



**Town of Weaverville
Planning and Zoning Board
Council Chambers, Town Hall
Tuesday, August 7, 2018, 6:00pm**

Agenda

1. Call to Order – Chairman Doug Theroux.
2. Approval of the Minutes from the July 3, 2018 Meeting of the Board.
3. Discussion Related to a Proposed Major Subdivision Preliminary and Final Plat for Lot 55 Within Reems Creek Village.
4. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Major Subdivision Plat.
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 from the July 3 Meeting of the Board

Town of Weaverville
Planning and Zoning Board
Minutes – Tuesday, July 3, 2018

The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, July 3, 2018 within Council Chambers at Town Hall.

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

1. Call to Order.

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

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

2. Approval of the Minutes from the May 1, May 22 and June 5, 2018 Meetings of the Board.

Ms. Osborne motioned to approve the minutes from the May 1 meeting with amended language related to a no parking area designated to ensure adequate emergency vehicle access and maneuvering. Mr. Stanz seconded and all voted unanimously.

Ms. Osborne motioned to approve the minutes from the May 22 meeting with amended language related to the location of the meeting and exchanging the signature line to Vice Chairman Burge from Chairman Theroux. Mr. Warren seconded and all voted unanimously,

Mr. Burge motioned to approve the minutes from the June 5 meeting with amended language related to the location of the meeting and correcting the roster of members in attendance. Ms. Osborne seconded and all voted unanimously.

3. Discussion Related to a Proposed Zoning Ordinance Text Amendment Related to the Municipal Regulation of Political Signage.

Mr. Eller described that 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.

Following discussion, consensus was gained that existing language should be struck in favor of the following. "Political signs are subject to N.C.G.S 136-32 (b) through (e)."

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

Mr. Burge motioned to send a favorable recommendation to Town Council related to a text amendment which would mirror the town's regulation of political signage with language from state statute. Mr. Stanz seconded and all voted unanimously.

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

Ms. Jackson noted for the Board 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.

Mr. Eller reviewed definitions to be added to or amended within Section 36-5.

Consensus was gained that the definition of "appraised value" should be as follows.

Appraised Value: the value assigned to a structure by the Buncombe County tax assessor or by an MAI-certified real estate appraiser whichever is higher.

Consensus was gained that the definition of "impact" should be as follows.

Impact: the effect of one land use upon another as measures by such factors including but not limited to traffic, noise, site activity, hours of operation, lighting, vibration, dust, smoke, odor or omissions.

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 the expiration of the terms of four board members in September and requested that the application for reappointment to a town board which had been distributed be submitted to staff at the earliest convenience. Those members with expiring terms are Mr. Burge, Mr. Chase, Ms. Cordell and Ms. Osborne. Ms. Osborne noted that she would not be eligible to serve on the board following the expiration of her term due to an impending relocation outside the corporate limits of the Town.

8. Adjournment.

Ms. Osborne motioned to adjourn. Mr. Stanz 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
Lot 55 – Reems Creek Village

- **Original application from October 2016.**
- **Updated application.**
- **Plat. Staff proposes to treat the attached plat as preliminary and final due to the requisite infrastructure having previously been constructed.**
- **The concept plan for the attached plat was approved by Town Council on November 21, 2016 at the recommendation of the Planning and Zoning Board.**

MAJOR SUBDIVISION APPLICATION

Planning and Zoning Department, 30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7002--- fax (828) 645-4776 --- jeller@weavervillenc.org

Fee: \$300.00 + \$25.00 per lot

APPLICATION DATE: 10-17-16

OWNER NAME: Rabbit Ridge Properties LLC-

SUBDIVISION NAME: Reems Creek Village

PROPERTY ADDRESS: 109 Governor Thomson Terrace

PIN: 9742-96-7122-00000

DEED BOOK/PAGE: 3247/144

ORIGINAL TRACT SIZE (acres): 1.05

PROPOSED NUMBER OF LOTS: 2

SUBDIVISION TYPE: RESIDENTIAL COMMERCIAL INDUSTRIAL

OWNER/AGENT NAME: William Dorf
ADDRESS: 11 Rabbit Ridge Dr Weaverville NC 28787

PHONE NUMBER: 828-712-5566

REGISTERED SURVEYOR: Blackrock Surveying
ADDRESS: 157 S Lexington Ave Suite C Asheville NC 28801

PHONE NUMBER: 828-225-4341

REGISTERED ENGINEER:
ADDRESS:

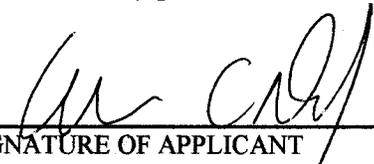
PHONE NUMBER:

Which utilities will serve the proposed development?:

- PUBLIC SANITARY SEWER COMMUNITY SEWER SEPTIC TANKS ON EACH LOT
- PUBLIC WATER COMMUNITY WATER WELLS ON EACH LOT

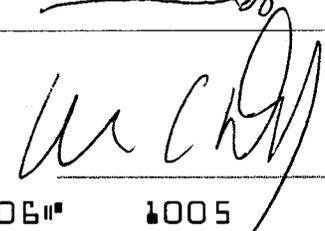
It is the applicant's responsibility to obtain a copy of the Town of Weaverville Subdivision Ordinance and Zoning Ordinance and to be fully aware of the regulations detailed therein.

I certify that the above information is accurate and true and that I am the owner or a duly appointed agent of the owner. I understand that a copy of the recorded plat must be submitted to the Zoning Department prior to the issuance of any permits associated with this subdivision.


SIGNATURE OF APPLICANT

10-17-2016

DATE

FEE: PRELIMINARY PLAT AI <input type="checkbox"/> APPROVED WITH C	<p>RABBIT RIDGE LLC 11 RABBIT RIDGE DR WEAVERVILLE, NC 28787</p> <p style="text-align: right;">1005 67-219/539 404</p> <p style="text-align: right;">Date: 10/17/16</p> <p>Pay to the Order of <u>Town of Weaverville</u> \$ <u>350</u>⁰⁰</p> <p><u>Three Hundred Fifty</u> Dollars</p> <p>TD Bank America's Most Convenient Bank®</p> <p>For <u></u> MP</p> <p style="text-align: center;">⑆053902197⑆ 4306780506⑆ 1005</p>	<p style="text-align: right;">Security Features Details on Back.</p>
---	---	--

MAJOR SUBDIVISION APPLICATION

Planning and Zoning Department, 30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7002--- fax (828) 645-4776 --- jeller@weaverville.org

Fee: \$300.00 + \$25.00 per lot

APPLICATION DATE: 7-23-18

OWNER NAME: Rabbit Ridge Properties LLC

SUBDIVISION NAME: Reems Creek Village

PROPERTY ADDRESS: 109 Governor Thomson Terrace

PIN: 9742-96-7122-00000

DEED BOOK/PAGE: 3247/144

ORIGINAL TRACT SIZE (acres): 1.05

PROPOSED NUMBER OF LOTS: 2

SUBDIVISION TYPE: RESIDENTIAL COMMERCIAL INDUSTRIAL

OWNER/AGENT NAME: Amit Dorf

PHONE NUMBER: 828-319-8286

ADDRESS: 122 Dorothy Lille Lane, Weaverville NC 28787

REGISTERED SURVEYOR: Blackrock Surveying

PHONE NUMBER: 828-225-4341

ADDRESS: 157 S Lexington Ave Suite C Asheville NC 28801

REGISTERED ENGINEER:

PHONE NUMBER:

ADDRESS:

Which utilities will serve the proposed development?:

PUBLIC SANITARY SEWER COMMUNITY SEWER SEPTIC TANKS ON EACH LOT
 PUBLIC WATER COMMUNITY WATER WELLS ON EACH LOT

It is the applicant's responsibility to obtain a copy of the Town of Weaverville Subdivision Ordinance and Zoning Ordinance and to be fully aware of the regulations detailed therein.

I certify that the above information is accurate and true and that I am the owner or a duly appointed agent of the owner. I understand that a copy of the recorded plat must be submitted to the Zoning Department prior to the issuance of any permits associated with this subdivision.



SIGNATURE OF APPLICANT

7-23-18

DATE

OFFICE USE ONLY

FEE:

DATE PAID:

CHECK

CASH

PRELIMINARY PLAT APPROVAL DATE:

FINAL PLAT APPROVAL

DATE:

APPROVED WITH CONDITIONS:

I, ROBERT K. BRADY, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 3247, PAGE 144); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION AS SHOWN ON THE FACE OF THIS PLAT; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10000+; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600).

THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS

____ DAY OF FEBRUARY, A.D. 2017.

ROBERT K. BRADY, JR., PLS-3959

I, Robert K. Brady, Jr., certify that this map was drawn under my supervision from an actual GPS (or GNSS) survey made under my supervision and the following information was used to perform the survey:
 Class of survey: Class B
 Positional accuracy: 0.044
 Type of GPS (or GNSS) field procedure: OPUS-RS
 Date(s) of survey: 03/19/2014
 Datum/Epoch: NAD 83 (2011)(EPOCH2010.000)
 Published/fixed control: DE8230, DM6192, DJ9536
 Geoid model: GEOID12A
 Combined factor: 0.99980072
 Units: U.S. Foot
 Horizontal positions are referenced to NAD83(2011)

____ DAY OF FEBRUARY, A.D. 2017.

ROBERT K. BRADY, JR., PLS-3959

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE TOWN OF WEAVERVILLE, NORTH CAROLINA AND THAT THIS PLAT HAS BEEN APPROVED BY THE TOWN COUNCIL OF WEAVERVILLE FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF BUNCOMBE COUNTY.

DATE _____ TOWN MANAGER _____

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, WHICH IS LOCATED WITHIN THE SUBDIVISION JURISDICTION OF THE TOWN OF WEAVERVILLE AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT. I FURTHER CERTIFY THAT THE SUBDIVISION COMPLIES WITH ALL PROVISIONS OF THE ORDINANCE OF THE TOWN OF WEAVERVILLE.

DATE _____ Rabbit Ridge Properties, LLC by William C. Dorf Member/Manager

STATE OF NORTH CAROLINA
 COUNTY OF BUNCOMBE

FILE FOR REGISTRATION ON THE _____ DAY OF _____

2017, AT _____ AND RECORDED IN

PLAT BOOK _____, PAGE _____

BY: _____ REGISTER OF DEEDS

BY: _____ DEPUTY

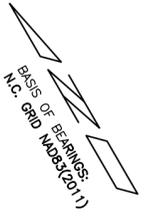
REVIEW OFFICER
 STATE OF NORTH CAROLINA
 COUNTY OF BUNCOMBE

I, _____

REVIEW OFFICER OF BUNCOMBE COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE: _____

REVIEW OFFICER'S SIGNATURE _____



3
Rabbit Ridge Properties, LLC
 D.B. 3247, Pg. 144
 P.B. 142, Pg. 102
 PIN 9742 96 6439
 R-2 Zoning

Lot 54
Rabbit Ridge Properties, LLC
 D.B. 3247, Pg. 144
 P.B. 110, Pg. 161
 PIN 9742 96 9105
 R-2 Zoning

Lot 55b
 0.523 Acres
 22,782 Sq.Ft.

Lot 55a
 0.525 Acres
 22,857 Sq.Ft.

Governor Thomson Terrace
 45' Private R/W per P.B. 110, Pg. 161

Penley Park Drive
 45' Private R/W per P.B. 110, Pg. 161

GENERAL NOTES:

- Property subject to all easements, rights-of-way and restrictions of record
- Lines not surveyed are shown as broken lines from information referenced on the face of this plat
- The area shown hereon was computed using the coordinate computation method
- Subject property is not located within a flood hazard area according to flood insurance community 370269, panel 9742, suffix J dated January 6, 2010
- Location of utilities, whether public or private, is based upon field location of visible appurtenances
- All distances are horizontal ground measured in US Feet
- This plat has been prepared without the benefit of a title report which may reveal additional conveyances, easements, rights-of-way or building restrictions. A North Carolina licensed attorney-at-law should be consulted regarding correct ownership, width, and location of easements and other title questions revealed by the title examination.
- This map does not transfer to anyone other than the persons or business named in the title block and may not be used without written authorization from Blackrock Surveying and Land Design, PC.

- R-2 Zoning Setbacks
 Front 30'
 Side 10'
 Rear 10'
 Corner, Side 30'
- Subdivision Data
 Total Acreage to be Subdivided - 1.05 Acres
 per P.B. 110, Pg. 161
 Total Number of Lots - 2
- Owners:
 PIN 9742 96 6439
 Rabbit Ridge Properties, LLC
 Developer - Amit Dorf
 Address - 11 Rabbit Ridge Drive
 Weaverville, NC 28787
 Phone - 828-705-1444
 Land Surveyor: Robert K. Brady, PLS-3959,
 Blackrock Surveying and Land Design, PC
 Address - PO Box 8302
 Asheville, NC 28814
 Phone - 828-225-4341

CURVE TABLE			
CURVE	DIRECTION	CHORD	RADIUS
C1	N69°11'45"W	21.22'	15.01'

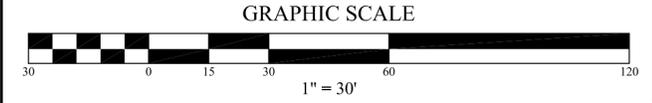
- Legend**
- D.B. Deed Book
 - Pg. Page
 - P.B. Plat Book
 - PIN Parcel Identification Number
 - R/W Right-of-Way
 - Rad. Radius
 - Ch. Chord
 - Sq.Ft. Square Feet
 - WV Water Valve
 - WV Water Valve
 - TP Telecommunications Pedestal
 - TF Transformer
 - CP Calculated Point
 - N Northing
 - E Easting
 - Sanitary Sewer Manhole
 - Rad. Radius
 - Ch. Chord
 - C# Curve Tag

Preliminary Plat
 Not for Recordation, Conveyance, or Sale

Re-Subdivision for
 Lot 55 of P.B. 110, Pg. 161
Reem's Creek Village

Town of Weaverville, Reems Creek Township, Buncombe County, North Carolina

PIN: 9742 96 7122	Current Owner: Rabbit Ridge Properties, LLC	Address: 109 Governor Thomson Ter. Weaverville, NC 28787
D.B./Pg.: Portion of 3247 / 144	P.B./Pg.: 110 / 161 & 162	Zoning: R-2
Job Number: 16-124_3s	Firm License No.: C-2921	Field Survey Date: 1/20/2017
Surveyed by: RB	Drawn by: RKB	PLS: Robert K. Brady, Jr.



BLACKROCK SURVEYING & LAND DESIGN, P.C.

PO Box 8302
 Asheville, North Carolina 28814
 phone: 828-225-4341
 fax: 828-225-4342
 www.blackrocksurveying.com



**Agenda Items 5&6
Nonconformities**

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 **whichever is higher**.

Impact means the effect of one land use upon another **as measured by such factors including but not limited to** traffic, noise, site activity, hours of operation, lighting, vibration, dust, smoke, odor or 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 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.