Town of Weaverville
Planning and Zoning Board
Council Chambers, Town Hall
Tuesday, October 2, 2018, 6:00pm

Agenda

1. Call to Order – Chairman Doug Theroux.
2. Approval of the Minutes from the September 4, 2018 Meeting of the Board.
3. Discussion Related to a Proposed Final Plat for the Major Subdivision Commonly Known as 44 Central Avenue.
4. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Proposed Final Plat.
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. Discussion Related to a Proposed Text Amendment for the Conditional Zoning District for Northridge Commons Townhouses.
8. Consideration of a Motion Establishing a Recommendation to Town Council on the Aforementioned Proposed Text Amendment.
9. Any Other Business to Come Before the Board.
10. Adjournment.

Agenda Item 2

Minutes from the September 4, 2018 Meeting of the Board

Town of Weaverville
Planning and Zoning Board
Minutes – Tuesday, September 4, 2018

The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, September 4, 2018 within Council Chambers at Town Hall.

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

1. **Call to Order.**

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

Chairman Theroux congratulated Board Members Burge, Chase and Cordell for their reappointment to the Planning and Zoning Board.

2. Approval of the Minutes from the August 7, 2018 Meeting of the Board.

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

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

Mr. Eller described that the material before the Board related to nonconformities was reflective of the Board's comments and concerns from the previous month's meeting with one exception being language addressing nonconforming lots made such by insufficient street access as required by Sec. 36-12.

Ms. Jackson provided the following proposed ordinance Section 36-531(c).

"If a lot is nonconforming in that it does not have street access as described in Section 36-12, a building can be constructed on such lot if the applicant can provide evidence of a recorded legal access to a publicly maintained street or roadway which will support actual vehicular access to the lot."

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

Mr. Burge motioned to provide a positive recommendation on the language related to nonconformities, inclusive of proposed section 36-531(c), finding such language an improvement over the existing

ordinance in that it is more comprehensive, finding such language in compliance with the Town's comprehensive land use plan and finding such language in the best interest of the public. Mr. Stanz seconded and all voted unanimously.

5. Discussion Related to a Proposed Zoning Ordinance Text Amendment Related to Conditional Zoning Districts.

Mr. Eller noted that the intent of the revised language related to conditional zoning districts before the Board for their consideration was to allow for any use on any property to be eligible to apply for a CZD while maintaining certain uses as permissible only via a CZD within the Table of Uses. Ms. Jackson added that such an arrangement would allow for some transitional zoning on a property by property basis rather than a conventional transitional district previously discussed by the Board.

A conversation occurred revolving around the topics of vested rights, spot zoning and a creep of commercial zoning into residential districts. Consensus was gained that site specific conditional zoning was the most feasible mechanism to achieve the highest and best use on properties which border a neighboring zoning district.

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 conditional zoning districts is to continue at the next regularly scheduled meeting of the Board.

7. Any Other Business to Come Before the Board.

Ms. Cordell noted that she would be absent from the next regularly scheduled meeting of the Board in October.

8. Adjournment.

Mr. Warren motioned to adjourn. Mr. Cordell 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
Central Avenue Major Subdivision Final Plat

The Town of
Weaverville
NORTH CAROLINA

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: SEPT. 20, 2018 OWNER NAME: BULLS BAY, LLC

SUBDIVISION NAME: CENTRAL AVE. PROPERTY ADDRESS: 44 CENTRAL AVE.

PIN: 9742-27-2247 & 9742-27-0093 DEED BOOK/PAGE: DB 5477 PG 1995

ORIGINAL TRACT SIZE (acres): 3.37 ACRES PROPOSED NUMBER OF LOTS: 7

SUBDIVISION TYPE: [X] RESIDENTIAL [ ] COMMERCIAL [ ] INDUSTRIAL

OWNER/AGENT NAME: JOSEPH FERILLES PHONE NUMBER: 251-1588
ADDRESS: 198 BANT TREE RD
ASHEVILLE, NC 28804

REGISTERED SURVEYOR: PAUL SEXTON PHONE NUMBER: 232-4700
ADDRESS: 17 ARLINGTON ST.
ASHEVILLE, NC 28801

REGISTERED ENGINEER: JOHN KINNAIRD PHONE NUMBER: 232-4700
ADDRESS: 17 ARLINGTON ST.
ASHEVILLE, NC 28801

Which utilities will serve the proposed development?:

[X] PUBLIC SANITARY SEWER [ ] COMMUNITY SEWER [ ] SEPTIC TANKS ON EACH LOT
[X] 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 9/20/2018 DATE

OFFICE USE ONLY

FEE: DATE PAID: [ ] CHECK [ ] CASH

PRELIMINARY PLAT APPROVAL DATE: FINAL PLAT APPROVAL DATE:

[ ] APPROVED WITH CONDITIONS:

Final Plats submitted for consideration must contain the following:

✓	Title Block containing:
✓	Name of subdivision
✓	Name of Owner and Subdivider or Developer
✓	Zoning designation of property SEE NOTES
✓	Location: (address, township, county, state)
✓	Buncombe County tax PIN
✓	Date or dates survey was conducted and plat was prepared
✓	A bar graph
✓	Sketch vicinity map showing the relationship between the proposed subdivision and surrounding area on a scale of one inch equals 500 feet.
N/A	Corporate line limits, township boundary lines, county lines if any such lines intersect the subdivision tract.
✓	North arrow orientation.
✓	Exact exterior boundary lines of the tract to be subdivided, fully dimensioned by metes and bounds, and the location of existing boundary lines of adjoining tracts.
✓	Lot and street lines: all proposed streets and street right-of-way lines with dimensions, lot and block numbers, all easements; designation of any dedication or reservations to be made, a notation of building setback lines and proposed use of land if other than single family residential.
✓	Street layout: typical cross section of proposed street, proposed street names and designation as public or private.
	Topographic lines.
✓	Acreage in total tract to be subdivided.
✓	Total number of lots created.
✓	Names of owners of adjoining properties.
✓	Names of any adjoining subdivisions of record or proposed and under review.
✓	Utility and other easements.

Lighting Plan (if outdoor lighting to be installed) – refer to §36-26 of Zoning Ordinance.

N/A

PLAT BOOK PAGE

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.

_____
Review Officer

_____
Date:

North Carolina, Buncombe County
REGISTERED THIS THE ____ DAY OF_____
AT _____ M. RECORDED IN BOOK _____, PAGE_____
_____ REGISTER OF DEEDS
BY: _____ DEPUTY/ASSISTANT

NCGS GRID MONUMENT "WEAVERVILLE"
NAD 83-2011 POSITION:
N: 728,690.84
E: 943,131.57
Z: 2,203.46 (NAVD 88)
COMBINATION FACTOR: 0.99980244

Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements

I hereby certify that all streets, utilities, and other required improvements will be installed in an acceptable manner and according to the Town of Weaverville's specifications and standards in the subdivision and that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Weaverville have been received, and that the filing fee for this plat, in the amount of $_____ has been paid.

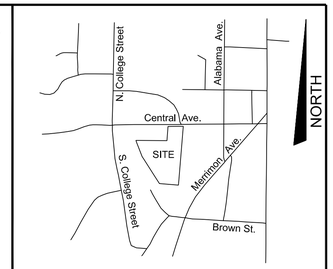
_____
Subdivision Administrator

_____
Date

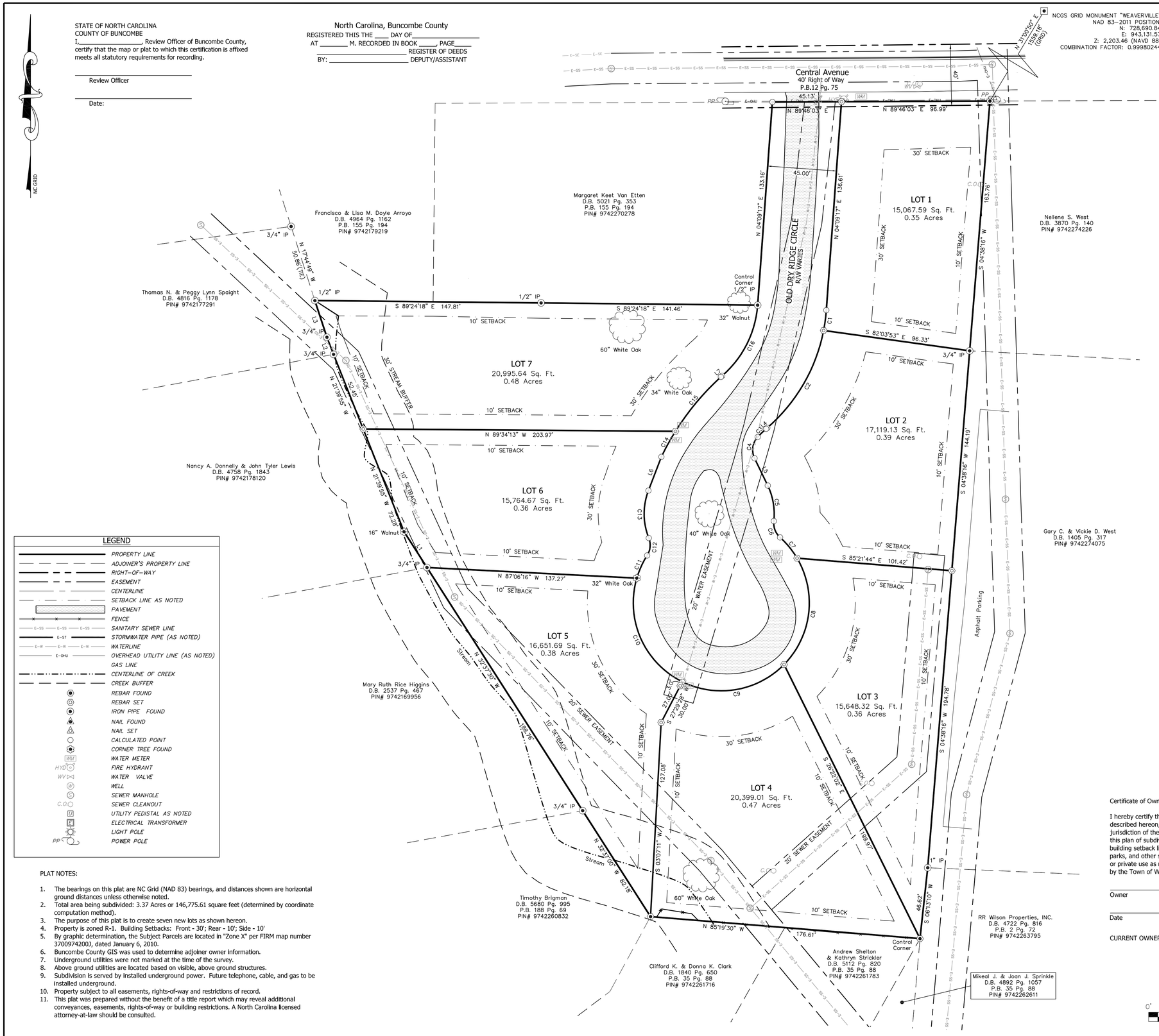
I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Weaverville, North Carolina and that this plat has been approved by the town council of Weaverville for recording in the Office of the Register of Deeds of Buncombe County.

_____
Town Manager Weaverville, North Carolina

_____
Date



SITE LOCATION SKETCH
NOT TO SCALE



LEGEND

	PROPERTY LINE
	ADJOINER'S PROPERTY LINE
	RIGHT-OF-WAY
	EASEMENT
	CENTERLINE
	SETBACK LINE AS NOTED
	PAVEMENT
	FENCE
E-SS	SANITARY SEWER LINE
E-ST	STORMWATER PIPE (AS NOTED)
E-W	WATERLINE
E-OHU	OVERHEAD UTILITY LINE (AS NOTED)
	GAS LINE
	CENTERLINE OF CREEK
	CREEK BUFFER
	REBAR FOUND
	REBAR SET
	IRON PIPE FOUND
	NAIL FOUND
	NAIL SET
	CALCULATED POINT
	CORNER TREE FOUND
WM	WATER METER
HYD	FIRE HYDRANT
WV	WATER VALVE
W	WELL
S	SEWER MANHOLE
C.O.	SEWER CLEANOUT
U	UTILITY PEDISTAL AS NOTED
E	ELECTRICAL TRANSFORMER
	LIGHT POLE
PP	POWER POLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	112.50'	13.41'	13.40'	N 07°34'09" E	6°49'45"
C2	112.50'	74.86'	73.49'	N 30°02'52" E	38°07'40"
C3	67.50'	7.70'	7.70'	S 45°49'51" W	6°32'19"
C4	12.50'	14.91'	14.04'	S 08°22'58" W	68°21'28"
C5	42.50'	23.85'	23.54'	N 09°43'11" W	32°09'09"
C6	12.50'	11.88'	11.44'	S 20°52'07" E	54°27'02"
C7	57.50'	17.62'	17.55'	N 39°18'59" W	17°33'18"
C8	57.50'	75.32'	70.05'	N 06°59'09" E	75°02'57"
C9	57.50'	72.01'	67.39'	N 80°23'10" E	71°45'06"
C10	57.50'	80.37'	73.99'	S 23°41'42" E	80°05'10"
C11	57.50'	16.32'	16.27'	S 24°28'53" W	16°16'00"
C12	12.50'	11.88'	11.44'	N 05°23'22" E	54°27'02"
C13	42.50'	31.78'	31.05'	S 00°24'45" E	42°50'48"
C14	169.92'	19.04'	19.03'	S 28°49'17" W	6°25'13"
C15	169.92'	46.46'	46.31'	S 39°51'50" W	15°39'54"
C16	67.50'	52.95'	51.60'	N 26°37'39" E	44°56'44"

LINE	BEARING	DISTANCE
L1	N 32°35'37" W	27.75'
L2	N 21°13'14" W	12.01'
L3	N 18°13'24" W	25.23'
L4	S 49°09'04" W	1.00'
L5	S 25°47'45" E	19.80'
L6	N 21°00'39" E	23.62'
L7	N 49°09'04" E	1.16'

I, Paul E. Sexton , Professional Land Surveyor certify to one or more of the following as indicated:

A. That this plat is of a survey that creates a subdivision of land within a county or municipality that has an ordinance that regulates parcels of land.

I, Paul E. Sexton, certify that this plat was drawn by me from an actual survey made under my supervision (deed description recorded in Deed Book 5477, Page 1995); that the boundaries not surveyed are clearly indicated as drawn from information found in Book N/A, Page N/A; that the ratio of precision as calculated is 1:10000; that this plat was prepared in accordance with G.S. 47-30 as amended.

Witness my hand and seal this _____ day of _____,A.D 2018.

Signature_____
Professional Land Surveyor
Certificate Number L-4447

BROOKS ENGINEERING ASSOCIATES NORTH CAROLINA CERT # C-3725

NORTH CAROLINA PROFESSIONAL SEAL NO L-4447 LAND SURVEYOR PAUL E. SEXTON

PLAT NOTES:

1. The bearings on this plat are NC Grid (NAD 83) bearings, and distances shown are horizontal ground distances unless otherwise noted.
2. Total area being subdivided: 3.37 Acres or 146,775.61 square feet (determined by coordinate computation method).
3. The purpose of this plat is to create seven new lots as shown hereon.
4. Property is zoned R-1. Building Setbacks: Front - 30'; Rear - 10'; Side - 10'
5. By graphic determination, the Subject Parcels are located in "Zone X" per FIRM map number 37009742003, dated January 6, 2010.
6. Buncombe County GIS was used to determine adjoiner owner information.
7. Underground utilities were not marked at the time of the survey.
8. Above ground utilities are located based on visible, above ground structures.
9. Subdivision is served by installed underground power. Future telephone, cable, and gas to be installed underground.
10. Property subject to all easements, rights-of-way and restrictions of record.
11. This plat was 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.

Certificate of Ownership and Dedication

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, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements shown on the plat to public or private use as noted on the plat, subject to official acceptance by the Town of Weaverville.

_____
Owner

_____
Date

CURRENT OWNER: BULLS BAY, LLC
198 BENT TREE ROAD
ASHEVILLE, NC 28804
PH: 251-1588

SCALE 1"=30'
0' 30' 60' 90'

MAJOR SUBDIVISION FINAL PLAT
Current Owner: Bulls Bay, LLC

Lots 1 - 7 Central Avenue Subdivision
Deed Book 5477 Page 1995
Tax PIN: 9742-27-2247 & 9742-27-0093
Town of Weaverville
Reems Creek Township, Buncombe County, NC
September 18, 2018 Scale: 1" = 30'

BROOKS ENGINEERING ASSOCIATES
BROOKS ENGINEERING ASSOCIATES
17 ARLINGTON STREET
ASHEVILLE, N.C. 28801
Phone: (828) 232-4700
Fax: (828) 232-1331

DRAWN BY: PES CHECKED BY: TAS

PROJECT#:451617

Agenda Items 5&6
Conditional Zoning Districts

PROPOSED CODE AMENDMENT – ZONING – CONDITIONAL ZONING DISTRICTS

Sec. 36-5. – Definitions.

Conditional Zoning District (CZD). 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~~ use~~s~~ ~~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) *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. The following procedures shall also apply for the approval of conditional zoning districts:

(1) *Initial consideration by town council.* Petitions for conditional zoning district shall be initially reviewed by town council. After its initial consideration of a request for a conditional zoning district, town council shall refer the request to the planning board for the full review process as required by state statute. Initial consideration of such applications are intended to provide town council with the opportunity to express their preliminary thoughts related to the application but shall not serve as a final determination on same.

(2) *Planning and zoning review.* Following an initial review by town council as set forth herein and 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.

(3) *Public involvement meeting.* 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.

(4) *Public hearing*. As required by Article 19 of Chapter 160A of the North Carolina General Statutes, town council cannot take any action on a conditional zoning district request until such time as it has held a public hearing that has been properly noticed.

(f) *District approval and ordinance.* 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. 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.

(g) *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.~~

(h) *Phasing of projects*. Any project phasing must be reviewed and approved with the conditional zoning district. Phases must be shown on the site plan that is adopted in conjunction with the ordinance

approving the conditional zoning district and the time periods related to the phasing must also be addressed in said ordinance.

(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 town council and must be reasonable taking into consideration the type and scope of proposed development.

(j) *Judicial review.* Conditional zoning district decisions under this section are legislative decisions ~~a legislative process and not subject to judicial review~~ that are presumed valid if there is a reasonable basis for the decision.

(k) *Future variance request.* Property zoned CZD will not be able to apply for a variance on the approved project.

(l) *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(n).

(m) ~~*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 modifications that do not affect the property lines, do not affect the final plat and which are in substantial compliance with the approved plans. An extension of any time frame stated within an ordinance designating a conditional zoning district must be approved by town council but shall otherwise be considered a minor modification. All other modifications must be approved by town council and are subject to the procedures set out in Section 36-84(n).

(n) *Approval procedures for modifications of a CZD.* Except for minor modifications that can be approved by staff or town council as provided in Section 36-84(m), the procedures to be followed in reviewing, granting or denying any requested modification to the approved site plan or the CZD ordinance shall be the same as those established for approval of an initial CZD except that a public involvement meeting is not required.

(o) *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 must consider the planning and zoning board's findings and recommendation and shall approve the final plat and authorize the recordation of same, upon finding that the required infrastructure is complete and compliant.

(p) *Issuance of zoning permits*. The zoning administrator shall not issue a zoning permit until a final plat has been approved and recorded.

(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.

Agenda Items 7&8

Proposed Text Amendment for the Northridge Commons Townhouses Conditional Zoning District

Subject: Amendment to CZD for Northridge Townhouses

Within the Ordinance establishing the project commonly known as Northridge Commons Townhouses as a conditional zoning district which was adopted on June 18, 2018, staff imposed an October 1, 2018, deadline for the applicant to acquire the property. The ordinance provides in part:

> *That this ordinance is effective immediately upon transfer of the Property from HFW Endeavors, LLC, to Northridge Commons Investors, LLC. The applicant is required to provide the Zoning Administrator with a copy of a recorded deed showing such transfer as soon as practicable after recordation. If such a transfer has not occurred by October 1, 2018, then this ordinance shall be automatically repealed.*

The applicant is experiencing some difficulty with meeting the ownership transfer deadline. Prior to the transfer taking place it is necessary to remove one of the parcels from the conditions, covenants and restrictions of Northridge Commons and, due to its complex corporate structure, Lowe's has been very slow to take action in this regard, resulting in unexpected delays that are beyond the applicant's control.

A text amendment to remove the October 1, 2018, deadline and make the ordinance effective upon the recordation of the transfer of ownership to Northridge Commons Investors, LLC is requested. This change must go through the Planning and Zoning Board for review and recommendation and a public hearing must be held prior to Town Council taking action.

Action Taken by Town Council during Initial Consideration:

Staff asks that Town Council consider the following motion:

> *I move (1) that the Town Council forward to the Planning and Zoning Board for review and recommendation the proposed amendment to the Northridge Commons CZD Ordinance which removes the ownership transfer deadline of October 1, 2018, and makes the effective date of the ordinance coincide with the recordation of the transfer of ownership to Northridge Commons Investors, LLC, and (2) that Town Council set a public hearing on the proposed amendment for October 15, 2018, at 6:30 pm in Council Chambers at Town Hall located at 30 South Main Street, Weaverville, NC.*

Motion passed via unanimous vote.

Agenda Item 9
Other Business

- **Staff proposes to brief the Board on a pending update to the Town's Comprehensive Land Use Plan.**

TOWN COUNCIL COMPREHENSIVE LAND USE PLAN WORKSHOP – 11 SEPTEMBER 2018

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WHAT IS A COMPREHENSIVE LAND USE PLAN?

Certain land use regulation requires specific enabling authority. For towns and cities that authority is found in Article 19 of Chapter 160A. NCGS 160A-383(a) specifically states that "[z]oning regulations shall be made in accordance of a comprehensive plan." Much of the legislative responsibilities that town council has concerning land use regulations are required to be consistent with the town's "comprehensive plan," but what exactly does that mean?

HISTORIC CONTEXT

Town ordinances related to land use are generally enacted under the town's traditional police power authority which focuses on public health and safety. However, some land use regulation attempts to control land use by designating certain areas of desirable locations for non-nuisance land use. Since this typically does not flow directly from concerns over public health and safety, it requires specific enabling authority. In addition it requires a "comprehensive," or interdisciplinary collection of background studies tied together in a sensible fashion in order to demonstrate to the court the relation between the regulations and proper police power objectives.

GUIDANCE

An acceptable comprehensive plan typically must satisfy two elements. It must be comprehensive in that (1) it must examine the social, economic and physical aspect of a community's growth and (2) it must be based on technically sound background studies of social, economic and physical conditions.

A plan should be comprehensive in time, scope, and geography. It must not address one narrow subject area to the exclusion of other important areas. Policies for different areas should be reconciled to avoid internal inconsistencies.

A plan should include written findings and policies governing community growth and development. Findings and policies should be based on a reasonable technical foundation and the technical studies themselves should be reasonably scientific and accurate.

NCGS § 160A-383(e) indicates that a "comprehensive plan" includes development ordinances (such as zoning regulations, zoning map, and subdivision regulations) and any other officially adopted plan that is applicable.

HOW IS A COMPREHENSIVE LAND USE PLAN USED?

STATUTORY REQUIREMENTS

As previously stated, NCGS § 160A-383 requires that zoning regulations be made in accordance with a comprehensive plan. In 2017 the legislature strengthened this requirement by explicitly requiring the planning board to advise and comment in writing on whether a proposed zoning amendment is consistent with any comprehensive plan and requiring town council to adopt a plan consistency statement prior to adopting or rejecting any zoning amendment.

PLANNING BOARD REVIEW

All land use regulation must pass through the Town's Planning and Zoning Board to be eligible for adoption. NCGS § 160A-383(c) provides as follows:

> Prior to consideration by the governing body of the proposed amendment the planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

GOVERNING BOARD DECISIONS

By following the statutory requirement to consider the comprehensive plan prior to enacting zoning amendments Town Council insulates itself from challenges to that legislation. NCGS § 160A-383(b) provides as follows:

> Prior to adopting or rejecting any zoning amendment, the governing board shall adopt one of the following statements which shall not be subject to judicial review:
>
> (1) A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
> (2) A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
> (3) A statement approving the zoning amendment and containing at least all of the following:
> a. A declaration that the approval is also deemed an amendment to the comprehensive plan. The governing body shall not require any additional request or application for amendment to the comprehensive plan.

b. An explanation of the change in conditions the governing body took into account in amending the zoning ordinance to meet the development needs of the community.
c. Why the action was reasonable and in the public interest.

While not itemized in NCGS 160A-383(b), the last option would address situations where town council wishes to reject a proposed amendment that was, nevertheless, consistent with the comprehensive plan. It is believed that this is possible as long as a statement rejecting the proposed amendment and amending the plan is adopted by town council.

WHAT IS IN PLACE IN WEAVERVILLE?

COMPREHENSIVE LAND USE PLAN

The Town of Weaverville first adopted a comprehensive land use plan in 1983. That plan was updated in 2007 and then again in 2012.

The 2012 plan states that it is "intended to serve as both a physical and policy plan to guide the Town in its future decision making concerning land use, development and redevelopment, mobility, infrastructure, economic development, community facilities, parks and recreation, as well as neighborhood and community enhancement for the next 10 years."

2012 STATED VISION

Weaverville will maintain its small town and neighborly atmosphere while actively managing the growth that it inevitable near a larger city. Weaverville will maintain as a distinctive Town with a vital Main Street as its focus. The Town will be attractive to both young and old with a wide range of housing choices at a variety of prices. Neighborhood and business areas are key building blocks of our community. We will reserve areas for both types of uses while buffering each from the other. We seek an attractive town that is well landscaped and accessible to pedestrians. We will create a favorable atmosphere for the right type of business and industry, those that are clean and provide a good living for our residents. The services expected from the Town are sidewalks, parks, green spaces, and well-run utility and emergency services. To develop this vision we intend to assertively use zoning, subdivision regulations, extraterritorial planning authority and annexation.

2012 STATED STRATEGIC GOALS

STRATEGIC GOAL #1 – To provide for orderly government and the provision of high quality services

STRATEGIC GOAL #2 – Promote the stability of existing residential neighborhoods while fostering a diversity of housing opportunities

STRATEGIC GOAL #3 – Promote diverse economic development in keeping with the Town's residential character and the environment

STRATEGIC GOAL #4 – Provide, support and encourage a high quality of life for the Town of Weaverville

2012 STATED NEXT STEPS

LU-1 Adopt the CLUP update and future land use map as the policy guide for future growth and rezoning decisions. [***Adopted in 2012***]

LU-2 Review the official zoning map and amend as necessary to align the zoning map with the recommended future land use pattern. [***Recommended annually***]

D-1 Promote compatible infill development and redevelopment that builds upon the basic architectural styles, building design, façade design, roof form, scale and rhythm by adopting a "pattern book" or design guidelines for new commercial development and redevelopment in the downtown area. [***Abandoned***]

D-4 Consider establishing new off-street parking facilities in critical areas, such as the area near the Buncombe County Library and the Main Street Nature Park on Pine Street. [***Recently accomplished at Main Street Nature Park***]

G-3 Incorporate architectural design standards that achieve a consistent, high-quality, development vision for the Town as a part of an update to the Zoning Ordinance. [***Abandoned***]

G-5 Continue to develop bicycle and pedestrian infrastructure by applying to the NCDOT Division of Bicycle and Pedestrian Transportation for grant funding to complete bicycle and pedestrian plans. [***Grant applications were submitted several years ago but were denied; grant requires Town matching funds***]

G-11 Undertake a complete revision of all existing development ordinances (zoning, subdivision, etc.) to modernize the ordinances and incorporate policies that are recommended in the adopted land use plan. [***Strongly recommended***]

ED-1 Work with a consultant to develop a branding program for the Town, and implement the program to help define Weaverville's unique identity.

OTHER RELEVANT PLANS

Other plans that have been adopted by Town Council that would be included in a comprehensive plan are the Town's Strategic Plan, the Reems Creek Greenways Feasibility Study, and the Parks and Recreation Master Plan.

STRATEGIC PLAN

The last official Strategic Plan was adopted by Town Council for 2014 - 2017. The stated mission of the Town as expressed in this older document was:

> Maintain small town atmosphere while encouraging and managing growth through high quality municipal services and the proactive use of economic development and management tools.

The Town's stated vision was:

> Weaverville will strive to retain its small town atmosphere, while actively managing the growth that is inevitable near a large city.
>
> Our town will be attractive to both young and old with a wide range of housing choices. We will reserve areas for neighborhoods and businesses while buffering one from the other. We seek an attractive town that is well-landscaped and accessible to pedestrians.
>
> We will create a favorable atmosphere for the right types of business and industry, those that are environmentally friendly and provide a good living for our residents.

Much of Town Council's discussions during its retreat in February 2018 focused on issues that are relevant in a strategic plan. The Town Manager, taking into consideration the information that was shared during the retreat and in a subsequent staff retreat, has developed a draft of a strategic plan; however, Town Council has not formally reviewed it for adoption. This draft strategic plan was last distributed to Town Council via email in August 2018.

It is recommended that Town Council consider adoption of the strategic plan as a first step towards updating the Town's comprehensive land use plan.

REEMS CREEK GREENWAY FEASIBILITY STUDY

A Reems Creek Greenway Feasibility Study was undertaken and approved by Town Council in 2014. This document has been considered when development has occurred close to Reems Creek and resulted in at least one project offering greenway dedication to add to the Town's greenway system around Lake Louise. As the Town and Buncombe County continue their efforts towards securing an accessible path along Reems Creek from Lake Louise to the Karpen Soccer Fields it is expected that this document, and others developed in this regard, will continue to be used as a reference for development along Reems Creek.

PARKS AND RECREATION MASTER PLAN

On March 19, 2018, Town Council adopted the Parks and Recreation Master Plan for the Town of Weaverville. This master plan serves as a guidance document that could be seen as a component to the Town's comprehensive plan.

WHAT ARE THE NEXT STEPS?

While the Comprehensive Land Use Plan adopted in 2012 indicates that it is a 10-year plan, it should be noted that substantial changes have since occurred within the Town. The Town's extraterritorial jurisdiction has been lost and needs to be removed from all planning documents. The current explosive rate of growth in the Asheville area is having a major impact on the Town. These factors, and others, should influence whether the Comprehensive Land Use Plan should be updated earlier than 2022, leading to today's discussion.

WHAT DOES AN UPDATE LOOK LIKE?

TOWN COUNCIL POLICY DISCUSSIONS/ACTIONS

Policy discussions and consensus are critically important as it sets the stage for the entire comprehensive plan. Guidance from elected officials regarding the preferred policies and legislative agenda that will keep the best interests of the town in mind is a necessary component of any planning document. Such policies include, but are not limited to, annexation policies and procedures designed to handle the growth opportunities and pressures occurring at the Town's municipal borders, and policies regarding the allocation of one of the Town's key resources – water availability.

INFORMATION GATHERING AND TECHNICAL STUDIES

Multiple studies may be considered in order to obtain information to support the comprehensive plan. Such studies may include topics such as:

- Transportation
- Economic Development
- Main Street Preservation
- Streets / Sidewalks
- Housing / Affordable Housing
- Bicycling / Pedestrian Access
- Walkability
- Greenways
- Parks and Recreation
- Environment
- Landscaping
- Water and Sewer Availability
- Flood Protection
- Emergency Services

Geographically related studies could also be undertaken in order to provide information and opinions regarding certain neighborhoods and/or small areas.

COMMUNITY INPUT

A necessary and desirable part of the project should include reaching out to the Town's citizens for input and information that will help identify areas for consideration within a comprehensive plan.

RECOMMENDATION AND APPROVAL

The goal of the project is the creation of a document, or a collection of documents, that (1) reflects the information gathered and the recommendations that express how Town Council views the Town now and into the future, and (2) provides guidance as the Town continues its efforts to review and modernize its code of ordinances.

HOW WILL THIS WORK BE ACCOMPLISHED?

POLICY DIRECTION FROM TOWN COUNCIL

Several meetings or workshops of Town Council will be necessary in order to provide ample opportunity for Town Council to consider the bigger policy issues that will impact the comprehensive planning of the Town.

USE OF STAFF / OUTSIDE RESOURCES

The Town has developed comprehensive land use plans both with and without utilizing outside resources. It appears that both the 1983 and the 2007 plans were developed internally by staff. The Town contracted with Benchmark to develop the 2012 plan. Land of Sky Regional Council has submitted a proposal for an update to the Town's comprehensive land use plan and Benchmark expressed interest in performing that service for the Town a couple of years ago. The Land of Sky proposal is attached.

The Town's professional staff believes that the best and most cost-effective option is to utilize internal staff to take the lead in drafting the update. Much of the information that forms the basis of a good comprehensive plan will come from knowledge of the Town, so it is believed that Town staff is uniquely qualified to take on this project. If given the opportunity to lead this project, staff will need to out-source some portions of the project and could look to Land of Sky Regional Council for those resources.

TOWN COUNCIL OPTIONS:
- UTILIZE STAFF AND OUT-SOURCE AS NEEDED
- CONTRACT WITH LAND OF SKY
- SEEK ADDITIONAL PROPOSALS

APPOINTMENT OF STEERING COMMITTEE

In the past Town Council has appointed a special steering committee to aid in the update of the comprehensive plan. That committee appear to have been comprised of Town Council members, representatives of various Town boards, and staff. The scope of a steering committee's involvement to expedite the creation and implementation of an updated comprehensive land use plan should be discussed.