



**Town of Weaverville
Planning and Zoning Board
Council Chambers, Town Hall
Tuesday, July 3, 2018, 6:00pm**

Agenda

1. Call to Order – Chairman Doug Theroux.
2. Approval of the Minutes from the May 1, May 22 and June 5, 2018 Meetings of the Board.
3. Discussion Related to a Proposed Zoning Ordinance Text Amendment Related to the Municipal Regulation of Political Signage.
4. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Proposed Text Amendment.
5. Discussion Related to a Proposed Zoning Ordinance Text Amendment Related to Nonconformities.
6. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Proposed Text Amendment.
7. Any Other Business to Come Before the Board.
8. Adjournment.



**Agenda Item 2
Minutes**

Town of Weaverville
Planning and Zoning Board
Minutes – Tuesday, May 1, 2018

The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, May 1, 2018 within the Fire Department Training Room.

Present: Chairman Doug Theroux, Vice-Chairman Gary Burge, Board Members Catherine Cordell, Leslie Osborne and Peter Stanz, Alternate Board Member John Chase, Town Attorney Jennifer Jackson and Planning Director James Eller. Absent: Alternate Board Member Steve Warren.

1. Call to Order.

Chairman Doug Theroux called the meeting to order at 6:00 pm.

2. Discussion Related to a Major Subdivision of Land Located at 6 Garrison Road.

Mr. Eller described the subdivision before the Board for their consideration. The property in question, 6 Garrison Road, consists of 2.39 acres and is proposed to be split into two lots.

Mr. Eller further described that the subdivision in question would not be creating any infrastructure but still qualifies as a major subdivision due to the property being commercially zoned.

Mr. Rice, the property owner, spoke to the Board regarding the configuration of a driveway which accesses a neighboring property.

3. Consideration of a Motion Establishing a Recommendation to Town Council Related to the Aforementioned Subdivision.

Mr. Stanz motioned to favorably recommend to Town Council the aforementioned major subdivision. Mr. Burge seconded and all voted unanimously.

4. Discussion Related to a Proposed Conditional Zoning District Application for the Project Commonly Known as Northridge Commons Townhouses (Formally Weaverville Townhomes).

Mr. Eller introduced the subject properties which may be found adjacent to Monticello Road and Gill Branch Road directly behind Walmart and Dollar Tree and acknowledged Warren Sugg of Civil Design Concepts the professional engineer of the project.

Mr. Eller described the history of the parcels in question including the vacation of one lot from an existing special use permit, a rezoning of the parcels into the R-12 zoning district, a waterline extension and water allocation, and the initial consideration of the proposed conditional zoning district before Town Council where the conversation largely revolved around sidewalk connectivity to neighboring properties.

Transitioning into a review portion of the meeting, Chairman Theroux proposed an open form of communication between staff, the applicant and the Board.

Application, Plans and Supporting Documents:

Speaking to the plans relevant to the project Mr. Eller noted that during its review of the application, plans and supporting documents staff has found some corrective items related to same and are listed as follows. It is the opinion of staff that despite the referenced proposed revisions, the information before you for your consideration made requisite by municipal ordinance constitutes a complete and actionable application.

- Staff is proposing an update to the survey page to properly reflect the underlying zoning district in which the parcels are found as R-12. As the Board is aware, the parcels were formally zoned I-1, C-2 and R-3 and a rezoning was achieved in January to consolidate the parcels into the R-12 Zoning District, explaining why the survey as presented was showing the previous zoning districts.

Mr. Sugg noted that the proposed revision could be made related to the zoning of the parcels and suggested that said revisions would be made by the surveyor at such time as they could reach the matter.

- Staff is proposing a revision to the Site Plan shown on sheet 201 related to the building data shown under development data. Said revision should better couple the building types listed under development data and building types shown on the plan.

Mr. Sugg noted the proposed revision would be made to properly label the building types shown on sheet 201.

- Staff is proposing a revision to the Site Plan shown on sheet 201 adding the zoning of surrounding properties under Buncombe County jurisdiction. Zoning of parcels within the Town of Weaverville immediately to the east is shown.

Mr. Sugg noted the proposed revision would be made to show the zoning of all surrounding properties.

- Staff is proposing a revision to the Site Plan shown on sheet 201 related to the five overflow parking places found on the south of the property. Said revision calls for showing the area immediately behind the parking places as striped for no parking due to a concern related to emergency vehicle access and turnaround. This may be achieved via no parking signs as the project comes to fruition but striping is preferred to be shown on plans.

Mr. Sugg noted that the proposed revision would be made to show a specific area as striped for no parking to ensure adequate emergency vehicle access and turnaround. Mr. Eller noted that he would facilitate a conversation with Mr. Sugg and Fire Marshal Davis to ensure that the area noted will qualify as an approved fire apparatus turnaround.

- Staff may be proposing a revision to the Water Plan shown on sheet 601 related to the creation of a looped water system for the project. It is my understanding that the applicant has been in contact with our Public Works Director related to this revision of the system shown and more content related to this conversation may be found in an additional staff report provided by the Public Works Department.

Mr. Sugg noted that he had spoken to Public Works Director Pennell regarding the proposed revision to the water plan to create a looped system for the project and that such conversations would continue to ensure that the water service provided to the properties would meet the qualifications of the Water Policy of the Town.

- There are two documents called for by the application for a conditional zoning district which are not included in this packet of information. Those being an application for a Buncombe County stormwater permit and an NCDOT driveway permit. Though the application calls for these documents they are not required by ordinance and the applicant will acquire these documents through other authorities if required.

Mr. Eller noted the absence of the aforementioned documents which are called for by the application but not by ordinance and mentioned that the procurement of said documents would be through other authorities outside the purview of the Town.

Table of Dimensional Requirements Compliance:

As the Board is aware, the creation of a conditional zoning district is effectively the creation of a new zoning district. However, it has been my experience that the underlying zoning district and dimensional requirements found therein serve as a good foundation for beginning a review of a proposed project and plans. On May 16, 2016 Town Council, following a positive recommendation from the Planning and Zoning Board, implemented the new R-12 Zoning District to accommodate multifamily residential uses up to a density of 12 units per acre. With the creation of the R-12 Zoning District the Table of Dimensional Requirements was also amended to include the special requirements established for those parcels found within the new district. The following is a comparative table listing the special requirements found for the R-12 Zoning District and those proposed by the Weaverville Townhomes project.

<u>Established by R-12</u>	<u>Proposed by CZD</u>
Units permitted based upon acreage: 101	Units Proposed: 53
Front setback: 30'	Front setback: 40'
Side setback: 25'	Side setback: 25'
Rear setback: 25'	Rear setback: 25'
Height: 45' and no more than 3 stories	Height: 30'
Buffering: N/A	Buffering: N/A

Based upon these listed criteria, it is the opinion of staff that the project is in compliance with the dimensional requirements established just shy of two years ago for the R-12 Zoning District.

Proposed Items for the Board's Consideration Related to the Creation of a Conditional Zoning District for the Weaverville Townhomes Project:

Site Visit:

Should the Board deem it useful, staff is willing to organize and advertise a special called meeting for the purpose of a site visit to the subject properties.

Staff proposed a special called meeting of the Board for the purpose of conducting a site visit to the subject property. Consensus was gained that should members of the Board wish to visit the property they would do so individually or in pairs and that no special called meeting of the Board for this purpose is necessary. Consensus was also gained that the applicant would stake certain features on the property accommodate the review of the Board.

Sidewalks:

Sidewalks are traditionally required for all new multifamily residential development. In this particular instance there exists no connectivity to the proposed project and neighboring commercial development. Could the applicant in conjunction with Walmart create such a connection along Northcrest Road? Could pedestrian access be achieved by exiting overflow parking areas bordering Walmart and navigating the slope down to the side parking lots present for existing commercial development? A councilman did note during the aforementioned initial review that there will be pedestrian traffic to existing commercial development whether sidewalks are present or not. Internal sidewalks are shown on the site plan.

Consensus was gained that a revision would be made to the sidewalk configuration shown inclusive of features which could ease connectivity with future development in the area. Said revision will be shown on subsequent versions of the plan.

Fencing:

Language specific to the conditional zoning district which created Weaver Village prohibited bare metal fencing and required a fence, four feet in height to be installed along the top of a retaining wall shown on the plans. Areas which may benefit from fencing can be considered.

Consensus was gained that fencing would be installed at the top of retaining walls shown to ensure the safety of the eventual inhabitants of the project.

Buffering:

Buffering within the underlying zoning districts would not be required as the onus is placed on new commercial and industrial uses to buffer themselves from residential development. Here we have the order reversed but there may be some desire or need for buffering to be installed.

Consensus was gained that no buffering would be required where this project abuts existing commercial establishments due to the topography found on site.

Restricting Pedestrian Access:

As it related to the Fairfield Inn special use permit, there was a strong desire to segregate via fencing the hotel parcel from neighboring residential parcels along Alexander Road.

Consensus was gained that no restriction of pedestrian access would be desired between the project and existing commercial establishments.

Restricting Vehicular Access:

A concern has been raised at a previous meeting of the Planning and Zoning Board about the vehicular connectivity of the subject parcels and Walmart. Language specific to the conditional zoning district which created Weaver Village established a non-development easement around the portions of the project which bordered neighboring residential uses. The purpose of this easement was two fold in that it ensured the project would not expand beyond the scope of the development shown and prohibiting interconnectivity with any future development.

Consensus was gained that no restriction of vehicular access would be desired between the project and existing commercial establishments.

Construction and Finishing Materials:

Topic to be considered at a subsequent special called meeting of the Board.

Overflow Parking:

Parking has been provided in excess of what the ordinance requires which is two spaces per dwelling. 37 additional spaces are shown as provided overflow parking. This number is subject to change should the Board find it necessary.

Consensus was gained that the proposed overflow parking provided was adequate to serve the project.

Curb Design:

The curb design shown in detail on the site plan calls for a valley curb. For reference, Creekside Village is another development which has installed this particular type of curb. While there are some positives to this design, one drawback that I have encountered within the aforementioned development is people parking on the sidewalks. Perhaps this will subside as the development comes to completion and the ratio of overflow parking provided by this project vastly exceeds that provided by Creekside Village. Plus, the sidewalk in the proposed development will be private as the roads are shown to be private.

Consensus was gained that the desired valley curb design would not be detrimental to the project due to the amount of overflow parking spaces provided.

Procedures for Plat Approval and Recordation:

Topic to be considered at a subsequent special called meeting of the Board.

Completion of Construction:

Ordinance calls for the completion of construction within 730 days upon obtainment of the necessary permits based upon the size of the project and the ability for Town Council to grant an additional 180 days for good cause shown. Given that the project is shown as single phase construction with an anticipated completion in 24 months, does there need to be some additional time built in?

Consensus was gained that ordinance calls for the completion of construction within two years and that due to the size of the project, this timeframe may not be reasonable.

Outdoor Lighting:

A specific reference to the outdoor lighting standards has been made in a couple special use permits established by the Zoning Board of Adjustment. I think it would be practical to include the same language related to this project.

Consensus was gained that certain aspects of the outdoor lighting ordinance should be incorporated in the ordinance establishing the conditional zoning district.

5. Direction to Staff and the Applicant Related to the Advancement of the Review Process for the Aforementioned Conditional Zoning District Application.

The Board instructed the applicant to make the changes necessary to reflect material covered in the meeting and converse with staff related to same.

6. Any Other Business to Come Before the Board.

Ms. Osborne motioned to hold a special called meeting of the Board for the purpose of continuing the review process for the Northridge Commons Townhomes conditional zoning district application. Ms. Cordell seconded and all voted unanimously.

7. Adjournment.

Ms. Cordell motioned to adjourn. Mr. Burge seconded and all voted unanimously.

Doug Theroux, Chairman
Planning and Zoning Board

ATTEST:

James W. Eller
Planning Director / Deputy Town Clerk

Town of Weaverville
Planning and Zoning Board
Minutes – Tuesday, May 22, 2018

The Planning and Zoning Board of the Town of Weaverville met for a special called meeting at 6:00pm on Tuesday, May 1, 2018 within the Fire Department Training Room.

Present: Vice-Chairman Gary Burge, Board Members Catherine Cordell, Leslie Osborne, Alternate Board Members John Chase and Steve Warren, Town Attorney Jennifer Jackson and Planning Director James Eller.
Absent: Chairman Theroux and Board Member Peter Stanz.

1. Call to Order.

Vice - Chairman Gary Burge called the meeting to order at 6:00 pm. Vice-Chairman Burge noted that he would be chairing the meeting in the absence of Chairman Theroux and that Alternate Board Members Chase and Warren would be serving as acting Member of the Board.

2. Discussion Related to a Proposed Conditional Zoning District Application for the Project Commonly Known as Northridge Commons Townhouses (Formally Weaverville Townhomes).

Mr. Eller noted that he would step through the changes to the plans which were made as a result from the previous meetings conversations.

Application, Plans and Supporting Documents:

During its review of the application, plans and supporting documents staff has found some corrective items related to same and are listed as follows. It is the opinion of staff that despite the referenced proposed revisions, the information before you for your consideration made requisite by municipal ordinance constitutes a complete and actionable application.

- Staff is proposing an update to the survey page to properly reflect the underlying zoning district in which the parcels are found as R-12. As the Board is aware, the parcels were formally zoned I-1, C-2 and R-3 and a rezoning was achieved in January to consolidate the parcels into the R-12 Zoning District, explaining why the survey as presented was showing the previous zoning districts.

May 1, 2018: Mr. Sugg noted that the proposed revision could be made related to the zoning of the parcels and suggested that said revisions would be made by the surveyor at such time as they could reach the matter.

May 22, 2018: Mr. Eller confirmed that the proposed revision to the survey had been made to reflect the zoning of all three parcels as R-12.

- Staff is proposing a revision to the Site Plan shown on sheet 201 related to the building data shown under development data. Said revision should better couple the building types listed under development data and building types shown on the plan.

May 1, 2018: Mr. Sugg noted the proposed revision would be made to properly label the building types shown on sheet 201.

May 22, 2018: Mr. Eller confirmed that the proposed revision had been made to better reflect the building types listed.

- Staff is proposing a revision to the Site Plan shown on sheet 201 adding the zoning of surrounding properties under Buncombe County jurisdiction. Zoning of parcels within the Town of Weaverville immediately to the east is shown.

May 1, 2018: Mr. Sugg noted the proposed revision would be made to show the zoning of all surrounding properties.

May 22, 2018: Mr. Eller confirmed that the proposed revision had been made to reflect the zoning of neighboring parcels within Buncombe County's jurisdiction.

- Staff is proposing a revision to the Site Plan shown on sheet 201 related to the five overflow parking places found on the south of the property. Said revision calls for showing the area immediately behind the parking places as striped for no parking due to a concern related to emergency vehicle access and turnaround. This may be achieved via no parking signs as the project comes to fruition but striping is preferred to be shown on plans.

May 1, 2018: Mr. Sugg noted that the proposed revision would be made to show a specific area as striped for no parking to ensure adequate emergency vehicle access and turnaround. Mr. Eller noted that he would facilitate a conversation with Mr. Sugg and Fire Marshal Davis to ensure that the area noted will qualify as an approved fire apparatus turnaround.

May 22, 2018: Mr. Eller confirmed that a specific area had been striped for no parking to ensure adequate emergency vehicle access and turnaround.

- Staff may be proposing a revision to the Water Plan shown on sheet 601 related to the creation of a looped water system for the project. It is my understanding that the applicant has been in contact with our Public Works Director related to this revision of the system shown and more content related to this conversation may be found in an additional staff report provided by the Public Works Department.

May 1, 2018: Mr. Sugg noted that he had spoken to Public Works Director Pennell regarding the proposed revision to the water plan to create a looped system for the project and that such

conversations would continue to ensure that the water service provided to the properties would meet the qualifications of the Water Policy of the Town.

May 22, 2018: Mr. Eller confirmed that a revision had been made to the water plan on sheet 601 to create a looped water system to ensure adequate water service for the project at the direction of the Public Works Director.

Proposed Items for the Board's Consideration Related to the Creation of a Conditional Zoning District for the Weaverville Townhomes Project:

Site Visit:

Should the Board deem it useful, staff is willing to organize and advertise a special called meeting for the purpose of a site visit to the subject properties.

May 1, 2018: Staff proposed a special called meeting of the Board for the purpose of conducting a site visit to the subject property. Consensus was gained that should members of the Board wish to visit the property they would do so individually or in pairs and that no special called meeting of the Board for this purpose is necessary. Consensus was also gained that the applicant would stake certain features on the property accommodate the review of the Board.

May 22, 2018: Mr. Jackson confirmed that certain features had been staked by the surveyor on the property at the request of the Board for their proposed site visit.

Sidewalks:

As previously mentioned, sidewalks are traditionally required for all new multifamily residential development. In this particular instance there exists no connectivity to the proposed project and neighboring commercial development. Could the applicant in conjunction with Walmart create such a connection along Northcrest Road? Could pedestrian access be achieved by exiting overflow parking areas bordering Walmart and navigating the slope down to the side parking lots present for existing commercial development? A councilman did note during the aforementioned initial review that there will be pedestrian traffic to existing commercial development whether sidewalks are present or not. Internal sidewalks are shown on the site plan.

May 1, 2018: Consensus was gained that a revision would be made to the sidewalk configuration shown inclusive of features which could ease connectivity with future development in the area. Said revision will be shown on subsequent versions of the plan.

May 22, 2018: Mr. Eller confirmed that the sidewalk configuration had been changed at the request of the Board to provide access to neighboring and future development. Additionally, the Board made a request that two more crosswalks be added to the plan in the vicinity of the intersections road A and road B; and road B and Gill Branch Road.

Fencing:

Language specific to the conditional zoning district which created Weaver Village prohibited bare metal fencing and required a fence, four feet in height to be installed along the top of a retaining wall shown on the plans. Areas which may benefit from fencing can be considered.

May 1, 2018: Consensus was gained that fencing would be installed at the top of retaining walls shown to ensure the safety of the eventual inhabitants of the project.

May 22, 2018: Mr. Eller proposed the following language to be included in the CZD ordinance related to fencing along retaining walls and consensus was gained for same.

Safety barrier required: The installation of fencing shall be required at the top level of a retaining wall or retaining wall system in order to deter unsafe activities near the edge of the wall. Fencing at a minimum shall be four feet tall, and shall consist of a chain-link or a solid visual barrier fence. Installation of a guardrail shall also be required where vehicular traffic will be within ten feet of the edge of the top level of the retaining wall.

Construction and Finishing Materials:

Language specific to the conditional zoning district which created Weaver Village establishes specific construction finishing materials to be used in order to achieve a certain look and style. Said materials include stone, wood timbers, brick, stucco, cement siding and cedar shake shingles. It should be noted that these very same materials were the subject of an appeal of an administrative decision before the Zoning Board of Adjustment. It should also be noted, especially in quick succession from the conversation related to accessory structures, that State statute will not allow a jurisdiction to legislate the appearance of residential structures in most instances. Conditional zoning districts are one of the occasions where it is permissible to legislate design standards.

May 1, 2018: Topic to be considered at the May 22 special called meeting of the Board.

May 22, 2018: Mr. Jackson gave a presentation on the construction and finishing materials complete with samples of same including the following: 30 year architectural style roof shingles; rock on the two columns for each unit projecting approximately half the length of the column; alternating colors to prevent complete conformity with each unit; hardy plank and pressed paper dipped in cement to be used as siding; shutters to be used on windows; and dog eared shadow box fencing which may be used to convert common area behind each unit to convert common area into private area under private maintenance.

Mr. Eller noted to Mr. Sugg that notes on the architectural renderings and elevations should be revised to reflect the aforementioned presentation. Mr. Jackson noted that said plans would also be revised to reflect the change in name from Baldwin Commons, a sister project elsewhere in Buncombe County, to Northridge Commons.

Mr. Jackson noted that he would also be updating the covenants, conditions and restrictions from Baldwin Commons to reflect Northridge Commons for the Board's review. Ms. Jackson noted that the CCR's would

need to be submitted to staff by May 29 for inclusion in the next packet of information distributed to the Board.

Procedures for Plat Approval and Recordation:

May 1, 2018: Topic to be considered at the May 22 special called meeting of the Board.

May 22, 2018: Mr. Eller and Ms. Jackson noted to the Board that Mr. Jackson has proposed single phase completion of infrastructure and therefore the procedure for plat approval and recordation would be simplified. Ms. Jackson proposed a note to be transcribed to the CZD ordinance which would treat the plans recommended by the Board to Council as preliminary and that once the infrastructure was completed the final plat would be submitted to staff for review, the Board for review and recommendation and to Council for approval.

Completion of Construction:

Ordinance calls for the completion of construction within 730 days upon obtainment of the necessary permits based upon the size of the project and the ability for Town Council to grant an additional 180 days for good cause shown. Given that the project is shown as single phase construction with an anticipated completion in 24 months, does there need to be some additional time built in?

May 1, 2018: Consensus was gained that ordinance calls for the completion of construction within two years and that due to the size of the project, this timeframe may not be reasonable.

May 22, 2018: Mr. Jackson explained to the Board his experience with sister projects as it relates to the timing and completion of construction. Of note was a proposed six month process for site preparation and infrastructure completion; lack of quality subcontractors due to the volume of construction in the area; and phased financing which only permitted three building under simultaneous construction and the beginning of additional building once fifty percent of preceding units were under contract.

Mr. Warren motioned to include language related to a 42 month time frame for completion of construction with a six month extension which may be granted by Town Council. Mr. Chase seconded and all voted unanimously.

3. Direction to Staff and the Applicant Related to the Advancement of the Review Process for the Aforementioned Conditional Zoning District Application.

The Board instructed the applicant to make the changes necessary to reflect material covered in the meeting and converse with staff related to same.

Ms. Jackson noted that staff has sufficient information to craft a statement of reasonable ness and recommendation to be furnished to Town Council for the Board's review at their next regularly scheduled meeting.

4. Adjournment.

Ms.Cordell motioned to adjourn. Mr. Burge seconded and all voted unanimously.

Doug Theroux, Chairman
Planning and Zoning Board

ATTEST:

James W. Eller
Planning Director / Deputy Town Clerk

Town of Weaverville
Planning and Zoning Board
Minutes – Tuesday, June 5, 2018

The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, June 5, 2018 within the Fire Department Training Room.

Present: Chairman Doug Theroux, Vice-Chairman Gary Burge, Board Members Catherine Cordell, Leslie Osborne and Peter Stanz, Alternate Board Member John Chase, Town Attorney Jennifer Jackson and Planning Director James Eller. Absent: Alternate Board Member Steve Warren.

1. Call to Order.

Chairman Doug Theroux called the meeting to order at 6:00 pm.

Chairman Theroux noted that Alternate Members Chase and Warren would serve as acting members in the absence of Board Members Osborne and Stanz.

2. Approval of the Minutes from the April 3, 2018 Meeting of the Board.

Mr. Burge motioned to approve the minutes as presented. Mr. Warren seconded and all voted unanimously.

3. Discussion Related to a Major Subdivision of Land Located at 6 Garrison Road.

Mr. Eller described the subdivision before the Board for their consideration. The property in question, 6 Garrison Road, consists of 2.39 acres and is proposed to be split into two lots.

4. Consideration of a Motion Establishing a Recommendation to Town Council Related to the Aforementioned Subdivision.

Mr. Burge motioned to favorably recommend to Town Council the aforementioned major subdivision. Ms. Cordell seconded and all voted unanimously.

5. Discussion Related to a Proposed Conditional Zoning District Application for the Project Commonly Known as Northridge Commons Townhouses (Formally Weaverville Townhomes).

Ms. Jackson provided the Board with the following statement of reasonableness and recommendation to be forwarded to Town Council from the Planning and Zoning Board.

June 5, 2018

Mayor Al Root and
Weaverville Town Council

Re: *Northridge Commons Investors, LLC*
Conditional Zoning District Application dated April 2, 2018

Statement of Reasonableness and Recommendation

Dear Mayor and Council –

On 1 May 2018, 22 May 2018 and 5 June 2018, pursuant to Section 36-84 of the Town's Code of Ordinances, the Planning and Zoning Board reviewed the application for a Conditional Zoning District that was submitted by Northridge Commons Investors, LLC, on April 2, 2018, for a project that is to be known as Northridge Commons Townhouses (previously known as Weaverville Townhomes).

This project is a residential project consisting of 53 single-family dwellings in multi-unit buildings on three (3) contiguous parcels of land under common ownership, currently owned by HFW Endeavors, LLC, and zoned R-12. The property is bounded by Walmart to the East, the private road known as Northcrest Road to the North, Monticello Road (SR 1727) and Gill Branch Road (SR 1724) to the West, and private properties outside Town municipal borders to the South. Said property is shown on the attached survey prepared by Ed Holmes & Associates with a last revised date of 11 May 2018. The number of units in this project is 53, which is well below the maximum of 101 units based on the underlying R-12 zoning. All setbacks and height restrictions noted for R-12 have been observed in the plans submitted.

At these meetings the Planning and Zoning Board reviewed the project for compliance with all of the items enumerated in Section 36-84(d). The Planning and Zoning Board also analyzed the project's reasonableness in light of the Town's comprehensive land use plan and other land use policies and found that the Northridge Commons Townhouses project is reasonable in light of the Town's land use regulations including specifically the Town's Comprehensive Land Use Plan and the stated goals and objectives in that Plan including those provisions which encourage a variety of housing opportunities, conceptual development in the Town's West Weaverville area, and consistency with the Town's underlying R-12 zoning district which was designed and implemented specifically to accommodate high density residential uses such as this project.

After careful review of this application and the plans submitted, the Planning and Zoning Board unanimously recommends the approval of Northridge Commons Investors, LLC's application for a Conditional Zoning District for the project known as the Northridge Commons Townhouses, subject to the following conditions:

1. The project is to be constructed consistent with the plans and specifications prepared by Civil Design Concepts, PA, and submitted by the applicant, a copy of which is attached hereto and incorporated herein by reference, and itemized as follows:
 - a. Sheet C101 – Existing Conditions and Demolition Plan
 - b. Sheet C201 – Site Plan
 - c. Sheet C300 – Overall Grading Plan
 - d. Sheet C301 – Rough Grading and Erosion Control Plan

- e. Sheet C302 – Road Profiles
 - f. Sheet C501 – Storm Drainage Plan
 - g. Sheet C601 – Water Plan
 - h. Sheet C602 – Water Profiles
 - i. Sheet C701 – Sewer Plan
 - j. Sheet C702 – Sewer Profiles
 - k. Sheet C921 – Site Details (Curb and Gutter)
 - l. Sheets C951, C952, C953 – Storm Drainage Details
 - m. Sheet C961 – Water Details
 - n. Sheets C971, C972 – Sewer Details
 - o. Sheet L101 – Landscape Plan
2. The project is to be constructed consistent with the plans and specifications, including but not limited to construction and finishing materials, prepared by Fisher Architects, PA, and submitted by the applicant, a copy of which is attached hereto and incorporated herein by reference, and itemized as follows:
 - a. Sheet T1.1 – Fire Wall Plan
 - b. Sheets A101, A102, A103 – Floor Plans
 - c. Sheets A201, A202, A203, A204 – Elevations
 - d. Sheets A301, Wall Sections
 3. Sidewalks, natural walking trails, and crosswalks shall be constructed and/or installed as shown on Sheet C201 and properly maintained. Natural walking trails shall be surfaced with natural materials such as mulch or gravel, at the developer’s discretion, and maintained in a good walkable condition. All crosswalks, including the crosswalk on Northcrest Road, shall be routinely maintained to keep the paint visible for pedestrian safety.
 4. All streets within the project shall be private, unless and until said streets are accepted into the public street system by the Town of Weaverville. Said private streets shall be constructed to NC minimum construction standards for subdivision roads or Weaverville’s street standards, whichever is more stringent. The covenants, conditions and restrictions applicable to this project must include language stating that the streets are private and part of the common area of the project, and as such will be maintained through the assessments for common expenses.
 5. For vehicular safety a guardrail must be installed and maintained along the top of the retaining wall to be constructed between Units 17 and 44.

6. Fencing must be installed at the top level of any retaining wall or retaining wall system in order to protect against unsafe conditions at the edge of the wall. Such fencing shall be at least 4 feet in height and shall be constructed of a chain-link material or a solid barrier fence.
7. Any and all outdoor lighting that is to be installed must comply with Town Code Section 36-26.
8. All water, sewer, and stormwater infrastructure, and all street, sidewalk, natural walking trail, and crosswalk improvements must be installed and verified as complete by the appropriate authority prior to final plat review. Once the required infrastructure is complete, the final plat will be reviewed by Staff and the Planning and Zoning Board for compliance with the relevant portions of the ordinance approving the conditional zoning district for the project. After its review the Planning and Zoning Board shall submit a recommendation to Town Council. Town Council shall consider the Planning and Zoning Board's recommendation and shall approve the final plat and authorize the recordation of same, upon finding that the required infrastructure is complete and compliant.
9. Minor modifications that can be approved by Staff are limited to matters such as the following: minor adjustments to the location of the natural walking trail, modifications that do not affect the property lines, modifications to subsurface infrastructure which do not affect the final plat and which are in substantial compliance with the approved plans. Any modification that affects the site plan as shown on sheet C201 is not to be considered a minor modification. All other modifications must be accomplished as an amendment to the conditional zoning district which can only be approved by Town Council after review and recommendation of the Planning and Zoning Board and a public hearing held by Town Council, but in such circumstance a public involvement meeting is not required.
10. Any determination made by the zoning administrator regarding the project and/or this conditional zoning district is appealable to the Zoning Board of Adjustment. Such appeal shall be made in accordance with the procedure set forth in Town Code Section 36-328(3). In addition, Staff is required to notify the Mayor and Town Council of any appeals related to this project and/or this conditional zoning district proceeding before the Zoning Board of Adjustment so that Town Council has the opportunity to participate as a party to the appeal should it wish to do so.

Alternative language – Town Council could consider another option for appeals:

Any determination made by the zoning administrator regarding the project and/or this conditional zoning district is appealable to Town Council, which shall sit as a board of adjustment and comply with quasi-judicial procedures in deciding the appeal. Such appeal shall be made in accordance with the procedure set forth in Town Code Section 36-328(3) except that Town Council is the appeal authority.

11. All construction must be completed within 42 months of the issuance of the first permit allowing work to begin on the property. Upon request of the owner/developer, Town Council may, in its sole discretion, grant a 6-month extension or any other extension that it deems appropriate under the circumstances.

Under Town Code Section 36-84(i) Town Council has the discretion to require a performance guarantee to guarantee the completion of the conditions approved with the conditional zoning district and to determine the amount of such guarantee should Town Council wish to require one.

It is also noted that a public involvement meeting required by Sec. 36-84(l) was held on May 29, 2018 after being properly noticed.

A traffic analysis was not conducted as the applicant's engineers, determined that the peak hour trips would not trigger the requirement stated in Town Code Section 36-25.

Please let me know if you need anything further from us on this matter.

Sincerely,

Doug Theroux
Planning and Zoning Board Chairman

cc: James Eller, Town Planner
Selena Coffey, Town Manager
Jennifer Jackson, Town Attorney
Warren Sugg, Civil Design Concepts, PA
Ken Jackson, Northridge Commons Investors, LLC

6. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Conditional Zoning District Application.

Following a conversation and confirmation of each aforementioned condition within the statement of reasonableness and recommendation, Ms. Cordell motioned to forward said statement to Town Council. Mr. Burge seconded and all voted unanimously.

7. Adjournment.

Ms. Cordell motioned to adjourn. Mr. Burge seconded and all voted unanimously.

**Doug Theroux, Chairman
Planning and Zoning Board**

ATTEST:

James W. Eller
Planning Director / Deputy Town Clerk



**Agenda Items 3&4
Text Amendment Related to Political Signage**

In short, the Town's ordinance related to the placement of political signage is noncompliant with state statute. Said ordinance proposes to regulate political signage within the rights-of-way of state owned roads where no statutory authority exists to do so and requires that such signage be removed two days following the election where statute grants ten days.

State Statute

§ 136-32. Regulation of signs.

(a) **Commercial Signs.** - No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign, marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial or political advertising, except as provided in subsections (b) through (e) of this section: Provided, nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department of Transportation or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of Transportation may remove any signs erected without authority or allowed to remain beyond the deadline established in subsection (b) of this section.

(b) **Compliant Political Signs Permitted.** - During the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163A-1300 and ending on the 10th day after the primary or election day, persons may place political signs in the right-of-way of the State highway system as provided in this section. Signs must be placed in compliance with subsection (d) of this section and must be removed by the end of the period prescribed in this subsection.

(c) **Definition.** - For purposes of this section, "political sign" means any sign that advocates for political action. The term does not include a commercial sign.

(d) **Sign Placement.** - The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:

- (1) No sign shall be permitted in the right-of-way of a fully controlled access highway.
- (2) No sign shall be closer than three feet from the edge of the pavement of the road.
- (3) No sign shall obscure motorist visibility at an intersection.
- (4) No sign shall be higher than 42 inches above the edge of the pavement of the road.
- (5) No sign shall be larger than 864 square inches.
- (6) No sign shall obscure or replace another sign.

(e) **Penalties for Unlawful Removal of Signs.** - It is a Class 3 misdemeanor for a person to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed under this section.

(f) **Application Within Municipalities.** - Pursuant to Article 8 of Chapter 160A of the General Statutes, a city may by ordinance prohibit or regulate the placement of

political signs on rights-of-way of streets located within the corporate limits of a municipality and maintained by the municipality. In the absence of an ordinance prohibiting or regulating the placement of political signs on the rights-of-way of streets located within a municipality and maintained by the municipality, the provisions of subsections (b) through (e) of this section shall apply. (1921, c. 2, s. 9(b); C.S., s. 3846(r); 1927, c. 148, ss. 56, 58; 1933, c. 172, s. 17; 1957, c. 65, s. 11; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1; 1991 (Reg. Sess., 1992), c. 1030, s. 39; 1993, c. 539, s. 981; 1994, Ex. Sess., c. 24, s. 14(c); 2011-408, s. 1; 2017-6, s. 3.)

Existing Ordinance

Sec. 36-201. - Temporary signs.

Temporary signs shall be allowable in all zoning districts.

- (1) Signs used prior to and during construction to identify the name of contractor(s) and/or developer(s) shall be considered temporary signs, and shall meet the following requirements:
 - a. Each contractor shall have no more than one sign per location which shall be removed upon completion of the project.
 - b. Construction signs shall not be placed on trees, rocks, or other natural objects.
 - c. Construction signs shall be either attached to the building or affixed to a secure temporary post.
 - d. Construction signs shall be no greater than 32 square feet per side of the sign up to a maximum of 64 square feet of aggregate surface area for the entire sign.
- (2) Political signs shall be considered temporary signs, and shall meet the following requirements:
 - a. No political sign shall be placed in any town or state public right-of-way which includes utility poles and/or street medians.
 - b. All such signs shall be removed within two days after the election day.
- (3) Real estate signs (signs offering property for sale, lease or development) shall be considered temporary signs, and shall meet the following requirements:
 - a. Real estate signs in residential zoning districts shall not exceed six square feet in surface area per side of sign up to a maximum of 12 square feet of aggregate surface area for the entire sign.
 - b. Real estate signs in all other areas shall not exceed 16 square feet in surface area per side of sign up to a maximum of 32 square feet of aggregate surface area for the entire sign.
 - c. Real estate signs shall be erected only on the property which is being offered for sale, rent, lease and development.
 - d. Real estate signs shall conform to all other applicable provisions of the ordinance not inconsistent with this section.
 - e. Real estate signs shall be removed with seven days after the sale or lease of the property is closed.
 - f. Real estate directional signs (sign indicating the direction to a property being offered for sale) must be located on private property, with written permission of the property owner, at the nearest intersection of the major thoroughfare or collector street to the street upon which the property which is being offered for sale, rent, lease or development is located.
- (4) Any other temporary sign must be approved by the zoning administrator, and shall be of a size and height which is consistent with signs permitted in the neighborhood in which it will be located. Concerning the length of time a temporary sign may be displayed, the applicant must choose between the following options within a calendar year: (a) up to four 15-day periods, (b) up to two 30-day periods; or (c) one 60-day period. In no event may a temporary sign be displayed for more than 60 days within any given calendar year.

([Ord. of 3-20-2017\(1\)](#); [Ord. of 8-21-2017\(1\)](#), § 1(Exh. A))



**Agenda Items 5&6
Text Amendment Related to Nonconformities**

In response to two appeals of an administrative decision which have been heard by the Zoning Board of Adjustment related to nonconformities, it is the belief of staff and the ZBA that ordinances related to such nonconformities need a review and possible revision. Said ordinances have remained largely unchanged since the adoption of the Town's original zoning ordinance in 1978. It is the intent of staff to research and craft legislation which would erase current ambiguities and provide firmer ground for administrative decisions subject to appeal before the ZBA.

ADD THE FOLLOWING DEFINITIONS TO SECTION 36-5:

Appraised value means the value assigned to a structure by the Buncombe County Tax Assessor or by an MAI-certified real estate appraiser.

Impact means the effect of one land use upon another as measured by traffic, noise, site activity, hours of operation, lighting, vibration, dust, smoke, odor emissions, or similar factors.

Lawful nonconformity means any nonconformity involving a dimensional or numerical requirement or use of property that affects a structure erected or a lot created in conformity with the then-applicable development requirements of the town (or for which a vested right has been established), but subsequently made nonconforming by action of the town through a zoning map or zoning ordinance text amendment.

Nonconforming features

Nonconforming lot is a lot that was lawfully created prior to the effective date of the applicable sections of town code, or subsequent amendment thereto, but does not conform to the minimum lot size or minimum lot width requirements established for the zoning district in which it is located.

Nonconforming structures means any building or structure with a nonconformity involving a dimensional or numerical development requirement. Dimensional nonconformities include, but are not limited to, nonconformities associated with density, lot size, lot width, lot depth, setbacks, height, structure size standards, open space, number of parking spaces, or separation requirements between particular uses or zoning districts.

Nonconforming use means any nonconformity involving the use of the property. This may include, without limitation, nonconformities associated with a use not permitted in the zoning district in which it is located or a use allowed by a special use permit in the zoning districts in which it is located but for which no such special use permit has been obtained.

Renovation means the repairing or remodeling of a structure in which the exterior walls, foundation and roof are maintained structurally intact.

**DELETE SECTIONS 36-19, 36-20 and 36-21 AND
REPLACE WITH A NEW ARTICLE AS FOLLOWS:**

ARTICLE XVI - NONCONFORMITIES

Sec. 36-530. – Purpose and application

- (a) *Purpose.* It is recognized that, over time, lawful nonconformities may develop as a result of amendments to the zoning map or zoning ordinance text which change the application of town development regulations to particular properties. Nonconformities can also arise when properties on which vested rights have been established are annexed into the municipal boundaries of the town. It is important that such properties, while nonconforming, be adequately maintained and permitted to continue, but not expanded or enlarged in any fashion that increases the extent of nonconformity. Where possible, such nonconformities should be made, wholly or incrementally, conforming.
- (b) *Application.* The provisions of this article apply only to lawful nonconformities. Nonconformities other than lawful nonconformities shall be considered violations of the town's code.
- (c) *Applicability to variances, conditional zoning districts and special use permit.* Where a variance, conditional zoning district, or special use permit has been granted for a use or dimensional requirement which does not otherwise conform to the requirements of this chapter, that feature shall be deemed conforming so long as the property remains in compliance with their respective approved site plans. Likewise, when properties on which vested rights have been established are annexed into the municipal boundaries of the town, any use or dimensional requirement which does not otherwise conform to the requirements of this chapter shall be deemed conforming so long as they remain in compliance with the approved site specific development plan.

Sec. 36-531. - Nonconforming Uses.

- (a) Nonconforming uses of land or structures, and nonconforming structures that contain nonconforming uses may continue only in accordance with the provisions of this article. A nonconformity must have been legal when it was established in order to receive nonconforming protection. A use which is a violation of the zoning ordinance when it was established shall not ripen into a lawful nonconformity.
- (b) Except as provided herein, no nonconforming use can be extended, expanded, enlarged, or moved to occupy a different or greater area of land, building(s), or structure(s), than was occupied by such use at the time it became nonconforming.

- (c) Single family dwellings made nonconforming within the district in which they are located can be renovated, extended, expanded, enlarged or moved so long as a new or greater nonconformity is not created.
- (d) *Replacement of nonconforming uses.*
 - (1) A nonconforming use of a structure may be replaced by another nonconforming use if it falls within the same use definition as the original nonconforming use and such replacement of use may be permitted by the zoning administrator.
 - (2) A nonconforming use of a structure may be replaced by another nonconforming use upon a finding by the zoning board of adjustment that the proposed use is more nearly compatible with the surrounding properties and district than the nonconforming use which it replaces. Factors for consideration include, but are not limited to, traffic, noise, site activity, hours of operation, lighting, vibration, dust, smoke, odor emissions, and any other factors that the board finds relevant to compare or differentiate between the existing use(s) and the proposed replacement use(s). The zoning board of adjustment may establish conditions to ensure that the compatibility factors are maintained as approved.
- (e) No use may be established if it renders a conforming use as nonconforming.
- (f) Once a nonconforming use is changed to a conforming use, the nonconforming use shall not be reestablished.
- (g) Where a nonconforming use is visibly discontinued for 180 consecutive days, regardless of any intent or efforts to resume the use, then the use shall not be reestablished or resumed, and any subsequent use of the land or structure must conform to the requirements of town code.
- (h) Where a structure in which a nonconforming use is located is destroyed or damaged by fire, flood, wind, or other disaster, the structure may be repaired or restored to its original dimensions and conditions as long as a zoning permit for the repair or restoration is issued within 180 days of the date of the damage and the nonconforming use can resume.

Sec. 36-532. - Nonconforming Structures.

- (a) A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this article. A nonconformity must have been legal when it was established in order to receive nonconforming protection. A use which is a violation of the zoning ordinance when it was established shall not ripen into a legitimate nonconformity.
- (b) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures so long as no expansion of the nonconformity occurs as a result of such work.
- (c) Section 36-531 shall apply to all changes of use within a nonconforming structure, except that a nonconforming structure with a compatible use may not under any circumstances change its use to a nonconforming use.
- (d) A nonconforming structure may be renovated, expanded, or enlarged, without bringing the nonconforming structure into conformity with these regulations, so long as the extent of the applicable nonconformity is not increased and no new nonconformities are created. In considering whether alterations of a nonconforming structure is increasing the nonconformity, the expansion of the footprint of the structure and square footage added on proposed upper floors within the area of nonconformity shall be considered.
- (e) A nonconforming structure should not be moved unless it thereafter conforms to the standards of the zoning district in which it is located. If such a move is not possible but a relocation of the nonconforming structure is desired, then such relocation is permissible as long as the applicable nonconformity is lessened and no new nonconformities are created.
- (f) In the interest of public safety and health, structural alterations or remodeling of nonconforming structures which are required by any public law, and so ordered by a public officer in authority, shall be permitted.
- (g) Where a nonconforming structure is destroyed or damaged by fire, flood, wind, or other disaster, the structure may be repaired or restored to its original dimensions and conditions as long as a zoning permit for the repair or restoration is issued within 180 days of the date of the damage.
- (h) Where a nonconforming structure has been abandoned for 180 consecutive days, regardless of any intent or efforts to reoccupy the structure, then the use of the nonconforming structure shall not be reestablished or resumed, and any

subsequent use of the land or structure must conform to the requirements of town code.

Sec. 36-533. - Nonconforming Lots.

- (a) Where a nonconforming lot abuts another lot of record (whether conforming or conforming) held in the same ownership, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of town code.
- (b) Lawfully established nonconforming lots having one or more dimensional nonconformities may be used for any use allowed in the zoning district in which the lot is located provided that any structure or expansion/addition to an existing structure proposed for the use meets all applicable dimensional and numerical requirements and all applicable procedures are followed. Section 36-532 applies to nonconforming structures located on a nonconforming lot.
- (c) Where a nonconforming lot was created by a public taking action or as a result of a court order, the combination or recombination of lots shall not be required.
- (d) When a nonconforming lot cannot be combined or recombined with other lots to form a conforming lot or lots, such nonconforming lot may be used subject to the compliance with applicable use regulations and limitations, and minimum requirements for setback and yards, height, open space, buffers, screening, parking, and floor area required for the zoning district in which the lot is located.

If compliance with the applicable minimum requirements is not reasonably possible, the nonconforming lot may be used as a building site subject to the following:

- (1) Where the lot area and lot width are not more than 20 percent below the minimum standards specified, and all other dimensional requirements are otherwise complied with, the zoning administrator is authorized to issue a zoning permit;
- (2) Where the lot area and lot width are more than 20 percent below the minimum standards specified in this chapter or other dimensional requirements cannot be met, the zoning board of adjustment is authorized to consider requests for variances of such dimensional and numerical requirements as shall conform as closely as possible to the required dimensions.

Sec. 36-534. – Nonconforming signs.

- (a) All nonconforming signs shall be removed, changed, or altered to conform with the provisions of this chapter within 30 days after a finding by the zoning administrator that the sign poses an immediate danger to the public health, safety or general welfare, or, in any event, within five years after the same become nonconforming, except that signs having a valid permit issued pursuant to the provisions of the North

Carolina Outdoor Advertising Control Act shall be exempt from the provisions of the five year amortization provision above set forth.

- (b) Failure to remove, change, or alter a nonconforming sign within the amortization period set forth above shall result in the removal of said sign by the town at the expense of the owner of said sign.
- (c) If the owner of a nonconforming sign which has been removed by the town fails to pay for the costs of removal within 30 days of the billing date for such action, a lien shall be placed against the property and the town clerk shall certify the same to the town tax collector for collection in the same manner as ad valorem property taxes are collected. The amount certified by the town clerk to the town tax collector for collection shall include the actual cost of removal of said sign, plus 15 percent of the total cost, representing penalty and interest for costs of collection.

Sec. 36-535. - Replacement of manufactured homes.

Dimensional or use nonconformities associated with manufactured homes shall be addressed in the following manner:

- (a) *Replacement of a manufactured home with another manufactured home in a lawfully established nonconforming manufactured home park.* Replacement shall be permitted without regard to dimensional nonconformity provided that the replacement manufactured home is no older and no smaller than the existing manufactured home, the replaced home is placed in the same location as the original home, and such replacement occurs within 30 days of the removal of the original manufactured home. In all other situations, replacement shall be prohibited.
- (b) *Replacement of a nonconforming manufactured home on an individual lot with another manufactured home.* Replacement shall be permitted provided that new dimensional nonconformities are not created, the replacement manufactured home is no older and no smaller than the existing manufactured home, the replaced home is placed in the same location as the original home, and such replacement occurs within 30 days of the last day of occupancy of the original manufactured home. In all other situations, replacement shall be prohibited.

NOTE:

These proposed regulations do not consider amortization of nonconforming uses. A particular nonconforming use may be amortized provided the jurisdiction allows a “reasonable” period of time is recognized in light of income generated by the use of or investment in the property in question. Should Council wish to explore amortization staff would request additional time to ensure language presented represents the will of Council.