

**Town of Boone
Planning Commission
Regular Meeting
6:00 PM, May. 9, 2016
Council Chambers, 1500 Blowing Rock Road**

I. Adoption of Agenda

II. Approval of Minutes

April 4, 2016 Special Public Hearing Minutes

April 11, 2016 Planning Commission minutes

April 11, 2016 minutes (Riverswalk attachments)

III. Case 20160058 Modern Automotive

Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use zoning Map amend Petition to rezone the R3 Multi-Family Residential portion of 185 and 225 Modern Drive to B3 General Business.

IV. Case 20160027 Protest Petition Removal

Amend UDO Articles 1 and 9 to remove references to "Protest Petitions".

V. Case 20160028 Fire Code Coordination

Amend UDO Article 23 to bring street and driveway standards into compliance with the NC Fire Code.

VI. Case 20160178 Planned Development Modification

Amend UDO Article 9 to modify who the applicant must invite to the neighborhood meeting and the place of the meeting.

VII. Case 20160222 Unlisted Uses

Amend UDO Articles 2 and 15 to add catch-all for uses not listed in the Table of Uses and provide for evaluation of unlisted uses; modify "Recreation" table title and add 12.13 Motor Vehicle Racing/Speedway to Table of Principal Uses as a prohibited use.

VIII. Case 20160224 Tree Board Removal

Amend UDO Article 2 to remove the "Tree Board" from the UDO and modify the powers and duties of the "Community Appearance Commission".

IX. Case 20150149 Public Hearing Process Change

Modify UDO Article 9 with respect to the hearing, review and approval process for UDO text amendments and Zoning Map amendments (including PD and CD applications).

X. Other Matters by Board Members or Staff

Discussion on Electing a PC Representative to attend the May 19, 2016 Special Public Hearing at the Council Meeting.

XI. Adjournment

SPECIAL PUBLIC HEARING MINUTES
MONDAY, APRIL 4, 2016
5:30 P.M.

COUNCIL MEMBERS:	Mayor Rennie Brantz, Mayor Pro-Tem-Lynne Mason, Loretta Clawson, Jeannine Underdown, Jennifer Teague and Charlotte Mizelle
PLANNING COMMISSION MEMBERS:	Chairperson-Eric Woolridge, Vice-Chairperson Greg Simmons, Matthew Long, Jeff Templeton, Connor Boyle, Charlie Myers, Caroline Catoe, Matthew Vincent and Cameron Lippard
STAFF PRESENT:	Jane Shook-Planning Supervisor, and Marlene Crosby-Board Secretary
OTHERS PRESENT:	John Ward-Town Manager and Allison Meade-Town Attorney

CALL TO ORDER

Mayor Rennie Brantz called the hearing to order at 5:33 p.m.

Mayor Brantz asked each of the speakers to hold their public comment to eight to ten minutes for each case.

CASE(S) 20150944 AND 20150945 HAMPTON ESTATES - Scott Porter with Hampton Property LLC has filed Zoning Map Amendment Petitions for a 3.679 acre property located at the end of Stratford Lane (Watauga County PIN: 2920-09-6084-000). The first petition is to rezone a 2.04 acre portion of the property from R-A Residential Agriculture and R-3 Multi-Family Residential to Conditional District R-2 Two-Family Residential for a 7 lot subdivision for single-family and duplex uses; the second request is to rezone the remaining 1.639 acres of the property (located near Bub Teems Road) from R-A Residential Agriculture and R-3 Multi-Family Residential to B3 General Business.

Ms. Jane Shook, Planning Supervisor informed the Council and Planning Commission members that the applicant withdrew these cases on March 31, 2016.

CASE 20160136 RIVERS WALK – Jeff Githens with Peak Campus Development, 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 building 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 $\leq 2,500 \text{ ft}^2$ open to the public during 10 pm – 6 am, 11.07 Other Restaurants $\leq 2,500 \text{ ft}^2$, 11.08 Restaurant $> 2,500 \text{ ft}^2$ open to the public during

10 pm – 6 am, 11.09 Other Restaurants > 2,500 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.

Mayor Brantz informed the Council and Planning Commission members that Planning Commission Member Connor Boyle asked to recuse himself from the Rivers Walk case because he is professionally involved in the proposed project.

Ms. Shook presented this case as outlined in the meeting packet. Since this case represents the first Planned Development case since the process was approved, Ms. Shook began on page two of the staff report and reviewed the section that relates to the Planned Development Procedural Information. Ms. Allison Meade, Town Attorney emphasized and clarified the conditional district and Planned Development processes for this case.

Ms. Shook said from the Staff's perspective the Council and Planning Commission members may want to look at parking and she referred them to page eight of the staff report.

Mr. Jim Deal, Attorney for the applicant came to the podium to present his portion of this case. Mr. Deal noted that the applicant is working from the previously approved conditional district zoning for this case. Mr. Deal talked about the proposed change to the configuration of the commercial spaces and how they want to concentrate the commercial space closer to Water Street rather than have the commercial space along the Poplar Grove Road. Mr. Deal talked about the proposed change to increase the ceiling height to better fit most commercial enterprises.

Mr. Deal talked about the 35-foot elevation change along Poplar Grove Road and how it relates to the interconnected buildings and the parking area.

Mr. Deal talked further about the two primary things that are being proposed for this case which are the location of the commercial space and the increased height of the building to help with the shielding of the HVAC roof units and to allow the elevator to go to the third floor of the building.

Mr. Deal talked about the adjoining unique R-1 neighborhood where no residential use is allowed because it would violate the restrictions of the deed. Mr. Deal noted that the building height was approved at 40 feet in the previous conditional district zoning review.

Mr. Deal pointed out that the property across the Poplar Grove Road from this proposed project has no residential homes on it.

Mr. Deal talked about the different ways to enter the parking lot of the proposed project. Mr. Deal said he thinks the proposed changes are an improvement to the project.

Mr. Deal said that a neighborhood meeting was held for this proposed project prior to the public hearing. Mr. Deal said at this meeting there was discussion on the location of a dumpster and how it could negatively affect the Proper Southern restaurant. Mr. Deal said there was discussion at the meeting on where to move the dumpster to improve the negative impact of the restaurant.

Mr. Deal talked about parking and he said just because a tenant has rented a unit, it does not guarantee them a parking space. Mr. Deal further explained the possibilities of parking near the development and having to pay for a parking spot or parking on the State Farm Road lot and not having to pay for a parking spot. Mr. Deal said that this encourages walkability and talked about the accessibility to the transit system.

Mr. Deal introduced the applicant of the project, Mr. Jeff Githens from Peak Campus Development.

Mr. Githens said that his company joined Mr. Glenn Weaver's company, Harrod/AP, LLC several months ago to work on this proposed project. Mr. Githens said his company saw some changes that they would like to propose by using the new Planning Development process.

Mr. Githens gave a brief history of what his company does as it relates to developing and managing apartment buildings all over the country.

Mr. Githens talked about his company's experience with providing different scenarios of parking in college environments.

Mr. Githens said his company's goal is to improve the proposed project.

Mr. Githens said the proposed changes to the project are in four categories: (1) the relocation of the commercial space, (2) the modification to increase the commercial retail and residential ceiling heights and (3) a modification to allow for a parapet to be able to install condensing units and it allows for better storm water run-off from the roof and (4) to be able to bring the elevators to all levels of the building.

Mr. Githens said the parking was decreased due to the reduction in total height by eliminating any ramps in the parking deck. He said by doing so, they were able to raise the level of the parking deck by six feet which allows the finished floor to almost be at grade level. He said this would reduce excavation work around the creek. He said there will be two entrances into the parking deck.

Mr. Githens talked about the moving of the pool from the back of the building into the courtyard of building three because it is a more private and secure location for a pool. The changing of the location of the pool allows them to put the Greenway in a better location.

Mr. Githens talked about the easement for the Greenway from Water Street to the parking deck of the proposed project. He said he would like to do this as part of their construction.

Mr. Githens talked about the Trout Buffer waiver from the state and that it would need to be modified to include the construction of the Greenway.

Mr. Githens went over each proposed change on the site plans. He talked about the location of the dumpsters and some decisions that still need to be made on their location that is pending from some neighboring properties. He talked about the location of the entrances into the parking deck and the involvement of the County with this decision.

Ms. Meade asked Mr. Githens if he was going to dedicate the easement to the Town.

Ms. Meade asked what is the applicants proposal for the ongoing maintenance of the Greenway.

Council Member Teague asked about a reduction in the driveway. Mr. Githens showed the proposed change on the site map.

Mr. Ward asked about the connection at Water Street to the Greenway connection that the applicant is proposing and is it part of the construction based on the easement. Mr. Githens said he did not show it being constructed by his development company because of the condition of the easement. Mr. Githens noted that his development company will construct everything that is in the color gray area on the map because they know, they can build it in those proposed areas.

Mr. Glenn Weaver said he had talked to the property owners and they wanted the dumpsters to be moved farther away from Water Street. Mr. Weaver talked about the moving of the dumpsters causing a possible easement change.

Mr. Githens talked about the commercial retail space changes on Water Street which is the lowest elevation level. He talked about the change in ceiling heights because of the commercial changes. He talked about the changes to the finished ceiling heights. He noted that the changes are designated with the color purple on the architectural drawings.

Mr. Githens talked about the second level of the units in building one and two as they relate to the lower parking area entrance. He answered questions on the entrance to the parking area.

Mr. Githens talked about the changes to the third and fourth floors along Poplar Grove Road. He said this change is to absorb the building height and not to overpower the Poplar Grove Road corridor.

Ms. Meade said she thought that Mr. Deal noted that there would be a change in the increase of commercial space. However, in the applicant's letter in the meeting packet, it was noted that there would be a decrease in commercial space. Mr. Deal confirmed that it is an increase over what was approved in the conditional district zoning. Mr. Githens elaborated on Mr. Deal's comments and referred to the Unified Development Ordinance regarding the required percentages of square footage for commercial spaces. Ms. Shook stated the amount of square footage that was approved in the conditional district zoning. Ms. Shook referred to the applicant's UDO comparison letter in the meeting packet containing the information showing compliance. Mr. Ward confirmed the amount of square footage being proposed over what was approved in the conditional district zoning.

Ms. Meade talked about the calculating of the square footage for the commercial space and the rest of the approval process. Ms. Shook said that Staff provided the applicant's information just as it was presented to the Staff. Ms. Meade asked Ms. Shook if Staff analyzed the information. Ms. Shook said yes as it related to the proposed percentages. Ms. Shook outlined the difference between what the applicant's is providing and the ordinance.

Mr. Githens went over the proposed changes made to the elevations of the buildings from Poplar Grove Road. Mr. Githens talked about the commercial space on Water Street having the commercial store fronts having the highest ceilings. He explained all the building heights as they were presented on the elevations in addition to the entrances into the buildings and the parking deck.

Mr. Githens talked about the proposed project being in compliance with UDO Article 25, Appearance Standards. He said they were proposing a cultural stone for a building material due to weight and cost, if it is permissible. He talked about the proposed features for the project.

Mayor Pro-Tem Mason said in the previous conditional district zoning approval the look of the building appeared to be more historic. However, the current proposal appears to be more contemporary with the change of the look of the façade. Mr. Githens said he prefers to have a façade that is true to what is behind the façade whether it be residential or commercial and this was their thought process, when they re-designed the building. Mayor Pro-Tem Mason confirmed that the façade was changed from the previous conditional district approval.

Planning Commission Member Templeton asked if the clock tower that was previously approved in the proposed plans in the new proposed project. Mr. Githens said it was not depicted and it is not out of the question. Planning Commission Member Templeton said it was an attractive feature.

Council Member Teague asked for more clarification on the increase in building height. Mr. Githens explained what is being proposed over the previous conditional district zoning approval which included changes to the roof thrusts.

Vice-Chairperson Simmons asked if, the residential ceiling height was universal. Mr. Githens said in the proposed plan, they are universal.

Vice-Chairperson Simmons asked what the ceiling heights were in the conditional district approval. Mr. Glenn Weaver, applicant from Harrod/AP, LLC on the conditional district zoning project explained the difference in the ceiling heights. Mr. Githens said the ceiling heights are nine feet in the proposed project.

Council Member Collins asked Mr. Githens if the proposed building height will be higher than the existing Mellow Mushroom building. Mr. Githens pointed out on a map the heights of the buildings going up Water Street.

Council Member Clawson asked how far back from the sidewalk are the buildings. Mr. Githens pointed out that the sidewalk would be a new sidewalk and he showed on the map the location of the sidewalk. Mr. Ward noted that the sidewalk gets tighter at the bus pull out.

Mayor Pro-Tem Mason asked Staff about the zoning being mostly B-1. Ms. Shook referred to page six and number two of the staff report.

Ms. Meade said the applicant's letter indicated there is 8,000 square feet of commercial space in building three, she said that she did not recall a map showing this information. Mr. Githens indicated that this space was in the parking garage and went over the way that he calculated the square footage for building three.

Council Member Teague asked for clarification in the change of unit numbers. Mr. Githens said the number of bedrooms are the same. He said the unit count by unit type has changed. He went over the number of the proposed bedrooms and units.

Mayor Brantz asked Mr. Githens if his company manages the units or do they just do the construction of them. Mr. Githens said that his company are developers and operators. Mr. Githens said that his company manages 90 different assets across the country. Mr. Githens said that his company builds, stabilizes and evaluates their projects. Mr. Githens said his company will

probably exit at some point but wants the property to be as effective as it can be. Mr. Githens said in the event of an exit of his company, there are other companies that are capable of managing the property.

Mayor Pro-Tem Mason asked if the apartment would still be rented to young professionals and students or has this changed with the new proposed project. Mr. Githens said that both are viable markets. Council Member Collins said that the report shows 95 percent students. It was noted that there cannot be discrimination as who to rent to. It was noted that the property does need more than student housing.

Council Member Teague asked about parking. She noted that the survey showed that 74 percent of the people still bring cars to the Downtown area. She asked can the students leave their car on the campus at all times. She talked about the parking being reduced from 184 to 164. She talked about additional short-term parking on W. King Street and the addendum regarding the signed release statement. She talked about many student cars being parked in residential neighborhoods. Mr. Githens talked about his experience with parking in other areas of the country. He noted that additional infrastructure was on the way with the proposed parking garage in the Downtown area to help with the parking issue.

Vice-Chairperson Simmons asked if in the other areas of the country where he gave parking examples, were they all mixed-use projects or straight-up residential. Mr. Githens explained which projects were mixed-use and residential use. He said he could get a break down of parking ratios, if needed.

Vice-Chairperson Simmons talked about the Town trying to protect our corridors for business uses. He said his concern was the possibility of a faux commercial use being proposed.

Planning Commission Member Lippard asked how will the traffic, pedestrian, biking and vehicle concerns be mitigated and he talked about the previous North Carolina Department of Transportation concerns at the Rivers Street and Water Street intersection. He talked about the previous discussion of a turn-around at the intersection of Rivers Street, Waters Street and Poplar Grove Road. Mr. Githens talked about the traffic study results that addressed these concerns. Mr. Deal noted that there will be a sidewalk by the proposed project where there has never been one. Mr. Deal said he felt like this was a mitigation to some of the concerns.

Mayor Pro-Tem Mason asked about the parking spaces for the commercial and residential uses.

Council Member Mizelle asked accessibility questions regarding the connectivity from the parking lot into the buildings. She asked about the possible additional parking spaces. She said that West King Street is already a busy area with parking and she had a concern for people thinking that

West King Street could be used for parking for this proposed project. She noted that if the proposed parking garage is built that parking spaces will be available for retail shopping and restaurants.

Planning Commission Member Catoe asked if any of the surface lot was for commercial use. He said it is for multi-users. He talked about the available spaces that can be used after 5 p.m. each day until the next morning.

Council Member Teague asked if the building staff will use any of the parking spaces. Mr. Githens went over the staff members that might use the parking spaces. He said that they could require staff to park somewhere other than on the property.

Council Member Teague asked Mr. Githens if he had a percentage of the parking spaces that might be used. He said it depends on the user.

Council Member Teague asked about the other parking lots that could be used to help offset the proposed project parking. She asked Mr. Githens if he had talked to any of those parking lot property owners to see, if they had any open parking spaces.

Chairperson Woolridge went over a number of things that does not concern him regarding the proposed project. He said he was not concerned with the parking or building height. He said that he is not sure that he would make a recommendation to approve this proposed project as it has been presented because of the commercial make-up of it.

Chairperson Woolridge asked if the public spaces were generally in the form of the building. He asked Mr. Githens if he was doing a hydro-logical model on this project and are they requiring a low-impact certification. Mr. Githens said yes. Chairperson Woolridge asked if there were calculating the section of the Greenway as part of the easement section behind the garage as part of that model. Mr. Connor Boyle, Engineer on the project said yes because the property has to be elevated at some point. Mr. Boyle said it was shown with the proposed grading and an easement a Greenway could put there. Chairperson Woolridge asked if the property has been graded for the Greenway. Mr. Alan Crees, Engineer from Municipal Engineering said that the grading might need to be tweaked, when the model is designed. Chairperson Woolridge said he would not support this project, if the Greenway was not permitted as part of the project and the grading was not accounted for inside it.

Mr. Crees said the reason he is hesitant about the grading is he is not sure where it ties into the county. He talked about the possible steepness of the property that might need to be smoothed down. He said this could easily be incorporated into the proposed plan. He talked about in the

beginning of this proposed project and the possibility of providing easements for the Greenway. He further talked about the Town doing the engineering for the Greenway, if they wanted it.

Chairperson Woolridge said he wanted to know right now, if the Greenway is going to be designed. Mr. Deal said the part that he can control for the applicant, he can work on it. The part that the County controls, we have no control over it. Mr. Deal said the Greenway will need to be tied into the County's property. Mr. Deal said ideally the Council would work with the County to say they really want to connect to the Greenway. Mr. Deal talked further about the County and their long-range plans for their property that they own from King Street to the Poplar Grove Connector that affects the proposed Greenway.

Mr. Ward suggested to loop the Greenway around the back of the parking deck and connecting it back into the sidewalk system. Mr. Ward said in the future the Town may potentially be able to partner with the County to connect the Greenway.

Mr. Deal talked about the entrances into the development determining the design of the Greenway.

Mr. Githens talked about the flood study presented in the meeting packet.

Chairperson Woolridge asked Mr. Boyle, if he was able to obtain a no-adverse impact. Mr. Boyle said currently the flood study is showing a no rise.

Discussion ensued on the location and construction of the proposed greenway on the property.

Mayor Pro-Tem Mason noted that this property is currently zoned B-1. She said she wanted to make sure that anything that happens in this location compliments the Downtown area. She said that in the proposed project the building height has increased, there is less parking and the appearance of the building has changed. She noted that in the previous conditional district approval there was an attempt to make the development blend with a more historical look in the Downtown area. She said she was struggling with the proposed project. She said just because it is a Planned Development project, it does not mean it can take away the Downtown appearance and character. She said it needs to compliment anything that is going on in the Downtown area. She said some of the proposed changes are significant and she is still wrestling with the proposed changes. She said this community is very committed to our Downtown area and maintaining community character. Again, she said this proposed project needs to compliment the Downtown area and not take away from it.

Planning Commission Member Templeton noted that the proposed project is a vast improvement over what is currently there.

Council Member Teague asked about the price points for commercial and residential spaces. He said for the residential spaces, they would go with the high end of the existing properties based off local comparisons. He said the comps that are most relative on commercial space are the Downtown properties, he said there are the out-lying comps like the Cottages of Boone and the Standard at Boone that is under construction. He said that he knows all their rates. He said he is going with the high end of the spectrum. He said regarding the rates, it depends on the tenant that they attract. He said he felt that a rate in the mid \$20's per square foot could be obtained. He said he guesses the rates for local retailers would probably not be quite as high.

Council Member Collins asked if they were making their leases to put four people in the four bedroom units. Mr. Githens indicated that yes that was their plan.

Discussion ensued on the history of the building's elevation throughout the life of the project. Mr. Deal said he felt like the proposed building appearance was similar to the previous proposal and they are willing to look into it. Mr. Deal said the proposed project needs to fit into the Downtown area. Mr. Deal talked about the various existing building materials in the Downtown area.

Mayor Pro-Tem Mason talked about the possible expansion of the Municipal Service District. She asked if this proposed project would be willing to be a part of the MSD. Mr. Ward noted that the first building in the purple area on the map that Mr. Githens presented would be in the MSD area. Mr. Ward asked the Staff if that would tie the MSD to the entire parcel. Ms. Shook said she would do some research on this to find out. Mr. Ward asked the applicant, if he would be willing to be a part of these services. Mr. Deal answered on behalf of the applicant and said to be a part of the MSD is up for discussion and potential agreement.

Council Member Clawson said the proposed building looks like a dormitory and like it should be on campus rather than in the Downtown area.

Council Member Mizelle asked if it was too early to ask questions about the streetscape. Mr. Crees said there is preliminary landscape plan and the developer will get an architect to fully develop the landscape plan. Mr. Crees said there have been discussions with the Town of Boone Public Works Department regarding switching out the street lights.

Mr. Ward talked about the outside of the front door of the building expanding into a plaza-like entrance. Mayor-Pro Tem Mason noted that in the previous approval the entrance was going to be red brick pavers.

Council Member Teague asked if the apartments will be rented by the bedroom. She asked if two people could rent a studio apartment. She asked can you put more than one person in a bedroom in the Town of Boone. Mr. Deal said, they would rent by the bedroom.

Planning Commission Member Templeton asked if the parking deck would be open on the top. Mr. Githens said the top of the parking deck is all enclosed and the pool is on the upper level.

The first speaker was Eric Plaag. He said he is the Chairperson of the Historic Preservation Commission and a board member of the Downtown Boone Development Association. He said he is not speaking from either one of these roles. He is speaking as a citizen of the Town of Boone. Mr. Plaag told the Council Members that he wanted to be clear that they would be approving undergraduate student housing in the Town of Boone with the proposed project. He noted that the vast majority of the units in the proposed project are desirable by undergraduate students. He said this is contrary to what is contained in the Boone 2030 Land Use Plan. He said that Council agreed that the Boone 2030 Land Use Plan is a guiding document for the Town. He said that the Town would work with the university to solve the problem of the explosion in student housing in the Town. He said that this has not happened. He said he keeps seeing the approval of projects like the Rivers Walk. He said the projects are often proposed for young professionals and they morph into a glorified fancy dorm. He said the Council is on the verge of doing this again, if they approve it. Mr. Plaag said he was horrified with what has happened with the Standard at Boone and the traffic that will come from that project. He said the applicant said there would not be an inflow or outflow of traffic at 8 a.m. or 5 p.m. during the day. He said it took him 20 minutes to get from his house just above the Town of Boone to the Council Chambers today. He said this timing is typical for traffic and the Standard of Boone is not completed yet. He said imagine what the traffic will be like with the students getting out in their cars and many of them going to work. Mr. Plaag said he was offended by a developer coming before the Board of Adjustment and asking for a variance on height and the developer was willing to work with the approved variance for a 40 feet building height. And, then later ask for a 51 feet of in building height for the same project. He said why go through with a variance hearing. Mr. Plaag told the Council that they have changed the zoning requirements to make it easier for the developer. He told the Council that he feels that they have failed in their duty to the Town by allowing it. Mr. Plaag talked about the proposed pool on the top level of the parking garage being on the north side of the building and it shielded on three sides which are east west and south with a presumed 12 foot wall all around it. It said it seems very strange to him why anyone would want to sit around a pool in the shade. Mr. Plaag said he was horrified by what was being proposed for exterior building materials. He talked about Mr. Glenn Weaver coming to him at a Board of Adjustment hearing and asking to come to the Historic Preservation Commission meeting to discuss strategies for meeting the requirements that would be satisfactory to the HPC members. And, Mr. Plaag nor the Planning and Inspections Department have heard from Mr. Weaver. Mr. Plaag talked about the fiber-cement board not being a historic building material. Mr. Plaag said there are no historic buildings in Downtown Boone that have cultural stone or fiber-cement board on them.

Mr. Plaag talked about the proposed parking spaces for patrons being two to four spaces. He talked about there being a proposed restaurant on the Water Street side of the project. He reminded the Council about the Mellow Mushroom parking problems and the towing of the cars from the parking lot next door. He talked about the Rivers Walk project being proposed within the same block of the other parking issues. Mr. Plaag said and with the Rivers Walk project you will be inviting a similar parking situation into the Town within the same block which strikes him as being very short-sided as a nice way of putting it. Mr. Plaag talked about the two properties that are immediately adjacent to the proposed property that are national register eligible properties. He said one of them is the Old Watauga County Jail to the north on Waters Street and the Rivers House on Poplar Grove Road. He said he is currently working on his own time to put one of these houses on the national register. Mr. Plaag said in addition the Historic Preservation Commission is looking at potentially making these properties local landmark designation sites. He told the Council that they had asked the HPC to look for these type properties that are appropriate for landmark designations. He said if this proposed project is approved, it will damage the integrity of these two landmark designation sites. He said this is a bad thing in a Town that struggling to hold on to the historic elements that it has left. Mr. Plaag talked about the proposed renting by the bedroom feeding a problem in the Town as it relates to the affordable housing problem. He said he might feel differently, if the developer proposed housing for young professionals with rules to manage it. He said instead they are taking more of the potentially living space with student housing. He said there are people who cannot afford to rent in Town because of the further increase of rent because of the rent by the bedroom scheme. He talked about having a development that really does cater to what the Town has made a priority which is affordable housing. He said another solution would be to take one story off of the building. He said removing the pool will save them a number of units that they would otherwise not have to deal with in this proposed project. He said the height problem would be resolved by taking off one story and it would resolve some of the parking issues because there would not be a need for more parking spaces and some commercial spaces could be added. Mr. Plaag said he would urge the developer to meet with the HPC and discuss the exterior building materials and style. Mr. Plaag asked the Council to not approve this proposed project because it is a monstrosity and there is no going back once it is approved and built.

Planning Commission Member Templeton asked Mr. Plaag who his employer was. Mr. Plaag said he worked for his own company called Carolina Historical Consulting Company. It was noted that his company is a local company.

The second speaker was Ms. Pam Williamson, she came to the podium and presented the comments from her a six-page handout (permanently attached). She noted that this proposed project is the first project under the new Planned Development process. She asked a point of order question. She asked under this new process is the applicant not allowed to come before the Board of Adjustment anymore. Ms. Williamson said maybe the Council wanted to think about her

question. Ms. Williamson said this is not fair to the citizens because they are not able to ask questions of the petitioners. Ms. Meade confirmed that it is a different process now.

The third speaker was Mr. Glenn Weaver from Harrod/AP, LLC the owners of the Southern States property. He said their property cost is \$21,000.00 per unit based on 119 units. He said there is no way you can build affordable housing in Downtown Boone on land with this type of cost per unit. Mr. Weaver said this proposed project will create 220 jobs for one year during construction, plus the additional employment in the commercial spaces. He said he could not solve the low-income or affordable housing. Mr. Weaver said he could suggest if available housing is increased for young professionals and students, it will free up housing that was built 50 and 60 years ago that is currently being occupied by students. He said this would then create available housing to be rented at a lower rate to lower income people. Mr. Weaver talked about Mr. Plaag saying that he had not communicated with him regarding the proposed project as it relates to the Historic Preservation Commission. Mr. Weaver said he did meet with Mr. Plaag and he took the criticism seriously about the character of Boone. Mr. Weaver said he went to Boone, Blowing Rock, Hendersonville, Yadkinville and several other cities and took photographs to review to try to determine what the character of Boone is. Mr. Weaver said he researched other buildings like the previous court house which was more than 40 feet tall and some other buildings that were more than 40 feet tall that no longer exist. Mr. Weaver said he hired a local architect, Mr. Bill Dixon and he redesigned the building to include a significant amount of brick and rock to meet the UDO requirements. Mr. Weaver talked about the low marks that the previous design received from the Board of Adjustment. Mr. Weaver talked about Mr. Dixon being a member of the Historic Preservation Commission and with that knowledge, he was able to design the building with historic building materials in mind. Mr. Weaver talked about the compromises to building a 40 foot high building. He said some of the compromises are the elevators must be located in multiple locations and they can never serve the top floor because of the safety code state requirements. Mr. Weaver said that Mr. Githens and his company wanted to change this. Mr. Weaver talked about over half of the previous building not being handicap accessible. Mr. Weaver talked about the benefits of the Planned Development process. He said this process gives the developer an opportunity to find the character of Boone. Mr. Weaver said the developer will have the hardscape and landscape plans designed as they move forward with the project. Mr. Weaver talked about the 95 percent amount being selected to represent the number of students in the building and the expected number of beds allowed to the units. He said he feels like this is a realistic number. He said this calculation had to be made because it is associated with the parking study. Mr. Weaver said he was asked to come to Boone in 2005 by his friend Mr. Bodie Bodenhammer to work on developing a project with housing and retail which would improve the Downtown area. He said it has taken him this long to find a location. Mr. Weaver talked about needing help from the private and public sector, when doing development in a Downtown area. Mr. Weaver said today most people like to see modern clean designs and it is hard to incorporate that into historic buildings.

Mr. Weaver said his company's goal is to develop housing, commercial retail and parking and to improve the Downtown commercial district. Mr. Weaver talked about his experience with writing tenant leases. He talked about writing a tenant lease and securing parking for the tenant in the lease, he said this is a major commitment. He said he was surprised that Mr. Githens and his company agreed to do so for this proposed project. Mr. Weaver said, if Mr. Githens is not absolutely confident that he can control the tenants and he has sufficient tenants, he is guaranteeing failure of this project. Mr. Weaver talked about university leases for parking spaces that do well are completed in January, February and March of each year. Mr. Weaver said he talked to the manager of the parking lot across the street from the proposed project and he only has two spaces left to lease. The spaces will be provided on a first-come and first serve basis. He said he would let the students know about the availability for parking in this lot. Mr. Weaver said he is sincere in saying that this will be a good project. He said his company has never done a project that was not a top of the line project. He said if his company cannot meet the needs of our community, they do not need to be in our Town.

Mayor Brantz closed this public hearing at 8:28 p.m.

At 8:29 p.m., Mayor Brantz called for a five-minute break.

At 8:36 p.m., Mayor Brantz reconvened the hearing.

CASE 20150149 PUBLIC HEARING PROCESS - Before adopting or amending the UDO (NCGS 160A-364) or the zoning map (NCGS 160A-384), the Town is required to hold a public hearing. Currently the Town processes text (UDO 9.02.01) and map (9.02.02 & 9.02.03) amendments through a quarterly public hearing process.

Application processing timelines range widely from fifty days to more than 120 days depending on when an applicant submits an application. The only way to expedite the approval process is to appear before Council and request a special public hearing. However, even this process can add up to 20 days to the processing of an application. Furthermore, special public hearings interrupt the normal workflow of staff and increases the opportunity for mistakes.

Given the number of requests for special public hearings (6 in 2014 for example) and the length of time it takes to get from application to decision, Council authorized Planning Staff to develop alternatives that would streamline the amendment process and provide for more frequency.

Ms. Shook presented this case as outlined in the meeting packet. Ms. Shook also added that the four-page handout given to each Council and Planning Commission member at this meeting was revised by the Town Attorney, Ms. Allison Meade (permanently attached). Ms. Shook said the revisions made in the handout simplified the language drafted by the Staff found in Sections 9.01 and 9.02 in the staff report. Ms. Shook talked about needing to meet Council and advertising deadlines. Ms. Shook noted that in the proposed change the Planning Commission meeting would move to the first Monday of the month.

Ms. Shook explained the current text or map amendment change process from the receipt of the application through the public hearing or special public hearing. Ms. Shook went over the current number of monthly meetings and the proposed number meeting needed per month to meet UDO requirements. Ms. Shook also explained that proposed public hearings need Council approval. Ms. Shook noted that the purpose of this proposed change to the Quarterly Public Hearing process was to simplify the process. Ms. Meade added that there is still a filtering affect adding into the proposed process change. Ms. Meade noted that the Council would still need to give the direction that they want the Staff to proceed to work on an applicant's request. Ms. Meade said that other changes would be initiated by Council or from recommendations by Staff. Ms. Meade said there is an exception and that is if the Town Attorney or Planning Administrator feels a change needs to be made due to State law, the Staff would not have to get Council's approval to draft a proposed change. Ms. Meade noted that this is a short proposed change due to adding the text and general map amendment into one amendment.

Planning Commission Member Boyle asked if in the new proposed QPH process the Planning Commission members would discuss the recommendations to the case after the public hearing on the same night. Ms. Shook said yes. Ms. Shook further explained that according to the current UDO language, the Planning Commission members are required to make a decision on a case on the same evening. Ms. Shook noted that there may be times, when the Planning Commission may not want to make a recommendation on the same evening on a case. Ms. Meade explained the difference in the current process and the proposed process regarding possible extra research that might be needed to make a decision on a case.

Discussion ensued regarding legal time frames for recommendations and decisions. Planning Commission Member Simmons said he was uncomfortable with the proposed QPH process change. He talked about potential pressure of the Planning Commission members to need to make a decision without having an opportunity to visit a development site or do research in adjacent towns to prepare for Planning Commission meetings. He talked about emailing Mr. Bill Bailey, Director of Planning and Inspections Department his thoughts on this proposed process.

Ms. Shook said that Staff was asked to make changes to the QPH process so that the applicants were not having to wait 120 days as a worst case scenario. Ms. Shook talked about the legal requirements for public hearings and the Planning Commission recommendations. Ms. Shook talked about when it is necessary to have a special public hearing and that Council has been very good at granting them, when necessary. Ms. Shook said that the Council wanted the Planning Commission involved at the public hearings to make sure that everyone was hearing the same information. Ms. Shook talked further about finding a way to expedite the hearing process. Ms. Shook explained that with the proposed process change, there would only be one joint-meeting per month instead of two meetings per month. Ms. Meade noted that the proposed process would help get proposed UDO changes made in a timelier manner. Ms. Meade asked Chairperson Woolridge to explain the current process of how the public hearing and Planning Commission meetings are

scheduled and how the Planning Commission members would handle the discussion and decisions on the cases. Chairperson Woolridge explained that a case as complex as the Rivers Walk would probably take two hours of discussion to possibly come to a decision after the public hearing had taken place.

Council Member Teague asked the Planning Commission members if they would be willing to have a public hearing once a month on the night of the Planning Commission meeting, if there was a need for a public hearing. Then, have another meeting on the next Monday night to discuss the case from the public hearing.

Chairperson Woolridge said he is fine with the proposed change as long as the Staff is explicit that on major cases, the Planning Commission members will be able to discuss the case at the next Planning Commission meeting or have two meetings per month.

Council Member Teague said at the next Planning Commission meeting there could be another public hearing. She said if you do not set up a two meeting a month schedule, you could still be in this same situation.

Mayor Pro-Tem Mason talked about the Planning Commission having the option of calling a special meeting for further consideration of a case or continuing the discussion on a case at the next Planning Commission meeting.

Council Member Teague said at the 2016 Council Retreat the Council talked about the Planning Commission members not having to attend multiple meetings each month.

Planning Commission Member Boyle said he had rather go with having the occasional special public hearing, when needed rather than committing to a regular monthly schedule of having one meeting each month.

Vice-Chairperson Simmons explained that at many of the Planning Commission meetings after there has been a public hearing, an applicant will have more information that they want to talk about at the meeting. He said the Planning Commission will re-open the public hearing without the Council being present. He further talked about the negotiations and discussion for a case that may happen at a meeting and the list of things that the Council and Planning Commission members may want to discuss about a case.

Discussion ensued on the possible need for Council and the Planning Commission to be at the same meeting to discuss potential conditions and negotiations with the applicant.

Council Member Clawson said she felt the whole new Planned Development process is going to be very difficult. She said that we are in a learning curve and she thinks there will be some problems.

Chairperson Woolridge said at the same time, he felt like it will be a better process with the possibility of working with the developers in the beginning of the proposed project to gather more information from them.

Discussion ensued on the completion of the greenway in the Rivers Walk proposed Planned Development project.

Mayor Pro-Tem Mason asked when the Planning Commission members make a recommendation will they need to look at the four findings per UDO Subsection 14.05.01(B).

Mayor Pro-Tem Mason said the Planning Commission recommendations have been very thoughtful and well documented. She told the Planning Commission that she appreciated their work on the recommendations.

Discussion ensued on the re-opening of a public hearing and the Council being present to hear proposed project information.

Discussion ensued on state law requirements and the holding of town meetings.

Discussion ensued on the mixing of the terms public hearing and public meeting.

Discussion ensued on what happens when the Planning Commission opens a public hearing to hear new information without the Council being present.

Vice-Chairperson Simmons shared his concern regarding the drafting of motions for case recommendations. He said in the proposed change, he would not be able to draft a motion for a case as well in the same night as the Planning Commission meeting because he normally has a week to draft a motion for a case.

Planning Commission Member Lippard shared what he does in order to prepare for the cases between the public hearing and the Planning Commission meeting. He also noted that the Rivers Walk Greenway topic was discussed in a past Planning Commission meeting

Planning Commission Member Long asked would it be fair for Staff to draft the language to allow the Planning Commission to make a motion to vote to go ahead and make a recommendation in the same night in the same meeting. He did not want the obligation of the Planning Commission members to have to make a decision on more difficult cases on the same night.

Discussion ensued on three options to handle the easier cases in the same night, schedule a special public hearing or let the case discussion continue at the next Planning Commission meeting.

Council Member Mizelle said that because she is on various boards in the Town, she would like to be at a meeting where the case negotiations were being discussed.

Discussion ensued for Planned Development cases to schedule a Planning Commission meeting prior to the public hearing. Mayor Pro-Tem Mason said she felt it would be more productive to discuss case negotiations in a joint-meeting.

Ms. Meade said that she would do some research on how other Towns handle the Planned Development process.

Vice-Chairperson Simmons asked if the public notification will be the same in the proposed process change. Ms. Shook said the public notices do not change because they are state statute and the Council has adopted additional statutes that they do not wish to change. Ms. Shook added that the property owner notification letters gives notice to the property owners and the dates of the Public Hearing, Planning Commission meeting and the Council meeting.

Due to the many concerns, it was the consensus of the Council to withdraw case until further research and modification could be done.

Mayor Brantz closed this public hearing at 9:18 p.m.

ADJOURNMENT

Mayor Brantz adjourned the hearing at 9:19 p.m.

VOTE:

Aye-All
Nay-None

The vote was unanimous.

Rennie Brantz, Mayor

Marlene Crosby, Board Secretary

Eric Woolridge, Planning Commission Chairperson

Presented to the Record
April 4, 2016 Town of Boone Public Hearing
Pam Williamson • 375 Old 421 S • Boone

Rivers Walk (The Skinny):

- A mega apartment housing complex to be built in downtown, 51 feet tall, with elevators, 380 bedrooms, on 2.75 acres—not all of which is useable.
- All owners of the property are non-residents of Watauga County
- 95% student rent-by-the-bedroom housing

HISTORY OF THE PROJECT:

Property for Rivers Walk was originally zoned B-1, Central downtown business district.

First the developer went to the Board of Adjustment to get two variances, one of which was to increase the building height to 40 feet from the allowed 35 feet.

Then, around a year later, the developer got Council to rezone the property to a Conditional Use district to further reduce regulations related to height, parking requirements, etc. At that time, they complained that having to build such a huge complex on such a small parcel of land was a “hardship.”

When Council Member Mason asked the developer about parking concerns, the response was that they wanted to encourage walking and biking. When Planning Board member Simmons pointed out that crash data from the Town of Boone’s adopted bike plan found that River Street is only second after Blowing Rock Road for crashes and that there is no bike lane on Water Street, no one responded.

Then came the advantage of a Planned Development, where developers can circumvent even the Town’s minimum regulations. So now they’re back.

This time around they want to increase the height of the building to over 51 feet in places. *(Don’t you want to see an elevation before you vote to approve this massive building height in downtown?)* Now they want to

use fake stone in place of real stone on the outside. They want to further reduce the number of residential parking spaces. There never was, and still isn't, any space for commercial use parking. Landscaping is now pretty much down to none.

We've come a long way from B-1 haven't we? A zoning classification which is supposed to maintain the downtown's small town character, and in which only compatible residential uses are to be encouraged.

(1) PARKING/TRAFFIC ISSUES:

Residential Parking: The developer hired out the required traffic/parking study. They surveyed 394 students, and determined that 74% of students who rent space from them will bring their cars to Boone.

Now on Page 58 of your packet, the developers present a pretty chart about how they get to take off 20% of parking requirements because their development is near public transportation, another reduction for bike parking, and another reduction for motorcycle parking. But all of these reductions are baseless because the fact remains that even according to their own math and accounting, 281 of the students who will rent one of the 380 bedrooms at their development will have a car and need to park it somewhere.

Yet of the 281 car spaces they admit they need, they only offer a total of 164 spaces. Their answer to how to fill the need for an additional 117 parking spaces is:

-- for 100 residents to rent parking in a private gravel lot across the street that charges \$800 dollars a year for a space, first come first serve. I called today to inquire about the current availability of parking spaces in that lot. There are eight. And what happens if Mr. Holton decides to develop or sell his gravel parking lot? What are the developers' backup plans in that case? What are your backup plans?

-- or rent a parking space somewhere in an ASU lot. ASU students have to remove their cars on home game days. Where does the developer propose they move those cars on those days? Besides, why would anyone living at the new development park their cars at State Farm Road or any other ASU site? They will look to park their cars where they

live. Unless, of course, what we're really building here is simply a dorm in downtown Boone.

Bottom-line: The development does not provide parking for 42% of the residents the developers themselves admit will be living at their development and who will have a car to park.

In other words, the development does not provide adequate parking as required by the UDO.

In addition, your own zoning administrator tells you the trip generation in the development traffic analysis projects a net total of 1,271 trips per day. That's 1,271 additional vehicles per day coming in and out of the development from Poplar Grove and Water Streets.

Commercial Parking: The developers acknowledge a need for 21 parking spaces for the commercial portions of the development. Yet where is the parking for the commercial reserved? Nowhere. The project instead proposes to direct its retail customers to metered parking on King Street.

Haven't we learned yet that without any on-site retail parking, the spaces just don't get rented? Or are we just gonna hope all that somehow works itself out.

2. DEVELOPER MEETING NOTIFICATION WITH NEIGHBORING PROPERTY OWNERS:

How is it that the developers only had to notify property owners within 150 feet of the proposed development for its neighborhood meeting, but when they have to rely on off-site parking, they get to propose going 500 feet out from the development looking for solutions that affect other property owners and businesses?

That's why even though this project is important to all of us who live in, work in, drive in, or shop in Boone are affected by this development, only 9 people attended the meeting-- 4 of whom were there on behalf of the company and another the county manager.

And by having the developer write up the neighboring property concerns instead of having a staff member at the meeting, all we know is that

there were concerns raised about the height of the building which the developer now increases, and concern over traffic and parking spaces, which the developer now complicates by driving its residents and retail visitors elsewhere. And what about the neighborhood concern for relocating the dumpsters? Has that been done?

3. THE 2012 TOWN OF BOONE HOUSING REPORT:

In 2012, the Town of Boone commissioned a professional housing report. The report conservatively concluded that at that time, student housing was overbuilt by over 2,000 units and that supply was fast increasing. At the time of report, there were over 17,500 student apartments already available or being built. Since that time, a substantial number of new student housing developments have been approved and/or built, including but not limited to, University Overlook, Green Street, Winkler Square, and The Standard.

We're oversaturated with rent-by-the-bedroom housing and yet the Council has thus far refused to act, even though the study warned Council that there are no natural incentives for developers to build anything other than rent-by-the-bedroom housing and that the Town of Boone must develop a regulatory plan.

4. PLANNED DEVELOPMENT REQUIREMENTS: *"How will the Planned Development mitigate the impacts on the surrounding area?"*

Noise: The developer asserts that because any balconies will be located at the back of the building, noise will mostly just be significant on the units up against the creek. They promise to have someone around to handle complaints.

Negative Visual effects: The developer argues that their 5-Story mega housing development squeezed into a two acre building site will be a pleasant gateway into downtown Boone, just like all our other mega housing developments have supposedly enhanced our gateways. Not.

Negative Traffic Effects: See above.

Historic Preservation: The Town of Boone ordinance stresses the need to protect the historic significance of downtown Boone. The red

building currently located in the development's wake is the last remaining structure used for Tweetsie Railroad. It will be torn down. The Rivers House across the street from the development, now known as Rivers Park (a property owned by the people of Boone who were not by the way invited to the Neighborhood meeting) is the last residence in Boone that stands from the time period of the railroad. The development will cause it to be enveloped in a shadow all day long every single day. Proper, the Town's historic jailhouse, is right next to the mega development and is the town's old jailhouse. Has anyone considered the effects of a 5-story mega development on these historic properties?

5. OTHER UDO CONSIDERATIONS:

- How does this development *"blend the built environment with the natural, scenic, and historic character of a High Country small town"*?
- How does this development *"support and enhance the cultural and historic significance of downtown Boone"*?
- How does this development *"reflect the realities and qualities befitting Boone's geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services"*?
- How is this development *"consistent with the neighborhood and architectural context of the immediate area, and supportive of Boone's original community character as a High Country small town"*?

6. A PLANNED DEVELOPMENT SHOULD ONLY BE APPROVED BY COUNCIL IF:

- *"The proposed development will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern."* There is no way to conclude that a mega 5-story rent-by-the-bedroom housing complex in downtown Boone with inadequate parking and virtually no landscaping is "of equal or higher quality" than what you get with the minimum regulations dictated in a B-1 zone.

--*"That the proposed PD will produce a development functioning as a cohesive, unified project"*

There is no way the project can be deemed cohesive and unified because it can't accommodate 42% of the cars they themselves acknowledge their own residents will have nor can they accommodate any of the 21 parking spaces on-site for visitors to their retail establishments.

--*"That the proposed PD will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the Town."* What you allow to be built at this site will set the stage and your precedent for whatever else is built in downtown. Residents and the Town's own planning policies have repeatedly affirmed the desire to preserve what is left of Boone's small town feel. **How is this development better for neighbors and the community than using compliance with the Town's policies, a requirement of Town ordinances?** It isn't. The development therefore does not meet the intent of the Town's own development policies and plans.

We all know the Town is already oversaturated with rent-by-the-bedroom. We all know this project will set the stage for turning downtown Boone into nothing short of dormitory living. We all know three historic properties are jeopardized by this development. We all know, and the developer admits, that because the development does not provide adequate parking for its residents and retail visitors, additional pressure will be put on downtown parking and traffic.

It is not your responsibility to ensure highest profit for the developer. You have options. You can demand a mixed development in character and size with our historic downtown and still encourage walkability and bikability. You do not have to approve every rent by the bedroom mega development that comes your way.

The only thing left to find out is whether we as a Town are going to once again turn a blind eye to these issues, sell our souls, integrity and vision down the river, or finally stand up and do the right thing by denying this project.

9.01 Amendments in General

9.01.01 Amendments to the text of this Ordinance (hereafter, "the UDO") or to the Town's officially adopted zoning map shall be made in accordance with the provisions of this Article.

9.02 Initiation of Amendments

9.02.01 Text and General Map Amendments

A. The drafting of proposed text amendments and general map amendments may proceed only upon direction given by Council to Staff (i) upon Council's own initiative, (ii) upon recommendation made by Staff, the Town Attorney, or any Town board, commission, or other entity, or (iii) upon consideration by Council of a petition made by any third party; *provided, however*, that amendments considered by the Administrator or the Town Attorney to be necessary or advisable in light of state law may be prepared without prior direction by Council.

(20150149-04212016)

B. Every proposed text amendment shall be drafted by the Administrator or the Town Attorney, in consultation with each other.

C. Any person may petition the Council to amend the text of this Ordinance or for a general map amendment. Such petition shall be heard by Council during the public comment period at the next available regularly-scheduled Council meeting. The petition shall be filed with the Administrator and shall include at a minimum:

1. The name, address, and phone number of the applicant, and
2. In the case of a proposed text amendment, a summary of the specific objective of any proposed change in the text of this Ordinance.
3. In the case of a proposed general map amendment, (i) a description of the land affected by the proposed amendment, and (ii) a description of the proposed map change.

The Administrator may, in his or her discretion, prepare an analysis of the proposed amendment to assist Council in determining whether Council will authorize (i) further consideration of the amendment by Staff, (ii) drafting of a proposed amendment, and/or (iii) the setting of the proposed amendment for public hearing and consideration by the Planning Commission. Any such analysis by the Administrator shall address the conformity of the proposed amendment with the Comprehensive Plan and other officially adopted plans of the Town, as well as such other matters as the Administrator deems relevant.

(20150149-04212016)

9.01 Amendments in General

9.01.01 Amendments to the text of this Ordinance (hereafter, "the UDO") or to the Town's officially adopted zoning map shall be made in accordance with the provisions of this Article.

9.02 Initiation of Amendments

9.02.01 Text ~~Amendment~~ and General Map Amendments

~~A. Only~~The drafting of proposed text amendments and general map amendments may proceed only upon direction given by Council ~~may initiate an amendment to this Ordinance. Staff and (i) upon Council's own initiative, (ii) upon recommendation made by Staff, the Town Attorney, or any Town board, commission, or other Town entities (boards, commissions, advisory bodies, and other such entities), when they are charged or empowered with making recommendations to the entity, or (iii) upon consideration by Council regarding of a petition made by any third party; provided, however, that amendments considered by the text of Administrator or the UDO, may make recommendations regarding potential desired changes to the UDO to the Council, but the preparation of the text of a proposed draft amendment shall only proceed after the Council has endorsed the policy objectives sought~~Town Attorney to be achieved with the recommendation and has acted to authorize preparation of a draft text amendment.

~~B.A.~~ Ordinance changes necessary ~~due to changes~~or advisable in light of state law, may be prepared without prior endorsement of thedirection by Council.

(20150149-04212016)

~~C. Whenever a request to amend the text of this Ordinance is initiated or authorized by the Council, the Town Attorney in consultation with the Administrator shall determine whether the Every proposed text amendment represents substantive planning policy or procedural matters, such as enforcement procedures, amendment procedures and appeal procedures.~~

~~D. If the Town Attorney determines the proposed amendment represents a substantive planning policy, the Administrator shall draft the text of the proposed amendment in consultation with the Town Attorney. Before an amendmentshall be drafted by the Administrator is presented to the Council for consideration,or the Town Attorney shall endorse and date the draft amendment with the following statement: Approved as to Form this ___ day of ___, 20___, _____Town Attorney.~~

~~E. If the Town Attorney determines the proposed amendment represents a procedural matter, the Town Attorney shall draft the text of the proposed amendment, in consultation with the Administrator. Before an amendment drafted by the Town Attorney is presented to the Council for consideration, the Administrator shall endorse~~

and date the draft amendment with the following statement: Approved as to Planning Policy this ___ day of ___, 20___, ___, Administrator.

B. Any other.

F.C. Any person may petition the Council to amend the text of this Ordinance, or for a general map amendment. Such petition shall be heard by Council during the public comment period at the next available regularly-scheduled Council meeting. The petition shall be filed with the Administrator and shall include at a minimum:

1. The name, address, and phone number of the applicant, and
2. AIn the case of a proposed text amendment, a summary of the specific objective of any proposed change in the text of this Ordinance.

Upon receipt of a petition the Administrator shall forwardIn the petition to Council with or without written comment for a determinationcase of whether a draft amendment should be prepared in accordance with Subsection 9.02.01(B).

Upon receipt of a draftproposed general map amendment, should (i) a description of the Council act to proceed with its consideration, it shall establish a date for a public hearing.

1.3. The public hearing may be scheduled at a pre-arranged date, time and location, such as at a "quarterly public hearing," or at such other date, time and location authorizedland affected by the Council which will allow proper notice to issue in advanceproposed amendment, and (ii) a description of the hearingproposed map change.

G. No later than seven (7) days prior to the date set for the public hearing, theThe Administrator shallmay, in his or her discretion, prepare an analysis of the proposed petitionamendment to assist Council in determining whether Council will authorize (i) further consideration of the amendment by Staff, (ii) drafting of a proposed amendment, and/or (iii) the setting of the proposed amendment for public hearing and consideration by the Planning Commission and Council in determining. Any such analysis by the Administrator shall address the conformity of the draftproposed amendment with the Comprehensive Plan and any other officially adopted planplans of the Town which relate to the proposed amendment, as well as such other matters as the Administrator deems relevant.

(20150149-04212016)

9.02.02 — General Map Amendments

A. Any person may petition the Council to amend the Zoning Map. The petition shall be filed with the Administrator and shall include at a minimum:

1. The name, address, and phone number of the applicant,

~~3. A description of the land affected by the proposed amendment, and~~

~~2. A description of the proposed map change.~~

~~Upon receipt of a petition, the Administrator shall forward the petition to Council to establish a date for a public hearing.~~

~~1. The public hearing may be scheduled at a pre-arranged date, time and location, such as at a "quarterly public hearing," or at such other date, time and location authorized by the Council which will allow proper notice to issue in advance of the hearing.~~

~~(20150149-04212016)~~

~~B. No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed petition to assist the Planning Commission and Council in determining the conformity of the draft amendment with the Comprehensive Plan and any other officially adopted plan of the Town which relate to the proposed amendment.~~

**PLANNING COMMISSION
MEETING MINUTES
MONDAY, APRIL 11, 2016
6:00 P.M.**

PLANNING COMMISSION MEMBERS: Chairperson Eric Woolridge, Vice-Chairperson Greg Simmons, Connor Boyle, Carolina Catoe, Michelle Dineen, Susan McCracken, Matthew Long, Charlie Myers, Jon Tate, Matthew Vincent and Jeff Templeton

PLANNING STAFF: Bill Bailey, Planning Director, Jane Shook, Planning Supervisor and Marlene Crosby, Board Secretary

Chair Woolridge called the meeting to order at 6:07 p.m.

ADOPTION OF AGENDA

Member Tate made a motion to accept the agenda as presented, seconded by Member Boyle.

VOTE:

Aye-All
Nay-None

The motion passes.

APPROVAL OF MINUTES

Member Tate made a motion to approve the January 6, 2016 Special Public Hearing minutes, seconded by Member Boyle.

VOTE:

Aye-All
Nay-None

The motion passes.

Member Boyle made a motion to approve the January 11, 2016 Planning Commission meeting minutes as amended with minor modifications made by Member Templeton, seconded by Member Tate.

VOTE:

Aye-All
Nay-None

The motion passes.

Communication: April 11, 2016 Planning Commission minutes (Approval of Minutes)

CASE 20150944 and 20150945 HAMPTON ESTATES

Chairperson Woolridge noted that this case has been withdrawn by the applicant on March 31, 2016.

CASE 20160136 RIVERS WALK:

Mr. 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 building 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 $\leq$ 2,500 ft² open to the public during 10 pm – 6 am, 11.07 Other Restaurants $\leq$ 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.

Chairperson Woolridge opened the floor for discussion on this case. Mr. Bill Bailey, Director of Planning and Inspections Department informed the Planning Commission members that Member Boyle had requested to recuse himself from this case because he is professionally involved in the proposed project.

Member Templeton made a motion to recuse Member Boyle from this case, seconded by Member McCracken.

Vote:

Aye – All
Nay – None

The motion passed.

Member McCracken made a motion to open the public hearing to hear new information from the applicant, seconded by Member Tate.

VOTE:

Aye-All
Nay-None

The motion passes.

Mr. Jim Deal from Deal, Moseley and Smith representing the applicant introduced Mr. Jeff Githens from Peak Development, LLC to present additional information regarding the greenway connection to Water Street and the exterior appearance of the building.

Mr. Githens from Peak Development, LLC presented new information in a drawing and answered questions on it from the Planning Commission members. He said the drawing showed the “greenway connection to Water Street (permanently attached) is a follow-up to the dialog that was talked about at the special public hearing for this case.

Mr. Githens talked about meeting Chairperson Woolridge on site to discuss the greenway. He talked about the proposed location of the greenway. He said it will be entirely on the Rivers Walk property. He said he thinks he can keep the dumpsters in an area that is preferable to the property owners. He said the dumpsters are not all the way to the edge of the parking lot but still away from Water Street side of the surface lot. He said the area of the greenway that they are willing to construct stops at the parking garage. He said the easement and design still continues from that point to go around the parking garage, if there is ever an attempt to continue the greenway in the future. He said it would be considered in the flood study update unless there is deviation from it, it should be in good standing if the Town decides to continue the greenway to the county’s property. Mr. Githens said this was the best alternative for the greenway because there were easements that would have needed to be obtained from surrounding property owners and a retaining wall was needed.

Member Long asked if the proposed greenway is paved from Water Street to the future area behind the parking deck. Mr. Githens said that was correct, the greenway stays on the Rivers Walk property.

Chairperson Woolridge asked Mr. Githens why his company is not willing to build the Greenway to the county’s property line. Mr. Githens said they are not unwilling on his part and he talked about the original approval of the conditional district approval for this case and the anticipated easement being provided to the county without any greenway construction. He said he saw utility in the greenway being constructed as part of his contribution to the Town and he thought it made sense. They decided to include it as part of their construction budget and add to their parking deck. He said the remainder of the greenway construction depends on what goes on around the proposed project. He said because he did not know ultimately what might happen around the proposed project, it did not make a lot of sense for him to commit himself, when the future of the greenway was unknown. He said his offer is a better offer than the original Rivers Walk approval and it is a component of the greenway that will be used.

Commission Member Myers asked if at the end of the Rivers Walk greenway where the greenway pavement stops would the greenway be roped off so cyclists will not be able to continue to travel

on it. Mr. Githens said this area would be a landscaped area and he would not be inviting that scenario to happen.

Commission Member Templeton talked about the possibility of the exchange of extending the greenway for other things that could be decided on collectively that are being asked for. Mr. Githens said it was a fair request.

Mr. Githens talked about working cooperatively with the Town of Boone regarding the architectural appearance and the building materials. He talked about red brick. He suggested making a good faith effort to come up with what the exterior of the building should look like. He said that no one has told him definitively what that look is and it is difficult to know how to prepare for it.

Member McCracken asked for clarification on the hardy board building materials. Member Templeton explained that the proposed building materials should be more in line with the B-1 zoning architectural standards. Mr. Githens said he is open for discussion on the façade treatments and color scheme and he needs to know what the building materials should be.

Discussion ensued on the proposed windows for the building especially on the street level. Mr. Githens said the proposed plans comply with the window requirements on the primary and secondary streets.

Member McCracken asked if the percentage and distribution of the hardy board being proposed for this project in line with other projects and is more or less the same or different than the other buildings in the Downtown area. Chairperson Simmons said it is different from a medical district or in the B-3 zoning district.

Vice-Chairperson Simmons said he read the narrative for the current approval having five connected buildings with each a maximum of 40 feet high and how each building elevation is designed to replicate the character of Downtown Boone. He said the 32-37 building is a primary street. He said that Water Street will be composed of local rock and brick and will include the clock tower. He said that the 32-42, 32-52 and 32-62 buildings will composed of significant amounts of granite, local rock and brick with significantly tall commercial windows in the style of the 1900's. He said the 32-67 building will use concrete plank with exposed iron structure porch with decorative Victorian style rails. He said it might be useful to compare this approved information to the proposed plans for this proposed project.

Vice-Chairperson Simmons read about the four findings of the Planned Development process in the Unified Development Ordinance and he thought this should be a part of the discussion of this case because of the proposed deviation from the conditional district approval.

Mr. Bailey reminded the Planning Commission members that the conditional district zoning approval for this case controls this project. He said the design criteria controls unless this application specifically deviates from it. He continued to talk about the process for the possible deviations and mitigations in the proposed case.

Member McCracken asked the applicant why they want to change the project from the previous approval. Mr. Githens explained the reasons that were presented at the special public hearing. He further explained that the changes were made to help make this a better building than what was previously presented and approved.

Commission Member Templeton asked Mr. Githens to talk about the reason they moved the swimming pool and the benefit of moving it. Mr. Githens showed on a map the previous location of the pool which was near the current location of the proposed greenway and the creek. He said it was not much more than a lap pool due to the size of the area and they determined it was not in the best location. He said for a number of reasons, it was a better idea to put the pool on top of the parking deck. He talked about the elevation being 3,274 and 3,270 is above grade along Poplar Grove Road. He noted the existing grade is 3,250.

Chairperson Woolridge asked Staff for clarification about the process for making recommendations. Mr. Bailey explained the process.

Chairperson Woolridge asked if there was anyone from the public that wanted to speak on this case. There were no other speakers on this case.

Motion and Vote:

Member McCracken made a motion to close the public hearing, seconded by Commission Member Tate.

VOTE:

Aye – All
Nay- None

The motion passed.

Member McCracken talked about the change of 20 parking spaces being significant. She did not see much difference in the building height, she thought it was par with the street along Poplar Grove Road, she supported the proposed building height and said it would make it more attractive for retail space and housing space, she supported the relocation of the retail commercial space and she understood the need to possibly re-locate the dumpsters and location of the greenway. She

suggested that the Planning Commission members try to follow the previous approval and review any changes to it, when making recommendations.

Member Templeton asked Member McCracken how she felt about the change in the mix of units since she is familiar with the university housing. Vice-Chairperson Simmons noted there were five efficiencies, seven one-bedroom units, 39 two-bedroom units, three three-bedroom units and 72 four-bedroom units. Member McCracken said the efficiency or one-bedroom units are attractive to students. She questioned how attractive the three and four bedroom units would be to young professionals who might be working in the Downtown area or on campus. She said young professionals would not be interested in being in apartment complexes with the proposed mix of bedrooms.

Discussion ensued on the appropriate amount of bedrooms that work best in apartment complexes near the campus.

Member Long said that he agrees with Member McCracken's thoughts on the proposed project. He noted that this location is the lowest in elevation of any of the Downtown Boone and the property would support the proposed building height. He commended the developer on using the parapet wall to screen the mechanical equipment.

Member Templeton said that through the Planned Development process the applicant is allowed to make this a better project than previously approved. He said moving the commercial space down to Water Street makes perfect sense, he said the higher ceiling height in the commercial space makes perfect sense otherwise they are forced to build commercial space that would be unattractive to commercial tenants, therefore, he thinks this is an improvement. He liked the idea of having the elevator going to the third floor where everyone has access to it. He thinks the parapet is an improvement. He said the re-location of the pool is creating more livability space on the ground level and provides for the construction of the greenway which will benefit the whole community.

Member Templeton talked about the comments from the special public hearing for this case. He talked about the location of the project creating traffic, he said he found that comment to be counter intuitive. He said you would want your employees or students living close to the place of employment. He said he discounted that whole argument.

Member Templeton talked about the architectural style comments from the special public hearing for this case. He said he has seen the architectural style for the Downtown change over the years and he there is not an architectural style for the Downtown area. He said from his perspective, he does not see this project being a part of the B-1 zoning district architectural standards. He said the issue of noise was overstated. He said that Ms. Pam Williamson's comments on the developer not

being local and he thought that was a false argument. He said the developer had expressed his willingness to work with the Town on the appearance of the building as long as it doesn't add a burden of expense to the project.

Member Templeton talked about the clock tower and he thought it was a good proposed feature. He thought this would add to the Downtown area.

Member Myers talked about the dumpsters and their location near the Proper Restaurant. He talked about the façade of the building. He wanted the location of the dumpsters to be considerate to Proper Restaurant and the other businesses in the area. He talked about the proposed addition of the Kraut Creek cabbage scale informational area and the greenway being seen by restaurant patrons and other visitors using the greenway rather than the dumpsters.

Member Myers talked about location of the proposed project being a positive because of the walkability to the university and the Downtown area.

Member Vincent was concerned about the 16 parking spots being taken up with commercial retail and restaurant parking. He also noted that he did not see a proposed landscape plan in the information presented. He said that he does not have a concern with the hardy board building material, he just wanted to know if the applicant was open to using other building materials. He said he is not concerned with the building height.

Member Myers noted that a 3D rendering with topography would have been helpful for the Planning Commission members to review on this proposed project.

Member Tate said he supported the thoughts of the other commission members for this proposed project regarding the building height and the re-location of the pool. He has no other concerns regarding the change in the plans for this proposed project.

Member Dineen talked about the appearance of the buildings. She noted that she had heard from others in the community that they would like to see buildings that are more non-monolithic. She is concerned about a large project coming in and taking over the look that the Downtown area is trying to achieve. She did not show a concern for the building height. She believed that the proposed development would be for student housing and there is a need for this type of housing.

Member Catoe said her main concern was the proposed parking. She said the survey was taken by the students of which 40 percent of them live on campus. She said she felt that the survey was impacted by freshmen and sophomore students who naturally do not bring cars on campus. She said they have 164 parking spaces for 380 bedrooms and 21 spaces for commercial. She noted that the UDO would estimate five to twelve parking spaces per 1,000 square feet and they have two

spaces for 1,000 square feet, she doesn't think this is enough parking. She talked about the decrease in parking spots due to the two smart cars and zip car. She said that she sees a massive issue with parking in the Downtown area. She said she thinks the proposed project is going to hurt the Town more than help the Town. She talked about the building materials and she said that she did not like the cultural stone because she thinks it look cheap and it looks like it is a material that will not last ten years from now. She wanted to see more natural stone. She said she was discouraged that the proposed project is another student accommodation. She said it would be nice to see the proposed project have more single-bedroom units built into it.

Member McCracken talked about the decrease in parking spaces and compared it to the university parking.

Vice-Chairperson Simmons said the specific parking reductions were outlined in the parking demand study. He talked about the 74 percent of students having cars. He would like to know how the survey arrived at this percentage number and the population itself. He said what 74 percent of 380 beds is. He said if this calculation holds true, there could be 280 cars. Member Templeton said you cannot use just math to explain because the location needs to be considered.

Member McCracken left the meeting at 7:07 p.m.

Discussion ensued on not being able to compare the parking study in the meeting packet with a project the size of the Standard at Boone which is farther away from the proposed project which is right beside the campus. Member Long agreed that you cannot compare the parking study to the Cottages because they are farther away from the campus.

Discussion ensued on the decrease in parking and the need for parking in the Downtown area.

Chairperson Woolridge asked Member Catoe to further explain how the lack of parking being proposed with this project will make parking worse in the Downtown area. Member Catoe said she senses that students are using the metered parking incorrectly now in the Downtown area. She said when you add more students in another large development, it will clog our Downtown area and others will not have spaces to park in. Member Tate said he couldn't see a full-time resident trying to utilize a two-hour parking space. Member Tate said the idea of the project was to allow people to come to the Downtown without having a car. Member Tate said this could be seen as a positive because most people do not have to have a car from a parent's perspective.

Discussion ensued on metered parking.

Discussion ensued on the lack of visitor parking for the proposed parking on the project.

Discussion ensued on the ample parking for the commercial spaces.

Discussion ensued on the need for both residential and commercial parking spaces.

Mr. Bailey explained about what happens, if there is a change to the standards. Mr. Bailey said the applicant would have to identify the change, the standard and impacts and mitigations.

Member Templeton asked if they rent spaces in the parking deck is that considered residential or commercial. Mr. Bailey said it goes by the use. Member Templeton said he thought the surface lot should be parking for the commercial retail space. Chairperson Woolridge disagreed with Member Templeton regarding the residential spaces because Chairperson Woolridge did agreed with Member Templeton that the surface parking lot should be used by the commercial retail use and a residential could park there, if they needed to.

Discussion ensued on making a three-hour parking limit in the commercial parking lot.

Discussion ensued on the lack of long-term parking in the Downtown area.

Member Templeton said the Town talks about having a walkable community and now we are talking about more parking spaces. He said he is not that concerned for the residents because there are other options for them with alternative transportation. He said he is more concerned for having ample parking spaces for the commercial use. He said due the year-round weather being too harsh at times, there will need to be some parking spaces available for the commercial use.

Discussion ensued on a change that could make an increase in parking spaces.

Vice-Chairperson Simmons said he was concerned that there is a lot of token commercial space being built. Member Templeton talked about ways to make less token commercial space.

Member Catoe asked about the square footage inside the parking deck. Member Templeton said the square footage inside the parking deck counts as commercial square footage. He said the surface lot that is not covered and not part of the building it does not count towards commercial square footage which is a requirement in order to get the residential square footage. He noted that the ordinance is forcing the applicant into a bad design for the proposed project. Vice-Chairperson Simmons said he thought that the Planned Development process was not supposed to force the developer into anything.

Chairperson Woolridge asked the applicant if they would be open to changing their parking proposal. Mr. Githens said he would be open to that change and it is not a design change and they would be relocating 16 commercial spaces to the surface lot and the deck will solely be dedicated

for residential parking spaces. He said he wants to maintain residential spaces so there are short-term spaces for their perspective residents. He said he would be fine with this change knowing it would change their commercial calculation.

Discussion ensued on flex parking spaces for after-hours use.

Member Templeton referred to page 90 of the 2030 Boone Master Plan and talked about a rendering showing the building materials and appearance of the buildings.

Discussion ensued on the building height and the parapet.

Vice-Chairperson Simmons talked said the Boone 2030 Master Plan it is not a regulatory document but a planning document created by the Lawrence Group.

Chairperson Woolridge asked Mr. Githens if he would agree to adding ten parking spaces in the parking garage for the employees. Mr. Githens said that number seems high. Mr. Githens went over the number of employees at the complex. Mr. Githens said that five spaces sounds like a more accurate number for employees with 16 spaces dedicated to commercial and three spaces to prospective residential spaces. Mr. Githens talked more about walkability and alternative transportation being an option.

Member Vincent said a restaurant could easily take five parking spaces, if a restaurant is one of the uses. Mr. Githens said the same argument holds for residential as it does for commercial. Chairperson Woolridge talked about the architecture of the proposed project and how it could be worked out further. Mr. Bailey said that Staff would recommend that the Planning Commission make a recommendation for the applicant to work with the Town of Boone Urban Design Specialist. Mr. Bailey explained how this would be done.

Member Myers asked if the other side of the building near the creek had been rendered. Mr. Githens said no and noted what the building would be like.

Discussion ensued on the entrance of the Greenway.

Mr. Bailey noted that unless the building design is shown and deviations requested the it is subject to the appearance standards.

Member Templeton talked about the Planning Commission making recommendations that require the Community Appearance Commission review the building materials of the proposed plan.

Mr. Deal clarified that the applicant is willing to go before the Community Appearance Commission for an appearance review, if needed.

Member Catoe wanted to recommend that they consider using natural stone within the UDO guidelines.

Member Templeton wanted to recommend that they include the original clock tower in the roof design.

Member Myers wanted to recommend that the building elevation be consistent on both sides of the building.

Chairperson Woolridge began discussion on the Greenway. Mr. Deal noted that he was not for sure what the County is going to do at this time. Mr. Deal said that the applicant agreed to build the Greenway to that location, if the plan was approved.

Member Vincent asked about a proposed landscape plan. Mr. Bailey explained the UDO requirements for this type of plan.

Chairperson Woolridge talked about reviewing the West Boone Alive Plan and the Town of Boone having an old cabbage scale from the old Kraut factory, he said that there had been discussion about incorporating the cabbage scale into the re-development on this property.

Discussion ensued on building height and the relocation of the commercial space and the location of the parking deck.

Vice-Chairperson Simmons referred to the previously approved conditional district. He shared his thoughts on the building height. He said he might not have so much trouble with the proposed building height, if they did not already have a prior approval and now there are proposed changes to the project. He said he was thinking about trading off every foot of where the building goes up. He talked about re-locating the commercial space away from most of the commercial parking and accessing alongside the Poplar Grove Road to get down to the commercial retail spaces. He said he liked the gallery style that was previously approved. He said he would like for the Planning Commission to discuss it.

Member Templeton said that the commercial space will be vacant for a very long time as it was previously approved. He said this space does not have a view, it is in a curve with high speed vehicles passing by and it is not a convenient location. He said from a commercial rental standpoint locating the commercial along Water Street and Poplar Grove Road makes better sense.

Chairperson Woolridge talked about the changing of the Downtown and it doesn't have to look the way it has always looked.

Vice-Chairperson Simmons talked about his main issue with the building height. He talked about density having a connection to height. He talked about where do you want students? He talked about the various locations in the Town where student housing is. He talked about other housing solutions. He talked about density having a connection to height. He said he is concerned with housing diversity and having a mix of housing solutions in the Downtown area.

Member Templeton talked about allowing developers to exceed building height in exchange for some units designated for low income or workforce housing. He said would this project lend itself to this idea.

Member Templeton talked about creating incentives to make a project viable.

Member Long said this particular property is probably one of the most valuable properties in Downtown Boone and trying to regulate the construction costs to build housing and then to regulate the housing. He doesn't think this particular proposed project is a candidate for this idea.

Discussion ensued on regulating the rent costs.

Mr. Bailey said that the Staff has taken a look at the downtown and mixed-use and how we look at the different housing choices. He noted that the Planning Commission will be a part of the discussion this year.

Mr. Bailey said the applicant has to agree to the conditions at the Council meeting in order for them to become binding. Mr. Bailey said the Council will discuss the recommendations as well. Mr. Bailey explained the process of making a recommendation to Council.

Discussion ensued on the layout of the residential units. Mr. Bailey explained that housing that is designed with large bedrooms and small living spaces only appeals to students.

Discussion ensued on re-designing bedrooms for students and for other users.

Vice-Chairperson Simmons talked about the re-developing of the Downtown area and asked if the Planning Commission members were alright with the lack of diversity in the B-1 zoning district. He noted the recent housing study is four-years old. Mr. Bailey gave some details regarding the housing study.

Vice-Chairperson Simmons said that normally when he is preparing for the hearing cases, he reads Boone 2030 Master Plan and the 2006 Comprehensive Plan and he looks at the updates on the 2006 Comprehensive Plan. He said after he reads these associated documents, he knows what the Town's values are and what direction they want a case to go. He talked about the conflict of values of what people want in the Downtown area. He said that he agrees with the people. He talked about the 2006 Comprehensive Plan needing an update.

Vice-Chairperson Simmons asked Staff if a Downtown area plan was on their agenda. Mr. Bailey said yes and there would be discussion on Wellness District and zoning standards, mixed-use in general and parking in general and the Downtown area. These agenda items will be going on simultaneously because they all impact each other.

Chairperson Woolridge said it is not all the developer's responsibility for a proposed project, it is the result of policy that the Town puts into place.

Discussion ensued on future housing as a result of the university's growth and the growth of the Downtown area with consideration to density. Member Templeton said there is not a lot of options to handle the future growth.

Member Templeton said he thinks what the applicant is proposing is better for the community overall.

Discussion ensued on the appropriate size of the signage and the lighting of it for the proposed project. Mr. Bailey helped explained what is being proposed in the applicant's information regarding signage.

Mr. Githens asked the Staff to go to the following website www.stationatfive.com. He talked about the monument sign shown in this building. He said the size of this sign is roughly 40 square feet. He said he is proposing to replicate this sign for the Rivers Walk project.

First Motion and Vote:

Member Long made the motion, seconded by Member Tate that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and other applicable plans of the Town which relate to this application because the said plan development is a higher overall quality development than the previously approved conditional district development because the increase in building height makes it a more viable project and allows elevator service to all residents and has less construction impact on Kraut creek, has better storm water management design and proper rooftop screening for mechanical equipment. The commercial space is more attractive and flexible in size and is in a more concentrated location bordering Water Street. It is more likely to be successful as commercial space than the previous commercial space plan. The

applicant's willingness to construct the Greenway along the property and Kraut Creek will be a benefit to all the residents of Boone and those visiting the Downtown area. The redistribution of commercial parking to the surface lot allows for more convenient parking for the commercial retail space. In regards to architecture, the applicant is willing to work with the Community Appearance Commission which will result in an architectural design that is harmonious with the Downtown area and based on more community consensus.

Vote:

Aye – 8 (Catoe, Dineen, Myers, Long, Tate, Templeton, Vincent, Woolridge)
Nay – 1 (Simmons)

The motion passed.

Second Motion and Vote:

Chairperson Woolridge made a motion, seconded by Member Long that the Planning Commission recommend approval based on the previously approved plan and the proposed plan because it will create a higher quality development and assure a cohesive design in the Downtown area and the surrounding properties for the following reasons which include the five Staff recommendations:

1. Where there is a conflict between the application information and the plans (site plans bearing a received date of March 25th and architectural plans bearing a received date of March 28, 2016), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. The Town of Boone will be given the necessary easements for public sidewalks which leave existing street right-of-way.
5. All driveway permits shall be obtained prior to the issuance of a Zoning Permit.
6. The surface lot in the plan be used for non-employee commercial parking and a minimum of five parking spaces inside the parking deck be dedicated towards commercial parking.
7. The applicant will work with the Community Appearance Commission to develop the final appearance for the building based on the current B-1 zoning standards.
8. The applicant agreed to re-incorporate the clock tower into the building design.
9. The applicant agreed to construct a paved eight-foot wide Greenway to the counties property line.
10. The applicant is committed to "Greenway Connection to Howard Street drawing" submitted to the Planning Commission on April 11, 2016.

Vote:

Aye – 8 (Catoe, Dineen, Myers, Long, Tate, Templeton, Vincent, Woolridge)
Nay – 1 (Simmons)

The motion passed.

Vice-Chairperson Simmons talked about his concerns for this proposed project. He said his reservations for the proposed project have to do with the building height in the context of the B-1 zoning district. He talked about the building height in the B-1 zoning compared to the previous approval for building height based on the variance that was granted. He voiced his other concerns regarding the parking reductions, lack of diversity in the housing configuration from the previous approval to the current proposal of around 60 percent of the project going to four bedrooms to a unit. He said this is a concern for him, when he thinks about developing the infill projects around Town. He said there are many improvements in the proposed project that are very appealing to him such as the greenway. He said he would rely on the Community Appearance Commission to review the Downtown B-1 architectural standards for the proposed project.

Vice-Chairperson Simmons referred to page eight of the Town's 2006 Comprehensive Plan and he read the section regarding the Downtown area. He also pointed out in the Downtown section of the 2006 Comprehensive Plan that this plan and the 2030 Master Plan are the controlling documents. He said that it will be up to Council to decide if it is a fair trade off between the conditional district approval and the proposed Planned Development plan for this project.

OTHER MATTERS BY BOARD MEMBERS OR STAFF

There were no other matters discussed at this meeting.

ADJOURNMENT

Member Tate made a motion to adjourn the meeting at 9:15 p.m., seconded by Member Vincent.

Vote:

Aye – All
Nay – None

The motion passed.

Chairperson, Eric Woolridge

Board Secretary, Marlene Crosby

Communication: April 11, 2016 minutes (Riverside walk attachments) (Approval of Minutes)



Presented at Planning Commission Meeting - 6 p.m.

INFORMATIONAL SIGN, COVERED
SHED ROOF & BRICK PAVER
HARDSCAPE

Water Street
(Primary Street)
(Town Maintained)

GREENWAY ENTRANCE
TO BE COORDINATED WITH THE
HOWARD STREET IMPROVEMENT
PROJECT

Howard Street
(Town of Boone)

GREENWAY CONNECTION
TO HOWARD STREET

1" = 20'



20160058

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
- ☐ Commercial
- ☐ Board of Adjustment Hearing (other than Appeals)
- ☐ Planning/Other

A. CONTACT INFORMATION

Applicant: Jerry Hollifield, CFO Company: Modern Automotive Network
Address: 3901 Westpoint Blvd Winston-Salem, NC 27103
Phone Number: 336-448-2977 Email Address: jhollifield@modernauto.com
Property Owner: Modern Real Estate Investors, LLC Company: _____
Address: 3901 Westpoint Blvd Winston-Salem, NC 27103
Phone Number: 336-448-2977 Email Address: jhollifield@modernauto.com

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): 2911-70-6621-000
Address/Location: Modern Drive Boone, NC
Project Name: Modern Auto Rezoning

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- | | |
|---|---|
| ☐ Accessory Building | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Addition/Expansion including decks and patios | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Change of Occupancy | *Commercial Project Data Form |
| ☐ Land Disturbance (not associated with the construction of a bldg.) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Manufactured Home Set-up in Park | *Manufactured Home in Park Form |
| ☐ New Building Construction | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Renovation/Remodel | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Accessory Use (as listed in UDO Subsection 15.07.01) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Temporary Use (as listed in UDO Subsection 15.07.02) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Sign | *Sign Project Data Form (Zoning) |
| ☐ Pavement Sealant | *Pavement Sealant Project Data Form |
| ☐ Major Subdivision Zoning Permit | *Commercial Project Data Form |

Board of Adjustment Hearings

- | | |
|--|---|
| ☐ Special Use Permit/Modification | *Special Use Permit Form |
| ☐ Variance | *Variance Form |
| ☐ Major Subdivision Preliminary Plat Approval | *Major Subdivision Preliminary Plat Approval Form |

Planning/Other

- | | |
|---|--|
| ☐ Exempt Division of Land | *Subdivision Exemption Project Data Form |
| ☐ Minor Subdivision (Preliminary and Final Plat) | *Minor Subdivision Project Data Form |
| ☐ Major Subdivision (Final Plat) | *Major Subdivision Final Plat Project Data Form |
| ☐ UDO Text Amendment | *Text Amendment Project Data Form |
| ☒ General Use Zoning Map Amendment | *General Use Map Zoning Map Amendment Project Data Form |
| ☐ Conditional District Zoning Map Amendment | *Conditional District Zoning Map Amendment Project Data Form |
| ☐ Voluntary Annexation | *Annexation Petition (Satellite or Contiguous) |
| ☐ UDO Text Interpretation | *UDO Interpretation Data Form |

D. DETAILED DESCRIPTION OF PROJECT

Rezone a 3-acre portion of the property from R-3 to B-3 so the whole 12 acre property is in a single zoning district

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: Jerry Hollifield, CFO

Company: Modern Automotive Network

Address: 3901 Westpoint Blvd Winston-Salem, NC 27103

License #: _____

Phone Number: 336-448-2977

Email Address: jhollifield@modernauto.com

F. DESIGN PROFESSIONAL INFORMATION**Engineer:**

Name: Alan J. Crees

Company: Municipal Engineering Services

Address: PO Box 349 Boone, NC 28607

License #: C-0281

Phone Number: 828-262-1767

Email Address: creesmesco@bellsouth.net

Architect:

Name: n/a

Company: _____

Address: _____

License #: _____

Phone Number: _____

Email Address: _____

G. 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.

JERRY HOLLIFIELD
Applicant¹ (Print)

[Signature]
Applicant Signature

1/15/16
Date

MODERN REAL ESTATE INVESTORS, LLC
Property Owner (Print)

[Signature]
Property Owner Signature

1/15/16
Date

Official Use Only

Project File Name:

General USE
Modern Auto- Rezoning

Permit Number:

Project Name/Number:

2016 0058

Date:

01-28-2016

Fee:

\$300.00

Receipt Number:

339689

Method of Payment:

✓ #: 001209

Paid By:

Modern Real Estate Investors, LLC

S:\FORMS\Forms_2015\ZoningPermitApplication_052015.doc

¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

**General Use Zoning Map Amendment
Project Data Form**

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

Official Use Only	
Project Name/Number:	Modern Auto - General Use RZ
Permit Name/Number:	20160058

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

A. ADDITIONAL APPLICATION INFORMATION

Hearing Date Requested¹: May 2, 2016

B. DEVELOPMENT INFORMATION

Existing Zoning District(s): B-3 and R-3 Proposed Zoning District(s): B-3

Existing Land Use(s): Automotive Dealership

Adjacent Land Use(s): N: Undeveloped/Multi-Family E: Commercial/Multi-Family
W: Commercial/Multi-Family S: Commercial

Are there are any existing variances granted to the property? ☐ Yes ☒ No ☐ Unknown

If yes, describe: _____

Total Land Area: 12.230 Acres

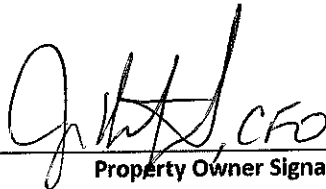
C. DOCUMENTS REQUIRED FOR SUBMITTAL

- ☐ Application Fee
- ☐ Deed(s) of all property included in the request
- ☐ A written metes & bounds legal description with accompanying survey map is required for a request that would rezone only a portion of a tax parcel or requests for multiple zoning districts

D. PROPERTY OWNER SIGNATURE

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

MODERN REAL ESTATE INVESTMENTS, LLC
Property Owner (Print)

 CFO
Property Owner Signature

1/15/16
Date

¹ Each applicant must provide the meeting date for which they wish their request to appear. Each completed application must have met published meeting deadlines.

Official Use Only

Public Hearing Meeting Date: 5.2.16

PC Meeting Date: 5.9.16

TC Meeting Date: 5.19.16

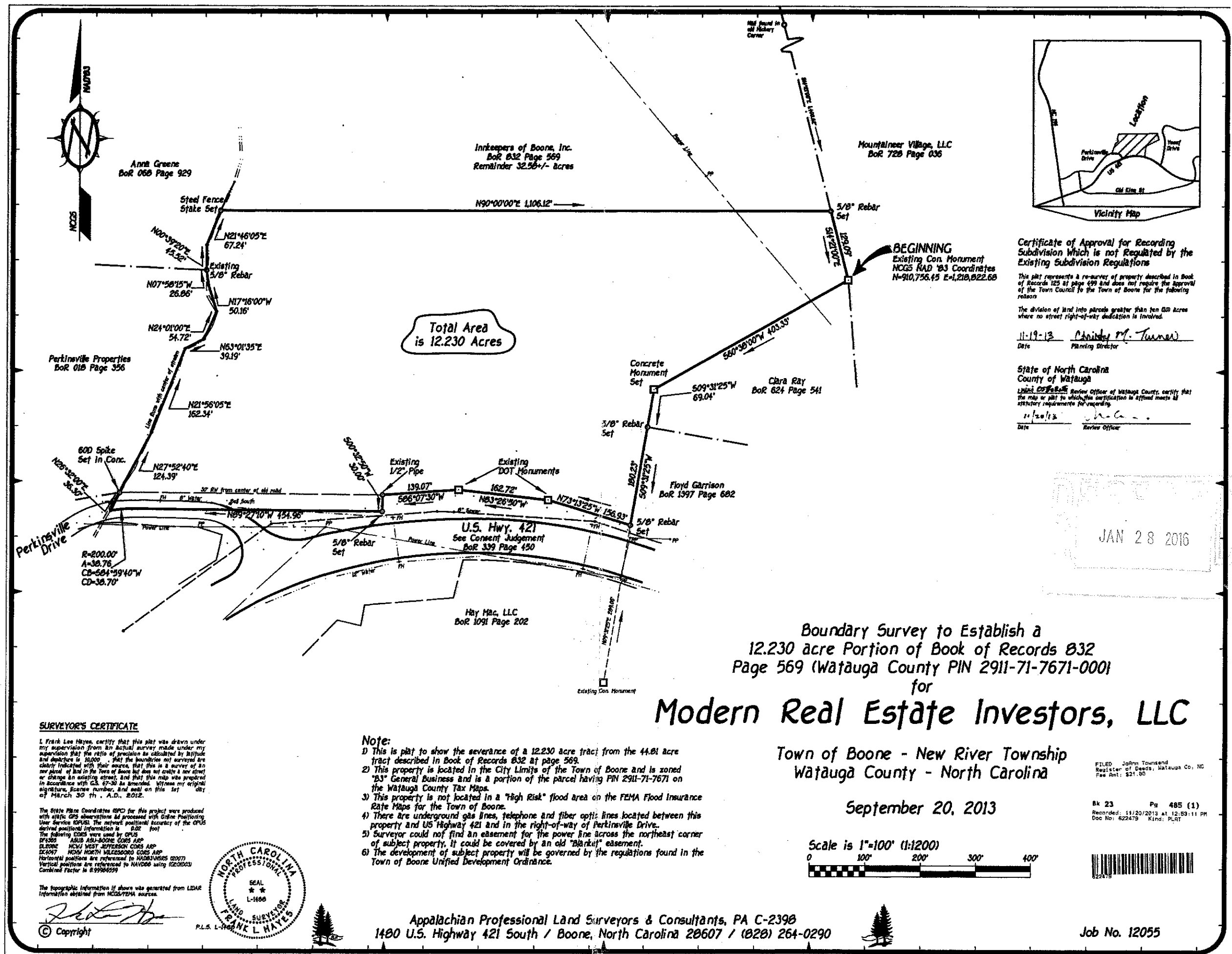
Date of APO Mailed Notification: _____

Date of Posted Notification: _____

Project Approved: ☐ Yes ☐ No

Date Order Recorded: _____

Order Recordation Information: Book: _____ Page: _____
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**STAFF REPORT
MAY QUARTERLY PUBLIC HEARING
MAY 2, 2016**



CASE 20160058 MODERN AUTOMOTIVE GENERAL USE ZONING MAP AMENDMENT

Request

Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use Zoning Map Amendment Petition for the property located at 185 and 225 Modern Drive to rezone the R3 Multi-Family Residential portion of the lot to B3 General Business. (Watauga County PIN: 2911-70-6621-000)

Analysis

Access: Modern Drive (private), off of Perkinsville Drive (town maintained)

Current Use: 11.27 Vehicle Sales and Service

Zoning: B3 General Business, R3 Multi-Family Residential, Corridor District

Zoning District Descriptions:

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

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



Zoning & Use of Adjacent Properties		
	Zoning	Land Use
North	R3 Multi-Family	vacant
East	B3 General Business, R3 Multi-Family	Personal Service Establishment, Multi-family
South	B3 General Business	Retail, Office, Storage
West	B3 General Business, R3 Multi-Family	Multi-family

Communication: Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use zoning Map amend Petition to rezone the R3

Permissible Uses

UDO Article 15, Section 15.07 contains the Table of Principal Uses, which should be read in conjunction with the definition of terms set forth in UDO Article 34. Below is a comparison of the uses allowed in the R3 and B3 zoning districts.

15.07 Table of Principal Uses

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
1.0 Household Living				
1.01	Single-Family Dwelling			
1.02	Manufactured Home “Class A”			15.08
1.03	Manufactured Home “Class B”			15.08
1.04	Manufactured Home “Class C”			
1.05	Manufactured Home Park			15.09
1.06	Duplex (one duplex building per lot)	P		
1.07	Duplex (more than one duplex building per lot)	L		15.10
1.08	Townhouse (up to 30 bedrooms)	L ^{T50}		15.10
1.09	Townhouse (31-100 bedrooms)	L ^{T75}		15.10
1.10	Townhouse (> 100 bedrooms)	L ¹²⁵		15.10
1.11	Multi-Family Dwelling (up to 30 bedrooms)	L ^{T125}		15.10
1.12	Multi-Family Dwelling (31-100 bedrooms)	L ^{T200}		15.10
1.13	Multi-Family Dwelling (> 100 bedrooms)	L ^{T300}		15.10
1.14	Multi-Family Dwelling in Mixed Use (up to 30 bedrooms)		L	15.11
1.15	Multi-Family Dwelling in Mixed Use (31-100 bedrooms)		L ^{T125}	15.11
1.16	Multi-Family Dwelling in Mixed Use (> 100 bedrooms)		L ^{T200}	15.11
2.0 Group Living				
2.01	Family Care Home	L		15.13
2.02	Family Care Institutions			15.14
2.03	Halfway House, Category 1			15.14
2.04	Halfway House, Category 2			15.14
2.05	Nursing Care Home	L	L	15.14
2.06	Nursing Care Institution		L ^{T125}	15.14
2.07	Skilled Nursing Facility		L ^{T300}	15.14
2.08	Retirement Community, Category 1	L		15.15
2.09	Retirement Community, Category 2	L ^{T200}		15.15
2.10	Residence Hall, Category 1	L	L	15.15
2.11	Residence Hall, Category 2	L ^{T200}	L ^{T200}	15.15
2.12	Residence Hall, Category 3		L ^{T300}	15.15
2.13	Fraternity or Sorority Dwelling	S ^{T300}		15.16
2.14	Boarding House	L	L	15.17
3.0 Transient Living				
3.01	Home for Survivors of Domestic Violence			15.18
3.02	Shelter for Homeless, Category 1	L ^{T50}	L ^{T50}	15.19
3.03	Shelter for Homeless, Category 2	L ^{T300}	L ^{T300}	15.19
3.04	Bed and Breakfast, Category 1			15.20
3.05	Bed and Breakfast, Category 2		L ^{T125}	15.20
3.06	Vacation Rental	L ^{T75}	L ^{T75}	15.21
3.07	Motel		p ^{T300}	
3.08	Hotel		p ^{T200}	

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
4.0 Institutional Uses				
4.01	Airport/Landing Strip			15.22
4.02	Heliport			15.22
4.03	Funeral Home Establishment		P	
4.04	Cemetery	P	P	
4.05	Post Office		P	
4.06	Post Office, Distribution			
4.07	Animal Sanctuary			
5.0 Government Uses				
5.01	Government Cultural Facility		P	
5.02	Government Neighborhood Cultural Facility, Indoor Activity Only	P	P	
5.03	Government Neighborhood Cultural Facility, Includes Outdoor Activity		P	
5.04	Recreation Facility, Category 1	P	P	
5.05	Recreation Facility, Category 2	P	P	
5.06	Recreation Facility, Category 3	S	P ^{T50}	
5.07	Event Venue, Category 1		P	
5.08	Event Venue, Category 2		P	
5.09	Event Venue, Category 3		P ^{T50}	
5.10	Landfill			
5.11	Solid Waste Processing			
5.12	Police Substation	P	P	
5.13	Utility Facility, Town	L	L	15.23
5.14	Utility Facility, Government, Neighborhood	L	L	15.23
5.15	Utility Facility, Government, Regional		L ^{T300}	15.23
5.16	Government Facility	P	P	
6.0 Non-Government Utility Facility				
6.01	Utility Facility, Neighborhood	L	L	15.23
6.02	Utility Facility, Regional		L ^{T300}	15.23
7.0 Telecommunications				
7.01	Antenna Collocation on Existing Wireless Support Structure not requiring additional accessory equipment	P	P	
7.02	Antenna Collocation on Existing Wireless Support Structure requiring additional accessory equipment	L	L	15.24
7.03	Building Mounted Antenna not requiring additional accessory equipment	L	L	15.24
7.04	Building Mounted Antenna requiring additional accessory equipment		L	15.24
7.05	Antenna Collocation on Electrical Transmission Towers	L		15.24
7.06	Other Antenna		L	15.24
7.07	Wireless Support Structure which meets district height requirements	L	L	15.24
7.08	Stealth Wireless Facility which exceeds district height requirements	S	L	15.24
7.09	Wireless Support Structure which does not meet district height requirements up to and including 120’			15.24
7.10	Other Tower that exceeds 120’ in height			15.24
7.11	Emergency Response Communication Antenna	P	P	
8.0 Assembly				
8.01	Religious Assembly, Category 1	P	P	
8.02	Religious Assembly, Category 2	P ^{T125}	P	
8.03	Religious Assembly, Category 3		P ^{T200}	
8.04	Club/Lodge, Category 1		P ^{T75}	

Communication: Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use zoning Map amend Petition to rezone the R3

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
8.05	Club/Lodge Which Does Not Serve Alcohol		P	
9.0 Education				
9.01	Appalachian State University			
9.02	Caldwell Community College and Technical Institute			
9.03	Other Public Colleges and Universities			
9.04	Private Colleges and Universities		pT300	
9.05	Trade School		pT200	
9.06	High School			
9.07	Elementary School			
9.08	Boarding School		pT300	
9.09	All other Educational Facilities			
10.0 Daycare				
10.01	Child Daycare, Large	L	L	15.25
10.02	Child Daycare Center		L	15.25
10.03	Adult Daycare, Large	L	L	15.25
10.04	Adult Daycare Center		L	15.25
10.05	All Other Daycare			
11.0 General Sales and Service				
11.01	Kennel		L ^{T125}	15.26
11.02	Veterinary Office/Hospital with Outdoor Kennels		L ^{T125}	15.26
11.03	Veterinary Office/Hospital without Outdoor Kennels		P	
11.04	Financial Institution ≤ 5,000 ft ²		P	
11.05	Financial Institution > 5,000 ft ²		P	
11.06	Restaurant ≤ 2,500 ft ² open to the public during 10 pm – 6 am		p ^{T75}	
11.07	Other Restaurants ≤ 2,500 ft ²		P	
11.08	Restaurant > 2,500 ft ² open to the public during 10 pm – 6 am		pT200	
11.09	Other Restaurants > 2,500 ft ²		p ^{T125}	
11.10	Bar			
11.11	ABC Store		P	
11.12	Personal Service Establishment open to the public during 10 pm – 6 am		p ^{T75}	
11.13	Other Personal Service Establishments		P	
11.14	Retail Store up to 5,000 ft ²		P	
11.15	Retail Store more than 5,000 but less than 25,000 ft ²		pT200	
11.16	Retail Store 25,000 ft ² and greater		L ^{T300}	15.27
11.17	Shopping Center/Mall		S ^{T300}	15.28
11.18	Business or Professional Office open to the public during 10 pm–6 am		p ^{T75}	
11.19	Other Business or Professional Office		P	
11.20	Medical Office, Category 1		pT300	
11.21	Medical Office, Category 2		p ^{T125}	
11.22	Medical Office, Category 3		p ^{T125}	
11.23	Medical Office, Category 4		P	
11.24	Hospital			
11.25	Medical Emergency Response		p ^{T300}	
11.26	Open Air Market, Recurring		L ^{T75}	15.29
11.27	Vehicle Sales and Service		L ^{T75}	15.30
11.28	Equipment Sales and Service		L ^{T125}	15.31
11.29	Moped Sales and Service		P	
11.30	Boat or Marine Craft Sales and Service		L ^{T75}	15.32

Communication: Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use zoning Map amend Petition to rezone the R3

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
11.31	Impound Lot/Towing Service		L ^{T125}	15.33
11.32	Gas Station		p ^{T125}	
11.33	Car Wash		p ^{T125}	
11.34	Seasonal Retail Activities and Amusements		P	
12.0 Recreation				
12.01	Indoor Shooting Range		L ^{T75}	15.34
12.02	Outdoor Shooting Range			
12.03	Indoor Theater		P	
12.04	Outdoor Theater		p ^{T125}	
12.05	Event Venue, Category 1		P	
12.06	Event Venue, Category 2		p ^{T125}	
12.07	Event Venue, Category 3		p ^{T200}	
12.08	Campground and Recreational Vehicle Park		L ^{T200}	15.35
12.09	Coliseum		S ^{T300}	
12.10	Recreation Facility, Category 1		P	
12.11	Recreation Facility, Category 2		p ^{T50}	
12.12	Recreation Facility, Category 3		p ^{T200}	
13.0 Agriculture				
13.01	Garden, Community	L	L	15.36
13.02	Garden, Residential	L	L	15.37
13.03	Agricultural Operation Excluding Livestock			
13.04	Agricultural Operation Including Livestock			
13.05	Swine Farm			
13.06	Confined Animal Feeding Operation (CAFO)			
13.07	Custom Slaughterhouse			
13.08	Other Slaughterhouse			
13.09	Forestry	L	L	15.38
14.0 Manufacturing				
14.01	Microbrewery		L ^{T125}	15.39
14.02	Brewpub		L ^{T125}	15.39
14.03	Brewery/Distillery		L ^{T125}	15.40
14.04	Brewery/Distillery, Other			15.41
14.05	Winery Associated with a Vineyard			15.42
14.06	Winery		L ^{T125}	15.42
14.07	Winery, Other			
14.08	Extraction of Earth Materials			
14.09	Machine/Welding Shop		L ^{T200}	15.44
14.10	Manufacturing, Other			15.45
15.0 Parking				
15.01	Parking Lot		L	15.46
15.02	Parking Structure		L	15.47
15.03	Park and Ride Lots		L	15.46
16.0 Storage				
16.01	Mini-Storage		L ^{T75}	15.48
16.02	Outdoor Storage			15.49
16.03	Warehouse			
16.04	Fuel Storage Facility		p ^{T300}	
16.05	Chemical Storage Facility			

Communication: Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use zoning Map amend Petition to rezone the R3

Use #	Specific Use	Zoning Districts		Reference
		R3	B3	
17.0 Transportation				
17.01	Passenger Terminals		pT200	
17.02	Trucking or freight terminal ≤ 10,000 ft²		pT125	
17.03	Trucking or freight terminal > 10,000 ft²			
18.0 Waste Related Uses				
18.01	Recycling Drop-off Station			15.49
18.02	Recycling and Salvage			15.49
18.03	Junkyard			
18.04	Private Landfill			
19.0 Particular Activities which pose Particular Concerns about Public Health				
19.01	Electronic and Internet Gaming		S	15.50
19.02	Adult Establishments		S	15.51

15.07.01 Table of Accessory Uses

Use #	Accessory Uses	Zoning Districts		Reference
		R3	B3	
A-1	Secondary Suite	L	L	15.52
A-2	Home Occupation	L	L	15.53
A-3	Accessory Dwelling Unit	L	L	15.54
A-4	Drive-Through		L	15.55
A-5	Outdoor Display		L	15.56
A-6	Outdoor Storage		L	15.57
A-7	Outdoor Dining		L	15.58
A-8	Automated Teller Machine (ATM)		P	
A-9	Automated Teller Machine (ATM), Freestanding	L	L	15.59
A-10	Produce Stand			15.60
A-11	Poultry	L	L	15.61
A-12	Livestock, Small	L	L	15.62
A-13	Livestock, Large			15.63
A-14	Bees	L	L	15.64
A-15	Garden, Residential	L	L	15.65
A-16	Satellite receiving antennas less than 1 meter in diameter	P	P	
A-17	Satellite receiving antennas less than 2 meters in diameter		P	
A-18	Satellite receiving antennas 2 meters and greater in diameter		S	
A-19	Helistop		S ^{T300}	
A-20	Swimming pools, spas, and hot tubs	L	L	15.66
A-21	Caretaker's residence		L	15.67
A-22	Vehicular Gate	L	L	15.68
A-23	Vehicle Washing Station	P	P	
A-24	Chemical Storage Facility		pT125	
A-25	Open Air Market, Accessory	L	L	15.29
A-26	Daycare, Small	P	P	

Communication: Mr. Jerry Hollifield with Modern Automotive Network has filed a General Use zoning Map amend Petition to rezone the R3

15.07.03 Table of Temporary Uses

Use #	Temporary Uses	Zoning Districts		Reference
		R3	B3	
T-1	Temporary Care Provider Dwelling	L	L	15.69
T-2	Temporary Construction or Repair Dwelling	L	L	15.69
T-3	Temporary Construction Trailer	L	L	15.69
T-4	Temporary Mobile Medical Unit		L	15.69
T-5	Temporary Classroom		L	15.69
T-6	Temporary Portable Storage Containers			15.69
T-7	Temporary Staging		L	15.69
T-8	Temporary Non-Fixed Site Event Venue		L	15.69
T-9	Carrier on Wheels (COW)	L	L	15.69
T-10	Yard Sales	L	L	15.69
T-11	Itinerant Merchant/Peddler	L	L	15.69
T-12	Open Air Market, Temporary		L	15.29

Intensity Regulations

Per UDO Section 16.01 development shall comply with the intensity regulations indicated in the Intensity Table (below) with the following exceptions (as noted in Subsection 16.01.01):

- A. Unless otherwise provided in this Ordinance, the land use intensity regulations for planned residential developments and architecturally integrated subdivisions shall apply to the development as a whole and not to individual parts thereof.
- B. A site specific development plan consisting of no other use than one (1) "single family dwelling" is not subject to the maximum floor area ratio requirements but all other intensity rules apply.
- C. In the B1 Zoning District, a minimum "Building Footprint" of fifty percent (50%) is required. All other regulations in the Intensity Table apply.
- D. In the B2 Zoning District, a development may utilize the values in the Intensity Table or may substitute a maximum "Building Footprint" of thirty percent (30%) and an open space ratio of seventy percent (70%). All other regulations in the Intensity Table apply.
- E. In the B3 Zoning District, a development may utilize the values in the Intensity Table or may substitute a maximum "Building Footprint" of thirty percent (30%) and an open space ratio of seventy percent (70%). All other regulations in the Intensity Table apply.

16.01.02 Intensity Table

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Maximum Floor Area Ratio (FAR)	Minimum Open Space Ratio (OSR)	Minimum Livability Space Ratio (LSR)	Minimum Recreation Space Ratio (RSR)	Setbacks	
								Street	Interior
R3	5,000 sq. ft.	80 ft.	64 ft.	.480	.72	.40	.062	20 ft.	13 ft.
B3	5,000 sq. ft.	50 ft.	40 ft.	.429	.71	.27	.062	20 ft.	17 ft.

Building Height Limitations

Subject to other provisions of UDO Section 16.08, building height limitations in the R-1 and B-1 shall be as follows:

Zone	Height Limitation (Feet)
R3	50 (primary) – 90 (secondary)
B3	44 (primary) – 67 (secondary)

Certificate of Mailing**Certificate of Mailing:**

I, Marlene Crosby, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on April 15, 2016.

Marlene Crosby, Administrative Support Specialist

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.2 Growth Strategy Map (p. 17): The property is located within Primary Growth Area. The Primary Growth Area is that portion of the urban growth area where urban level of facilities are already in place or can be provided most cost effectively. This is the area where near term growth and development is to be especially encouraged.

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 cost effective, long term component of an economic development strategy.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

2.1.2 Commercial Development

- A. Uncontrolled strip development along the area's through streets shall be prohibited. The undesirable effects of existing strip development shall be reduced and/or reconfigured when redevelopment opportunities permit. New strip development on isolated single lots along through streets shall be discouraged.
- B. Commercial and Office Development shall be encouraged to locate in planned shopping centers, office parks and mixed use developments to stop the proliferation of strip development.
- C. Community/Commercial Centers shall be located adjacent to a major street and contain or be adjacent to other appropriate community facilities.
- D. Automobile Orientated Neighborhood and Convenience Commercial Centers shall be encouraged to locate on a collector street or secondary street at its intersection with a major street.
- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- G. Effective buffering and/or landscaping shall be provided where a large scale or automobile-orientated commercial or office use adjoins an existing or planned residential use.
- H. Encroachment of incompatibly scaled and designed commercial or office uses into viable existing or planned residential areas shall be prohibited.
- J. Highway Oriented Commercial uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movement, and consistent sign standards.

2.2 INFRASTRUCTURE

2.2.2 Utilities

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

2.3 THE COMMUNITY

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

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.

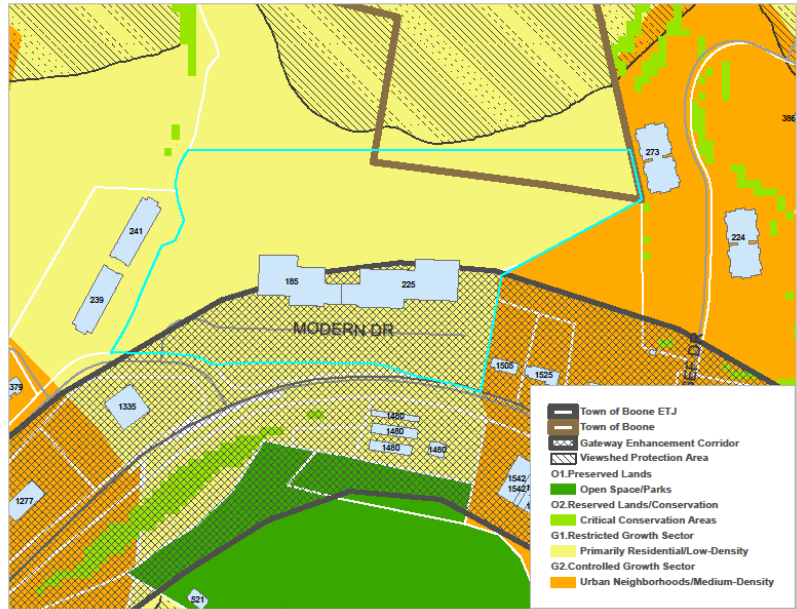
2.3.2 Community Character

- 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.

BOONE 2030 LAND USE PLAN

This property is located within the G-1 sector (light yellow on adjacent map). The G-1 sector is intended for relatively low density residential development. This sector includes existing low-density residential neighborhoods that are not appropriate for redevelopment. It also includes lands that are not proximate to thoroughfares and are not projected to be high growth areas due to limited access to transportation networks and utilities.

Appropriate development typically consists of cluster developments such as conservation subdivisions, or low-density residential development on relatively large lots. For Boone, this sector is generally located away from planned neighborhood or regional centers and close to heavily encumbered O-1 or O-2 land.



Appropriate Land Uses/Development Types:

- Low density cluster developments or hamlets (a clustering of buildings around a rural crossroad)
- Low density residential development comprised predominately of single family detach structures and small scale multiple family units (e.g. duplexes, triples) (up to 5 units per acres- except where limited by watershed rules to 1 single family unit per two acres (WS-II) or 2 single family units per acres (WS-IV))
- Limited convenience retail uses
- Civic uses (parks, schools, religious and government uses)

PLANNING BOARD REPORT

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

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

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: The Planning Commission recommends ☐approval ☐denial for the following reasons:

TOWN COUNCIL ACTION

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

ACTION TAKEN

First motion and vote: The proposed amendment to the Town's zoning map ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: I move to ☐approve ☐deny the proposed amendment to the Town's zoning map and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
☐ Commercial
☐ Board of Adjustment Hearing (other than Appeals)
☒ Planning/Other

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Protest Petition Removal – UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- | | |
|---|---|
| ☐ Accessory Building | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Addition/Expansion including decks and patios | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Change of Occupancy | *Commercial Project Data Form |
| ☐ Land Disturbance (not associated with the construction of a bldg.) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Manufactured Home Set-up in Park | *Manufactured Home in Park Form |
| ☐ New Building Construction | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Renovation/Remodel | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Accessory Use (as listed in UDO Subsection 15.07.01) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Temporary Use (as listed in UDO Subsection 15.07.02) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Sign | *Sign Project Data Form (Zoning) |
| ☐ Pavement Sealant | *Pavement Sealant Project Data Form |
| ☐ Major Subdivision Zoning Permit | *Commercial Project Data Form |

Board of Adjustment Hearings

- | | |
|--|---|
| ☐ Special Use Permit/Modification | *Special Use Permit Form |
| ☐ Variance | *Variance Form |
| ☐ Major Subdivision Preliminary Plat Approval | *Major Subdivision Preliminary Plat Approval Form |

Planning/Other

- | | |
|---|--|
| ☐ Exempt Division of Land | *Subdivision Exemption Project Data Form |
| ☐ Minor Subdivision (Preliminary and Final Plat) | *Minor Subdivision Project Data Form |
| ☐ Major Subdivision (Final Plat) | *Major Subdivision Final Plat Project Data Form |
| ☒ UDO Text Amendment | *Text Amendment Project Data Form |
| ☐ General Use Zoning Map Amendment | *General Use Map Zoning Map Amendment Project Data Form |
| ☐ Conditional District Zoning Map Amendment | *Conditional District Zoning Map Amendment Project Data Form |
| ☐ Voluntary Annexation | *Annexation Petition (Satellite or Contiguous) |
| ☐ UDO Text Interpretation | *UDO Interpretation Data Form |

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

Architect: NA

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

G. 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, Planning Supervisor**Applicant¹ (Print)****Applicant Signature****Date****NA****Property Owner (Print)****NA****Property Owner Signature****NA****Date****Sent to Feb QPH by
TC on 12/17/2015****Official Use Only**

Project File Name:

Protest Petition Removal – UDO Text Amendment

Permit Number:

20160027

Project Name/Number:

NA

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
January 2016	NA	NA	NA	NA

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¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Protest Petition Removal- UDO Text Amendment

Permit Name/Number:

20160027

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 1 General Provisions, Article 9 Amendments

Section(s): 1.14 Computation of Time, 9.04 Protest Petitions

Brief Description of Amendment (Attach Proposed Text):

See Reason for change below.

Reason for Change:

On July 16, 2015 the North Carolina General Assembly (Session Law 2015-160, House Bill 201) modified the General Statute regarding qualified protests (protest petitions). The modifications eliminated a municipality's ability to allow protest petitions; in lieu the General Assembly has provided language on "Citizen Comments". These changes were effective as of August 1, 2015. The proposed draft brings the UDO into compliance with the recently modified statutes.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

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CASE 20160027 PROTEST PETITION REMOVAL- UDO TEXT AMENDMENT

Request

On July 16, 2015 the North Carolina General Assembly (Session Law 2015-160, House Bill 201) modified the General Statute regarding qualified protests (protest petitions). The modifications eliminated a municipality's ability to allow protest petitions; in lieu the General Assembly has provided language on "Citizen Comments". These changes were effective as of August 1, 2015. The proposed draft brings the UDO into compliance with the recently modified statutes.

ANALYSIS

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 1 General Provisions

...

- 1.14.03** Except for appeals to the Board of Adjustment ~~or protest petitions~~, any materials received after 3:00 p.m. will be considered to have been received the next business day.

Article 9 Amendments

...

9.04 ~~Protest Petition~~ Citizen Comment

- 9.04.01** If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two (2) business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the Town Council.

~~**9.04.01** If a protest petition opposing a general or conditional district map amendment is filed in accordance with the provisions of this Section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Council.~~

~~**A.** For the purposes of this Section, vacant positions on the Council and members who are excused from voting shall not be considered for calculation of the requisite supermajority.~~

~~**9.04.02** To trigger the three-fourths vote requirement, the petition must meet all of the following:~~

~~**A.** Be signed by the owners of either:~~

- ~~1. Twenty percent (20%) or more of the area included in the proposed change, or~~

2. ~~Five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.~~

~~B. Computation of Protest Petition Area:~~

1. ~~A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less.~~
2. ~~When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel.~~
3. ~~In the absence of evidence to the contrary the Town may rely on the county tax listing to determine the 'owners' of potentially qualifying areas.~~

~~C. Property Owner Signature Required:~~ ~~When there are multiple owners of a single parcel, all owners must sign the protest petition for the parcel to be included in the calculation of the amount of property represented by the protest petition.~~

~~D.~~ ~~Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.~~

~~E.~~ ~~Be received by the Town Clerk in sufficient time to allow the Town at least two (2) normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.~~

~~F.~~ ~~Be on a form provided by the Town Clerk and contain all the information requested on this form.~~

~~9.04.03~~ ~~A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.~~

~~9.04.04~~ ~~Only those protest petitions that meet the qualifying standards set forth at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.~~

~~9.04.05~~ ~~A protest petition shall not be applicable to the following:~~

~~A.~~ ~~Any amendment which initially zones property added to the Town's jurisdiction as a result of annexation or otherwise, or~~

~~B.~~ ~~Amendments to adopted conditional districts when the amendment does not:~~

1. ~~Change the types of uses that are permitted within the district or~~
2. ~~Increase the approved density for residential development, or~~
3. ~~Increase the total approved size of nonresidential development, or~~
4. ~~Reduce the size of any buffers or screening.~~

~~9.04.06 — If a petition opposing a change in the zoning classification of any property is filed in accordance with the provisions of this Section, the Administrator shall announce to the Commission and Council receipt of such petition prior to accepting public comment at the public hearing.~~

UDO Subsection 9.02.01(B)(1) Statement

Approved as to planning policy this 1st day of February 2016.

Planning Director

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

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

PLANNING BOARD REPORT

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

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

PLANNING BOARD RECOMMENDATIONS

First motion and vote:

The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

The Planning Commission recommends ☐approval ☐denial for the following reasons:

TOWN COUNCIL ACTION

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

ACTION TAKEN**First motion and vote:**

The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-160
HOUSE BILL 201**

AN ACT TO AMEND THE PROCESS BY WHICH THE CITY COUNCILS RECEIVE
CITIZEN INPUT IN ZONING ORDINANCE AMENDMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-385(a) reads as rewritten:

"§ 160A-385. Changes.

(a) Qualified Protests.Citizen Comments.

- (1) Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. ~~In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority. If any resident or property owner in the city submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the city council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.~~
- (2) ~~To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right of way shall not be considered in computing the 100-foot buffer area as long as that street right of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas.~~
- (3) ~~The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district."~~

SECTION 2. G.S. 160A-386 is repealed.

SECTION 3. G.S. 122C-403(3) reads as rewritten:

- "(3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, 3C, 5, 6, and 7, of Chapter 160A of the



General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required to notify landowners of zoning classification actions under G.S. 160A-384, ~~and the protest petition requirements in G.S. 160A-385, and 160A-386 do not apply,~~ but the Secretary shall give the mayor of the Town of Butner at least 14 days' advance written notice of any proposed zoning change. The Secretary may designate Advisory establish a board to act like a Board of Adjustment to make recommendations to the Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, Advisory that board shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388."

SECTION 4. This act also repeals any local act authority for submission, review, or action by any municipality upon any zoning protest petition, whether or not enacted as a provision in a municipal charter.

SECTION 5. G.S. 160A-75 reads as rewritten:

"§ 160A-75. Voting.

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e)(2). In all other ~~eases, cases except votes taken under G.S. 160A-385,~~ a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council."

SECTION 6. This act becomes effective August 1, 2015, and applies to zoning ordinance changes initiated on or after that date.

In the General Assembly read three times and ratified this the 16th day of July, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:30 a.m. this 17th day of July, 2015

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
- ☐ Commercial
- ☐ Board of Adjustment Hearing (other than Appeals)
- ☒ Planning/Other

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Fire Code Coordination- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- ☐ Accessory Building *Zoning Project Data Form (Residential or Commercial)
- ☐ Addition/Expansion including decks and patios *Zoning Project Data Form (Residential or Commercial)
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- ☐ Manufactured Home Set-up in Park *Manufactured Home in Park Form
- ☐ New Building Construction *Zoning Project Data Form (Residential or Commercial)
- ☐ Renovation/Remodel *Zoning Project Data Form (Residential or Commercial)
- ☐ Accessory Use (as listed in UDO Subsection 15.07.01) *Zoning Project Data Form (Residential or Commercial)
- ☐ Temporary Use (as listed in UDO Subsection 15.07.02) *Zoning Project Data Form (Residential or Commercial)
- ☐ Sign *Sign Project Data Form (Zoning)
- ☐ Pavement Sealant *Pavement Sealant Project Data Form
- ☐ Major Subdivision Zoning Permit *Commercial Project Data Form

Board of Adjustment Hearings

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- ☐ Variance *Variance Form
- ☐ Major Subdivision Preliminary Plat Approval *Major Subdivision Preliminary Plat Approval Form

Planning/Other

- ☐ Exempt Division of Land *Subdivision Exemption Project Data Form
- ☐ Minor Subdivision (Preliminary and Final Plat) *Minor Subdivision Project Data Form
- ☐ Major Subdivision (Final Plat) *Major Subdivision Final Plat Project Data Form
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- ☐ UDO Text Interpretation *UDO Interpretation Data Form

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

Architect: NA

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

G. 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, Planning Supervisor**Applicant¹ (Print)****Applicant Signature****Date****NA****Property Owner (Print)****NA****Property Owner Signature****NA****Date****Sent to Feb QPH by
TC on 12/17/2015****Official Use Only**

Project File Name:

Fire Code Coordination – UDO Text Amendment

Permit Number:

20160028

Project Name/Number:

NA

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
January 2016	NA	NA	NA	NA

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¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Fire Code Coordination- UDO Text Amendment

Permit Name/Number:

20160028

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 23 Driveways, Streets and Sidewalks

Section(s): 23.03 Driveways, 23.04 Relationships of Streets to Topography

Brief Description of Amendment (Attach Proposed Text):

See Reason for change below.

Reason for Change:

Language in UDO Subsections 23.03 and 23.04 are in conflict with the requirements of the NC Fire Code regarding maximum grade for driveways and streets. The proposed amendment will align the UDO with the NC Fire Code and eliminate confusion the different standards cause for applicants.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

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STAFF REPORT
FEBRUARY QUARTERLY PUBLIC HEARING
MAY 2, 2016



CASE 20160028 FIRE CODE COORDINATION- UDO TEXT AMENDMENT

Request

Language in UDO Subsections 23.03 and 23.04 are in conflict with the requirements of the NC Fire Code regarding maximum grade for driveways and streets. The proposed amendment will align the UDO with the NC Fire Code and eliminate confusion the different standards cause for applicants.

ANALYSIS

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 23 Driveways, Streets, and Sidewalks

...

23.03 Driveways

...

23.03.04 The maximum grade at any one point on a driveway used for a fire access roadway shall not exceed ~~fifteen percent (15%)~~ ten percent (10%) at any one point on the driveway unless ~~no other practicable alternative is available and has been~~ approved by the ~~Boone Fire Marshal~~ Chief of the Boone Fire Department.

23.04 Relationship of Streets to Topography

...

23.04.02 The maximum grade ~~at any one point on a~~ of any street used for a fire access roadway shall not exceed ~~fifteen percent (15%)~~ ten percent (10%) at any one point unless ~~no other practicable alternative is available and has been~~ approved by the ~~Boone Fire Marshal~~ Chief of the Boone Fire Department.

UDO Subsection 9.02.01(B)(1) Statement

Approved as to form this 1st day of February 2016.

Town Attorney

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

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

PLANNING BOARD REPORT

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

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

PLANNING BOARD RECOMMENDATIONS

First motion and vote:

The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

The Planning Commission recommends ☐approval ☐denial for the following reasons:

TOWN COUNCIL ACTION

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

ACTION TAKEN**First motion and vote:**

The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
☐ Commercial
☐ Board of Adjustment Hearing (other than Appeals)
☒ Planning/Other

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: PD Modifications- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- | | |
|---|---|
| ☐ Accessory Building | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Addition/Expansion including decks and patios | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Change of Occupancy | *Commercial Project Data Form |
| ☐ Land Disturbance (not associated with the construction of a bldg.) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Manufactured Home Set-up in Park | *Manufactured Home in Park Form |
| ☐ New Building Construction | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Renovation/Remodel | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Accessory Use (as listed in UDO Subsection 15.07.01) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Temporary Use (as listed in UDO Subsection 15.07.02) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Sign | *Sign Project Data Form (Zoning) |
| ☐ Pavement Sealant | *Pavement Sealant Project Data Form |
| ☐ Major Subdivision Zoning Permit | *Commercial Project Data Form |

Board of Adjustment Hearings

- | | |
|--|---|
| ☐ Special Use Permit/Modification | *Special Use Permit Form |
| ☐ Variance | *Variance Form |
| ☐ Major Subdivision Preliminary Plat Approval | *Major Subdivision Preliminary Plat Approval Form |

Planning/Other

- | | |
|---|--|
| ☐ Exempt Division of Land | *Subdivision Exemption Project Data Form |
| ☐ Minor Subdivision (Preliminary and Final Plat) | *Minor Subdivision Project Data Form |
| ☐ Major Subdivision (Final Plat) | *Major Subdivision Final Plat Project Data Form |
| ☒ UDO Text Amendment | *Text Amendment Project Data Form |
| ☐ General Use Zoning Map Amendment | *General Use Map Zoning Map Amendment Project Data Form |
| ☐ Conditional District Zoning Map Amendment | *Conditional District Zoning Map Amendment Project Data Form |
| ☐ Voluntary Annexation | *Annexation Petition (Satellite or Contiguous) |
| ☐ UDO Text Interpretation | *UDO Interpretation Data Form |

Communication: Amend UDO Article 9 to modify who the applicant must invite to the neighborhood meeting and the place of the meeting.

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

Architect: NA

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

G. 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.

**Sent to May QPH by
TC on 04/21/2016**

Jane Shook
Applicant¹ (Print)

Applicant Signature

Date

NA
Property Owner (Print)

NA
Property Owner Signature

NA
Date

Official Use Only

Project File Name:

PD Modifications – UDO Text Amendment

Permit Number:

20160178

Project Name/Number:

NA

Date: April 2016	Fee: NA	Receipt Number: NA	Method of Payment: NA	Paid By: NA
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¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

UDO Text Amendment Project Data Form

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Phone (828) 268-6960 ♦ Fax (828) 268-6961
www.townofboone.net

Official Use Only

Project Name/Number:

PD Modifications- UDO Text Amendment

Permit Name/Number:

20160178

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 9 Amendments; Appendix A

Section(s): 9.10 Planned Development; A2 Written Application

Brief Description of Amendment (Attach Proposed Text):

See Reason for Change below.

Reason for Change:

Council has given direction for the Town Attorney and Town Staff to work together to further refine the Planned Development Process.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

S:\FORMS\Forms_2015\UDOTextAmendmentProjectDataForm_062015.doc

Communication: Amend UDO Article 9 to modify who the applicant must invite to the neighborhood meeting and the place of the meeting.



CASE 2016078 PLANNED DEVELOPMENT MODIFICATIONS- UDO TEXT AMENDMENT

Request

Council has given direction for the Town Attorney and Town Staff to work together to further refine the Planned Development Process.

Proposed Amendment

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 9 Amendments

...

9.10 Planned Development (PD)

9.10.01 The authorization of a PD for any use which is permitted only as a special use in this Ordinance shall preclude any requirement for obtaining a special use permit for such use.

9.10.02 Specific conditions applicable to a PD may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually agreed upon by the Town and the petitioner may be incorporated into the permit requirements.

A. Conditions and site-specific standards imposed in a PD shall be limited to those that address (i) the conformance of the development and use of the site to Town Ordinances and the comprehensive plan or other plan and (ii) the impacts reasonably expected to be generated by the development or use of the site.

9.10.03 A PD may only be proposed for one of the following:

A. A development site containing 3 or more acres;

B. A proposed development which includes both commercial and residential uses.

9.10.04 The authorization of a PD shall preclude any requirement for obtaining a variance from the Board of Adjustment unless it is a variance to Article 29 Watershed Protection and Article 30 Flood Damage Prevention. Any such variances must be obtained before a public hearing is held on the proposed PD.

9.10.05 Because the PD is not tied to a designated primary zoning district, specific procedural steps not generally applicable are mandated and more detailed information must be submitted by the petitioner before the petition may be acted upon.

A. Specific procedural requirements include:

1. One or more pre-petition consultations with the Administrator, in which the petitioner identifies the development site, its natural features, and the nature of the proposed development.
2. Before submitting the petition, the petitioner must coordinate ~~schedule~~ a neighborhood meeting with the Planning Department ~~owners of property located within 150' of the development site.~~
 - a. The Planning Department shall schedule a charrette-style neighborhood meeting at Council Chambers.
 - b. This neighborhood meeting shall occur on a weekday between the hours of 4 p.m. – 6 p.m.
 - c. The Administrator shall attend the meeting for the sole purpose of answering questions about the PD process and to take meeting minutes.
 - d. The ~~petitioner~~ Administrator must provide notice at least 21 days prior to the meeting in accordance with Subsection 1.13.02 herein to all property owners within 150' of the development site and to the Town Manager.
~~The meeting must be held at an accessible and convenient location in light of available options.~~
 - e. The ~~petitioner~~ Administrator must record the names and addresses of all attendees at the meeting.
 - f. At the meeting, the petitioner, at a minimum, shall present all the following information:
 - i. Contact information of the parties involved in the ownership, design, and development of the property;
 - ii. The location of the property and general information on the current conditions of the site;
 - iii. Proposed use(s) and site development;
 - iv. Any preliminary plans or renderings, if available; and
 - v. Any other information deemed pertinent by the Administrator.
 - g. The ~~petitioner shall provide the~~ Administrator ~~with a report which details the meeting including any concerns expressed by attendees and any commitments made by the petitioner. This report shall be included~~ in the staff report a copy of the meeting minutes which shall detail any concerns expressed by the attendees and any commitments made by the petitioner.

B. Specific information which must be submitted:

Communication: Amend UDO Article 9 to modify who the applicant must invite to the neighborhood meeting and the place of the meeting.

1. A site specific development plan addressing plan aspects identified in Appendix A, ~~identifying~~ and shall include all development ~~specifies~~ aspects which deviate from the standards of this Ordinance.
2. Written analysis, tailored to specifically address the characteristics of the particular location, ~~addressing~~ and how the planned development will effectively and to the greatest degree reasonably possible, mitigate the impacts of the proposed development on the surrounding area, 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.
3. Information to demonstrate compliance with all mandatory requirements of this Ordinance, including:
 - a. Article 5 Subdivisions (for purposes of this Section the Town Council is the approval authority for major subdivision preliminary plats);
 - b. Article 8 Historic Preservation;
 - c. Article 19 Grading;
 - d. Article 20 Soil Erosion and Sediment Control;
 - e. Article 21 Stormwater Management;
 - f. Article 22 Utilities;
 - g. Article 29 Watershed Protection;
 - h. Article 30 Flood Damage Prevention;
4. Other information which may be required by the Administrator to fully evaluate the proposed development and its potential impacts on the surrounding area. Such information may include but is not limited to: traffic impact analysis, community impact analysis, additional engineering, and legal information.
5. The petition shall also include an affidavit stating that:
 - a. All zoning conditions and provisions are freely offered as proposed zoning laws, based solely on the petitioner's independent judgment; and
 - b. The petitioner's is not relying upon any statement by the Town staff or any member of the Town Council in connection with the decision to offer any zoning conditions or provisions; and

- c. The petitioner understands that other parties that have standing in the rezoning proceeding are relying on the validity of the zoning conditions and provisions; and
- d. The petitioner intends for all future owners of the property to be bound by the zoning conditions and provisions should the Town Council adopt them as part of the rezoning.

(20160178-XXXX2016)

- 9.10.06** Except for minor modifications, changes to an approved petition or to conditions attached to the approved petition shall be treated the same as amendments to this Ordinance or to the zoning map and shall be processed as a new application.
- A.** Except for a proposed minor modification to a previously approved PD, no proposal to amend or change may be accepted nor considered within twelve (12) months of the date of the original approval of the PD or within twelve (12) months of a hearing upon any previous proposal to amend or change the PD.
 - B.** A minor modification is one which does not significantly change the essential character of the use or activity that has been previously authorized through the PD approval.
 - C.** The Administrator shall determine whether a proposed modification to a previously approved PD is a minor modification, and the determination of the Administrator shall constitute the final decision of the Town and is not appealable.
- 9.10.07** If a petition for a PD is approved, a copy of the approval and all conditions relative to the approval, including site specific development plan(s), shall be kept on file in the Planning and Inspections Department office. A copy of the approval will also be recorded with the Watauga County Register of Deeds.
- 9.10.08** Should the property fail to be developed in accordance with the terms and conditions of the PD approval, no subsequent use of the property shall be permitted without a new petition for zoning map amendment being filed.
- 9.10.09** Should a petition for a PD be denied, no new petition for making similar use of the same property shall be considered within twelve (12) months of the date of the original denial.
- 9.10.09** If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to construct an approved site specific development plan in accordance with any condition agreed upon in the rezoning process, the authorization of the PD shall be null and void and of no effect and proceedings shall be instituted to rezone the property.
- 9.10.10** Except as expressly provided otherwise, a planned development district is subject to all applicable standards, procedures, and regulations set forth in this Ordinance and such

development shall comply with all requirements of this Ordinance unless the approved PD documents specifically state otherwise.

(20160178-XXXX2016)

9.10.11 Approval of a PD shall only be granted if the petitioner can provide sufficient information to address the findings found in Subsection 14.05.01(B).

(20160178-XXXX2016)

9.10.12 The approval of a PD application shall not become effective until the petitioner has submitted to the Planning Department a copy of the approved plan incorporating all changes, if any, that were required as conditions to Town Council approval, and such additional information as the Town Council may have required as a condition of PD approval.

(20160178-XXXX2016)

A2 Written Application

A2.01 Every applicant shall complete a written application containing at least the following information:

- A.** The name, address, and phone number of the property owner; and
- B.** If the applicant is not the property owner in question, the name, address and phone number of the applicant.
 - 1. Pursuant to Subsection 4.03.01(B), when a person other than the owner of the property applies for a permit or approval including a lessee or a person who has contracted to purchase the property, the application must be accompanied by the written approval of the property owner or other proof of authority; and
- C.** The date of the application; and
- D.** A succinct statement of the nature of the development proposed under the permit or the nature of the variance; and
- E.** Identification of the lot in question by street address and Watauga County Parcel Identification Number; and
- F.** The zoning district in which the lot is located; and
- G.** The cost of the development project; and
- H.** The number of square feet or acres of the lot in question; and
- I.** The number of square feet or acres of land disturbing activity; and
- J.** The gross floor area of all existing or proposed buildings located on the lot where the development is to take place; ~~and~~ and

K. Existing land uses; and

L. Proposed land uses, including their locations, within the development.

(20160178-XXXX2016)

UDO Subsection 9.02.01(B)(1) Statement

Approved as to policy this 22nd day of May 2016.

Planning Director

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.

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PLANNING BOARD RECOMMENDATIONS

First Motion and Vote: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: The Planning Commission recommends ☐approval ☐denial for the following reasons:

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ACTION TAKEN

First motion and vote: The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
- ☐ Commercial
- ☐ Board of Adjustment Hearing (other than Appeals)
- ☒ Planning/Other

A. CONTACT INFORMATION

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Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Unlisted Uses- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- ☐ Accessory Building *Zoning Project Data Form (Residential or Commercial)
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- ☐ Renovation/Remodel *Zoning Project Data Form (Residential or Commercial)
- ☐ Accessory Use (as listed in UDO Subsection 15.07.01) *Zoning Project Data Form (Residential or Commercial)
- ☐ Temporary Use (as listed in UDO Subsection 15.07.02) *Zoning Project Data Form (Residential or Commercial)
- ☐ Sign *Sign Project Data Form (Zoning)
- ☐ Pavement Sealant *Pavement Sealant Project Data Form
- ☐ Major Subdivision Zoning Permit *Commercial Project Data Form

Board of Adjustment Hearings

- ☐ Special Use Permit/Modification *Special Use Permit Form
- ☐ Variance *Variance Form
- ☐ Major Subdivision Preliminary Plat Approval *Major Subdivision Preliminary Plat Approval Form

Planning/Other

- ☐ Exempt Division of Land *Subdivision Exemption Project Data Form
- ☐ Minor Subdivision (Preliminary and Final Plat) *Minor Subdivision Project Data Form
- ☐ Major Subdivision (Final Plat) *Major Subdivision Final Plat Project Data Form
- ☒ UDO Text Amendment *Text Amendment Project Data Form
- ☐ General Use Zoning Map Amendment *General Use Map Zoning Map Amendment Project Data Form
- ☐ Conditional District Zoning Map Amendment *Conditional District Zoning Map Amendment Project Data Form
- ☐ Voluntary Annexation *Annexation Petition (Satellite or Contiguous)
- ☐ UDO Text Interpretation *UDO Interpretation Data Form

Communication: Amend UDO Articles 2 and 15 to add catch-all for uses not listed in the Table of Uses and provide for evaluation of unlisted

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

Architect: NA

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

G. 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.

**Sent to May QPH by
TC on 04/21/2016**

Jane Shook
Applicant¹ (Print)

Applicant Signature

Date

NA
Property Owner (Print)

NA
Property Owner Signature

NA
Date

Official Use Only

Project File Name:

Unlisted Uses – UDO Text Amendment

Permit Number:

20160222

Project Name/Number:

NA

Date: April 2016	Fee: NA	Receipt Number: NA	Method of Payment: NA	Paid By: NA
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¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Unlisted Uses- UDO Text Amendment

Permit Name/Number:

20160222

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 2 Administrative Mechanisms, Article 15 District Use Requirements, Article 34 Definitions

Section(s): 2.06 Land Use Administrator; 15.02 Permissible Uses and Specific Exclusions; 15.07 Table of Permissible Uses; 34.01 Definitions of Basic Terms

Brief Description of Amendment (Attach Proposed Text):

See Reason for Change below.

Reason for Change:

Council has given direction for the Town Attorney and Town Staff to work together to further refine how the UDO treats "unlisted and prohibited uses". This amendment also clarifies that a "motor vehicle racing/speedway" use is not a permissible use.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

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CASE 20160222 UNLISTED USES- UDO TEXT AMENDMENT

Request

Council has given direction for the Town Attorney and Town Staff to work together to further refine how the UDO treats “unlisted and prohibited uses”. This amendment also clarifies that a “motor vehicle racing/speedway” use is not a permissible use.

Proposed Amendment

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 2 Administrative Mechanisms

...

2.06.02 Interpretations

A. Zoning Map Interpretations: The ~~Administrator~~ Planning Director is authorized to interpret the zoning map and disputed questions of zoning district boundary lines.

1. A zoning map interpretation shall only be made upon proper written application.
2. Where uncertainty exists as to the boundary of districts as shown on the Official Zoning Map, the following rules shall apply:
 - a. A boundary indicated as approximately following the centerline of an alley, street, highway, stream or railroad shall be construed to follow such centerline;
 - b. A boundary indicated as approximately following a lot line, corporate limit, or extraterritorial boundary line, shall be construed as following such line, limit or boundary;
 - c. A boundary indicated as following the shoreline or the centerline of a stream, river, lake, or other bodies of water shall be construed to follow such shoreline or centerline, and in the event of change in the shoreline or centerline, the boundary shall be construed as moving with the actual shoreline or centerline;
 - d. A boundary indicated as approximately following the designated limit of a special flood hazard area shall be construed as following such limit;
 - e. Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map;
 - f. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that

portion of such street or alley added thereto by virtue of such vacation or abandonment.

(20160222-XXXX2016)

B. Text Interpretation: The ~~Administrator~~ Planning Director is authorized to interpret Ordinance text.

1. A text interpretation shall only be made upon proper written application.
2. Where uncertainty exists as to any meaning of this Ordinance, the provisions of Article 1 shall be used for guidance.
3. The Planning Director shall consult with the Town Attorney where there is uncertainty in the meaning of the Ordinance with respect to a substantive matter.

(20160222-XXXX2016)

C. Advisory Opinions ~~Regarding Nonconformities:~~ ~~Except during the investigation of an alleged violation or in the course of evaluating an application, the Administrator shall not render an advisory opinion regarding the legality or effects of nonconformities.~~

An advisory interpretation or advisory opinion given by the Administrator is not binding and does not constitute a final and binding decision subject to appeal under Article 6.

(20160222-XXXX2016)

D. Procedure for Evaluating Unlisted Uses: See procedures set forth in Section 15.02.

(20160222-XXXX2016)

Article 15 District Use Requirements

...

15.02 ~~Permissible Uses and Specific Exclusions~~ Other Prohibited Uses and Unlisted Uses

15.02.01 ~~All uses that are not listed in Section 15.07 are prohibited. A use which is not permitted as a principal use in a zoning district cannot be allowed even as an accessory use in that district unless it is accessory to a principal use that would be allowable in that district.~~

Other Prohibited Uses: Any use that is (i) listed in the Land Based Classification Standards (2001) published by the American Planning Association (as such may be amended from time to time, and which is hereby incorporated by reference as if fully set forth herein) and (ii) not listed in Tables of Principal, Accessory or Temporary Uses of this Ordinance is prohibited. A copy of the Land Based Classification Standards may be found on the internet at <https://www.planning.org/lbcs/> and a copy is also available for inspection in the office of the Planning Director.

15.02.02 Unlisted Uses: Any use not permitted, prohibited, or restricted by this Ordinance is an "unlisted use" that shall only be permitted if approved by the Planning Director pursuant to the following provisions:

- A. **Procedure for Evaluating Unlisted Uses:** Where a particular use category or use type is not specifically allowed under this Ordinance or is also not prohibited or restricted by this Ordinance, the Planning Director may permit the use category or type if the criteria of Subsection 15.02.02(B) below are met. The Planning Director shall give due consideration to the intent of this Ordinance concerning the district(s), involved, the character of the uses specifically identified, and the character of the use(s) in question.
- B. **Criteria for Evaluating Unlisted Uses:** In order to determine that the proposed uses(s) has an impact that is similar in nature, function, and duration to the other uses allowed in a specific zoning district, the Planning Director shall assess all relevant characteristics of the proposed use, including but not limited to the following:
1. The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;
 2. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing; and
 3. The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders); and
 4. The type, size and nature of buildings and structures; and
 5. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts; and
 6. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other uses on the site; and
 7. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses; and
 8. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation and fumes; and
 9. Any special public utility requirements for serving the proposed use, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
 10. The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the zoning district.

15.02.03 Determination of Unlisted Use(s) by the Planning Director: All determinations by the Planning Director made pursuant to this section shall be in writing. In making the determination described in this section, the Planning Director shall initiate an amendment to this Ordinance if the particular use or category of use(s) is likely to be common or to recur frequently, or if the omission is likely to lead to public uncertainty and confusion. Until final action has been taken on such proposed amendment, the determination of the Planning Director shall be binding on all officers and departments of the Town. If no amendment is initiated, the Planning Director's determination shall thereafter be binding on all officers and departments of the Town, without further action or amendment of this Ordinance.

15.02.04 Appeal of Determination of the Planning Director: The determination of the Planning Director may be appealed to the Board of Adjustment pursuant to the procedures set forth in Article 6 of this Ordinance.

(20160222-XXXX2016)

15.07 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	R2	R4	MH	R3	OI	B1	B2	B3	M1	U1	E1	E2	
12.0 Recreation and Entertainment Uses																		
12.01	Indoor Shooting Range	L ^{T75}											L ^{T75}		P			15.
12.02	Outdoor Shooting Range																	
12.03	Indoor Theater										P		P		P			
12.04	Outdoor Theater	p ^{T200}									p ^{T125}		p ^{T125}		P			
12.05	Event Venue, Category 1										P	p ^{T75}	P		P			
12.06	Event Venue, Category 2										p ^{T50}	p ^{T125}	p ^{T125}		P			
12.07	Event Venue, Category 3										p ^{T200}		p ^{T200}		P			
12.08	Campground & Recreational Vehicle Park	L ^{T200}											L ^{T200}		L			15.
12.09	Coliseum												S ^{T300}		p ^{T300}			
12.10	Recreation Facility, Category 1	p ^{T125}								P	P	P	P		P			
12.11	Recreation Facility, Category 2	p ^{T125}								p ^{T50}			p ^{T50}		P			
12.12	Recreation Facility, Category 3	p ^{T200}											p ^{T200}					
12.13	Racetrack																	

(20160222-XXXX2016)

Communication: Amend UDO Articles 2 and 15 to add catch-all for uses not listed in the Table of Uses and provide for evaluation of unlisted

Article 34 Definitions

...

Advisory Interpretation

Any interpretation or opinion issued by the Planning Director other than as part of the final written approval or denial of a written permit application.

(20160222-XXXX2016)

Advisory Opinion

See “Advisory Interpretation”

(20160222-XXXX2016)

Racetrack

An establishment that operates racing or other events involving motorized vehicles or animals, including but not limited to: the racing of automobiles, trucks, motorcycles, or any other motorized conveyance; racing of dogs, horses or other animals; and demolition derbies, monster truck rallies, and similar events.

(20160222-XXXX2016)

UDO Subsection 9.02.01(B)(1) Statement

Approved as to policy this 22nd day of May 2016.

Planning Director

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

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

PLANNING BOARD REPORT

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

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

PLANNING BOARD RECOMMENDATIONS

First Motion and Vote: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: The Planning Commission recommends ☐approval ☐denial for the following reasons:

TOWN COUNCIL ACTION

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

ACTION TAKEN

First motion and vote: The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
☐ Commercial
☐ Board of Adjustment Hearing (other than Appeals)
☒ Planning/Other

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Tree Board Removal- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- | | |
|---|---|
| ☐ Accessory Building | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Addition/Expansion including decks and patios | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Change of Occupancy | *Commercial Project Data Form |
| ☐ Land Disturbance (not associated with the construction of a bldg.) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Manufactured Home Set-up in Park | *Manufactured Home in Park Form |
| ☐ New Building Construction | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Renovation/Remodel | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Accessory Use (as listed in UDO Subsection 15.07.01) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Temporary Use (as listed in UDO Subsection 15.07.02) | *Zoning Project Data Form (Residential or Commercial) |
| ☐ Sign | *Sign Project Data Form (Zoning) |
| ☐ Pavement Sealant | *Pavement Sealant Project Data Form |
| ☐ Major Subdivision Zoning Permit | *Commercial Project Data Form |

Board of Adjustment Hearings

- | | |
|--|---|
| ☐ Special Use Permit/Modification | *Special Use Permit Form |
| ☐ Variance | *Variance Form |
| ☐ Major Subdivision Preliminary Plat Approval | *Major Subdivision Preliminary Plat Approval Form |

Planning/Other

- | | |
|---|--|
| ☐ Exempt Division of Land | *Subdivision Exemption Project Data Form |
| ☐ Minor Subdivision (Preliminary and Final Plat) | *Minor Subdivision Project Data Form |
| ☐ Major Subdivision (Final Plat) | *Major Subdivision Final Plat Project Data Form |
| ☒ UDO Text Amendment | *Text Amendment Project Data Form |
| ☐ General Use Zoning Map Amendment | *General Use Map Zoning Map Amendment Project Data Form |
| ☐ Conditional District Zoning Map Amendment | *Conditional District Zoning Map Amendment Project Data Form |
| ☐ Voluntary Annexation | *Annexation Petition (Satellite or Contiguous) |
| ☐ UDO Text Interpretation | *UDO Interpretation Data Form |

Communication: Amend UDO Article 2 to remove the "Tree Board" from the UDO and modify the powers and duties of the "Community

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

Architect: NA

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

G. 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.

Bill Bailey, Planning Director**Applicant¹ (Print)****NA****Property Owner (Print)****Applicant Signature****NA****Property Owner Signature****Changes approved
by TC on 1/21/2016****Date****NA****Date****Official Use Only**

Project File Name:

Tree Board Removal – UDO Text Amendment

Permit Number:

20160224

Project Name/Number:

NA

Date: April 2016	Fee: NA	Receipt Number: NA	Method of Payment: NA	Paid By: NA
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S:\FORMS\Forms_2015\ZoningPermitApplication_052015.doc

¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Tree Board Removal- UDO Text Amendment

Permit Name/Number:

20160224

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 2 Administrative Mechanisms

Section(s): 2.03 Community Appearance Commission; 2.05 Tree Board

Brief Description of Amendment (Attach Proposed Text):

Modification of duties for the Community Appearance Commission and removal of references to the Tree Board.

Reason for Change:

In January 2016, Town Council approved a reorganization of Town Boards & Committees. Within this reorganization, the duties and responsibilities of the Tree Board were moved back to the Community Appearance Commission. Originally the Tree Board operated as a subcommittee of the Community Appearance Commission but was made into a separate board partially due to the requirements for a "tree board" from the Tree City USA program. Recently Tree City program requirements have changed and no longer require a separate board and so the duties and responsibilities will once again belong with the Community Appearance Commission.

Official Use Only

Public Hearing Meeting Date: May 2, 2016

PC Meeting Date: May 9, 2016

TC Meeting Date: May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____



CASE 20160224 TREE BOARD REMOVAL- UDO TEXT AMENDMENT

Request

In January 2016, Town Council approved a reorganization of Town Boards & Committees. Within this reorganization, the duties and responsibilities of the Tree Board were moved back to the Community Appearance Commission. Originally the Tree Board operated as a subcommittee of the Community Appearance Commission but was made into a separate board partially due to the requirements for a “tree board” from the Tree City USA program. Recently Tree City program requirements have changed and no longer require a separate board and so the duties and responsibilities will once again belong with the Community Appearance Commission.

ANALYSIS

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 2 Administrative Mechanisms

....

2.03.06 Powers and Duties of the Community Appearance Commission

A. The Community Appearance Commission may:

1. Make studies and recommend to the Council plans, goals, and objectives relating to the visual appearance, community beautification, landscape development, urban forest protection and redevelopment of the Town's planning area; and
2. Develop and recommend to the Council policies, Ordinances, administrative procedures, and other means for carrying out plans for community beautification in a coordinated and efficient manner. The Community Appearance Commission shall not, however, have the power to “initiate” changes to this Ordinance, as the term “initiate” is used in Section 9.02; and
3. Develop educational programs and materials which inform the public on matters concerning community beautification and urban forest protection and other subjects as detailed in Section 2.03.06(A)(1); and
4. Respond to requests made by the Administrator for recommendations concerning the suitability of site landscaping for proposed special use permits; and
5. Upon request of the Administrator, review and approve or reject requests for approval of alternative means to address the Community Appearance Standards of Article 25, as well as when such approval is a condition adopted by the Board in

connection with the issuance of a special use permit or one adopted by the Council in a conditional zoning determination; and

6. Coordinate and/or conduct special studies related to assigned responsibilities; and
7. Perform any other duty assigned by the Council which is authorized pursuant to N.C. Gen. Stat. § 160A-452.

(20160224-05192016)

...

2.05 ~~Tree Board~~ Reserved (20160224-05192016)

2.05.01 ~~The Tree Board is an advisory board which makes recommendations, studies and educational programs relating to the urban forest within the Town's jurisdiction pursuant to Subsection 2.05.05.~~

2.05.02 ~~Appointment and Terms of Tree Board Members~~

A. ~~Number of Members:~~ ~~There shall be a Tree Board consisting of five members. All members shall reside within the planning jurisdiction of the Town.~~

1. ~~To the extent qualified persons can be found, the members shall have special training or experience in arboriculture, horticulture, architecture, or landscape design.~~
2. ~~If during a protracted period of time during for which a position is advertised no qualified person applies, then any interested person may be appointed.~~
 - a. ~~Ninety (90) days shall be considered a "protracted period of time" for purposes of this Section.~~

B. ~~Terms:~~ ~~Tree Board members shall be appointed for two [2] year staggered terms, but members may continue to serve until their successors have been appointed.~~

1. ~~Vacancies which occur for reasons other than the expiration of term shall be filled as they occur for the unexpired remainder of the term.~~
2. ~~Members may be appointed to no more than three successive terms. A former member may be reappointed following a one-year period of non-membership.~~

C. ~~Absences:~~

1. ~~Absences due to sickness, death or other emergencies of like nature shall be recognized as excused absences and such absences and the meetings missed for such excused absences shall not be counted in the calculations toward automatic removal from the Commission.~~
 - a. ~~For example, if a member misses six of twelve meetings during a twelve month period and two of the absences are due to the member's illness, the member will be recorded as having missed four of ten meetings.~~

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

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

~~2. Tree Board members shall be automatically removed for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) of the regular meetings in any twelve month period.~~

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

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

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

~~2.05.03 Meetings of the Tree Board~~

~~**A. Schedule:** The Tree Board shall conduct a meeting no less than quarterly (in order to meet the requirements of Tree City USA), or more often as it shall determine or require, to be held so long as there are items for its consideration, and it may schedule additional meetings ("continuation meetings" and "special meetings"), as necessary, so long as all notice requirements are met. Continuation meetings may be scheduled without additional advertising if the date, time, and location of the meeting is adopted and announced by the Tree Board at a duly advertised meeting.~~

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

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

~~1. Notice of all official meetings, other than an emergency meeting, by posting of the date and time of the meeting at least 48 hours in advance on the bulletin Board for that purpose in Town Hall. If an agenda has been distributed to members of the Tree Board or subcommittee, it shall also be posted.~~

- ~~a. An "official meeting" occurs whenever a regularly scheduled meeting of the Tree Board or subcommittee occurs, whether or not a quorum is present, or when a majority of the Tree Board meets, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action, or otherwise transact public business.~~
- ~~b. "Deliberate" includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision.~~
- ~~c. An "emergency meeting" is one that concerns generally unexpected circumstances which require the immediate consideration of the Tree Board or subcommittee. In the event of an emergency meeting, a local news medium must be notified prior to the meeting of the date, time and subject matter of the meeting.~~
- ~~2. A meeting which is open to the public, except as to a closed session conducted in accordance with the law for a reason authorized by the law.~~
- ~~3. Full and accurate minutes of the meeting, a copy of which shall be provided to the Town Clerk, once they are approved by the Tree Board or subcommittee.~~
 - ~~a. Minutes of the Tree Board or subcommittee shall be subject to revision and adoption by the group as a whole.~~
- ~~D. In the absence of the Chair, the Vice-Chair shall conduct any meeting of the Tree Board, and in the absence of both officers, the Mayor may designate a person to act as Chair for the meeting in question or if no one is designated the Board can elect a presiding officer by majority vote.~~
- ~~E. The agenda shall include only those matters within the responsibilities and powers of the Tree Board, as provided herein.~~
- ~~F. The business of the Tree Board or subcommittee shall be conducted in such manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the Chair, and members of the Tree Board or subcommittee shall be respectful to each other and shall avoid interrupting each other.~~
- ~~G. Meetings of the Tree Board or subcommittee shall proceed in the following order: adoption of an agenda, approval of the minutes, unfinished business, new business, informal discussion, and public comment, when public comment is to be accepted. By majority vote of the members in attendance, the order of business may be altered.~~
- ~~H. At any meeting of the Tree Board or subcommittee, if the meeting is opened for public comment, any person wishing to address the body or subcommittee shall state his or her name and whether or not he or she is a resident of the Town or ETJ.~~

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

~~2.05.04 Quorum and Voting~~

- ~~A. A quorum shall consist of a simple majority of the appointed members.~~
- ~~B. All actions or recommendations of the Tree Board or subcommittee shall require the presence of a quorum and are only effective or adopted upon majority vote of the members present, following a motion and second. In the case of a divided vote on any question on which the Tree Board is required to act, the record shall include the vote of each member. When such action is to be reported to the Council, Community Appearance Commission or Planning Commission, the Tree Board shall not only report the action or recommendation adopted, but the vote by which it was adopted. Proxy voting is not allowed, but a member who cannot be physically present may participate in the meeting by electronic or telephonic means so long as the member can hear all deliberations and proceedings of the Board, and the members of the Board can hear the member.~~
- ~~C. A roll call vote shall be taken upon the request of any member.~~

~~2.05.05 Tree Board Officers~~

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

~~the Chair and Vice Chair of any subcommittees. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for re-appointment. Vacancies in these offices shall be filled for the unexpired terms only. The people so designated shall serve in these capacities for terms of one (1) year, with eligibility for re-appointment. Vacancies in these offices may be filled for the unexpired terms by the Council.~~

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

~~2.05.06 Powers and Duties of the Tree Board~~

~~A. The Tree Board may:~~

- ~~1. Make studies and recommend to the Council plans, goals, and objectives relating to the urban forest of the Town.~~
- ~~2. Develop and recommend to the Council policies, Ordinances, administrative procedures, plans and other means for maintaining the Town's urban forest program. The Tree Board, shall not, however, have the power to "initiate" changes to this Ordinance, as the term "initiate" is used in Section 9.02.~~
- ~~3. Develop public education programs which inform the public on matters concerning the betterment of trees and related resources.~~
- ~~4. Coordinate and/or conduct special projects for the betterment of the urban forest.~~

~~B. Limitations on Powers of the Tree Board~~

- ~~1. No individual member of the Board shall purport to speak or act on behalf of the Board without action by the Board explicitly authorizing the member to speak or act on its behalf.~~
- ~~2. No individual member of the Board, or the Board itself, shall purport to speak or act on behalf of the Town without action by the Council explicitly authorizing the member or empowering or authorizing the Board to speak or act on its behalf.~~
- ~~3. Without an express grant of authority or explicit authorization by the Council, no individual member of the Board, or the Board itself, shall direct Staff to take action requiring the expenditure of Town funds.~~
- ~~4. The Tree Board shall not create any group external to its membership without the explicit approval and or appointment of the Town Council. When deemed appropriate the Town Council will appoint a group(s) to advise the Tree Board on tasks assigned by the Town Council or its designee.~~
- ~~5. The Tree Board may create subcommittees or working groups within its membership without explicit approval of the Town Council providing that these groups do not require ongoing resources. Where ongoing resources are requested the assignment of these resources shall be approved by the Town Manager or his or her designee.~~

UDO Subsection 9.02.01(B)(1) Statement

Approved as to planning policy this 20th day of April 2016.

Planning Director

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

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

PLANNING BOARD REPORT

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

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

PLANNING BOARD RECOMMENDATIONS

First motion and vote:

The proposed amendment to the Town's zoning ordinance ☐ is OR ☐ is not consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

The Planning Commission recommends ☐approval ☐denial for the following reasons:

TOWN COUNCIL ACTION

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

ACTION TAKEN

First motion and vote:

The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote:

I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because:

Zoning/Planning Permit Application

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

PERMIT IS FOR (CHOOSE ONE):

- ☐ Single Family or Duplex (Residential)
- ☐ Commercial
- ☐ Board of Adjustment Hearing (other than Appeals)
- ☒ Planning/Other

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: PO Drawer 192, Boone, NC 28607
Phone Number: _____ Email Address: _____
Property Owner: _____ Company: _____
Address: _____
Phone Number: _____ Email Address: _____

B. PROPERTY INFORMATION

Watauga County Parcel Identification Number(s): NA
Address/Location: NA
Project Name: Public Hearing Process Change- UDO Text Amendment

C. PERMIT SUBCATEGORIES

Additional Forms Needed

Zoning Permits

- ☐ Accessory Building *Zoning Project Data Form (Residential or Commercial)
- ☐ Addition/Expansion including decks and patios *Zoning Project Data Form (Residential or Commercial)
- ☐ Change of Occupancy *Commercial Project Data Form
- ☐ Land Disturbance (not associated with the construction of a bldg.) *Zoning Project Data Form (Residential or Commercial)
- ☐ Manufactured Home Set-up in Park *Manufactured Home in Park Form
- ☐ New Building Construction *Zoning Project Data Form (Residential or Commercial)
- ☐ Renovation/Remodel *Zoning Project Data Form (Residential or Commercial)
- ☐ Accessory Use (as listed in UDO Subsection 15.07.01) *Zoning Project Data Form (Residential or Commercial)
- ☐ Temporary Use (as listed in UDO Subsection 15.07.02) *Zoning Project Data Form (Residential or Commercial)
- ☐ Sign *Sign Project Data Form (Zoning)
- ☐ Pavement Sealant *Pavement Sealant Project Data Form
- ☐ Major Subdivision Zoning Permit *Commercial Project Data Form

Board of Adjustment Hearings

- ☐ Special Use Permit/Modification *Special Use Permit Form
- ☐ Variance *Variance Form
- ☐ Major Subdivision Preliminary Plat Approval *Major Subdivision Preliminary Plat Approval Form

Planning/Other

- ☐ Exempt Division of Land *Subdivision Exemption Project Data Form
- ☐ Minor Subdivision (Preliminary and Final Plat) *Minor Subdivision Project Data Form
- ☐ Major Subdivision (Final Plat) *Major Subdivision Final Plat Project Data Form
- ☒ UDO Text Amendment *Text Amendment Project Data Form
- ☐ General Use Zoning Map Amendment *General Use Map Zoning Map Amendment Project Data Form
- ☐ Conditional District Zoning Map Amendment *Conditional District Zoning Map Amendment Project Data Form
- ☐ Voluntary Annexation *Annexation Petition (Satellite or Contiguous)
- ☐ UDO Text Interpretation *UDO Interpretation Data Form

D. DETAILED DESCRIPTION OF PROJECT

See Project Data Form

E. PROJECT MANAGER DESIGNATION

A project manager is responsible for the activities listed in UDO Section 4.19. Single-family and two-family projects involving less than ½ acre of land disturbing activity or commercial site improvements that involve no more than 2,500 square feet of land disturbing activity are exempt from this requirement.

Name: NA Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

F. DESIGN PROFESSIONAL INFORMATION**Engineer: NA**

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

Architect: NA

Name: _____ Company: _____
 Address: _____ License #: _____
 Phone Number: _____ Email Address: _____

G. 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, Planning Supervisor**Applicant¹ (Print)****Applicant Signature****Date****NA****Property Owner (Print)****NA****Property Owner Signature****NA****Date****Sent to SPH by TC
on 2/16/2016****Official Use Only**

Project File Name:

Public Hearing Process – UDO Text Amendment

Permit Number:

20150149

Project Name/Number:

NA

Date: February 2016	Fee: NA	Receipt Number: NA	Method of Payment: NA	Paid By: NA
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S:\FORMS\Forms_2015\ZoningPermitApplication_052015.doc

¹ Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person must be submitted along with this application. Execution by property owner of this application signifies that the applicant is authorized to proceed.

UDO Text Amendment Project Data Form

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

Official Use Only

Project Name/Number:

Fire Code Coordination- UDO Text Amendment

Permit Name/Number:

20160028

A. TEXT INFORMATION

Amendment is to:

Article(s): Article 9 Amendments s

Section(s): 9.02 Initiation of Amendments, 9.05 Planning Commission Consideration of Proposed Amendments

Brief Description of Amendment (Attach Proposed Text):

See Reason for change below.

Reason for Change:

Due to the recent number of requests for a special public hearing and the length of time it takes to get from application to decision, Council authorized Planning Staff to develop alternatives that would streamline the amendment process and provide for more frequency within the hearing schedule.

Official Use Only

Public Hearing Meeting Date: ~~April 4, 2016~~ May 2, 2016

PC Meeting Date: ~~April 11, 2016~~ May 9, 2016

TC Meeting Date: ~~April 21, 2016~~ May 19, 2016

Text Approved: ☐ Yes ☐ No

Date UDO Updated: _____

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Communication: Modify UDO Article 9 with respect to the hearing, review and approval process for UDO text amendments and Zoning Map



CASE 20150149 PUBLIC HEARING CHANGES- UDO TEXT AMENDMENT

Request

Before adopting or amending the UDO (NCGS 160A-364) or the zoning map (NCGS 160A-384), the Town is required to hold a public hearing. Currently the Town processes text (UDO 9.02.01) and map (9.02.02 & 9.02.03) amendments through a quarterly public hearing process.

Application processing timelines range widely from fifty days to more than 120 days depending on when an applicant submits an application. The only way to expedite the approval process is to appear before Council and request a special public hearing. However, even this process can add up to 20 days to the processing of an application. Furthermore, special public hearings interrupt the normal workflow of staff and increases the opportunity for mistakes.

Given the number of requests for special public hearings (6 in 2014 for example) and the length of time it takes to get from application to decision, Council authorized Planning Staff to develop alternatives that would streamline the amendment process and provide for more frequency.

Initially, this case was discussed at a special public hearing in April 2016 and was subsequently withdrawn so that the Town Attorney and Town Staff could further refine the process.

ANALYSIS

In order to move to a monthly hearing process, similar to how the Board of Adjustment operates, changes were needed to not only the Unified Development Ordinance but also to the Planning Commission (Commission) meeting schedule.

While a public hearing in front of the Commission is not required by law, the Council wished to continue to involve the Planning Commission in the public hearing process. Therefore, in order to achieve a monthly process, which still contains a joint public hearing with the Council and the Commission and reduces the overall time between petition and decision, changes to the Planning Commission regularly scheduled meeting date are required. This will involve changes to the regular Commission meeting date. Each Commission meeting has the potential to be bifurcated with the first part of the agenda reserved for public hearings with Council and the second part reserved for case review and other matters.

The text below in ~~red strikethrough~~ is the text proposed to be deleted and the blue underline is the new text for consideration. Please note, text amendments will now contain the case number and effective date in italicized font at the end of the section in which the text was modified.

Article 9 Amendments

9.01 Amendments in General

9.01.01 Amendments to the text of this Ordinance (hereafter, "the UDO") or to the Town's officially adopted zoning map shall be made in accordance with the provisions of this Article.

9.02 Initiation of Amendments

9.02.01 Text and Map Amendments

~~Only Council may initiate an amendment to this Ordinance. Staff and other Town entities (boards, commissions, advisory bodies, and other such entities), when they are charged or empowered with making recommendations to the Council regarding the text of the UDO, may make recommendations regarding potential desired changes to the UDO to the Council, but the preparation of the text of a proposed draft amendment shall only proceed after the Council has endorsed the policy objectives sought to be achieved with the recommendation and has acted to authorize preparation of a draft text amendment.~~

~~Whenever a request to amend the text of this Ordinance is initiated or authorized by the Council, the Town Attorney in consultation with the Administrator shall determine whether the proposed amendment represents substantive planning policy or procedural matters, such as enforcement procedures, amendment procedures and appeal procedures.~~

- ~~1. If the Town Attorney determines the proposed amendment represents a substantive planning policy, the Administrator shall draft the text of the proposed amendment in consultation with the Town Attorney. Before an amendment drafted by the Administrator is presented to the Council for consideration, the Town Attorney shall endorse and date the draft amendment with the following statement: Approved as to Form this __ day of __, 20__, _____ Town Attorney.~~
 - ~~2. If the Town Attorney determines the proposed amendment represents a procedural matter, the Town Attorney shall draft the text of the proposed amendment in consultation with the Administrator. Before an amendment drafted by the Town Attorney is presented to the Council for consideration, the Administrator shall endorse and date the draft amendment with the following statement: Approved as to Planning Policy this __ day of __, 20__, _____ Administrator.~~
- A. Any ~~other~~ person may petition request the Council to ~~amend the text of this Ordinance~~ set a public hearing to consider a text amendment or a general map amendment, Conditional District map amendment or Planned Development map amendment (the later three being collectively referred to as "map amendments" or "rezonings").
1. Such petition shall be heard by Council at the next available regularly-scheduled Council meeting.
- B. The petition shall be filed with the Administrator and shall include at a minimum:
1. The name, address, and phone number of the applicant, and
 2. ~~A~~ In the case of a proposed text amendment, a summary of the specific objective of any proposed change in the text of this Ordinance.
 3. In the case of a proposed general map amendment,
 - a. A description of the land affected by the proposed amendment, and
 - b. A description of the proposed map change.
 4. In the case of Conditional District or Planned Development map amendments, those items described at Subsection 9.02.02 below.

- C. The drafting of proposed text amendments and general map amendments and consideration of any such amendment at a public hearing may proceed only upon direction given by Council to Staff:
1. Upon Council's own initiative, or
 2. Upon recommendation made by Staff, the Town Attorney, or any Town board, commission, or other entity, or
 - a. Every text amendment proposed by a department, board, or officer of the Town shall be drafted by the Administrator or the Town Attorney, in consultation with each other.
 3. Upon consideration by Council of a petition made by the owner of any legal or equitable interest in land located within the Town or its extraterritorial jurisdiction;
 4. Provided, however, that amendments considered by the Administrator or the Town Attorney to be necessary or advisable in light of state law may be prepared without prior direction by Council.
- D. The Administrator may in his or her discretion, prepare a written analysis of the proposed amendment to assist Council in consideration of whether to forward the amendment for public hearing. Any such analysis by the Administrator shall address the conformity of the proposed amendment with the Comprehensive Plan and other officially adopted plans of the town, as well as such other matters as the Administrator deems relevant.

~~Upon receipt of a petition the Administrator shall forward the petition to Council with or without written comment for a determination of whether a draft amendment should be prepared in accordance with Subsection 9.02.01(B).~~

~~Upon receipt of a draft amendment, should the Council act to proceed with its consideration, it shall establish a date for a public hearing.~~

- ~~1. The public hearing may be scheduled at a pre-arranged date, time and location, such as at a "quarterly public hearing," or at such other date, time and location authorized by the Council which will allow proper notice to issue in advance of the hearing.~~

~~No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed petition to assist the Planning Commission and Council in determining the conformity of the draft amendment with the Comprehensive Plan and any other officially adopted plan of the Town which relate to the proposed amendment.~~

~~9.02.02~~ **General Map Amendments**

- ~~A. Any person may petition the Council to amend the Zoning Map. The petition shall be filed with the Administrator and shall include at a minimum:~~
- ~~1. The name, address, and phone number of the applicant,~~
 - ~~2. A description of the land affected by the proposed amendment, and~~
 - ~~3. A description of the proposed map change.~~

- ~~B. Upon receipt of a petition, the Administrator shall forward the petition to Council to establish a date for a public hearing.~~
 - ~~1. The public hearing may be scheduled at a pre-arranged date, time and location, such as at a "quarterly public hearing," or at such other date, time and location authorized by the Council which will allow proper notice to issue in advance of the hearing.~~
- ~~C. No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed petition to assist the Planning Commission and Council in determining the conformity of the draft amendment with the Comprehensive Plan and any other officially adopted plan of the Town which relate to the proposed amendment.~~

9.02.0302 Conditional District (CD) and Planned Development (PD) Map Amendments

- A. A property may be placed in a CD or in a PD only in response to a petition by the owners of all property to be included.
 - 1. No State owned property may be placed in a CD or in a PD without prior approval by the Council of State.
- B. The petition shall be filed with the Administrator and shall include at a minimum:
 - 1. The name, address, and phone number of the applicant,
 - 2. A description of the land affected by the proposed amendment, and
 - 3. A description of the proposed map change, and
 - 4. A site specific development plan and supporting documentation that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined Ordinance requirements, will govern the development and use of the property.

~~Upon receipt of a petition, the Administrator shall forward the petition to Council to establish a date for a public hearing.~~

- ~~1. The public hearing may be scheduled at a pre-arranged date, time and location, such as at a "quarterly public hearing," or at such other date, time and location authorized by the Council which will allow proper notice to issue in advance of the hearing.~~

~~No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed petition to assist the Planning Commission and Council in determining the conformity of the draft amendment with this Ordinance, the Comprehensive Plan and any other officially adopted plan of the Town that relates to the proposed amendment. In the case of a proposed PD district, the Administrator shall specifically advise and comment as to whether the proposed district is in keeping with the purpose and intent of the Council for creating such PD districts, as set forth at Section 14.05.01 herein.~~

(20150028-11192015)

9.02.03 Council Consideration of Proposed Amendments

- A.** Upon consideration of a proposal to amend the UDO text or zoning map, Council may take any one or more of the following actions:
1. Direct further consideration and/or development of the amendment by Staff and/or the Planning Commission,
 2. Authorize drafting of a proposed amendment if such has not already been drafted,
 3. Set the proposed amendment for public hearing and consideration by the Planning Commission, and/or
 4. Decline to authorize further consideration of the proposed amendment.
- B.** In the event Council directs a proposed amendment to be considered at a public hearing, such hearing may be scheduled at any such date, time and location as will allow proper notice to issue in advance of the hearing.
- C.** No later than seven (7) days prior to the date set for the public hearing, the Administrator shall prepare an analysis of the proposed amendment to assist the Planning Commission and Council in determining the conformity of the draft amendment with this Ordinance, the Comprehensive Plan and any other officially adopted plan of the Town that relates to the proposed amendment. In the case of a proposed PD district, the Administrator shall specifically advise and comment as to whether the proposed district is in keeping with the purpose and intent of the Council for creating such PD districts, as set forth at Section 14.05.01 herein.

9.02.04 Modification of Applications After Distribution of Agenda Packet

- A. Modification of Petition Between Distribution of the Agenda Packet and the Public Hearing:**
1. **Modification in Response to Administrator's Recommendation or Request:** An applicant may not significantly modify an application between the distribution of the Agenda Packet containing the Staff Report of the case and the public hearing unless the proposed modification is in direct response to a specific request or recommendation by the Administrator.
 - a. A proposed modification, even in response to the Administrator's recommendation or request, shall be submitted to the Administrator prior to the hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification.
 - b. If the Administrator determines that the applicant did not submit the proposed modification prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the public hearing being rescheduled until the next regularly scheduled public hearing or withdrawal of the proposed modification.

2. **Insignificant or Minor Modifications in a Petition:** An applicant may make a non-substantial modification to an application between the distribution of the Agenda Packet containing the Staff Report and the scheduled public hearing.
 - a. A proposed non-substantial modification shall be submitted to the Administrator prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification. However, if an applicant proposes an insignificant modification to a petition during the scheduled hearing, and the Administrator indicates that adequate time exists to fully evaluate the impacts of the modification with or without a recess by the Council, the modified application may be acted upon by the Council.
 - b. If the Administrator determines that the petitioner did not submit the proposed modification prior to the public hearing in sufficient time for the Administrator to fully evaluate the impacts of the proposed modification, the applicant will be given the choice between the hearing being rescheduled until the next regularly scheduled public hearing or withdrawal of the proposed modification.
3. **Major Modification of an Application:** A petitioner seeking to significantly modify an application between the distribution of the Agenda Packet containing the Staff Report of the case and the public hearing, whether in response to Staff recommendations or self-initiated, must file a new application.
4. **Determination as to whether a Proposed Modification is Insignificant, Minor or Major:** The Planning Director shall make the determination as to whether a modification is “insignificant”, “minor” or “major” in accordance with Section 4.16. The determination of the Planning Director shall constitute the final decision of the Town and is not appealable.

B. Modification of Petition In Response to Concerns & Issues Raised at the Hearing

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board an applicant may agree to modify an application, including the plans and specifications submitted.
2. Unless such modification is so substantial or extensive that the Council cannot reasonably be expected to perceive the nature and impact of the proposed change without revised plans before it, the Council may approve the petition with the condition that the permit will not be issued until plans reflecting the agreed upon changes are submitted and approved by the Administrator.

9.03 Hearing Required: Conduct of Hearing; Notice of Hearing

9.03.01 Hearing Required

- A. Text, General, Conditional District and Planned Development Map Amendments are legislative processes subject to judicial review.
- B. No action that amends or repeals any of the provisions of this Ordinance may be adopted until a public hearing has been held on such.

(20150028-11192015)

9.03.02**Conduct of Hearing**

- A.** The Council and Planning Commission shall meet in joint session to hold the public hearing, and a quorum of each body must be present.
- B.** Public hearings on proposed Ordinance amendments will be scheduled no less frequently than on a quarterly basis in February, May, August and November.
- C.** A record of the public hearing will be prepared by Staff and minutes of the hearing submitted to the Planning Commission and Council as soon as practical following the public hearing.
- D.** Public hearings shall be conducted in accordance with rules for the hearing adopted by the Council.
- E.** The Mayor or other presiding officer may, at a minimum:
 - 1. Limit the length of time for each speaker, and
 - 2. Require the designation of a spokesperson for groups of persons supporting or opposing the proposed amendment for the same reasons, and
 - 3. Provide for the maintenance of order and order the removal from the hearing room of any person attempting to disrupt the hearing or to intimidate or belittle other speakers, and
 - 4. Limit the number of persons in the hearing room at any one time, insofar as the number of persons wishing to attend the hearing exceeds the safe capacity of the hearing room.

9.03.03**Hearing Notice**

- A. Legal Ad:** For all amendments, the Administrator shall publish a notice of the public hearing no less than once a week for two (2) successive weeks in a newspaper having general circulation in the area.
 - 1. The notice shall be published for the first time not less than ten (10) days nor more than twenty five (25) days before the date fixed for the hearing.
 - 2. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.
- B. Adjacent Property Owner Notification:** With respect to General, Conditional District and Planned Development map amendments, the Administrator shall mail written notice of the public hearing by first class mail to the owners, as shown on the listings of the Watauga County Tax Administration, of all properties whose zoning classification will be changed by the proposed amendment and owners of properties for which any portion is within 150 feet of the subject property.
 - 1. Each notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing.

2. The person mailing such notices shall certify to the Council that fact, and such certificate shall be deemed conclusive in the absence of fraud. The certificate of mailing shall be included in the Administrator's analysis of the proposed petition to the Council and Commission.

- a. However, if the proposed zoning map amendment directly affects more than fifty (50) properties owned by a total of at least fifty (50) different property owners, the Council may direct notification, instead of by the aforesaid individually mailed notices, by publication of the notice described above, supra, alone, but the notice must be not less than one-half a newspaper page in size and must be supplemented by individual notices by first class mail to property owners who reside outside the newspaper circulation area, according to the addressees listed on the most recent property tax listing for each affected property.

C. Posting: With respect to General, Conditional District and Planned Development Map Amendments, the Administrator shall also post notices of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right of way within at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing.

1. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Administrator shall post sufficient notices to provide reasonable notice to interested persons.
2. In addition, the Administrator shall take any other action deemed by the Council or Administrator to be useful or appropriate or desirable to give notice of the public hearing.

D. Every notice required by this Section shall:

1. State the date, time, and place of the public hearing, and
2. Summarize the nature and character of the proposed change, and
3. Reasonably identify the property whose zoning classification would be affected by the amendment if the proposed amendment involves a change in zoning district classification, and
4. State that the full text of the proposed amendment can be obtained from the Town Clerk, and
5. State that substantial and insubstantial changes in the proposed amendment may be made following the public hearing.

(20150028-11192015)

9.04 Reserved (20160027-05192016)

9.05 Planning Commission Consideration of Proposed Amendments

9.05.01 ~~At its next meeting following the public hearing, scheduled in accordance with Section 9.03, supra, the Commission shall review the proposed amendment and shall submit a written recommendation to the Council.~~

Following the public hearing, the Planning Commission, may proceed to consider the proposed amendment:

- A. In that same meeting,
- B. At its next regularly-scheduled meeting and/or
- C. At a subsequent special meeting, so long as proper notice is given thereof.

9.05.02 The Commission shall endeavor to provide a written report and written recommendation to the Council within 30 days of the public hearing. However, the Commission may apply to Council for an extension of time to submit its recommendations.

- A. The Commission shall specifically advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan, the Boone 2030 Land Use Plan and other officially adopted plans that are applicable and whether the Commission recommends adoption of the proposed amendment.
- B. In its report to the Council, the Commission may comment, as it deems appropriate, on any other matter related to the proposed amendment.

9.05.03 Additional testimony not presented at the public hearing may be considered by the Commission upon favorable vote of the majority of its members present.

9.05.04 No member of the Commission shall participate in the discussion or vote on any recommendations regarding any amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

9.06 Council Action on Amendments

9.06.01 Council Action After Referral to the Commission:

- A. At any meeting following the receipt of ~~the~~ a written report and recommendation from the Commission or after thirty (30) days following referral of ~~the~~ a proposed amendment to the Commission if the Commission fails to ~~make a~~ submit a written recommendation, the Council may proceed with its consideration of the proposed amendment. Council may:
 - 1. Adopt the proposed amendment; or
 - 2. Adopt the proposed amendment with modifications; or
 - 3. Reject the proposed amendment; or

4. Continue its consideration of the amendment to a later meeting date; or
5. Refer the proposed amendment back to Staff and/or the Planning Commission for such further consideration as Council may direct.

- B. The Council ~~must~~ should endeavor to take action, ~~however,~~ no later than sixty (60) days after the Commission ~~adopts a~~ submits its written recommendation.
- C. A comment by the Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Council, ~~and~~ .
- D. The Council is not bound by any other recommendation of the Planning Commission, including a recommendation that the proposed amendment be rejected.
- E. In the event Council fails to act on a proposed amendment within ninety (90) days of submission of the Commission's recommendation, such action shall be deemed a denial of the proposed amendment.

9.06.02 Additional testimony not presented at the public hearing may be considered by the Council upon favorable vote of the majority of its members present.

9.06.03 When adopting or rejecting any ~~zoning~~ UDO text or map amendment, the Council shall adopt a statement describing whether its action is consistent with the Comprehensive Plan, the Boone 2030 Land Use Plan and other officially adopted plan that is applicable and explaining why the Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

9.06.04 A proposed amendment submitted by an applicant may be withdrawn by the applicant at any time prior to final Town Council action on the application.

- A. If an applicant fails to pursue the application for a period of six (6) months thereafter, the application shall be deemed to have expired.

9.07 Ultimate Issue Before Council on Amendments

9.07.01 In deciding whether to adopt a proposed amendment to this Ordinance, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments:

- A. The Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

B. The Council shall only consider the impact of the proposed change on the public at large.

9.08 Action Subsequent to Council Decision

9.08.01 The Administrator shall notify the petitioner of the disposition of the amendment petition and file a copy of the decision in the office of the Planning and Inspections Department.

9.08.02 Any amendments pertaining to watershed protection must be filed with the North Carolina Division of Water Quality, North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

9.08.03 In the case of approval of an amendment, all necessary changes to the Ordinance or zoning map shall be entered within fifteen (15) working days of the effective date of the amendment. The Administrator shall authenticate the entry of each amendment and shall maintain a record of the nature and date of the amendment.

UDO Subsection 9.02.01(B)(1) Statement

Approved as to form this 4th day of April 2016.

Town Attorney

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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

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

PLANNING BOARD REPORT

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

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

PLANNING BOARD RECOMMENDATIONS

First motion and vote: The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: The Planning Commission recommends ☐approval ☐denial for the following reasons:

TOWN COUNCIL ACTION

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

ACTION TAKEN

First motion and vote: The proposed amendment to the Town's zoning ordinance ☐is ☐is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

Second Motion and Vote: I move to ☐approve ☐deny the proposed amendment to the Town's zoning ordinance and believe ☐approval ☐denial is reasonable and in the public interest because: