



**Town of Weaverville  
Planning Board  
Regular Monthly Meeting  
Tuesday, February 7, 2023, 6:00pm**

**Agenda**

1. Call to Order – Chair Bob Pace
2. Approval of the Agenda
3. Approval of the Minutes
  - January 3, 2023 regular meeting of the Board
4. Nonconforming Lots
  - Discussion Related to a Review of Regulations Applicable to Nonconforming Lots
5. Technical Change Text Amendment
  - Discussion Related to a Technical Change within Chapter 20: Planning and Development
6. Amendment to Rules of Procedure
7. Any Other Business
8. Adjournment

**TOWN OF WEAVERVILLE**  
**PLANNING BOARD AGENDA ITEM**

**Date of Meeting:** Tuesday, February 7, 2023

**Subject:** Minutes

**Presenter:** Planning Director

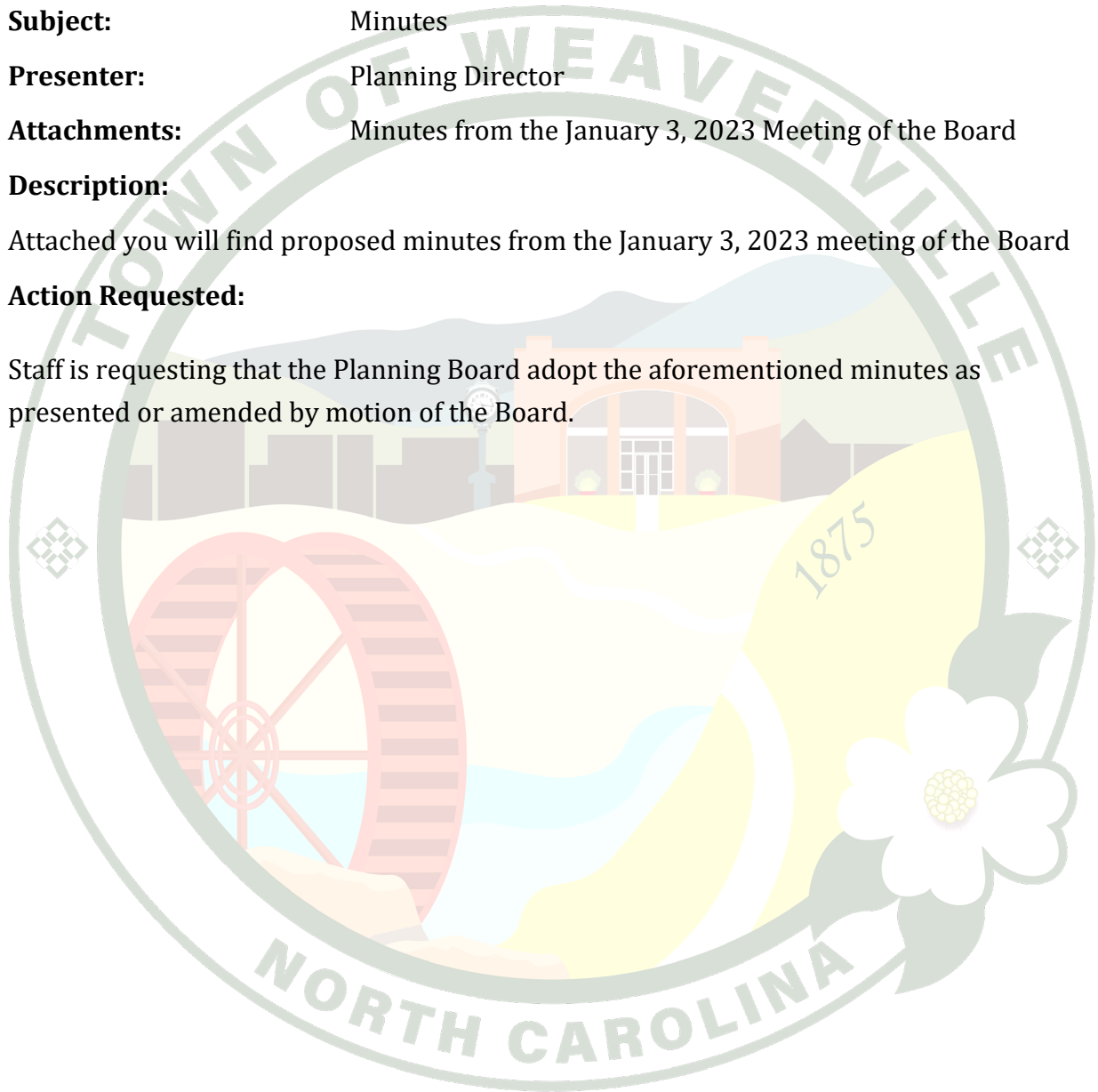
**Attachments:** Minutes from the January 3, 2023 Meeting of the Board

**Description:**

Attached you will find proposed minutes from the January 3, 2023 meeting of the Board

**Action Requested:**

Staff is requesting that the Planning Board adopt the aforementioned minutes as presented or amended by motion of the Board.



Town of Weaverville  
Planning Board  
Minutes – Tuesday, January 3, 2023

The Planning Board of the Town of Weaverville met for a regularly scheduled monthly meeting at 6:00pm on Tuesday, January 3, 2023 within Council Chambers at Town Hall.

Present: Board Members Bob Pace, Mark Endries, Jane Kelley, and Donna Mann Belt and Alternate Members Maggie Schroder and Ryan Gagliardi, Town Council Liaison Michele Wood, Town Attorney Jennifer Jackson and Planning Director James Eller. Board Member Rachael Bronson was absent.

**1. Call to Order**

Mr. Pace called to order at 6:00 pm.

Mr. Pace recognized Ms. Schroder as a regular member of the Board to fill the absence of a regular member.

**2. Approval of the Agenda**

Noting no objections Mr. Pace declared the agenda approved by consent.

**3. Approval of the Minutes from the December 6, 2022 Meeting of the Board**

Mr. Endries motioned to approve the minutes as presented. Ms. Kelley seconded and all voted unanimously in favor of the motion.

**4. 171 Monticello Road Conditional District Application and Supporting Documents**

Mr. Eller presented an updated staff report reflective of changes which had been made to the proposed conditional district as a result of conversations with the developer at last month's meeting of the Board.

Ms. Jackson presented a proposed favorable statement of consistency/reasonableness and recommendation from the Board in which conditions for the project are established. Ms. Jackson guided the Board through a conversation addressing each proposed condition.

Landon Cox, of LDG Development appeared remotely on behalf of the application and answered questions from the Board. Bob Oast, Attorney for LDG also appeared on behalf of the application. Upon request Mr. Cox provided a breakdown of the 156 units per bedroom and per pricing.

Having arrived at the consensus position of compliance with the comprehensive land use plan during their last meeting, the Board also found the proposed development reasonable should the presented and discussed conditions be applied to the property.

Mr. Endries motioned to forward a favorable statement of consistency/reasonableness and recommendation to Town Council on the proposed conditional district. Ms. Schroder seconded and all voted in favor of the motion.

**5. 480 Reems Creek Road Zoning Map Amendment Application**

Mr. Eller presented the zoning map amendment application and provided an introduction to the property and surrounding area. A staff report providing an analysis of the consistency with the comprehensive land use plan was also provided. Mr. Eller made note of former projects in the area which had been approved by special use permits rather than zoning map amendments.

A discussion related to the density of other projects in the vicinity occurred.

Ms. Schroder motioned to forward a favorable statement of consistency/reasonableness and recommendation to Town Council on the proposed zoning map amendment. Ms. Mann Belt seconded the motion. Motion passed 4-1 with Ms. Kelley offering the dissenting vote.

**6. Any Other Business**

Ms. Jackson noted a proposed revision to the rules of procedure for the Planning Board which would make no second required prior to a vote on a motion.

**7. Adjournment.**

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**Bob Pace, Chair**  
**Planning and Zoning Board**

**ATTEST:**

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

**TOWN OF WEAVERVILLE**  
**PLANNING BOARD AGENDA ITEM**

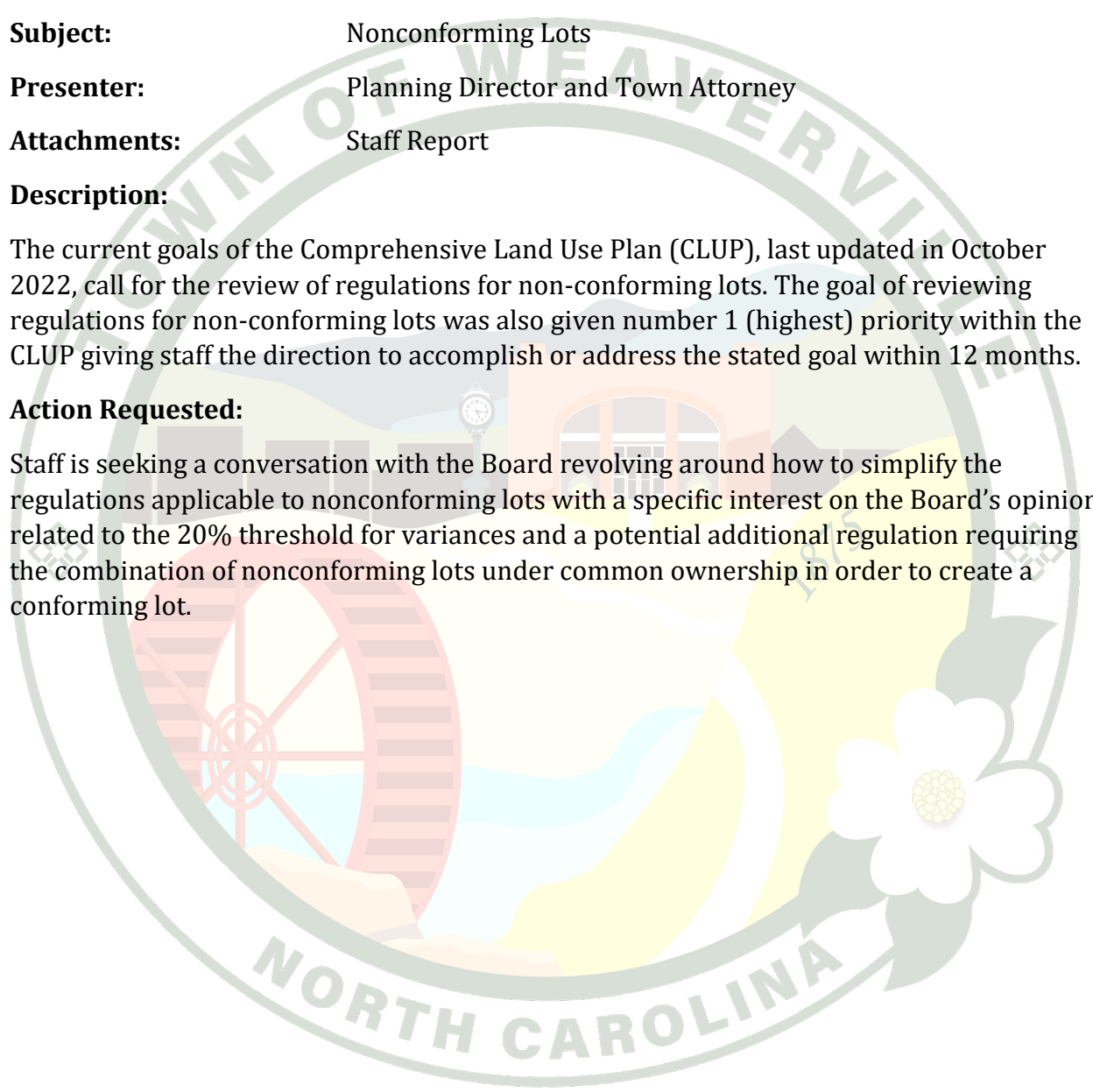
**Date of Meeting:** Tuesday, February 7, 2023  
**Subject:** Nonconforming Lots  
**Presenter:** Planning Director and Town Attorney  
**Attachments:** Staff Report

**Description:**

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for the review of regulations for non-conforming lots. The goal of reviewing regulations for non-conforming lots was also given number 1 (highest) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 12 months.

**Action Requested:**

Staff is seeking a conversation with the Board revolving around how to simplify the regulations applicable to nonconforming lots with a specific interest on the Board's opinion related to the 20% threshold for variances and a potential additional regulation requiring the combination of nonconforming lots under common ownership in order to create a conforming lot.



Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

### **Comprehensive Land Use Plan Stated Goal and Background Information**

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for the review of regulations for non-conforming lots. The goal of reviewing regulations for non-conforming lots was also given number 1 (highest) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 12 months.

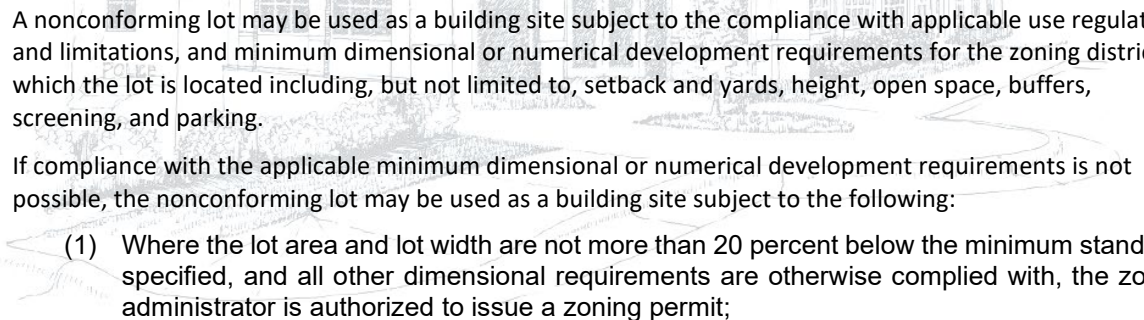
### **Definition of Non-conforming Lot**

*Lot of record means a lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds of Buncombe County prior to the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.*

*Nonconforming lot is a lot that was lawfully created prior to the effective date of the applicable sections of town code, or subsequent amendment thereto, but does not conform to the minimum lot size, lot depth or minimum lot width requirements established for the zoning district in which it is located.*

### **Existing Non-conforming Lot Regulations**

#### **Sec. 20-1602. Nonconforming lots.**

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- (a) A nonconforming lot may be used as a building site subject to the compliance with applicable use regulations and limitations, and minimum dimensional or numerical development requirements for the zoning district in which the lot is located including, but not limited to, setback and yards, height, open space, buffers, screening, and parking.
  - (b) If compliance with the applicable minimum dimensional or numerical development requirements is not possible, the nonconforming lot may be used as a building site subject to the following:
    - (1) Where the lot area and lot width are not more than 20 percent below the minimum standards specified, and all other dimensional requirements are otherwise complied with, the zoning administrator is authorized to issue a zoning permit;
    - (2) Where the lot area and lot width are more than 20 percent below the minimum standards specified in this chapter or other dimensional requirements cannot be met, the board of adjustment is authorized to consider requests for variances of such dimensional and numerical requirements as shall conform as closely as possible to the required dimensions.
  - (c) If a lot is nonconforming in that it does not have street access as described in Code section 20-3208(g), a building can be constructed on such lot if the applicant can provide evidence of a recorded legal access to a publicly maintained street or roadway which will support actual vehicular access to the lot.

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

**Enforcement of Existing Regulations**

As you will have seen in the existing regulations there is an arbitrary threshold of 20% below the minimum dimensional standards required by the zoning district in which the property is located. Where a nonconformity at or below 20% is experienced, staff has the authority to issue permits for a nonconforming lot to be built upon. Where a nonconformity of more than 20% is experienced a variance from the Board of Adjustment must be achieved to convert the nonconforming lot to a buildable lot.

For example, in the R-1 zoning district where a minimum lot width of 100 feet is required.

| Required Lot Width | Lot Width Present | Authority           |
|--------------------|-------------------|---------------------|
| 100 ft.            | 75 ft.            | Board of Adjustment |
| 100 ft.            | 80 ft.            | Staff               |

When these nonconforming lots have gone to the Board of Adjustment for a variance, each has had a variance granted.

**Potential Additional Regulation**

It is more common than not in other ordinances to have a requirement that nonconforming lots under common ownership be combined with one another to create a conforming lot. With this additional requirement the number of nonconforming lots is reduced. For example:

*A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot owned by the same person on or after the effective date of these regulations in order to create a single lot. For the purposes of this section, adjoining shall be deemed to mean the sharing of one or more common lot lines.*

Or:

*Where a nonconforming lot abuts another lot of record, whether conforming or nonconforming, held in the same ownership at or subsequent to the adoption of these regulations, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not be subdivided thereafter except in compliance with the requirements of this Chapter.*

Town of Weaverville, North Carolina  
**Staff Report: Non- Conforming Lots**

Prepared November, 2022

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

**Intent of Regulation Revision**

Staff is seeking a conversation with the Board revolving around how to simplify the regulations applicable to nonconforming lots with a specific interest on the Board’s opinion related to the 20% threshold for variances and a potential additional regulation requiring the combination of nonconforming lots under common ownership in order to create a conforming lot.





**TOWN OF WEAVERVILLE**  
**PLANNING BOARD AGENDA ITEM**

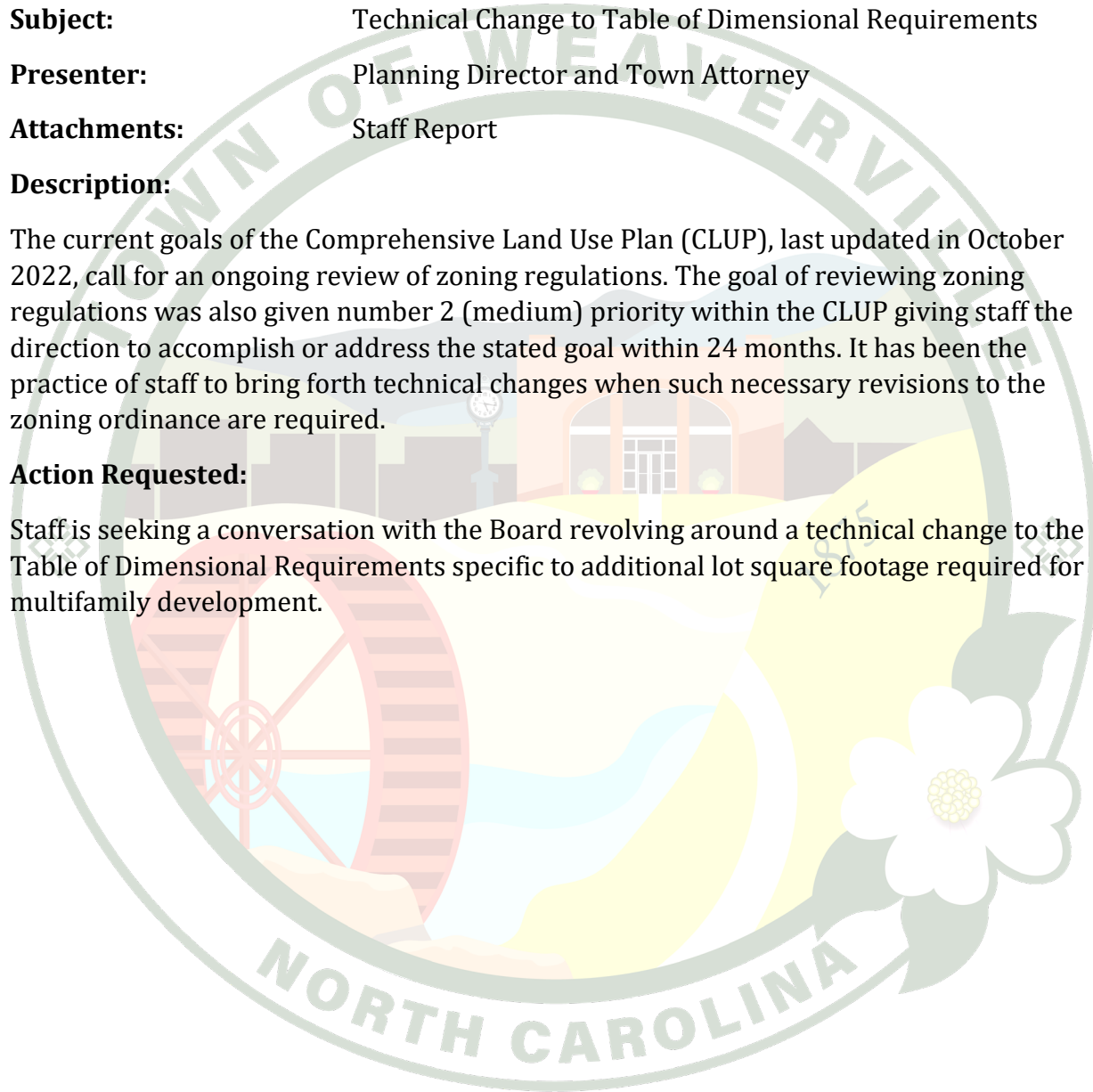
**Date of Meeting:** Tuesday, February 7, 2023  
**Subject:** Technical Change to Table of Dimensional Requirements  
**Presenter:** Planning Director and Town Attorney  
**Attachments:** Staff Report

**Description:**

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for an ongoing review of zoning regulations. The goal of reviewing zoning regulations was also given number 2 (medium) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 24 months. It has been the practice of staff to bring forth technical changes when such necessary revisions to the zoning ordinance are required.

**Action Requested:**

Staff is seeking a conversation with the Board revolving around a technical change to the Table of Dimensional Requirements specific to additional lot square footage required for multifamily development.



Town of Weaverville, North Carolina  
**Staff Report: Technical Change,**  
**Table of Dimensional Requirements**

Prepared January, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

**Comprehensive Land Use Plan Stated Goal and Background Information**

The current goals of the Comprehensive Land Use Plan (CLUP), last updated in October 2022, call for an ongoing review of zoning regulations. The goal of reviewing zoning regulations was also given number 2 (medium) priority within the CLUP giving staff the direction to accomplish or address the stated goal within 24 months. It has been the practice of staff to bring forth technical changes when such necessary revisions to the zoning ordinance are required.

**Existing Table of Dimensional Requirements**

**Sec. 20-3206. Table of dimensional requirements.**

| Zoning District                                                       | R-1                   | R-2                         | R-3                        | R-12                          | C-1     | C-2             | I-1             | MHO <sup>11</sup>          |
|-----------------------------------------------------------------------|-----------------------|-----------------------------|----------------------------|-------------------------------|---------|-----------------|-----------------|----------------------------|
| Minimum Lot Area (sq. Ft.)                                            | 10,000 <sup>2,7</sup> | 7,500 <sup>1, 2,3,4,7</sup> | 5,445 <sup>1,2,3,4,7</sup> | 7,500 <sup>4,7, 8</sup>       | 0       | 0               | 0               | 5,445 <sup>1,2,3,4,7</sup> |
| Minimum Lot Width(ft.)                                                | 100                   | 75                          | 75                         | 75                            | 0       | 50              | 0               | 75                         |
| Minimum Front Yard (ft.)                                              | 30                    | 30                          | 30                         | 30                            | 0       | 0               | 0               | 30                         |
| Major Thoroughfare                                                    | 30                    | 30                          | 30                         | 30 <sup>5</sup>               | 0       | 60              | 35 <sup>5</sup> | 30                         |
| Minor Thoroughfare                                                    | 30                    | 30                          | 30                         | 30 <sup>5</sup>               | 0       | 25 <sup>5</sup> | 35 <sup>5</sup> | 30                         |
| With Parking in Front                                                 | -                     | -                           | -                          | -                             | -       | 60              | -               | -                          |
| Without Parking in Front                                              | -                     | -                           | -                          | -                             | -       | 40              | -               | -                          |
| Minimum Side Yard (ft.)<br>Abutting Residential District              | 10                    | 10 <sup>6</sup>             | 10 <sup>6</sup>            | 10 <sup>6</sup>               | 0       | 30              | 40              | 10 <sup>6</sup>            |
| Minimum Side Yard (ft.)<br>Abutting Commercial or Industrial District | 10                    | 10 <sup>6</sup>             | 10 <sup>6</sup>            | 10 <sup>6</sup>               | 0       | 0               | 40              | 10 <sup>6</sup>            |
| Minimum Rear Yard (ft.)<br>Abutting Residential District              | 10                    | 10 <sup>6</sup>             | 10 <sup>6</sup>            | 10 <sup>6</sup>               | 0       | 30              | 40              | 10 <sup>6</sup>            |
| Minimum Rear Yard (ft.)<br>Abutting Commercial or Industrial District | 10                    | 10 <sup>6</sup>             | 10 <sup>6</sup>            | 10 <sup>6</sup>               | 0       | 0               | 40              | 10 <sup>6</sup>            |
| Height Limit (ft.)                                                    | 35                    | 35                          | 35                         | 45 and no more than 3 stories | Note 10 | 75              | 75              | 18                         |
| Buffer if Abutting a Residential District (ft.)                       | 0                     | 0                           | 0                          | 20                            | Note 9  | 20              | 20              | 0                          |

The following notes apply to the Table of Dimensional Requirements set out above:

# Town of Weaverville, North Carolina

## Staff Report: Technical Change,

### Table of Dimensional Requirements

Prepared January, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

See sections on dwelling setbacks (Code section 20-3208(h) and (i)), nonconforming lots (Code section 20-1602); and right-of-way (Code section 20-3208(b)).

Additional Notes corresponding to the table:

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 the C-1 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 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 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

# Town of Weaverville, North Carolina

## Staff Report: Technical Change,

### Table of Dimensional Requirements

Prepared January, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

for the residential district shall apply to the lots zoned for commercial uses on that side of the street block.

- The dimensional standards for the MHO district only apply to manufactured homes. To the extent that a dimensional requirement for a manufactured home in the MHO district is inconsistent with the corresponding dimensional requirement of the underlying use district, the more restrictive dimensional requirement shall apply to that manufacture home.

#### Intent of Regulation Revision

Staff is seeking a conversation with the Board revolving around footnotes 3 and 8 which set the additional minimum lot area for zoning districts that permit multifamily residential units. These ratios are what set the density standard applicable to the particular residential zoning district. For example:

| Zoning District | Min. Lot Area (1 unit) | Min. Lot Area (ad. Unit) | Units Per Acre ( <u>1 acre</u> ) |
|-----------------|------------------------|--------------------------|----------------------------------|
| R-2             | 7,500 sq. ft.          | 5,000 sq. ft.            | 8                                |
| R-3             | 5,445 sq. ft.          | 5,000 sq. ft.            | 8                                |
| R-12            | 7,500 sq. ft.          | 3,280 sq. ft.            | 12                               |

It has long been the understanding and interpretation that the R-2 and R-3 zoning districts will support 8 units per acre while the R-12 zoning district will support 12 units per acre. However, a more strict interpretation of the table will allow for more units per acre, especially on large parcels of land as the footnotes specifically read “for each additional dwelling unit.” For example:

| Zoning District | Min. Lot Area (1 unit) | Min. Lot Area (ad. Unit) | Units Per Acre ( <u>20 acres</u> ) |
|-----------------|------------------------|--------------------------|------------------------------------|
| R-2             | 7,500 sq. ft.          | 5,000 sq. ft.            | 8.7                                |
| R-3             | 5,445 sq. ft.          | 5,000 sq. ft.            | 8.7                                |
| R-12            | 7,500 sq. ft.          | 3,280 sq. ft.            | 13.2                               |

| Zoning District | Units at 1 Acre | Units at 20 Acres (12 units per acre) | Units at 20 Acres (Min. sq. ft. in Table) |
|-----------------|-----------------|---------------------------------------|-------------------------------------------|
| R-12            | 12              | 240                                   | 264                                       |

If it is the intent of the land use regulations to permit only 8 units per acre in R-2 and R-3 and 12 units per acre in R-12 staff believes an amendment to the table of dimensional requirements is necessary as a challenge to this long held intent is unlikely to pass scrutiny. Again, if this is the intent, a simple amendment to footnotes 3 and 8 will solidify this intent. For example:

Town of Weaverville, North Carolina  
**Staff Report: Technical Change,**  
**Table of Dimensional Requirements**

Prepared January, 2023

Sources: Town of Weaverville Code of Ordinances; Comprehensive Land Use Plan

- 3. 5,000 additional square feet for each additional dwelling unit when public water and/or sewer is available not to exceed 8 units per acre.
- 8. 3,280 additional square feet for each additional dwelling unit when public water and/or sewer is available not to exceed 12 units per acre.



**TOWN OF WEAVERVILLE**  
**PLANNING BOARD AGENDA ITEM**

**Date of Meeting:** Tuesday, February 7, 2023  
**Subject:** Amendment to Rules of Procedure  
**Presenter:** Town Attorney  
**Attachments:** None

**Description:**

At its meeting on January 3, the Planning Board indicated a desire to amend its Rules of Procedure to provide that a second to a motion is not required and asked staff to bring the matter back for action. The following is an amendment to Rule 8 that would eliminate the need for a second to a motion if it is adopted by the Planning Board and approved by Town Council:

**Rule 8. Substantive Motions** – All board action shall proceed by motion. Any member, including the chair, may make a motion. A motion does not require a second, but is not out of order if provided. A member may make only one motion at a time. A substantive motion is out of order while another substantive motion is pending.

The chair shall state the motion and then open the floor to debate. The chair shall preside over the debate according to the following general principles:

- The maker of the motion is entitled to speak first;
- A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- To the extent possible, the debate shall alternate between proponents and opponents of the measure.

A motion shall be adopted by a majority of the votes cast when a quorum (as defined in [Rule 12](#)) is present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first. A motion that is defeated can be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

Staff also requests that the Rules be amended to change the board's name from the Planning and Zoning Board to the Planning Board for consistency with Code Chapter 20.

**Action Requested:**

Planning Board action to adopt these amendments, should that be the intent of the Planning Board.