



**Town of Weaverville
Planning and Zoning Board
Remote Electronic Meeting
Tuesday, July 7, 2020, 6:00pm**

Public Meeting via Zoom Meeting:

<https://us02web.zoom.us/j/89273366843> - Meeting ID: 892 7336 6843

Dial +1 301 715 8592 or +1 253 215 8782 - Meeting ID: 892 7336 6843

(see attached notice for more information on how to join meeting)

Agenda

1. Call to Order – Chairman Gary Burge.
2. Approval of the Agenda.
3. Approval of the Minutes from the June 2, 2020 Meeting of the Board.
4. Discussion Related to the Stated Goals of the Comprehensive Land Use Plan Specific to Subdivisions.
5. Any other Business to Come Before the Board.
6. Adjournment.

**WEAVERVILLE PLANNING AND ZONING BOARD
REMOTE ELECTRONIC MEETING ON JULY 7, 2020**

The State of North Carolina, Buncombe County and the Town of Weaverville have all declared States of Emergency in response to the COVID-19 public health crisis. Because of the risks to the public that would arise from in-person meetings, the Town's Planning and Zoning Board regular monthly meeting for July will be conducted via remote electronic format.

This NOTICE OF REMOTE ELECTRONIC MEETING is to inform the public that the Weaverville Planning and Zoning Board will hold its regularly scheduled meeting on Tuesday, July 7, 2020, at 6:00 p.m. as an electronic video/audio meeting via Zoom Meeting. Access to the meeting will begin at 5:45 p.m. and the meeting will start at 6:00 p.m. The instructions to access this public meeting are:

To join the meeting by computer, go to this link:

<https://us02web.zoom.us/j/89273366843> You may be asked for permission to access your computer's video and audio. If so, click "allow." You will then be asked for the Meeting ID which is: 892 7336 6843

To join the meeting by phone, call: (253)215-8782 or (301)715-8592. You will then be asked for the Meeting ID which is: 892 7336 6843

For questions or additional assistance in how to participate in this meeting, please contact Planning Director and Deputy Town Clerk James Eller at 828-484-7002 or jeller@weavervillenc.org.

Gary Burge, Chair

Posted: 7/2/2020

Town of Weaverville
Planning and Zoning Board
Minutes – Tuesday, June 2, 2020

The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Thursday, June 2, 2020 via a remote electronic meeting.

Present: Chairman Gary Burge, Vice Chairman Catherine Cordell, Board Member John Chase, Alternate Member Rachael Bronson, Mayor Al Root, Town Attorney Jennifer Jackson and Planning Director James Eller. Absent: Board Members Steve Warren and Peter Stanz. Due to absences of regular members, Alternate Member Bronson participated as a full regular member during the entirety of the meeting. Alternate Member Tom Balestrieri did not join the meeting until after 6:45 pm and did not participate in any voting.

1. Call to Order.

Chairman Gary Burge called the meeting to order at 6:00 pm.

2. Approval of the Agenda.

Mr. Burge noted that he would like to add an item to the agenda for the discussion of the recently adopted conditional zoning district for Garrison Reserve after the approval of the agenda. Mr. Burge motioned to approve the agenda as amended. Ms. Cordell seconded and all voted unanimously.

3. Discussion Related to the Recently Adopted Conditional Zoning District for Garrison Reserve.

Mr. Burge asked to have a conversation about the changes that were made to the plans for Garrison Reserve after the review of the project by the Planning and Zoning Board. Mr. Eller noted that the changes to the plans for Garrison Branch were specifically the reduction of parking spaces from 159 to 155; the removal of an outparcel noted for future development from the CZD and left to be governed by the underlying C-2 zoning district; the revision of one construction material from fiber cement to masonry; and three small signs rather than one large sign.

Ms. Jackson stated that the ordinance was drafted based upon the Board's recommendation. The developer comments on the draft ordinance were requested since consent to any conditions imposed in the approval should be obtained by the developer/owner. Ms. Jackson also noted that the changes were minor and were discussed as a part of the public hearing and, therefore, did not require a return review by the Planning and Zoning Board. Mayor Root also noted that the changes to the ordinance proposed by the developer were discussed during the public hearing on the matter held on May 18.

Mr. Burge and Ms. Cordell mentioned that the Planning and Zoning Board should have been notified of the changes. In recognition of the Board's concern and a desire to be efficient and expeditious in handling CZD approvals, staff will make efforts to have draft CZD ordinances available for the Board and developer review prior to the Board taking action on its recommendation. If that is not possible under the circumstances staff will notify the Board of any changes to the CZD ordinance that are requested by the developer/owner so that the need for further action by the Board can be considered prior to the public hearing and Town Council action on the matter.

4. Approval of the Minutes from the May 5, 2020 Meeting of the Board.

Mr. Burge noted a clerical error within paragraph 6 of the proposed minutes. Ms. Cordell motioned to approve the minutes as amended. Ms. Bronson seconded and all voted unanimously.

5. Discussion Related to the Effect of Certain Development Approvals on Town Resources such as Water Availability.

Mr. Burge noted that the Board should consider the effect of development approvals on the town resources such as water availability, transportation infrastructure, and fire, police and public works service capacity, or estimates of the impact of development. Mr. Burge asked if the comprehensive land use plan could specifically enumerate areas for different residential development. Mr. Eller noted that it could but that the Planning Board and Town Council would have much less discretion toward the character of the area and could lead to constant amendments to the comprehensive land use plan.

Ms. Cordell indicated that she has had a big concern about water availability and appreciated that information was included in the packet on the capacity numbers. Now that she has studied the numbers she is less concerned about the Town running out of water in the near future.

It was agreed by consensus that some future discussion should be centered around the saturation of apartments in certain areas of the Town. Another possible discussion is how to “soften growth.” The Board and Town Council are due for an annual review of the priorities within the comprehensive land use plan, so these discussions could take place at the next joint meeting coming up in July.

6. Discussion Related to Residential Development Approvals.

Ms. Jackson mentioned that the subdivision review process was pretty high on the priority list for the comprehensive land use plan and wondered if the Board would like to review some changes that would expedite subdivision reviews. There was consensus of the Board for staff to move forward on this discussion.

7. Any Other Business to Come Before the Board.

No further business.

8. Adjournment.

Ms. Cordell motioned to adjourn at approximately 7pm. Mr. Chase seconded and all voted unanimously.

**Gary Burge, Chairman
Planning and Zoning Board**

ATTEST:

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

Town of Weaverville, North Carolina

Staff Report: Subdivision Ordinance Review

Prepared June, 2020

Sources: Town of Weaverville Code of Ordinances; *Land Subdivision Regulation in North Carolina*

Introduction to the Issue of Subdivision Ordinance Review

The Town's comprehensive land use plan (CLUP) calls for several variables within the subdivision ordinance to be reviewed for legal requirements and efficiency. The four points of action which have been established to meet this stated goal may be found on page 29 of the CLUP and are as follows:

- Implement a staff-led Technical Review Committee (TRC) for development reviews.
- Undertake a comprehensive review of subdivision regulations.
- Clarify legally required exemptions to subdivision regulations and reexamine the definitions of minor subdivisions and major subdivisions.
- Streamline the subdivision review process.

In January the Planning and Zoning Board reviewed information presented by staff related to the implementation of a TRC for certain development reviews and offered a positive recommendation to Town Council on an amendment to municipal ordinance to achieve this goal. Town Council adopted an ordinance reflective of the staff's proposal and the Board's recommendation. We are left to consider the remaining three stated goals.

Administrative Subdivision Review

The Town's subdivision ordinance is currently based upon plat reviews with objective standards which calls for an administrative decision based upon these objective standards set by the ordinances (an example of this would be the dimensional requirements established by the underlying zoning district). In this arrangement an application either meets the requirements of the ordinance or it does not, and, therefore an administrative decision is made based upon the literal standards set forth in ordinance. Because the decision is administrative in nature, should an application be produced which meets the qualifications of the ordinance, the applicant has a right to the permit or development approval.

Quasi-Judicial subdivision review is permissible but would require a substantial revision of the subdivision ordinance to incorporate subjective standards. This would remove the Planning and Zoning Board from subdivision review and transfer examinations of subdivision applications to the Zoning Board of Adjustment under current ordinance parameters for quasi-judicial matters.

Town of Weaverville, North Carolina

Staff Report: Subdivision Ordinance Review

Prepared June, 2020

Sources: Town of Weaverville Code of Ordinances; *Land Subdivision Regulation in North Carolina*

Decision Makers

After the adoption of a subdivision ordinance, no plat of land may be filed or recorded unless said plat is submitted to the jurisdiction and approved by the decision maker specified by the ordinance. For example, this statement translates into municipal ordinance as follows:

Sec. 25-5. – Plat approval and recordation required.

After the effective date of this chapter, each subdivision within the town’s jurisdiction shall be approved by the town pursuant to the requirements set forth in this chapter. No building permit or letter of zoning compliance shall be issued for any lot within a subdivision for which a plat is required to be approved unless and until such plat has been approved by the town and is duly recorded in the Office of the Register of Deeds for Buncombe County.

Statutes give local governments many options for subdivision review and approval. However, when staff is a decision maker for subdivision review, the standards shall be administrative and not quasi-judicial.

Per *Land Subdivision Regulation in North Carolina* by Adam Lovelady, a publication from the University of North Carolina School of Government, it is not recommended for governing boards to approve administrative subdivision reviews.

“It is not recommended that governing boards handle administrative subdivision plat reviews. While such review is technically allowed, it results in the governing board handling ministerial (administrative) tasks without any room for policy choices or discretion. Policy choices are to be made when the subdivision ordinance is first adopted or amended and not when an individual plat is being reviewed. If discretion is desired, that be established through quasi-judicial standards, not through administrative review of preliminary plats.”

Currently Town Council serves as the ultimate ruling authority on major subdivision concept plans and preliminary and final plats based upon objective standards set by the ordinance. These approvals have typically been placed on the consent agenda and passed through without comment by Council who have been supplied the opinion of the TRC and Planning and Zoning Board. This is an area staff has identified as an opportunity to provide greater efficiency in the subdivision ordinance.

Town of Weaverville, North Carolina

Staff Report: Subdivision Ordinance Review

Prepared June, 2020

Sources: Town of Weaverville Code of Ordinances; *Land Subdivision Regulation in North Carolina*

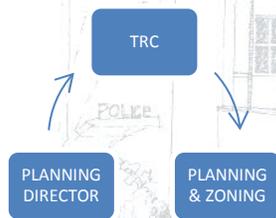
Current Approval Process

Minor subdivisions as defined are:

Minor subdivision means a subdivision of land meeting all the following criteria:

- (a) Containing not more than four lots or building sites abutting an existing public street or access easement thereto;
- (b) Not involving the extension of any new public utilities, other than laterals to individual lots;
- (c) Not requiring any new street construction or street right-of-way dedication; and
- (d) Where the use of all of the lots will be for single family residences.

Minor Subdivisions are currently subject to three levels of review for both preliminary and final plats (these are often the same document as minor subdivisions by definition are not creating infrastructure). The TRC reviews the application and plans and offers a recommendation to the Planning and Zoning Board who offer a recommendation to the Planning Director. If an application for a minor subdivision is timely submitted prior to the next regularly scheduled meeting of the Planning and Zoning Board, this process can take as few as three weeks.



As noted in conversation during Planning and Zoning Board meetings where a minor subdivision is being reviewed, this creates a unique set of circumstances where the TRC is offering a recommendation to the Planning and Zoning Board who then offers a recommendation to the Planning Director who is also a member of the TRC. This is an area staff has identified as an opportunity to provide greater efficiency within the subdivision ordinance.

As a minor aside, staff has also identified subparagraph (d) of the minor subdivision definition as problematic given that the underlying zoning district dictates the use of the property and the use of the property has no bearing on whether the proposed lots meet the dimensional requirements. It is the opinion of staff, based upon the administrative nature of the subdivision ordinance, that the proposed use of the property should not be used as a determining factor in denying a subdivision in which the resultant lots are conforming with the zoning district. Therefore, staff is recommending that subparagraph (d) of the minor subdivision definition for deletion.

Town of Weaverville, North Carolina
**Staff Report: Subdivision Ordinance
 Review**

Prepared June, 2020

Sources: Town of Weaverville Code of Ordinances; *Land Subdivision Regulation in North Carolina*

Major subdivisions as defined are:

Major subdivision means any subdivision not defined as a minor subdivision.

Subdivisions in this configuration are currently being reviewed in three phases; concept plan, preliminary plat, final plat. Each of these three phases are subject to three phases of approval.

Concept Plan, Preliminary Plat and Final Plat:



Since the implementation of the concept plan in March of 2016, staff has not received one application for a major subdivision which wished to achieve concept plan approval prior to proceeding with preliminary plat review. The variables required of a concept plan have been discussed and addressed at a conversational level between staff and the proposed developer or their representatives. As a result, The Planning and Zoning Board and Town Council have approved concept plans and preliminary plats simultaneously due to applications being filed with a higher level of information than is technically required. This is an area staff has identified as an opportunity to provide greater efficiency within the subdivision ordinance, specifically the elimination of the concept plan.

Council must be involved in certain approvals, such as water allocations, issuance of public street commitments and acceptance of dedications (roads).

Examples of Assignment of Decision Making on Subdivisions in Buncombe County

***Acceptance of Dedications specific to roads**

	Black Mountain	Buncombe County	Woodfin
Minor Sub	Subdivision Admin.	Planning Dept.	Planning Board
Major Sub: Prelim.	Planning Board	Planning Board	Board of Comm.
Major Sub: Final	Subdivision Admin.	Planning Dept.	Board of Comm.
Acc. of Dedications	Board of Alderman	N/A	Board of Comm.

Town of Weaverville, North Carolina
**Staff Report: Subdivision Ordinance
Review**

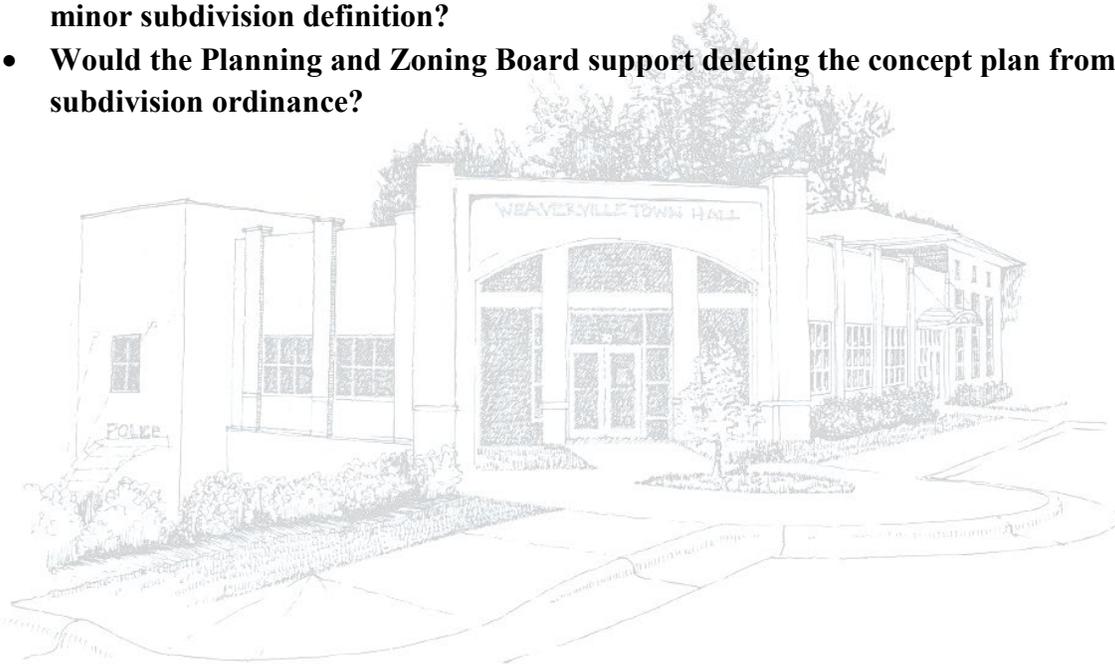
Prepared June, 2020

Sources: Town of Weaverville Code of Ordinances; *Land Subdivision Regulation in North Carolina*

Discussion Items

**A preliminary discussion centered around the following questions will help guide development of regulations for further review by the Planning and Zoning Board.*

- **Is the Planning and Zoning Board comfortable being the ruling authority on major subdivisions upon receiving the opinion of the TRC?**
- **Is the Planning and Zoning Board comfortable delegating approval of minor subdivisions to staff?**
- **Would the Planning and Zoning Board support deleting subparagraph (d) of the minor subdivision definition?**
- **Would the Planning and Zoning Board support deleting the concept plan from the subdivision ordinance?**



Town of Weaverville, North Carolina
**Staff Report: Subdivision Ordinance
Review**

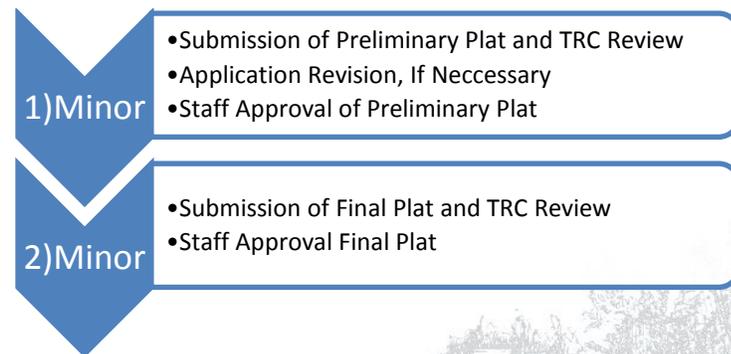
Prepared June, 2020

Sources: Town of Weaverville Code of Ordinances; *Land Subdivision Regulation in North Carolina*

Discussion Items Continued

- **Would the Planning and Zoning Board support the following assignment of decisions to streamline the subdivision review process?**

MINOR SUBDIVISIONS



MAJOR SUBDIVISIONS

