TOWN OF BOONE
HISTORIC PRESERVATION COMMISSION
MEETING MINUTES
MARCH 8, 2022, 6:00 p.m.

Historic Preservation Commission Members in Attendance:
Chair Eric Plaag, Vice-Chair Bettie Bond, Chuck Watkins, and Rennie Brantz
Student Member: Izabela Willis
Council Liaisons: Virginia Roseman
Town Staff in Attendance:
Jane Shook-Director of Planning & Inspections, Jessica Mitchell-Long-Range/Special Projects Planner, Christy Turner-Senior Planner, Mike James-Senior Planner, and Marlene Crosby-Board Secretary

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Call to Order

Chair Eric Plaag called the meeting of the Boone Historic Preservation Commission, held via WebEx, a video conferencing software, to order on Tuesday, March 8, 2022, at 6:01 p.m.

Chair Plaag suggested that when there is a Certificate of Appropriateness case(s) on the agenda, the approval of minutes should be moved to after case(s) have been heard. Ms. Allison Meade, Town Attorney, said she will review the code to see if this can be done permanently moving forward. She said Chair Plaag could amend this agenda and accept it in that regard.

Adoption of Agenda

Chair Plaag requested to amend the agenda by moving the approval of meeting minutes to after Case Z05382-121421 Welcome to the High Country Mural. Member Brantz made a motion, seconded by Vice-Chair Bond, to adopt the agenda as amended.

Vote: Aye – All
Nay – None
The motion passed.

Chair Plaag introduced himself and asked the other commission members to state their names for the record. He noted that these Commission members are the voting members of the Commission.

Chair Plaag explained that the Town staff members provide staff support for the Historic Preservation Commission, and they prepare the cases for each meeting.

Chair Plaag explained that the HPC is a Town Commission that serves two purposes: (1) advisory commission that provides input to the Council on various matters related to preservation, designation, and recognition of historic resources within the Town of Boone, (2) to hear applicant requests for Certificate of Appropriateness on alterations, demolitions, new construction, and other work designated within local historic districts or involving properties that have been designated as local historic landmarks.

Chair Plaag pointed out that typically, the HPC would discuss the quasi-judicial matters on the agenda first to preserve staff time and the time of applicants, their representatives, and any witnesses.

Public Comment

Chair Plaag noted that public comment could be about any item on the agenda. He said if a person is a witness for an applicant or other interested party to one of the quasi-judicial cases, he asks that they hold their comments until the case they are involved in is heard.

Chair Plaag asked if there was public comment and there was none; he closed public comment.

Chair Plaag moved to the evidentiary hearing portion of the meeting agenda

Chair Plaag explained that the Historic Preservation Commission had received a publicly posted meeting packet containing the application and relevant materials for each case before this hearing.

Chair Plaag explained that to make findings of fact about a case, the HPC is obligated under North Carolina law to make its decision based upon competent material and substantial evidence. Additionally, recused Commissioners will be called back to the meeting following the conclusion of the case at hand.

While this meeting is open to the public, participation in a given case is limited to interested parties who wish to provide sworn testimony regarding the case. Under North Carolina law, when the Chair recognizes the participants to: (1) provide testimony, they will be asked to swear or affirm their testimony, (2) When giving testimony, individuals are asked to focus on the facts and how they relate to the relevant historic district or landmark standards, not personal preference or opinion.

Chair Plaag said he would swear in or affirm staff members regarding their testimony for the hearings to follow. Ms. Shook and Ms. Turner were affirmed, and Ms. Mitchell was sworn.

Case Z05382-121421 Welcome to the High Country Mural

On behalf of Watauga County Arts Council, Amber Bateman has applied for a Certificate of Appropriateness for Major Work to install a work of art on the side of the building at 182 Howard Street (located within the Downtown Boone Local Historic District). The subject property is outlined on the map in the staff report.

Chair Plaag opened the hearing on this case. He asked the Commissioners if they had a fixed opinion about this case that is not susceptible to change; if so, please raise your hand and address the Chair. He asked the Commissioners if they had a conflict of interest regarding this case, including any financial interest in the case's outcome. He asked the Commissioners if they were of any close familial relationship with any person affected by this case; if so, he asked them to raise their hand and address the Chair. He asked the Commissioners if any of them had been engaged in any undisclosed ex parte communication regarding this case. If so, please explain the communication. There was no response to these questions.

Chair Plaag asked Ms. Amber Bateman if she was the applicant on behalf of the Watauga County Arts Council. She stated yes. Chair Plaag affirmed Ms. Bateman.

Chair Plaag said the Planning Staff provides the HPC with a packet of materials about the case. He asked Ms. Bateman if she had an opportunity to review the meeting packet and if she had any objections to the materials in the meeting packet. Ms. Bateman said she had no objections to the materials.

Chair Plaag asked Ms. Bateman if she wanted to make an opening statement regarding the proposed work. Ms. Bateman pointed out that at the consultation, she was given three different options on how to apply the proposed mural. She said that she omitted two of those options. She decided to propose to paint the mural on the painted brick building.

She pointed out that she had done some research on how other communities approach to painting murals on already painted brick buildings. She learned in her research of other communities they were vague about their approach to painting on painted brick.

Ms. Bateman contacted Ms. Sherry Adams, Downtown Programming Coordinator and Technical Assistant with the Main Street Program. Ms. Bateman asked Ms. Adams talked about the possibility of painting on brick. Ms. Adams responded that once a building has already been compromised by being painted, it will not continue to be compromised by painting on it again. Ms. Adams also spoke with some of her colleagues about it. And their response was for Ms. Bateman to stay away from trying to paint on exposed brick. Ms. Bateman asked that the HPC possibly recommend a text amendment on public art to consider the painting of already painted brick buildings.

Chair Plaag noted for the record that the Commissioners could not consider the conversation or information that Ms. Bateman had with someone outside of this hearing as evidence under the evidentiary standard in weighing their decision on this case.

Chair Plaag explained how the local historic district functions and he explained that various communities have different standards on painted masonry.

Ms. Bateman asked since hearsay is not allowed should she submit some documentation from trusted officials in her application submittal in the future. Ms. Allison Meade, Town Attorney said that any documentary evidence that an applicant wishes to have considered should be included with their application.

Ms. Meade further explained that a signed statement by each person may be admitted as evidence if the applicant anticipates for some reason the individuals that were to serve as witnesses for the case were not able to attend the quasi-judicial hearing.

Ms. Meade also pointed out that the standards and practices followed in other communities are not something the Commissioners can consider as evidence when evaluating what standards apply to a case, but rather must apply the design standards that have been set for this district. Ms. Meade noted that even if Ms. Bateman produced this evidence it is not legally relevant. Ms. Meade explained that questions relating to the provision of admissible and sufficient evidence relates to the legal practice of law, which is why applicants are encouraged to have legal representation.

Discussion ensued on the consideration for public art in Downtown Boone. Ms. Bateman pointed out that if other communities can adopt standards that include public art that align with the historic preservation guidelines, then Downtown Boone needs to do the same thing. Chair Plaag explained that part of the issue is that the standards are developed uniquely to a district. He pointed out that every community with a local historic district or local historic landmark does discover things that need to be addressed. He said sometimes these things come up because of changes in technology, building materials, and how people want to use their properties. He admitted that there is some ambiguity in the current design standards, specifically about murals. He said a mural that is an advertisement in many communities is not considered public art. Whereas arguably, the mural that Ms. Bateman is proposing may be public art, depending on the eye of the beholder. He said he felt that the HPC needed to review design standards to consider proposed public art. He said that the HPC has to consider Ms. Bateman's application with the current standards and do their best to interpret and apply those standards to the proposed project.

Ms. Shook clarified that Ms. Bateman had coordinated with Ms. Lane Moody, Downtown Boone Development Coordinator. They researched the listserv for the Main Street Program to see how other jurisdictions handle murals and public art. Ms. Shook said she understood the intent was for the information to possibly be used for future changes to the ordinance and not be addressed in the hearing.

Ms. Bateman finished her opening statement by saying that if it comes down to interpretation and how the adopted guidelines are applied, then she would ask that the HPC interpret her request with the understanding that it is different from just painting a building.

Chair Plaag asked the Planning Staff if they had an opening statement. Ms. Turner said that the Planning Staff did not have an opening statement, but she would present the staff report for this case.

Chair Plaag asked Ms. Bateman to present any evidence that she might have to support the application submitted for this case. He also explained that this would be when Ms. Bateman would describe in detail exactly what is being proposed and call on any witnesses to make a presentation on the case.

Ms. Bateman explained that the Watauga Arts Council is proposing an eight-foot-high and 15-foot wide mural to be painted on the side of the building where Wildwood Community Market is located on Howard Street. She said that acrylic materials would be used with a protective layer finish. She said the mural is presented in a 1930s style of a greeting card, and it captures the Greeting Tour throughout the United States. The mural includes a Cardinal, the North Carolina state bird, an apple tree, a river, and the mountains. She said the mural's purpose is to welcome people to the High Country, and it was a gift to the Town of Boone from Appalachian Mountain Brewery (AMB). She said that Appalachian Mountain Brewery was founded in Watauga County and they wanted to give back to the community they love.

Chair Plaag asked Ms. Bateman if the mock-up of the mural submitted with the application was correct, and Ms. Bateman agreed. She continued to explain that the first mock-up that she submitted had the AMB symbol, but she removed it so it would not conflict with the sign guidelines. The mock-up looks like a postcard without the AMB symbols.

Chair Plaag explained that typically one of the things required in the application submittal is photographs of the existing conditions of the building. He said he did not see any current pictures of existing conditions in the meeting packet. Ms. Bateman said she did submit photographs of the existing conditions that included the dumpster in the front of the building, and she was not sure why they were not in the meeting packet. Chair Plaag asked about the photographs because he wants the Commission members to be clear where the mural will be placed precisely on the building.

Chair Plaag clarified with Ms. Bateman the location of the building where the proposed mural is to be placed. He asked Ms. Bateman if it is at the main façade or front elevation of that building facing Howard Street. She said looking at the front of the building, it would be the left side of that building, or the side that faces the Hope Pregnancy Center, more specifically the parking lot between Wildwood Community Market and the Hope Pregnancy Center. He asked Ms. Bateman to give a ballpark estimate of how long and how tall the wall is on which the mural would be painted. She referred to Mr. Tommy Lee, Artist, to better to answer that question. There were no further questions from the Commissioners on this topic.

Since Ms. Bateman was without legal counsel, Chair Plaag asked Ms. Meade to explain to Ms. Bateman the process of asking questions and cross-examining her witness. Ms. Meade suggested that to avoid the unauthorized practice of law, Ms. Bateman simply ask Mr. Lee to provide what information he thinks is relevant to the case.

Ms. Bateman called her witness, Mr. Tommy Lee, Artist, to present more detail on the proposed mural. Mr. Lee was sworn in by Chair Plaag.

Mr. Lee began sharing his thoughts on the mural and public art in Boone. He said he was a member of the Watauga County Arts Council, and he has been working as an artist in Boone for ten years. He described the visual concept of the Welcome to the High Country mural as inviting, warm, fun, and friendly, which is the fabric of what makes Boone what it is. He understood that the process of applying the design standards is being reviewed.

Ms. Meade explained to Ms. Bateman, Mr. Lee, and the Commissioners that the HPC currently was engaged only in considering the application for the mural pursuant to its quasi-judicial procedure. The Commissioners have to go through this procedure based on the written current standards. Ms. Meade said they look at the evidence and decide whether to approve this particular mural. Ms. Meade noted that the Commissioners are limited to the evidence before them in that process and the Town's current standards, and it's not appropriate to hear evidence about other communities' standards.

Ms. Meade pointed out that the Historic Preservation Commission also serves as policymaking and advisory board. She said that separate from the quasi-judicial process, this board is also responsible for looking at policy and reviewing standards, and trying to meet the concerns of artists like Mr. Lee. She said the HPC in its advisory role would look at the issue of public art and the issue of murals versus signs, and could look at the standards and policies of other communities as part of that process. She said this topic would be done later, more broadly in the Town. She also added the topic of murals to the Council meeting agenda scheduled for tomorrow March 9, 2022. In light of this conversation, she said she would probably ask Council that this topic be postponed until the HPC can consider it further in a broader discussion to see whether changes should be made to the historic district standards.

Ms. Bateman asked Mr. Lee to review the proposed materials and colors for the mural. Ms. Meade asked Mr. Lee to give some precise details regarding the size of the actual painting on the wall. Mr. Lee said the size of the mural is adjustable. He said the mural size is about 15-foot long and eight-foot-high on painted brick with acrylic paint. Mr. Lee noted the acrylic paint to be applied is not like oil. He said the colors are primarily monochromatic, which means the artist is working on a framework between dark and light beige with some highlights of red and blues for the mountain water. He said that once the acrylic paint is applied to the wall, the artist will add an ultraviolet coat onto the painting to seal the painting from the outdoor elements. Chair Plaag pointed out that Mr. Lee had mentioned that the acrylic paint could be painted over without having to do paint removal in the future. Chair Plaag asked Mr. Lee if there was an issue with painting over the sealer after the acrylic paint was applied. Mr. Lee explained that oil-based materials are not used when painting a mural on a painted building. Mr. Lee said you could paint acrylic on top of oil; if a building already has an oil base. Mr. Lee said if the building already has exterior paint on it, you can paint an acrylic mural on top of that but not vice-versa.

Chair Plaag talked about the consultation meeting with Ms. Bateman. He said a couple of different options were discussed. One option was to use a canvas that the mural would be painted on and affixed to the masonry as removable framed mural. The other option was to paint directly onto the brick. Chair Plaag asked Ms. Bateman why she chose the latter option. Ms. Bateman explained that because the building had been recently painted, she felt it would be less intrusive to the structure to continue to paint on it rather than applying a frame that would need to be screwed into the building.

Mr. Lee talked about the pros and cons of directly painting on brick versus attaching panels onto a building. He said that he had painted murals in different climates. He said that wood tends to expand in hot and cold temperatures and the mural can crack because of the changing of the temperatures.

He said that the material, whether it is wood or canvas, cannot withstand the weather in the mountains. He said this is why people and artists do not use panels. He said it is easier to install the panels and take them down if they do not work out. He pointed out that you have to drill into the wall to install the panels. He said we want to give the wall real-life, quality, and personality, and you do not get that from panels and canvas.

Member Watkins pointed out that one of the significant problems with public art is always maintenance. He asked about the plan to maintain or repair this mural if something happens to it. Ms. Bateman said that a public art fund has been started to raise money to offset the costs of projects for occasional maintenance. Ms. Bateman noted that it is written into the artist's contract that the artist is to fix the mural if something happens it. Member Watkins asked if something happens to the mural and the artist is not available to fix it, how is the maintenance achieved, and how long does the artist's contract go. Ms. Bateman said if the artist cannot get to it in 30 days, the artist has a chance to collaborate with another local artist to repair the damaged areas. She said it is in the artist's bylaws to guarantee maintenance. Ms. Bateman said the Watauga Art Council has the resources to work with almost 200 artists in their database to support a public arts policy.

Member Willis referred to Mr. Lee's statement about how oil-based paint didn't work on acrylic-based paint and asked if there was any record of what the building had been painted with before. She said if the building has been painted with oil-based paint, is there a future concern moving forward on painting the building back to normal. Mr. Lee said that the building owner could be contacted to see precisely what paint was used to cover the brick. Ms. Bateman said if the oil-based paint is painted over, we can put it in the artist's contract that they are responsible for pressure washing the pigment. "Chair Plaag noted that pressure washing can be destructive to masonry and would require its own COA application."

Chair Plaag talked about the Commissioners concern being asked to grant permission for something when there are unanswered questions. He said the Commissioners could decide in this hearing to approve, not approve, or to approve with conditions. Chair Plaag said if the Commissioners agree to approve with conditions, it would be different from saying it is not approved. Chair Plaag said this way we can figure out what questions need to be answered and fill in that space of the possible approval.

Discussion ensued on continuing the hearing of this case to a later date. Chair Plaag confirmed with Ms. Shook if there are consequences to continuing the hearing to a later day. She said she believed there should not be an issue if the Commissioners decided to table this case. Ms. Meade agreed and said that it would be helpful if the Commissioners outlined the information they believed they needed.

Chair Plaag asked Ms. Turner to present the staff report for this case. Ms. Turner said the Watauga County Arts Council is applying for a Certificate of Appropriateness for a mural to be displayed on the side of the building, located at 182 Howard Street. She said the COA is required because a work of art is not listed as minor work or major work. She said the applicant is proposing to paint a mural eight feet high and 15-feet wide to be painted directly on the wall with acrylic paint. The colors that are being proposed for the mural are orange, yellow, magenta, green, blue, and red. She said the staff report contains the architectural history of the building and comprehensive plan policies that apply to this mural. She said she was available to answer questions on the staff report.

Chair Plaag referred to page 57 of the meeting packet; he noticed in the staff report that the only section of standards included was Section 11, from the Design Standards for Historic Parks and Public Spaces. Chair Plaag asked Ms. Turner to explain why the Planning Staff chose not to include any of the content from the Commercial Design Standards Section Four on Masonry, or Section Nine on Paint Color. Ms. Turner apologized and noted that those sections should have been included in the staff report. Ms. Turner said that she would include those sections in the next staff report. She pointed out that those sections on Masonry can be found on pages 69 through 73 of Appendix D, and the paint can be found on pages 91 through 93 of Appendix D.

Chair Plaag asked Ms. Turner about Section 4.1, Masonry on page 68 of Appendix D and whether it applies to this case. Chair Plaag read aloud this section. Ms. Turner said she felt that it could be applied and the wall should be painted with historic colors but she noted that the building was painted recently, prior to the adoption of the historic district.

Chair Plaag said in section 9.3 on page 91 of Appendix D, and Chair Plaag read aloud this section. He asked Ms. Turner if this section could apply to the proposal of this application. Ms. Turner said she thought that since we are discussing that artwork, maybe we should look at it more closely. He asked Ms. Turner, in terms of the standards as they exist now, could those standards be applied to this particular case. Ms. Turner said yes. Chair Plaag asked if we were not talking about painting directly onto the masonry, would either of these two sections apply to the proposed project. Ms. Turner said the color would apply, although in the design standards it specifically states that the historic design standards do not recommend specific colors except historic colors. She continued by stating we do not know the color prior to the recently painted building. Chair Plaag said if we were discussing whether a sign or public art applied to a sign would either of these standards apply to that scenario, where a sign or public art on a sign is involved. Ms. Turner said signs are not specifically regulated in the design standards or the Unified Development Ordinance. There are no colors you have to follow for a sign and it does not talk about colors for works of art within the design standards.

Chair Plaag talked about the previous cases that were discussed last month at the HPC meeting that involved signs being affixed to buildings and there was not going to be penetration into any part of the masonry. Chair Plaag talked about a previous case discussed last month by the HPC on King Street involving a proposed sign that was going to be affixed directly to painted masonry. Chair Plaag said that the Commissioners attached a condition for that sign to be attached to that building in that particular case. Chair Plaag asked, based on that precedent and the design standards for Masonry, affixing a wood sign using hardware that is applied to the mortar of the masonry, would that be an appropriate way of attaching that sign to a masonry building. Ms. Turner said she believed it would potentially damage the mortar. Chair Plaag asked if mortar is frequently repointed, and Ms. Turner acknowledged that it is.

Chair Plaag asked Ms. Turner if there was a size limitation on public art in the UDO or the design standards. Ms. Turner said no.

Member Willis asked for clarification on the colors characterized as monochromatic or muted. Ms. Bateman said that she would not say that the colors in the current drawing are muted. Chair Plaag noted that color is addressed in both design standards and the UDO sections. He said that the Commissioners are obligated to consider painting directly on masonry, and the colors chosen according to the standards.

Member Willis asked what the Watauga Council Arts Council process looks like after the potential approval of the COA. Ms. Bateman noted that after the approval of the COA, she would discuss toning the colors down. Ms. Meade said if the Commissioners approve something presented as a picture of the proposed painting, as presented here, the rule should be that it needs to be created just exactly as it has been presented if the proposed mural is

approved. Ms. Meade said if the application is approved subject to conditions for change, that's one thing. Ms. Meade also said the Commissioners should not be in the practice of approving things, when there is some question about what's been approved. Chair Plaag agreed with Ms. Meade.

Ms. Meade stated her view that there was a contrary argument about the application in Sections 4.1 and 9.1 for this case, if the Commission cared to hear it. She said this is something that the applicant's attorney should have addressed, if the applicant had an attorney. She said she would address it or leave it alone if they preferred. Chair Plaag said he would leave it to the other Commissioners if they wanted to hear the counter-argument. They agreed to listen to what Ms. Meade had to say.

Ms. Meade said that if the brick had not been painted, the standards would probably not have allowed them to be painted. Sections 4.1 and 9.1 address a situation where an exterior of a building is being repainted. She said what is being presented here is not the painting of the exterior of a building but a public work of art. She stated in her view, a mural is not defined in the standards, but she thought it is commonly understood as public art because of its public exposure. In her view, Section 4.1 and 9.1 are geared towards ordinary exterior elements and not to the application of public art to that exterior element. She said that she was not saying that the prior point of view that Chair Plaag expressed was not supportable. She said in her own view she would not apply Section 4.1 and 9.1 in this particular case, but would apply Section 11, as the crux of the proposal here is public art in a public space.

Chair Plaag asked Ms. Turner, based on the option discussed at the consultation, regarding the painting on panels and mounting it on the side of the building with the mounts going into the mortar of the side of the building. He asked if the design standards would be a source of possible conflict for approving this proposal. Ms. Turner said the design standards talk about not damaging the mortar in any way such as power washing and replacing masonry and mortar. She said if the mortar were damaged in any way, the repair of it would need to be discussed. Chair Plaag noted that he saw no language in the masonry section that addresses the installation of anchor bolts into the mortar as being prohibited. He also saw in the language a section that addresses mortar repair.

Ms. Bateman noted that the building would not need to be pressure washed. She said she believed that the building was painted with acrylic outdoor paint. She said the building could be primed and then repainted. There were no affirmative answers to these questions.

Chair Plaag asked if any other interested parties or non-party witnesses were present that wanted to speak or present evidence of the application. He asked if any interested party were present to speak or present evidence of this application. He asked if any interested party or non-party witness was present to speak or present evidence in opposition to this application. There were no affirmative answers to these questions.

Chair Plaag asked Ms. Bateman if she wanted to rebut any of the evidence in opposition beyond the rebuttals that have already been provided. She said she wanted to apologize for some of the over-passionate expressions shown earlier in the hearing.

Chair Plaag asked Ms. Bateman if she would prefer to give a closing summary or argument or defer this presentation until other parties are given the opportunity for closing summary or argument. Ms. Bateman asked if her application was not approved would she have to start over with a new application or could the application be deferred until she could respond with the answers to the outstanding questions. Chair Plaag said it was his understanding that Ms. Bateman could ask the Commissioners to table until the next hearing date, so she could secure the additional information that she may wish to find. He said another option would be for the Commissioners as a body vote yes or no or choose to vote yes with conditions. Ms. Meade said she thought all of

these options were possibilities. She said that the Commissioners could have an additional discussion as a board because further developments could clarify whether Ms. Bateman might want to ask for a deferral.

Chair Plaag asked Ms. Bateman again, if she wanted to make a closing statement. Ms. Bateman said she wants to continue figuring out how to make the process successful.

Chair Plaag asked Ms. Turner if the Planning Staff had a closing statement. Ms. Turner said no.

Chair Plaag closed this public hearing for this case.

Chair Plaag said that at this point, the Commissioners discuss the evidence at hand and limit their discussion to the proposal and its relationship to the standards applicable to this case. Commissioners are obligated to consider only competent material and substantial evidence when making findings of fact. If any evidence falls into the category of hunches, rumors, speculation, and irrelevancies will be rejected by the Commission

Chair Plaag opened the floor for the Commissioners to discuss some of the issues and concerns about the evidence presented and the project.

Vice-Chair Bond said that she wants a mural and the design standards do not address all of the issues for the historic district. She liked the old 1930's postcard theme for the proposed mural. She said this would not be the first mural or the first public art piece that the HPC will deal with in Boone. She said that maybe we need stronger standards to support the Historic District.

Chair Plaag referred to the discussion in the consultation for this case. He said that the Commissioners had recommended that the applicant paint the mural on the panels and mount them to the building based on the standards in the consultation. He said because the applicant did not agree to this recommendation the hearing has taken a lot longer, since there might not have been a point of conflict. He said he probably would have supported that recommendation had the applicant chosen it. He said he could not speak for the other Commissioners, but he believes that the current standards create a potential point of conflict.

Chair Plaag said he believed there was a better way to accomplish the review of cases like this one. He suggested to Ms. Bateman that the possible approval of this case might be based on the HPC having a chance to propose a revision that addresses public art, specifically murals on painted and unpainted masonry in the Downtown Historic District. He said that he could promise that the revised standard will allow for this proposal and it may take a few months before it can be reconciled and voted on by Council. He concluded that he felt that the current standards, in his view, are problematic to approve this proposal.

Member Watkins explained that he was going to support the proposed application request. He said it is an early 20th-century building that has been painted. We are not sure how many times the building has been painted, and any damage that has been done to the masonry has been done. He said he does not have an issue with the mural being painted on the building. He felt that the issue of recommended paint colors probably does not apply to a work of art. He said he didn't think the HPC wanted to get into the situation where they were telling an artist to use a color chart. He agreed that the HPC should discuss the mural and public art issue. He also talked about the lifespan of a mural. He said maybe the Town itself might want to speak for an outdoor mural to have a two or five-year lifespan. Chair Plaag agreed with Member Watkins that there is much room for growth in how the Town addresses these topics.

Ms. Meade pointed out that the Commissioners spent much time on Section 4.1 and 9.1 regarding the painting of the building. She said she thought the question would have been under Section 11.3 ("When considering the introduction of public art to any park or streetscape, ensure the art will not permanently or irreversibly alter the historic character of nearby historically significant buildings or landscapes") – the same issue whether the mural was painted directly on the building or as a large attached panel. She asked the HPC if they wanted to speak to the permanently or irreversibly of Section 11.3. Mr. Plaag said in his view, the building is already painted. He said putting more paint on it is permanent. It's not irreversible in that we can paint over it at some point in the future. He was not particularly concerned about Section 11.3.

Discussion ensued on conditions of approval for this case. Chair Plaag asked the Commissioners and Planning Staff if they knew of any reason why a condition could not be that the COA is valid for five years. He further stated after the five-year period, the applicant would have the opportunity to renew the COA for that particular design, let it lapse, have it painted over, or submit a new proposal for a new design. Ms. Meade said she saw this as a reasonable condition. She said that such a condition should incorporate any future, potential changes in standards for murals allowing a longer mural lifespan. Chair Plaag said he failed to ask Ms. Bateman while she was under oath if five years is the right period for the proposed mural. Chair Plaag reopened the testimony for this case. He asked Ms. Bateman if she had a lifespan in mind for the mural.

Ms. Bateman said because murals could last for a long time. She said she thought it would be prohibitive to put a five-year lifespan on a mural. She also thought it would be ideal if a mural could stay for five to ten years, especially, if a good paint and sealer are used.

Ms. Meade suggested rephrasing the condition so that a subsequent public arts and mural policy adopted by the Town that imposes or includes a time limit would also apply to this particular applicant. Chair Plaag explained to Ms. Bateman that she, as the applicant, would have the option at the end of that period of time to renew without necessarily having to go through the full hearing again. Chair Plaag said that the Planning and Inspections Department could send a reminder that the lifespan period expires in six months.

Chair Plaag talked about the type of condition for maintenance that he thought was appropriate to apply if the mural is damaged, vandalized, or if the paint peels. He said the applicant would be responsible for maintaining the mural within whatever period that the mural is approved.

Ms. Shook noted that regarding the timeframe of the condition, it would be difficult for the Planning Staff to go back and monitor permits every five or ten years. Ms. Shook said we would have to put a system in place to monitor permits, and she felt it was worth discussing this topic. Ms. Bateman favored it being a temporary measure because she wants to help implement a public art policy in partnership with the HPC.

Chair Plaag asked Ms. Shook if there was an enforcement code in the UDO or another mechanism regarding graffiti or peeling paint on buildings that would require a property owner to maintain painted surfaces. Ms. Shook said that is in the Town code, and Ms. Meade referenced Section 11.4 could be incorporated into a condition. Ms. Meade read aloud the standard as stated:
"Regularly inspect public art for signs of vandalism and deterioration, and maintain protective coatings. When repairs are necessary, use industry best practices and the gentlest available treatments. If necessary, consult with a conservator to determine the best treatment practices."
She said this refers to the applicant; there is a separate question of whether the property owner could be subject to enforcement, which the Planning and Inspections Department would have to discuss. Member Watkins concurred with the discussion to prevent neglect of paint on a building.

Chair Plaag asked Ms. Bateman if she would be willing to accept the inclusion of Section 11.4 as a condition of approval. Chair Plaag also asked Ms. Bateman if she would be willing to accept the condition as Ms. Meade expressed that approval be conditioned upon this particular project complying with any future requirements of a Town ordinance regarding public art and murals. Ms. Bateman said she accepted both proposed conditions.

Chair Plaag talked about the finding of facts for this case and suggested using Section 9.3 and 4.1. Ms. Meade pointed out that this is not a finding of fact, but is a conclusion of law as it concludes what the standard means, which is an issue of law. Chair Plaag confirmed that the Commissioners vote on whether what is proposed meets the standards or does not meet the standards. Ms. Meade said correct.

Chair Plaag referred to page 62 of the meeting packet. He read the first three conditions in the staff report. He explained that the fourth condition is any other conditions that the HPC may include. He asked Ms. Bateman if she had any objection to the three standardized conditions that he read to her and the two conditions that were discussed in this hearing. Ms. Bateman said she did not have an objection to the said conditions.

Chair Plaag asked for a motion from the Commissioners for this case.

Motion and Vote:
Vice-Chair Bond made a motion, seconded by Member Brantz, to approve the proposed mural with the following five conditions and to continue the case for further information or denial of the application:

1. Where there is conflict between the application information and the plans (elevation of mural received December 14, 2021), and design of mural as described the plans control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed sign installation made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and other applicable codes for review and approval necessary to issue Zoning and Building Permits.
4. The applicant agrees to application of the standards set forth at Section 11.4 of the Unified Development Ordinance (UDO), Appendix D, Downtown Boone Design Guidelines and Handbook: "Regularly inspect public art for signs of vandalism and deterioration, and maintain protective coatings. When repairs are necessary, use industry best practices and the gentlest available treatments. If necessary, consult with a conservator to determine the best treatment practices", to require the applicant to maintain painted surfaces.
5. The applicant agrees that the approved mural shall comply with and be subject to any future requirements as may be imposed by Town ordinance regarding public art and/or murals.

Vote: Aye – All
Nay – None
The motion passed.

Chair Plaag called for a short break at 8:41 p.m. and reconvened the meeting at 8:53 p.m.

Approval of Minutes
Member Brantz made a motion, seconded by Member Watkins, to approve the January 4, 2022 meeting minutes as written.

Vote: Aye – All
Nay – None
The motion passed.

Member Brantz made a motion, seconded by Member Watkins, to approve the January 11, 2022 meeting minutes as written.

Vote: Aye – All
Nay- None
The motion passed.

Member Watkins made a motion, seconded by Member Willis to approve the February 1, 2022 meeting minutes as amended.

Vote: Aye – All
Nay – None
The motion passed.

Cemetery Designation Update

Ms. Mitchell informed the HPC that the Planning Staff had a brief conversation with Ms. Meade regarding Town acquisition of abandoned cemeteries. Ms. Mitchell explained the original question for cemetery designation was if there is not a known property owner, how does enforcement of local landmark regulations work. Ms. Mitchell said that the Planning Staff recommends that discussion on this topic be held until a future date.

Chair Plaag clarified that since there is no identified property owner in the case of the Hayes/Bryan/Greene Cemetery, it would not be possible right now to designate the cemetery because there is no enforcement mechanism. He said there is a possibility that the Town could choose to acquire the cemetery, if it is considered abandoned and at that point, there would be an owner. He added that if the Town wanted to pursue designation they could. Additionally, the request is to table the discussion on the cemetery designation until the Boone 150 items are concluded.

Ms. Shook told Chair Plaag that she agreed with his summary of said topic. Chair Plaag asked Ms. Shook to maintain the Cemetery Designation topic on the HPC's task list.

Hayes-Bryan-Greene Cemetery Marker Update

Chair Plaag referred to packet pages 63 and 88 of the meeting packet. He pointed out that the most relevant portion for discussion can be found on packet page 88. He noted that he had made some minor revisions to the text within the report. He said Council requested the most recent proposed change to revise the marker text itself.

Chair Plaag talked about the two proposed text options A and B, which would include Option C. He said that assuming that the location is correct, Option C being located on the west end of the median in the middle of Queen Street which was the preferred location over the Watauga County Annex building on the corner would be the marker text that would apply.

Chair Plaag talked about a memo from Member Watkins submitted to the Planning Staff on January 14, 2022, regarding a proposed alternate text and a copy of Chair Plaag's correspondence with Ms. Mary Moretz. Chair Plaag said Ms. Moretz's correspondence had initially been sent to Mayor Tim Futrell and himself. Chair Plaag noted that he had replied to Ms. Moretz, Mayor Futrell, Planning Staff, and the HPC. Chair Plaag said he thought the question before us now is how we wish to revise the text portion of the marker.

Chair Plaag said he added some other minor changes to the marker narrative report to contextualize some topics.

Discussion ensued on the modification of Option B. Ms. Shook noted that she could see the proposed changes that were made by Chair Plaag and the differences between them. Chair Plaag pointed out that the revision was, "Judge Leander Lawrence Greene in (1845 – 1898), who later acquired the Ransom Hayes residence, was an important North Carolina lawyer and jurist who nevertheless privately endorsed Black disenfranchisement in the contentious 1898 election."

Chair Plaag reminded the HPC that at least one council member expressed concern that the content about the 1898 election was in the marker narrative report and not in the marker text. He said that council member was looking for a different word than prominent to use to describe Greene, and he said he did not object to modifying the adjective to describe him. Still, he said it is entirely appropriate to describe him as having been prominent in 1898 and a prominent local judge and jurist. He said he thought the concern was that it sounded like it could be read as if he was being praised. He said he did not include the content on the marker itself about the statements that he made later in his life about disenfranchisement that were later reported in the media.

Chair Plaag referred to packet page 91 and a memo submitted to the Planning Staff from Member Watkins. The memo is regarding the Hayes-Bryan-Greene Cemetery Marker text that references around Judge Leander Lawrence Greene and the phrase "who nevertheless privately endorsed Black disenfranchisement in the contentious 1898 election." Member Watkins noted that he thought it was appropriate for Chair Plaag to say what he said in his narrative about Judge Green, but Member Watkins alternative text proposed dropping Judge Greene's name from the marker."

Chair Plaag explained that Ms. Moretz has also asked that Judge Greene's name be removed altogether but for an entirely different reason than Member Watkins suggests. Chair Plaag explained that if you are going to mark a cemetery and call it the Hayes-Bryan-Greene Cemetery and include the Greene name because the principal Greene who is there is Judge Greene, and maintained it for decades, improving it for years before his death so it could be maintained in the future, then it seems an odd choice

Chair Plaag asked Member Brantz to voice his thoughts on the situation. Member Brantz said he thought it depends a lot on the individuals in the group and their experience or professional development.

Council Liaison Roseman noted that the council member that voiced their concern about the topic of Judge Greene has deep connections with the Junaluska Community and wanted to make sure that we were not potentially whitewashing history to make a person's negative side not show.

Chair Plaag explained that Council specifically directed the HPC to create a historical marker proposal for the cemetery because a person who is not a citizen of the Town of Boone requested it. He said as a member of a professional historical organization, he is required to meet certain ethical standards for the profession. He said that he disagreed with Member Watkins and he said he felt comfortable with the wording that he included in the revision about Judge Greene. He noted that the wording could be tweaked to say that Judge Greene was an important North Carolina lawyer and jurist who reportedly privately endorsed Black disenfranchisement. He said that he would be comfortable with that revised wording. He said he would also feel like he was meeting the ethical requirements that he is bound by. He further stated that he did not know if this revision would address Member Watkins's concern.

Discussion ensued on the historical marker program information. Ms. Shook asked Chair Plaag if there was a way to direct people to the report with the marker program. She asked if there was a QR Code or some other way to

allow people to access the full report. Chair Plaag said he had seen this type of thing on interpretative signage as opposed to markers. He noted that QR codes are now beginning to surface in exhibits and even roadside Civil Wars and trail markers. He said that we could check with Sewah Studios to see if there is a way to do that on the markers or if it is an option. He said this is something we can explore and see what the additional cost would be.

Discussion returned to the Hayes-Bryan-Greene Cemetery report. Chair Plaag agreed with Council Liaison Roseman of presenting options to Town Council. Chair Plaag listed the text options for the marker report as removing the word "nevertheless" and then including the word "reportedly" in the second revised version of Option B ("who nevertheless privately endorsed Black disenfranchisement in the contentious 1898 election."). Chair Plaag included another text option using the marker text in Member Watkins's memo without his bracketed comments.

Motion and Vote:
Member Brantz made a motion, seconded by Member Willis, to revise the Hayes-Bryan-Greene Cemetery Marker Report as discussed with the revision of removing "nevertheless" and adding "reportedly" and including Member Watkins's suggestion.

Vote:

Aye- All
Nay – None
The motion passed.

Chair Plaag asked for a recommendation for the Commission to authorize him to speak to Town Council on this marker report.

Motion and Vote:
Member Brantz made a motion, seconded by Member Watkins, to authorize Chair Plaag to speak on behalf of the Commission regarding the Hayes-Bryan-Greene Cemetery Marker Report.

Vote:

Aye- All
Nay – None
The motion passed.

Watauga County Jail Designation Report
Chair Plaag explained that he had not completed the Watauga County Jail Designation Report. He said he would have it completed by the April HPC meeting.

Review of Town Street Project
Chair Plaag explained that he did not have any more information on the Howard Street report. He said he had received some correspondence concerning Howard Street from Mr. Jackson Henson who has roots here in the Boone area. Chair Plaag said that Mr. Henson offered a family tale on how Howard Street got its name.

Chair Plaag said that Mr. Henson explained to him that he interviewed Howard Cottrell several years ago, and Howard Cottrell explained to Henson that he was with his grandfather Mr. Calvin J. Cottrell, when his grandfather bought some land on East Howard Street. Mr. Cottrell was told that since he bought the first lots sold at the auction, he could name the street. Mr. Cottrell said he named the street Howard since he had his grandson whose name was Howard with him that day.

Chair Plaag pointed out that there is no way of knowing if this story actually transpired the way it did. He said he would like to propose a revision to the Howard Street report to include, at least in a footnote, a reference to the story and credit Mr. Jackson Henson. Chair Plaag noted that the only explanation that he could offer is that it is possible that it may have been on somebody's mind even though we have no way of knowing with certainty how the street got its name.

Chair Plaag noted that this is the evidence that we have and as long as we appropriately contextualize it as a bit of family lore that is associated with that street, it should be appropriate to use. There was consensus to make this change to the Howard Street narrative text.

Discussion ensued on possibly tabling some of the agenda items. Chair Plaag asked about the April HPC agenda items and which items should potentially be tabled. Ms. Turner noted that one COA application had been submitted for discussion at the April HPC meeting. Ms. Shook agreed that some of the agenda items could be tabled. She suggested that the Council Direction topic be discussed at this meeting. And she said that the HPC could discuss how they would like to handle the rest of the agenda items for this meeting. She suggested in the future streamlining the agendas, if possible. Chair Plaag suggested asking Ms. Mitchell to give a quick update on the Councill's Store Historical Marker and then ask Ms. Shook to cover the Council Direction agenda item.

Councill's Store Historical Marker

Ms. Mitchell said based on Council approval, she has been working with Ms. Turner on the encroachment agreement which has been signed and sent to the NCDOT representative. Ms. Mitchell said that she had tried to follow up with the representative to see if he had received it, but he was out of town.

Ms. Mitchell said she had started a conversation with Sewah Studios regarding ordering the historical marker. She noted that Sewah Studios has a 16-week production time for the historical marker and two or three days for shipping it. She said that if she can get some of the remaining questions answered by the end of the week, she may be able to submit the order request form for possible July delivery.

Chair Plaag asked Ms. Mitchell if she could Sewah Studios about the QR Code question and whether that is something that could be incorporated on the marker. Ms. Mitchell said yes. Ms. Shook asked if Sewah Studios could add a QR Code would the HPC want the Planning Staff to go ahead and link it to the page with the historical marker information. Chair Plaag showed concern regarding if the website information changed in the future and suggested checking on the cost of using the separate applique approach and incorporating it into the sign. He pointed out that we have already changed the information page, and it is something that could happen again. He stated that if Sewah Studios could do a separate applique that's approximately $100.00, he said he thought that would be appropriate. He pointed out that since no one is objecting to it, he thought it could be a way to proceed.

Council Direction

Ms. Shook read the action request submitted to Council at their February meeting. She explained that the action request was from the Planning Department regarding their overall priorities. She said the Council reviewed the priorities for the Community Appearance Commission and the Historic Preservation Commission. She explained that the HPC is currently tasked with being an advisory board and the tasks necessary as they begin to hold quasi-judicial hearings for Certificates of Appropriateness.

Ms. Shook presented Council with an action request that recommended the HPC Advisory Tasks be limited so the Planning Staff can dedicate their resources to the quasi-judicial hearings necessitated by creating the Downtown Local Historic District. She said that the Council approved this recommendation. She noted that Council also directed the HPC to work on items that need to be completed in time to support the Boone 150 event. She said

this would help eliminate the need for a second monthly meeting of the HPC. She also noted that the HPC could move to other advisory tasks once those topics are completed.

Boone 150 Goals Related to the Historic Preservation Commission

Discussion ensued on the topics to be worked on for the Boone 150 event. Chair Plaag named a list of topics that need to be worked on by the HPC for the Boone 150 event: Watauga County Jail Designation Report, Hayes-Bryan-Greene Cemetery Marker, Councill's Store Historical Marker, the open topic of prepared scripts for the proposed cemetery tours, and the Boone Cemetery Interpretive Panels and possibly a Civil War Trails Interpretative Panel. He noted that there are many topics to work on, and we may not get to all of them in 2022.

Ms. Shook asked Chair Plaag about the timeline for the historical markers. She asked if the Councill's Store Historical Marker is completed in July, when would the next marker possibly be completed. Chair Plaag said maybe September or October. He clarified that the cemetery interpretative signage would probably be more like October, including doing the scripts for the tours by that time at the latest or probably before then.

Discussion ensued on the Boone Cemetery interpretive marker panels. Chair Plaag noted that the HPC needs to write the marker proposals for Council's consideration. He said we need to find out if Mr. Mark Freed, Director of Cultural Resources, has done more research on this topic because of the things Mr. Freed is proposing on North Depot Street. Chair Plaag said that the HPC needs to find out who can craft the panels for us and what they will cost. Chair Plaag noted that we do not have this information yet. He explained that the HPC has talked about the proposed general layout and interpretative design for the three panels for the cemetery. Chair Plaag and Ms. Shook agreed that the HPC could keep these four topics for discussion on their monthly agenda. Ms. Shook explained that narrowing down to these four topics would cut down discussion.

Chair Plaag talked about the HPC continuing their work on the research for the Town street names. He said that they could be discussed rather quickly in the HPC meetings as those are completed. He said it was requested by Council for the HPC to work on them in 2022. He said the HPC had completed two of them and he would like to see the HPC meet another two or three of them sometime this year and put them on the website. He said that he was unclear about some of the content on the website, but he would discuss that information at a later meeting.

Ms. Shook talked about the Town street names and asked the HPC to consider weighing the importance of some of them to their current overall goals.

She said the goal for the Planning Staff would be to complete the tasks for the Boone 150 programming and the policies and regulations for the Historic District.

Discussion of Plein Air, Boone, Event, May 19-22

Chair Plaag referred to some email correspondence on packet pages 95 thru 97. The emails described the Plein Air Boone event as an opportunity for painters and collectors of fine art to paint in various places during the celebration of Boone's 150th anniversary. The inaugural Plein Air paint-out event would feature the theme "Paint the Town". Plein is a French term that refers to painting scenes from the outdoors and nature.

Chair Plaag pointed out that Ms. Amber Bateman, Director of the Watauga Council Arts Council, has requested historic pamphlets to enhance the desire for artists to paint landmarks that the HPC thinks are important. She also pointed out in her email that the paintings that are done will be revealed at a gallery opening on the following Saturday. And she suggested that there might be supportive programming to go along with it, whether it be tours or speaking events. He said he would not be able to help with this event because of the other things he is preparing for the HPC and Digital Watauga and other Boone 150 programming that he has already been asked to contribute.

He asked the other HPC members if perhaps they could help with some of the things to support this event. He said this could be either a representative of the HPC or just on your own.

Ms. Shook asked Ms. Bateman if perhaps she could coordinate with Mr. Freed to see if he could help from the Cultural Resources perspective. Ms. Shook said Mr. Freed would have access to the information on the Town website, and maybe Mr. Freed could help flush out that particular list. Ms. Shook noted that she was not aware of how many resources needed to be identified. Chair Plaag supported this idea and said that Mr. Freed could provide Ms. Bateman with a copy of the proposed walking tour, identifying several other landmarks in Downtown Boone. Chair Plaag pointed out that the Downtown Survey and the Downtown Historic District Designation Report might be a better source because the descriptions are shorter of the various properties. He pointed out that either one of these resources would be a place to start if people were interested in a particular building or an aspect of Boone's downtown history. Ms. Shook said that Ms. Mitchell could provide Mr. Freed with the resources or the links to the resources so discussion on that information can occur and be passed on to Ms. Bateman. Ms. Mitchell agreed to contact Mr. Freed and Ms. Bateman on locating the information. Ms. Mitchell said based on the conversation at this meeting, she will also ask Mr. Freed about the brochures he already has to make sure the markers are covered in them.

Discussion on Public Art

Chair Plaag asked Ms. Shook if any pressing issue needed to be discussed on this agenda item. Ms. Shook said she felt this topic could be tabled. She further explained that we should wait and see what Ms. Allison Meade, Town Attorney, says about public art. She said that information could be pulled into a future discussion and have Ms. Meade participate with the HPC and Planning Staff.

Update on COA Consultations

Ms. Shook said that upon further review, the Planning Staff does not think it is appropriate for consultations to occur. She explained that there was confusion when Ms. Turner was talking to applicants. She said in the text, the term "consultation" was used when further research into those consultations was done by the Planning Staff's design and review team, not necessarily by the HPC. Ms. Shook said the Planning Staff would process a proposed text amendment to remove that portion of text from the design standards. She confirmed that we would not be scheduling more consultations before the HPC when the proposed text is complete.

Minor/Major Works Text Modification

Chair Plaag said that unless there is another comment on this agenda item and hearing none, he proposed to table this item for the April HPC meeting.

Motion and Vote:

Chair Plaag made a motion, seconded by Member Brantz, to table the Discussion of Public Art and Minor/Major Works Text Modification agenda items to the April 2022 Historic Preservation Commission meeting.

Vote:

Aye- All
Nay – None
The motion passed.

Other Discussion

Ms. Mitchell reminded the HPC that June was the deadline she had set for the Certified Local Government (CLG) application to be completed. She thought she could have the final adjustments made to the application by March or April 2022. She said that by May, she might have a comprehensive update on it. And she would send it to the

representative at North Carolina State Historic Preservation Office (NCSHPO) by June for their review to see if anything needs to be changed before a final CLG application.

Adjournment

Member Watkins made a motion, seconded by Member Brantz, to adjourn the meeting at 10:10 p.m.

Vote: Aye - All
Nay – None
The motion passed.

_____ _____

Eric Plaag, Chair **Marlene Crosby, Board Secretary**