

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
March 16, 2017**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 5:30 p.m. Thursday, March 16, 2017, in the Council Chambers located at 1500 Blowing Rock Road. Mayor Rennie Brantz presided. Council members present were Mayor Pro Tem Lynne Mason, Loretta Clawson and Jeannine Underdown Collins. Town Attorney Allison Meade was also in attendance. Staff present were Town Manager John Ward, Assistant Town Manager Jim Byrne, Town Clerk Christine Pope, Public Works Director Rick Miller, Cultural Resources Director Pilar Fotta, Police Chief Dana Crawford and Planning Director Jane Shook.

ANNOUNCEMENTS

Mayor Rennie Brantz presented the following resolutions and proclamations:

1. Volunteer Appreciation and Recognition to Jeff Templeton
2. Volunteer Appreciation and Recognition to Jerry Butler
3. Proclamation for National Service Recognition Day
4. Proclamation for Mayor's Challenge for Water Conservation

TENTATIVE AGENDA ADOPTION

MOTION TO ADOPT AGENDA

Upon a motion by Council Member Clawson, seconded by Council Member Underdown Collins, Council moved to adopt the tentative agenda as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Council Member
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

PUBLIC COMMENT

Cathy LaMarre, of 156 Olancho Avenue, appeared before Council to state she spoke with Becky Gosky who also applied for the vacant position on the Planning Commission, and felt that Becky would be a good representative on the commission. Ms. LaMarre asked that, in light of this, her application be withdrawn.

REQUESTED APPEARANCES

CHARLENE GRASINGER - UPDATE FROM WESTERN YOUTH NETWORK

Charlene Grasinger of the Western Youth Network appeared before Council to provide information on the after-school programs they have been able to expand upon with the funding provided by the Town for FY 16/17.

JASON BERRY - 2017 BOONE FILM FESTIVAL

Jason Berry appeared before Council to provide information on the 2017 Boone Film Festival, which is planned to be held in September and will last four to five days.

CONSENT AGENDA ADOPTION

Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, Council moved to adopt the consent agenda as presented.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

TOWN COUNCIL - WORKSHOP/RETREAT - FEB 10, 2017 8:30 AM**TOWN COUNCIL - REGULAR MEETING - FEB 16, 2017 5:30 PM****SCHEDULING OF BUDGET RETREAT AND PUBLIC HEARING**

Budget retreat scheduled for June 2, 2017, from 8:30 to 5 p.m. in the Council Chambers located at 1500 Blowing Rock Road. Budget public hearing to be held June 15, 2017, at 5:30 p.m. during Council's regular meeting.

RESCHEDULING OF SPECIAL MEETING - WELLNESS DISTRICT FORUM

Public forum regarding Wellness District rescheduled for Thursday, May 4, 2017, at 5:30 p.m. in the auditorium of the Watauga Medical Center.

**APPROVAL OF VOLUNTEER APPRECIATION AND RECOGNITION RESOLUTION
- JEFF TEMPLETON****RESOLUTION OF VOLUNTEER APPRECIATION AND RECOGNITION**

WHEREAS, Jeff Templeton has served this community well in numerous capacities during his time volunteering on the Town of Boone's Planning Commission; and,

WHEREAS, Mr. Templeton's service to the Town of Boone shows exemplary dedication to the best interest and betterment of the community; and,

WHEREAS, through the performance of his duties and responsibilities as a member of the Planning Commission, he has made excellent and constructive contributions to our Town; and,

WHEREAS, he has earned the admiration and high regard of those with whom he has come into contact and the affection of his fellow public servants.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Boone, North Carolina does hereby express our sincere appreciation and thanks, as well as that of our citizens, to Jeff Templeton with sincere best wishes for continued success and many happy years ahead.

Adopted by unanimous vote of the Town Council on the 16th day of March, 2017.

Mayor Rennie Brantz

ATTEST:

Town Clerk Christine Pope

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 316)

APPROVAL OF VOLUNTEER APPRECIATION AND RECOGNITION RESOLUTION
- JERRY BUTLER

RESOLUTION OF VOLUNTEER APPRECIATION AND RECOGNITION

WHEREAS, Jerry Butler has served this community well in numerous capacities during his time volunteering on the Town of Boone's Board of Adjustment; and,

WHEREAS, Mr. Butler's service to the Town of Boone shows exemplary dedication to the best interest and betterment of the community; and,

WHEREAS, through the performance of his duties and responsibilities as a member of the Board of Adjustment, he has made excellent and constructive contributions to our Town; and,

WHEREAS, he has earned the admiration and high regard of those with whom he has come into contact and the affection of his fellow public servants.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Boone, North Carolina does hereby express our sincere appreciation and thanks, as well as that of our citizens, to Jerry Butler with best wishes for continued success and many happy years ahead.

Adopted by unanimous vote of the Town Council on the 16th day of March, 2017.

Mayor Rennie Brantz

ATTEST:

Town Clerk Christine Pope

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 317)

ADOPTION OF ORDINANCE - STREET CLOSURE FOR 4TH OF JULY PARADE

AN ORDINANCE DECLARING A ROAD CLOSURE FOR AN ANNUAL CELEBRATION

WHEREAS, The Boone Town Council acknowledges a long tradition of providing an annual 4th of July Parade for its citizens which is open to everyone and is provided as a benefit to the community; and,

WHEREAS, the Boone Town Council acknowledges that its citizens realize a financial benefit from holding annual events; and,

WHEREAS, the Boone Town Council wishes to ensure the health and safety of all participants and spectators; and,

WHEREAS, the Boone Town Council acknowledges that the annual 4th of July Parade requires approximately thirty (30) minutes to install signage, and traffic control, and also requires approximately thirty (30) minutes for removing signs, traffic control and litter.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Boone, North Carolina, pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day(s) and times set forth below on the following described portion of a State Highway System route:

Date(s): **Tuesday, July 4, 2017**

Times: **10:30 a.m. – 12:30 p.m.**

Route Description:

**King Street (U.S. Route 421) between Hardin Street and
Poplar Grove Connector, and SR 1102
(Water St./North Water St.)**

This ordinance to become effective when signs are erected giving notice of the limits and times of the parade and implementation of adequate traffic control to guide through vehicles around the parade route.

Adopted this _____ day of _____, 2017

The Honorable Rennie Brantz, Mayor

Attest:

Christine Pope, Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 4, PAGE 98)

**CONSIDERATION OF APPROVAL OF SPECIAL EVENT PERMIT APPLICATION
AND ACCOMPANYING BUDGET AMENDMENT FOR THE 2017 HUNTER'S
HEROES MEMORIAL RUN**

Description:	Account Number:	To:	From:
Overtime – Police Department	010-500-300-501201	\$750	
Overtime – Street Department	010-600-401-501201	\$750	
Appropriated Fund Balance – General Fund	010-000-000-499900		(\$1,500)

**CONSIDERATION OF APPROVAL OF THE 2017 HIGH COUNTRY LOCAL FIRST
BOONE BLOCK PARTY SPECIAL EVENT PERMIT APPLICATION AND
ACCOMPANYING BUDGET AMENDMENT**

Description:	Account Number:	To:	From:
Overtime – Police Department	010-500-300-501201	\$750	
Overtime – Street Department	010-600-401-501201	\$750	
Appropriated Fund Balance – General Fund	010-000-000-499900		(\$1,500)

**REQUEST FOR APPROVAL OF SPECIAL EVENT PERMIT FOR THE HIGH
COUNTRY HALF MARATHON APPLICATION AND ACCOMPANYING BUDGET
AMENDMENT**

Description:	Account Number:	To:	From:
Overtime – Police Department	010-500-300-501201	\$125	
Overtime – Street Department	010-600-401-501201	\$125	
Appropriated Fund Balance – General Fund	010-000-000-499900		(\$250)

APPROVAL TO SEND ITEMS TO MARCH PUBLIC HEARING

1. UDO Text Amendment: flexibility on how amendments are sent to hearings.
2. Case PL00320-030917: State of NC (ASU Panhellenic Hall).

APPROVAL TO SEND ITEMS TO APRIL PUBLIC HEARING

1. Case PL00282-022317: Courtyard by Marriott.
2. Case PL00283-022417: Marketplace Planned Development.

APPROVAL OF REVISIONS TO TOWN CODE CHAPTER 74, SCHEDULE IX: SPEED LIMITS**SCHEDULE IX. SPEED LIMITS.**

The following speed limits shall be applicable to the following streets as indicated and the Administrator shall install appropriate traffic-control devices clearly indicating the established speed limit.

...

<i>Street</i>	<i>From Beginning Street</i>	<i>To Ending Street</i>
<u>25 mph</u>		
Deerfield Road	Deerfield Road	Highway 321
Deerfield Road	Deerfield Road	State Farm Road
Faculty Street	Rivers Street	Highway 105
Horn Avenue	Highway 105 Extension	Horn-in-the-West Drive
Longvue Drive	Blowing Rock Road	Deerfield Road
Meadowview Drive	Blowing Rock Road	Blowing Rock Road
New Market Boulevard	King Street	Highway 194
Perkinsville Drive	Highway 194	Town limits
Wilson Drive	Highway 105	Winkler's Creek Road
<u>35 mph</u>		
Hardin Park	Hardin Park	Highway 321
Hardin Park Elementary	Hardin Park Elementary	Jefferson Road 194
Jefferson Road N.C. 194	Jefferson Road N.C. 194	Perkinsville Road
New Market Boulevard	King Street	Highway 194
Perkinsville Road	Perkinsville Road	Grove Street

Poplar Grove Road	Poplar Grove Road	N.C. Highway 105
School Road	School Road	
State Farm Road	State Farm Road	105 Extension
State Farm Road	Highway 105	Deerfield Road
Winkler's Creek Road	Winkler's Creek Road	Highway 321

(Prior Code, Ch. 73, Sch. IX) (Ord. passed 7-20-2004) Penalty, see § 70.99

APPROVAL OF BUDGET AMENDMENTS

Description:	Account Number:	To:	From:
County Landfill Charges	010-600-405-525901	\$10,000	
Appropriated Fund Balance	010-000-000-499900		(\$10,000)
Miscellaneous Supplies	012-500-303-519900	\$6,000	
Appropriated Fund Balance	012-500-303-489900		(\$6,000)

AFFORDABLE HOUSING TASK FORCE - RECOMMENDATION FOR PLANNING COMMISSION REPRESENTATIVE

Planning Commission Member Eric Woolridge appointed to serve as Planning Commission representative on Affordable Housing Task Force.

APPROVAL OF ENCROACHMENT AGREEMENT - BLACK CAT RESTAURANT

STATE OF NORTH CAROLINA

ENCROACHMENT AGREEMENT

COUNTY OF WATAUGA

THIS ENCROACHMENT AGREEMENT is made and entered into this the 16th day of February, 2017, by and between the TOWN OF BOONE, party of the first part, and Black Cat Restaurant, party of the second part.

W-I-T-N-E-S-S-E-T-H

THAT WHEREAS, the party of the second part desire to encroach on public land designated as (CHOOSE ONE) a public sidewalk/public street/public park/public land (hereinafter referred to as the "public land") located at 127 S. Depot Street with the following: overhang – see attached (hereinafter referred to as "the encroaching facility"); and,

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part, in the exercise of authority conferred upon it by statute and ordinance, is willing to permit the encroachment on public land, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment upon the following conditions, to wit:

That the party of the second part complies with all pertinent provisions of the North Carolina State Building Code, the Town of Boone Unified Development Ordinance and the Town of Boone Municipal Code, and such other laws, regulations and ordinances which might apply;

That the said party of the second part binds and obligates itself, its successors and assigns, to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said public land, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the costs incurred for any repairs or maintenance to its roadways, sidewalks and other structures resulting from the installation and existence of the encroaching facility of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the encroaching facility, that the said party of the second part binds itself, its successors or assigns, to promptly remove or alter the said encroaching facility in order to conform to the said requirements of the party of the first part, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and/or other warning devices, as necessary or as requested by the party of the first part's Director of Public Works or his designee, for the protection of the public and in the case of encroachment into a street right of way, in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and amendments or supplements thereto. Information as to the above rules and regulations may be obtained from the party of the first part.

That to the extent permitted by law, the party of the second part shall be responsible for all liability associated with the encroaching facility. In furtherance of such responsibility, the party of the second part agrees to indemnify and hold harmless the party of the first part from and against any claim by any third party based upon any action or omission occurring during construction or maintenance of the encroaching facility, as well as from and against any and all claims, demands, suits, causes of action, or other assertion of responsibility, however denominated, for personal injury, damage to property, losses and expenses, including court costs and attorney's fees, arising out of or in any way related to the encroachment or encroaching facility;

That where pertinent and requested by the party of the first part, the party of the second part agrees to name the party of the first part as an additional insured on its and/or its contractor's general liability insurance policies applicable to the encroachment or encroaching facility.

It is clearly understood by the party of the second part that the party of the first part will assume no responsibility for any damage that may be caused to such encroaching facility as the party of the first part carries out its construction and maintenance operations, and the party of the second part expressly waives all claims of liability or responsibility against the party of the first part for any damage that may be caused to the encroaching facility as the result of the Town carrying out any construction and maintenance operations. The party of the second part acknowledges that with regard to canopies, awnings, signs and similar encroachments, even where same fully comply with the Town of Boone Unified Development Ordinance, when placed less than ten feet above the surface of a public sidewalk, such obstructions are at great risk of damage by the equipment of the party of the first part during snow removal and general sidewalk construction and maintenance, and the party of the second part understands that by placing the encroaching facility less than ten feet above the surface of a public sidewalk, the party of the second part is knowingly and intentionally assuming that heightened risk of damage.

That the party of the second part agrees to be bound by such other and additional conditions as the Town Council may impose in connection with the encroaching facility.

That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution to the rivers, streams, lakes, reservoirs, other water impoundments; ground surfaces or other property; or pollution of the air. The party of the second part shall comply with all applicable rules and regulations of the North Carolina Sedimentation Control Commission, the Town of Boone Unified Development Ordinance and all other applicable laws and regulations relating to pollution prevention and control. When any installation or

maintenance operation disturbs the ground surface and the existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise re-establish the grass cover to meet the satisfaction of the party of the first part. The party of the second part shall comply with all pertinent ordinances, rules, regulations and laws, and failure to do so shall be a basis for revocation of this encroachment agreement by the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the party of the first part.

That the party of the second part agrees to have available at the encroaching site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work referred to in this agreement is being performed on a completed public street open to traffic, the party of the second part agrees to give written notice of when work will begin to the party of the first part.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the encroaching facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun and completed within 1 year(s) from the date of this agreement unless written waiver is secured by the party of the second part from the party of the first part.

The party of the first part expressly reserves the unrestricted right to require the party of the second part to change the location of the encroaching facility described herein at no expense to the party of the first part.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed as of the day and year first above written.

TOWN OF BOONE

By: _____
Mayor

ATTEST:

Town Clerk

By: _____
President/Member-Manager/Owner

Printed Name: Party of the Second Part

ATTEST:

Secretary/Witness

QUASI-JUDICIAL HEARING

REQUEST FOR SEWER SERVICE - CLIFF BALDWIN

Town Attorney Allison Meade opened a public hearing at 5:58 p.m. to hear sworn testimony on a request for sewer service to property located on/near 200 Sierra Vista. Cliff Baldwin, being duly sworn, explained that Hal Lesesne would like to build a small, two-bedroom house on his property for his parents and handicapped sister.

He stated the portion of the property which they intend to parcel out for this home is approximately 0.6 acre. Mr. Baldwin noted that the current home on the property already has Town sewer service connected to it, and they are not requesting water service from the Town as there is a shared well. Hal Lesesne, being duly sworn, stated that the property as a whole is larger, but the part they are planning to parcel out for the two-bedroom house is blocked by a driveway that runs down the middle of the property. He added that any area for a septic field would be on the other side of the driveway or further down the road and would require a significant amount of work. Mr. Lesesne noted that the existing sewer line is approximately 100 feet from where they intend to build the house. In response to a question by Council Member Mason, Mr. Lesesne stated that when he purchased the house, the sewer line was already in place and it also connects to his neighbor's house. He added that he would be willing to annex both parcels if required to do so.

Public Works Director Rick Miller, being duly sworn, stated that the Town has provided this service in the past when it was determined to be a hardship situation, and the health department would typically provide a letter stating the land would not perk or some other reason. Mr. Miller noted that the Town would normally require water and sewer service be provided together; however, water is not available at this location. Ms. Meade stated that if water is not available, she was not certain the Town could annex the property, since by law the Town can only annex properties that have all services available to it. Mr. Miller added that in this instance, staff would require a metering system for the two properties if sewer service is provided. Upon questioning by Council Member Mason regarding whether the Town knows of all the properties on the sewer line, Mr. Miller stated they have tried to determine who is on the septic line and are confident in who they could find, but that he was hesitant to say they know of everyone on the line because of the rugged area. Mr. Miller added that the four-inch line currently running to the property is adequate for this addition. With no further testimony, Ms. Meade closed the hearing at 6:11 p.m.

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved to approve the request for sewer service submitted by Cliff Baldwin on behalf of Hal Lesesne for property located on/near 200 Sierra Vista with a predicted usage of 180 gallons per day because it is an unusual circumstance in that there is a sewer line already in close proximity, and based on the applicant's testimony, is a hardship situation in that it would be difficult to put in a septic field and replacement field on this subdivided piece of land which would be a public health issue, and with the condition that annexation be explored and done, if it is possible to do so.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

COUNCIL MATTERS

APPOINTMENT OF CHAIR FOR ABC BOARD

Council Member Mason nominated Freida Van Allen to be the chairman of the ABC Board. With no further nominations, Mayor Brantz called for a vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

CONSIDERATION OF ITEMS HEARD AT FEBRUARY PUBLIC HEARING

Town Attorney Allison Meade provided Council with an overview of the three text amendments before Council for consideration.

CASE 20160751 ARTICLE 15 DISTRICT USES AND ARTICLE 16 DISTRICT STANDARDS - UDO TEXT AMENDMENT

At the November 2016 Planning Retreat, Council directed that modifications to the UDO be made in regard to the intensity and use within UDO Article 15 District Uses and Article 16 District Standards.

Town Attorney Allison Meade advised Council that the Planning Commission, when discussing this case, was concerned that the amendments regarding the setback was an over-reaction to The Standard and they did not agree with that provision, but did agree and recommend approval of the remaining amendments. She added that the Planning Commission wanted to ensure there was public space between the right-of-way and the multi-use buildings, and asked that Council not approve anything that could go against the effort to increase walkability and pedestrian-friendly density while still addressing the setback matter.

CASE 20160751 (ARTICLE 15 REVISIONS) VOTE #1

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved that the proposed amendment excluding Section 15.11.03 and 15.11.04 (with the exception of keeping 15.11.04(D)) to the Town's zoning ordinance is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it is keeping in line with the community appearance and community character section of the Comprehensive Plan update by blending the built environment with the natural scenic and historic character of the high country of a small town, especially discouraging commercial strip development, cluttered signage and cheap apartment buildings, and it is also consistent with the Town's 2030 Plan.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

CASE 20160751 (ARTICLE 15 REVISIONS) VOTE #2

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved to approve the proposed amendment excluding Section 15.11.03 and 15.11.04 (with the exception of keeping 15.11.04(D)) to the Town's zoning ordinance and believe approval is reasonable and in the public interest because the 5% recreational space provides clarity and consistency for multi-family housing and mobile home parks, and it also provides clarification on what counts as commercial space.

Zoning Text Amendment:

DISTRICT USE REQUIREMENTS

Manufactured Home Park

- 15.09.01** Plan Requirements: In addition to the other plan requirements of the Ordinance, an applicant for a Zoning Permit to establish a manufactured home park must submit a detailed plan which specifies the following:
- A.** Name of the manufactured home park (approval required by Fire Marshall)
 - B.** Location and dimensions of every manufactured home space, including total number of spaces; and
 - C.** Location and dimensions of every street (street names required for approval by the Fire Marshall) and vehicle accommodation area; and
 - D.** Recreation Space; and
 - E.** Landscape buffers; and
 - F.** Office location; and
 - G.** Storage building(s) utilized by the park.

15.09.02 General Requirements for the Manufactured Home Park

- A. There shall be at least one (1) entrance sign identifying the park which meets the requirements of Article 26.
- B. There shall be a designated office which may be a manufactured home.
- C. There shall be a designated space on the grounds for mail service for the residents of manufactured home park.
- D. Storage buildings utilized by the park for materials and equipment must be located a minimum of twenty-five feet (25') from any residential unit within the park and a minimum of twenty-five (25') feet from any property line.
- E. Streets:
 - 1. No individual manufactured home space may have direct vehicular access to a public street.
 - 2. Access to each manufactured home space must be provided by a private street constructed to the standards as set forth in Article 23.
 - 3. All streets in the manufactured home park intersecting another street shall have a stop sign that conforms to the NC Department of Transportation specifications.
 - 4. Each street shall have a permanent street sign installed with an approved (Fire Marshall approval required) designated name identifying each street.
- F. Parking:
 - 1. Two (2) off-street parking spaces must be provided within each manufactured home space.
 - 2. Parking spaces shall be constructed to the standards as set forth in Article 24 Parking.
 - 3. Off-street parking areas shall be at least four feet (4') away from any unit.
 - 4. An applicant may utilize on-street parking if the private street within the manufactured home park is designed and constructed to accommodate on-street parking.
 - 5. A combination of off-street and on-street parking is allowed.
- G. All manufactured home spaces must be set back at least twenty-five feet (25') from all public right-of-ways and property lines.
- H. Landscaping for the manufactured home park shall be provided in accordance with Article 31 Landscape Standards.
- I. Recreation space:
 - 1. A minimum of 5% of the parcel shall be provided as recreation space for residents of the park.
 - 2. In general, required recreation space shall have a least dimension of twenty-five feet (25), an average dimension of fifty feet (50'), and a minimum area of 2,500 square feet. Smaller dimensions are acceptable if:
 - a. Less than 2500 square feet of recreation area is required, or
 - b. The recreation area is a suitably improved roof area or enclosed floor area, or
 - c. The anticipated needs of the residents require smaller facilities, such as tot lots or shuffle board courts, or
 - 3. The dedication of a greenway easement may be used to satisfy the requirements for recreational space.
 - 4. Outdoor recreation area for common use should be located twenty feet (20') or more from any residential windows at the same general level.
 - 5. Recreation areas shall be maintained in a safe and sanitary manner.
- J. Utilities:
 - 1. All utilities must be installed underground in accordance with Article 22.
 - 2. The source of the water supply system shall be the public water system.

3. The source of the sewer system shall be the public sewer system.
4. Solid waste and recycling enclosures shall be provided in accordance with Section 22.13.
- K. The park operator must maintain a register containing a record of all occupants. The register must contain the following information:
 1. Name, address, and space number of each occupant; and
 2. The date the manufactured home entered the park.
- L. Recreational vehicles shall not be used for residential purposes.
- M. Maintenance:
 1. Grounds and buildings of the manufactured home park shall be kept free of debris, trash, and litter to prevent the infestation of rodents, flies, mosquitos, and other pests.
 2. Grounds within the manufactured home park, including manufactured home spaces, shall be maintained to prevent the growth of ragweed, poison ivy, poison oak and other weeds.
 3. Grounds within the manufactured home park shall have proper drainage to prevent the accumulation of water.

* * * *

1.07 Duplex; 1.08-1.10 Townhouse; 1.11-1.13 Multi-Family Dwelling; 1.14-1.16 Multi-Family Dwelling In Mixed Use (unless specifically excluded)

15.10.01 Applicable standards described in this Section are required for Uses 1.07-1.16 and apply to all of the following:

- A. New construction, whether such construction constitutes a new development or an expansion of an existing development;
- B. Multi-family dwelling units created by a change in use of a portion or all of an existing development to multi-family use; and
- C. Renovation or replacement of a portion or all of an existing multi-family development when the costs of renovation or replacement trigger the requirements of Article 7 for compliance with this Ordinance.

15.10.02 This Section shall not apply to:

- A. Multi-family dwelling units in mixed-use building(s) constructed pursuant to and in accordance with the requirements of Section 15.11,
- B. Multi-family dwelling units in single use buildings within a mixed use project constructed pursuant to and in accordance with the requirements of Section 15.11, if:
 1. The development is approved through a Conditional District B-1 General Business, B-2 Neighborhood Business, B3 General Business or PD rezoning process; and
 2. No phasing of construction is proposed or approved unless:
 - a. The commercial portions of the development will be constructed as part of the initial phase; or
 - b. All phases approved prior to the construction of the phase in which the commercial portions of the development are completed, together allow the construction of no more than one-third (1/3) the number of multi-family dwelling units which are approved for the development as a whole; or
 - c. The applicant provides adequate assurances in the form of financial commitments which will guarantee that all commercial portions of the development will be completed within the approved vesting period. For purposes of this alternative, by example only and not by way of exclusion, an irrevocable letter of credit from an appropriate financial institution in favor of the Town in a sufficient amount to cover 125% of the projected costs of construction, said projection sealed by a North Carolina licensed engineer, is considered such a guarantee.

(20150028-11192015)

- 15.10.03** Each new multi-family development shall meet the following standards:
- A.** A townhouse style design and a mixture of unit configuration and sizes per development shall be encouraged. No one type of dwelling units, as defined by the number of bedrooms, shall comprise more than 50% of the total units.
 - B.** Parking shall be limited to a maximum of two (2) spaces per unit and a clearly designated parking area for visitors.
 - 1. The square footage of the parking designated for visitors may not exceed ten percent (10%) of the total parking area. A minimum of twenty-five percent (25%) of units shall have a garage or carport.
 - 2. If freestanding, garages and carports shall be architecturally integrated with the development and be approved by the Community Appearance Commission. To the greatest extent practicable, parking shall be located behind or underneath proposed building(s).
 - C.** The fee-in-lieu provisions contained in Section 23.08.05 shall not apply. All required sidewalks shall be installed.
 - D.** A livability space ratio of .50 must be met for the development. Fifty percent (50%) of the required livability space shall be designated to a defined area exclusively for the use of ground floor units. This space must consist of a common yard with accompanying private outdoor space for each ground level unit, or individual yards contiguous with the unit served. Either configuration must provide direct access from all ground floor units. The remaining livability space shall be designated for the use of the development as a whole as recreation space and shall be located so as to provide for direct auditory, visual, and physical access from the dwelling units served.
 - E.** On-site property management or an owners association shall be required.
 - F.** Recreation space
 - 1. A minimum of 5% of the parcel shall be provided as recreation space for residents.
 - 2. In general, required recreation space shall have a least dimension of twenty-five feet (25), an average dimension of fifty feet (50'), and a minimum area of 2,500 square feet. Smaller dimensions are acceptable if:
 - a. Less than 2500 square feet of recreation area is required, or
 - b. The recreation area is a suitably improved roof area or enclosed floor area, or
 - c. The anticipated needs of the residents require smaller facilities, such as tot lots or shuffle board courts, or
 - 3. The dedication of a greenway easement may be used to satisfy the requirements for recreational space.
 - 4. Outdoor recreation area for common use should be located twenty feet (20') or more from any residential windows at the same general level.
 - 5. Recreation areas shall be maintained in a safe and sanitary manner.
- 15.10.04** Each residential building shall meet the following standards:
- A.** The maximum building height shall be three (3) stories of occupied space, and in no case shall the building exceed fifty feet (50') in total height including the roof or the maximum in the particular zoning district, whichever is less.
 - B. Roof Requirements:**
 - 1. If a pitched roof is proposed, the pitched roof area may be used as attic or storage space.
 - 2. If a flat roof is proposed, fifty percent (50%) of the roof area must be used as livability space.

- C. The front entrance of each unit on the first floor must be at ground level to the greatest extent practicable.

15.10.05 Each dwelling unit shall meet the following standards:

- A. The bedroom to bathroom ratio of each unit within the development shall be limited as follows:
 - 1. Efficiency unit and one (1) bedroom unit: one (1) bathroom.
 - 2. Two (2) bedroom unit: one (1) or two (2) bathrooms, with no less than one bathroom with common access.
 - 3. Three (3) bedroom unit: Two (2) bathrooms with no less than one (1) bathroom with common access.
 - 4. Four (4) or more bedroom unit: Three (3) bathrooms with no less than two (2) bathrooms with common access from a hall.
- B. In every unit with two (2) or more bedrooms, a designated master suite must be included and shall be at least twenty-five percent (25%) larger than every other bedroom and not less than 144 square feet excluding closet space.
- C. Dedicated storage space of at least fifty square feet (50 ft²) per unit must be provided for units without garages. Any storage space which is not within or attached to the building containing the units served by the space must be architecturally integrated with the development and approved by the Community Appearance Commission.
- D. Occupancy of each unit shall be limited to (2) two unrelated persons.

Multi-Family in Mixed Uses

15.11.01 Multi-family residential uses (Use 1.114, 1.115 and 1.116) are allowed in the B1, B2 and B3 zoning districts when the criteria in this Section are met.

- A. For purposes of this Section, “commercial” shall include the following uses from Section 15.07 Table of Principal Uses: 3.07 Motel, 3.08 Hotel, 4.03 Funeral Home Establishment, 4.05 Post Office, 5.01 Government Cultural Facility, 5.02-5.03 Government Neighborhood Cultural Facility, 5.04-5.06 Recreation Facility, 5.07-5.09 Event Venue, 5.12 Police Substation, 5.16 Government Facility, 8.0 Assembly, 9.0 Education, 10.02 Child Daycare Center, 10.04 Adult Daycare Center, 10.5 All Other Daycare, 11.0 General Sales and Service, 12.0 Recreation, 14.0 Manufacturing, 16.01 Mini-Storage, 17.0 Transportation, and 19.0 Particular Activities which pose Particular Concerns about Public Health.
- B. To the extent this Section conflicts with other Articles of this Ordinance, this Section shall control.
- C. “Commercial use” and “street level commercial land use” as referred to in this section 15.11 means only space in a building used or to be used for commercial uses unrelated to the residential use of the building or development. By way of clarification and not as a limitation, the following uses may not be counted as “commercial use”: amenities operated entirely or in the main for residents (including but not limited to swimming pools, gyms, etc.); required recreation space; space used to operate and maintain the residential portion of the development, including leasing, management, and/or maintenance-related office space; and/or common areas of the residential units. Notwithstanding the foregoing, parking spaces in a parking structure may be counted as “street level commercial land use” where the parking is located in the interior of the building and all street frontage consists of non-parking commercial uses (e.g., retail, office, restaurant, etc.)

15.11.02 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the Central Business District (B1) only if the projects in which they are included meet all the following criteria:

- A. Each project shall provide primary street level commercial land uses (i.e. retail, office, restaurant) of at least fifty percent (50%) of the square footage of the footprint of each building on the primary street level. For developments located on lots which abut more than

one public street in the Central Business District, each additional street level floor shall provide commercial uses of at least 30% of that level's square footage. For purposes of this Subsection, the "primary street" shall be determined according to the following order: King Street, Howard Street, Depot Street, all other streets. For example, if a project is located on a lot that abuts both King Street and Howard Street, King Street shall be considered the "primary street" while for a project which abuts Howard Street and Depot Street, Howard Street shall be considered the "primary street" and so on.

- B. The entire frontage of the primary street level of the building abutting the street shall provide commercial uses. Required entrances for ingress and egress to secondary uses are permitted along said frontage so long as they are no larger than necessary to meet building code and safety requirements for ingress and egress. Commercial uses on the non-primary street level(s) shall front on the non-primary street.
- C. The entire primary street level floor of the building shall be constructed to commercial standards in accordance with North Carolina Building Code Group A, B, E or M.
- D. New projects shall be at least two floors above the primary street level.
- E. Buildings facades shall be oriented to each public street and shall have a primary entrance door facing each abutting public sidewalk.
- F. A minimum of 60% of primary public street level facing building facade shall be comprised of transparent, non-reflective windows and 30% of non-primary street level facing building facades shall be comprised of transparent, non-reflective windows.
- G. Surface parking shall be located away from each public street to the extent possible, and if practical, to the rear of the principal building.
- H. Structured parking is permitted to the rear or interior of the building or below the street level floor.
- I. Building facades may be no further than 0'-0" from the established street setback line, except where necessary to provide landscaped courtyards, plazas, pocket parks, other pedestrian oriented amenities, or when there would be interference with public utilities.
- J. The minimum building footprint shall be 50% of the total gross square feet of the lot.
- K. Pedestrian weather protection such as awnings or canopies are encouraged along the public street but may be placed only in accordance with an encroachment agreement authorized by the Town Council.

15.11.03 Multi-family residential uses, either as the result of new construction or conversion, are allowed in the Neighborhood Business District (B2) only if the projects in which they are included meet all the following criteria:

- A. Each project shall provide street level commercial land uses (i.e. retail, office, restaurant) of at least 100% of the street-level floor square footage.
- B. Buildings facades shall be oriented to the public street and shall have a primary entrance door facing the public sidewalk.
- C. A minimum of 60% of the street facing street level building facade shall be comprised of transparent, non-reflective windows.
- D. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.
- E. Structured parking is permitted but shall be located to the rear or below street level commercial uses.
- F. Building facades may be no further than 0'-0" from the street right-of-way line, except where necessary to preserve existing significant or historic trees, which shall be preserved, if practical, or to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, other pedestrian oriented amenities, in which case the maximum setback shall not exceed 20' or when there would be interference with public utilities.

- G. Interior setbacks for all mixed use buildings shall be 10'-0" except where abutting a residential zoning district in which case the interior setback shall equal the required interior setback in the abutting residential district.
- H. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a Town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council. Such awnings or canopies count toward the recreation space requirements found in Section 16.05 of this Ordinance.
- I. All development shall comply with the landscape standards set forth in Article 31 except that Type "A" interior landscape buffers may be provided regardless of adjacent land use classifications.

15.11.04

Multi-family residential uses, either as the result of new construction or conversion, are allowed in the General Business District (B3) only if the projects in which they are included meet the following:

- A. Multi-family uses wholly or partially on property zoned B3 General Business within the Corridor Districts.
 - 1. Mixed Use Building(s):
 - a. Each building shall fully consist of street level commercial uses (i.e. retail, office, and restaurant).
 - b. A minimum of 60% of the street level building façade facing the Corridor shall be comprised of transparent, non-reflective windows.
 - c. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line. Structured parking is permitted but shall be located to the rear or in the interior of the building, or under street level commercial uses.
 - d. Building facades may be no further than 10' from the street right-of-way line, except where necessary to preserve existing significant or historic trees which shall be preserved, if practical, or to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, other pedestrian oriented amenities, in which case the maximum setback shall not exceed 20' or there would be interference with public utilities, or the placement of stormwater facilities and no reasonable alternative to that placement exists.
 - e. Interior setbacks for all mixed use buildings shall be a minimum of 10' except where abutting a residential zoning district, in which case the interior setback shall at a minimum equal the required interior setback in the abutting residential district.
 - f. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a Town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.
 - 2. Single Use Building(s)
 - a. Single use multi-family building(s) are only allowed as part of a mixed use project if approved through the Conditional District B3 General Business rezoning.
 - b. A mixed use project shall meet the following criteria:
 - i. Each project shall fully consist of street level commercial uses (i.e. retail, office, and restaurant) of 100% of the street level gross floor area on every building which fronts a corridor protected by the Corridor District. In addition, at least 50% of the total gross floor area of all buildings located within the Corridor District shall fully consist of commercial uses. This requirement may be

satisfied if the commercial floor area is distributed among buildings or within one building.

- ii. The street level floor of all buildings within the Corridor District shall be built to commercial standards in accordance with North Carolina Building Code Group A, B, E, or M.
- iii. A minimum of 60% of the street facing street level building façade of a building which fronts a protected corridor shall be comprised of transparent, non-reflective windows.
- iv. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.
- v. Structured parking is permitted but shall be located to the rear or in the interior of the building, or below the commercial uses.
- vi. Building facades may be no further than 10' from the street right-of-way line, except where necessary to preserve existing significant or historic trees, which shall be preserved, if practical, or to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, other pedestrian oriented amenities, in which case the maximum setback shall not exceed 20' or there would be interference with public utilities, or the placement of stormwater facilities and no reasonable alternative to that placement exists.
- vii. Interior setbacks for all mixed use buildings shall be 10' except where abutting a residential zoning district in which case the interior setback shall equal the required interior setback in the abutting residential district.

Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a Town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.

B. Multi-Family Uses wholly or partially on Property Zoned B3 General Business Outside the Corridor District but Proximate to Major Streets.

- 1. For the purposes of this Section "major street" refers to collector and arterial streets.
- 2. "Proximate" shall mean any building wholly or partially within 200 feet of the centerline of a major street.
- 3. Mixed Use Building(s)
 - a. Mixed use building(s) shall meet the same requirements as described in Subsection 15.11.04(A)(1).
- 4. Single Use Building(s)
 - a. Single use multi-family building(s) are only allowed as part of a mixed use project.
 - b. A mixed use project shall meet the following criteria:
 - i. Each project shall consist of street level commercial uses (i.e. retail, office, and restaurant) of 100% of the street level gross floor area on every building which fronts a major street. In addition, at least 25% of the total gross floor area of all buildings wholly or partially located within 200 feet of the centerline of a major street shall consist of commercial uses. This requirement may be satisfied if the commercial floor area is distributed among buildings or within one building.
 - ii. For any floor containing a commercial use the entire floor shall be built to commercial standards in accordance with North Carolina Building Code Group A, B, E, or M.

- iii. A minimum of 60% of the major street facing street level façade of a building containing commercial use(s) shall be comprised of transparent, non-reflective windows.
 - iv. Surface parking shall be located to the side or most preferably to the rear, and in no case shall parking extend beyond the front building line.
 - v. Structured parking is permitted but shall be located to the rear or in the interior of the building, or below the commercial uses.
 - vi. Building facades fronting the major street may be no further than 10' from the street right-of-way line, except where necessary to preserve existing significant or historic trees, which shall be preserved, if practical, or to provide landscaped courtyards, landscaped greenspace, plazas, pocket parks, other pedestrian oriented amenities, in which case the maximum setback shall not exceed 20' or there would be interference with public utilities, or the placement of stormwater facilities and no reasonable alternative to that placement exists.
 - vii. Interior setbacks shall be 10' except where abutting a residential zoning district in which case the interior setback shall equal the required interior setback in the abutting residential district.
 - viii. Pedestrian weather protection such as awnings or canopies are encouraged along the public street provided they do not encroach into the roadway, but if they invade the space above a Town sidewalk, may be placed only in accordance with an encroachment agreement authorized by the Town Council.
- C. Multi-Family Uses wholly or partially on property zoned B3 General Business in all other areas.
- Multi-family uses not part of a mixed use development may be allowed if an applicant demonstrates that within ¼ mile (1,320 feet) of the borders of the lot that is to be developed there exists commercial uses with gross floor area square footage equal to the gross floor area square footage of the proposed multi-family project. If this standard cannot be met then the proposed project must meet the requirements in Subsection 15.11.04(B) above.
- D. Recreation space shall be provided for multi-family developments in the B-3 district as provided at Section 15.10.03(F).

15.07 Table of Principal Uses

	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	
15.0 Parking																		
15.01	Parking Lot									L	L		L		P			15.46
15.02	Parking Structure								L ^{T125}	L	L		L	L	P			15.47
15.03	Park and Ride Lots	L								L			L	L	P			15.46

RESULT: APPROVED [UNANIMOUS]
MOVER: Lynne Mason, Mayor Pro Tem
SECONDER: Loretta Clawson, Council Member
AYES: Mason, Clawson, Collins
ABSENT: Mizelle, Teague

CASE 20160751 (ARTICLE 16 REVISIONS) VOTE #1

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved that the proposed amendment for Article 16 of the Town's zoning ordinance is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it helps blend the built environment with the natural scenic and historic character of the high country of a small town, it especially discourages commercial strip development, cluttered signage and cheap apartment buildings, and it is also supported by the 2030 Plan.

Council Member Mason, seconded by Council Member Clawson, made a friendly amendment to the first motion to include that Council modify Section 16.08.09 to be consistent with the three-story, 40-foot height.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

CASE 20160751 (ARTICLE 16 REVISIONS) VOTE #2

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved to approve the proposed amendment to the Town's zoning ordinance with the one modification and believe approval is reasonable and in public interest because:

- (1) It is the simplification of intensity tables and also removes requirements related to floor area ratio and open space, and further revises the definition of livability space;
- (2) It moves recreational space requirements to Article 15;
- (3) The height limitations have been changed to focus on the maximum number of stories with height constituting a second limitation. Maximum heights in the B1 District have been adjusted with intent of allowing typical parapet-walled, flat-roof construction to come within the height limitations; and,
- (4) Exemptions from height limitations. These changes are intended to exempt mechanical items that extend through a roof from the height limitations, and to provide flexibility so as to allow for appropriate recreational use of roof-tops. Such roof-top structures will have to be screened from view below by parapet walls and set back from roof edges.

Zoning Text Amendment:

DISTRICT STANDARDS

Schedule of Land Use Intensity Regulations

- 16.01.01** Unless otherwise specified, development in the following zones shall comply with the intensity regulations indicated in the following Intensity Table.
- A.** Unless otherwise provided in this Ordinance, the land use intensity regulations for architecturally integrated subdivisions shall apply to the development as a whole and not to individual parts thereof.
 - B.** In the B-1 Zoning District, a minimum "Building Footprint" of fifty percent (50%) of the lot or parcel area is required. 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	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
RA No Public Water & Sewer Available	20,000 sq. ft.	100 ft.	80 ft.	.65	20 ft.	18 ft.
RA Public Water Available	15,000 sq. ft.	80 ft.	64 ft.	.65	20 ft.	18 ft.
RA Public Water & Sewer Available	10,000 sq. ft.	65 ft.	52 ft.	.65	20 ft.	14 ft.
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
R1A	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
RR	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R2	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R4	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R3	5,000 sq. ft.	80 ft.	64 ft.	.40	20 ft.	13 ft.
MH	87,120 sq. ft.	None	56 ft.	.51	20 ft.	20 ft.
OI	10,000 sq. ft.	100 ft.	80 ft.	.27	20 ft.	17 ft.
B1	5,000 sq. ft.	15 ft.	12 ft.	None	Refer to Section 16.06.02	Refer to Section 16.06.04
B2	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
B3	5,000 sq. ft.	50 ft.	40 ft.	.27	20 ft.	17 ft.
M1	17,000 sq. ft.	80 ft.	64 ft.	.3	20 ft.	22 ft.
U1	None	None	None	.27	Refer to Section 16.06.09	Refer to Section 16.06.08

*LSR is a ratio where the numerator is the square footage of Livability Space and the denominator is the square footage of the entire parcel.

16.01.03 Where a lot is located in more than one zoning district, the appropriate land use intensity ratios shall be applied individually to each portion of the gross land area located within the different districts.

Gross Land Area

- 16.02.01** When a lot is located in more than one zoning district, the minimum square footage of the lot shall be the sum of the square footage derived by multiplying the minimum square footage required for each represented district by the proportion of the lot located within that district.
- 16.02.02** The area within the street right-of-way may not be used to satisfy lot area requirements.

Minimum Lot Widths

- 16.03.01** No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
- A.** Could be used for purposes that are permissible in that zoning district, and
 - B.** Could satisfy any applicable setback requirements for that district.
- 16.03.02** Where a lot fronts two (2) or more streets, the minimum lot width requirement shall be considered met if the lot width at the street setback from any one of such streets meets the minimum lot width requirement.
- 16.03.03** No lot created after the effective date of this Ordinance that is less than the required width shall be entitled to a variance from any building setback requirement.

Minimum Street Frontage Widths

- 16.04.01** The minimum width of the frontage of a lot on a street shall be eighty percent (80%) of the minimum lot width required for the lot. Easement areas shall be excluded from this requirement.
- 16.04.02** Where a lot fronts on two (2) or more streets, the minimum street frontage width requirements shall be considered met if the frontage along any one of such streets meets the minimum street frontage width requirements.
- 16.04.03** Where a lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety feet (90'), the minimum street frontage width requirement shall not apply.

Building Setback Requirements

- 16.06.01** Subject to Sections 16.07 and 16.11 and the other provisions of this Section, no portion of any building may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the Intensity Table.
- A.** If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline. Whenever a lot fronts a street with a right-of-way of thirty feet (30') or less, the setback shall be measured from a line running parallel to the centerline at a distance of fifteen feet (15') from the centerline.
 - B.** As used in this Section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
 - C.** As used in this Section, the term "building" includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - 1. Gas pumps and overhead canopies or roofs.
 - 2. Fences running along lot boundary adjacent to public street rights-of-way if such fences exceed nine feet (9') in height and are substantially opaque.
 - 3. Retaining walls which exceed four feet (4') in height.
 - D.** Flagpoles, bridges, transmission poles, cables, heat pumps, generators, air condition units and pad mounted transformers shall be exempt from building setback requirements, however, walk in coolers and refrigeration units must meet the requirements for accessory buildings.
- 16.06.02** In the B1 district, existing development may rebuild to existing building footprint lines, but cannot rebuild any closer to a street than the established existing building setback line as noted on

the Official Existing Building Line Maps recorded with the Watauga County Registry in Deed Book 239, Pages 132-138. Structures existing prior to February 25, 1993 that do not meet the required setbacks shall not be considered to have nonconforming features.

- 16.06.03** In the B1 district, the minimum street setback distance shall not apply to a projecting theater marquee, canopy or roof overhang supports as long as such supports do not go beyond the edge of the sidewalk. This exemption shall not obviate the need for an encroachment agreement.
- 16.06.04** The interior setback for the B1 zoning district is 0', unless the lot abuts a district other than a U1 zoning district, in which case the lot boundary setback shall be fifteen feet (15').
- 16.06.05** In the B2 and B3 zoning districts, sideline to sideline construction may be permitted on one or more lots of at least 100 feet road frontage upon issuance of a special use permit in accordance with the provisions of Article 6 and subject to the following conditions:
- A.** The building must be constructed in accordance with the regulations for the primary fire district as contained in the North Carolina State Building Code.
 - B.** There shall be a deeded street or right-of-way, built to Town standards, at both the front and the rear of the property.
 - C.** Loading, unloading and refuse disposal access shall be from the street at the rear of the property.
 - D.** Loading and parking shall be in compliance with Article 24 of this Ordinance.
- 16.06.06** Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.
- 16.06.07** Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).
- 16.06.08** In the U1 district, the minimum street setback of ten feet (10') shall apply only when development is proposed adjacent to Town maintained streets.
- 16.06.09** In the U1 district, the minimum interior setback shall be increased to fourteen feet (14') only when development is proposed adjacent to R1 zoned property. Additional setback provisions in Section 16.06.05 do not apply in the U1 district. The minimum interior setback is zero feet (0') only when development is proposed adjacent to B1 zoned property.

Accessory Structure Setback Requirements

- 16.07.01** All accessory structures shall meet the building street setback requirement of fifteen feet (15') from the street right-of-way line and seven feet (7') from any interior lot line.
- 16.07.02** No accessory structure may be further forward to the street setback than the front most point of the principal structure.
- 16.07.03** The maximum lot coverage of the accessory structure shall not exceed twenty percent (20%) of the lot.
- 16.07.04** An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects.
- 16.07.05** An accessory structure shall not be located in an easement unless expressly allowed.

Building Height Limitations

- 16.08.01** For the purposes of this Section:
The height of a building shall be the vertical distance measured from the average elevation of the finished grade at the primary façade of the building to the highest point of the building.
"Stories" as used herein refers to the number of heated, habitable floors above grade at the primary facade. Where both stories and heights are listed in the table below at section 16.08.02, the building can have no more than the listed number of stories, and also may not exceed the specified height in feet.
- 16.08.02** Subject to the remaining provisions of this Section, building height limitations in the various zoning districts shall be as follows:

Zone	Height Limitation
R1, R1A, RR, R2, R4, RA	3 stories
R3	3 stories
MH	35'
OI	4 stories/67'
B1	On King St. from Water to College and on Depot Street from King to Howard: 3 stories/45'; elsewhere: 4 stories/55'
B2	3 stories/ 40'
B3	3 stories/45' (primary) – 5 stories/67' (secondary)
U1	Refer to Subsection 16.08.09
M1	67'

- 16.08.03** In the B2 and B3 districts the height limitation may range between the primary height limitation in the table to the secondary height (which is the maximum for the district), subject to the provision that for each foot the height of the structure exceeds the primary height limitation, the boundary lot setback applicable to the structure shall increase by one (1) foot. In no case shall the height of a structure exceed the secondary height limitation established in the table.
- 16.08.04** In the B1 district the maximum building height shall be limited to forty-five feet (45'), as measured from the average elevation of the existing or proposed sidewalk along the primary street at the middle of the building elevation facing the street to the highest point of the building or structure. Where a property has primary street frontages on opposite sides the applicable height limitation shall apply for each side and the building height limitation for each side shall terminate at the midpoint of the building. Where a property does not border a primary street on any side, the maximum height shall be measured from the average finished ground elevation of the finished building. For the purpose of this Section, the following are considered primary streets: King Street, Queen Street, Howard Street, Rivers Street, Water Street, Depot Street, Appalachian Street, Grand Boulevard, Poplar Grove Road, Straight Street, Bent Street, Orchard Street, and Wallace Circle.
- 16.08.05** In all nonresidential zones and the R3 zone, all structures located within 100 feet of an R1 zoned property shall not exceed forty feet (40') in height.
- 16.08.06** Where a multi-unit or nonresidential structure has a height in excess of twenty feet (20') and adjoins a low density residential district, the structure shall meet an additional setback of one and one half feet (1 ½') for each foot in height above twenty feet (20').
- 16.08.07** If a structure is located at an elevation of 3000 feet above mean sea level and 500 feet above the valley floor, in no case shall the height of such structure exceed forty feet (40') above the mean natural grade.
- 16.08.08** The following features are not included in calculating the height of a structure for purposes of applying the district height limitations set forth in Subsection 16.08.02, except that on a corner lot in any residential district no planting, structures, fence, wall or obstruction to vision more than three feet (3') in height measured from the street center line shall be placed or maintained within the triangular area formed by the intersecting street lines and a straight line connecting points on said street lines each of which is twenty-five feet (25') from the point of intersection.
- A.** Chimneys, accessory radio or television antennas, flagpoles, monuments or solar collectors provided that such features do not exceed fifteen percent (15%) of the maximum height requirements.
 - B.** Church spires, belfries, cupolas, domes, smokestacks, windmills, or observation towers, provided such structures do not exceed in height the horizontal distance from the structure to the nearest property line.
 - C.** Utility transmission poles and cables.

- D. Elevator or other mechanical equipment and mechanical penthouses; provided, however, that such features must be screened from view by parapets and set-back from roof edges.
- E. Limited structures to enable recreational use of open rooftops; provided, however, that such features must be screened from view by parapets and set-back from roof edges and may be no more than 1/3 the area of the entire roof. As used in this provision, “structures” do not include areas that are simply decking to be used for standing or sitting.

16.08.09 In the U1 district, building heights for structures internal to the main campus shall be generally limited only by the Town’s firefighting capability except for those structures located immediately adjacent to property in a non-University district. In this instance:

- A. All buildings proposed within 100 feet of an R1, R1A, RR, R2, R4, or RA zoned property shall be limited to a maximum height of forty feet (40’).
- B. All buildings proposed within fifty feet (50’) of an R3, OI, B1, B2, or B3 zoned property shall be limited to the maximum height allowed in the adjoining district. Additional height restrictions in Subsection 16.08.04 and 16.08.05 shall not apply in the U1 district.

Minimum Building Spacing

16.09.01 The minimum spacing between any two (2) buildings located on a single lot or in the U1 district, which contain dwelling units, shall be the sum of the spacing distances required for the walls of each building or portion thereof as follows:

- A. The required spacing between buildings for any wall containing windows shall be the horizontal distance equal to the minimum interior setback applicable to the lot or district in which it is located, plus one (1) additional foot for each foot the height of the building exceeds thirty-five feet (35’).
- B. The required spacing distance for a windowless wall shall be in accordance with the applicable building codes.

16.09.02 Unless otherwise regulated by this Ordinance, the spacing between structures or portions of structures not containing dwelling units shall be appropriate to the use of such structures or portions thereof. Spacing shall be related to fire protection requirements, the separation of spaces by fences, walls or vegetative screening, the location of parking and service areas, the exposure to nearby living quarters and similar considerations.

Intensity Regulations for the U1 District

16.10.01 University campus land will be considered as a whole for purposes of computing land use intensities. This provision does not apply to satellite tracts; however, land separated from the main campus only by a public street or thoroughfare will be deemed part of the main campus, and any land separated from the University’s State Farm property only by a public street or thoroughfare will be deemed part of the State Farm property.

Architecturally Integrated Subdivisions

16.11.01 In an architecturally integrated subdivision, the applicant may create lots and construct buildings without regard to any minimum lot size, lot width or setback restrictions except that:

- A. Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision, and
- B. Each lot must be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this Ordinance.

16.11.02 The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized for the tract under Section 16.01. The number of lots allowed in an architecturally integrated subdivision shall be calculated by dividing the project area by the minimum gross land area as shown in Section 16.01. For an architecturally integrated subdivision project that is composed of areas with different zoning designations, the number of units shall be determined for each zoning district. The maximum number of units for the project shall be the sum of the densities for each district. The units may be distributed throughout the project without regard to the zoning district lines subject to meeting the requirements of Subsection 16.11.01. Further, only uses authorized by Article 15 shall be permitted in each zoning district.

16.11.03 To the extent reasonably practicable, in architecturally integrated subdivisions the amount of land saved by creating lots that are smaller than the standards set forth in Section 16.01 shall be set aside as usable open space.

16.11.04 The purpose of this Section is to provide flexibility, consistent with the public health and safety and without increasing overall density, to the applicant who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

Density On Lots Where Portion Dedicated to Town

16.12.01 Subject to the other provisions of this Ordinance, if (i) any portion of a tract lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway, or bikeway, and (ii) before the tract is developed, the owner of the tract, with the concurrence of the Town, dedicates to the Town that portion of the tract so designated, then, when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.

Chapter 39 DEFINITIONS

Livability Space

Natural areas, lawns and other landscaped areas, walkways, terraces, sitting areas, outdoor recreational areas and the pervious, landscaped portion of street rights-of-way. Livability space does not include paved pedestrian sidewalks or vehicular areas. A maximum of one-third of the livability space required for a development may be impervious (e.g., paved terraces or sitting areas).

Primary Façade.

The face of the building that is its primary orientation to the street or other public thoroughfare; normally the front of the building that faces the street and contains the building's primary pedestrian entrance.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

CASE 20160438 COMMUNITY APPEARANCE COMMISSION - UDO TEXT AMENDMENT

The Town Council has initiated a text amendment to modify the UDO regulations related to the Community Appearance Commission to bring the UDO into alignment with N.C.G.S. 160A-452.

CASE 20160438 VOTE #1

Upon a motion by Council Member Underdown Collins, seconded by Council Member Clawson, Council moved that the proposed amendment to the Town's zoning ordinance is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it creates a more efficient planning permit process and removes a conflict in the ordinance with current state statutes and puts us in line with current state statutes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

CASE 20160438 VOTE #2

Upon a motion by Council Member Underdown Collins, seconded by Council Member Clawson, Council moved to approve the proposed amendment to the Town's zoning ordinance and believe approval is reasonable and in the public interest because the amendment creates a more efficient planning permit process and removes a conflict in the ordinance with current state law and statute, and puts the Town in line with current state law and statute.

Zoning Text Amendment:

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, 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. Respond to requests made by the Administrator for recommendations concerning the suitability of site landscaping for proposed special use permits; and~~
- ~~4. 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~~
- ~~5.3. Perform any other duty and exercise any other power enumerated at assigned by the Council which is authorized pursuant to N.C. Gen. Stat. § 160A-452.~~

6.05 Appeal of Decisions of ~~Community Appearance and~~ the Historic Preservation Commissions

6.05.01 The Board shall hear and decide appeals of any decision by ~~the Community Appearance Commission allowing or denying a deviation of Article 25 Community Appearance Standards, or any decision by~~ the Historic Preservation Commission granting or denying a Certificate of Appropriateness.

6.05.02 An appeal is initiated by a person timely filing an Notice of Appeal, in accordance with Article 4, accompanied by the required fee.

A. An appeal may be filed by any of the following:

1. A person who has an ownership interest in the property that is the subject of the decision being appealed.
2. A person who has a leasehold interest in the property that is the subject of the decision being appealed.
3. A person who has an interest created by easement, restriction or covenant in the property that is the subject of the decision being appealed.
4. A person who has an option or contract to purchase the property that is the subject of the decision being appealed.
5. A person who was the applicant for the decision in question.
6. Any other person who will suffer special damages as the result of the decision being appealed.

7. An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
 8. The Town.
- B.** An appeal must be taken within thirty (30) days after decision by the Commission.
- C.** An appeal is taken by filing a notice of appeal with the Administrator on the prescribed form, accompanied by the required fee. The notice of appeal shall state the grounds for the appeal, which should generally be sufficient information to allow for a thorough review by the Board.
- D.** The Administrator shall stamp the appeal with the date received
- 6.05.03** Once the application has been filed, the Administrator must schedule a public hearing at the first available Board meeting and give public notice in accordance with Section 6.01.04.
- A.** The Administrator shall prepare a report detailing the facts relevant to the decision and shall transmit to the board all documents and exhibits constituting the record of the decision from which the appeal is taken. The official shall also provide a copy of the record to the appellant.
- 6.05.04** **Appeal Stays Commission Decision:**
- A.** ~~An appeal of a decision by the Community Appearance Commission allowing a deviation of Article 25 Community Appearance Standards, or a~~ A decision by the Historic Preservation Commission granting a Certificate of Appropriateness shall be stayed while the appeal is pending.
- 6.05.05** **Burden of Proof:** The burden of proof and burden of persuasion shall be on the party appealing the decision of the Commission.
- 6.05.06** **Scope of Action:** An appeal of a Commission decision shall be in the nature of certiorari. The hearing shall be based on the Commission record and the scope of review shall be as follows:
- A.** The Board shall uphold the decision of the Commission unless it finds the decision is:
1. In violation of constitutional provisions, including those protecting procedural due process rights.
 2. In excess of the authority conferred upon the Commission by statute or ordinance.
 3. Inconsistent with applicable procedures specified by statute or ordinance.
 4. Affected by other error of law.
 5. Unsupported by substantial competent evidence in view of the entire record.
 6. Arbitrary or capricious.
- B.** The term "competent evidence," as used in this Section, shall not preclude reliance by the Commission on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if the evidence appears to be sufficiently trustworthy and was obtained under such circumstances that it was reasonable for the Commission to rely upon it.
- 6.05.07** **Board Action**
- A.** The Board may reverse or affirm, wholly or in part, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the Commission which made the decision.

- 15.10.03** Each new multi-family development shall meet the following standards:

- A. A townhouse style design and a mixture of unit configuration and sizes per development shall be encouraged. No one type of dwelling units, as defined by the number of bedrooms, shall comprise more than 50% of the total units.
- B. Parking shall be limited to a maximum of two (2) spaces per unit and a clearly designated parking area for visitors.
 - 1. The square footage of the parking designated for visitors may not exceed ten percent (10%) of the total parking area. A minimum of twenty-five percent (25%) of units shall have a garage or carport.
 - 2. If freestanding, garages and carports shall be architecturally integrated with the development ~~and be approved by the Community Appearance Commission~~. To the greatest extent practicable, parking shall be located behind or underneath proposed building(s).

15.10.05 Each dwelling unit shall meet the following standards:

- A. The bedroom to bathroom ratio of each unit within the development shall be limited as follows:
 - 1. Efficiency unit and one (1) bedroom unit: one (1) bathroom.
 - 2. Two (2) bedroom unit: one (1) or two (2) bathrooms, with no less than one bathroom with common access.
 - 3. Three (3) bedroom unit: Two (2) bathrooms with no less than one (1) bathroom with common access.
 - 4. Four (4) or more bedroom unit: Three (3) bathrooms with no less than two (2) bathrooms with common access from a hall.
- B. In every unit with two (2) or more bedrooms, a designated master suite must be included and shall be at least twenty-five percent (25%) larger than every other bedroom and not less than 144 square feet excluding closet space.
- C. Dedicated storage space of at least fifty square feet (50 ft²) per unit must be provided for units without garages. Any storage space which is not within or attached to the building containing the units served by the space must be architecturally integrated with the development ~~and approved by the Community Appearance Commission~~.
- D. Occupancy of each unit shall be limited to (2) two unrelated persons.

15.54.08 Detached accessory dwelling unit are those which are not attached to the primary residence.

- A. A detached accessory apartment may be located over a garage, workshop, studio or similar structure or built as a free standing cottage.
- B. Every detached accessory apartment must be architecturally compatible with the primary residence, ~~and certified as such by the Community Appearance Commission~~.
- C. A detached accessory apartment shall be located to the side or rear of the primary residence and its front most point may be no closer to the fronting street than the front most point of the primary residence.
- D. A two story detached accessory apartment may be allowed only when the primary residence is 1 ½ stories or more, ~~and its architectural compatibility has been certified by the Community Appearance Commission~~.

ARTICLE 25 COMMUNITY APPEARANCE STANDARDS

Applicability

25.01.01 This Article is applicable to the publicly visible portions of building elements, as defined herein.

- A. An element of a building shall be deemed publicly visible when any of the following conditions are met:

1. At least seventy percent (70%) of the element occurs above adjacent grade and is visible from any street adjacent to the property;
 2. At least seventy percent (70%) of the element is visible from an adjacent residentially zoned property;
 3. At least seventy percent (70%) of the element is taller than the vegetative buffer at the time of planting.
- A. Each element of a building shall be evaluated independently for public visibility
- B. If building elements are not publicly visible at the time of construction due to existing site features (earthen berms, heavily wooded areas, existing buildings to remain), then these existing site features must remain indefinitely. If they are altered at any time to allow greater visibility, then the element made visible must comply with the standard.
- C. The following uses are exempted from the requirements in this Article: 1.01 Single Family Dwelling, 1.02 & 1.03 Manufactured Home, 1.05 Duplex, 2.01 Family Care Home, A-1 Secondary Suite, A-2 Home Occupation, A-3 Accessory Dwelling Unit, all Temporary Uses.

Building Design

25.02.01 Pedestrian-Orientation: The intent of this Section is to provide a design of buildings that support a safe and attractive pedestrian environment.

- A. Primary façade and main building entry shall face the primary public way.
- B. If site constraints are present, the applicant's intent to use a "stock plan" is not a basis for appeal.
- C. The ~~Community Appearance Commission~~ Administrator may approve a redesign in which the main primary entrance does not face the primary public way provided the following:
1. The main building entrance, when not facing the primary public way, shall provide a safe and convenient access for pedestrians from the main building entrance to the primary public way. The pedestrian way must provide additional landscape amenities.
 2. Entrances which are oriented on a diagonal are permitted, provided that they are integrated with the overall architectural design, and not merely angled appendages or alcoves.
 3. Ground floor windows or window displays shall be provided along at least ten percent (10%) of the building's (ground floor) street-facing elevation(s); windows and display boxes shall be integral to the building design and not mounted to an exterior wall. Parapets above the first floor are excluded from the calculations when the building is over eighty feet (80') in length.

25.02.02 Exterior Walls: The intent of this Section is to require running lengths of walls to be interrupted by architectural features which lend a more human scale to the overall massing.

- A. Features include:
1. Offsets of the building wall or other elements in plan of four feet (4');
 2. A colonnade with columns or other vertical elements of sixteen feet (16') or less on center;
 3. A change in building material, with a maximum of two (2) uses of this option being counted toward the schedules below;
 4. Awnings or canopies;
 5. Covered entries or porticos;
 6. Windows with a minimum width of two feet and eight inches (2'8") and a minimum height of three feet and four inches (3'4");
 7. Trellises;
 8. Pilasters, which must be a different material or contrasting color than their background;
 9. A combination of the above; and

10. Any other type of feature not listed here which is deemed by Staff to meet the intent of this Ordinance.
- B. Plumbing, mechanical, electrical service components and gutter downspouts are not considered features and may require screening. Such screening is not considered an architectural feature.
- C. Required features must be distributed throughout the building façade and shall not be clustered.
- D. Features shall be provided in accordance with the following feature schedules:

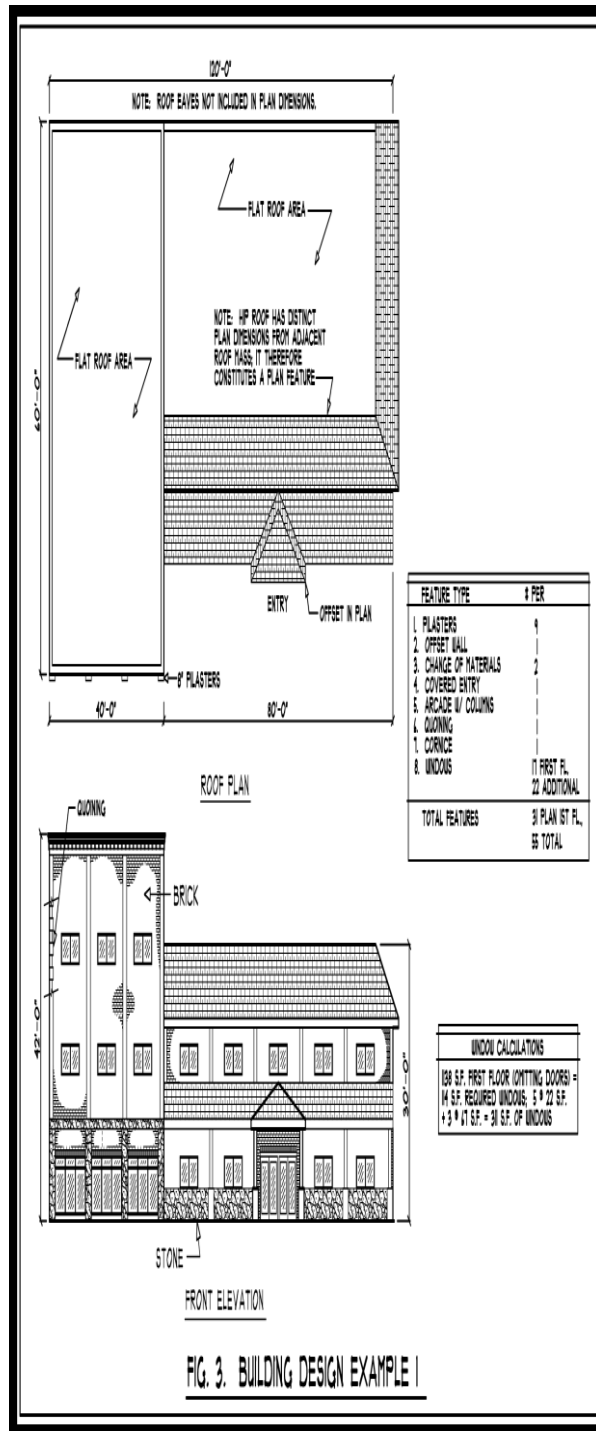
Table A
Feature Schedule – Plan

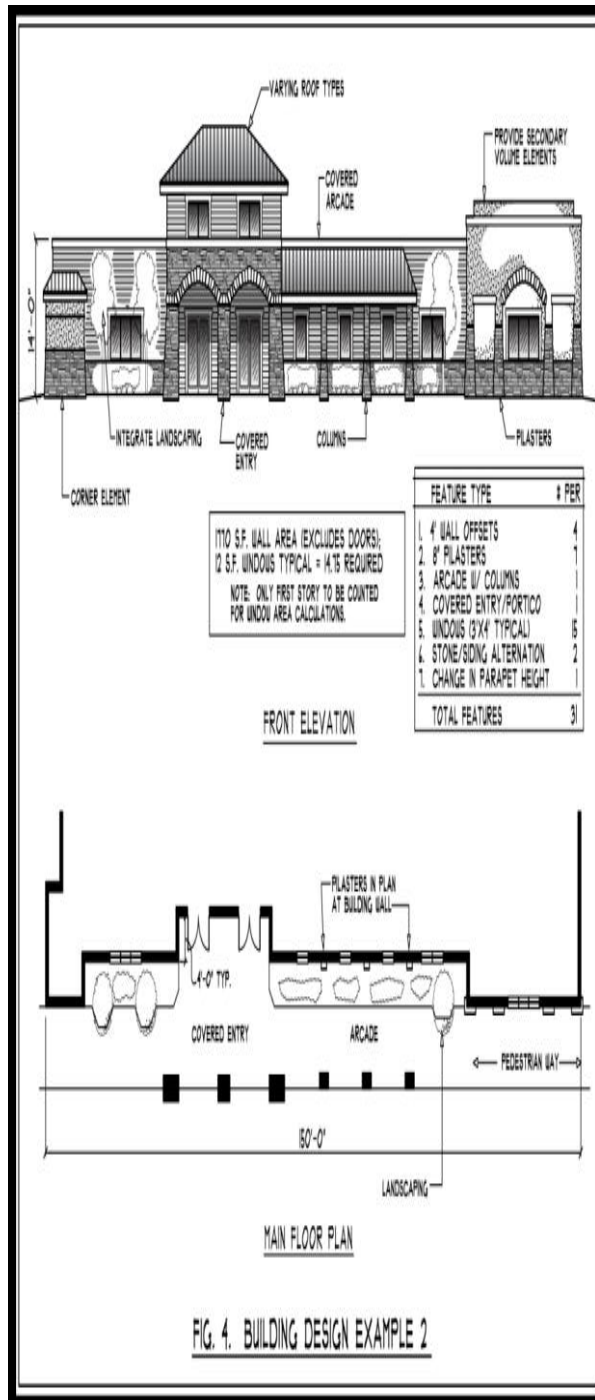
Linear Dimensions, in Plan	Minimum # of Feature Types	Minimum # of Total Features
10' to less than 40'	2	4
40' to less than 80'	3	8
80' to less than 120'	4	12
120'+	5	16

Table B
Feature Schedule – Elevation

Linear Dimensions, in Elevation	Number of Features Required
10' to less than 16'	2
16' to less than 32'	3
32' to less than 48'	4
48'+	5

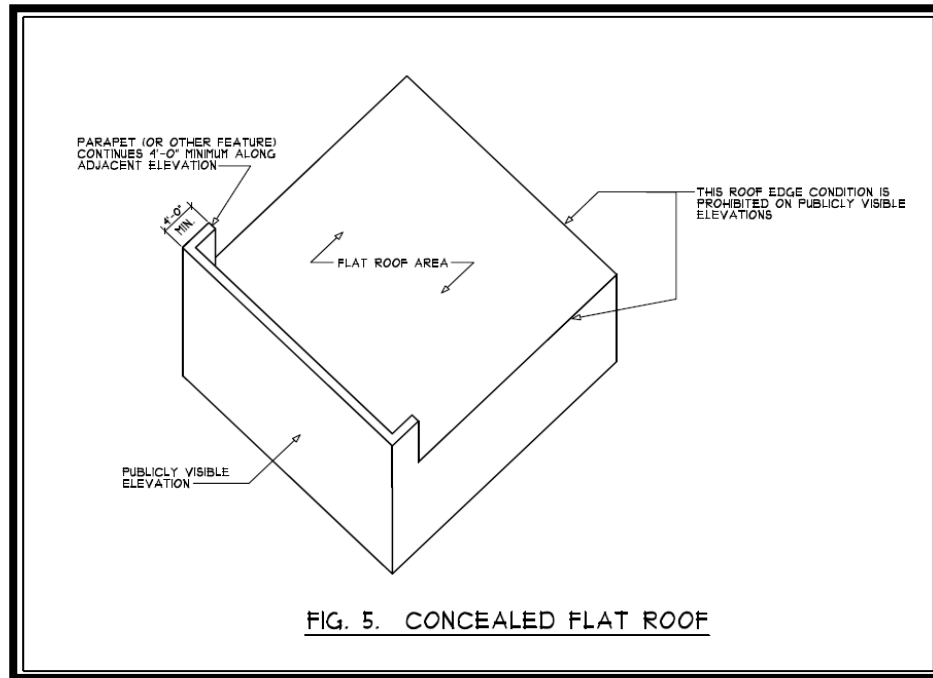
- E. Features which serve to interrupt the building façade in both plan and elevation shall be credited as such using the above charts. Windows are considered plan and elevation features. See examples in Figures 3 and 4 below.



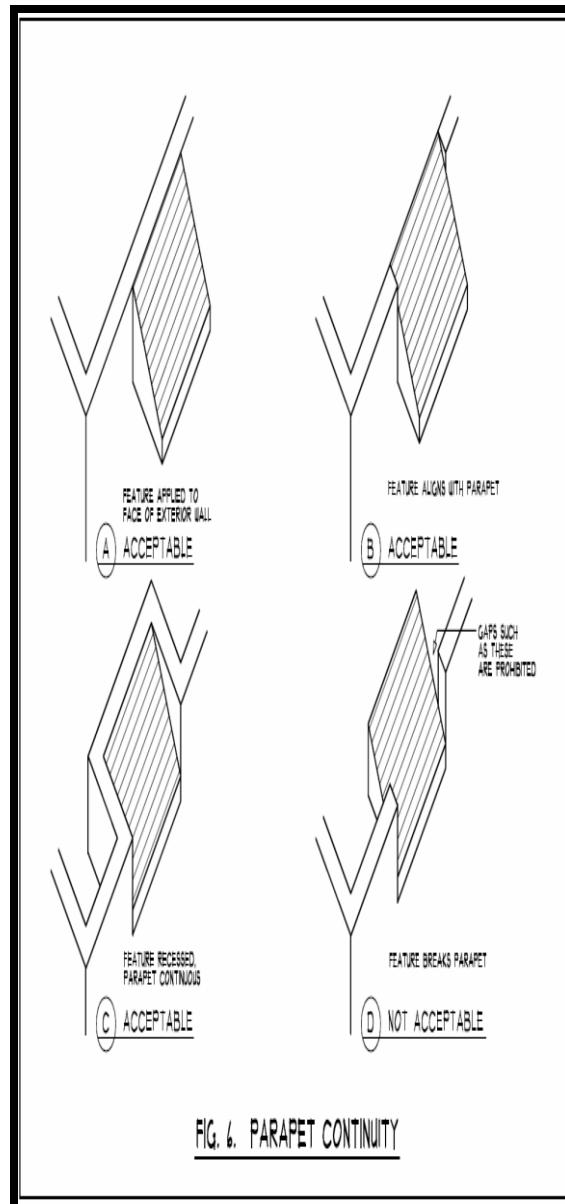
**25.02.03**

Roofs: This Section regulates both pitched and flat roofs. The intent is to interrupt expanses of pitched roofs and minimize or prevent the visibility of flat roofs.

- A. Walls shall not appear to terminate at flat roofs. Flat roofs shall be concealed from view by using pitched roof features, parapets, or a mixture thereof. Where only one elevation has this condition, the parapet or other feature will continue four feet (4') along the adjacent elevation. See Figure 5 below.



- B. Buildings over two stories above grade may utilize a flat roof, provided the flat portion is not publicly visible. Compliance may not be possible if the adjacent road grade is substantially above the roof in question.
- C. Minimum roof slope for pitched roofs is 4'(v):12'(h).
- D. Publicly visible plumbing vent stacks shall be colored to match the roofing material.
- E. Where a parapet intersects with a pitched roof element, there shall be no apparent breaks in the parapet wall. See Figure 6 on page 22-17.



- F. Awnings or canopies which are illuminated from within must be covered or finished with fully opaque material.
- G. Publicly visible pitched roofs shall be articulated by features in accordance with the following schedule. Features shall be in proportion to the roof area where they appear. Features include:

Table C
Feature Schedule – Roof Areas

Roof Area	Number of Features Required
Less than 1200 ft ²	0
1200 ft ² to less than 1600 ft ²	1
1600 ft ² to less than 2400 ft ²	2
2400 ft ² +	3

- H. No part of this Ordinance shall be construed to prevent solar panels or any other type of renewable energy collection or storage method, provided the development follows the massing guidelines established herein.

25.02.04 Materials: The intent of this Section is to require materials indigenous to the area for a native, natural appearance.

- A. For any publicly visible elevation, other than the B-1 Central Business District, a minimum of twenty-five percent (25%) of the building finish material must be stone or concrete-simulated stone, wood or simulated wood in concrete board (such as “Hardi” products), or brick or concrete-simulated brick.
- B. In the B-1 Central Business District, the main building façade must be comprised of unpainted red or darker colored brick or natural stone.
1. Use of concrete simulated brick or stone is prohibited.
 2. Cultured stacked stone is prohibited.
 3. Properties designated as historic landmarks or under consideration for the historic landmark designation shall be exempt from this requirement.
- C. Mirrorized glass is prohibited from use. Reflective tinted glass is acceptable up to thirty percent (30%) tint. Anything above thirty percent (30%) tint is subject to review by the ~~Community Appearance Commission~~ Administrator pursuant to 25.07.01.
- D. Architectural concrete masonry such as split face, or ground-face block is acceptable.
- E. Stucco and synthetic stone are acceptable finish materials.
- F. Architectural concrete (containing a pattern or finish) as a finish material is acceptable. Gray, unfinished concrete is prohibited as a finish material. Concrete architectural detail elements intended to be a decorative enhancement for exterior walls and site walls are acceptable
- G. Other materials subject to Staff review and approval include vinyl siding (which should simulate wood grain) and other manufactured materials. Vinyl siding shall be anchored to the exterior envelope sufficiently to avoid the appearance of deformation or bowing across the façade.
- H. For publicly visible roof surfaces, allowed materials include standing seam metal, asphalt shingles, shakes, tile, or manufactured shingles which give an appearance of shingles, shakes, or other simulated natural material. Sheet materials other than those listed in this Section are subject to Staff review for use on publicly visible roofs.
- I. Any materials which comprise less than ten percent (10%) of a publicly visible exterior building wall and are components of windows or trim systems are allowed (example: aluminum storefront, metal corner trim, etc.).
- J. FRP, PVC, and other composites formed into architectural detail elements such as columns, cornices, etc., are approved for use as long as such material is intended to be a decorative enhancement for the façade.

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

- A. Acceptable colors for site walls, site lighting, and any other outside construction elements (excluding signage) include that equivalent to Sherwin-Williams series “Essential” and “Fundamentally Neutral” in the Town of Boone Color Reference Guide.
- B. Acceptable field colors and trim colors are those equivalent to Sherwin Williams series “Essential” and “Fundamentally Neutral” in the Town of Boone Color Reference Guide.
1. The “LRV” Light Reflection Value of field colors must be below 60. Any colors above “60 LRV” are subject to review by the Community Appearance Commission.
 2. Black is prohibited as a field color in the series “Essential”.

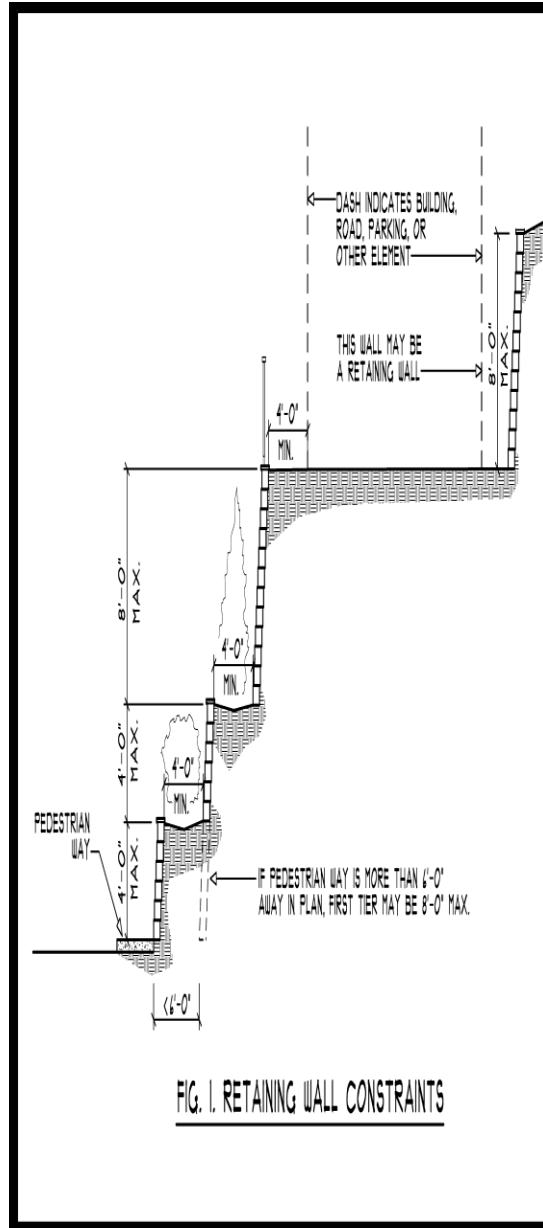
- C. Acceptable accent colors are those equivalent to Sherwin-Williams series “Essential”, “Fundamentally Neutral”, and “Color Options” in the Town of Boone Color Reference Guide.

Parking Structures

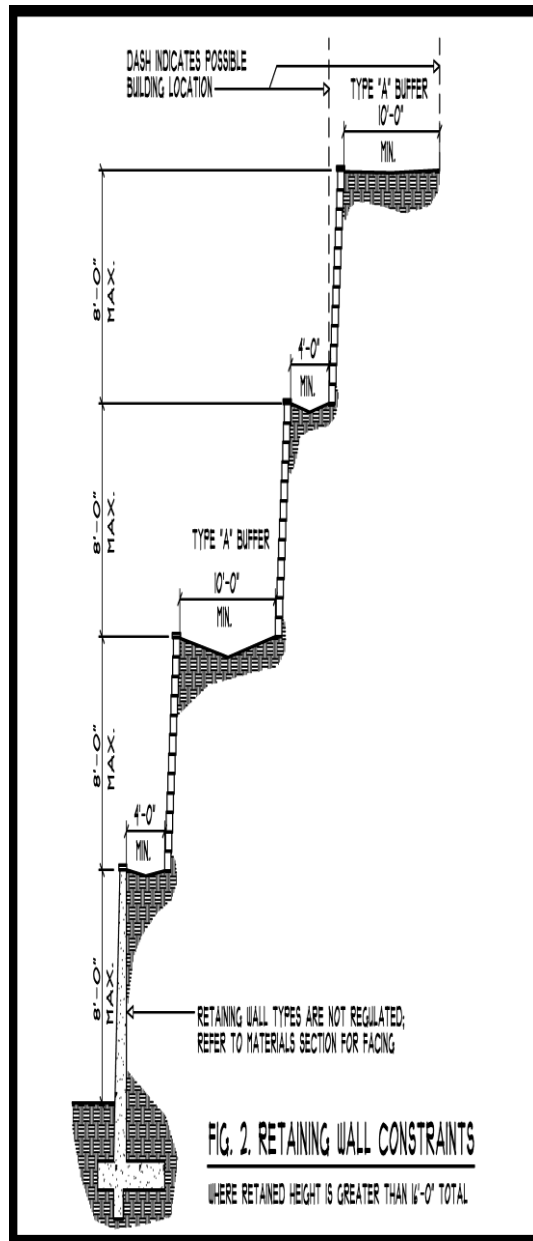
- 25.03.01** The intent of this Section is to regulate aesthetic features on parking structures to prevent a utilitarian appearance, and to provide a safe, secure environment for patrons, employees and vehicles.
- 25.03.02** Publicly visible facades must comply with provisions of this Article pertaining to exterior walls, materials, and colors.
- 25.03.03** All above-ground parking floors and decks shall be designed using a continuous façade incorporating window-like openings. The sill of any window-like opening must be a minimum of 42” above the finished floor.
- 25.03.04** Exterior vehicle ramps are subject to review by the Community Appearance Commission to minimize the appearance of tilted ramps.
- 25.03.05** Elevator and stair shafts shall be topped with gabled roofs or other architectural features and be oriented so that lobbies are visible from the street at each level.
- 25.03.06** Lighting shall be uniform throughout the structure so that dark hiding places are not created. Lighting levels must conform to IESNA standards.
- 25.03.07** In the B1 Central Business District, the façade must be in harmony with the historic look of the area. Facades that are 75% native rock or red brick are presumptively consistent with the historic look of the B1 Central Business District. Any other combination of materials must be approved by the Community Appearance Commission.

Site Walls

- 25.04.01** The intent of this Section is to prevent walls which appear to dwarf the human scale and to encourage equalizing cut/fill or majority cut slope methods of grading.
- 25.04.02** No retaining wall may be more than eight feet (8’) in height. This height does not include decorative caps that are less than eight inches (8”) in height. Screen walls shall not be taller than necessary to conceal the item screened (such as a dumpster, HVAC equipment, etc.)
- 25.04.03** Buildings located near the top of site retaining walls shall be a minimum of four feet (4’) horizontally from the top of the retaining wall.
- 25.04.04** Retaining walls, any portion of which are within six feet (6’) of a sidewalk or pedestrian way, shall not exceed four feet (4’) in height. Subsequent walls must be offset a minimum of four feet (4’) in plan. See Figure 1 below.



- 25.04.05** A series of two (2) retaining walls must have a minimum of four feet (4') horizontally from the back of the top of the lower wall face to the toe of the upper wall face in plan. See Figure 1 above. For three (3) or more walls in series, see item [g] below.
- 25.04.06** The space between retaining walls in series shall be landscaped with appropriate grasses, vines or other ground cover in accordance with provisions of Appendix B and may contain shrubs and trees not to exceed thirty-five feet (35') in height at maturity. This area shall be maintained in accordance with the provisions of Section 31.12.
- 25.04.07** Retaining walls in series which collectively exceed sixteen feet (16') in height shall have a minimum of one (1), ten foot (10') wide Type "A" buffer (see Section 31.05), between two of the walls. Retaining walls which are separated by a building, a road, or a parking area shall be exempt from this requirement. See Figure 2 below.



- 25.04.08** Publicly visible site wall material and color shall be architecturally compatible with the principle building(s) on site.

Lighting

- 25.05.01** The intent of this Section is to prevent light from commercial developments from excessively illuminating the property in question, other properties, or the night sky.
- 25.05.02** Only light fixtures which are categorized as full cut-off (FCO) fixtures shall be permitted, except sportsfield fixtures which must comply with Section 25.05.04.
- 25.05.03** The following are specific standards for lighting intensity based upon the activity involved. Values are presented in allowable foot-candles (fc) maintained (measured horizontally) at grade and are to be averaged throughout the site to avoid hot spots, i.e. areas of extreme light intensity relative to the remainder of the site:

Activity	Minimum	Maximum	Min./Max. Uniformity Ratio
Pedestrian Areas/Sidewalks	.2 f.c.	1.0 f.c.	
Building Entries	1.0 f.c.	10.0 f.c.	

Street Lighting	.2 f.c.	1.0 f.c.	
Open Parking Areas	.2 f.c. to 9 f.c.	3.6 fc	4:1
Playgrounds		5.0 fc	
Site Perimeter		.5 fc	

25.05.04 Lighting for sports fields and outdoor courts is generally in excess of general outdoor lighting levels. Recreation lighting levels established by the IESNA are to be used as the standard. Higher lighting levels for tournament or high league play are sometimes required and must be approved by the Community Appearance Commission. All sportsfields or tennis courts must meet the following minimum standards:

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

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

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

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

Flexibility in Administration

25.06.01 Flexibility in administration is required for this Article. When strict application of the standards within this Article undermines other provisions of the UDO, then those other provisions take precedence. For example, the retaining wall height limitation may be increased to afford an opportunity to preserve significant or historic tree(s).

~~Community Appearance Commission Review~~ Alternatives

25.07.01 Alternatives to the appearance standards provided herein may be permitted upon written review and review and approval of the Community Appearance Commission Administrator.

- ~~A. Applications containing alternatives shall be forwarded to the Community Appearance Commission for review at their next regularly scheduled meeting.~~

25.07.02 The ~~Commission Appearance Commission Administrator~~ may approve ~~such an~~ alternatives not to exceed +/- 25% of the relevant standard or requirement if ~~he or she~~ it finds that the alternatives ~~involved~~ meets the purpose and intent of the provisions contained within this Article. When the ~~Commission Administrator~~ approves an alternative, ~~he or she~~ it must specifically identify how the alternative meets the purposes and intent of this Article. The Administrator may, but is not required, to seek the recommendation of the Community Appearance Commission with respect to any proposed alternative. An applicant may not seek a variance with respect to any deviation allowed by the Administrator under this section.

~~**25.07.03** Unless otherwise specified, the Community Appearance Commission's review and approval of any deviation from the standards contained herein is required prior to permit approval.~~

RESULT: APPROVED [UNANIMOUS]
MOVER: Jeannine Underdown Collins, Council Member
SECONDER: Loretta Clawson, Council Member
AYES: Mason, Clawson, Collins
ABSENT: Mizelle, Teague

CASE PL00264-021317 SHOPPING CENTER MODIFICATIONS - UDO TEXT AMENDMENT

The Town has initiated a text amendment to modify the UDO to remove or alter regulations related to shopping centers. The "shopping center" concept was identified as needing more work before implementation of the revised UDO which became effective Jan. 1, 2014, but was inadvertently left in the draft.

CASE PL00264-021317 VOTE #1

Upon a motion by Council Member Underdown Collins, seconded by Council Member Mason, Council moved that the proposed amendment to the Town's zoning ordinance is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it is in agreement with Comprehensive Plan Policy 2.1.1(E.1) Economic Development, which states that we should continue to look for ways to make development regulations and permit procedures more predictable and timely.

RESULT: APPROVED [UNANIMOUS]
MOVER: Jeannine Underdown Collins, Council Member
SECONDER: Lynne Mason, Mayor Pro Tem
AYES: Mason, Clawson, Collins
ABSENT: Mizelle, Teague

CASE PL00264-021317 VOTE #2

Upon a motion by Council Member Underdown Collins, seconded by Council Member Mason, Council moved to approve the proposed amendment to the Town's zoning ordinance and believe approval is reasonable and in the public interest because it removes an existing conflict in the ordinance and creates a more efficient permitting process.

Zoning Text Amendment:

Article 15 District Use Standards
 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	
1.0 Household Living																		
11.17	Shopping Center/Mall Reserved									S ^{T300}	S	S ^{T125}	S ^{T300}		S ^{T125}			15.28

§ 15.28 ~~SHOPPING CENTER/MALL~~ (Reserved).
 A. ~~All structures within a shopping center/mall shall be architecturally compatible.~~

Article 24 Parking

Commercial Land Uses	Maximum Parking Allowed
1.08-1.10 Townhouse 1.11-1.13 Multi-Family	2 spaces/unit Visitor parking spaces not to exceed 25% of total parking area
1.14-1.16 Mixed-Use Multi-Family	1 space / 1 bedroom units 2 spaces / 2 bedroom units 3 spaces / 3 or more bedroom units 1 space / unit for multi-family residences limited to the Elderly 1 space / unit for affordable rental dwelling units 1 space / unit for affordable owner-occupied dwelling units
16.01 Mini-Storage A-10 Produce Stand	1 space/1000 ft ² GFA
4.06 Post Office, Distribution 14.0 Manufacturing 16.02 Outdoor Storage 16.03 Warehouse 16.04 Fuel Storage Facility 17.02 & 17.03 Trucking or Freight Terminal A-24 Chemical Storage Facility	2 spaces/1000 ft ² GFA
10.0 Daycare 11.32 Gas Station	3 spaces/1000 ft ² GFA
11.01 Kennel 11.02-11.03 Veterinary Office/Hospital 11.04 & 11.05 Financial Institution 11.11 ABC Store 11.12 - 11.13 Personal Service Establishment 11.14-11.16 Retail Store 11.17 Shopping Center/Mall 11.18 - 11.19 Business or Professional Office 11.20-11.23 Medical Office 11.16 Specialty Medical Facility	5 spaces/1000 ft ² GFA or outdoor area used for principal use

Commercial Land Uses	Maximum Parking Allowed
11.26 Open Air Market 11.33 Car Wash 12.0 Recreation 18.0 Waste Related Uses 19.0 Particular Activities which Pose Particular..	

RESULT: APPROVED [UNANIMOUS]
MOVER: Jeannine Underdown Collins, Council Member
SECONDER: Lynne Mason, Mayor Pro Tem
AYES: Mason, Clawson, Collins
ABSENT: Mizelle, Teague

TOWN MANAGER UPDATE

Town Manager John Ward updated Council on road closures for the water intake project, upcoming events and parades, work being completed at the Boone Cemetery, and announced Boone was listed in the top 25 small towns in the country.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Brantz announced the existing board vacancies currently being advertised.

APPOINTMENT TO PLANNING COMMISSION

Council Member Clawson nominated Becky Gosky to serve on this commission. With no further nominations, Mayor Brantz called for a vote. Ms. Gosky's term will expire June 30, 2018.

RESULT: APPROVED [UNANIMOUS]
MOVER: Loretta Clawson, Council Member
AYES: Mason, Clawson, Collins
ABSENT: Mizelle, Teague

CLOSED SESSION

ENTERING CLOSED SESSION

Upon a motion by Council Member Clawson, seconded by Council Member Underdown Collins, Council moved to enter closed session at 7:10 p.m. to hear the following items:

1. Pursuant to N.C.G.S. 143-318.11(a)(3), to consult with the town attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and consider and give instructions to the attorney concerning various potential claims involving the Town of Boone.
2. Pursuant to N.C.G.S. 143-318.11(a)(1)(6), to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes, and to consider the qualifications, competence, performance, character, fitness or conditions of appointment of a public employee.

3. Pursuant to N.C.G.S. 143-318.11(a)(6), to consider the qualifications, competence, performance, character, fitness or conditions of appointment of a public employee.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Council Member
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

EXITING CLOSED SESSION

Upon a motion by Council Member Underdown Collins, seconded by Council Member Mason, Council moved to exit closed session at 7:41 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Lynne Mason, Mayor Pro Tem
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

ADJOURNMENT

MOTION TO ADJOURN

Upon a motion by Council Member Underdown Collins, seconded by Council Member Clawson, Council moved to adjourn the meeting at 7:42 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Collins
ABSENT:	Mizelle, Teague

Christine Pope, Town Clerk

Rennie Brantz, Mayor