



MINUTES

**Town of Weaverville
State of North Carolina**

**Town Council Special Called Meeting
Monday, May 18, 2020**

Remote Electronic Meeting

Zoom: <https://us02web.zoom.us/j/87513712738>

The Town Council for the Town of Weaverville met for a special called meeting on Monday, May 18, 2020, at 6:30 p.m. within Council Chambers at Town Hall located at 30 South Main Street, Weaverville, NC, as an electronic video meeting via Zoom Meeting.

Councilmembers remotely present were: Mayor Al Root, Vice Mayor Doug Jackson, and Councilmembers Dottie Sherrill, Jeffrey McKenna and Andrew Nagle. Councilmember Patrick Fitzsimmons was absent.

Staff remotely present was: Town Manager Selena Coffey, Town Attorney Jennifer Jackson, Finance Officer Tonya Dozier, Police Chief Ron Davis, Fire Chief Ted Williams, Town Planner James Eller, Public Works Director Dale Pennell and Water Treatment Supervisor Trent Duncan.

1. Call to Order

Mayor Root called the meeting to order at 6:30 p.m.

2. Public Hearing: Code Amendments regarding parking and streets, mandated notices for quasi-judicial matters, mixed use development in C-1, C-2, and R-12 districts

Mayor Root opened the Public Hearing

Town Planner James Eller stated that the public hearing is on code amendments to Chapters 25 and 36 related to parking and streets, mandated notices for quasi-judicial matters heard by the Board of Adjustment, and mixed use development in the C-1, C-2 and R-12 zoning districts. All of the proposed amendments have been reviewed by the Planning and Zoning Board and received a unanimous favorable recommendation.

The parking and streets amendments are largely in light of Town Councils recent work in Chapters 24 and 28 and ensure code consistency between chapters of the code. Some parking regulations have been removed from a traffic portion of code and inserted into the zoning regulations and a vast majority of this language is related to the fact that street standards have been consolidated within Chapter 24, so references in the subdivision and zoning ordinances need to be reflected of that.

As for mandated notices for the Board of Adjustment for quasi-judicial hearings, the proposed amendments will align the Town's noticing requirements with that of state statute. The reason for this is that the School of Government cautions that a wide notice bubble might subject the Town to a challenge on the issue of standing.

Lastly, there is language within the Town Strategic Plan and Comprehensive Land Use Plan (CLUP) that calls for the better accommodation of mixed-use development. The proposed amendments would transition mixed use

development in the C-1, C-2, and R-12 districts from conditional zoning district review to permitted with standards.

There was no public comment offered on these amendments and *the Mayor concluded the public hearing.*

3. Public Hearing: Conditional Zoning District for Multi-Tenant Development on 20 and 30 Garrison Branch Road

The Mayor opened the public hearing and asked Town Planner James Eller to give an overview of the application. Mr. Eller stated that this proposed conditional zoning district (CZD) to be known as Garrison Reserve, consists of 4.89 acres and is located at the intersection of Monticello Road and US 25/70. The proposed development is a multi-tenant development of approximately 70,000 square feet and, since it is more than 25,000 square feet in size, it requires approval as CZD. This multi-tenant development proposes a mix of warehousing, retail and office uses. The Planning and Zoning Board has spent a considerable amount of time reviewing this development and offers a unanimous recommendation to Town Council with some conditions that are noted in their recommendation letter.

Town Planner Eller noted that the applicant has requested a few changes to the conditions shown in the draft CZD ordinance from the version in the Town Council packet. These changes include: (1) removing the out parcel noted on the plans from the CZD so that the underlying C-2 zoning district regulations will fully apply to that out parcel when development is proposed; (2) modifying the language to allow for similar aesthetic quality to the building elevations that were attached and proposing building materials consisting of metal or masonry instead of fiber and cement siding, (3) reducing the number of required parking spaces from 159 to 155; and (4) allowing three signs to be used for all the businesses rather than the one that is allowed normally in the C-2 zoning district. Mr. Eller noted that Tim Brigman, a representative of property owner, and Warren Suggs, an engineer of Civil Design Concepts, were present for any comments or questions.

Warren Suggs noted that he can go into further detail but feels that Town Planner Eller mentioned the major points within the CZD wording that they wanted Town Council to consider changing. He made himself available to answer questions about these requested changes and the project in general at the appropriate time given by the Mayor.

Mayor Root mentioned that this is a public hearing on the proposal and there will not be any action taken at tonight's meeting due to the emergency rules controlling public hearings. He indicated that Town Council would be recessing the meeting tonight and reconvening on May 20, 2020, at 6pm to further discuss and take action on this matter.

There were no comments offered by the public and *the Mayor closed the public hearing.*

4. Adjournment

Mayor Root adjourned the meeting at 6:45 p.m.



James Eller, Interim Town Clerk



MINUTES

**Town of Weaverville
State of North Carolina**

**Town Council Recessed Meeting
Wednesday, May 20, 2020**

Remote Electronic Meeting

Zoom: [http:// us02web.zoom.us/j/87513712738](http://us02web.zoom.us/j/87513712738)

On Wednesday, May 20, 2020, at 6:00 p.m., the Town Council for the Town of Weaverville met to reconvene its recessed meeting from May 18, 2020. This meeting was an electronic video meeting via Zoom Meeting.

Councilmembers remotely present were: Mayor Al Root, Vice Mayor Doug Jackson, and Councilmembers Dottie Sherrill, Jeffrey McKenna, Andrew Nagle, and Patrick Fitzsimmons.

Staff remotely present was: Town Manager Selena Coffey, Town Attorney Jennifer Jackson, Town Clerk Derek Huninghake, Finance Officer Tonya Dozier, Police Chief Ron Davis, Fire Chief Ted Williams, Town Planner James Eller, Public Works Director Dale Pennell and Water Treatment Supervisor Trent Duncan.

1. Call to Order

Mayor Root called the meeting to order at 6:00 p.m.

2. Action on Proposed Conditional Zoning District for Multi-Tenant Development at 20 and 30 Garrison Branch Road

Town Planner James Eller gave a quick recap from the Public Hearing on Monday, May 18, 2020. He noted that the property is located along Garrison Branch Road at the intersection of US25/70 and Monticello Road. Town Council is being asked to approve an approximately 75,000 square foot mixed use facility that will span across three buildings.

Vice Mayor Jackson wondered if the proposed amendment is to change from one sign at the entrance to one sign for each building at the entrance. Town Planner Eller agreed that that is his understanding and noted that the underlining C-2 zoning district generally only allows one sign per development. Vice Mayor Jackson noted that two of the other big development areas have one free standing sign for all the other businesses and he doesn't care for a lot of sign pollution, so he would like to know the reasoning behind it.

Warren Suggs, Civil Design Concepts Engineer, mentioned that the project was trying to merge as many small businesses and commercial and office uses as possible into those buildings with the goal of around 12 to 15 per building, which would be approximately 30 different types of individual businesses. They started looking at all the square footage that would be left if they held to one sign and it becomes not visible, so they would like to have the opportunity to show case each building on a separate sign to make it easier for them to be found. Vice Mayor asked whether they would be in front of each building or per entrance, since at another development, Weaverville Commons, they only have one sign for the development and not all businesses are identified. Mr. Suggs mentioned that there are two sign locations up near Garrison Branch, outside the right of way and not within easements, and a third location more interior to the site.

Councilmember Fitzsimmons noted that these signs would be in addition to the signage on the businesses' door fronts. Mr. Suggs confirmed. Vice Mayor Jackson noted that this is a change from the other major projects that we have recently done, and he doesn't want to see a lot of signage around Town if we can consolidate. Councilmember McKenna noted that it would also be proportionate to the number of offices and in the other cases there might be fewer offices, so he can see the rationale for trying to create individual areas with their own character and he doesn't want it to be so small you can't read it. Councilmember Fitzsimmons agreed that the Town is already inundated with signage and if each business sign will be visible from Garrison Branch and US 25/70, additional signage will add little value to the business and a lot of detriment to sign pollution. Mayor Root commented that the idea of three signs has been added since the Planning and Zoning Board reviewed it. Town Planner Eller confirmed.

Tim Brigman, on behalf of the owner/developer, commented that they are trying to bring something different to their spaces by focusing on the small business market. Instead of having large signs on all the businesses like the other projects in Weaverville they are looking for a classier look and are trying to differentiate by bringing in office retail space for smaller businesses and not fast food chains. The idea is to keep a clean look and not have any customers feel outweighed by other businesses signage. They will regulate the signage for each individual customer to keep it professional. Councilmember Nagle noted that he wasn't sure exactly where the signs were going. Mr. Brigman mentioned that the three signs would be up on Garrison Branch Road providing some identification of businesses and direction. Councilmember Nagle commented that the businesses on the inside wouldn't be visible from Garrison Branch Road, so he wondered if the square footage of the signs was going to be triple the sign dimensions or less than what is allowed in one sign. Mr. Brigman noted that they are comfortable staying within size limitations of the sign ordinance or even less than is allowed if they don't need the space.

With consensus to allow up to two smaller signs, *Councilmember Fitzsimmons made a motion to approve the Ordinance Establishing the Conditional Zoning District Designated as CZD-5 Garrison Reserve Project on Property Located at 10 and 30 Garrison Branch Road with the developer requested modifications except that a maximum of 2 signs is allowed with a maximum size of 75 square foot per sign. Councilmember Nagle seconded the motion. In a roll call vote, all voted in favor and the motion passed 5 to 0.*

3. Action on Proposed Code Amendments regarding technical review committee for land development, parking and streets, mandated notices for quasi-judicial matters, and mixed used development in C-1, C-2, and R-12

Town Planner James Eller brief mentioned that all of the code amendments proposed received unanimous favor recommendations from the Planning and Zoning Board and that no public comments were received during the public comment period or during their respective public hearings so action on these amendments is proper at this time. *Vice Mayor Jackson made a motion to approve the Ordinance Amending Town Code Chapters 25 and 36 Concerning Technical Review Committees, Mixed Use Development, Mandated Notices for Board of Adjustment, Streets and Parking.. Councilmember McKenna seconded the motion. All voted in favor in a roll call vote and the motion passed 5 to 0.*

4. Resolution in Support of Application for NCDOT Bicycle and Pedestrian Grant

Town Manager Coffey noted that at a recent budget workshop Town Council had indicated that they would like to see the Town apply for the NCDOT Bicycle and Pedestrian planning grant. This grant application requires a resolution in support of the application and Town Council was asked to consider approval of the resolution presented for that purpose.

Councilmember McKenna made a motion to approve the Resolution in Support of the Application for NCDOT Bicycle and Pedestrian Grant as presented. Vice Mayor Jackson seconded the motion. In a roll call vote the motion passed by a unanimous vote of Council. Motion carries 5-0

5. Adjournment

Councilmember McKenna made the motion to adjourn; Councilmember Nagle seconded and in a roll call vote all voted to adjourn at approximately 6:30 p.m.

James Eller

James Eller, Interim Town Clerk

**ORDINANCE ESTABLISHING THE
CONDITIONAL ZONING DISTRICT DESIGNATED AS CZD-5
GARRISON RESERVE PROJECT ON PROPERTY LOCATED AT
10 AND 30 GARRISON BRANCH ROAD**

WHEREAS, on February 10, 2020, Garrison Branch Acquisitions LLC submitted an application for a conditional zoning district for a project to be known as “Garrison Reserve” on property located at 10 and 30 Garrison Branch Road, Weaverville, North Carolina; and

WHEREAS, the project consists of a multi-tenant commercial development consisting of three buildings housing a mix of retail, warehouse, and office spaces for a total square footage of approximately 70,000 square feet, and an outparcel for a future building and use; and

WHEREAS, the project is being developed on that 4.89 acre tract(s) located near the southwestern corner of the intersection of Monticello Road and US 25/70, described in Book 5806 at Page 498 and Book 5806 at Page 490, and bearing Buncombe County Parcel Identification Numbers 9733-72-2155 and 9733-72-0316, and shown as Parcels 1 and 2 on that plat recorded in Book 201 at Page 74, Buncombe County Registry;

WHEREAS, the property is currently zoned C-2 and a multi-tenant development exceeding 25,000 square feet requires a conditional zoning district; and

WHEREAS, the Town of Weaverville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and to amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, Section 36-84 of the Code of Ordinances of the Town of Weaverville establishes the procedures and requirements for zoning property to Conditional Zoning Districts; and

WHEREAS, the Planning and Zoning Board of the Town of Weaverville has reviewed the project and submitted a unanimous favorable recommendation along with its statement finding the reasonableness of the project and consistency with the Comprehensive Land Use Plan; and

WHEREAS, this project is consistent with the Town’s Comprehensive Land Use Plan in that it is consistent with the future land use map which identifies the property as being within the mixed use area of Monticello Road, is consistent with the use and dimensional requirements of the Town’s underlying C-2 zoning district which was designed and implemented specifically to accommodate commercial uses, and, with the recommended conditions, can co-exist with the multifamily residential development that is occurring in the area; and

WHEREAS, a public involvement meeting was held on Thursday, May 14, 2020, after proper notice of same and no negative comments were received; and

WHEREAS, a traffic analysis was not conducted as staff believes that the peak hour trips would not trigger the requirement stated in Town Code Section 36-25; and

WHEREAS, after proper notice required by law, Town Council held a public hearing on this application on May 18, 2020 at 6:30 pm, and held a public comment period from April 30, 2020 until May 19, 2020 at 6:30 p.m., in order to receive public input on this project;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEAVERVILLE THAT:

1. The zoning classification of the real property described herein, including the outparcel, is changed from C-2 to Conditional Zoning District and is subject to compliance with the conditions set out herein. The official zoning map of the Town of Weaverville shall be amended to reflect this change upon the effective date of this ordinance.
2. The outparcel is specifically not included in this conditional zoning district. Future development on the outparcel will be in compliance with the Town of Weaverville's approved zoning conditions.
3. The following conditions shall apply:
 - a. The project is to be constructed in substantial compliance with the following plans submitted by the applicant, copies of which are attached hereto and incorporated herein by reference:
 - i. Master plan – Sheet C200
 - ii. Site plan – Sheet C201
 - iii. Grading, erosion control and storm drainage plan – C301
 - iv. Utility plan – Sheet C601
 - v. Building elevations – Sheets A201, A202
 - vi. Building elevation renderings
 - b. The height of buildings constructed on the site may not exceed the height above the final floor elevations as indicated on final plans approved by the Technical Review Committee.
 - c. The exterior of the buildings must be of similar aesthetic quality to the building elevations attached hereto and incorporated herein with the possible use of the following construction materials: metal and/or masonry.
 - d. Sidewalks are required along all portions of the property, including the outparcel, which front Garrison Branch Road to provide access to the

apartment complex that is under construction on the property adjoining to the west.

- e. All driveways/streets within the project shall be private. Said private driveways/streets shall be constructed in such a way as to allow reasonable access for the anticipated traffic of the multi-tenant development proposed and for ease of emergency access, including full compliance with the North Carolina Fire Prevention Code. A driveway permit for the entrance onto Garrison Branch Road must be secured from the North Carolina Department of Transportation.
- f. A minimum of 155 off-street parking spaces, with a minimum size of 9 feet by 18 feet, must be provided and must be constructed and maintain in an all-weather condition.
- g. The warehousing that is proposed is for mini-warehouses, as that term is defined by Code Section 36-5, and is limited to interior storage in Building C only. Warehousing with exterior storage of any kind is expressly prohibited.
- h. Two freestanding signs, with a maximum size of 75 square feet each, will be allowed. All other sign standards in Article VIII of Chapter 36 of the Town's Code of Ordinances shall also apply if not inconsistent with the number and size of allowed signs.
- i. Any and all outdoor lighting that is to be installed must comply with Town Code Section 36-26, except as specifically provided in this paragraph. All outdoor lighting on the property shall be mounted on posts that are no more than 16 feet tall. Blocking, shielding and aiming of all outdoor lighting shall be used to minimize light trespass on to adjoining residential properties. The outdoor lighting plan must be submitted and approved in conjunction with a zoning permit application.
- j. Landscape buffers between the property and adjoining properties are required. Landscaping must comply with Article VI of Chapter 36 of the Town's Code of Ordinances. A landscaping plan must be submitted and approved in conjunction with a zoning permit application.
- k. Grading, sedimentation and erosion control, and storm drainage plans must be reviewed and permitted by Buncombe County.
- l. Construction related vehicles must be parked on the property and not on the public streets or the shoulders of those public streets. All dirt, mud, construction materials, or other debris deposited on the public streets as a result of construction activities must be removed by the contractor or owner on a daily basis, pursuant to Code Section 22-48.
- m. Construction must be completed within 36 months of the issuance of a Town of Weaverville zoning permit. Upon request of the owner/developer, Town

Council may, in its sole discretion, grant such extensions as Town Council deems appropriate under the circumstances.

- n. Code Section 36-84 shall continue to govern the project including, but not limited, to those provisions regarding issuance of zoning permits, modifications, appeals, and final plat approval.
- 4. The Town Zoning Administrator is hereby authorized and directed to make the changes as herein enacted on the official zoning map with said Conditional Zoning District labeled as "CZD-5" and to issue zoning permits for the improvements that are to be made in compliance with this Conditional Zoning District.
- 5. That if any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, it will be up to Town Council to determine if the validity of the remaining portions of this ordinance is affected.
- 6. That all ordinances and clauses of ordinances contained within the Town's Code of Ordinance which are in conflict herewith, are hereby repealed to the extent of such conflict.
- 7. This ordinance and the regulations and conditions contained herein are subject to the consent of the property owner which is indicated below.
- 8. That this ordinance is effective immediately.

ADOPTED THIS the 20th day of May, 2020, with a vote of 5 for and 0 against.



ALLAN P. ROOT, Mayor



DEREK K. HUNINGHAKE, Town Clerk

OWNER CONSENT TO CONDITIONS:

GARRISON BRANCH ACQUISITIONS LLC



Hannah RiKoon, Manager

Date: 5/21/2020

**ORDINANCE AMENDING WEAVERVILLE TOWN CODE CHAPTERS 25 AND 36
CONCERNING TECHNICAL REVIEW COMMITTEES, MIXED USE DEVELOPMENT,
MANDATED NOTICES FOR BOARD OF ADJUSTMENT, STREETS AND PARKING**

WHEREAS, the Planning and Zoning Board has seen directly the positive value of a technical review committee in both subdivision applications and development applications under the Town's zoning regulations, and, in its review on January 7, 2020, found the proposed Code amendments formalizing the technical review committee consistent with the Town's comprehensive land use plan, reasonable, and in the best interest of the public in that such amendments formalize a multi-department professional review of proposed subdivisions and development, and voted unanimously to recommend such proposed amendments;

WHEREAS, the Planning and Zoning Board met on February 4, 2020, and discussed certain Code amendments concerning the regulations of mixed use development within the C-1, C-2 and R-12 zoning districts and found that the proposed Code amendments are consistent with the Town's comprehensive land use plan and strategic plan in that a stated objective was to "consider a zoning district to serve as a transition between residential and commercial districts" and "consider mixed use development regulation as a means of expanding development in areas with geographic limitations," and are reasonable and in the best interest of the public in that such amendments provide for a more expedited approval process and developmental certainty for mixed use development;

WHEREAS, after proper notice the Town Council held a public hearing on February 24, 2020, in order to receive input from the public on the amendments related to a technical review committee;

WHEREAS, the Planning and Zoning Board met on March 5, 2020, and discussed certain Code amendments concerning the provisions within the land development ordinances pertaining to streets, traffic, and parking and found (1) that the amendments proposed are consistent with the Town's comprehensive land use plan in that the plan sets a goal of reviewing policies concerning standards for private streets and encourages review of regulations to ensure consistency with stated goals, and (2) that they are both reasonable and in the public interest in that they provide better clarity and remove inconsistencies in light of Town Council's recent adoption of amendments to Chapter 24 concerning streets and Chapter 28 concerning traffic and parking;

WHEREAS, the Planning and Zoning Board met on March 5, 2020, and discussed certain Code amendments which would bring the notices requirements for matters before the Board of Adjustment into strict compliance with the provisions of North Carolina law and found that the amendments proposed are consistent with the Town's comprehensive land use plan in that the plan sets a goal of reviewing its regulations for legal compliance and reasonable in light of the strict standards of standing in order to participate in matters before the Board of Adjustment;

WHEREAS, after proper notice the Town Council held a public hearing on May 18, 2020, at 6:30 p.m., and offer a public comment period from April 30, 2020, through May 19, 2020 at 6:30 p.m., in order to receive input from the public on the amendments related to mixed use development in the C-1, C-2, and R-12 zoning districts, mandated notices for quasi-judicial matters before the Board of Adjustment, and streets and parking provisions of the land development ordinances;

NOW, THEREFORE, BE IT ORDAINED by Town Council of the Town of Weaverville, North Carolina, as follows:

1. The findings and recommendations of the Planning and Zoning Board are hereby incorporated by reference and adopted by Town Council, including specifically a finding that the amendments approved herein are consistent with the Town's adopted comprehensive land use plan and in the public's interest.
2. Concerning a technical review committee for land development:

Code Section 25-78 is hereby amended as follows, with added language shown as underlined:

Sec. 25-78. - General procedures for review of major and minor subdivisions.

All applications for development of major or minor subdivisions, including for review of concept plans, preliminary plats and final plats, shall be submitted to the town planner at the Weaverville Town Hall. In order to be considered at the next regularly scheduled meeting of the planning and zoning board, applications must comply with all code requirements and be received at least ten business days before the meeting. The planning director shall coordinate an evaluation of all applications for minor and major subdivisions with a technical review committee consisting of members of individual municipal departments, including but not limited to the Fire Marshal and Public Works Director or their designees, who may offer expertise on the proposed development. The technical review committee shall offer an opinion on the application for a minor or major subdivision to the Planning and Zoning Board and Town Council based upon the committee's findings or compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations. All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in section 25-27. Minor subdivisions shall be reviewed in accordance with the procedure set forth in section 25-79. The minor subdivision procedure may not be used a second time within three years from the date of its first use on any property which is less than 1,500 feet from the original property boundaries by anyone who owned, had an option on, or any legal or equitable interest in the original subdivision at the time the original subdivision received concept plan, preliminary plat or final plat approval. Major subdivisions shall be reviewed in accordance with the procedures set forth in sections 25-81 through 25-83.

Code Section 36-298 is hereby amended as follows, with added language shown as underlined:

Sec. 36-298. - Zoning permits required.

A zoning permit shall be obtained from the zoning administrator before beginning any construction on any lot within the town's zoning jurisdiction. No lot shall be graded so as to alter its contour and no building or other structure shall be erected, moved, added to, or structurally altered prior to the issuance of said zoning permit. In no event will the zoning administrator approve any permit for the grading of any lot or the construction or alteration of any building if such building, or its intended

use would be in violation of any of the provisions of this chapter, or if the contour of any lot would be altered or graded in violation of the screening and buffering requirements of this chapter.

- (1) *Application for permit.* All applications for zoning permits shall be accompanied by such information as the zoning administrator determines as needed for a full review of the request. Zoning administrator shall ensure that all applications are compliant with the applicable sections of this chapter prior to issuance of permit or transmittal to the decision-making board.
- (2) *Issuance of zoning permit.* Prior to issuing a zoning permit the zoning administrator shall first review the application and supporting documentation to determine compliance with all of the applicable requirements of this chapter. If the plans show that the proposed construction meets all of the requirements of this chapter the zoning administrator shall, prior to the issuance of the zoning permit, make an inspection of the site to determine that the actual location of all existing or proposed buildings or structures, parking areas, buffer strips etc. are located as shown on the plans. If the services of the town engineer or of a registered land surveyor are required to assure that the actual locations, on the ground, are as shown on the plans, the cost of this service shall be paid by the applicant prior to issuance of the zoning permit. Any such charges shall be in addition to the normal charges for such zoning permit. After the zoning administrator finds that the plans and on-site locations meet the requirements of this chapter, the administrator shall issue a zoning permit stating that the proposed construction, if built as located, meets the provisions of this chapter and that the applicant can apply for building and other permits. When reviewing proposed uses of land related to new commercial, industrial or multi-family residential development, or uses which require the issuance of or an amendment to a special use permit or the adoption of a conditional zoning district, the planning director shall coordinate an evaluation of the proposed development with a technical review committee consisting of members of individual municipal departments, including but not limited to the Fire Marshal and Public Works Director or their designees, who may offer expertise on the proposed development. The technical review committee shall offer an opinion on the proposed development to the Planning and Zoning Board and Town Council based upon the committee's findings or compliance with various sections of municipal ordinance and relevant federal and state laws, rules and regulations.

Explanatory note: While it may be obvious that a proposed building or structure to be located on a large tract of land meets the setback requirements by simple observation, actual field measurements would be required to determine compliance on a typical residential lot. All such measurements must be made from actual property or right-of-way lines using property corner or right-of-way markers. It may be assumed that the paved portion of any street or alley is in the center of the right-of-way for this purpose only if the right-of-way of record cannot be otherwise established by actual surveys.

- (3) *County permits required.* After the zoning permit is approved and issued, the applicant shall apply to the Buncombe County Permits and Inspections Department, or any successor thereto, for building, plumbing, electrical or other required permits. If such permits are not issued within 60 days after issuance of the zoning permit, the zoning permit shall become invalid.
- (4) *Construction progress.* If no substantial construction progress has been made within 180 calendar days of the date of the issuance of the zoning permit, or if work is suspended for 365 calendar days, the zoning permit shall become invalid; provided, however, the zoning administrator may extend the time for substantial construction progress to be made by up to 180 calendar days, for good cause shown. This provision shall not be applicable, however, for time periods for projects in conditional zoning districts, which shall be governed by subsection 36-84(e), or special use permits, which shall be governed by article IX.

3. Concerning mixed use development in the C-1, C-2, and R-12 zoning districts:

Code Section 36-105 is hereby amended as follows, with deleted language shown with strikethroughs and added language shown as underlined:

Sec. 36-105. - Table of uses.

USES	R-1	R-2	R-3	R-12	C-1	C-2	I-1
MISCELLANEOUS USES							
Mixed-Use Building or Structure	-	-	-	€ PS	€ PS	€ PS	-

Code Section 36-140 is hereby added:

Sec. 36-140. – Mixed-Use Building or Structure.

(a) Additional Standards applicable only within the R-12 zoning district for uses defined mixed use building or structure.

1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 or C-2 Zoning District.
2. The dimensional requirements for the R-12 zoning district and additional standards for the use defined as dwelling-multifamily (more than 4 units/per building are also fully applicable to the use defined mixed-use building or structure.
3. In no case shall the number of dwelling units exceed 12 units per acre.
4. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.
 - b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.
5. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
6. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - a. All containment areas shall be enclosed to contain windblown litter.
 - b. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - c. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - d. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe

County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access.

- e. Enclosures shall contain gates to allow for access and security.
- f. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
- g. Enclosures shall be landscaped in accordance with article VI of Chapter 36.

(b) Additional Standards applicable only within the C-1 zoning district for uses defined mixed use building or structure.

1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 Zoning District.
2. In no case shall the number of dwelling units exceed 4 units per building notwithstanding the latter permissible density bonus for additional off street parking places provided.
3. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.
 - b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.
4. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
 - a. A waiver of the foregoing requirement may be achieved in writing from the Town Manager or their designee upon showing of good cause. Factors for consideration include but are not limited to available space on the subject property, or any variable related to the public health or safety.
5. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - b. All containment areas shall be enclosed to contain windblown litter.
 - c. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - d. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - e. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access. Enclosures shall contain gates to allow for access and security.
 - f. Enclosures shall contain gates to allow for access and security.
 - g. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
 - h. Enclosures shall be landscaped in accordance with article VI of Chapter 36.
6. Within the C-1 Zoning District additional dwelling units may be permitted up to a maximum of eight dwelling units per building provided the property owner provide off street parking in addition to those spaces required by Article VII of this Chapter at a ratio of two spaces per additional dwelling unit.

(c) Additional Standards applicable only within the C-2 zoning district for uses defined mixed use building or structure.

1. Dwelling units are only permissible on the second or higher floor of any structure where the ground floor or street level floor is occupied by a use or uses otherwise permitted by right or with additional standards or by a conditional zoning district in the C-1 or C-2 Zoning District.
2. The dimensional requirements for the C-2 zoning district and additional standards for the use defined as dwelling-multifamily (more than 4 units/per building are also fully applicable to the use defined mixed-use building or structure.
3. In no case shall the number of dwelling units exceed 8 units per acre.
4. Street lighting requirements made necessary by section 36-26 are fully applicable to the use of mixed use building or structure as defined in section 36-5 except that such requirements are hereby modified to provide the following:
 - a. All lighting on the property shall be mounted on posts no more than 16 feet tall.
 - b. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties.
 - c. The exterior lighting plan shall be subject to review and approval by the town's zoning administrator prior to installation.
5. The collection and disposal of garbage and household trash accumulated at mixed use buildings or structures shall be the responsibility of the owner of the land on which the building is located. Likewise, yard trash, tree and shrubbery trimmings and household appliances shall be collected and disposed of by the owner of the land.
6. All containment devices for trash and recyclables, including compactors, dumpsters, commercial roll-out bins, and areas for storing cardboard shall be placed in the side or rear yards only and located and designed so as not to be visible from the view of adjacent streets and properties. All containment areas shall meet the following standards:
 - a. All containment areas shall be enclosed to contain windblown litter.
 - b. Enclosures shall be at least as high as the highest point of the compactor or dumpster.
 - c. Enclosures shall be made of materials that are opaque at the time of installation (such as a fence, wall or mature opaque vegetation) and compatible with and/or similar to the design and materials of the principal building.
 - d. Compactors and dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allow for positive drainage, and conform to the Buncombe County Health Department regulations governing compactor pads. A concrete apron shall also extend from the pad for support and access. Enclosures shall contain gates to allow for access and security.
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 - f. Dumpsters and compactors shall be located within the side or rear yard behind buildings and away from sidewalks or pedestrian circulation. Such locations should be accessible to service vehicles.
 - g. Enclosures shall be landscaped in accordance with article VI of Chapter 36.

4. Concerning mandated notices for quasi-judicial matters, Code Section 36-329 is hereby amended as follows, with deleted language shown with strikethroughs and added language shown as underlined:

Sec. 36-329. - Hearings and notices.

- (a) *Hearing* . The zoning board of adjustment shall hold a public hearing and enter a written decision on all matters upon which it is required to decide under this chapter. The public hearing shall be held within ~~30-days~~ 45 days after receipt by the town clerk of an application for a special use permit or variance or a notice of appeal, unless otherwise agreed to by the applicant. The board shall follow quasi-judicial procedures when deciding appeals, requests for variances and requests for special use permits. The board shall decide the matter within 60-days after the conclusion of the hearing. Upon a

hearing before the zoning board of adjustment, any party may appear in person, or by agent, or by an attorney.

- (b) *Notice* . ~~Notice of the time and the place of the public hearing shall be published weekly for two consecutive weeks in a newspaper of general circulation in the town. The first weekly notice shall be published not less than ten days nor more than 25 days before the date fixed for the public hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.~~ Notice of hearings shall be mailed to the person or entity whose appeal, application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing ~~and to all property owners within 500 feet of the property boundaries even if their property is not abutting~~. Notice to such persons or entities must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, a notice of hearing shall be prominently posted on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
- (c) *Oaths* . The chair of the board of adjustment or any member temporarily acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a class 1 misdemeanor.
- (d) *Subpoenas* . The board of adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. § 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the general court of justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

5. Concerning streets and parking:

Code Section 25-111 is hereby amended as follows, with deleted language shown with strikethroughs and added language shown as underlined:

Sec. 25-111. - Streets.

- (a) *Type of street required*. All subdivision lots shall abut on a "public" street as herein defined or on a "private" street with reference to which there is a duly recorded maintenance agreement as provided for in this chapter. All public streets may be dedicated to the town or to the state. All public and private streets shall be built to the standards ~~of this chapter~~ established in Chapter 24 and all other applicable standards of the town and the state department of transportation, whichever is the more restrictive standard.

A written maintenance agreement providing for maintenance of the street until it is added to the town or state highway system shall be included with the final plat. Such agreement shall be recorded as provided for in other sections of this chapter.

- (b) *Subdivision street disclosure statement*. All streets shown on the final plat shall comply with the provisions of G.S. 136-102.6 and a designation as "public" shall be conclusively presumed to be an offer of dedication to the town or state. Where streets are offered to be dedicated but are not finally accepted into the town or state system, before lots are sold, a statement explaining the status of the street shall be included on the final plat.
- (c) *Access to adjacent properties*. Where, in the opinion of the planning and zoning board and/or the town council, it may be necessary to provide for public street access to an adjoining property not within the

subdivision proposed streets shall, as allowed by law, be extended by dedication to the boundary of such public adjoining property and a temporary turnaround provided. The extension dedicated shall have the same right-of-way width as the street being extended.

- (d) ~~Nonresidential streets.~~ The subdivider of a nonresidential subdivision shall provide streets constructed in accordance with I.F-4 of the North Carolina Department of Transportation, Division of Highways Subdivision Roads Minimum Construction Standards, July 1, 1985, as amended, and the standards in this chapter, whichever are stricter in regard to each particular item.
- (e) ~~Design standards.~~ The design of all streets and roads within the jurisdiction of this chapter shall be in accordance with the accepted policies of the state department of transportation, division of highways, which are patterned on the American Association of State Highway Officials (AASHO) manuals. The North Carolina Department of Transportation, Division of Highways Subdivision Roads Minimum Construction Standards, July 1, 1985, as amended, shall apply for any items not included in this chapter, or where they may be stricter than this chapter.
- (f) ~~Other requirements.~~
- (1) ~~Through traffic discouraged on residential collector and local streets.~~ Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Provision shall be made for the free flow of traffic so as not to cause undue congestion. All streets shall be designed or walkways shall be dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.
 - (2) ~~Sidewalks.~~ Sidewalks may be required as provided in Sec. 36-24. ~~by the planning and zoning board or the town council on one or both sides of a street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas, or in other areas as deemed appropriate by the planning and zoning board or by the town council. Such sidewalks shall be constructed to a minimum width of five feet, and shall consist of a minimum thickness of four inches of concrete. All sidewalks shall be within the street right-of-way, unless the subdivision is platted as a planned unit or group development. Sidewalks shall consist of a minimum of eight inches of concrete at driveway crossings and at handicapped ramps.~~
 - (3) ~~Street names.~~ Street names shall be subject to the approval of Buncombe County E-911 Addressing. ~~Proposed streets which are in alignment with existing streets and which will constitute extension of the existing street shall be given the same name as the existing street. In assigning new street names, duplication of existing names shall be avoided. In no case shall a proposed street name be phonetically similar to an existing street name used in Buncombe County irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the planning and zoning board and/or the town council.~~
 - (4) ~~Street name and other signs.~~ All subdividers shall be required to provide and erect street name signs to town standards at all intersections within the subdivision. Subdividers shall also erect traffic control and directional signs in appropriate locations.
 - (5) ~~Permits for connection to state roads.~~ An approved permit shall be required for connection to an existing state system road. Such permit shall be required prior to any construction on the street or road. A permit application may be obtained at the office of the nearest district engineer of the division of highways.
 - (6) ~~Offsets to utility poles.~~ Poles for overhead utilities shall be located back from roadway shoulders, preferably a minimum of at least 30 feet from the edge of pavement on major thoroughfares. On streets with curb and gutter, utility poles should be set back a minimum distance of six feet from the face of the curb.
 - (7) ~~ADA accessibility Ramps for handicapped persons.~~ Where curbs are provided on streets or where curbs and sidewalks are constructed within any subdivision, any construction or reconstruction of such curbs and sidewalks shall be in full compliance with ADA accessibility standards. ~~the provisions of G.S. 136-44.14 which sets forth standards for providing curb ramps or curb cuts for handicapped persons.~~

- (8) ~~Guard rails. Guardrails may be required in areas of danger where deemed appropriate by the planning and zoning board or by the town council. Guardrails must be constructed in accordance with the minimum standards for subdivisions as established by North Carolina Department of Transportation or the North Carolina Fire Prevention Code, whichever is stricter.~~
- (9) ~~Horizontal width for bridge decks. Bridges. Bridges must be constructed in accordance with the minimum standards for subdivisions as established by North Carolina Department of Transportation or the North Carolina Fire Prevention Code, whichever is stricter.~~
- ~~a. The clear roadway widths for new and reconstructed bridges serving two-lane, two-way traffic shall be as follows:~~
- ~~1. Shoulder section approach.~~
- ~~Under 800 ADT Design Year: Minimum 28 feet width face to face of parapets or rails or pavement width plus ten feet, whichever is greater.~~
- ~~800—2000 ADT Design Year: Minimum 34 feet width face to face of parapets or rails or pavement width plus 12 feet, whichever is greater.~~
- ~~Over 2000 ADT Design Year: Minimum 40 feet. Desirable 44 feet width face to face of parapets or rails.~~
- ~~2. Curb and gutter approach.~~
- ~~Under 800 ADT Design Year: Minimum 24 feet face to face of curbs.~~
- ~~Over 800 ADT Design Year: Width of approach pavement measured face to face of curbs.~~
- ~~Where curb and gutter sections are used on roadway approaches, curbs on bridges shall match the curbs on approaches in height, in width of face to face of curbs, and in crown drop. The distance from face of curb to face of parapet or rail shall be three feet minimum, or greater if sidewalks are required.~~
- ~~b. The clear roadway widths for new and reconstructed bridges having four or more lanes serving undivided two-way traffic shall be as follows:~~
- ~~1. Shoulder section approach. Width of approach pavement plus width of usable shoulders on the approach left and right.~~
- ~~2. Curb and gutter approach. Width of approach pavement measured face to face of curbs.~~
- (10) ~~Curbs and gutter. Street curbs and gutters must be constructed in accordance with the street standards established in Chapter 24. Curbs and gutters shall be provided where deemed necessary by the town council upon recommendation of the planning and zoning board, the street maintenance superintendent, and/or the town's consulting engineer in order to provide adequate drainage because of high traffic volume, poor soil conditions, or where other similar conditions or special problems exist which justify the necessity of curbs and gutters.~~

Code Section 36-176 is hereby amended as follows, with deleted language shown with strikethroughs and added language shown as underlined:

Sec. 36-176. - Off-street parking.

- (a) Off-street automobile storage or parking space shall be provided on every lot on which any of the following uses are hereafter established. Each parking space shall have an all weather surface with

minimum dimensions of nine by 18 feet. The number of parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall be provided with vehicular access to a street or alley.

[TABLE NOT CHANGED]

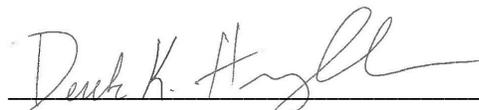
- (b) *Extension of parking space into a residential district.* Required parking space may not extend from a commercial (C-1 and C-2) use district or from a conditional use district (CZD) that contains any commercial or office use into any residential use district.
 - (c) Notwithstanding the foregoing, no additional off-street parking other than the parking currently available in the C-1 central business district shall be required except where the structures currently located on an existing lot of record containing more than 1,875 square feet are razed and the lot of record is put to a new use in which event the parking regulations of section 36-176 shall be fully applicable to said property.
 - (d) Joint use of parking lots. The required parking space for any number of separate uses may be combined in one lot, but the required number of spaces assigned to one use may not be assigned to another for use during the same hours.
 - (e) Remote parking. For any use except residential, if the off-street parking spaces required by this division cannot be reasonably provided on the same lot on which the use is located, such spaces may be provided on any land within 800 feet walking distance of any entrance to such use, provided that the district use regulations for the district in which the remote parking spaces are located permit the use which the parking space serves.
6. It is the intention of Town Council that the sections and paragraphs of this Ordinance are severable and if any section or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining paragraphs or sections of this Ordinance, since they would have been enacted by Town Council without the incorporation in this Ordinance of any such unconstitutional or invalid section or paragraph.
7. These amendments shall be effective immediately upon adoption and immediately codified.

ADOPTED THIS the 20th day of May, 2020, by a vote of 5 in favor and 0 against.



ALLAN P. ROOT, Mayor

ATTESTED BY:



DEREK K. HUNINGHAKE, Town Clerk

APPROVED AS TO FORM:



JENNIFER O. JACKSON, Town Attorney