

**TOWN COUNCIL AND PLANNING COMMISSION
PUBLIC HEARING MINUTES
MONDAY, JANUARY 22, 2024, 6:00 PM
1500 BLOWING ROCK ROAD AND VIA WEBEX SOFTWARE**

COUNCIL MEMBERS PRESENT: Mayor Tim Futrelle, Mayor Pro Tem Dalton George, Todd Carter (via WebEx, joined at 7:00 p.m.), Dalton George, Eric Plaag, Virginia Roseman, and Edie Tugman

PLANNING COMMISSION MEMBERS PRESENT: Adrian Tait-Chair, Frank Veno-Vice Chair, Chris Behrend (via WebEx), and Smith Warren (via WebEx)

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Brandon Wise-Environmental Specialist, and Brenda Henson-Board Secretary

OTHER TOWN STAFF/REPRESENTATIVES PRESENT: Amy Davis-Town Manager (via WebEx), Todd Moody-Public Works Director (via WebEx), Justin Stines-Deputy Public Works Director (via WebEx), and Allison Meade-Town Attorney (arrived at 6:07 p.m.)

Call to Order

Mayor Futrelle called the Town Council to order at 6:01 p.m. Chair Tait called the Planning Commission to order at 6:01 p.m. The meeting was held in the Town Council Chambers at 1500 Blowing Rock Road, as well as via WebEx.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member Roseman made a motion to approve the November 27, 2023, Public Hearing minutes as written. The motion was seconded by Mayor Pro Tem George.

Vote: Aye – 5
Nay – None

The motion passed.

Commission Member Behrend made a motion to approve the November 27, 2023, Public Hearing minutes as written. The motion was seconded by Vice Chair Veno.

Vote: Aye – 4
Nay – None

The motion passed.

PUBLIC HEARING

Case A23-0646 Community Appearance Commission Dissolution – UDO Text Amendment

Modify language in UDO Articles 2 and 25 to provide for the dissolution of the Community Appearance Commission. Though North Carolina General Statute 160D-304 authorizes the creation of an “appearance commission” with specific duties set forth in General Statute 160-960, a local government is not mandated to create or maintain such a commission.

Ms. Jane Shook, Director of Planning & Inspections for the Town of Boone, presented the case as outlined in the meeting packet. She summarily noted that the elimination of the Community Appearance

Commission would allow the Planning Commission, which had an active membership, to assume the duties of the CAC.

Council Member Plaag referred to UDO Section 25.07.02 and asked why the sentence that was struck that read *"The Administrator may, but is not required, to seek the recommendation of the Community Appearance Commission with respect to any proposed alternative."* was not just changed to say Planning Commission if the intent was to replace the CAC with the Planning Commission. Ms. Shook noted that the staff had never consulted CAC on an alternative. Additionally, the Planning Commission did not meet every month for regular business, which could create possible time delays. Council Member Plaag questioned why the language in the CAC's charge regarding visual appearances, community beautification, and landscape development was not put under the Planning Commission's charge. Ms. Shook replied that the Planning Commission's charge was already broad enough to cover those items. Council Member Plaag stated he did not want to lose the ability to have reviews done by Town boards. Ms. Shook suggested that language could be added to UDO Section 2.02 that stated the Planning Commission had the powers and duties of the Community Appearance Commission, as outlined in the statutes.

Mayor Futrelle asked what the impetus was for this text amendment. Ms. Shook explained that staff struggled for many years to have a full membership on the Community Appearance Commission. She noted that statutes required seven members and those seven members were required to have certain qualifications if at all possible, making it difficult to find and keep members. Ms. Shook added that the Planning Commission already functioned in the same manner and stated they should be more utilized to review text.

Vice Chair Veno agreed that it was difficult to get volunteers to serve on any board. He noted that the Comprehensive Plan endorsed a Community Appearance Commission and asked how that related to the request. Ms. Shook explained that, when the Comprehensive Plan was created, the CAC was very new as were the standards. She stated that it was time to reevaluate standards along with the Comprehensive Plan, noting that the duties of the CAC could be done by the Planning Commission.

Ms. Allison Meade, Town Attorney, stated that other communities only had a Planning Commission.

There was no public comment on this case.

Discussion ensued as to an appearance commission's authority to review plans. Ms. Shook noted that statutory authority did not extend to plan review.

Commission Member Behrend stated she understood the reason for having the Planning Commission assume the responsibilities of the CAC. She asked for more information on what that would entail for the PC. Ms. Shook noted that the Planning Commission may be called upon the review design standards and perhaps the Town could contract with design professionals should the need arise.

Mayor Pro Tem George asked if the membership of the Planning Commission needed to be expanded. Council Member Plaag added that consideration should be given to offering board members a stipend. He suggested that this be discussed at the Budget Retreat.

Chair Tait asked if any of the CAC members were interested in becoming a Planning Commission member. Ms. Shook replied that the staff had reached out to current members but had not had any response.

Ms. Shook stated that she felt a membership of seven was a good number for the Planning Commission. She added that she would like to utilize the Planning Commission more for reviews of UDO text amendments and the creation of text.

Mayor Pro Tem George asked if the staff could reach out to past Community Appearance Commission members to see if they would be interested in serving on the Planning Commission. Ms. Shook replied that the staff could try to contact past members.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:27 p.m.

Case A24-0010 Vacation Rental and Homestay Rental – UDO Text Amendment

Modify language in UDO Article 15 Limited Use Requirements to clarify inartful language related to when single-family or two-family dwellings in certain zoning districts can be used as a Use 3.06 Vacation Rental.

Ms. Jane Shook, Director of Planning & Inspections for the Town of Boone, presented the case as it was outlined in the meeting packet. She explained that the Board of Adjustment was a board that often was able to identify issues in existing language during the application of the standards for cases and at a recent Board of Adjustment meeting concerns over the interpretation of Subsection 15.14.05 arose. She noted that the proposed amendment was to clarify the text to reflect what was originally intended. She noted that the actual intent behind Subsection 15.14.05 was to allow single and two-family dwellings in those zoning districts to be used for short-term rentals only if the dwelling existed as of January 1, 2014.

Ms. Meade stated that she crafted the original language and it did not occur to her that the language could be interpreted in the way that Ms. Shook had explained. She added that other sections of the UDO, such as the Use Table and Section 15.14.10, spoke to the allowance of short-term rentals in the R3, B1, B2, and B3 zoning districts so it seemed clear that the intent was to allow them in those districts, despite the ambiguous language in Section 15.14.05. Ms. Meade stated that it was the intent of the Town Council at that time to include short-term rentals in these zoning districts.

Council Member Roseman stated that having served on the Board of Adjustment for years, she understood the difficulties of interpreting the Ordinance literally versus considering intent.

Council Member Plaag stated that when the text was being proposed the original definition of a vacation rental was a single or two-family dwelling that was rented as a whole on a daily, weekly, or monthly basis. He noted that it did not include multi-family properties or multi-family dwelling units. Council Member Plaag further explained that the draft text was modified so that the definition that was proposed had in brackets (or a multi-family dwelling unit) as a possible addition for discussion by the Town Council. Council Member Plaag stated that he did not remember there being a discussion about changing the definition of vacation rentals to include them in multi-family dwellings although it was implied in other sections of the Ordinance. He added that, if he had fully considered the implications at the time, he would not have voted for it. Council Member Plaag suggested that further discussion should take place on this topic at the Planning Retreat.

Ms. Shook stated that it was good practice to periodically revisit standards to see if the standards were appropriate and if the intent of the regulations was being accomplished.

Mayor Pro Tem George agreed that this topic needed to be revisited because of the jeopardy it was placing on the housing stock.

Ms. Meade pointed out that several property owners had already been approved to operate short-term rentals in a multi-family dwelling. She stated that this would need to be taken into consideration for grandfathering or sunseting.

Council Member Roseman asked how the short-term rental monitoring company hired by the Town was doing. Ms. Shook replied that Host Compliance monitored over 75 platforms for short-term rental compliance and had been working well.

Council Member Tugman asked how long it would take to modify the language. Ms. Shook explained that modifying the language would require a UDO text amendment which would go through the Public Hearing process and take 1.5 to 3 months. She suggested further discussion could take place at next week's Planning Retreat. Council Member Tugman asked what would be involved in creating a moratorium. Ms. Meade replied that the timeframe for a text amendment would not be a lot different than the timeframe to enact a moratorium.

Council Member Plaag asked if the staff could provide short-term rental numbers for the Planning Retreat. Ms. Shook stated that she would try to get that information in time to include it in the meeting packet, but if not she would distribute it at the Retreat.

Vice Chair Venio stated he was in favor of revisiting the language.

Commission Member Behrend stated she was in favor of clarifying the language presented in this text amendment tonight, and then revisiting the language as a whole.

Council Member Plaag agreed with clarifying the language as presented. He added that he objected to how the whole concept of short-term rentals was working.

Commission Member Warren agreed with clarifying the language and then revisiting.

There was no public comment on this case.

With nothing further, Mayor Futrelle closed the public hearing for this case at 7:00 p.m.

Case A24-0011 Town Utility Facility – UDO Text Amendment

Modify language in UDO Article 14 Districts and Uses to provide clarification on the permitting requirements for Use 5.13 Town Utility Facilities.

Ms. Jane Shook, Director of Planning & Inspections for the Town of Boone, stated that this modification would allow town utility facility-related improvements to be exempt, except in specific circumstances, from zoning requirements due to the overall public benefit of these improvements. She noted that these improvements might include but were not limited to communication towers, equipment/material storage areas/buildings, pump stations, salt barns, or other similar facilities that were not typically open to the public.

Ms. Shook explained that Public Works needed a salt barn and unless this language was changed they would have to meet community appearance standards. She stated that the previous Town Council did not feel the appearance standards should apply to this building because it was a storage facility and that it was not necessarily a public benefit for the salt barn to have to meet appearance standards.

Council Member Plaag referenced the proposed language in Section 14.02.03(A)(3) that read *if the parcel at issue is in or adjoins a historic district or historic landmark*. He suggested adding language to be similar to the Section 106 review done at the federal level for the national historic registry which looked at impacts on the viewshed of the historic property. Ms. Shook stated that language could be added along those lines.

There was no public comment on this case.

With nothing further, Mayor Futrelle closed the public hearing for this case at 7:15 p.m.

Case A24-0017 Window Signs – UDO Text Amendment

Modify the language in UDO Article 26 Signs revise and clarify regulations related to window signs.

Ms. Jane Shook, Director of Planning & Inspections for the Town of Boone, presented the case as it was outlined in the meeting packet. She stated that after the adoption of the sign ordinance in May 2023 businesses were given until January 1, 2024, to come into compliance with the new window sign regulations. Ms. Shook noted that the Planning and Inspections staff began the process of notifying businesses who would need to come into compliance with this standard and during this process, many business owners and the Chamber of Commerce reached out to the Town Council to indicate their concerns with the wholesale prohibition for lighted window signs. In December 2023, the Town Council agreed to delay enforcement until this issue could be more fully discussed and agreed to hear solutions that would allow lighted window signage but at a limited scale.

Council Member Plaag asked if there was a general size of the lighted window signs currently in place. Ms. Shook replied that based on her research open/closed signs were generally less than four square feet but other lighted window signs varied in size. Council Member Plaag asked if it needed to be included here that the lights could not flash, blink, or run. Ms. Shook replied that this was an overall prohibition and was included elsewhere in the regulations.

At 7:20 p.m., Mayor Futrelle invited public comment.

Mr. David Jackson with the Boone Area Chamber of Commerce stated that he drove around town and found 12 businesses with some sort of secondary sign, in addition to the open/closed sign that advertised what was going on in a particular business. Mr. Jackson suggested the possibility of grandfathering the signs already in place by these businesses as a way to not burden small businesses with added expenses.

There was discussion regarding placing a size limitation on the signs versus allowing the sign size to be a percentage of the window size. Ms. Shook stated that a sign based on a percentage of window size would likely require a permit in order to be regulated. She added that a set square footage limit would be easier to regulate without a permit.

Upon further discussion, there was general agreement that two lighted window signs would be allowed. One of the signs would have a size limit of four square feet, the other sign's size would be determined by the Town Council after measurements were taken by the staff of existing window signage. This survey of information would be available by the Town Council meeting.

With nothing further, Mayor Futrelle closed the public hearing for this case at 7:58 p.m.

Case A24-0018 Invasive Species – UDO Text Amendment

Modify UDO Article 31 Landscape Standards, Article 34 Definitions, and Appendix C to revise language to define and allow for the removal of invasive species.

Mr. Brandon Wise, Environmental Specialist with the Town of Boone, presented the case as it was outlined in the meeting packet.

Council Member Plaag wished to verify that homeowners would not be penalized for having an invasive species on their property or be required to proactively remove them. Mr. Wise replied that though this was a requirement for commercial properties, not residential, there was no requirement to remove invasive species. The requirements prohibit the planting during development and provide a vehicle for removal if needed.

There was no public comment on this case.

Mayor Pro Tem George stated he thought the list, as presented, was a good list.

Council Member Tugman stated she would like to see the plant list published in the newspaper.

With nothing further, Mayor Futrelle closed the public hearing for this case at 8:04 p.m.

Adjournment of Town Council

Mayor Pro Tem George made a motion to adjourn the Town Council at 8:04 p.m. The motion was seconded by Council Member Tugman.

Vote: Aye – 5
Nay – None

The motion passed.

Tim Futrelle, Mayor

Brenda Henson, Board Secretary

Adrian Tait, Planning Commission Chair

PLANNING COMMISSION MEETING

Public Comment

There was no public comment.

Approval of Planning Commission Meeting Minutes

Vice Chair Veno noted some typographical errors in the November 30, 2023, Special Planning Commission meeting minutes. Commission Member Behrend made a motion to approve the November 30, 2023, Special Planning Commission meeting minutes with the correction of the typographical errors. Vice Chair Veno seconded the motion.

Vote: Aye – 4
Nay – None

The motion passed.

Case A23-0646 Community Appearance Commission Dissolution – UDO Text Amendment

Modify language in UDO Articles 2 and 25 to provide for the dissolution of the Community Appearance Commission. Though North Carolina General Statute 160D-304 authorizes the creation of an “appearance commission” with specific duties set forth in General Statute 160-960, a local government is not mandated to create or maintain such a commission.

Vice Chair Veno, Commission Member Warren, and Chair Tait stated they were in favor of dissolving the Community Appearance Commission.

First Motion and Vote: Vice Chair Veno made a motion that the proposed amendment to the Town’s zoning ordinance is consistent with the Town’s comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development

projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

Comprehensive Plan Policy 2.3.4 Public Involvement

A. Public involvement shall be encouraged in decisions concerning land use and development by making the public aware of proposed developments at the earliest opportunity, as well as fostering communication among developers, the Town, the County, the University, and the general public.

The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Veno made a motion that the Planning Commission recommends approval of Ordinance A23-0646 within Exhibit A and approval is reasonable and in the public interest because since the town has had difficulty maintaining membership for the Community Appearance Commission and their duties are duplicated by the Planning Commission and since UDO Section 2.02.05 allows the Council to appoint advisory committees it would be appropriate for the Council to dissolve the CAC. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Case A24-0010 Vacation Rental and Homestay Rental – UDO Text Amendment

Modify language in UDO Article 15 Limited Use Requirements to clarify inartful language related to when single-family or two-family dwellings in certain zoning districts can be used as a Use 3.06 Vacation Rental.

First Motion and Vote: Chair Tait made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

Vice Chair Veno wished to amend the motion to add:

Comprehensive Plan Policy 2.1.1 Economic Development

A.1 Continue to evaluate and amend development regulations to help ensure aesthetic quality in the area and preserve the natural beauty of the area.

Chair Tait accepted the amendment. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Chair Tait made a motion that the Planning Commission recommends approval of Ordinance A24-0010 within Exhibit A and approval is reasonable and in the public interest because this clarifies language related to multi-family short-term rentals. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Case A24-0011 Town Utility Facility – UDO Text Amendment

Modify language in UDO Article 14 Districts and Uses to provide clarification on the permitting requirements for Use 5.13 Town Utility Facilities.

First Motion and Vote: Vice Chair Venio made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

Comprehensive Plan Policy 2.1.1 Economic Development

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Venio made a motion that the Planning Commission recommends approval of Ordinance A24-0011 within Exhibit A and approval is reasonable and in the public interest because the change helps make the regulations more streamlined and permits procedures to be more predictable and timely as noted in the Comprehensive Plan policies. Planning Commission further recommends that staff create language to address to further address parcels within the viewshed of historic areas. The motion was seconded by Commission Member Warren.

Vote: Aye – 4
Nay – None

The motion passed.

Case A24-0017 Window Signs – UDO Text Amendment

Modify the language in UDO Article 26 Signs revise and clarify regulations related to window signs.

Ms. Shook reminded Commission members of the discussion during the public hearing regarding the allowance of two lighted window signs, one being limited to four square feet and the other size limitation to be determined after the staff surveys existing signs.

First Motion and Vote: Chair Tait made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

A.1 Continue to evaluate and amend development regulations to help ensure aesthetic quality in the area and preserve the natural beauty of the area.

Comprehensive Plan Policy 2.3.1 Community Appearance

D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.

The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Veno made a motion that the Planning Commission recommends approval of Ordinance A24-0017 within Exhibit A and approval is reasonable and in the public interest because the changes reflect sign policies and standards that enhance community appearance and high quality of business interests. Planning Commission further recommends the allowance of two lighted window signs with one being limited to four square feet and the other sign's size to be determined by Town Council after the staff's survey of existing signs. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Case A24-0018 Invasive Species – UDO Text Amendment

Modify UDO Article 31 Landscape Standards, Article 34 Definitions, and Appendix C to revise language to define and allow for the removal of invasive species.

First Motion and Vote: Commission Member Behrend made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

Comprehensive Plan Policy 2.2.5 Environmental Health

E. Development which preserves the natural features of the site, including existing topography, streams and significant trees and vegetation, shall be reflected in the Town's Development Standards.

O. Encourage use of low-impact habitat-friendly practices to achieve and maintain native species, including plants, wildlife and beneficial insects (such as pollinators) within private and public developments.

Comprehensive Plan Policy 2.3.2 Community Character

D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.

Vice Chair Veno wished to amend the motion to include:

Comprehensive Plan Policy 2.1.1 Economic Development

A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

A.4 Balance the benefits of economic development projects with special concern for environmental quality issues.

Commission Member Behrend accepted the amendment.

The motion was seconded by Chair Tait.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Chair Tait made a motion that the Planning Commission recommends approval of Ordinance A24-0018 and believes approval is reasonable and in the public interest because the removal of invasive species from the community is beneficial to the environment and is in line with our environmental responsibility and community appearance. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Other Matters

Ms. Shook expressed her appreciation to those who were able to attend the Comprehensive Plan Kick-Off at Hardin Park School. She stated there were approximately 150-170 people in attendance. Ms. Shook encouraged everyone to visit the Boone Next website.

Adjournment of Planning Commission

Vice Chair Veno made a motion to adjourn the meeting at 8:56 p.m. Commission Member Behrend seconded the motion.

Vote: Aye – 4
Nay – None

The motion passed.

Adrian Tait, Planning Commission Chair

Brenda Henson, Board Secretary