion of the development: Use 11.15, Other Personal Service Establishment and Use 11.21, Other Business or Professional Office. Approved subject to the standard conditions.
- 09-19-2019** **PL02654-060619**, Dan Norman with North Star Villages, LLC is requesting Conditional District Zoning Map Amendment approval to rezone properties located at the corner of East King Street and Hillside Drive (Watauga County PINs: 2910-18-8163-000, 2910-18-9036-000, 2910-28-0036-000, 2910-28-1022-000, 2910-27-1827-000, 2910-18-9020-000) from R3 Multi-family and B3 General Business to Conditional District B3. Approved subject to Approved subject to the following conditions:
1. The driveway on Hillside Drive shall be a right-in only with no exit onto Hillside Drive.
 2. The applicant shall place on the hotel property a “No Thru Street” sign or sign with similar language adjacent to Hillside Drive.
 3. The applicant shall increase on-site stormwater detention storage by 30% over what is required by the Unified Development Ordinance.
 4. The applicant shall extend the fence in the landscape buffer along the southeast property to Hillside Drive.
 5. The applicant shall provide on-site parking enforcement to ensure that parking is used for hotel staff and guests only.
 6. The applicant shall ensure that trash pick-up occurs after 8 a.m.
 7. There shall be no operation of the rooftop spa from the hours of 10 p.m. to 6 a.m. to coincide with the Town of Boone’s Noise Control regulations set forth in Town Code Chapter 93.
 8. The applicant shall make arrangements to accommodate overflow parking during peak periods as needed in order to prevent guest and staff parking on adjacent roads or property or otherwise having spill-over effects on the surrounding neighborhood.
 9. The applicant shall be limited to 105 rooms but shall provide the same amount of parking as shown on the approved site-specific development plan.
 10. The hotel shall provide every guest with a map which would give directions to areas that do not utilize any of the neighborhood roads located to the south of the project.
- 08-18-2020** **PL03979-061620**, Maran Sigmon with Watauga Medical Center Inc. has requested a Conditional District Zoning Map Amendment to rezone the Watauga Medical Center campus (Watauga County PINs: 2910-71-6688-000, 2910-71-7264-000, 2910-70-6917-

000, and a portion of 2910-70-7453-000) from O/I Office Institutional/B3 General Business to Conditional District O/I Office Institutional with a phased site specific development plan for Use 11.26 Hospital. Approved subject to Approved subject to the following conditions:

1. 5-Year Vesting is granted for the project.
2. Applicant agrees as a condition of approval of its conditional district application that it will, at its expense, design and construct a greenway along the length of the subject property that adjoins Deerfield Road, ending at a northerly terminus at the intersection of Deerfield Road and State Farm Road, and further agrees as follows:
 - A. The greenway shall consist of: a 10-foot asphalt-paved multi-modal path, retaining walls as necessary, a minimum of five (5) foot separation between the asphalt path and the pavement of Deerfield Road, and areas for Town-installed signage per (i) below (collectively, "greenway"). The greenway shall be subject to approval by the Land Use Administrator and designed and constructed according to Town standards.
 - i. The applicant shall grant to the Town easements for 3' x 5' areas selected by the Town for installation of Town signs. The number and placement of such signs shall be determined by the Town in its sole discretion, giving reasonable regard for elements of applicant's development.
 - B. The applicant shall grant to the Town an easement for such of the greenway as is not located in the Town's right of way. (By way of clarification, this would be an easement area up to 18-foot wide where a sign easement was located and where none of the greenway was located in the Town's right of way (if such areas exist).) The easement shall be non-exclusive to the extent that applicant shall retain the right to use the easement area in ways that are not inconsistent with its use as a greenway, such uses to include undergrounded utilities, landscaping, and signage.
 - C. By way of further clarification, this greenway shall replace sidewalk in that section along Deerfield Road where sidewalk already exists, except insofar as sidewalk connectors may need to be retained to serve pedestrian crossings at traffic signals.
 - D. The improvements located in the greenway (including retaining walls as well as the paved path) shall be dedicated to the Town for public use subject to the 12-month warranty and other requirements of Town Code sections 96.045 – 96.047, and the Town shall accept maintenance of said improvements. The Town will only be responsible for maintenance in the easement area.

10-15-2020 **PL03547-020420**, WF&G Development, LLC has submitted a Conditional District Zoning Map Amendment for Kensington Gate at 140, 155, 180 & 189 Gateway Drive to be rezoned from O/I Office Institutional to Conditional District R5 55+ Housing Residential District with a site specific development plan for Use 1.17 Adult Living Community which would allow the construction of a third residential building within the development. Approved subject to the standard conditions.

02-18-2021 **PL04401-120920**, Olee and Tonje Olsen have requested a Conditional District Zoning Map Amendment to rezone the Lovill House Inn (Watauga County PINs: 2901-40-7729-000, 2901-41-9326-000, and 2901-50-0737-000) from Conditional Use R3 Multiple-Family Residential to Conditional District B3 General Business with a site specific development

plan for Use 3.05 Bed & Breakfast Category 2; Use 2.07 Boarding House; and Use 12.06 Event Venue Category 2. Approved subject to the standard conditions plus:

1. The applicant will utilize the existing structures on the site with the exception that the barn may be renovated/reconstructed with a maximum building footprint of 1,800 square feet and second story of 1,200 square feet.
2. The development is limited to 12 rooms. Of the 11 rooms for rent, the boarding house use would be limited to 9 rooms at any given time. These rooms are to be located in the existing structures on the lot. The room and kitchen allocations for the development are as follows:
 - a. Lovill House Inn – 6 rooms and 1 kitchen
 - b. Spring House – 1 room and no kitchen
 - c. Barn – 4 rooms; 1 catering kitchen and half bath(s) for the event venue
 - d. Owner's Cottage – 1 room and 1 kitchen
3. Events will be limited to 75 attendees.
4. A room rented for up to 2 weeks (14 days) will be classified as a bed and breakfast use and a room rented for longer than that (15 days+) will be classified as a boarding house use.

- 06-17-2021** **PL04630-040921**, Brian Williams with Blue Ridge Tourist Court, LLC has requested a Conditional District Zoning Map Amendment to rezone the property located at 574 Old East King Street (Watauga County PIN: 2910-89-5295-000) from B2 Neighborhood Business to Conditional District B3 General Business with a site-specific development plan for Use 3.07 (Motel). Approved subject to the standard conditions.
- 04-23-2023** **PL06330-120922**, Mansa Hospitality Boone, LLC has submitted a Conditional District Zoning Map Amendment application to rezone four parcels of property located at and near the intersection of US 421 South and Bub Teems Road (Watauga County PINs: 2920-09-6331-000, 2920-09-7251-000, 2920-09-6177-000 and 2920-09-7187-000) from B3 General Business and RA Residential/Agricultural to B3 General Business with a site-specific plan for a 104-room hotel (Use 3.10 – Hotel Large). **Denied**
- 12-04-2023** **A23-0149**, A&R Mountain Properties, LLC has requested a Conditional District Zoning Map Amendment for property located on Faculty Street (Watauga County PIN: 2910-14-4592-000) to construct 12 townhomes with a site-specific development plan for Use 15.03 (Townhouse). **Denied**

Planning Board Report/Recommendations

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

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

Note 1

Vote 2: The Planning Commission recommends ☐approval OR ☐denial of Ordinance #A24-0070 within Exhibit A and ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

Town Council Adoption – Adoption of Ordinance

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

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

Note 1

Vote 2: The Town Council ☐ **approves** OR ☐ **denies** Ordinance #A24-0070 to the Town's zoning ordinance and believes ☐ **approval** OR ☐ **denial** is reasonable and in the public interest because:

Note 2

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

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

Ordinance #A24-0070

ORDINANCE # A24-0070**AN ORDINANCE TO REVISE UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, the Boone Town Council desires adapt the current transitional zone process from a board approval to administrative standards; and

WHEREAS, the Boone Town Council wishes to create, revise, and strengthen neighborhood protection provisions within the Unified Development Ordinance (UDO) to ensure compatibility between development intensities;

WHEREAS, the Boone Town Council held a duly-noticed public hearing on April 22, 2024 with respect to this ordinance; and

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

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

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

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

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

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

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

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

Adopted this the 22nd day of May, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Nicole Harmon-Church, Town Clerk

Removal of References to "Transitional Zones"

Article 6 Quasi-Judicial Hearings

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6.01 Provisions Applicable to All Quasi-Judicial Hearings

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6.01.04 Notice of Hearing

A. The Administrator shall give notice of any hearing of the board as follows:

1. **Contents of Notice:** Every notice shall state the date, time, and place of hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.
2. **Mailed Notice:** Notice shall be mail by depositing in the mail at least 10 days, but not more than twenty-five (25) days, prior to the date of the hearing to:
 - a. The person or entity whose appeal, application, or request is the subject of the hearing;
 - b. The owner of the property that is the subject of the hearing if the owner did not initiate the hearing;
 - c. The owners of all parcels of land abutting the parcel of land that is the subject of the hearing;
 - d. The owners of real property located within 150 feet of the subject lot(s);
 - ~~e. The owners of any real property in a protected district, whose property boundary has triggered application of transitional zone standards; and~~
 - f.e. Any other persons who have submitted a written request for notice and intervening parties so long as the request for notice or intervention request have been filed prior to notification being mailed.
3. **Posted Notice:** At least ten (10) days, but not more than twenty-five (25) days prior to the date of the hearing, the Administrator shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The signs to be posted shall include the date, time and location of the hearing and shall direct the public to detailed information about the hearing.

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6.02 Board of Board of Adjustment Consideration of Special Use Permits, ~~Transitional Zones~~ and Major Subdivision Preliminary Plat Applications

6.02.01 An applicant for a special use permit or major subdivision preliminary plat approval must produce substantial competent and credible evidence demonstrating each of the following:

A. The application is complete;

B. If completed as proposed, the development or subdivision:

1. Will comply with the requirements of this Ordinance;
2. Will not materially endanger the public health or safety;
3. Will not substantially injure the value of adjoining or abutting property;
4. Will be in harmony with the area in which it is to be located;
5. Will be in general conformity with the Comprehensive Plan and all other relevant plans officially adopted by the Town; and

~~6. In cases involving transitional zones, meets the standards of Subsection 6.02.02.~~

6.02.02 Transitional Zones

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

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

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

- ~~1. For designated development in an adjacent zone, the transitional zone shall be measured from the closest point of the area used or disturbed for the development to the boundary of any protected district as measured from all points along that boundary, the nearest point controlling applicability of this Subsection.~~
- ~~2. For development subject to transitional zones within the protected districts, the transitional zone shall be measured from the closest point of the area used or disturbed for the development to the boundary of any protected lot, the nearest point controlling applicability of this Subsection.~~

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

- ~~1. T50: transitional zone equal to fifty feet (50')~~
- ~~2. T75: transitional zone equal to seventy-five feet (75')~~

- 3. ~~T125: transitional zone equal to 125 feet~~
- 4. ~~T200: transitional zone equal to 200 feet~~
- 5. ~~T300: transitional zone equal to 300 feet~~

~~E. Whenever a development approval is sought to authorize development within a transitional zone, and any area used or disturbed for the development will be located within the pertinent transitional zone, a special-use permit is required. If any portion of the area used or disturbed for the development falls within the transitional zone the standards of this Section shall apply to the entire development. The Board may deny the application if the requirements of this Section are not met, or it may place reasonable conditions on the development, in addition to such conditions as may otherwise be reasonably imposed, specifically designed to mitigate the potential impacts identified herein.~~

- 1. ~~Exemption: Development within an approved Industrial Park shall not be subject to the requirements of Subsection 6.02.02.~~

~~F. In addition to all other requirements of this ordinance which pertain to the proposed development, including but not limited to those relating to the location and placement of structures, the type and quantity of landscape buffering, the type and location of lighting, and the size of setbacks, in order to meet the requirements of this Section, the applicant must produce substantial competent and credible evidence demonstrating the following:~~

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

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

6.02.03 Board of Adjustment Action on Special Use Permits and Major Subdivision Preliminary Plat Applications

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B. Conditions: Even when a development or subdivision meets the criteria above, the Board may still impose conditions on an approval.

1. All conditions shall be reasonable and appropriate and shall be related to the predicted impacts of the development.
2. Unless the Board explicitly orders otherwise, every approval is conditioned upon the development being completed in accordance with the plans submitted by the applicant, the commitments and representations concerning the proposed development made by the applicant and representatives at the public hearing, and final conformity with all requirements of the UDO.
3. The Board may attach to a special use permit a condition limiting the permit to a specified duration and in appropriate situations may provide additional process including another public hearing after the special use has begun to evaluate unanticipated impacts, provided such a condition shall not be employed to terminate a special use for which substantial construction or reconstruction has occurred.
4. Without limiting the foregoing, conditions should normally require measures to address impacts on the:
 - a. public health or safety, and
 - b. values of adjoining or abutting properties, and
 - c. harmony with the area in which it is located, and
 - ~~d. in the case of Transitional Zones, noise, light, and other predictable negative effects such as visual, traffic and health.~~
5. Conditions imposed under this section shall not include requirements which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by a municipality, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b); driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307; or other unauthorized limitations on the development or use of land.

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Article 7 Nonconformities

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7.03 Nonconforming Use

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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-a use~~ that ~~did not require~~ ~~oes not trigger transitional zone standards~~ a special use permit or conditional district zoning map amendment to one that does ~~trigger transitional zone standards~~ may only be authorized pursuant to approval of the required ~~a~~ special use permit or a ~~C~~conditional ~~D~~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 except as required in Section 7.05 herein.
- D. All changes of use that involve new development are governed by Section 7.05.

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Article 9 Amendments**9.09 Conditional Districts (CD)**

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- 9.09.05** ~~Transitional Zones. Any proposed CD development within a transitional zone is subject to the standards and requirements of 6.02.02 herein.~~

Staff Note: Renumber rest of section based upon deletion.

Article 14 Zoning District Regulations

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14.02 Use Information

- 14.02.01 Use Table Guidance.** Each zoning district enumerated in Part II of this article contains a list of uses permissible in the district. Review Appendix B to view comparative tables that list all uses allowed within the zoning districts enumerated in Section 14.01.

- A. **Permitted (P):** A "P" in a Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is allowed by right in the respective district unless the use is subject to a transitional zone (see 6.02.02). Such uses are subject to all applicable requirements of this Ordinance but do not have additional requirements which are specific to the use in accordance with this Article.
- B. **Permitted Subject to Limitations (L):** An "L" in a Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is allowed by right in the respective district ~~unless the uses is subject to a transitional zone (see 6.02.02)~~, provided that the use meets the normal requirements of the Ordinance plus additional requirements designed to address the specific impacts of the use. A cross-reference in

the “Reference” column of the Table for a permitted use with an “L” is intended to direct the reader to a Section(s) which has special importance to the use, but it does not limit the applicability of other Sections.

- C. Special Use Permit Required (S):** An “S” in the Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is allowed only with a Special Use Permit in the respective district. A cross-reference in the “Reference” column of the Table for a permitted use with an “S” is intended to direct the reader to a Section which has special importance to the use, but it does not limit the applicability of other Sections.
- D. Conditional District (CD):** A “CD” in a Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is allowed only with a Conditional District zoning approval in the respective district. A cross-reference in the “Reference” column of the Table for a permitted use with a “CD” is intended to direct the reader to a Section which has special importance to the use, but it does not limit the applicability of other Sections.
- E. Not Permitted (Blank Cell):** A blank cell in a Table of Principal Uses, Table of Accessory Uses, and Table of Temporary Uses indicates that a use is not allowed in the respective district.
- ~~**F. Transitional Zones:** Transitional zones attach to specific uses within the tables and are designed to address the predictable negative impacts of certain uses on protected residential districts and therefore have additional standards which must be met. A proposed use subject to a transitional zone must be approved by a Special Use Permit or in a Conditional District. A superscript “T_n” in the Table of Principal Uses, Table of Accessory Uses or the Table of Temporary Uses denotes the specified use in the specified district is subject to a transitional zone, where “n” represents the size, in feet, of the transitional zone, measured from the boundary of the protected district. However, in the any of the protected districts, the distance is measured from the protected lot rather than the protected zone. See Subsection 6.02.02 for full transitional zone requirements.~~
- G.F. Use Nomenclature:** Each use listed in the tables is more fully defined in Article 34 Definitions. The nomenclature of each use within the tables is for identification purposes only.

Identification, Strengthening, and Creation of “Neighborhood Protection” Standards

Propose creation and emphasis of “Neighborhood Protection” standards. In some instances, these are new standards, and in other, these are slight modifications of existing standards to strengthen or emphasis the reason for the standard. These standards are created in the most part to protect all residentially zoned areas with the exception of, in some instances, the current R3 Multiple-Family zoning district.

Article 1 General Provisions

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1.04 Goals**1.04.01** Goals of this Ordinance are to:

- A.** Preserve and protect areas and landmarks of historic significance; and
- B.** Protect water quality; and
- C.** Protect designated water supply watersheds; and
- D.** Prevent degradation of natural drainage areas; and
- E.** Strive to minimize public and private losses due to flood conditions within Special Flood Hazard Areas; and
- F.** Strive to minimize public and private losses due to slope failure caused by land disturbance of steep and very steep slopes; and
- G.** Preserve and protect the scenic beauty and natural environment of the Town's hillside areas; and
- H.** Preserve and protect the overall quality of life for residents and visitors; and
- I.** Preserve and protect the character of established residential neighborhoods; and
- J.** Maintain economically vibrant as well as attractive business and commercial areas; and
- K.** Encourage signage that maintains, enhances, and is compatible with the beauty and unique character of the Town; and
- L.** Facilitate the creation of an attractive environment; and
- M.** Retain and expand the Town's employment base; and
- N.** Facilitate safe and efficient movement of motorists, pedestrians and cyclists; and
- O.** Encourage public transit; and
- P.** Encourage walkability and bikeability; and
- Q.** Support public health through provision of convenient exercise opportunities; and
- R.** Maintain orderly and compatible land-use and development patterns; and
- S.** Encourage environmentally responsible development practices; and
- T.** Promote rehabilitation and reuse of older buildings; and
- U.** Maintain a range of housing choices and options; and
- V.** Establish clear and efficient development review and approval procedures; and
- W.** Protect community property values; and
- X.** Protect and balance private property rights; and

- Y. Bring about eventual improvement or elimination of nonconformities in order to preserve the integrity of this Ordinance and the character of the Town of Boone and its extraterritorial jurisdiction.

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1.29 Neighborhood Protection Standards

1.29.01 As noted in Section 1.05 above, several of the Unified Development Ordinance goals include the preservation and protection of both the overall quality of life for residents and preservation and protection of established residential neighborhoods. To assist in achieving this goal, the Unified Development Ordinance includes neighborhood protection standards to ensure that the potential adverse effects of adjacent development are reduced and the proposed site development is compatible with adjacent residentially zoned property. These standards are located in a variety of areas within the Unified Development Ordinance and are generally labeled as "Neighborhood Protection Standards."

- A. Posting of administrative approvals for these projects are required pursuant to the standards set forth in UDO Subsection 4.07.03.

1.30 Variances

1.30.01 Pursuant to North Carolina General Statue 160D-705(d), when unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provision of this Ordinance, in accordance with the provisions set forth in UDO Articles 2, 4, 6 and 7.

- A. A variance may not authorize a change in permitted use.

1.31 Appeals

1.31.01 The Board of Adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of this Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development in accordance with the provisions set forth in UDO Article 6.

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Article 4 Development Approvals

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4.07 Zoning Permits

- 4.07.01** Upon review of an application for a zoning permit and all duly-requested supplemental documentation, the Administrator shall issue the zoning permit only upon concluding that:
- A. The requested permit is within the Administrator's jurisdiction, and
 - B. If completed as proposed in the application, the development will comply with the requirements of this Ordinance and any other duly adopted requirements of the Town.

- 4.07.02** The permit is issued when the earlier of the following takes place:
- A.** A copy of the fully executed permit is delivered to the applicant; or,
 - B.** The applicant has been notified that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions.
 - C.** For purposes of this Section, delivery is accomplished when a notice or permit is hand-delivered to the applicant or his representative or three (3) days after the notice of permit is deposited in the U.S. Mail, addressed to the applicant or his representative at the address provided on the application.

4.07.03 Neighborhood Protection Standards – Posting Notice of Certain Zoning Approvals:
Applicants who receive a zoning permit for any principal use allowed by right on a parcel that is adjacent to a residentially-zoned property and zoned non-residential or R3 shall provide notice of the permit approval by the posting of a sign as follows:

- A.** The sign form shall be provided by the Planning and Inspections Department which the applicant shall then attach to a post/stake.
- B.** The sign shall be posted where the proposed development proposes its main access or at a point that is clearly visible to passing vehicles with the top of the sign form being no less than four feet from adjacent grade.
- C.** The sign must be placed on the property for at least ten (10) days prior to the commencement of any construction activities. After ten (10) days the sign may be removed.
- D.** Pursuant to North Carolina General Statute 160D-403(b) it is conclusively presumed that all persons with standing to appeal the issuance of a zoning permit have constructive notice of the determination to issue the permit provided that the notice was prominently posted on the property that is the subject of the determination so long as the sign remains on the property for ten (10) days. Appeals may be made following the provisions set forth in UDO Article 6.

Staff Note: The language above coincides with the second paragraph of NC General Statutes 160D-403(b): "It is conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, so long as the sign remains on the property for at least 10 days. A posted sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any sign posting is the responsibility of the landowner, applicant, or person that sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs is not required."

~~4.07.03 A proposed development which otherwise is allowable by right but has extraordinary impacts as defined herein shall require a special use permit and shall be processed accordingly.~~

4.07.04 A proposed development which otherwise is allowable by right but has extraordinary impacts as defined herein shall require a special use permit and shall be processed accordingly. A proposed development has an extraordinary impact if the Administrator determines:

- A. Applicable firefighting or law enforcement capabilities are inadequate to serve the development as proposed, or
- B. The proposed development will have a substantial, negative impact on an environmentally sensitive area as defined by the U.S. Environmental Protection Agency or the N.C. Department of Natural Resources.
- C. The proposed development will have a substantial, negative impact on adjacent properties and the provisions of the Ordinance designed to address those impacts are clearly inadequate.
- D. Should the Administrator exercise the Administrator's authority pursuant to this Section, the Board shall not deny the special use permit unless it cannot craft conditions which satisfactorily mitigate the substantial, negative impacts.

Staff Note: Renumber the remainder of the section.

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Article 14 Intensity Standards

14.03.01 Unless otherwise provided in this Ordinance, development shall comply with the intensity regulations set forth for the district. Review Appendix B to view comparative tables that comprehensively list the intensity regulations set forth for the zoning districts enumerated in Section 14.01.

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14.03.06 Setbacks

- A. No portion of any building may be located on any lot closer to any interior lot line or to the street right-of-way line than is authorized.
 - 1. Where no street right-of-way exists or if the right-of-way is only inclusive of the street pavement the street setback shall be measured from an assumed right-of-way that is parallel to the edge of pavement and setback a minimum of ten feet (10') from the edge of pavement. This calculation is for setback calculation purposes only and does not represent any expressed or implied taking of property.
 - 2. As used herein, the term "interior lot line" refers to lot boundaries other than those that abut streets.

3. As used herein, the term “building” includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - a. Gas pumps and overhead canopies or roofs.
 - b. Fences running along lot boundary adjacent to public street rights-of-way if such fences exceed nine feet (9') in height and are substantially opaque.
 - c. Retaining walls which exceed four feet (4') in height.

B. Neighborhood Protection Standards:

- ~~B.1.~~ Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the interior setback requirement applicable to the residential lot is greater than the interior setback otherwise ~~that~~ applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the interior setback requirement applicable to the adjoining residential lot.
- C. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).
- D. Accessory Structure Setback Requirements:
 1. All accessory structures shall meet the building street setback requirement of fifteen feet (15') from the street right-of-way line and seven feet (7') from any interior lot line.
 2. No accessory structure may be further forward to the street setback than the front most point of the principal structure.
 3. The maximum lot coverage of the accessory structure shall not exceed twenty percent (20%) of the lot.
 4. An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects. An accessory structure shall not be located in an easement unless expressly allowed.

14.03.07 Building Height

- A. The height of a building shall be the vertical distance measured from the average elevation of the finished grade at the primary façade of the building to the highest point of the building except as provided herein.
- B. “Stories” as used herein refers to the number of heated, habitable floors above grade at the primary facade. Where both stories and heights are listed, the building can have no

more than the listed number of stories, and also may not exceed the specified height in feet.

- C. Secondary Height: If expressly allowed, the height limitation may range between the primary height limitation to the secondary height limitation (which is the maximum for the district), subject to the provisions below:
1. For each foot the height of the structure exceeds the primary height limitation, the boundary lot setback applicable to the entire structure shall increase by one foot (1').
 2. For each story which exceeds the primary height limitation, the boundary lot setback applicable to the entire structure shall increase by 11 feet (11').
 3. In no case shall the height of a structure exceed the secondary height limitation established for the district.

D. Neighborhood Protection Standards:

~~D.1. In all nonresidential zones and the R3 zone, all structures located within 100 feet of any other residentially R1-zoned property shall not exceed forty feet (40') in height.~~ The maximum height of any structure that is located on a non-residential zoned or R3 zoned property within 100 feet of a boundary line of a residentially zoned property (other than an R3 zoned property) shall not exceed the maximum height set forth for the adjoining residentially-zoned property.

~~E.2. Where a multi-unit or nonresidential structure in a nonresidential zone or the R3 zone has a height in excess of twenty feet (20') and adjoins a low-density residentially zoned property district, the structure shall meet an additional setback of one- and one-half feet (1 ½') for each foot in height above twenty feet (20').~~ Where a structure in a non-residential zone or the R3 zone is adjacent to a residentially zoned property (other than an R3 zoned property), the structure shall meet an additional setback of one- and one-half feet (1.5') for each foot in height above the maximum height set forth for the adjoining residentially-zoned property.

~~F.E.~~ If a structure is located at an elevation of 3000 feet above mean sea level and 500 feet above the valley floor, in no case shall the height of such structure exceed forty feet (40') above the mean natural grade.

~~G.F.~~ The following features are not included in calculating the height of a structure for the purposes of applying the district height limitations set forth in this Article, except that on a corner lot in any residential district no planting, structures, fence, wall or obstruction to vision more than three feet (3') in height measured from the street center line shall be placed or maintained within the triangular area formed by the intersection street lines and a straight line connecting points on said street lines each of which is twenty-five feet (25') from the point of intersection.

1. Belfries, chimneys, church spires, cupolas, domes and similar structural appendages not intended or used as places of storage or occupancy; and

2. Accessory antennas, flagpoles, and similar equipment fixtures and devices provided that such features do not exceed 15% of the maximum height requirements; and
3. Except as provided at Subsection 14.19.04(F)(7)(b), parapets which do not exceed five feet (5') past the maximum building height; by way of clarification, the height of parapets above 5' shall be counted toward the building height for purposes of applying building height; and
4. Elevator and mechanical equipment and penthouses; and
5. Utility transmission poles and cables; and
6. Limited structures to enable recreation uses of open rooftops (Accessory Use A-27). As used in this provision, "limited structure" does not include areas that are simply decking to be used for standing or sitting.
7. The features listed above are exempt from the height limitations subject to the following requirements:
 - a. Not more than one-third (1/3) of the total roof area may be consumed by such features.
 - b. The features must be set back from the edge of the roof at primary and secondary facades a minimum of one foot for every foot which such features extend above the roof surface to which they are attached.

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14.29 U1 University District

14.29.01 The U1 University District is established for the main campus of Appalachian State University (ASU). This district is intended to provide for the planning and expansion of ASU's main campus that is consistent with the Town's overall planning objectives. In the event that a property or portion of property zoned U-1 is sold to a non-university third party, the property must be rezoned. The third-party landowner shall submit a petition to rezone the property within 6 months of closing on its purchase of the property.

14.29.02 U1 Table of Permissible Uses

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14.29.05 Landscaping

- A. New development in the U1 district shall provide street ~~trees-yard~~ along Town maintained streets in accordance with ~~Subsection 31.095.02 and shall be consistent with the University's treatment of streets on or adjacent to the main campus.~~
- B. New development in the U1 district shall provide a ~~ten-foot (10') Type "A" Standard Buffer adjacent~~ landscape buffer pursuant to UDO Subsection 31.05.01 when adjacent to ~~any~~ all non-university property ~~in accordance with Subsection 31.05.02(A) and Section 31.06.~~

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Article 15 Limited Use Requirements

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15.48 Drive-Through (Accessory)**15.48.01** A drive-through must be located to the side or rear of the building.**15.48.02** Drive-through lanes must contain a stacking area equal to five (5) standard parking spaces.**15.48.03** Drive-through lanes must not interfere with parking aisles or spaces.**15.48.04 Neighborhood Protection Standards**~~Drive-through lanes must be located, to the extent practical, to avoid the infiltration of headlights and vehicular noise into residential zoning districts.~~A. Drive-through facilities shall be designed so that menu boards and order windows are not located on any side of the building which faces an adjacent residentially zoned property.

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Article 24 Parking**24.01 Parking spaces Required**

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Table 24.01 Required Parking by Use:

Residential Land Uses	Minimum Parking Required
A-1 Secondary Suite A-3 Accessory Dwelling Unit T-1 Temporary Family health care structure T-2 Temporary Construction or Repair Dwelling T-3 Temporary Construction Trailer	1 space
1.01 Single-Family Dwelling 1.02 Manufactured Home "Class A" 1.03 Manufactured Home "Class B" 1.06 Duplex (each unit) 1.07 Duplex (each unit) 1.08-1.10 Townhouse (each unit) 2.01 Family Care Home A-21 Caretaker's Residence	2 spaces
1.05 Manufactured Home Park	2 spaces /Manufactured Home plus, 1 visitor parking space/10 Manufactured Homes, plus 2 spaces for Manufactured Home Park Employees
1.11-1.16 Multi-Family	0.7 space per bedroom

Residential Land Uses	Minimum Parking Required
1.17 Adult Living Community	1 space/ unit plus .5 visitors parking space/dwelling unit
3.01 Home for Survivors of Domestic Violence 3.06 Vacation Rental	3 Spaces
2.02 Family Care Institutions 2.03-2.04 Halfway House <u>Residential Reentry</u> 2.05 Residential Care Facility 2.06 Fraternity or Sorority Dwelling 3.02-3.03 Shelter for Homeless	1 space/4 1 space/4 beds Residential care facilities-plus one space for every two Staff members
2.07 Boarding Housing 3.04-3.05 Bed and Breakfast 3.08 Motel 3.09-3.11 Hotel	1.25 space/rentable room, plus 10 per 1000 ft ² of restaurant/lounge, plus 20 per 1000 ft ² per meeting/banquet room

Commercial Land Uses	Maximum Parking Allowed
16.01 Mini-Storage A-10 Produce Stand	1 space/1000 ft ² GFA
4.07 6 Post Office, Distribution 14.0 Manufacturing 16.02 Outdoor Storage 16.03 Warehouse 16.04 Fuel Storage Facility 17.02 & 17.03 Trucking or Freight Terminal A-24 Chemical Storage Facility	2 spaces/1000 ft ² GFA
10.0 Daycare 11.34 Gas Station	3 spaces/1000 ft ² GFA
11.01 Kennel 11.02-11.03 Veterinary Office/Hospital 11.04 & 11.05 Financial Institution 11.13 ABC Store 11.14 – 11.15 Personal Service Establishment 11.16-11.18 Retail Store 11.20 – 11.21 Business or Professional Office 11.22-11.25 Medical Office 11.28 Open Air Market 11.35 Car Wash 12.0 Recreation	5 spaces/1000 ft ² GFA or outdoor area used for principal use

Commercial Land Uses	Maximum Parking Allowed
18.0 Waste Related Uses 19.0 Particular Activities which Pose Particular...	
11.06 – 11.11 11.08 Restaurant	12 spaces/1000 ft ² GFA
4.03 Funeral Home Establishment 4.04 Crematorium	12 spaces/1000 ft ² of visitation area, plus one space per every two seats in the chapel.
4.05 5.6 Post Office	1 space per employee plus 5 spaces/1000 ft ² GFA
6.0 Non-Government Utility Facility	3 spaces per facility
7.0 Telecommunication	1 space per service provider
8.0 Assembly	1 space for every two seats in sanctuaries/chapels plus 3 spaces per 1000 ft ² for daycares
9.0 Education	5 spaces per classroom
11.29 Vehicle Sales and Service 11.30 Equipment Sales and Service 11.31 Moped Sales and Service 11.32 Boat or Marine Craft Sales and Service	3 spaces/1000 ft ² GFA, plus 2 spaces/1000 ft ² of outdoor display, plus 2 per service bay
1.05 Manufactured Home Park 4.01 Airport/Land Strip 4.02 Heliport 4.04 5 Cemetery 4.07 8 Animal Sanctuary 5.0 Government Uses 13.0 Agricultural Uses 17.01 Passenger Terminals A-19 Helistop T-8 Temporary Non-Fixed Site Event Venue	As determined by the Administrator

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24.03 General Design Requirements

24.03.01 Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing into a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, but a design requiring backing onto arterial streets is to be avoided unless there is no reasonable alternative.

A. Neighborhood Protection Standards: No driveway (entry or exit) serving any non-residential use may be within twenty-five feet (25') of an adjacent residentially zoned property unless no other options are available. This requirement shall not apply to an adjacent property that contains a mix of commercial and residential uses.

- 24.03.02** Vehicle accommodation areas of all developments shall be designed so sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- 24.03.03** Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.
- 24.03.04** Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
- 24.03.05** All vehicle accommodation areas shall designate parking space for handicapped persons in accordance with the state Building Code.
- 24.03.06** **Location of Residential Parking:** Parking outside a substantially enclosed structure of more than four (4) motor vehicles between the front building line of the principal building and the street is prohibited on any lot used for purposes that fall within the following principal use classifications: 1.01, 1.02, 1.03, 1.04, 1.05, 1.06.
- 24.03.07** Vehicle accommodation areas shall be designed to minimize breaks in the pedestrian environment along the public street and create safe and comfortable passage for pedestrians. Curb cuts shall be minimized in width and number.
- 24.03.08** To the extent such can be reasonably avoided, property located at a street intersection shall not have parking, loading, or service areas within 25' of a corner.
- 24.03.09** Uninterrupted areas of parking lot shall be limited to 36 spaces. Parking lots with more than 36 spaces shall be broken by landscape features, which can include natural features designed to handle storm water runoff.
- 24.03.10** Multiple parking lots serving a non-residential or multi-family development should be interconnected where reasonably possible.
- 24.03.11** Except for single- or two-family dwellings and excluding vehicle accommodation areas designed for two (2) vehicles or less, all vehicle accommodation areas shall be surfaced with a bituminous paving or NCDOT standard ABC stone. ABC stone may not be used on vehicle accommodation areas with slopes greater than five percent (5%).
- 24.03.12** Parking spaces in areas surfaced with bituminous paving shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced with NCDOT standard ABC stone shall be demarcated whenever practicable.

- 24.03.13** Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicular accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

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24.09 Bicycle Parking

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Table 24.09

Use Type	Specific Use	Short-Term Bicycle Parking Minimum ²	Long-Term Bicycle Parking Minimum ³
1.0 Household Living	1.01 Single-Family Dwelling 1.02 Manufactured Home "Class A" 1.03 Manufactured Home "Class B" 1.06 Duplex 1.07 Duplex	-	-
	1.05 Manufactured Home Park	1 per 20 beds	
	1.08-1.10 Townhouse 1.11-1.13 Multi-Family 1.14-1.16 Multi-Family	1 per 20 units	1 per 4 units
	1.17 Adult Living Community (Multi-Family Only)	1 per 20 units	1 per 10 units
2.0 Group Living	2.01 Family Care Home	-	1 space per 5 employees
	2.02 Family Care Institutions 2.03-2.04 Halfway House Residential Reentry 2.05 Residential Care Facility		1 space per 5 employees
	2.06 Fraternity or Sorority Dwelling	1 space per 20 beds	1 space per 10 beds
	2.07 Board Housing	1 space per 20 beds	1 space per 10 beds
3.0 Transient Living	3.01 Home for Survivors of Domestic Violence	2 spaces	2 spaces
	3.02-3.03 Shelter for Homeless	2 spaces	2 spaces
	3.04-3.05 Bed & Breakfast	2 spaces	2 spaces
	3.06 Vacation Rental	2 spaces	2 spaces
	3.08 Motel 3.09-3.11 Hotel	2 spaces	2 spaces
4.0 Institutional Uses	4.01 Airport/Land Strip	TBD	TBD

Use Type	Specific Use	Short-Term Bicycle Parking Minimum ²	Long-Term Bicycle Parking Minimum ³
	4.02 Heliport 4.03 Funeral Home Establishment 4.04 Crematorium 4.04 5 Cemetery 4.05 6 Post Office 4.06 7 Post Office, Distribution 4.07 8 Animal Sanctuary		
5.0 Government Uses	All Government Uses	TBD	TBD
6.0 Non-Governmental Utility Facility	All Non-Government Utility Facility	-	-
7.0 Telecommunications	All Telecommunication Uses	-	-
8.0 Assembly	8.01-8.03 Religious Assembly	1 space per 2,000 ft ² GFA ⁶	1 space per 5,000 ft ² GFA ⁶
	8.04 - 8.05 Assembly Uses Club/Lodge	1 space per 1,000 ft ² GFA ⁶	1 space per 10,000 ft ² GFA ⁶
9.0 Education	9.01-9.05 Education Uses	3 spaces per classroom	.5 spaces per classroom
	9.06-9.09 Education Uses	3 spaces per classroom	.5 spaces per classroom
10.0 Daycare	All Daycare Uses	2 spaces	2 spaces
11.0 General Sales & Service	11.01 Kennel 11.02-11.03 Veterinary Office/Hospital 11.04 & 11.05 Financial Institution 11.12 ABC Store 11.14 - 11.15 Personal Service Establishment 11.16-11.18 Retail Store 11.20 - 11.21 Business or Professional Office 11.22-11.25 Medical Office 11.28 Open Air Market	1 space per 5,000 ft ² GLA ⁴	1 space per 10,000 ft ² GLA ⁴
	11.06 - 11. 11 08 Restaurant	1 space per 5,000 ft ² GLA ⁴	1 space per 10,000 ft ² GLA ⁴
	11.34 Gas Station	-	-
	11.35 Car Wash	-	-
	11.29 Vehicle Sales and Service	-	-
	11.30 Equipment Sales and Service	-	-

Use Type	Specific Use	Short-Term Bicycle Parking Minimum ²	Long-Term Bicycle Parking Minimum ³
	11.31 Moped Sales and Service 11.32 Boat or Marine Craft Sales and Service		
12.0 Recreation & Entertainment Uses	12.01 Indoor Shooting Range	1 space per 5,000 ft ² GFA ⁶	1 space per 10,000 ft ² GFA ⁶
	12.03 Indoor Theater 12.05 Event Venue Cat I	1 space per 5,000 ft ² GFA ⁶	1 space per 10,000 ft ² GFA ⁶
	12.10 Recreation Cat I	1 space per 5,000 ft ² GFA ⁶	1 space per 10,000 ft ² GFA ⁶
	12.04 Outdoor Theater 12.06 Event Venue Cat. II 12.07 Event Venue Cat III	1 space per 2,000 ft ² GFA ⁶	1 space per 10,000 ft ² GFA ⁶
	12.09 Coliseum 12.11 Recreation Cat II 12.12 Recreation Cat III 12.01,	1 space per 20 motor vehicle spaces	TBD
	12.08 Campgrounds/RV Parks	-	-
13.0 Agriculture Uses	All Agricultural Uses	-	-
14.0 Manufacturing	14.01 Microbrewery 14.02 Brew Pub	1 space per 5,000 ft ² GLA ⁴	1 space per 10,000 ft ² GLA ⁴
	All other Manufacturing Uses	TBD	TBD
16.0 Storage	16.01 Mini-Storage 16.02 Outdoor Storage	-	-
	16.03 Warehouse 16.04 Fuel Storage Facility	TBD	TBD
17.0 Transportation	17.01 Passenger Terminals 17.02 & 17.03 Trucking or Freight Terminal	TBD	TBD
18.0 Waste Related Uses	All Waste Related Uses	-	-
19.0 Particular Activities which Pose Particular Concerns to Public Health	All Particular Activities which Pose Particular Concerns to Public Health Uses	1 space per 5,000 ft ² GFA ⁶	1 space per 10,000 ft ² GFA ⁶
Accessory Uses	A-1 Secondary Suite A-3 Accessory Dwelling Unit	-	-
	A-10 Produce Stand	-	-
	A-21 Caretaker's Residence	-	-
	A-19 Helistop	TBD	-
	A-24 Chemical Storage Facility	-	-

Use Type	Specific Use	Short-Term Bicycle Parking Minimum ²	Long-Term Bicycle Parking Minimum ³
Temporary Uses	T-1 Temporary Family Health Care Structure	-	-
	T-2 Temporary Construction or Repair Dwelling		
	T-3 Temporary Construction Trailer		
	T-8 Temporary Non-Fixed Site Event Venue	TBD	-

Article 31 Landscape Standards

Staff Note: Staff took the opportunity to reorganize Article 31 Landscape Standards to be easier to read, interpret, and follow a more logical format. The existing standards contained a lot of redundant language which has been removed due to the reorganization. Due to the complete revision, Staff has provided a clean copy for review with the changes highlighted with notes for explanation. Tables have been introduced where necessary to quickly identify standards.

31.01 Purpose and Applicability

31.01.01 The landscape standards set forth herein require landscaping to encourage the preservation and health of existing vegetation, tree canopies, to replenish removed vegetation, improve the visual quality of the Town of Boone, and minimize negative impacts of development such as noise, lighting, and heat.

Staff Note: Introduction of a purpose statement.

31.01.02 The information set forth herein, concerning the types of landscaping vegetation required, establishes suggested landscaping requirements that, presumably, satisfy the goals set forth in Subsection 31.01.01. However, this is only intended to establish a presumption and should be flexibly administered in accordance with Section 31.02.

31.01.03 The provisions of this Article and the Landscape Standards in Appendix C, Town of Boone Details and Specifications Manual of this Ordinance shall apply to all commercially developed land and all land within the following zoning districts: R3, MH, OI, B1, B2, B3, E1, E2, E3, E4, and M1, except for forestry activities subject to regulations pursuant to N.C. Gen. Stat. §160D-921(b).

31.01.04 When required, an applicant shall submit a landscape plan prepared in accordance with the requirements set forth in UDO Appendix A, Section A3.09 Landscape Plan.

Staff Note: Added clear direction for a landscape plan.

31.02 Flexibility in Administration Required

31.02.01 The requirements of this Article are established by the Council as standards that presumptively result in a better overall appearance of the built environment and protect the natural resources of the community. The Council recognizes that due to the particular nature of a tract, the nature of the proposal, or other factors, that the objectives of this Article may

be achieved even though the standards are not adhered to with mathematical precision. Therefore, the permit-issuing authority is authorized to permit deviations from these standards when both of the following conditions are met:

- A. The objectives underlying these standards can be met without strict adherence to them.
- B. Because peculiarities in the applicant's tract of land or the facilities proposed would make it unreasonable to require strict adherence to these standards.

31.02.02 Whenever the permit-issuing authority authorizes any deviation from the standards, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

Staff Note: Original text referenced "administrator" in 31.02.01 and "permit-issuing authority" in 31.02.02. Staff revised to make the language consistent with "permit-issuing authority".

31.03 Preservation of Existing Vegetation

Staff Note: Moved this section from the back of the standards to the front as preservation should be the first standard considered with any development. These standards have been reorganized but essentially left unchanged.

31.03.01 Preserving existing vegetation can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing vegetation shall be used to meet all or part of the requirements of this Section wherever possible, if it provides the same level of obscurity as the planted buffer required below.

31.03.02 Existing healthy preserved vegetation may be credited towards required landscaping according to the following:

Preservation Credit/Replacement Schedule	
Caliper	Credit
2.5"-6"	1 tree
7"-12"	2 trees
13"-18"	3 trees
19"-24"	4 trees
25"+	5 trees

Note: shrubs will be credited at a rate of 1:1.

1. The table above shall also be used to calculate replacement vegetation when vegetation dies or has been improperly removed.

Staff Note: Though implied in the original text it was not explicit. Modified for clarity.

31.03.03 In order to receive credit:

- A. Preserved vegetation must be certified in good health and condition by a Certified Horticulturist, Arborist or Forester, Landscape Architect, North Carolina Landscape Contractor, or N. C. Certified Plant Professional.
- B. Trees designated to be preserved must be indicated on the Landscape and Grading Plans. Protective barriers must be shown on the Landscape and Grading Plans in accordance with the requirements of Subsection 31.03.10.
- C. The preserved vegetation must meet any spacing requirements and must be located within ten feet (10') of the buffer or street yard where the credit is to be given.
- D. If a preserved tree dies after completion of the project, it must be replaced with the total number of trees which were credited to the existing tree. Note: All replacement trees are required to be a minimum two and one-half inch (2 ½") caliper with a height of twelve to fourteen feet (12' - 14').

31.03.04 Every development shall retain all existing healthy Historic trees with drip lines outside the building footprint except new subdivisions. An applicant will be required to modify their design in order to preserve healthy Historic trees, provided the redesign can be accommodated without reducing the intensity of development on the site or increasing the area of land disturbance.

- A. Every subdivision shall retain all existing healthy Historic trees with drip lines outside the land disturbing limits associated with proposed streets, drainage, utilities and stormwater management areas.

31.03.05 Every development shall retain all existing healthy significant trees with drip lines outside the building and paving area footprint to the greatest extent possible. An applicant may be required to modify their design in order to preserve healthy Significant trees, provided the redesign can be accommodated without reducing the intensity of development on the site.

- A. Every subdivision shall retain all existing healthy Significant trees with drip lines outside the land disturbing limits associated with proposed streets, drainage, utilities and stormwater management areas.

31.03.06 It shall be the responsibility of all applicants that submit site plans for new construction to submit a tree survey of the site proposed for development. The tree survey shall be drawn to engineers scale and accurately designate the species, location and diameter of all trees eight inches (8") in diameter or greater on the site, and all trees proposed for credit as provided in Subsection 31.03.02.

- A. Subdivision applicants shall submit a tree survey in areas of land disturbance associated with construction of streets, drainage, utilities, and stormwater management areas.

31.03.07 If a landowner contends a tree is or is not healthy and the Administrator is in disagreement with such claim, the landowner shall submit an evaluation of the tree's health, performed by an individual who meets the requirements established in Subsection 31.03.03(A). If such

evaluation determines the tree is not in good health or will not remain healthy under new conditions proposed for the site, the Administrator shall permit the removal of the tree(s).

31.03.08 The permit-issuing authority may approve reductions in the requirements for the number of parking spaces or loading area requirements in order to facilitate preservation of Historic and Significant trees.

31.03.09 The standard measurement for existing trees to be preserved shall be the Diameter-at-breast-height (Dbh) measured in inches at a height of four and one-half feet (4 ½') above ground. If a tree splits into multiple trunks below four and one-half feet (4 ½'), then each trunk is measured as a separate tree. A tree which splits into multiple trunks above four and one-half feet (4 ½') is measured as a single tree at four and one-half feet (4 ½').

31.03.10 Protection of Existing Vegetation

- A.** No grading or other land disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet the landscaping requirements until protective barriers are installed by the applicant and approved by the Administrator.
- B.** For purposes of this Article, the Tree Protection Area is defined as that area within a circle drawn with the tree's trunk as the center and a radius defined by the tree's drip line (which is the perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground). No storage of materials, dumping of waste materials, fill or parking of equipment shall be allowed within this protected area, either during construction or after completion. No structures shall be permitted within the protected area unless approved by the Administrator.
- C.** A protection fence constructed of a high visible material resistant to degradation by sun, wind and moisture for the duration of the construction, shall be used.
- D.** If a violation of Section 31.03 occurs and as a result protected trees or shrubs die after a certificate of occupancy is issued for the development, then the owner of the property and their agents, heirs, or assigns shall be required to replace the tree using the credits in Subsection 31.03.02. Such replacement must take place within thirty (30) days after death and this condition shall be a continuing condition of the validity of the permit.
- E.** Where tree-protection areas are damaged during the development of the site and trees or shrubs which are designated to be preserved are killed or removed, the permit recipient shall be penalized as follows:
 - 1. Fines as listed in UDO Article 12 Enforcement, Section 12.07, and
 - 2. Replacement vegetation shall be provided in accordance with Subsection 31.13.02.

31.04 General Standards

Staff Note: This is a new section where most of the redundant standards were reduced and brought forward standards that should apply to each separate landscape requirement (buffers, street yards, vehicle accommodation areas, etc.).

- 31.04.01** Every development shall provide sufficient landscape material so that:
- A.** Neighboring properties are shielded from adverse external effects of that development; and
 - B.** The development is shielded from the negative impacts of adjacent uses such as parking lots.
 - C.** Unless otherwise required for a structure, including a vehicle accommodation area or street, buffers shall not be required between uses within a development.
- 31.04.02** Compliance of planted vegetation or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation.
- 31.04.03 Landscape Types**
- A.** Buffers: Landscaping along interior property lines.
 - B.** Street Yard: Landscaping along street rights-of-way.
 - C.** Vehicle Surface Area: Landscaping in and around vehicular surface areas.
 - D.** Building Landscaping: Landscaping used to enhance the site.
 - E.** Screening: Landscaping around utility use, outdoor storage, loading areas, etc.

Staff Note: Staff has provided applicants with a clear expectation of what type of landscape standards are required for a development. This is missing from our current language.

- 31.04.04 Minimum Planting Size**
- A.** Evergreen tree: Minimum height of eight feet (8') at planting.
 - B.** Large deciduous tree: Minimum caliper of two and one-half inches (2 ½") with a height of twelve to fourteen feet (12' – 14') at planting.
 - C.** Small deciduous tree: Minimum caliper of one inch (1") with a height of eight feet (8') at planting.
 - D.** Shrubs: Minimum height of eighteen inches (18") at planting.
- 31.04.05** All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock. Plants must be healthy, well branched, and free of disease and insect infestation.
- 31.04.06** Required buffers or street yards shall not be disturbed for any reason except for approved driveway openings, pedestrian or bicycle paths, designated greenways, utilities, drainage ways, bio-retention areas, walls, or fences, or other passive or minor activities compatible

with the general separation of land uses, provided that the total number of required plantings are still met.

- A.** Required recreation spaces for multi-family uses, other than public greenways, and including any spaces reserved for a “dog park” are not allowed in any Neighborhood Protection buffer.

Staff Note: This is a new standard meant to supplement and enhance protections within the new “Neighborhood Protection buffer” created in the buffer section below.

B. Utilities:

1. Utility lines should be located cross perpendicular to a buffer, if possible, to minimize the impact. If new utility lines must run within a buffer or street yard, they must be located along the edge of the buffer or street yard.
2. The applicant should minimize the amount of plantings for the buffer or street yard in the utility easement area so they will not have to be removed if the utility line needs maintenance. If an applicant plans to plant in the utility easements, approval must be obtained from the affected utility companies to ensure that plantings will not conflict with the installation, operation, or maintenance of utility lines. Trees and shrubs planted within the utility easement will not count towards the buffer planting requirement unless they are approved by the utility companies. This may necessitate adding more land to the buffer to accommodate the required number of plantings.

31.05 Landscape Site Standards

31.05.01 Buffer Compliance

Staff Note: Staff has reassessed the Land-Use Classification tables and has either moved the highlighted land-use classifications to provide either greater protection to a low-density residential uses or to place a use in a more appropriate use classification when looking at “neighborhood protection”. Staff has also included accessory uses that should trigger landscape considerations.

- A.** Listed below are the land use classifications that will determine the required type of landscape buffers required for the proposed development. Land uses are as listed in the Table of Principal Uses and the Table of Accessory Uses contained in Appendix B.

Land-Use Classification Table	
I	1.01 Single-Family Dwelling, 1.02-1.04 Manufactured Homes, 1.05 Manufactured Home Park, 1.06 Duplex, 2.01 Family Care Home, 3.01 Home for Survivors of Domestic Violence
II	1.07 Duplex, 1.08-1.10 Townhouse, 1.11-1.13 Multi-Family Dwelling, 1.14 -1.16 Multi-Family Dwelling in Mixed-Use, 1.17 Adult Living Community, 2.02 Family Care Institution, 2.03-2.04 Halfway House, 2.05 Residential Care Facility, 2.06 Fraternity or Sorority Dwelling, 2.07 Boarding House, 3.02-3.03 Shelter for

	Homeless, 3.04-3.05 Bed and Breakfast, 3.06 Vacation Rental, 4.04 5 Cemetery, 5.01-5.03 Cultural Facility, 5.04-5.05 Recreation Facility, 5.07 Event Venue, 5.12 Police Substation, 5.13-5.15 Utility Facility, 5.16 Government Facility, 6.01-6.02 Utility Facility, 8.01-8.03 Religious Assembly, 9.0 Education, 12.05 Event Venue, 12.10-12.11 Recreation Facility
III	3.08 Motel, 3.09-3.11 Hotel, 4.03 Funeral Home Establishment, <u>4.04 Crematorium</u> , 4.0 5 6 7 Post Office, 5.06 Government Recreation Facility Category 3, 5.08-5.09 Government Event Venue, 7.0 Wireless Communications (excluding 7.01-7.03), 8.04- 8.05 Club/Lodge, 10.0 Daycare, 11.0 General Sales and Service, 12.01 Indoor Shooting Range, 12.03 Indoor Theater, 12.04 Outdoor Theater, 12.06-12.07 Event Venue, 12.08 Campground and Recreational Vehicle Park, 12.12 Recreation Facility, <u>13.01-13.02 Garden</u> , 13.03-13.04 Agricultural Operation, 13.07 Custom Slaughterhouse, 14.01 Microbrewery, 14.02 Brewpub, 14.03 Brewery/Distillery, 14.05 Winery Associated with a Vineyard, 14.06 Winery, 14.09 Machine/Welding Shop, 15.0 Parking, 16.01 Self-Storage Facilities, 16.02 Outdoor Storage, 16.03 Warehouse, 17.0 Transportation, 18.01 Recycling Drop-off Station, 19.0 Particular Activities which pose Particular Concerns about Public Health, <u>A-4 Drive-Through</u> , <u>A-6 Outdoor Storage</u> , <u>A-7 Outdoor Dining</u> , <u>A-23 Vehicle Washing Station</u> , <u>A-24 Chemical Storage Facility</u> , <u>A-25 Open Air Market</u> , Accessory
IV	4.01 Airport/Landing Strip, 4.02 Heliport, 4.0 7 8 Animal Sanctuary, 5.10 Landfill, 5.11 Solid Waste Processing, 12.09 Coliseum, 14.08 Extraction of Earth Materials, 14.10 Manufacturing Other, 16.04 Fuel Storage Facility, 18.02 Recycling and Salvage, <u>A-19 Helistop</u>

B. Some land uses may create an adverse impact when developed adjacent to other less intensive land uses. Landscape buffers shall be required for proposed developments to provide a transition between uses. The buffer width and number of plantings required will vary depending of the buffer required and shall be the responsibility of the applicant developing or changing the land use. The

1. Type “A” is a ten-foot (10’) buffer composed of intermittent visual obstructions from the ground to a height of at least twenty feet (20’). This buffer is intended to create a separation of land-uses without necessarily eliminating visual contact.
2. Type “B” is a fifteen-foot (15’) buffer intended to partially block the view between uses and to create a strong distinction of separation of uses. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet (10’) wide.
3. Type “C” is a twenty-five-foot (25’) buffer that is opaque from the ground to a height of at least six feet (6’), with intermittent visual obstructions from the opaque portion

to a height of at least twenty feet (20'). An opaque screen is intended to reduce visual contact between uses and to create a strong spatial separation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstruction should not contain any completely unobstructed openings more than ten feet (10') wide.

Staff Note: This buffer allows unobstructed opening less than 10' wide. Changed the "exclude all visual contact" to "reduce visual contact". The type C buffer along residentially zoned properties will be new changed to a "Neighborhood Protection" buffer outlined below

4. Type "D: is a fifty-foot (50') buffer that is opaque from the ground to a height of at least six feet (6'), with intermittent visual obstructions from the opaque portion to a height of at least twenty feet (20'). An opaque screen is intended to limit visual contact between uses and to create a wider spatial separation than in a type C buffer. The screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstruction should not contain any completely unobstructed openings more than ten feet (10') wide.

Staff Note: Creation of a new and wider buffer for the more intense uses that have a chance of having a greater adverse impact. Need to consider a waiver for those uses within the Industrial Park.

5. A Neighborhood Protection buffer is a twenty-five-foot (25') buffer that is opaque from the ground to a height of at least six feet (6'), with intermittent visual obstructions from the opaque portion to a height of at least twenty feet (20'). An opaque screen is intended to exclude completely all visual contact between uses and to create a strong spatial separation. The opaque portion of the screen must be opaque in all seasons of the year. A Neighborhood Protection buffer shall provide a six foot (6') opaque fence in the center of the buffer with vegetation planted on either side. This location may be adjusted to provide the greatest protection to an adjacent lower-intensity use. Fences or walls shall be constructed of wood, brick, stone, or other masonry, and be architecturally compatible with the proposed structure. A detailed drawing of the screen must be shown on the landscape plan and approved by the Administrator.

Staff Note: Creation of a Neighborhood Protection Buffer. Used the existing type C for the basis but does not allow any unobstructed views and always requires the installation of a 6' opaque fence (visual, noise, light).

Buffer Width Table	
Screening Type	Required Width of Buffer
A	10 ft.
B	15 ft.
C	25 ft.

D	50 ft.
Neighborhood Protection (NP)	25 ft.

- C. The Table of Buffer Requirements below shall be used to determine screening requirements between adjacent land uses. The buffer requirement between a combination use and an adjacent use shall be that required for the use necessitating the greatest visual obstruction.

Table of Buffer Requirements						
Proposed Land Use Classification	Adjacent Permitted Land Use Classification				Adjacent Zone with Nonconforming Use	
	I	II	III	IV	Residential	Non-Residential
II	C/NP	A	A	A	B	A
III	C/NP	B	A	A	C	A
IV	D	D	C	A	D	C

D. Buffer Vegetation Requirements

1. **Required Buffer Vegetation:** The required vegetation is designed to create a buffer which will give a satisfactory screen within three (3) to five (5) years of planting, under normal maintenance, while allowing room for the various plants to grow. Planting requirements for buffers include both trees and shrubs as described below.

Required Buffer Vegetation					
Buffer Type	"A"	"B"	"C"	"D"	"NP"
Minimum Buffer Width	10 feet	15 feet	25 feet	50 feet	25 feet
Total Number of Plants per 100 Linear Feet	20	30	40	70	45
Number of Evergreen Trees	3	10	15	25	20
Number of Large Deciduous Trees	1	3	5	8	5
Number of Small Deciduous Trees	2	2	5	7	5
Number of Deciduous Shrubs	4	5	5	10	-
Number of Evergreen Shrubs	10	10	10	20	15

Staff Note: The new type "D" buffer contains 1.5x the amount of plant material required in a type C with twice the area and the new "Neighborhood Protection" buffer requires (1) 5 more evergreen trees than the existing type C and (2) only evergreen shrubs versus the deciduous and evergreen split allowed in the existing type C.

- E. **Buffer Reductions:** Only type "B" or "C" buffers may be reduced with the use of a fence or wall. If an applicant plans to build a fence or wall, a "C" buffer classification reduces to a "B" buffer classification and a "B" buffer classification reduces to an "A" buffer classification. Fences and walls must meet the following standards:

- 1. Fences or walls shall be constructed of wood, brick, stone, or other masonry, and be architecturally compatible with the proposed structure. A detailed drawing of the screen must be shown on the landscape plan and approved by the Administrator.
- 2. Walls and fences shall be solid construction and opaque.
- 3. Walls and fences shall be a minimum height of six feet (6’).
- 4. To the extent practical, the wall or fence shall be located in the center of the buffer with vegetation planted on either side. This location may be adjusted to provide the greatest protection to an adjacent lower-intensity use.

Staff Note: Buffer reductions limited to a type B or C buffers. Modification on where the fence could be located to provide greater protection.

31.05.02 Street Yards

- A. All developments shall provide a landscaped street yard along any public or private street.

Staff Note: Clear statement that a street yard is required and where has been added.

- B. The required minimum street yard shall be measured perpendicular from the street right-of-way. Applicants are allowed to have additional landscaped greenspace beyond the required street yard, however, all required street yard materials shall be placed within the required street yard.

Staff Note: Language revised to allow for greater green space connected to the required street yard but limits the required vegetation to the street yard area so that it serves its intended purpose.

- C. **Neighborhood Protection Street Yard:** Development that is directly across a public or private road from a residentially zoned property shall provide a Neighborhood Protection Street Yard the same length as the shared street frontage. The purpose of this buffer is to provide a semi-opaque buffer within three (3) to five (5) years of planting, under normal maintenance, while allowing room for the various plants to grow.

Staff Note: Introduction of a new street yard for neighborhood protections.

- C.D. Required Street Yard Vegetation:** The required vegetation is designed to create a buffer which will give a satisfactory visual buffer within three (3) to five (5) years of planting, under normal maintenance, while allowing room for the various plants to grow. Planting requirements for street yards include both street trees and shrubs as described below. Street trees are species of trees that have been determined to be appropriate along public and private streets (see Appendix C, C1.04 for more details).

Staff Note: Inclusion of a table for easier use.

Required Street Yard Vegetation			
Street Yard Type	Land Use Classifications I, II, III	Land Use Classification IV	Neighborhood Protection

Minimum Street Yard Width	10 feet	25 feet	15 feet
Total Number of Plants per 30 Linear Feet	11	22	16
Number of Large Deciduous Street Trees	1	2	2
Number of Evergreen Trees	0	0	4
Number of Evergreen Shrubs	10	20	10

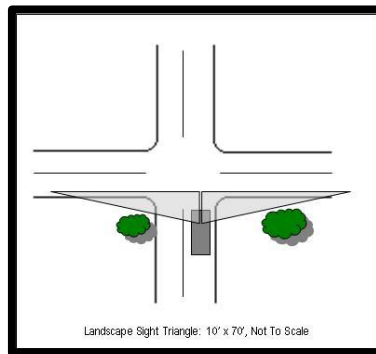
D.E. Innovative design in street yard arrangement is encouraged. Vegetation planted to satisfy this Section shall not be placed uniformly but in an irregular pattern. However, the minimum spacing between the trees shall be twenty feet (20') and the maximum shall be forty feet (40'). Innovative design is encouraged with the Neighborhood Protection Street Yard to the extent that the design conveys extra protections to the residential use property.

Staff Note: Encourage innovative design including movement and spacing of trees to provide more residential protections where possible.

E.F. At least 250 square feet of contiguous, un-encroached growing area shall be provided for each tree. Planting location shall take into consideration any roadway widening identified on approved thoroughfare plans but not provided by the development.

F.G. To ensure that landscape materials 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).

1. Required street trees shall be planted outside of the sight triangle area.
2. Shrubs planted within sight triangles shall be of a type with a maximum mature height of twenty-four inches (24").



G.H. Use 15.01 Parking Lot Street Yard Requirements in the B1 Districts.

1. In the B1 ~~Central Business District~~ districts, when a surface parking lot is a principal land use or a component of a combination use the following provisions shall apply:
2. The minimum street yard shall be ten feet (10') measured perpendicular from the street right-of-way.

3. An average of one (1) large tree, two and one-half inch (2 ½") minimum caliper, per twenty- five feet (25') of street frontage shall be provided.
4. An average of one (1) large evergreen tree, eight feet (8') minimum height, per fifty feet (50') of street frontage shall be provided.
5. Shrubs at the rate of one (1) eighteen inch (18") minimum height per three linear feet (3 lf) of street frontage shall be provided. The shrubs shall be of a species expected to reach a minimum height of thirty inches (30") and a minimum spread of thirty inches (30") within five (5) years of planting. At least seventy-five percent (75%) of shrubbery in this area must be evergreen.
 - a. When a proposed parking area will be substantially below grade and shrubbery will not be visible from the street, the Administrator may reduce this requirement.
6. A minimum three foot (3') opaque decorative red brick/native rock wall not to exceed six feet (6') in height with landscape plantings along the street side shall be provided.
7. A parking area that is located above or below the adjacent street level must design the plant material in the street yard in such a way as to maximize screening from the street.

H.I. Surface-Use 15.01 Parking Lot Street Yard Requirements in All Other Districts

1. Except in the B1 ~~Central Business District~~ districts, when a surface parking lot is a principal land use or a component of a combination use, the following provisions shall apply:
2. The minimum street yard shall be twenty-five feet (25') measured perpendicular from the street right-of-way but the minimum street yard may be reduced by one foot (1') for every two feet (2') below adjacent street grade when the Administrator concludes the parking area shall have less of a visual impact than at street level.
3. An average of one (1) large deciduous tree, two and one-half inch (2 ½") minimum caliper, per twenty- five feet (25') of street frontage shall be provided.
4. An average of one (1) large evergreen tree, eight feet (8') minimum height, per fifty feet (50') of street frontage shall be provided.
5. Shrubs at the rate of one (1) eighteen inch (18") minimum height per two linear feet (2') of street frontage shall be provided. The shrubs shall be of a species expected to reach a minimum height of thirty inches (30") and a minimum spread of thirty inches (30") within five (5) years of planting. At least seventy-five percent (75%) of shrubbery in this area must be evergreen.
 - a. When a proposed parking area will be substantially below grade and shrubbery will not be visible from the street, the Administrator may reduce this requirement.

6. A minimum three foot (3') opaque decorative brick/rock wall not to exceed six feet (6') in height with landscape plantings along the street side or an earthen berm at least three feet (3') in height with landscape plantings incorporated into the design of the berm or a combination of both must be provided along any street frontage.
7. The height of any berm shall be undulating and the base shall be curving in nature.
8. A parking area that is located above or below the adjacent street level must design the plant material in the street yard in such a way as to maximize screening from the street.

31.05.03 Vehicle Accommodation Area

Staff Note: Changed "vehicular surface area" to refer to "vehicle accommodation area" as that is the correct term defined in the UDO.

- A. The purpose of this Section is to provide visual relief from large expanses of pavement with the introduction of landscape plantings. Trees and shrubs are required in and around parking lots with more than six (6) spaces to provide attractive views from roads and adjacent properties, provide shade to reduce heat generated by impervious surfaces, reduce glare from parking lots, and to help filter exhaust from vehicles.
- B. Trees: Plant beds shall be evenly distributed throughout the vehicle accommodation area for maximum shade. No portion of the vehicle accommodation area shall be further than sixty feet (60') from the trunk of a large deciduous tree, except for areas that cannot reasonably be landscaped in the interior as determined by the Administrator, including, but not limited to, truck loading and unloading.
- C. Shrubs: Shrubs shall be planted at the rate of one evergreen or deciduous shrub per every 250 square feet of vehicular surface area. Shrubs to meet this requirement must be located within fifteen feet (15') of the paved area.
 1. Shrubs shall not be planted within six feet (6') of a trunk of a new tree, nor within the drip line of a protected, existing tree.
- D. Uninterrupted areas of parking spaces shall be limited to thirty-six (36) spaces. Parking lots with more than thirty-six (36) spaces shall be divided by landscape features which can include natural features designed to handle stormwater runoff.
- E. Plantings which shall be used to meet these requirements shall be located within the vehicle accommodation area or in plant beds directly adjacent to the surface areas. Trees along the adjacent buffer or street yard areas may be used to meet this requirement.
- F. Plant beds within the vehicle accommodation area shall be a minimum ten feet (10') in width and shall provide a minimum of 250 square feet of contiguous growing area to allow for adequate root aeration and expansion.
- G. Plant beds shall be protected by barriers including but not limited to curbs, bollards, wheel stops, walls or fences.

- H. Plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, or pedestrian circulation.
- I. Minimum curb radii of three feet (3') are required on the corners of all plant beds to allow for free movement of motor vehicles around planting materials.

31.05.04 Building Landscaping

Staff Note: New section, was previously included in the vehicle surface area regulations. Staff hopes to expand this text at some point in the future.

- A. The exterior walls of a structures areas shall be separated from vehicle accommodation areas by landscaped planting areas at least four feet (4') in width. Planting areas may be omitted where necessary to accommodate pedestrian entrance ways. Alternative planting areas meeting the purpose and intent of this Section may be approved by the Administrator.

31.05.05 Screening

- A. Loading docks, solid waste and recycling containers, outdoor storage, mechanical and HVAC equipment, rainwater harvesting systems, and similar facilities on the roof, on the ground, or on buildings shall be located and screened so that the visual impacts of these facilities are fully contained and out of view from adjacent properties and public streets.
 - 1. Accessory solar energy systems are exempt from this screening requirement.
- B. Solid waste and recycling containers (when required) shall be screened in accordance with the Solid Waste and Recycling Enclosure Detail (Subsection 22.13.03). The design and materials of the enclosure, fence or wall must be presented as part of the site plan or subdivision approval process. The screening material shall be architecturally compatible with the principal building(s) on site. Landscape plantings compatible with the overall landscape plan may be required outside of enclosures where they are in public view from a street and it is necessary to soften the enclosures appearance.
 - 1. Neighborhood Protection Standard: Landscape planting compatible with the overall landscape plan are required outside of enclosures where they are in publicly visible from adjacent residentially zoned properties.

Staff Note: new standard (visual, noise, light).

- C. Outdoor storage areas shall be located along the side or the rear of the principle structure and screened so that the visual impacts are fully contained and out of view from adjacent properties and public streets. Screening material may include fence, wall or landscaping so long as materials are architecturally compatible with the principle building(s) on site and will provide an opaque screen. All areas utilized for outdoor storage must be located in areas specifically designed for outdoor storage and is prohibited in or on designated exterior walkways, parking areas, driveways, and landscape areas.

31.06 Compliance and Maintenance**31.06.01 Certificate of Occupancy, Completion, or Zoning Compliance**

- A.** Landscaping must be installed according to the approved site plan and inspected prior to receiving final certification.
- B.** All plant material shall meet or exceed size and shape relationships specified in the latest edition of the American Standard for Nursery Stock published by the American Association of Nurserymen.
 - 1. All sizes specified refer to size at time of planting. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant material.
 - 2. Caliper of the trunk of all new planted trees shall be taken six inches (6") above ground up to and including four-inch (4") caliper, and twelve inches (12") above the ground for larger sizes. Seldom are tree trunks perfectly round. Caliper measurements may be taken with "pincer" type caliper, or diameter tape.
- C.** Plant material must be installed by a landscape contractor licensed to practice in the State of North Carolina, except that this provision does not apply with respect to:
 - 1. Landscaping work where the price of all contracts for labor, material, and other items for a given job site during any consecutive 12-month period is less than \$30,000.00;
 - 2. A federal, State, or local governmental agency performing landscaping on public property;
 - 3. A landowner performing landscape work on their own property;
 - 4. A general contractor licensed under Article 1 of Chapter 87 of the General Statutes who possesses a classification under G.S. 87-10(b) as a building contractor, a residential contractor, or a public utilities contractor;
 - 5. Any other circumstance where the installation qualifies for an exemption under §13 of Chapter 89D of the General Statutes (as such may be amended from time to time).

31.06.02 Request for Extension of Compliance

- A.** It is recognized that land development occurs continuously and that if the season or weather conditions prohibit planting the materials, the applicant may file a written request for extension of compliance with landscaping requirements with the Administrator, which states the reasons why the request is being made. If the Administrator finds that there are unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed. Along with the letter the applicant must provide a performance guarantee in compliance with UDO Section 4.13.

31.06.03 Compliance of Maintenance

- A. The owners of the property and their agents, heirs, or assigns shall be responsible for the installation, preservation, and maintenance of all planting and physical features required under this Article. The disturbance of any landscaped area or vegetation installed pursuant to the Article shall constitute a violation of the site plan or subdivision plan. Any vegetation that is dead, substandard, unhealthy, of poor structural quality, or missing, shall be removed and replaced in conformance with the standards of this Ordinance and to the approved site plan or subdivision plan.
- 1. Should significant amounts of landscaping or physical elements used to meet requirements be lost due to an unusual weather occurrence or natural catastrophe, the landowner shall submit a plan detailing their intent in replacing lost material. Replacement planting may occur within a phased basis as approved by the Administrator. The owner shall have one (1) year or one (1) growing season, whichever is sooner, to replace or replant.

31.06.04 Prohibited Pruning

- A. All plant materials required by this Article shall be allowed to reach their mature size and shall be maintained at their mature size. Any trimming or pruning must be conducted in strict accordance with the current edition of “Tree, Shrub, and other Woody Plant Maintenance – Standard Practices” of the American National Standard for Tree Care Operations (ANSI 300). Required plantings shall not be cut or excessively pruned or otherwise damaged so that their natural form is impaired. Improper pruning includes the removal of the central leader, removal of more than twenty-five percent (25%) of the foliage within an annual growing season, removal of twenty-five percent (25%) of the foliage of a branch or limb when it is cut back to a lateral branch, and cutting a branch back to a lateral not large enough to assume apical dominance.
- 1. A violation of this Subsection shall subject the violator to a civil penalty as set forth in Section 12.07 for any improperly pruned, damaged, or excessively trimmed tree. In addition to this civil penalty, if more than fifty percent (50%) of the crown of a tree is removed within a continuous five-year period, the owner of the property, where a violation has occurred, shall replace each improperly pruned, damaged, or excessively trimmed tree with the appropriate replacement rate in accordance with Subsection 31.03.02.

Any replacement tree shall be planted in a planting area of at least 250 square feet of contiguous growing area for each and shall have a minimum dimension of seven feet (7'). If the property whereon the violation has occurred fails to contain sufficient land area to replant the required replacement trees and replacement trees cannot be planted on adjoining public street rights-of-way, then in lieu of such replacement trees, a fee equal to \$100 per caliper inch of 2 ½" replacement trees shall be paid to the Town. The Town's Administrator may require crown restoration and/or crown reduction in accordance with the current edition of “Tree, Shrub, and other Woody Plant Maintenance – Standard Practices” of the American National Standard for Tree Care Operations (ANSI 300) for any improperly

pruned, damaged, or excessively trimmed tree. All such corrective pruning shall be done under the supervision of a Certified Horticulturist, Arborist or Forester, Landscape Architect, North Carolina Landscape Contractor, or North Carolina Certified Plant Professional and approved by the Administrator.

...

Revisions related to the Tables of Principal, Accessory, and Temporary Uses

Staff Note: Staff was unable to complete the following changes to the UDO as suggested during Council's review of the Tables of Principal, Accessory and Temporary Uses. Staff anticipates completing this work and bringing it back at a future public hearing.

- 1. Revise home occupation standards to address changes in the workforce. Though not discussed, Staff upon research also feels that addressing a true live/work use would be beneficial as well.*
- 2. Create a temporary parking use to address complications and nuisances that arise from special event parking.*
- 3. Revise parking standards to allow more flexibility for business owners to use rent/lease empty parking areas within a development so as to limit the creation of new parking lots.*
- 4. Create a sports wagering public accommodation use to reflect recent NC General Statute changes.*

Article 15 Limited Use Requirements

...

15.49 Outdoor Display (Accessory)

15.49.01 Outdoor display shall not impede pedestrian or automobile traffic and if applicable, shall meet the requirements set forth in Town Code § 96.002(B)(2) Obstructions Prohibited.

15.49.02 Use of a parking lot for outdoor display requires a zoning permit.

- A.** An applicant must demonstrate that remaining parking fully meets the requirements of this Ordinance.

...

15.51 Outdoor Dining (Accessory)

15.51.01 Outdoor dining areas shall not impede pedestrian or automobile traffic.

15.51.02 Outdoor dining areas are permitted anywhere on the development parcel provided that they are not located (1) within any required building setback for the principal use or (2) within in any required landscaped buffer.

15.51.03 Any newly created outdoor dining areas adjacent to residentially zoned properties must install the required landscape buffer regardless of whether the improvement triggered any compliance outlined in UDO Subsection 7.05 Nonconforming Situation.

...

- 15.62.06 Temporary Classroom:** A temporary structure serving as expansion space for a classroom may be permitted as a temporary use to Use 9.05 Elementary School and Use 11.23 Hospital subject to the following conditions:
- A.** A temporary classroom must be accessory and related to the principal use on the lot.
 - B.** A temporary classroom shall only be allowed at a density that does not exceed one temporary classroom for every five (5) acres.
 - C.** The temporary classroom shall be placed on the lot in such manner that it meets all required setbacks.
 - D.** The location, placement, and type of the temporary classroom must be selected so as to minimize any negative effects on adjacent properties.
 - E.** Land use intensity ratios do not apply to a temporary classroom.
 - F.** Landscape buffers must be provided to the extent the temporary classroom is adjacent to properties not associated with the principal use for the lot for which the temporary classroom serves.
 - G.** Article 25 Community Appearance Standards shall not apply to temporary classrooms.
 - H.** The permit shall be valid for three (3) years for Use 11.23 Hospital and ten (10) years for Use 9.05 Elementary School from the date of issuance. The temporary use permit may be extended subject to the following conditions:
 - 1. A ~~one (1)~~ three (3) year extension is allowed if a building permit for an approved project for permanent construction which would replace the need for the temporary classroom has been issued prior to the expiration of the temporary permit; and
 - 2. The applicant requests an extension within ninety (90) days prior to the expiration of the temporary permit period.
 - ~~2.3.~~ Exception: For Use 9.05 Elementary School, an extension to the original permit may be considered by Town Council for properties where a building permit for an approved project for permanent construction which would replace the need for the temporary classroom has not been applied for or issued. The length of the extension would be determined by Town Council.

...

15.66 ABC Store (Use 11.09)

15.66.01 In the OI Office Institutional and WD Wellness District zoning districts, Use 11.09 ABC Store is limited to 5,000 square feet.

15.66.02 In the M1 Manufacturing zoning districts, Use 11.09 ABC Store may only be utilized if part of Use 17.02 or 17.03 Trucking or Freight Terminal.

15.67 Fuel Storage Facility (Use 16.04)

15.67.01 Use 16.04 Fuel Storage Facility is prohibited from being built in any mapped floodplain.

...

Article 34 Definitions

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Agricultural~~e~~ Operation Including Livestock

The use of land for the keeping, grazing, feeding, or breeding of livestock, poultry, or bees.

Agricultural~~e~~ Operation Excluding Livestock

The use of land for the production of cash grains, field crops, vegetables, fruit and nuts, and for horticulture and floriculture.

...

Bar

~~An establishment which primarily prepares and serves alcoholic beverages for immediate consumption. These establishments may also provide limited food and entertainment (primarily music) services. Excluded from this definition are microbreweries, brewpubs, breweries/distilleries, and all wineries.~~

...

Crematorium

As defined by N.C.G.S. § 90-210.121, a crematorium is defined as the building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. "Cremation" means the technical process, using intense heat and flame, that reduces human remains to bone fragments. Cremation includes the processing and may include the pulverization of the bone fragments.

...

Cultural Facility

~~A building owned or operated by a government entity in which objects of interest or performances in the fine arts, humanities, or sciences are displayed, preserved or presented for exhibition or education.~~

...

Government Cultural Facility

A building owned or operated by a government entity in which objects of interest or performances in the fine arts, humanities, or sciences are displayed, preserved or presented for exhibition or education of the general public.

Government Neighborhood Cultural Facility

A government cultural facility which does not exceed 5,000 square feet.

...

~~Halfway House~~Residential Reentry, Category 1

A residential facility establishment in which not more than six (6) persons at one time temporarily reside, where ~~each of the~~ the residents ~~is~~are in transition from (1) in-patient treatment for alcoholism or

drug abuse, (2) ~~or~~ from incarceration back into the community, or (3) receive referrals from recovery based or similar community organizations. -

~~Halfway House~~ **Residential Reentry, Category 2**

A residential facility establishment in which more than six (6) persons temporarily reside, where ~~each of~~ the residents ~~is~~ are in transition from (1) in-patient treatment for alcoholism or drug abuse, (2) ~~or~~ from incarceration back into the community, or (3) receive referrals from recovery based or similar community organization.

...

Restaurant

An establishment ~~which provides prepared food to patrons~~ primarily engaged in preparing and selling of food and/or beverages (that may include alcoholic beverages) for consumption on or off premises.

B1.01 Complete Table of Principal Uses

Use #	Specific Use	Zoning Districts																						Reference	
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial								Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4		
1.0 Household Living																									
1.01	Single-Family Dwelling	P	P	P	P	P	P	P																	
1.02	Manufactured Home “Class A”	L			L		L	L	L															15.01	
1.03	Manufactured Home “Class B”	L							L															15.01	
1.04	Manufactured Home “Class C”																								
1.05	Manufactured Home Park								L															15.02	
1.06	Duplex (one duplex building per lot)	P					P	P		P															
1.07	Duplex (more than one duplex building per lot)							<u>CD</u>		L														15.03	
1.08	Townhouse (up to 30 bedrooms)							L ^{T150} <u>CD</u>		L ^{T50}														15.03	
1.09	Townhouse (31-100 bedrooms)							L ^{T150} <u>CD</u>		L ^{T75}														15.03	
1.10	Townhouse (> 100 bedrooms)							L ^{T75} <u>CD</u>		L ^{T25} <u>CD</u>														15.03	
1.11	Multi-Family Dwelling (up to 30 bedrooms)									L ^{T125} <u>CD</u>														15.03	
1.12	Multi-Family Dwelling (31-100 bedrooms)									L ^{T200} <u>CD</u>														15.03	
1.13	Multi-Family Dwelling (> 100 bedrooms)									L ^{T300} <u>CD</u>														15.03	
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)									<u>CD</u>			L	L	L ^{T75}	L	L							15.04	
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)												CD	L ^{T125} <u>CD</u>		L ^{T125} <u>CD</u>	L ^{CD}							15.04	
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)													L ^{T300} <u>CD</u>		L ^{T200} <u>CD</u>	L ^{CD}							15.04	
1.17	Adult Living Community									P ^{T300} <u>CD</u>	P ^{T300} <u>CD</u>														
2.0 Group Living																									
2.01	Family Care Home	L	L	L	L	L	L	L		L														15.06	
2.02	Family Care Institutions											L ^{T125}												15.07	
2.03	Halfway House <u>Residential Reentry</u> , Category 1									<u>CD</u>		L		<u>CD</u>	<u>CD</u>									15.07	
2.04	Halfway House <u>Residential Reentry</u> , Category 2									<u>CD</u>		L ^{T125}		<u>CD</u>	<u>CD</u>									15.07	
2.05	Residential Care Facility										CD	P ^{T300}				P ^{T300}	<u>P</u>								
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	L	L			L	L				L		L ^{T125}	L									15.11	

Communication: Case A24-0070 Staff Report (Case A24-0070 Transitional Zone/Neighborhood Protection - UDO Text Amendment)

Use #	Specific Use	Zoning Districts																						Reference
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4	
3.02	Shelter for Homeless, Category 1									L T50		L T50		L T50		L T50								15.12
3.03	Shelter for Homeless, Category 2									L T300 <u>CD</u>		L T300				L T300								15.12
3.04	Bed and Breakfast, Category 1	L	S T50 <u>CD</u>	S T50 <u>CD</u>			L T50	L T50		<u>L</u>				L	L									15.13
3.05	Bed and Breakfast, Category 2						L	L T125		<u>CD</u>						L T125								15.13
3.06	Vacation Rental	L T75								L T75			L T75	L T75	L T75	L T75								15.14
3.07	Homestay Rental	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L						15.05
3.08	Motel															P T300 <u>CD</u>								
3.09	Hotel, Small												P	P	<u>CD</u>	P	P							
3.10	Hotel, Large															P T200 <u>CD</u>								
3.11	Hotel, extended stay															P T300 <u>CD</u>								
4.0 Institutional																								
4.01	Airport/Landing Strip	S T300 <u>CD</u>																						15.15
4.02	Heliport	S T300 <u>CD</u>																						
4.03	Funeral Home Establishment											P	P	P	P	P								
4.04	Crematorium											<u>CD</u>	<u>CD</u>	<u>CD</u>	<u>CD</u>	<u>CD</u>								
4.0 4 <u>5</u>	Cemetery	P	P	P	P	<u>P</u>	P	P	P	P	<u>P</u>	P	<u>P</u>	P	P	P	<u>P</u>	P						
4.0 5 <u>6</u>	Post Office											P	P	P	P	P	P	P						
4.0 6 <u>7</u>	Post Office, Distribution																	P						
4.0 7 <u>8</u>	Animal Sanctuary	S T300 <u>CD</u>																						
5.0 Government Uses																								
5.01	Government Cultural Facility									<u>CD</u>		P	P	P		P								
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	<u>S</u> <u>CD</u>	<u>S</u> <u>CD</u>	<u>S</u> <u>CD</u>	<u>S</u> <u>CD</u>	<u>CD</u>	<u>S</u> <u>CD</u>	<u>S</u> <u>CD</u>				P	P	P	P	P								
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity									<u>CD</u>		P	P	P		P								
5.04	Recreation Facility, Category 1	P								P		P	P	P	P	P	<u>P</u>	P						
5.05	Recreation Facility, Category 2	P	P	P	P	<u>P</u>	P	P	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	P	P	<u>P</u>	P						
5.06	Recreation Facility, Category 3	P T50 <u>CD</u>	<u>S</u> <u>CD</u>	<u>S</u> <u>CD</u>	<u>S</u> <u>CD</u>		<u>S</u> <u>CD</u>	<u>S</u> <u>CD</u>		P <u>CD</u>		P T50 <u>CD</u>	P T50 <u>CD</u>	P T50 <u>CD</u>	P T50 <u>CD</u>	P T50 <u>CD</u>	<u>CD</u>	P T50 <u>CD</u>						
5.07	Event Venue, Category 1								P	P		P	P	P	P	P								
5.08	Event Venue, Category 2							S	<u>S</u> <u>CD</u>			P	P	P	P	P								
5.09	Event Venue, Category 3											P T50 <u>CD</u>	P T50 <u>CD</u>	P T50 <u>CD</u>	P T50 <u>CD</u>	P T50 <u>CD</u>								
5.10	Landfill																	<u>S</u> <u>CD</u>						
5.11	Solid Waste Processing																	<u>S</u> <u>CD</u>						
5.12	Police Substation	P	P	P	P	<u>P</u>	P	P	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	P	P	P	P						
5.13	Utility Facility, Town	L	L	L	L	L	L	L	<u>L</u>	<u>L</u>	<u>L</u>	L	L	L	L	L	<u>L</u>	L						15.16
5.14	Utility Facility, Government, Neighborhood	L	L	L	L	L	L	L	P <u>L</u>	P <u>L</u>	<u>L</u>	L	L	L	L	L	<u>L</u>	L						15.16
5.15	Utility Facility, Government, Regional	L T300							L	L		L T300				L T300		L T300						15.16
5.16	Government Facility	P							L	L <u>CD</u>		P	P	P	P	P	<u>P</u>	P						

Use #	Specific Use	Zoning Districts																						Reference
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4	
6.0 Non-Government Utility Facility																								
6.01	Utility Facility, Neighborhood	L	L	L	L	L	L	L	P <u>L</u>	L	<u>L</u>	L	L	L	L	L	<u>L</u>	L						15.16
6.02	Utility Facility, Regional	L ^{T300}										L ^{T300} <u>CD</u>				L ^{T300} <u>CD</u>		L ^{T300} <u>CD</u>					15.16	
7.0 Wireless Communication																								
7.01	Small Wireless Collocation	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>	L	L	L	L	L	L	15.18
7.02	Wireless Facility Collocation on Existing Wireless Support Structure or Utility Pole	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>	L	L	L	L	L	L	15.17
7.03	Stealth Wireless Facility Attached to Existing Building or Structure	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>	L	L	L	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	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>	L	L	L	L	L		15.17
7.06	Stealth Wireless Support Structure	S <u>CD</u> /L	S <u>CD</u> /L	S <u>CD</u> /L	S <u>CD</u> /L	S <u>CD</u> /L	L	L	L	L	<u>CD</u> /L	L	L	L	L	L	<u>L</u>	L	L	L	L	L		15.17
7.07	Non-stealth Wireless Support Structure									L		L				L		L	L					15.17
7.08	Emergency Response Communication Antenna	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
8.0 Assembly																								
8.01	Religious Assembly, Category 1	P	P	P	P	<u>P</u>	P	P	P	P	<u>P</u>	P	<u>P</u>	P	P	P	P							
8.02	Religious Assembly, Category 2	CD ^P <u>P</u> ^{T125}	CD ^P <u>P</u> ^{T125}	CD ^P <u>P</u> ^{T125}	CD ^P <u>P</u> ^{T125}		CD ^P <u>P</u> ^{T125}	CD ^P <u>P</u> ^{T125}	P ^{T125}	CD ^P <u>P</u> ^{T125}		P ^{T75}		P		P								
8.03	Religious Assembly, Category 3	P ^{T200}													P ^{T200} <u>CD</u>		CD ^P <u>P</u> ^{T200}							
8.04	Club/Lodge, Category 1														P ^{T75} <u>CD</u>		CD ^P <u>P</u> ^{T75}							
8.05	Club/Lodge Which Does Not Serve Alcohol	P														P								
9.0 Education																								
9.01	Public colleges and universities																<u>P</u> *		P ^{T200}	P ^{T200}	P ^{T200}			*No residential uses allowed.
9.02	Private colleges and universities																<u>P</u> *			CD ^P <u>P</u> ^{T200}	CD ^P <u>P</u> ^{T200}			
9.03	Trade school																					CD ^P <u>P</u> ^{T200}		
9.04	High school																					CD ^P <u>P</u> ^{T200}		
9.05	Elementary school																					CD ^P <u>P</u> ^{T200}		
9.06	Boarding school																							
9.07	College- or university-operated community enterprise													L	L			<u>L</u>						15.63
9.08	College- or university-operated child daycare center																						L	15.19
10.0 Daycare																								

Use #	Specific Use	Zoning Districts																						Reference
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4	
10.01	Child Daycare, Large	L	CD	CD				L		L		L		CD	L	L	L							15.19
10.02	Child Daycare Center											L		CD		L	L							15.19
10.03	Adult Daycare, Large	L						L		L					L	L	L							15.19
10.04	Adult Daycare Center										L	L				L	L							15.19
10.05	All Other Daycare											CD		CD		CD	CD							
11.0 General Sales and Service																								
11.01	Kennel	L^{T125} CD														CD L^{T125}								15.20
11.02	Veterinary Office/Hospital with Outdoor Kennels	CD L^{T125}										CD L^{T125}				CD L^{T125}								15.20
11.03	Veterinary Office/Hospital without Outdoor Kennels	P										P	P	P	P	P								
11.04	Financial Institution ≤ 5,000 ft²											P	P	P	P	P	P							
11.05	Financial Institution > 5,000 ft²											P	P	P		P	P							
11.06	Restaurant ≤ 2,500 ft² open to the public during 10 pm – 6 am											P^{T75}	P^{T125}	P^{T200}	P^{T75}	P^{T75}	P	P^{T75}						
11.0 6 ⁷	Other Restaurants ≤ 2 <u>3</u> ,500 ft²											P	P	P	P	P	P	P						
11.0 7 ⁸	Restaurant > 2 <u>3</u> ,500 ft² open to the public during 10 pm – 6 am											P^{T200}	P^{T125}	P^{T200}		P^{T200}	P							
11.0 8 ⁹	Other Restaurants > 2 <u>3</u> ,500 ft²											P^{T125}	P^{T75}	P^{T75}		P^{T125}	P							
11.10	Restaurant ≤ 3,500 ft² open to the public during 10 pm-6 am																	P^{T300}						
11.11	Other Restaurants ≤ 3,500 ft²																	P^{T300}						
11.12	Bar																							
11.1 0 ⁹ ³	ABC Store											L				P	L	L^P						15.66
11.14	Personal Service Establishment open to the public during 10 pm-6 am											P^{T75}	P^{T125}	P^{T125}		P^{T75}		P						
11.1 0 ⁵	Other Personal Service Establishments											P	P	P	P	P	P	P						
11.1 1 ⁶	Retail Store up to 5,000 ft²											P	P	P	P	P	P	P						
11.1 2 ⁷	Retail Store more than 5,000 but less than 25,000 ft²												CD	P^{T300} CD	CD P^{T200}	P^{T200}								
11.1 3 ⁸	Retail Store 25,000 ft² and greater															L^{T300}	L							15.21
11.19	Reserved																							
11.20	Business or Professional Office open to the public during 10 pm – am											P^{T75}	P^{T50}	P^{T125}		P^{T75}		P^{T75}						
11.1 4 ² ¹	Other Business or Professional Office											P	P	P	P	P	P	P						
11.1 5 ² ²	Medical Office, Category 1											P^{T300}	P^{T300}	P^{T300}		P^{T300}	P							
11.1 6 ² ³	Medical Office, Category 2											P^{T125}	P^{T125}	P^{T125}		P^{T125}	P							
11.1 7 ² ⁴	Medical Office, Category 3											P^{T125}				P^{T125}	P							

Use #	Specific Use	Zoning Districts																						Reference
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4	
11.18 25	Medical Office, Category 4											P	P	P	P	P	P							
11.19 26	Hospital											P T300					P							
11.20 7	Medical Emergency Response											P T300		P T300		P T300	P							
11.21 8	Open Air Market, Recurring	L T75										L T50		L		L T75	L							15.22
11.22 9	Vehicle Sales and Service														L T125	L T75								15.23
11.23 30	Equipment Sales and Service															L T125		L T125						15.24
11.24 31	Moped Sales and Service													P	P	P								
11.25 32	Boat or Marine Craft Sales and Service															L T75		L T75						15.25
11.26 33	Impound Lot/Towing Service															L T125		L T125						15.26
11.27 34	Gas Station	P T125														CD P T125	CD P T125		CD P T125					
11.28 35	Car Wash															CD P T125	CD P T125		CD P T125					
11.29 36	Seasonal Retail Activities and Amusements	P										P	P	P	P	P	P	P						
11.30 7	Electric-Vehicle Charging Station														L CD	L CD	L CD		L CD					15.65
12.0 Recreation & Entertainment Uses																								
12.01	Indoor Shooting Range	L T75														S L T75		S						15.27
12.02	Outdoor Shooting Range																							
12.03	Indoor Theater												P	P	CD	P								
12.04	Outdoor Theater	P T200											P	CD P T125		CD P T125								
12.05	Event Venue, Category 1												P	P	P T75	P	P	P						
12.06	Event Venue, Category 2												P T50	P T50	P T125	P T125								
12.07	Event Venue, Category 3												P T200	P T200		P T200								
12.08	Campground and Recreational Vehicle Park	L T200														L T200								15.28
12.09	Coliseum															S T300 CD								
12.10	Recreation Facility, Category 1	P T125										P	P	P	P	P	P	P						
12.11	Recreation Facility, Category 2	P T125										P T50				P T50								
12.12	Recreation Facility, Category 3	P T200														CD P T200								
12.13	Racetrack																							
13.0 Agriculture																								
13.01	Garden, Community	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L						15.29
13.02	Garden, Residential	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L						15.30
13.03	Agricultural Operation Excluding Livestock	P CD																						
13.04	Agricultural Operation Including Livestock	P CD																						
13.05	Swine Farm																							

Use #	Specific Use	Zoning Districts																						Reference	
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial								Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2	E3	E4		
13.06	Confined Animal Feeding Operation (CAFO)																								
13.07	Custom Slaughterhouse	P CD																							
13.08	Other Slaughterhouse																								
13.09	Forestry	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L						15.31		
14.0 Manufacturing																									
14.01	Microbrewery/ Microdistillery												CD ^{T125}	CD ^{T200}		L ^{T125}		L ^{T125}					15.32		
14.02	Brewpub												L ^{T75}	L ^{T125}		L ^{T125}		L ^{T125}					15.32		
14.03	Brewery/Distillery															L ^{T125}		L ^{T125}					15.33		
14.04	Brewery/Distillery, Other																						15.34		
14.05	Winery Associated with a Vineyard	CD ^{T125}																L ^{T125}					15.35		
14.06	Winery															L ^{T125}		L ^{T125}					15.35		
14.07	Winery, Other																								
14.08	Extraction of Earth Materials																								
14.09	Machine/Welding Shop															L ^{T200}		L ^{T200}					15.37		
14.10	Manufacturing, Other																	L ^{T300}					15.38		
15.0 Parking																									
15.01	Parking Lot											L	CD	CD		L							15.39		
15.02	Parking Structure									CD ^{T125}		L	CD	CD		L	L						15.40		
15.03	Park and Ride Lots	L										L		CD		L		L					15.39		
16.0 Storage																									
16.01	Self-Storage Facilities	L ^{T125}														CD ^{T75}		CD ^{T75}					15.41		
16.02	Outdoor Storage																	L ^{T75}					15.42		
16.03	Warehouse																	P ^{T75}							
16.04	Fuel Storage Facility															L ^P ^{T300}		L ^P ^{T300}					15.67		
16.05	Chemical Storage Facility																								
17.0 Transportation																									
17.01	Passenger Terminals									CD						CD ^P ^{T200}		P							
17.02	Trucking or freight terminal ≤ 10,000 ft²															CD ^P ^{T125}		P ^{T125}							
17.03	Trucking or freight terminal > 10,000 ft²																	P ^{T300}							
18.0 Waste Related Uses																									
18.01	Recycling Drop-off Station	L ^{T300}																L ^{T200}					15.42		
18.02	Recycling and Salvage																	L ^{T300}					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		

B1.02 Complete Table of Accessory Uses

Use #	Accessory Use	Zoning Districts																							Reference
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education						
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1DC	B1DI	B2	B3	WD	M1	U1	U1	E2	E3	E4		
A-1	Secondary suite	L	L	L	L	L	L	L	L	L		L		L	L	L								15.45	
A-2	Home occupation	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>							15.46	
A-3	Accessory dwelling unit	<u>L</u>		L	L		L	L		L		L		L	L	L								15.47	
A-4	Drive-through											t <u>CD</u>				t <u>CD</u>		t <u>CD</u>						15.48	
A-5	Outdoor display											L	L	L	L	L		L						15.49	
A-6	Outdoor storage															L		L						15.50	
A-7	Outdoor dining											L	L	L	L	L	<u>L</u>	<u>CD</u> t ^{T300}						15.51	
A-8	Automated teller machine (ATM)									<u>P</u>		P	<u>P</u>	<u>P</u>	P	P	<u>P</u>	P							
A-9	Automated teller machine (ATM), freestanding									L		L	t	t	L	L	<u>L</u>	L						15.52	
A-10	Produce stand	L																						15.53	
A-11	Poultry	L	L	L	L	<u>L</u>	L	L	L	L	<u>L</u>	L			L	L								15.54	
A-12	Livestock, small	L	L	L	L		L	L	L	L		L				L								15.55	
A-13	Livestock, large	L																						15.56	
A-14	Bees	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>	<u>L</u>						15.57	
A-15	Garden, residential	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>	L						15.58	
A-16	Satellite receiving antennas less than 1 meter in diameter	P	P	P	P	P	P	P	P	P	<u>P</u>	P			P	P		P							
A-17	Satellite receiving antennas less than 2 meters in diameter	P										P			P	P		P							
A-18	Satellite receiving antennas 2 meters and greater in diameter											S				S		P							
A-19	Helistop	S ^{T300}										S ^{T300}				S ^{T300}	<u>S</u>	S ^{T300}							
A-20	Swimming pools, spas, and hot tubs	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>	L						15.59	
A-21	Caretaker's residence											L				L		L						15.60	
A-22	Vehicular gate	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	<u>L</u>	L						15.61	
A-23	Vehicle washing station	P								P		P			P	P		P							
A-24	Chemical storage facility															<u>CD</u> P ^{T125}		<u>CD</u> P ^{T125}							
A-25	Open air market, accessory	L	L	L	L		L	L	L	L		L	L	L	L	L	<u>L</u>	L						15.22	
A-26	Daycare, small	P	P	P	P	P	P	P	P	P	<u>P</u>	P	P	P	P	P	<u>P</u>	P							
A-27	Limited structure to enable recreational use of open rooftops									t ^{T300} <u>CD</u>			t ^{T300} <u>CD</u>	t ^{T300} <u>CD</u>		t ^{T300} <u>CD</u>	t ^{T300} <u>CD</u>						14.03.07(G) 14.19.06(H)(8)(d)		
A-28	Solar Energy System	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L				L		15.64	
A-29	Electric-Vehicle Charging Station	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L				L		15.65	

B1.03 Complete Table of Temporary Uses

Use #	Temporary Use		Zoning Districts																				Reference	
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R1A	RR	R1S	R2	R4	MH	R3	R5	OI	B1	B1DI	B2	B3	WD	M1	U1	E1	E2	E3		E4
T-1	Temporary family care structure	L	L	<u>L</u>	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>							15.62
T-2	Temporary construction or repair dwelling	L	L	L	L	L	L	L	L	L	<u>L</u>	L	<u>L</u>	L	L	L	<u>L</u>	L						15.62
T-3	Temporary construction trailer	L	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L						15.62
T-4	Temporary mobile medical unit											L				L	L							15.62
T-5	Temporary classroom											L				L	L					L		15.62
T-6	Temporary portable storage containers	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	<u>L</u>	L						15.62
T-7	Temporary staging											L				L		L						15.62
T-8	Temporary non-fixed site event venue	L										L				L								15.62
T-9	Carrier on wheels (cow)	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	L	L						15.62
T-10	Yard sales	L	L	L	L	L	L	L	L	L	<u>L</u>	L		L	L	L	<u>L</u>	L						15.62
T-11	Itinerant merchant/peddler	L	L	L	L	L	L	L	L	L	<u>L</u>	L	L	L	L	L	L	L						15.62
T-12	Open air market, temporary	L										L	L	L	L	L	<u>L</u>	L						15.62
T-13	Temporary Use 9.01 Public Colleges and Universities											L				L	<u>L</u>	L						15.62

Staff Note: Staff will update the entire UDO with any changes to numbering shown herein.

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 PL05640-040822
Case Name:
Lighting Design Standards

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 25

Section(s): Article 25 Section 5 Lighting

Brief Description of Amendment (Attach Proposed Text):

To modify UDO Article 25 Community Appearance Standards to reflect lighting industry changes and lighting design best practices. In conjunction with the Community Appearance Commission evaluating current Community Appearance Standards, Planning Staff has evaluated the current lighting standards by meeting with lighting design professionals, dark sky advocates, and local energy providers to discuss current lighting practices and areas of improvement.

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.

Jessica Mitchell
Applicant (Print)

/s/ Jessica Mitchell
Applicant Signature

04/08/22
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: 05/22/23, 7/24/23, 4/22/24

PC Meeting Date: 05/22/23, 7/24/23, 4/22/24

TC Meeting Date: May 2024

Text Approved: ☐ Yes ☐ No

Notes:

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

Communication: Case PL05640-040822 Application (Case PL05640-040822 Lighting- UDO Text Amendment)



**STAFF REPORT
PUBLIC HEARING**

MAY 22, 2023, JULY 24, 2023, APRIL 22, 2024

Case PL05640-040822 Lighting Design Standards – Community Appearance Standards – UDO Text Amendment

Request

To modify UDO Article 25 Community Appearance Standards to reflect lighting industry changes and lighting design best practices. In conjunction with the Community Appearance Commission evaluating current Community Appearance Standards, Planning Staff has evaluated the current lighting standards by meeting with lighting design professionals, dark sky advocates, and local energy providers to discuss current lighting practices and areas of improvement.

History

February 22, 2022	Community Appearance Commission tasked with evaluating Community Appearance Standards in UDO Article 25. Planning Staff tasked with Lighting Design Standards within Article 25.
April 12, 2022	Meeting with lighting design professional and dark sky advocate.
April 20, 2022	Meeting with local energy provider, New River Light & Power.
April 26, 2022	Presentation of drafted lighting standards to Community Appearance Commission.
April 27, 2022	Meeting with local energy provider, Blue Ridge Energy Members Foundation, Inc.
May 24, 2022	Presented revised drafted lighting standards to Community Appearance Commission.
May 22, 2023	Staff presented text at the Public Hearing/Planning Commission, where the case was continued to July 24, 2023. <i>See Staff Exhibit 1 excerpt meeting minutes.</i>
September 13, 2023	Town Council discussed lighting as presented by Staff at the regular Town Council, where Council provided Staff further direction.

Background

In Staff's research for updating the lighting standards, we have investigated the use of:

- Kelvin (K) – defined as the light temperature in which it measures how warm (lower numbers) or cool (higher numbers) the light is
- Lumens - the total amount of light emitted from a source
- Foot candles (fc) - the amount of light falling onto a surface within one square foot
 - For reference, 1 foot candle is equal to 10 lumens
- Watts or wattage – measure of how much power a light bulb uses

Below are some diagrams that Staff has found helpful in our research to better understand the proposed text changes.

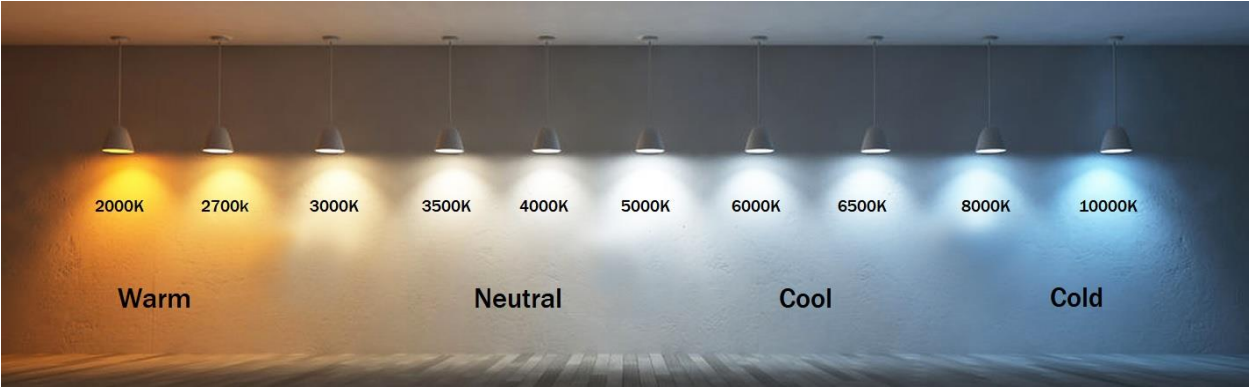


Figure 1. Source: <https://www.ledlightingwholesaleinc.com/Understanding-Lumens-vs-Kelvin-s/399.htm>

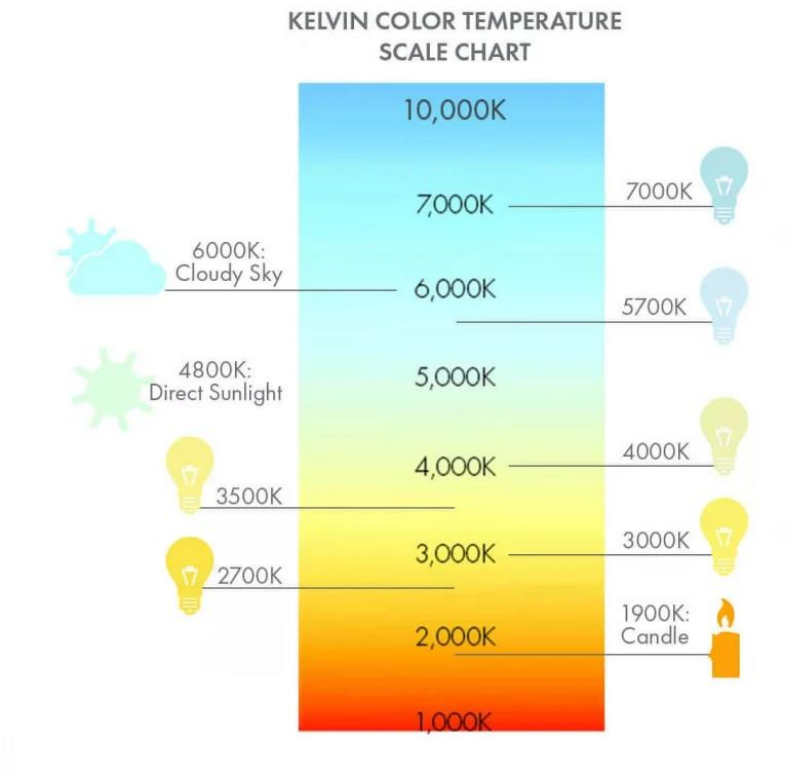


Figure 2. Source: <https://www.nvautoparts.com/defining-kelvin-lumens-and-lux/>

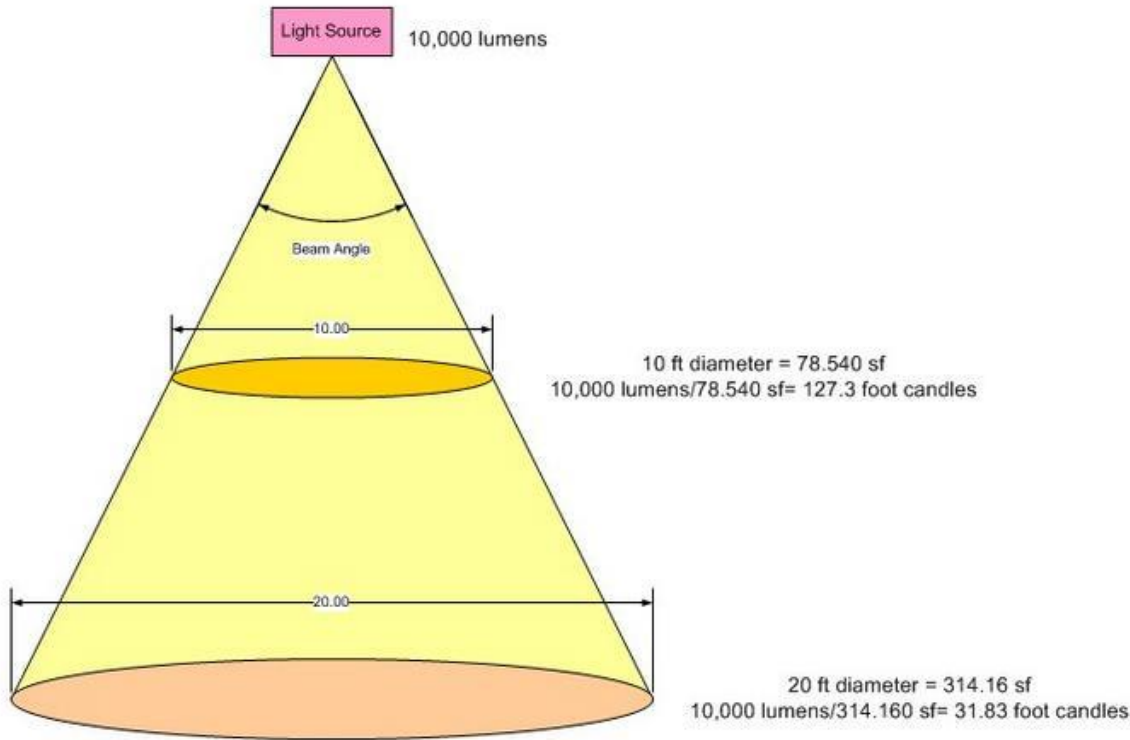


Figure 3. Source: <http://www.americangreenlights.com/lumens--lux--and-foot-candles.html>

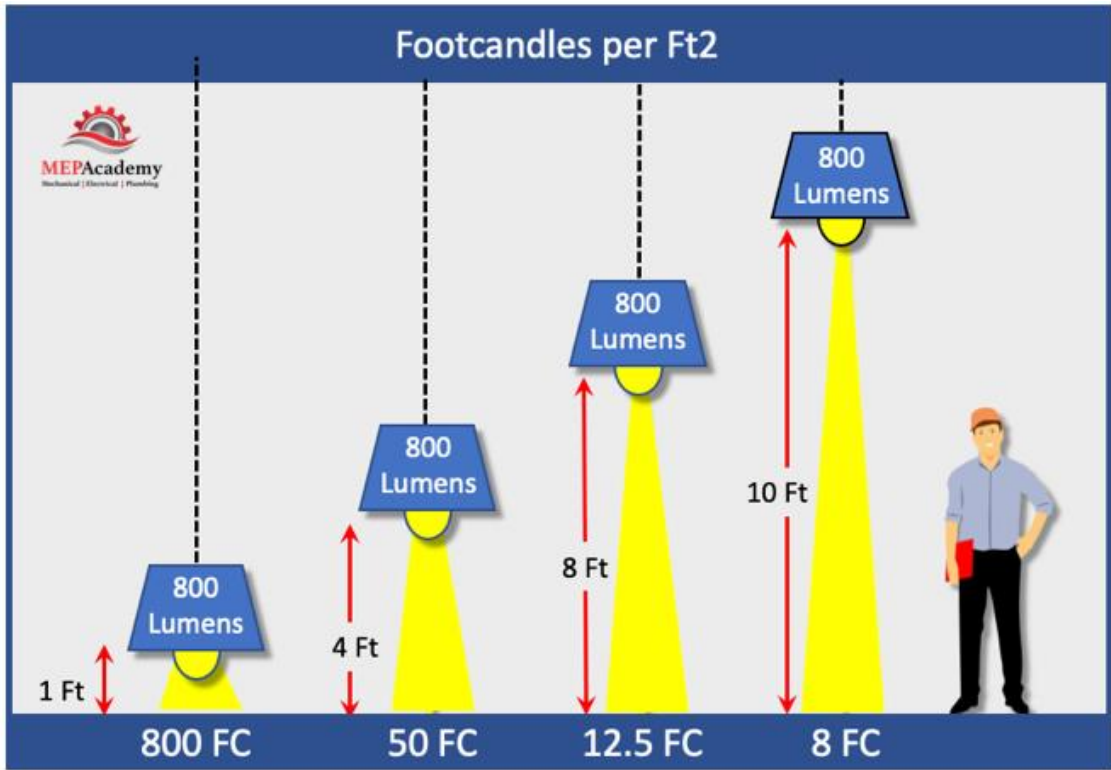


Figure 4. Source: <https://mepacademy.com/lumens-and-footcandles/>

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.

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

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.

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

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.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
 - E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

2.3 THE COMMUNITY

2.3.1 Community Appearance

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

2.3 THE COMMUNITY

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.

2.3 THE COMMUNITY

2.3.4 Public Involvement

- A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.
 - A.2 Maintain and update a mailing list of architects, engineers, surveyors, landscape architects, realtors, builders, developers and contractors for notification and distribution of changes in Town policies and regulations.
- 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.

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 #PL05640-040822 (A23-0053) 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:

Note 1

Vote 2: The Town Council ☐approves OR ☐denies Ordinance #PL05640-040822 (A23-0053) to the Town’s zoning ordinance and believes ☐approval OR ☐denial is reasonable and in the public interest because:

Note 2

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

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

ORDINANCE # PL05640-040822/A23-0053

AN ORDINANCE TO REVISE UNIFIED DEVELOPMENT ORDINANCE RELATING TO LIGHTING DESIGN STANDARDS AND COMMUNITY APPEARANCE STANDARDS

WHEREAS, the Boone Town Council desires to modify, clarify and regulate best practices for lighting design standards for commercial development; and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on May 22, 2023, July 24, 2023 and April 22, 2024 with respect to this ordinance; and

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

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

WHEREAS, the 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, 24, 25, 26, 27, 34, and Appendix A 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 ____th day of _____, 2024.

The Honorable Tim Futrelle, Mayor

Attest:

Communication: Case PL05640-040822 Staff Report (Case PL05640-040822 Lighting- UDO Text Amendment)

Nicole Harmon, Town Clerk

EXHIBIT A**Article 34 Definitions**

...

Building

Any structure used or intended for supporting or sheltering any use or occupancy.

...

Non-Fixed Site Event Venue

A special event, such as a carnival or circus, on a lot which does not have a dedicated facility for hosting such events.

...

Structure

Anything constructed or erected ~~which that requires~~ has a fixed location on the ground or is attached to something having a fixed location on the ground.

Article 7 Nonconformities

...

7.05 Nonconforming Situation

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7.05.02 Development which requires compliance with UDO:

- A. Cost of development as referenced herein shall be measured by adding together the costs which 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 requested and issued within ~~one (1) year~~ twelve months of the date of damage or destruction; and ~~the structure is occupied~~ within two (2) years of the date of damage or destruction, the repair or restoration is completed and final approval of the work (e.g., certificate of occupancy) ~~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. (FOR DISCUSSION) When used, compliance “to the extent practicable” shall exclude any item in which the cost of compliance exceeds 7% of the project cost. 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.~~ Glare control (exterior lighting) and in accordance with Subsection 23.03.06(a) and (b) and removal of any unshielded or exposed building mounted tube lighting in accordance with Subsection 27.02.02.
 - 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.
 - ~~d.~~ e. All other requirements of Article 27 Lighting Standards.
 - ~~e.~~ f. All other requirements of Article 31 Landscape Standards.
 - ~~f.~~ g. 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.

Article 24 Parking

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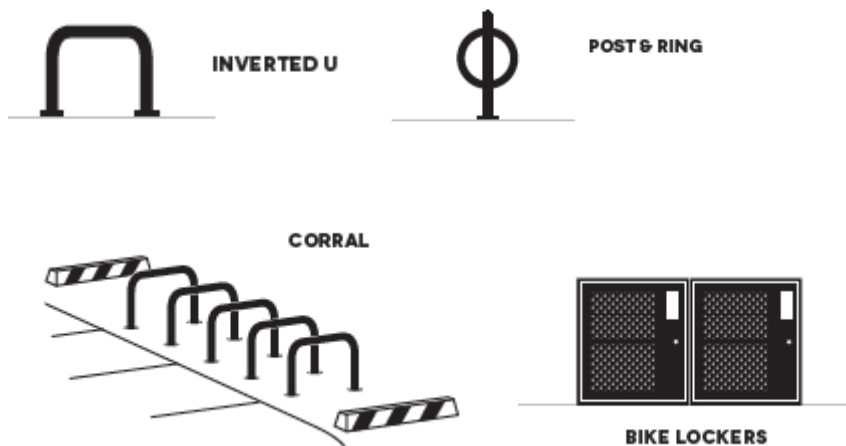
24.09 Bicycle Parking

...

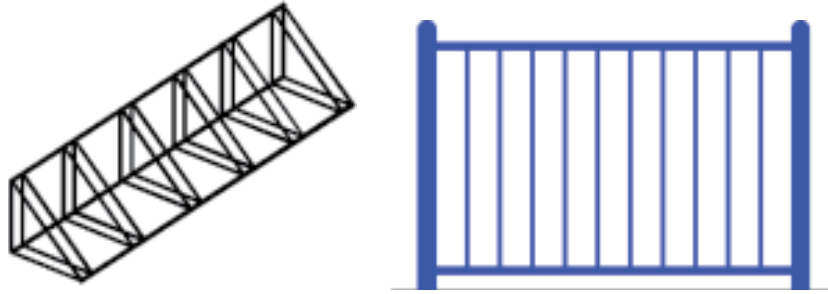
24.09.04 Bicycle Parking facilities shall meet the following standards:

- A. Bicycle parking facilities shall conform with the design guidelines promulgated by the Association of Pedestrian and Bicycle Professionals (APBA) as found in the "Bicycle Parking Guidelines" manual.
- B. Bicycle racks shall provide for at least two (2) points of contact with the bicycle frame and for the locking of at least one wheel using varying types of bike locks (U-lock, wire cable, etc.)
- C. All racks must be safe, sturdy and well-anchored.

Examples of acceptable facilities:



Examples of **unacceptable** facilities (because they secure only one wheel):



- A. Outside bicycle parking facilities shall be illuminated in conformity with the standards for "~~open parking areas~~ Parking Areas" of UDO Section 27.03 and 27.06~~25.05~~. Inside bicycle parking facilities shall be illuminated in conformity with the standards for "building entries" of UDO Section ~~25.05~~ 27.03.

...

Article 25 Community Appearance Standards

25.02.05 Colors: The intent of this Section is to prevent inordinately bright façades and primary color ranges. All new construction elements are subject to color requirements, except pavement markings and signage.

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

...

25.03 Parking Structures

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

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

25.03.03 All above-ground parking floors and decks shall be designed using a continuous façade incorporating window-like openings. The sill of any window-like opening must be a minimum of 42" above the finished floor.

25.03.04 Elevator and stair shafts shall be topped with gabled roofs or other architectural features and be oriented so that lobbies are visible from the street at each level.

~~**25.03.05** Lighting shall be uniform throughout the structure so that dark hiding places are not created. Lighting levels must conform to IESNA standards.~~

...

25.05 **Lighting**~~Reserved~~

25.05.01 — ~~The intent of this Section is to prevent light from commercial developments from excessively illuminating the property in question, other properties, or the night sky.~~

25.05.02 — ~~Only light fixtures which are categorized as full cut-off (FCO) fixtures shall be permitted, except sports field fixtures which must comply with Section 25.05.04.~~

25.05.03 — ~~The following are specific standards for lighting intensity based upon the activity involved. Values are presented in allowable foot-candles (fc) maintained (measured horizontally) at grade and are to be averaged throughout the site to avoid hot spots, i.e. areas of extreme light intensity relative to the remainder of the site:~~

Activity	Minimum	Maximum	Min./Max. Uniformity Ratio
Pedestrian Areas/Sidewalks	.2 f.c.	1.0 f.c.	
Building Entries	1.0 f.c.	10.0 f.c.	
Street Lighting	.2 f.c.	1.0 f.c.	
Open Parking Areas	.2 f.c. to 9 f.c.	3.6 fc	4:1
Playgrounds		5.0 fc	
Site Perimeter		.5 fc	

25.05.04 — ~~Lighting for sports fields and outdoor courts is generally in excess of general outdoor lighting levels. Recreation lighting levels established by the IESNA are to be used as the standard. All sports fields or tennis courts must meet the following minimum standards:~~

- ~~1. Fixtures must be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.~~
- ~~2. Lighting shall be extinguished no later than one hour after the event ends.~~
- ~~3. Fixtures must be designed with a sharp cutoff and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted.~~

25.05.05 — ~~Canopies associated with vehicle related services shall be illuminated at a maximum illuminance of 30 fc and individual fixtures shall be flush mounted or have the canopy edge below the lowest light emitting point on the fixtures. All existing gas station canopies which exceed this standard shall be made compliant within seven (7) years of the date of adoption of this Article.~~

25.05.06 — ~~Up lighting may be used to illuminate a building, landscaping element or architectural feature, provided the lighting design has a maximum illuminance of 12fc, measured in a vertical plane. Down lighting is preferred.~~

25.05.07 — ~~Parking decks and covered parking areas must conform to IESNA standards.~~

~~25.05.08 — At the end of a development permit, the applicant shall submit a final certification that a post installation inspection was conducted to check for compliance with a light meter against the approved lighting plan. Substitutions by electricians and contractors are common and will not be accepted unless substitutions are reviewed and approved.~~

~~— The post installation inspection should be conducted by a professional engineer with demonstrable expertise in lighting design and mitigation strategies, or a lighting specialist who is lighting certified (LC) by the National Council on Qualifications for the Lighting Professions (NCQLP).~~

Article 26 Signs

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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:

...

~~S. Lighting that has the primary intent or effect of drawing attention to goods or services offered on the premises, e.g., branding, rather than lighting intended to provide functional lighting or lighting traditionally used to accentuate landscaping or architectural features of a building.~~

...

26.07.08 Illumination

D. The use of blinding, flashing, moving, rotating, intermittent, or otherwise distracting lighting is prohibited.

...

26.06.05 Temporary or other signs requiring neither a permit nor registration.

U. Window signs. Each commercial-use parcel, or each tenant in a multi-tenant commercial development, is allowed to utilize window signage subject to the following conditions:

1. Window signs are limited to the ground floor in the R3 Multi-Family, and B2 Neighborhood Business zoning districts. All other commercial uses in all other commercial zoning districts are permitted window signs up to and including the third story.
2. In addition to any non-illuminated window signage, each commercial-use parcel, or each tenant in a multi-tenant development is allowed up two (2) illuminated window signs to be placed on the interior of a window or door as follows:

- a. Total sign area shall not exceed ten (10) square feet.
- b. Lighted window signs authorized in subsections (a) and (b) above, may utilize changeable/digital copy subject to the following limitations:
 - i. 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.
 - ii. 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. For example, the transition between messages shall be instantaneous and without special effects.
 - iii. Changeable copy messages may change or alternate every five (5) minutes.
- c. All other window signage shall not be illuminated, including by means of any electronic discharge tubing or similar lighting manufactured into shapes that forms letters, parts of letter, skeleton tubing, or other decorative elements or logos.
- d. In no case may a window or a door be outlined using any type of lighting.
- e. ~~Exception 1:~~ The use of ~~seasonal~~ string lighting for any legitimate merchandise display is exempt ~~provided such lighting is both clearly temporary (not to exceed 60 days) and seasonal in nature.~~
 - ii. ~~Exception 2: This regulation is not intended to prohibit the internal lighting of a storefront window/merchandise display.~~

Article 27 Lighting Standards ~~Reserved~~

27.01 Purpose, Applicability, Administration

27.01.01 Purpose: The regulations set forth in this Article are designed to serve public safety while minimizing the negative effects of light. The intent is to:

- A. Minimize light pollution by prohibiting unnecessary illumination of the subject property, adjacent properties, and the night sky.
- B. Conserve energy.
- C. Foster public safety, including but not limited to providing for necessary visibility at night while minimizing distracting lights.

27.01.02 Applicability; General Aims: Unless expressly otherwise indicated, this Article shall apply to all development in the Town of Boone that requires permitting through the Planning and Inspections Office. Lighting should have a clear functional purpose and be installed only if it is functionally required. The effects of proposed new lighting on adjacent properties and the environment should be evaluated and minimized where reasonably possible. Alternatives to lights such as reflective paints or luminous markers signs, curbs, and steps should be considered. See UDO Article 26 Signs for sign-related lighting.

27.01.03 Administration

A. Subject to the requirements of Article 4, a lighting plan using light fixtures that meet the standards herein and the standards set forth in Section A3.08 Lighting plans, shall be required for any new development, for any development that triggers Tier 2 improvements per Section 7.05, and for any other modification to an existing light fixture unless exempted herein.

A.B. Transitional Provisions: Subject to Subsection 7.05.02(C)(2), ~~A~~any nonconforming lighting, lighting fixture, or light pole lawfully in place or approved by the Town prior to the adoption of this Article shall be exempt from these requirements, except as specifically provided herein.

1. Routine maintenance is allowed (and does not require a permit) for all existing fixtures. Routine maintenance work includes changing a lamp, ballast, starter, photo control, lens, or other required components.

2. By January 1, 2026, any decorative lighting affixed to a structure that is not in compliance with the requirements of Sections 27.03 shall be removed or be fully shielded (using appropriate materials for the zoning district as required by Article 14 and Subsection 25.02.04 herein) so as to come into compliance with this Article. Such decorative lighting that is prohibited, includes but is not limited to, unshielded accent building mounted lighting, unshielded mounted tube lighting, or unshielded strip lighting.

i. "Fully shielded" means using a light fixture so that no light is emitted above the fixture or above 90 degrees, and the majority of the light is projected on the ground, or using appropriate building materials to cover the light fixture where no light is emitted above the fixture.

3. Any nonconforming light fixture that is replaced, moved, upgraded, or otherwise changed must be replaced with a fixture that fully complies with this Article.

C. All violations of this Article existing prior to **MONTH DAY, 2024** shall remain violations of the Ordinances of the Town and all penalties and enforcement remedies set forth hereunder shall be available to the Town. However, if the effect of this Article is to make any exterior lighting that was formerly nonconforming become conforming, then enforcement action shall cease.

D. Prior to issuance of a Certificate of Occupancy or other final approval of permitted development, the applicant shall submit a written certification that a post-installation inspection was conducted with a light meter and that the inspection established that the installation is in full compliance with the approved lighting plan. The post-installation inspection must be conducted by a professional engineer with demonstrable expertise in lighting design and mitigation strategies, or a lighting specialist who is lighting certified (LC) by the National Council on Qualifications for the Lighting Professions (NCQLP), and the inspecting professional must sign the written certification. Note: Substitutions by electricians and contractors are common and will not be accepted unless substitutions are reviewed and approved.

27.02 Exemptions and Prohibitions

27.02.01 Exemptions: Unless otherwise prohibited, the following types of lighting are exempt from the requirements of this Article:

- A. Lighting installed by local, state, or federal agencies/entities for the benefit of public health, safety, and welfare, that is not otherwise regulated herein.
- B. Individual residential lighting for Single-Family Dwellings (Use 1.01), Manufactured Homes (Use 1.02-1.04), other uses lawfully operated out of a single-family dwelling or Use 1.06 Duplex (one duplex building per lot). This exemption does not include outdoor lighting for street or other common or public area within a subdivision.
- C. A suspended string of lights used to supplement lighting for outdoor activity (i.e., dining or patio use).
 - 1. String lighting cannot be used to meet exterior lighting requirements of this ordinance.
- ~~B.~~D. Temporary lighting for a non-fixed site event venue.
- E. Illuminated signs regulated by UDO Article 26 Signs.

27.02.02 Prohibited:

- A. Lighting that could be confused for any warning, emergency, or traffic control devices.
- B. Lights that blink, flash, move, flicker, or change intensity or color unless otherwise specifically allowed or exempt under this ordinance.
- C. A lighting fixture or device that is operated in such a manner as to constitute a hazard or danger to public safety.
- D. Unshielded or exposed building-mounted tube lighting (including traditional neon or similar gas lighting, LED neon, LED, and fluorescent technology).



Figure 27.02.02 (D). Unshielded tube lighting prohibited.



Figure 27.02.02 (D). Tube lighting recessed, thus making it shielded.

E. High intensity lights such as search lights or lasers.

A.F. Internally illuminated wall panels if the light from the panels extends beyond the decorative wall panel or wall panels if illuminated by uplighting.

G. Awnings or canopies intended for building accents over doors, windows, and other exterior features cannot be internally illuminated so as to turn a translucent material into an internally illuminated material. Lighting may be installed under canopies that light the sidewalk, or downlights onto the architectural features of a building.

27.03 General Rules and Design Standards

27.03.01 Areas subject to a small area plan or a zoning overlay (such as a historic district or landmark) may be subject additional standards for lighting.

27.03.02 Color: Unless otherwise specified all light poles used within a development site shall be of a matte, low-gloss, or satin grey, black, bronze, dark green, dark brown, or natural wood finish.

27.03.03 All exterior lighting, including lighting attached to or within the property shall be either amber or white in color, with the exception of low-light output (800 lumens or lower) landscape lighting.

A. Any exterior lighting must have the appropriate light color with the exception of lighting used for corporate color branding. If corporate colors are used in any exterior lighting, the lighting must be recessed into the building element on which it is installed or fully shielded. Corporate colored lighting must be submitted in the site plans and building design for review.

27.03.04 No light fixture shall exceed a color temperature of 3,500 Kelvins (K).

27.03.05 The following table sets forth the minimum and maximum standards for lighting intensity based upon the purpose of the lighting involved. Values are presented in footcandles (fc).

	<u>Minimum</u>	<u>Maximum</u>
<u>Building Entries</u>	<u>1</u>	<u>10</u>
<u>Parking Areas/Pedestrian Areas/Sidewalks</u>	<u>4</u>	<u>6</u>
<u>Site Perimeter</u>		<u>.5</u>
<u>All Other On-Site Lighting</u>		<u>10</u>

A. Table values are presented in allowable foot-candles (fc) maintained (measured horizontally) at grade, i.e., on pavement, and are to be averaged throughout the site to avoid hot spots, i.e., areas of extreme light intensity relative to the remainder of the site.

B. The values in the above chart for “all other on-site lighting” are for the maximum point of illuminance measured at grade in footcandles.

C. The values in the above chart for “site perimeter” are for the maximum point of illuminance as measured at the property line in footcandles.

1. Exemption: In the case of buildings closer than ten feet (10') to the property line using only wall pack lighting, light trespass may be greater than .5 footcandles, when the wall packs are fully shielded, directed downward, and light output equals 1,600 lumens or less.

27.03.06 Glare Control

A. Unless otherwise specified, all light fixtures shall be full cut-off (FCO) fixtures as defined in Article 34.

1. A luminaire with a flat lens should not be considered a full cut-off fixture if the luminaire housing has any reflective material that results in any amount of uplighting.

B. All pole- or wall-mounted light fixtures shall be oriented horizontally (i.e., parallel to grade) or angled at ninety degrees (90° from vertical building lines or a vertical pole).



Figure 27.03.06(B).

C. Any lighting, including pole-mounted lighting, shall be mounted at a height equal to or less than thirty-five feet (35') feet above the finished grade at the base of the light pole.

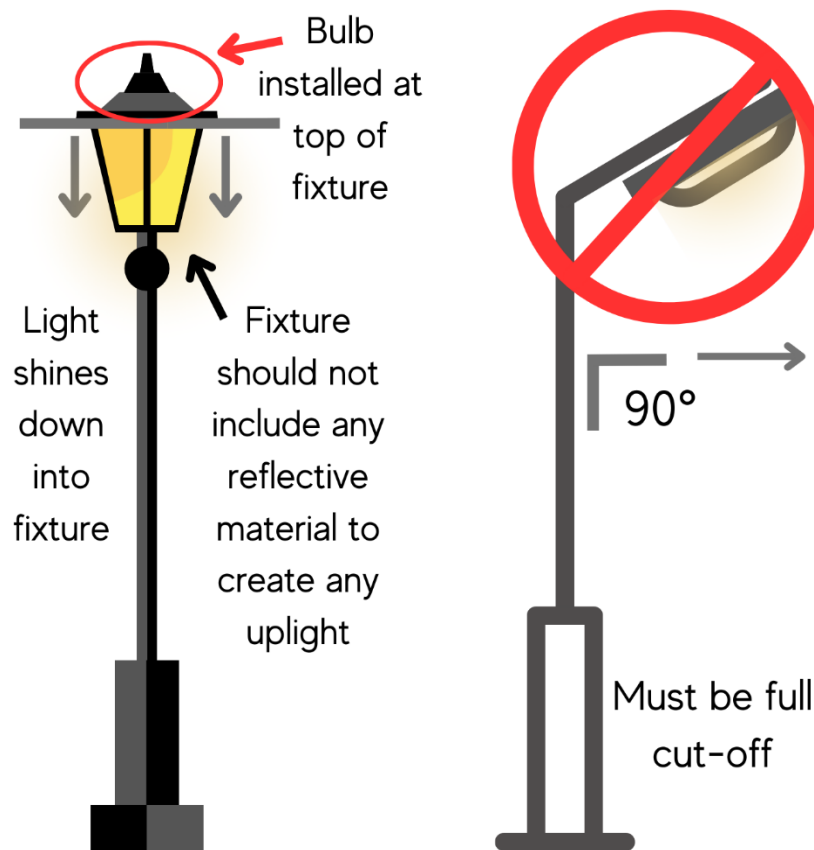


Figure 27.03.06(C). Additional considerations of lighting design. Lighting must be full cut-off fixtures.

27.03.07 Neighborhood Protection Standards: Lighting for commercial properties are regulated as stated herewith in when adjacent to residentially zoned properties.

- A. When a commercial property is adjacent to any residentially zoned property, lighting may not be placed within a landscape buffer as stated within neighborhood protection standards Subsection 31.05.01(B)(5), and at least twenty-five (25') feet from an adjacent residentially zone property.
- B. Light Installations on Sloped Properties: When lighting is installed on land elevations that are higher or lower than a nearby street of a residentially zoned property, lighting should be installed to eliminate light trespass or glare onto adjacent residentially zoned properties with at least one of the following techniques:
 1. Lighting must be fully shielded.
 2. Location or mounting height of installed lighting should be adjusted to reduce light trespass and glare.
 3. The Administrator may request offending light pole(s) or fixture(s) to be removed from the site or site plans.

C. Lighting should not produce glare from light bouncing off windows or other glazing that is visible from adjacent residentially zoned properties.

D. Lighting must be directed or aimed only to the commercial property where lighting is being installed.

27.03.08 Decorative Lighting: Decorative lighting includes any ornamental or aesthetic lighting to light a building or landscape element. Decorative lighting is not used to meet ordinance requirements. Such decorative lighting should be placed, aimed, and shielded for the landscape element, architectural feature, or other intended site feature that has direct illumination, and any such lighting shines away from adjoining properties.

A. Downlighting is the preferred choice for decorative lighting choices.

1. Decorative lighting fixtures and elements can be used for commercial branding with corporate or company colors as long as the light does not shine upwards, is shielded (i.e., light does not expand past the fixture), and minimizes light spill. See UDO Subsection 27.03.03.

B. Up-lighting should be limited to uses such as illuminating a landscape element, architectural feature, or flag, and must comply with the following:

1. Up-lighting should not spill over roof lines or building edges.

2. Up-lighting shall not extend beyond the building or architectural feature.

3. Up-lighting may have a maximum light output of 800 lumens and must be located, aimed and/or shielded to minimize light spill.

27.03.09 Functional Lighting: Functional lighting is used to meet ordinance requirements and for the intended purpose for safety considerations including customer entrances, pedestrian access, driveways, parking lots, and other areas for public or business entrances. Such lighting must follow the footcandle requirements as provided herewith in Subsection 27.03.05 and the glare control requirements of Subsection 27.03.06.

27.04 Outdoor Recreation Lighting

27.04.01 Because of their unique requirements for nighttime visibility and their limited hours of operation, outdoor recreation uses are exempted from the preceding general lighting requirements. Instead, recreation lighting levels are permitted consistent with IESNA standards. All outdoor recreation uses and similar facilities must meet the following minimum standards:

A. Fixtures must be fitted with the manufacturer's glare control package. Lighting without glare control is prohibited. Fixtures must be designed with a sharp cut-off and aimed so that their beams fall within the primary recreation area and the immediate surroundings (including spectating areas), so that off-site direct illumination is minimized to the extent reasonably possible.

B. All outdoor recreational facility lighting, not including lighting for parking lots and pedestrian areas, shall not be at full intensity three hours after the event ends.

27.05 Canopy Lighting

27.05.01 Canopies associated with vehicle-related services shall be illuminated at a maximum illuminance of 30 fc and individual fixtures shall be flush mounted or have the canopy edge below the lowest light-emitting point on the fixtures.

27.06 Parking Lot, Parking Garage Lighting

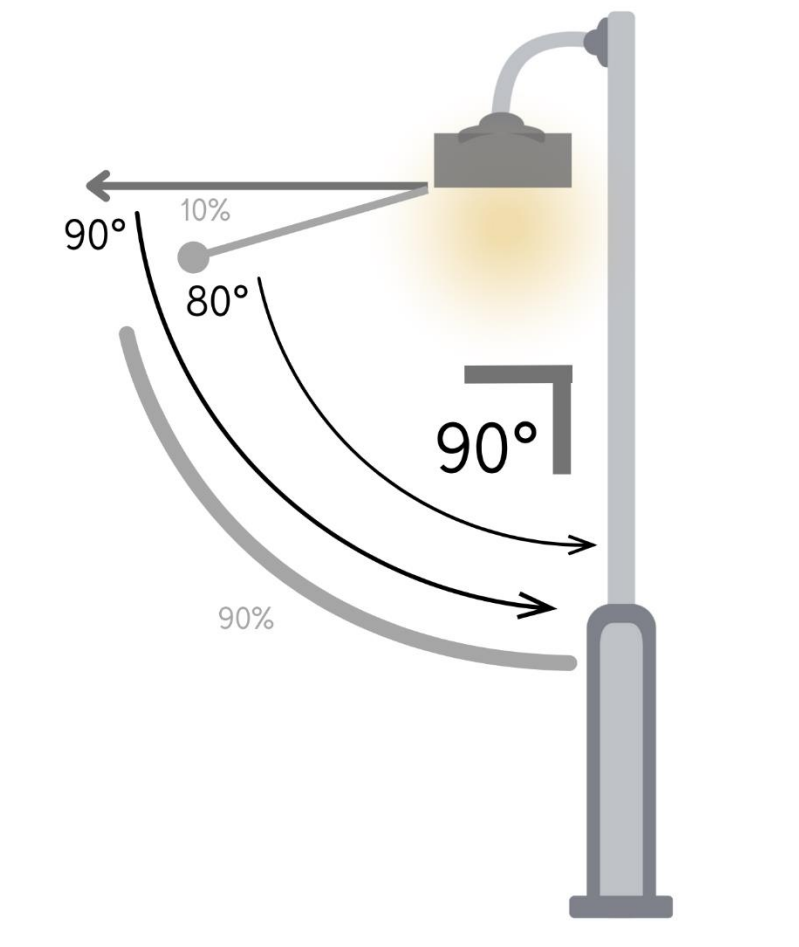
27.06.01 Parking decks and covered parking areas must conform to IESNA standards.

A. Lighting on the top level of a parking garage shall not be more than 25 feet above the finished floor elevation of the top floor of the parking deck.

Article 34 Definitions

Full Cut-off Fixture

A light fixture designed ~~(i)-~~so that no light is emitted above the fixture ~~projected at or above a ninety degree (90°) plane running through the lowest point on the fixture where the light is emitted and (ii)-~~with glare control so that less than ten percent (10%) of the rated lumens are projected between ninety degrees (90°) and eighty degrees (80°), and preferably where lighting is projected between eighty degrees (80°) and zero (0°) degrees relative to the mounted light fixture and the ground. See UDO Subsection 27.03 for diagrams.



Luminaire

Based on lighting industry and dark sky standards, a luminaire consists of the complete lighting unit (fixture) consisting of a light source(s), lamps and ballast(s), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the light source(s), and to connect the light source(s) to the power supply.

Appendix A Application Information

A3 Site Plans

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A3.08 Lighting Plan

A3.08.01 When required, an applicant shall submit a lighting plan ~~in accordance with Article 25 Community Appearance Standards~~ meeting the requirements detailed herein in Article 27.

A3.08.02 The plan shall contain the following information:

- A. ~~An area lighting plan~~ A plan, drawn to scale, indicating all structures, parking lots, building entrances, vehicular and pedestrian traffic areas, vegetation that may interfere with

lighting, and adjacent land uses that may be adversely impacted by the lighting. The plan shall contain a layout of all proposed fixtures by location, orientation, aiming direction, mounting height and type.

- B. The plan shall include all existing (to remain) and all proposed exterior lighting (site, architectural, building entrance, landscape, flagpole, etc.).
- C. A 10' x 10' illuminance grid (point-by-point) of maintained footcandles overlaid on the site plan plotted out to 0.0 footcandles, which demonstrates compliance with Section ~~25.05~~27.03 Design Standards.

A3.08.03 A detail of all proposed light fixtures demonstrating compliance with Section ~~25.05~~27.03 Design Standards shall be submitted with the lighting plan.

**TOWN OF BOONE
TOWN COUNCIL AND PLANNING COMMISSION
EXCERPT PUBLIC HEARING MINUTES
MONDAY, MAY 22, 2023, 6:00 PM
1500 BLOWING ROCK ROAD & VIA WEBEX SOFTWARE**

COUNCIL MEMBERS PRESENT: Mayor Tim Futrelle, Mayor Pro Tem Edie Tugman, Todd Carter, Dalton George, Becca Nenow, and Virginia Roseman (arrived at 6:10 p.m.)

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chair, Chris Behrend, John Tippet, and Frank Veno

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Jessica Mitchell-Long-Range & Special Projects Planner, and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: Allison Meade-Town Attorney, Amy Davis-Town Manager, Rick Miller-Public Works Director, Todd Moody- Public Works Deputy Director **PUBLIC**

Case PL05640-040822 Lighting Design Standards – UDO Text Amendment

This is a request to modify UDO Article 25 Community Appearance Standards to reflect lighting industry changes and lighting design best practices. In conjunction with the Community Appearance Commission evaluating current Community Appearance Standards, Planning Staff has evaluated the current lighting standards by meeting with lighting design professionals, dark sky advocates, and local energy providers to discuss current lighting practices and areas of improvement.

Ms. Shook noted that Ms. Jessica Mitchell, Long-Range & Special Projects Planner, would be giving a presentation that would explain the intent and purpose behind the proposed lighting changes.

Ms. Mitchell stated that the presentation was contained in the meeting packet, beginning on page 105. A copy is attached. Ms. Mitchell also presented photos of various businesses around town to show examples of current lighting. These photos are contained in the meeting packet beginning on page 114, and a copy is attached.

Discussion ensued as to the applicability of the proposed standards. Ms. Meade asked if Council would want the revised lighting standards to apply only to new construction or if they would want the standards to apply to existing development with a date set for when the developments would need to come into compliance. Ms. Meade felt it would be somewhat unusual to require non-conforming situations to come into compliance for lighting, given the substantial cost to property owners. She suggested that if Council did want to require all developments to come into compliance, a longer timeframe be considered. Ms. Shook stated that lighting standards were currently a Tier 2 requirement, meaning if improvements to a development totaled at least 25% of the development's value, lighting requirements would have to be met. She explained that originally, it had been in Tier 1 (10%), but had been reassessed and modified due to the cost of lighting improvements.

Mayor Futrelle felt there should be universal standards for parking lot lighting. Ms. Shook stated that there had been concerns voiced regarding the amount of lighting in parking lots. She felt there needed to be a balance between safety and protecting the dark sky values.

Council Member George stated that the use of Kelvins and lumens was an attractive idea that could help balance the warm and cool colors of light.

Discussion ensued as to potential public outreach before proceeding with changes.

Chair Shay felt that both Planning Commission and Town Council needed more time to digest the materials and the proposed changes.

Ms. Meade cautioned that if sunseting was adopted, Council would need to be very specific about what was actually being included in the items that would sunset. Ms. Shook noted that cumulative construction costs were tracked for 3 years. Once the cost of improvements would reach a particular level, another tier could be triggered, meaning additional requirements of the UDO would have to be met. Ms. Shook stated that the cost for lighting upgrades required by the sunset date would not go toward the cumulative costs. Ms. Meade added that the current tiered system also acted as a disincentive to upgrade properties due to the associated costs.

Next meeting dates were discussed. Ms. Shook noted that Chair Shay and Commission Member Tippet's terms would expire on June 30, 2023, and they would be going off of the Planning Commission. Ms. Shook stated that the next regularly scheduled Public Hearing would be on July 24, 2023. Town Council and Planning Commission members agreed to continue the discussion of the lighting design standards revisions at the July Public Hearing.

Case PL05640-040822 Lighting Design Standards – UDO Text Amendment

This is a request to modify UDO Article 25 Community Appearance Standards to reflect lighting industry changes and lighting design best practices. In conjunction with the Community Appearance Commission evaluating current Community Appearance Standards, Planning Staff has evaluated the current lighting standards by meeting with lighting design professionals, dark sky advocates, and local energy providers to discuss current lighting practices and areas of improvement.

Chair Shay stated that staff had done a tremendous amount of work on the proposed amendment, but additional time was necessary for Commission members to digest the work and consider possible issues. She asked Ms. Shook if the Planning Commission would be discussing the lighting design standards at their regular meeting in June. Ms. Shook replied that the next discussion would need to take place with both Planning Commission and Town Council, so the topic would not be considered until the July Public Hearing. Ms. Shook reminded Chair Shay and Commission Member Tippet that their terms on the Planning Commission would expire on June 30, 2023. However, they could continue to serve on the Commission until their positions were replaced. Chair Shay and Commission Member Tippet indicated they would likely be able to attend the meeting in July.

**TOWN OF BOONE
TOWN COUNCIL AND PLANNING COMMISSION
EXCERPT PUBLIC HEARING MINUTES
MONDAY, JULY 24, 2023, 6:00 PM
1500 BLOWING ROCK ROAD & VIA WEBEX SOFTWARE**

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

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chair, Eric Plaag-Vice Chair, Chris Behrend, and John Tippet

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Jessica Mitchell-Long-Range/Special Projects Planner, and Brenda Henson-Board Secretary

OTHER TOWN STAFF PRESENT: Amy Davis-Town Manager

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Ms. Jessica Mitchell, Long-Range/Special Projects Planner, stated that the presentation in the meeting packet was unchanged from the May presentation. She provided a brief overview of the content.

Mayor Pro Tem Tugman asked whether or not lighting could be repaired or replaced if it was taken out in a storm, or if new lighting would have to be installed to meet the new ordinance requirements. Ms. Shook referenced UDO Section 7.05.02(B) that read:

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.

Ms. Shook suggested that this section should be reviewed in relation to lighting and signs.

Council Member George asked about sunset. Ms. Shook asked Council Member George if there were certain elements or portions of the ordinance that he would want to sunset versus waiting for those items to come into compliance naturally. She noted for example, that it would be difficult to gather the data needed to begin tracking elements such as pole heights in order to notify owners that they need to come into compliance because the standard affects all commercial properties.

Vice Chair Plaag stated that parking lot and stadium lighting were probably some of the oldest and least energy-efficient lighting in town. He noted that implementing a sunset date could help the Town move more quickly toward a carbon-neutral position and preserve the night sky. Vice Chair Plaag added that one of the most egregious offenders of lighting was the stadium at ASU. He then referred to the following proposed text:

27.02.01 Exemptions: Unless otherwise prohibited, the following types of lighting are exempt from the requirements of this Article:

A. Any lighting required by state and federal agencies.

B. Any lighting installed by the Town of Boone or the State for the benefit of public health, safety, and welfare.

Vice Chair Plaag expressed concern that these exemptions would include the stadium at ASU. Ms. Mitchell replied that stadium lighting was addressed under Section 27.04 Sports Field Lighting. She stated that 27.02.01 was not drafted to allow an exemption for the stadium. Vice Chair Plaag noted that a skilled lawyer could make an argument that stadium lighting was necessary for public safety and welfare during

a football game, which would make their lighting exempt from the requirements. He suggested rewording 27.02.01(A) and (B) to avoid unintended consequences.

Vice Chair Plaag referenced the following proposed text:

27.02.01 Exemptions

C. Lighting of United States of America or North Carolina state flags specifically if the flag and flagpole do not exceed the maximum permitted building height for the zoning district.

He asked why flagpole lighting was exempt and noted that flagpole lighting should fall under the same regulations as other architectural features and be limited to 800 lumens. Ms. Shook replied that flagpole lighting was a common exemption across the state. She noted that flagpoles were often lit with solar lights that did not require a permit to install. Vice Chair Plaag stated that allowing an exemption for flagpole lighting could allow someone to illuminate their flag with a blindingly bright light.

Vice Chair Plaag referenced the following proposed text:

27.02.01 Exemptions

D. Individual residential lighting for Single-Family Dwellings (Use 1.01), Manufactured Homes (Use 1.02-1.04), other uses lawfully operated out of a single-family dwelling or Use 1.06 Duplex (one duplex building per lot), that are not part of subdivision plan for street or other common or public area outdoor lighting.

He asked why residential lighting would be exempt when security flood lighting on homes was sometimes blinding. Ms. Mitchell replied that residential lighting was another item that was commonly exempt from other research jurisdictions. Ms. Shook added that the lighting standards currently did not apply to single-family and two-family development, and to do so would require a total revamp of the review and enforcement process.

Vice Chair Plaag asked if the word “event” was defined as it related to sports field lighting. He noted that there were times when there was football practice at 5:00 a.m. with all of the stadium lights on and canned crowd noise blasting. Ms. Shook noted that ASU might have some type of lighting that could be turned to a lower intensity level. She noted that there had been a general concern about the impacts of the University's stadium lighting, not only on adjacent neighborhoods, but also on neighborhoods across the valley when no events were actually taking place.

Chair Shay asked how the ordinance would cross-reference signs and lighting and how staff would know when lighting became a sign, or a sign became lighting. Ms. Shook responded this would be accomplished through training and possibly some minor text amendments.

Mayor Pro Tem Tugman noted that some language about residential security lighting should be considered in the future. She also noted that open and closed signs should be limited in size so that they do not stretch across the entire front of a business. Ms. Shook added that there would be some minor text amendments to the sign ordinance to address this issue.

There was no public comment on this case.

Vice Chair Plaag asked what the compliance date was for window signs. Ms. Shook replied that the compliance date was January 1, 2024.

Ms. Shook asked Council and Planning Commission members for their thoughts regarding sunsetting and, if interested, what elements should be included in the sunset. Council Member George stated he would be interested in sunsetting things outside of the structural components, such as light poles and floodlights. He agreed with Vice Chair Plaag that this would help the Town achieve some form of carbon output efficiency.

Ms. Shook noted that imposing a sunset date would require staff to change schedules to allow enforcement actions to take place in the evenings when lights would be operational. She stated that sunsetting needed to be clear with an easy way to enforce the regulations.

Council Member Roseman stated she would like to make sure that, if they did do any sunsetting, it was on things that would be very egregious and cause light pollution to the community. She recognized that requiring people to make some of the suggested changes would be a true hardship.

With nothing further, Mayor Futrelle closed the public hearing for this case at 7:02 p.m.

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Ms. Shook reviewed some of the items that were discussed during the public hearing including a review of non-conforming situations and what that covered, reviewing the nonconforming language to ensure that lighting and signs were covered, review 27.02.01(A) and (B) to ensure that ASU's stadium lighting could not be considered exempt, and reviewing 27.02.01(C) on flagpole lighting.

Commission Member Behrend suggested removing 27.02.01(C) regarding the exemption of flagpole lighting.

Vice Chair Plaag suggested the following be added to Section 27.03.07(D) Glare Control: Uplighting may only be used to illuminate a landscaping element, a US or North Carolina flag, or an architectural feature provided the lighting design has a maximum light output of 800 lumens. He also suggested that language might need to be added regarding pole heights.

Discussion ensued regarding stadium lighting. Ms. Shook wondered if part of the problem with stadium lighting was the hours of operation. She stated that this topic could possibly be addressed through Town/Gown relations. Ms. Shook noted that sports field lighting applied not only to ASU but to Watauga County High School, Hardin Park Elementary School, and Watauga County recreation facilities. She stated that she was hesitant to try to define the word "event" because sometimes defining a word provided no flexibility.

Vice Chair Plaag stated he was really more concerned with ASU's stadium lights during practice sessions when all of the lights were on early in the morning or left on after everyone was gone in the evening. Ms. Shook suggested the addition of language that would limit stadium lights to be on no more than 1-2 hours after an event or usage and be limited to a certain output. Vice Chair Plaag stated he was unsure if the stadium had downlighting. If they did not and Town Council imposed a sunset date, they would have to come into compliance. Vice Chair Plaag stated that penalties should be assessed if ASU did not bring their lighting into compliance with the local ordinance.

Vice Chair Plaag stated that residential lighting could be considered at a later date. He suggested that when it was considered, compliance could be complaint-driven. Ms. Shook stated she would put residential lighting on the list of items to revisit.

Chair Shay asked Ms. Shook to give them a list of the suggested changes so far. Ms. Shook stated that staff would review the nonconforming situation to see how lighting and signs would be impacted by that

text and revise it, if necessary; review 27.02.01(A) and (B); eliminate 27.02.01(C) regarding the exemption of flags; review 27.03.07(D) architectural features and add language from 27.01.01(C) regarding flag poles; research hours of operation restrictions for lighting; have a conversation with the Town Manager and the Town Attorney regarding general compliance by those who have sports fields; and research a possible definition of the word “event”.

Vice Chair Plaag noted there were three categories of changes that a property owner might have to make if there was a sunset date. One would be to keep the light pole and retrofit the instrument so that it met the standard. Another would be to completely replace the light pole and instrument to come into compliance. Lastly, different building lighting features, that lit a sign or accent strips around the top of a hotel would need to be replaced or removed to come into compliance.

Ms. Shook noted that pole height was difficult to accurately measure and a sunset date on pole heights would mean a site visit to every commercial property in the Town of Boone to try to take measurements. She stated that when properties had to come into compliance with the sign ordinance and the gas station canopy requirements, these items were more easily identifiable and manageable.

Vice Chair Plaag suggested a sunset date of five years, or 10 years if someone had recently upgraded their lighting. Ms. Shook noted it would be difficult to keep track of who had made recent upgrades as well as offering two different compliance dates.

Ms. Shook asked Commission members if there was something specific and most egregious, other than sports field lighting, that they would like to see come into compliance.

Commission Member Tippettt stated he liked the idea of sunseting. He also stated that he was aware there could be costs to business owners who did not own the property, and tracking would be difficult for staff. Commission Member Tippettt noted that properties would eventually come into compliance as renovations took place.

Ms. Shook explained that the lighting text amendment was not suggested because complaints had been received but because of changes in technology and industry standards necessitated a review of the standards so that the language reflected not only the new technology but what Staff though would be best practices.

Vice Chair Plaag stated that the most important things to him were the downcasting and shielding of lights, the Kelvins, and color temperature.

Chair Shay agreed with Vice Chair Plaag, noting light pollution, emissions, and energy consumption as important issues. She expressed concern with creating ordinances that lock things in and then technology and development conditions changed, and then you are stuck with these old, very specific ordinances that get very fussy about height and design features.

Vice Chair Plaag noted that the egregious examples would stand out to the inspectors by the end of the sunset date, either through a complaint-driven process or just by driving around town.

When asked by the Commission, Ms. Shook reminded Commission members that they were not required to give a recommendation this evening unless they wanted to. However, if 30 days passed without a recommendation, Town Council could go ahead and take action on the request. Ms. Shook stated that Planning Commission could meet again in August to discuss this amendment or staff could try to craft revisions based on tonight’s conversation to present to Town Council at their next meeting.

Commission Member Behrend liked the idea that staff put the Commission’s suggestions together and propose them to the Town Council instead of having the Planning Commission meet about this topic again. She also stated she would be in favor of not implementing a sunset date.

Commission Member Tippettt agreed with Commission Member Behrend about moving the text forward, but supported a sunset of 5-7 years for the items that Vice Chair Plaag outlined as egregious.

First Motion and Vote: Vice Chair Plaag made a motion that the amendment to the town's zoning ordinance, inclusive of the following modifications; staff would review the nonconforming situation to see how lighting would be impacted by that text and revise it, if necessary; review 27.02.01(A) and (B) for lighting and signs; eliminate 27.02.01(C) regarding the exemption of flags; review 27.03.07(D) architectural features and add language from 27.01.01(C) regarding flag poles; research hours of operation restrictions for lighting; have a conversation with the Town Manager and the Town Attorney regarding general compliance by those who have sports fields; and research a possible definition of the word event, after further consideration by planning staff for clarity and to the inclusion of a sunset provision to address the most egregious areas of concern, perhaps to include such issues as downcasting, shielding, and light temperature, with a sunset period of between five and seven years to address those areas of concern, 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.

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.

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.

Commission Member Behrend seconded the motion and wished to amend the motion to include:

Comprehensive Plan Policy 2.3.2 Community Character

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

Vice Chair Plaag accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Plaag made a motion that the Planning Commission recommends approval of Ordinance PL05640-040822 as amended and believes approval is reasonable and in the public interest because the proposed changes to the lighting ordinance, broadly speaking, will address a number of long-standing concerns within the community about light pollution and likely will have the additional benefit of improving energy efficiency and helping the Town meet its carbon neutral goals. The motion was seconded by Commission Member Tippettt. Chair Shay wished to amend the motion to include the phrase "without unduly burdening businesses and economic development". Vice Chair Plaag and Commission Member Tippettt accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.