



**Town of Weaverville
Planning and Zoning Board
Council Chambers, Town Hall
Tuesday, September 4, 2018, 6:00pm**

Agenda

1. Call to Order – Chairman Doug Theroux.
2. Approval of the Minutes from the August 7, 2018 Meeting of the Board.
3. Discussion Related to a Proposed Zoning Ordinance Text Amendment Related to Nonconformities.
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 Conditional Zoning Districts.
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, August 7, 2018

The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, August 7, 2018 within Council Chambers at Town Hall.

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

1. Call to Order.

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

Chairman Theroux noted that Alternate Member Chase would serve as an acting member in the absence of Board Member Osborne.

Mr. Eller noted a revision of the agenda which would accurately describe items 3 & 4 as a resubdivision rather than major subdivision as previously written.

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

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

3. Discussion Related to a Proposed Resubdivision Preliminary and Final Plat for Lot 55 within Reems Creek Village.

Mr. Eller described that the plat before the Board has been reviewed by staff and found to be in compliance with the dimensional standards established by the R-2 zoning district in which the property is located. Mr. Eller also described that staff is proposing the plat before the Board be treated as both preliminary and final due to the infrastructure having been previously constructed which would serve the two proposed lots.

4. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Resubdivision Plat.

Mr. Burge motioned to send a favorable recommendation to Town Council related to the resubdivision plat within Reems Creek Village finding the plat to be in compliance with the zoning ordinance of the Town and not in conflict with the Town's adopted Comprehensive Land Use Plan. Mr. Stanz seconded and all voted unanimously.

5. Discussion Related to a Proposed Zoning Ordinance Text Amendment Related to Nonconformities.

Resetting the conversation from the last meeting of the Board, Ms. Jackson noted that nonconformities are those lots, structures or uses which were legal at the time of establishment but became nonconforming at the adoption of the zoning ordinance or an applicable amendment thereto.

Consensus was gained to add language related to the settlement of estates where the discontinuance of a nonconforming use is addressed under nonconforming uses.

Mr. Eller shared with the Board a diagram crafted to illustrate the possible expansions of a nonconforming structure. Consensus was gained that:

- (1) Increases in nonconformities related to building height are not allowed;
- (2) Increases in the square footage of a nonconforming structure within the setbacks of the zoning district in which the structure is located are not allowed. In considering whether an increase in square footage has been made or is proposed the zoning administrator is to take into consideration both horizontal expansion (i.e. increasing the building footprint within the setback) and vertical expansion (i.e. adding a second story to the portion of a structure within the setback).

Many and several clerical changes were recommended by the Board which instructed staff to make the necessary revisions for their review at the next regularly scheduled meeting.

6. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Proposed Text Amendment.

No such motion was made as the conversation related to nonconformities is to continue at the next regularly scheduled meeting of the Board.

7. Any Other Business to Come Before the Board.

Chairman Theroux noted that this meeting would be the last for Board Member Osborne due to the expiration of her term and a pending move to outside the jurisdiction.

Mr. Burge motioned to propose a joint meeting with Town Council for a date to be determined in October or November. Mr. Chase seconded and all voted unanimously.

Mr. Eller briefed the Board on matters related to the R-12 zoning district and annexations coupled with same, the requisite that private roads constructed within municipal borders be built to the Town's standards, and a couple projects which may require review by the Planning and Zoning Board.

8. Adjournment.

Chairman Theroux motioned to adjourn. Mr. Chase seconded and all voted unanimously.

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

ATTEST:

**James W. Eller
Planning Director / Deputy Town Clerk**



**Agenda Item 3&4
Nonconformities**

PROPOSED CODE AMENDMENTS – ZONING – NONCONFORMITIES

DELETE THE FOLLOWING DEFINITIONS FROM SECTION 36-5:

~~*Nonconforming occupied lot.* A lot which contained a structure on the effective date of this chapter or at the time the lot was brought into the town's jurisdiction but which does not meet the minimum requirements for width, area, front, side, or rear yard, height and/or open space for the zoning district in which it is located.~~

~~*Nonconforming open uses of land.* An open use on a lot when the only structures are incidental and accessory to the principal open use which was in existence prior to the effective date of this chapter or at the time the lot was brought into the town's jurisdiction and which would not be permitted by this chapter in the zoning district in which it is located. Uses such as storage yards, used car lots, auto wrecking yards, and golf driving ranges are examples of open uses.~~

~~*Nonconforming structure.* Any structure which does not conform with the requirements of the zoning district in which it is located, either at the effective date of the ordinance from which this chapter derives or as a result of subsequent amendments to this chapter.~~

~~*Nonconforming use of structure.* A use of a structure which existed prior to the effective date of this chapter, or at the time the lot on which the structure is sited was brought into the town's jurisdiction, and which would not be permitted in the zoning district in which it is located.~~

~~*Nonconforming vacant lot.* A lot which does not meet the dimensional requirements for the zoning district in which it is located, but which was recorded prior to the effective date of this chapter or prior to the time the lot was brought into the town's jurisdiction. This definition shall not be interpreted to include lots recorded prior to the adoption of this chapter which were in violation of any prior subdivision regulation of the town.~~

[NOTE – Definition of *Nonconforming sign* was retained in Section 36-5]

ADD THE FOLLOWING DEFINITIONS TO SECTION 36-5:

Dimensional and/or numerical development requirements or standards include, but are not limited to, those requirements or standards 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.

Impact means the effect of one land use upon another as measured by such factors which include, but are not limited to, the following: traffic, noise, site activity, hours of operation, lighting, vibration, dust, smoke, odor emissions.

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 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, lot depth or minimum lot width requirements established for the zoning district in which it is located.

Nonconforming structure means any building or structure with a nonconformity involving an applicable dimensional or numerical development requirement.

Nonconforming use means any lawful nonconformity involving the use of the property. This may include, but is not limited to, nonconformities associated with a use not permitted in the zoning district in which it is located, a use which cannot meet the newly enacted standards established in the zoning district for such use, or a use inconsistent with Town zoning but existing upon annexation into the Town.

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/condition 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 Lots.

- (a) A nonconforming lot may be used as a building site subject to the compliance with applicable use regulations and limitations, and minimum dimensional or numerical development requirements for the zoning district in which the lot is located including, but not limited to, setback and yards, height, open space, buffers, screening and parking.
- (b) If compliance with the applicable minimum dimensional or numerical development requirements is not 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 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. 36-532. - 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 36-533 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) Except as provided in this article, a nonconforming structure may be renovated, expanded, or enlarged, without bringing the nonconforming structure into conformity with these regulations, only if the applicable nonconformity is not increased and no new nonconformities are created. The following shall also apply:
 - (1) Increases in nonconformities related to building height are not allowed;
 - (2) Increases in the square footage of a nonconforming structure within the setbacks of the zoning district in which the structure is located are not allowed. In considering whether an increase in square footage has been made or is proposed the zoning administrator is to take into consideration both horizontal expansion (i.e. increasing the building footprint within the setback) and vertical expansion (i.e. adding a second story to the portion of a structure within the setback).
- (e) Residential structures made nonconforming by a text amendment or map amendment which rezones the property to a zoning district which does not permit residential uses may be renovated, expanded, or enlarged so long as the dimensional and numerical development standards for the R-1 zoning district can be met. See Section 36-533(c) for nonconforming residential uses.
- (f) A nonconforming structure cannot 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.
- (g) 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.
- (h) 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. Upon request, the board of adjustment is authorized to extend this period up to an additional 180 days if the applicant can present competent, substantial and material evidence showing good cause for such extension. Good cause could include, but is not limited to, delays related to estate administration, casualty insurance issues, or litigation concerning the property.

Sec. 36-533. - 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 if such change results in an increase in the extent or intensity of the nonconforming use as it existed at the time the lawful nonconformity was created.
- (c) Residential uses made nonconforming by a text amendment or a map amendment which rezones the property to a zoning district which does not permit residential uses cannot be expanded to increase the number of residences or family units from those existing at the time the lawful nonconformity was created. See Section 36-532(e) concerning nonconforming residential structures.
- (d) *Replacement of nonconforming uses.*
 - (1) A nonconforming use of a structure may be replaced by another nonconforming use if it falls within the use definition as the original nonconforming use. Such lawful replacement of use may be permitted by the zoning administrator.
 - (2) A nonconforming use of a structure may be replaced by another nonconforming use if it is no less compatible with the surrounding properties and district than the nonconforming use which it replaces. Such requests must be submitted to the board of adjustment which is authorized to grant such a request if the applicant can present competent, substantial and material evidence that the proposed use is as compatible or more compatible with the surrounding properties and district than the original nonconforming use. Factors for the board's 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 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 or substantially similar dimensions if the nonconformity is not increased, and 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. Upon request, the board of adjustment is authorized to extend this period up to an additional 180 days if the applicant can present competent, substantial and material evidence showing good cause for such extension. Good cause could include, but is not limited to, delays related to estate administration, casualty insurance issues, or litigation concerning the property.
- (i) Signage for a lawful nonconforming use shall be limited to one wall mounted or attached sign which shall not exceed 10% of the total surface area on which the sign is located. Said signage may be illuminated but must be shielded in a fashion to prevent light trespass and to brighten only the surface of the sign.

Sec. 36-534. – Nonconforming signs.

- (a) All nonconforming signs shall be removed, changed, or altered to conform with the provisions of this chapter within 5 years after the same became 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 5 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.

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 or a different location as long as no new conformities are created, and such replacement occurs within 30 days of the removal of the original manufactured home. In all other situations, replacement shall be prohibited.



Agenda Item 5&6
Conditional Zoning Districts

PROPOSED

Sec. 36-5. – Definitions.

Conditional Zoning District. A zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property.

Sec. 36-84. - Conditional zoning district.

- (a) *Intent.* It is expected that, in most cases, a general district will appropriately regulate site-specific impact of permitted use and structures on surrounding areas, however conditional zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the underlying general district has insufficient standards to mitigate the site-specific impact on surrounding area.
- (b) *Use permitted.* Any ~~The uses which~~ may be considered for a conditional zoning district which shall established on an individual basis, at the request of the property owner, according to the procedures of this section ~~36-83(d). Zoning of a conditional zoning district is not intended for the securing of early or speculative reclassification of property. It is expected that, in most cases, a general district will appropriately regulate site-specific impact of permitted use and structures on surrounding areas.~~
- (c) *Conditions.* In establishing a conditional zoning district Town Council may place conditions on the property which set individualized standards to the site and a site plan and supporting documents illustrating said conditions and standards may be included in the ordinance establishing the district. These conditions which may be established by Town Council shall only be those which are necessary for ordinance and plan compliance and shall only address the impacts reasonable expected to be generated by the project. Said conditions may be proposed by Town Council or the applicant and must be mutually approved by Town Council and the applicant.
- (c) ~~*Definition of conditional zoning district.* For purpose of this section, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. / If the property use is ever proposed to be changed from the original approved plan, then the new proposed use and plan must be resubmitted for approved by the town council. (~~
- (d) *Petition of request.* Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners, or agents of the owners of all of the property to be included in the district and shall be accompanied by an official petition, a statement analyzing the reasonableness of the proposed rezoning request by the petitioner, the established fee, and documentation as required by the following:
 - (1) A petition for a conditional zoning district must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property;
 - (2) A boundary survey and vicinity map showing the property's total acreage, current zoning classification(s), general location in relation to major streets, date and north arrow;
 - (3) Existing topography on the site and within 300 feet of the boundary of the site, and the general nature of the proposed topography contours shown at a maximum of five feet;

- (4) All existing easements, reservations, rights-of-way, and any other valid restrictions on the use of the land;
 - (5) The number and general location of all proposed structures;
 - (6) The proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development;
 - (7) All yards, buffers, screening, and landscaping ~~and sidewalks~~ required ~~by the town code~~ within the underlying zoning district;
 - (8) All existing and proposed points of access to public streets and the locations of proposed new streets;
 - (9) Delineation of areas within the floodplain;
 - (10) Proposed number and location of the signs;
 - (11) Proposed phasing, if any, and the approximate completion time for the project;
 - ~~(12) The location of existing and proposed storm drainage patterns and facilities intended to serve the development;~~
 - (12) Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
 - ~~(14) A list of adjoining properties including county tax parcel numbers and the name and address of each owner, provided in digital form;~~
 - ~~(15) The location of significant trees on the petitioned property;~~
 - (13) The scale of buildings relative to adjoining properties, including sight lines. Photographs of buildings on properties within 200 feet of the subject property establishing the scale of the buildings within the proposed project with those surrounding;
 - (14) Information on the height of all proposed structures;
 - (15) Exterior features of all of the proposed development including but not limited to construction and finishing materials;
 - (16) Any supporting text and all documents presented shall constitute part of the petition.
- (e) *Time limits.* Time limits for the completion of the projects infrastructure and completion of construction shall be established on an individual basis by Town Council based upon the type and scope of development. Extensions to established time frames shall be subject to the approval of Town Council. A time limit of 240 calendar days for securing applicable permits in order to construct the project and 365 calendar days thereafter for completion of the project; provided, however, the town council may approve up to an additional 365 calendar days for completion of the project, for good cause shown. In the event that the project involves more than three acres and/or more than 15,000 thousand square feet, the time period for securing applicable permits for the project shall be 365 calendar days and the time period for completion of the project shall be 730 calendar days thereafter; provided, however, the town council may approve up to an additional 180 calendar days for completion of the project, for good cause shown. Conditional zoning district projects that have approved detailed plans and have secured applicable permits for start of construction as of May 1, 2009, but on which there has not been a start of construction, will have an additional 12 months to be added to the construction time limits in this subsection from the date of approval of the detailed plans for the completion of the project.
- (f) *Minor modifications.* Minor modifications to a project shall be submitted to the zoning administrator for review. No building permit for the proposed development or any part thereof shall be issued until the zoning administrator has determined that the pertinent detailed plans are in accordance with the application and general plans as approved by the town council. Minor modifications that can be approved by staff are limited to minor adjustments to the location of, modifications that do not affect the property lines, do not affect the final plat and which are in substantial compliance with the

approved plans. Any modification that affects the site plan 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.

- (g) *Future variance request.* Property zoned CZD will not be able to apply for a variance on the approved project.
- (h) *Maintaining the zoning district.* A CZD is a rezoning which represents both a text and map amendment and as such is maintained after the sale of the property. If the property owner wishes to change the approved CZD plan, all property owners within the original CZD must apply for a rezoning or a modification to the CZD as per Sec. 36-84(o).
- (i) *Guarantee of conditions.* At the discretion of the town council, the council may require the property owner to guarantee the performance or completion of conditions included in the approved conditional zoning plan. Such guarantee may be in the form of:
 - (1) A surety performance bond made by a surety bonding company licensed and authorized to do business in the state;
 - (2) A bond of the developer with an assignment to the town of a certificate of deposit as security for the bond;
 - (3) A bond of the developer secured by an official bank check drawn in favor of the town and deposited with the town clerk;
 - (4) Cash or an irrevocable letter of credit; or
 - (5) A bank escrow account whereby the developer deposits cash, a note, a bond or some other instrument readily convertible into cash for a specific face value, with a federally insured financial institution in an account payable to the town.

The amount of the guarantee shall be determined by the town council.

- (j) *District approval.* If a petition for a conditional zoning district is approved, the development and use of the property shall be governed by the ~~predetermined ordinance requirements applicable to such district category ordinance establishing the conditional zoning district~~, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district. Each conditional zoning district will be given a special number, distinguishing such conditional zoning district from another zoning district.
- (k) *Planning and zoning review.* Following an initial review by town council as set forth in Sec. 36-358 all conditional zoning requests shall be submitted to the town planning and zoning board to determine if approvals of such plans are made in consideration of identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents. A statement analyzing the reasonableness of the proposed rezoning shall be prepared by the town planning and zoning board for each petition for a rezoning to a conditional zoning district and submitted to the town council for final action on the request. Due to the scope and complexities which may be presented by a conditional zoning district request, the planning and zoning board shall have up to 180 days from first consideration to submit its statement of reasonableness and recommendation to town council. If the planning and zoning board fails to submit such statement and/or recommendation within 180 days then the request shall be forwarded to town council with a record of the planning and zoning board's comments and town council is eligible to consider the request and take final action thereon.
- (l) *Public involvement.* Before a public hearing may be held by the town council on a petition for a conditional zoning the petitioner must file in the office of the town clerk a written report of at least one community meeting held by the petitioner. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning

petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the town council but shall not be subject to judicial review.

Notice of such a public hearing shall be given to all the property owners within 200 feet of the property boundaries and in accordance with the provisions of G.S. 160A-364.

- (m) *Judicial review.* Conditional zoning district decisions under this section are a legislative process and not subject to judicial review.
- (n) *Approval procedures for initial CZD.* Except as specifically modified by this section, the procedures to be followed by the town council in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under G.S. Ch. 160A, Art. 19. Each ordinance adopted by town council which establishes a conditional zoning district within the Town of Weaverville is hereby incorporated into this chapter as a separate and unique zoning district and shall be reflected on the town's zoning map. Copies of such ordinances shall be kept on file with the town clerk and may be reviewed upon request.

(o) *Approval procedures for modifications of a CZD. [to be added]*

(p) *Final plat approval process.* All water, sewer, stormwater infrastructure, and all street, sidewalk, and similar 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.

(q) *Noncompliance.* In the event of noncompliance by a property owner or any subsequent resale or lease of a property for use other than that stipulated in the original CZD approval, the property owner would be in violation of the town zoning ordinance.

(r) *Appeal of zoning administrator decisions concerning CZDs.* 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.