Town of Weaverville
Planning and Zoning Board
Remote Electronic Meeting
Tuesday, December 1, 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

- Call to Order – Chairman Gary Burge
- Approval of the Agenda
- Approval of the Minutes from the November 5, 2020 Meeting of the Board
- Discussion Related to a Proposed Manufactured Home Overlay District
- Discussion Related to Administrative Modifications and Review of Guidance Document Provided by the School of Government
- Any other Business to Come Before the Board
- Adjournment
WEAVERVILLE PLANNING AND ZONING BOARD
REMOTE ELECTRONIC MEETING ON December 1, 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 Weaverville Planning and Zoning Board’s regular meeting on December 1, 2020, 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, December 1, 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 Town Clerk James Eller at 828-484-7002 or jeller@weavervillenc.org.

Gary Burge, Chair
Posted: 11/25/2020
Date of Meeting: Tuesday, December 1, 2020

Subject: Minutes

Presenter: Planning Director

Attachments: Minutes from November 5, 10 Meetings of the Board

Description:
Attached you will find proposed minutes from the November 5, 2020 regularly scheduled meeting of the Board.

Action Requested:
Staff is requesting that the Planning and Zoning Board adopt the aforementioned minutes as presented or amended by motion of the Board.
The Planning and Zoning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00 pm on Thursday, November 5, 2020 via a remote electronic meeting.

Present: Chairman Gary Burge, Vice Chairman Catherine Cordell, Board Member Racheal Bronson, Alternate Members Suzanne Devane and Bob Pace, Town Councilmember Andrew Nagle, Town Attorney Jennifer Jackson and Planning Director James Eller. Board Members John Chase and Steve Warren were absent.

1. Call to Order.

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

Upon calling the meeting to order Mr. Burge called upon Ms. Cordell to chair the meeting.

It was noted that alternate members Ms. Devane and Mr. Pace would be serving as a voting members of the Board in the absence of regular members Mr. Chase and Mr. Warren.

2. Approval of the Agenda.

Upon consensus, Ms. Cordell declared the agenda approved.

3. Approval of the Minutes from the August 4, 2020 Meeting of the Board.

Mr. Pace motioned to approve the minutes as presented. Ms. Devane seconded and via a roll call vote all voted unanimously.

4. Update on the Progress of Subdivision Review and 160D Compliance.

Mr. Eller and Ms. Jackson informed the Board on the progress which has been made related to subdivision review and 160D compliance. It was noted that a more formal presentation and timeline for this project would be presented at the following week’s joint meeting with Town Council.

5. Discussion Related to a Proposed Manufactured Home Overlay District.

Mr. Eller noted the newly established and highly rated goal within the Comprehensive Land Use Plan of considering the implementation of a manufactured home overlay district and presented a staff report which provided background information on the issue, noted the current definition of a manufactured home, explored the differences of a manufactured home and a modular home, described the statutory limitations on manufactured homes, and provided proposed language integrating a manufactured home overlay district within current ordinance. The Board discussed at length each aforementioned variable of the staff report and provided additional direction to staff including firming up the description of the proposed mobile home overlay district.
Ms. Jackson noted that the implementation of a manufactured home overlay district would take the form of both a zoning map and text amendment. With the mention of a map amendment the Board discussed at length the areas of town which may, or may not, be appropriate for the use of a property for an individual manufactured home on an individual lot. The conversation ended with the conclusion that the areas of town suitable for the proposed overlay district would be further discussed at the next meeting of the Board.

6. **Any Other Business to Come Before the Board.**

The Board consented to continue remote electronic meetings for the immediate future due to restrictions in place related to COVID-19.

The impending November 10 joint meeting with Town Council was noted.

7. **Adjournment.**

Mr. Burge motioned to adjourn. Ms. Cordell seconded and via a roll call vote all voted unanimously.

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Gary Burge, Chairman
Planning and Zoning Board

ATTEST:

________________________________
James W. Eller
Planning Director / Town Clerk
The Town Council for the Town of Weaverville met for its regularly monthly meeting on Tuesday, November 10, 2020, at 6:00 p.m. as an electronic video meeting via Zoom Meeting.

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

Planning and Zoning Board Members remotely present were: Chair Gary Burge, Vice Chair Catherine Cordell, Board Members Racheal Bronson and John Chase, and Alternate Members Suzanne Devane and Bob Pace.

Staff members remotely present were: Town Attorney Jennifer Jackson, Planning Director James Eller.

1. **Call to Order**
   Mayor Root called the meeting of Council to order at 6:00 p.m.
   Chair Burge called the meeting of the Planning and Zoning Board to order at 6:00 p.m.

2. **Approval/Adjustments to the Agenda**
   Council and the Board came to a consensus that March 9, July 13 and December 14, would serve as dates for joint meetings of Council and the Board in 2021.

   Mr. Eller shared that the Planning and Zoning Board had recently elected to continue meeting remotely as long as such meetings were permissible due to COVID-19 restrictions. Mr. Eller also shared a general lack of large scale activities or development applications over the previous months.

4. **Update on Projects**
   Ms. Jackson presented a proposed project timeline for 160D compliance which pointed toward a public hearing on the matter in April 2021. The timeline included guidance on a review process for Town Council and the Planning and Zoning Board and a public comment plan. Consensus was achieved to advertise the zoning text amendments related to 160D on the town’s website, e-focus newsletter, the Weaverville Tribune and possibly holding public information sessions. Consensus was also achieved to incorporate Chapters 25: Subdivision and 36: Zoning into a consolidated Chapter during the 160D project.

   Mr. Eller provided an update on the progress of the subdivision ordinance rewrite including language related to requisite sidewalks within subdivisions both major and minor. Consensus was achieved to run the subdivision rewrite in conjunction with 160D revisions.
Mr. Eller provided an update on the progress related to the creation of a manufactured housing overlay zoning district. Consensus was achieved to accelerate the adoption of a manufactured housing overlay district outside the previously discussed timeframe for 160D and subdivision rewrite.

5. **Adjournment**
   
   Mayor Root declared the meeting of Council adjourned at 7:25 p.m.
   
   Chair Burge declared the meeting of the Planning and Zoning Board adjourned at 7:25 p.m.

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James Eller, Town Clerk
TOWN OF WEAVERVILLE
PLANNING AND ZONING BOARD AGENDA ITEM

Date of Meeting: Tuesday, December 1, 2020

Subject: Proposed Mobile Home Overlay District

Presenter: Planning Director / Town Attorney

Attachments: Staff Report on a Proposed Manufactured Home Overlay District, Current Zoning Map

Description:

The August, 2020 update of the stated goals of the comprehensive land use plan introduced a new goal to the plan. Said goal was to consider the implementation of a manufactured housing overlay district which was also given the highest priority upon adoption by Town Council.

Staff has prepared a staff report and looks forward to a conversation with the Board related to the furthering of this new stated goal.

The Board discussed at length language which would constitute a majority of the text amendment related to the proposed district at your previous meeting and staff will revisit the conversation briefly.

Action Requested:

Staff wishes for this portion of the conversation to primarily relate to the areas of town which should be considered for the propose overlay district. Additional direction to staff on the information presented related to a proposed manufactured home overlay zoning district is desired.
Comprehensive Land Use Plan Stated Goal and Background Information

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in August 2020, call for the consideration of the implementation of a manufactured home overlay district. Said goal was also given the highest priority within the CLUP giving staff the direction to accomplish or address the stated goal within 12 months.

As some may recall, this conversation started months ago in relation to a general inquiry from the Planning and Zoning Board regarding large tracts of land within municipal borders which are zoned for further residential development. For those of you not on the Board at that time staff provided the following report in February.

<table>
<thead>
<tr>
<th>Address</th>
<th>PIN</th>
<th>Zoning District</th>
<th>Acres</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>105 Church</td>
<td>9742-08-0900</td>
<td>R-1</td>
<td>3.55</td>
<td>15</td>
</tr>
<tr>
<td>11 Lakeshore</td>
<td>9742-16-0551</td>
<td>R-2</td>
<td>5.51</td>
<td>32</td>
</tr>
<tr>
<td>123 Highland</td>
<td>9732-95-2862</td>
<td>R-1</td>
<td>12.22</td>
<td>53</td>
</tr>
<tr>
<td>210 Aiken</td>
<td>9732-83-8176; 9732-83-6223</td>
<td>R-3</td>
<td>5.96</td>
<td>48</td>
</tr>
<tr>
<td>300 Aiken</td>
<td>9732-82-3831</td>
<td>R-3</td>
<td>12.66</td>
<td>101</td>
</tr>
<tr>
<td>41 N. Buncombe School</td>
<td>9743-33-5799</td>
<td>R-3</td>
<td>3.47</td>
<td>28</td>
</tr>
<tr>
<td>68 Highland</td>
<td>9742-06-4501</td>
<td>R-1</td>
<td>7.11</td>
<td>31</td>
</tr>
<tr>
<td>93 Church</td>
<td>9742-08-6733</td>
<td>R-1</td>
<td>2.93</td>
<td>13</td>
</tr>
<tr>
<td>96 Church</td>
<td>9742-98-9331</td>
<td>R-1</td>
<td>4.87</td>
<td>21</td>
</tr>
<tr>
<td>99 Church</td>
<td>9742-08-3833</td>
<td>R-1</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>Unaddressed Central</td>
<td>9742-06-9911</td>
<td>R-1</td>
<td>6.5</td>
<td>28</td>
</tr>
<tr>
<td>Unaddressed Church</td>
<td>9742-28-1340; 9742-27-2925</td>
<td>R-1</td>
<td>2.56</td>
<td>11</td>
</tr>
<tr>
<td>Unaddressed College</td>
<td>9742-17-9929</td>
<td>R-1</td>
<td>2.1</td>
<td>9</td>
</tr>
</tbody>
</table>
Listed units are a theoretical maximum based solely upon the minimum lot area of the zoning district and the acreage present on the subject parcel. Other variables such as minimum lot width, minimum street frontage, setbacks, existing easements, road construction or topography have not been accounted for. Hence the need for preliminary plat engineering. For instance, 108 Church Street recently before the Board carried a theoretical maximum of 12 lots but was only able to achieve 5. 50% of the units listed probably represents a more accurate assessment of units that may translate to the ground.

Properties previously subject to some form of development approval have not been included.

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Even if by accident, it was this report which illustrated a large amount of land on which manufactured housing could be established by right on properties within the R-3 zoning district. A conversation between staff and the Board ensued which was reflected in the minutes of the Board meeting as follows.

“Mr. Eller further described the report on undeveloped or underutilized parcels of size within municipal borders originally presented to the Board at their previous meeting and asked the Board if they would support the creation of an overlay district to further restrict the permitting of mobile homes by right in the R-3 zoning district given the number of mobile homes which could be permitted by right. The Board affirmed.”

In February the Board identified the volume of manufactured homes which could be permitted as a concern and in August Town Council adopted the aforementioned stated goal with the advice of the Board and staff. Now staff has prepared this information for the Board to produce an informed opinion in their recommendation to Town Council on the matter. Staff is available to supply any further information or material which the Board may request for their consideration.
Definition of Manufactured Home

The Town’s code of ordinances currently defines a manufactured home as follows...

Manufactured home or mobile home. A structure as defined in G.S. 143-145(7).

North Carolina General Statute provided the following definition...

Manufactured home. – A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

Manufactured vs. Modular

Staff’s experience in communicating with the general public on the matter suggests that there is usually some confusion over how a manufactured home is differentiated from a modular home. Coupled with the aforementioned definition of manufactured home the following is the definition of modular home from the Town’s code of ordinances...

Modular home. A dwelling unit constructed in accordance with the construction standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly and placement on a permanent foundation. Without limiting the generality of the foregoing, a modular home may consist of two or more sections transported to the site on each’s own
chassis or steel frame, or a series of panels or room sections transported to the site on a truck and erected, assembled, or joined there. This unit is deeded, and not titled by the state department of motor vehicles.

The differences of manufactured and modular housing provided by a combination of municipal ordinance and state statute are reflected in the following chart...

<table>
<thead>
<tr>
<th></th>
<th>Manufactured</th>
<th>Modular</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject to the North Carolina Building Code</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Assembled entirely off-site</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Place on a permanent foundation</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Portable after placement</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Deeded ownership</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Titled by NCDMV</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>

**Zoning Analysis**

Under current zoning regulations the Town permits with standards a manufactured home on an individual lot within the R-3 zoning district and a manufactured home park is not permissible in any zoning district.

Sec. 36-104. - Notes on table of uses.
Notes:
3. The abbreviations and symbols shown in the Table of Uses have the following meanings:
   "PS" = Permitted with Standards
   ":" = Not Permitted

Sec. 36-105. - Table of uses.

<table>
<thead>
<tr>
<th>USES</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-12</th>
<th>C-1</th>
<th>C-2</th>
<th>I-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESIDENTIAL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufactured Home</td>
<td>-</td>
<td>-</td>
<td>PS</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Manufactured Home Park</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td></td>
</tr>
</tbody>
</table>
The additional standards applicable to manufactured homes were established by a text amendment related to the implementation of the table of uses in August 2017 and are as follows...

Sec. 36-129. - Manufactured home.
(a) No new manufactured home shall be permitted within floodways and nonencroachment areas as determined by the Floodplain Administrator of Buncombe County.
(b) Each new manufactured home shall be placed on an individual lot.
(c) A manufactured home must be built to or exceed the Manufactured Home Construction Safety Standards as developed by the Housing and Urban Development Code of June 15, 1976.

Statutory Limits: 160D-910 Manufactured Homes

NCGS 160D-910 establishes that a local government may adopt and enforce regulations related to the location, dimensions and appearance of manufactured homes. However, within the same statute is stated that “a local government may not adopt or enforce zoning regulations or other provisions that have the effect of excluding manufactured homes from the entire zoning jurisdiction or that exclude manufactured homes based on the age of the home.”

Also stated is that “in accordance with the local government’s comprehensive plan and based on local housing needs, a local government may designate a manufactured home overlay district within a residential zoning district. Such overlay district may not consist of an individual lot or scattered lots, but shall consist of a defined area within which additional requirements or standards are placed upon manufactured homes.”

Proposed Manufactured Home Overlay District (MH)

The creation of a mobile home overly district will take the form of both a text amendment (enumeration of the district; other standards in addition to the current additional standards, if any, applicable to manufactured homes) and a map amendment.

A proposed manufactured home overlay district could be slotted into an existing portion of municipal ordinance as follows...

Sec. 36-56. - Use districts.
The following standard use districts are hereby established:
(a)  R-1. The primary residential district is established in which the principal use of the land is for single family residential purposes and the regulations for the R-1 district are established in order to protect the existing residential development and protect and promote a suitable environment for family life.

(b)  R-2. The transitional residential district is established in which the principal use of the land is for residential purposes and the regulations for the R-2 district are established in order to protect the existing residential development and protect and promote a suitable environment for family life.

(c)  R-3. The general residential district is established in order to provide a location for manufactured homes on individual lots in which the principal use of the land is for residential purposes and the regulations for the R-3 district are established in order to protect the existing residential development and protect and promote a suitable environment for family life.

(d)  R-12. The multi-unit residential district is established in which the principal use of the land is for residential purposes and the regulations for the R-12 district are established in order to provide a location for multi-unit residential development such as apartments and to provide regulations to minimize the effects of higher density residential uses.

(e)  C-1. The central business district is established in which the principal use of the land is for retail and food service businesses and the regulations for the C-1 district are established in order to protect the present retail businesses and service development within the district and promote future development within the district of businesses compatible with a vibrant, walkable main street.

(f)  C-2. The general business district is established in which the principal use of the land is for commercial development and the regulations for the C-2 district are established in order to promote current and future development of businesses which are required to serve the needs of residents of the town with convenience shopping, goods and services.

(g)  I-1. The light industrial district is established in which the principal use of the land is for light industrial development and the regulations for the I-1 district are established in order to promote industrial development but provide that the noise, dust, glare, and odor of each such industrial operation be kept to a minimum.

The following overlay district is hereby established:

(a)  MH. The manufactured home overlay district is established and intended for application to those areas of the zoning jurisdiction where the use or development of manufactured homes on individual lots is consistent with the character of the area and compatible with surrounding developed properties.

In addition to the standard use districts, conditional zoning districts may be established in accordance with section 36-84 of this chapter.
Sec. 36-105. - Table of uses.

<table>
<thead>
<tr>
<th>USES</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-12</th>
<th>C-1</th>
<th>C-2</th>
<th>I-1</th>
<th>MH</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESIDENTIAL</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufactured Home</td>
<td>-</td>
<td>-</td>
<td>PS</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>PS</td>
</tr>
</tbody>
</table>

Sec. 36-106. - Table of dimensional requirements.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-12</th>
<th>C-1</th>
<th>C-2</th>
<th>I-1</th>
<th>MH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area (sq. Ft.)</td>
<td>10,000</td>
<td>7,500</td>
<td>5,445</td>
<td>7,500</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5,445</td>
</tr>
<tr>
<td>Minimum Lot Width(ft.)</td>
<td>100</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>0</td>
<td>50</td>
<td>0</td>
<td>75</td>
</tr>
<tr>
<td>Minimum Front Yard (ft.)</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>Major Thoroughfare</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>0</td>
<td>60</td>
<td>35</td>
<td>30</td>
</tr>
<tr>
<td>Minor Thoroughfare</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>0</td>
<td>25</td>
<td>35</td>
<td>30</td>
</tr>
<tr>
<td>With Parking in Front</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>60</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Without Parking in Front</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>40</td>
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<td>-</td>
</tr>
<tr>
<td>Minimum Side Yard (ft.) Abutting Residential District</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>0</td>
<td>30</td>
<td>40</td>
<td>10</td>
</tr>
<tr>
<td>Minimum Side Yard (ft.) Abutting Commercial or Industrial District</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td>40</td>
<td>10</td>
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<tr>
<td>Minimum Rear Yard (ft.) Abutting Residential District</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>0</td>
<td>30</td>
<td>40</td>
<td>10</td>
</tr>
</tbody>
</table>
Minimum Rear Yard (ft.)
Abutting Commercial or Industrial District

<table>
<thead>
<tr>
<th></th>
<th>0</th>
<th>10^4</th>
<th>10^5</th>
<th>10^6</th>
<th>0</th>
<th>0</th>
<th>40</th>
<th>10^6</th>
</tr>
</thead>
</table>

Height Limit (ft.)

<table>
<thead>
<tr>
<th></th>
<th>35</th>
<th>35</th>
<th>35</th>
<th>45 and no more than 3 stories</th>
<th>0</th>
<th>75</th>
<th>75</th>
<th>35</th>
</tr>
</thead>
</table>

Buffer if Abutting a Residential District (ft.)

<table>
<thead>
<tr>
<th></th>
<th>0</th>
<th>0</th>
<th>0</th>
<th>20</th>
<th>0</th>
<th>20</th>
<th>20</th>
<th>0</th>
</tr>
</thead>
</table>

Sec. 36-107. - Notes for table of dimensional requirements.

See sections: dwelling setbacks, sections 36-13 to 36-15; nonconforming lots, section 36-21; right-of-way, section 36-8;

Notes:

1. 10,000 square feet if no public sewerage is available.
2. 20,000 square feet if neither public water or sewerage is available.
3. 5,000 additional square feet for each additional dwelling unit when public water and/or sewer is available.
4. 10,000 additional square feet for each additional dwelling unit when public water and/or sewer is not available.
5. 40 feet if property directly across the right-of-way is zoned residential.
6. 15 feet for duplexes; 25 feet for all other multi-family dwelling units.
7. Additional square footage may be required by the authority having jurisdiction over private water and/or sewerage systems located on individual lots.
8. 3,280 additional square feet for each additional dwelling unit when public water and/or sewer is available.
9. Where a lot in C-1 central business district abuts a residential district, either directly or across a street (on the side of the C-1 lot), and any use is hereafter established on the C-1 lot by the construction of a new building thereon or by the enlargement of an existing building on the C-1 lot which enlargement exceeds by 25 percent the floor area of the existing building, such building and such lot shall be screened from the lot in the residential district by a vegetative screen (as defined in section 36-5) on the side of the building or lot facing the residential lot shall require screening. Exceptions to this buffering requirement in C-1 are as follows:
   (a) These provisions shall not apply to any lot which is used for a use which would be permitted in the adjacent residentially zoned district.
   (b) The vegetative screen required shall be omitted along the street where the C-1 lot fronts.
   (c) The board of adjustment shall have the authority to alter or eliminate the required vegetative screen where the lot requiring the vegetative screen and the adjacent lot zoned...
residential are in single ownership or upon receipt of a notarized statement waiving or modifying the screening provisions of this section, between the owner of the lot requiring the vegetative screen and the owner of the adjacent lot zoned residential. Any such agreements shall be attached to the application for zoning permit and retained by the town.

10. In the C-1 central business district, every building or structure hereafter erected or structurally altered to exceed 35 feet in height, shall, above such 35-foot height, be set back from the front line of the property on which the building or structure is located on the ratio of one set back foot for each two-foot rise above such 35-foot height. In no case shall the height be greater than 57 feet (which would require a setback of 11 feet).

Where more than one-half of the street frontage in a particular street block is zoned residential and the remaining frontage on the same side of that street block is zoned C-1, the height regulations for the residential district shall apply to the lots zoned for commercial uses on that side of the street block.

Sec. 36-129. - Manufactured home.

(a) No new manufactured home shall be permitted within floodways and nonencroachment areas as determined by the Floodplain Administrator of Buncombe County.

(b) Each new manufactured home shall be placed on an individual lot.

(c) A manufactured home must be built to or exceed the Manufactured Home Construction Safety Standards as developed by the Housing and Urban Development Code of June 15, 1976.

Once the district is enumerated, it will be the responsibility of staff and the Board to identify where such an overlay district should be in place and make such a recommendation to Town Council. The text and map amendments could run concurrently through the legislative process but staff would strongly advise against the passing of any map amendment prior to the desired regulations, in the form of a text amendment, being in place.

NCGS 160D-910 also provides some guidance to this regard and states “a local government may adopt and enforce appearance dimensional criteria for manufactured homes. Such criteria shall be designed to protect property values, to preserve the character and integrity of the community or individual neighborhoods within the community, and to promote the health, safety and welfare of area residents. The criteria shall be adopted by ordinance.”

Overlay districts are often shown as “hatched” on zoning maps so the underlying zoning district remains discernable. For instance the following is a depiction of the Town owner property on the west side of the interstate with a hatched pattern outlining the property and proposed overlay zoning district.
Town of Weaverville, North Carolina

Staff Report: Proposed Manufactured Home Overlay Zoning District

Prepared November 2020

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan; North Carolina General Statutes; UNCSOG Legal Summaries

Additional Resources

Manufactured Housing, Modular Housing, and Zoning
https://www.sog.unc.edu/resources/legal-summaries/manufactured-housing-modular-housing-and-zoning
TOWN OF WEAVERVILLE
PLANNING AND ZONING BOARD AGENDA ITEM

Date of Meeting: Tuesday, December 1, 2020
Subject: Administrative Modifications
Presenter: Planning Director
Attachments: Administrative Modifications Guidance Document from the University of North Carolina School of Government

Description:
Attached you will find a guidance document provided by the School of Government related to administrative modifications which we have discussed recently as it relates to subdivision approvals.

Action Requested:
No action requested. The material is provided for informational purposes and staff will incorporate language within the subdivision rewrite consistent with the guidance provided by the UNCSOG.
Overview

North Carolina local governments may establish procedures to allow for administrative review of proposed minor amendments for conditional zoning, special use permits, and other development approvals. This administrative flexibility reduces the need for a full approval process to accommodate a limited change to the plans for a project. Any significant amendments must still go through the full review process (legislative for conditional zoning, quasi-judicial for special use permits, and full administrative review process for administrative approvals).

An important limitation: The new statutory language authorizing administrative modifications is specifically for minor adjustments to projects that are already approved. This is not an alternative to the variance standards and procedures. Examples of administrative minor modifications include reconfiguring parking design, changing landscaping arrangements, or slightly altering road and lot configurations for a development that has already gone through the full approval process. Arguably there is authority within the general zoning powers and applicable caselaw to allow for minor modifications to dimensional ordinance standards, but that is not explicitly authorized by Chapter 160D.

Administrative modification is an option for local governments. A community may choose to include administrative modification in the ordinance or not.

The following sections outline policy considerations and legal criteria for administrative modification of development approvals, but as with any policy decisions and ordinance language, each jurisdiction should carefully consider the preferred approach for that community. Sample ordinance language must be tailored to the particular ordinance and local context.
Key Considerations
What types of changes warrant going back through the full review process? And what types of changes are best handled by administrative staff? Those are the overarching questions for administrative minor modification. While boards commonly want to review the significant aspects of a project, they may not want to spend excessive time reviewing minor changes. Without administrative modification, a change to an approved development must go through the full procedural requirements of notice, hearing(s), and other procedural safeguards. There is less need for such process when changes are simply tweaks to an already approved project, so minor modification may be an alternative.

Here are important considerations for administrative review of proposed minor modifications:

- **Distinguish Site Design Modification from Dimensional Standard Modification.** There are two distinct types of minor modification, one clearly authorized by Chapter 160D and the other arguably authorized under the general zoning powers and applicable caselaw.

  First, there are site design modifications—changes to the design of previously approved development approvals. This would include a tweak to the design of a preliminary subdivision plat or a slight alteration of the site plan required as a condition in a special use permit. For these changes, the development still meets the underlying zoning requirements, but there is a need for flexibility in the design of the site plan or preliminary subdivision plat. Chapter 160D clearly authorizes such site design modifications provided they are defined in the ordinance and subject to prescribed limits. Even so, caselaw demands that such changes must follow clear, objective standards and a fair process.

  Second, there are dimensional standard modifications—changes to the underlying zoning standards. These might include reductions in parking standards or setbacks that are set by ordinance. Local governments must take great care in allowing such modifications. Dimensional standard modifications are not explicitly authorized by Chapter 160D, but those modifications arguably may be authorized under the general zoning authority and applicable caselaw. An alteration to a basic ordinance standard is substantially similar to a variance which requires a quasi-judicial evidentiary hearing by the board of adjustment. Clear, objective standards, a fair process, and a straightforward appeal process will be necessary for such modification provisions.

- **Define Minor Modification.** The ordinance must define the types of changes that qualify for administrative review and the limits on such changes. Ordinances may include topics
such as lot configuration, parking design, building location, and similar requirements as topics for which minor modification may be granted. As discussed more below, the limitations are commonly phrased as numerical or percentage caps for the change (no more than five feet or ten percent, for example). Communities may permit administrative modification of a site plan that has been attached as a condition of approval to a conditional zoning district or special use permit. The ordinance may also define changes that do not qualify for minor modification—changes that require a major amendment—such as changes that would increase the traffic from the project beyond the levels projected in a Transportation Impact Analysis (TIA) or increase the stormwater impacts beyond what was identified in the stormwater analysis conducted as part of the original approval.

- **No change in use or density.** The statutes (excerpted below) prohibit administrative minor modifications that “involve a change in uses permitted or the density of overall development permitted.” An administrative modification could not be used to convert a use from residential to commercial, for example. That said, there is the potential for some ambiguity. Could an administrative official approve a shift in equivalent amounts of activity between different uses within a similar category, such as trading an equivalent number of dwelling units from one housing type to another, or trading equivalent square footage between non-residential uses? Such modification may be possible if it could be demonstrated that the original approval foresaw such flexibility and the proposed shift did not increase the “overall density of development.”

- **Qualifying criteria for modification.** When is a minor modification authorized? An administrator cannot have wide-open discretion for granting modifications. There must be specific, neutral, and objective criteria in place for when a minor modification is authorized. So, for example, a minor modification may be allowed to provide relief from a unique physical attribute of the property not known at the time of initial approval. With such a limit, the applicant will need to provide evidence of why relief is needed. While the administrator may need to engage in some fact finding, it may be administrative rather than quasi-judicial as long as it is defined by the ordinance and limits are placed on the discretion exercised by the local government staff person or appointed board (discussed below).

- **Limits on amount of modification.** In addition to clear criteria for when modifications are authorized, the ordinance should set specific, neutral, and objective limits for the permissible amount of modification. For example, a setback may be reduced up to ten percent or 24 inches, or a parking requirement may be reduced no more than 25 percent.
• **Decision-maker.** The ordinance should identify which official or board is charged with reviewing a request for administrative modification. Administrative review functions can be delegated either to local government staff or appointed boards, as desired by the unit of local government.

• **Parcel-specific modification.** In the case of modifications to conditional zoning districts, the statute authority permits the owners of individual parcels to “apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the condition.” Such a change applies only to the properties whose owners require the change.

• **Major amendments remain.** If a requested change does not qualify as a minor amendment, the applicant may still seek a major amendment to the approval. Such proposed revisions must go through the full approval process. An ordinance may specify that multiple, sequential minor modifications will trigger the need for a major amendment (projects are limited to one minor modification or one minor modification per year, for example).
Caselaw Limitations

Long before Chapter 160D, North Carolina courts explained, emphasized, and enforced the difference between quasi-judicial decisions and administrative decisions. The distinctions are especially important because of the differing procedural requirements to protect the rights of affected parties. If a decision requires judgment and leaves substantial discretion to the decision-maker, it is quasi-judicial and must follow elements of a fair trial including an evidentiary hearing. If a decision is routine and nondiscretionary, then the decision is administrative or ministerial and there is no need for a quasi-judicial hearing.

In County of Lancaster v. Mecklenburg County, 334 N.C. 496, 434 S.E.2d 604 (1993), the North Carolina Supreme Court provided the following distinctions:

In making quasi-judicial decisions, the decisionmakers must investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature.

... Administrative decisions are routine, nondiscretionary zoning ordinance implementation matters carried out by the staff, including issuance of permits for permitted uses. In general, the zoning administrator is a purely administrative or ministerial agent following the literal provisions of the ordinance. The zoning administrator may well engage in some fact finding, ... but, in such instances, this involves determining objective facts that do not involve an element of discretion.

In County of Lancaster v. Mecklenburg County, the county standards for landfill permits called for the zoning administrator to make certain determinations. Most were plainly objective (yard requirements, screening, hours of operation, access, and notification of adjoining property owners). Two determinations, though, required some judgement: whether the proposed use would be consistent with the county's land use plan and whether the cost estimates for reclamation were reasonable.

Neighbors argued that the permit standards were quasi-judicial in nature, and thus, the delegation to the administrator violated due process. The Supreme Court acknowledged that decisions requiring discretion are quasi-judicial and must meet the elements of a fair trial, but the court also affirmed that some fact-finding and determination may be involved in administrative decisions. Such administrative decisions must still be based on objective facts, not administrator discretion. In this case, the court deferred to the county’s determination, as
evidenced in the adopted ordinance provisions, that these were objective standards that could be applied by administrative staff.

In *Butterworth v. City of Asheville*, 247 N.C. App. 508, 786 S.E.2d 101 (2016), the North Carolina Court of Appeals emphasized that there are limits to administrative decision-making: A decision requiring the exercise of judgment and discretion in applying general standards to a particular case is quasi-judicial and due process requires that the board must follow the elements of a fair trial. In that case, the local ordinance allowed a modification to standards with a finding of “unusual and unnecessary hardship.” The city treated that determination as administrative, but the court ruled that such a standard is essentially a variance. It requires the exercise of judgment and discretion, so it is quasi-judicial.

The court did clarify that some modifications may be allowed as administrative decisions, but such modifications must be based on “specific, neutral, and objective criteria.” The court identified acceptable administrative modifications in the Asheville code “such as the limitation of a deviation not in excess of ‘up to ten percent or 24 inches . . . from the approved setback,’ or a reduction of no more than ‘25 percent in the number of parking spaces required.’”

### Statutory Authorization

**Conditional Zoning (Legislative)**

N.C.G.A. § 160D-7-3(b) states:

Conditional Districts. – Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions mutually approved by the local government and the petitioner may be incorporated into the zoning regulations. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-5-1, or the impacts reasonably expected to be generated by the development or use of the site. []

*The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively.* Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification
of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved shall only be applicable to those properties whose owners petition for the modification.

Special Use Permits (Quasi-Judicial)
N.C.G.A. § 160D-705(c) states:

Special Use Permits. – The regulations may provide that the board of adjustment, planning board, or governing board hear and decide special use permits in accordance with principles, conditions, safeguards, and procedures specified in the regulations. Reasonable and appropriate conditions and safeguards may be imposed upon these permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government.

The regulation may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may petition for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved shall only be applicable to those properties whose owners apply for the modification. The regulation may require that special use permits be recorded with the register of deeds.

Development Approvals (Administrative)
N.C.G.A. § 160D-403(d) states:

Changes. – After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained. A local government may define by ordinance minor modifications to development approvals that can be exempted or administratively approved. The local government shall follow the same development review and approval process
required for issuance of the development approval in the review and approval of any major modification of that approval.

Sample Ordinance Language

**Changes to Prior-Approved Developments**

A. **Major Amendments.** Except as allowed under Minor Modifications below, all changes to approved [INSERT ALL THAT APPLY: CONDITIONAL ZONING, SPECIAL USE PERMIT, AND/OR OTHER DEVELOPMENT APPROVALS] are major amendments and shall follow the same process applicable for the original approval.

B. **Changes to Individual Parcels within a Conditional Zoning District.** For a conditional zoning district applicable to multiple parcels, the owners of individual parcels may apply for minor modification or major amendment so long as the change would not result in other properties failing to meet the terms of the conditions. Any approved changes shall only be applicable to those properties whose owners petitioned for the change.

C. **Minor Modifications.** The [insert appropriate title/position] is authorized to review and approve administratively a minor modification to an approved [INSERT ALL THAT APPLY: CONDITIONAL ZONING, SPECIAL USE PERMIT, AND/OR OTHER DEVELOPMENT APPROVALS], subject to the following limitations.

1. **General Limitations.** The minor modification:
   i. Does not involve a change in uses permitted or the density of overall development permitted;
   ii. Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
   iii. Meets all other ordinance requirements.

2. **Site Design.** Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as a condition to a conditional zoning or special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:
   i. Comply with underlying zoning standards and other applicable conditions of the approval;
   ii. Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building location, or a minor adjustment to utility alignment.
3. **Dimensional Standards.** Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the administrator, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.

In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:

i. An adjustment to parking requirements up to the greater of ___ spaces or ___ percent.
ii. An adjustment to setback requirements up to greater of ___ feet or ___ percent of the standard setback.
iii. An adjustment to landscape standards up to ___ percent of required landscaping.

D. **Appeals and Variances.** A decision on minor modification may be appealed to the Board of Adjustment as an administrative determination. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.

Example Ordinance Provisions

The following example ordinance provisions are drawn from North Carolina communities. These provisions were in place prior to the adoption of Chapter 160D. They are excerpted with minor noted edits to align with the guidance of Chapter 160D such as the prohibition on minor modifications for density.

**City of Asheville – Minor Modifications for Conditional Use District**

**Section 7-9-9. [Special Use Permits]**

(b) General requirements. . . .

(6) Minor modifications of the approved [special] use permit may be approved by the planning and development director. The minor modifications authorized herein are intended to provide relief where conditions, established by the [special] use permit granted, create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of permit approval and which subsequently rendered the land difficult or impossible to use due to the condition(s) imposed. The permit holder shall bear the burden of proof to secure the modification(s). Such modifications shall be limited to the following:

a. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback, provided that the conditions for approving a deviation from the required setback established by subsection 7-11-8(c)(1) of this chapter are met.
b. A reduction of up to 25 percent in the number of parking spaces required for the use provided that the conditions established by subsection 7-11-8(c)(2) of this chapter are met.

Currituck County – Minor Deviations to Conditional Rezonings

Section 2.4.4 – Conditional Rezoning

(I) Minor Deviations from Approved Conceptual Development Plan

Subsequent plans and permits for development within a conditional zoning district may include minor deviations from the approved conceptual development plan, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the conditional zoning classification process, or any other change that has no material effect on the character of the approved development. Changes in the following shall constitute minor deviations that may be approved by the Planning Director:

(a) Driveway locations;
(b) Structure floor plan revisions;
(c) Minor shifts in building size or location; and

(2) Material Changes are Amendments

Changes that materially affect the basic configuration of the approved conceptual development plan are not considered minor deviations, and shall only be changed as amendments to the conditional rezoning in accordance with Section 2.3.14, Amendment of Development Approval.

Town of Morrisville – Minor Modification Procedure for Special Use Permits

Section 2.5.5 Special Use Permit

(C)(7)(d) Minor Modifications Allowed

(1) Subsequent development applications may incorporate minor changes from the development defined by the Special Use Permit approval, without the need to amend the Special Use Permit in accordance with Section 2.4.8.D, Modification or Amendment of Approval, where the Planning Director determines that the changes:

(A) Continue to comply with this Ordinance;
(B) Are necessary to comply with conditions of approval; or
(C) Are consistent with the Special Use Permit approval or any Town Council approval on which the Special Use Permit approval was based (e.g., PD Plan/Agreement approval, Conceptual Master Plan Approval). Consistency means the changes would not significantly alter the development’s general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the Special Use Permit approval or any prior Town Council approval on which it was based.
(2) In any case, the following changes from the Special Use Permit approval or Town Council approval on which it was based shall constitute a major change requiring amendment of the Special Use Permit in accordance with Section 2.4.8.D, Modification or Amendment of Approval:

(A) A change in a condition of approval;

(B) A change in uses permitted or the density of overall development.

(C) A change greater than ten percent in the ratio of gross floor area devoted to residential uses to that devoted to nonresidential floor area; and

(D) An increase greater than ten percent in the amount of land devoted to nonresidential uses.
Date of Meeting: Tuesday, December 1, 2020
Subject: Other Business
Presenter: Planning Director
Attachments: 2021 Schedule of Meetings
Description: None.
Action Requested: None.
## TOWN OF WEAVERVILLE PLANNING AND ZONING BOARD
### 2021 SCHEDULE OF MEETINGS

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* Joint Meeting with Town Council