

**Town of Boone
Public Hearing
6:00 PM, Jan. 25, 2021
WebEx, WebEx**

Public Participation:

Watch the Meeting: Anyone can view the Council meeting live at: <https://townofboone.viebit.com/?folder=ALL>
Public Participation: Individuals who wish to address Council during remote public participation can do so through WebEx either online or by phone. If you wish to provide public comment, please email Town Manager, John A. Ward III at john.ward@townofboone.net or call in at 828-268-6205 and you will be provided with an invite to the meeting. All registrations must be completed by 5:00PM on the day of the meeting. Participants should complete the registration form provided in the meeting invite to be included in public participation and view further instructions. Staff will moderate the WebEx session to ensure all participants have an opportunity to address Council. Note: To preserve bandwidth and ensure an orderly meeting, only individuals who wish to address Council should use the WebEx link. Anyone who wants to watch the meeting, but not address Council, should view the livestream at the link above. Written comments will be accepted until 24 hours after the hearing and may be emailed to jane.shook@townofboone.net or delivered to the secure drop-off box located to the side of Boone Town Hall at 567 W. King Street.

- I. Call to Order of Town Council**
- II. Call to Order of Planning Commission**
- III. Approval of Public Hearing Meeting Minutes by Town Council & Planning Commission**

November 23, 2020 Public Hearing Minutes

IV. PUBLIC HEARING

A. General Guidelines for Each Case Presented at Public Hearing

- i. Presentation of Case**
- ii. Questions by Town Council & Planning Commission**
- iii. Public Comment**
- iv. Discussion/Questions by Town Council and Planning Commission**
- v. Public Hearing for Case is Closed**

B. Case PL04401-120920 Lovill House Inn - Conditional District Zoning Map Amendment

Case PL04401-120920 Application Information

Case PL04401-120920 Exhibit 1 Remote Meeting Permission

Case PL04401-120920 Exhibit 2 Project Narrative

Case PL04401-120920 Exhibit 3 Narrative of Uses

Case PL04401-120920 Exhibit 4 Use of Property Email

Case PL04401-120920 Exhibit 5 Site Plans

Case PL04401-120920 Staff Report

Case PL04401-120920 Exhibit 6 Meeting Minutes Excerpts

V. Adjournment of Town Council

VI. PLANNING COMMISSION

VII. Public Comment

VIII. Approval of Planning Commission Meeting Minutes

October 26, 2020 Planning Commission Training Session

November 23, 2020 Planning Commission Meeting Minutes

IX. Planning Commission Consideration of Cases Heard at Public Hearing

X. Other Matters

XI. Adjournment of Planning Commission

**PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 23, 2020, 6:00 P.M.
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Rennie Brantz-Mayor, Loretta Clawson-Mayor Pro Tem, Sam Furgiuele, Dustin Hicks, Nancy LaPlaca and Connie Ulmer

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice Chair, Chris Behrend, John Tippet, Frank Venio, and Adam Zebzda

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Christy Turner-Senior Planner, and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: John Ward-Town Manager, Rick Miller-Public Works Director, and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Tucker Deal, John Hodges, Jeremy Fields, Dustin Walters, Tom McLaughlin, and Jeff Templeton

Call to Order

Mayor Brantz called the Town Council to order at 6:01 p.m. for the Public Hearing/Planning Commission meeting held via WebEx and Chair Shay called the Planning Commission to order at 6:02 p.m.

Approval of Meeting Minutes

Ms. Meade wished to make the following corrections to the September 28, 2020 Public Hearing minutes:

- Packet page 7, second to last paragraph should read; *Ms. Shook asked Ms. Meade to speak about in-town residency for board membership. Ms. Meade explained that State law required that Planning Commission and Community Appearance Commission members be Town residents and should be deemed resigned when they move out of town. State law does not place the same requirement on the Board of Adjustment. Council had indicated its view that Board of Adjustment members should be in-town residents, but there remained a question about whether they should be allowed to continue to serve after moving out of town if they were participating in an unfinished case. She noted the following options that were contained in the meeting packet for consideration:*
- Packet page 8, fourth from the last paragraph should read; *Vice Chair Plaag stated he would like for resignations to be effective immediately on Historic Preservation Commission. Ms. Meade replied that it was clear under State law that this needed to be the case for HPC and CAC but Council had flexibility with respect to the BOA.*

Council Member LaPlaca made a motion to approve the September 28, 2020 Public Hearing minutes as amended. The motion was seconded by Council Member Hicks.

Vote: Aye – All
Nay – None

The motion passed.

Vice Chair Plaag made a motion to approve the September 28, 2020 Public Hearing minutes as amended. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook reminded all participants to mute their microphone when they were not speaking. She then reviewed the general guidelines for each case presented at the Public Hearing. Ms. Shook reminded everyone that the cases to be heard tonight were general use zoning map amendments and should be considered on the basis of all allowed uses for the requested zoning district instead of any possible site specific plan.

Case PL04175-083120 – JAH, LLC – General Use Zoning Map Amendment

JAH, LLC has initiated the re-zoning of a .39-acre parcel (Watauga County PIN 2900-69-5102-000) owned by JAH, LLC from Conditional District B3 to R1S, Small Home Residential and a 2,997 square foot portion of a parcel (2910-69-5102-000) zoned B3, General Business to R1S, Small Home Residential. The property is located on Delmar Street.

Ms. Turner presented the request as it was outlined in the meeting packet. She explained that the .39-acre parcel was part of a Conditional District that was approved in 2011 with a 5 year vesting for a phased project and that the vesting period had expired. Ms. Turner noted an error in the meeting packet that indicated there would be a 14 ft. interior setback for this property when it should be a 7 ft. interior setback.

Ms. Meade asked if packet pages 29 and 30 were irrelevant due to the fact that the original vesting period had expired. Ms. Turner replied that pages 29 and 30 were provided in the meeting packet as a history of the property. Ms. Shook added that Phase 1 of the original approval was completed but Phase 2 that contained the commercial component of the project was never completed and the vesting for that phase had expired.

Mr. Ward shared pictures of the surrounding area in an effort to acclimate members.

There was some question about this request containing two lots and Ms. Shook explained that, if the request were to be approved, the .39-acre parcel and the 2,997 square foot portion of the other parcel would be combined into one parcel.

Chair Shay asked if any proposed development was predicated on the sale of the 2,997 square foot portion of property. Ms. Shook responded that some form of development could still occur on the .39-acre parcel but suggested asking the applicant the question about the sale of a portion of the other property.

Council Member Furguele asked how many homes could fit on the property. Ms. Turner replied that 4 homes could fit on the property with the additional square footage from the other property.

Tucker Deal, attorney representing JAH, LLC, directed members to the authorization from Kyle Sigmon contained in the meeting packet, noting Mr. Sigmon was the owner of the property where JAH was requesting a 2,997 square foot portion. Mr. Deal stated that the document authorized JAH, LLC to request the rezoning and, if approved, agreed to the sale of the portion of the property requested. Mr. Deal stated this rezoning would essentially return property from a B3 zoning to a residential zoning, expand the supply of single family homes, and provide a reasonable transition from a B3 zoning district to an R2 zoning district. He felt that the requested zoning classification met the goals of the Comprehensive Plan by addressing growth factors, reducing commute times, having access to the greenway, and being located in a primary growth area.

Vice Chair Plaag noted that the 2011 agreement contemplated that the commercial portion of the Delmar Bungalows subdivision would be low density commercial on the bottom with residential above with 3,867 square feet of green space to be located between the B3 and R2 to add buffering and recreation area. He asked, if approved, what would happen to that common area. Mr. Deal stated that would have to be worked out between all of the property owners of the various lots.

Ms. Meade asked if the livability space requirements for the R2 would still be enforced even though the B3 portion was never built. Ms. Shook replied that the R2 and B3 portions were standalone and explained

that the R2 properties had open space on what appeared to be a vacant lot at the back of the R2 properties. She noted that the remaining property should be able to meet its own livability space requirements.

Vice Chair Plaag asked if sufficient livability space would be provided if 4 units were developed on the subject property. Ms. Shook replied that she could not answer that question without having specific dimensions for each lot. Vice Chair Plaag asked if it was correct that livability space requirements for R1S would have to be met if this request was approved. Ms. Shook stated that was correct.

With no one from the public to speak and no further questions or comments, Mayor Brantz closed the public hearing for this case at 6:38 p.m.

Case PL04269-100820 Pegasus Capital Partners – General Use Zoning Map Amendment

Pegasus Capital Partners, LLC has initiated the re-zoning of a .193-acre portion of parcel (Watauga County PIN 2910-32-6612-000) owned by Pegasus Capital Partners from General Use R3, Multi-family residential to B3, General Business (this is a split-zoned parcel). The property is located at 220 Meadowview Drive.

Ms. Turner presented the request as it was outlined in the meeting packet.

Some errors were noted in the Zoning & Use of Adjacent Properties table on packet page 71.

Dustin Walters, one of the owners of the subject property, noted that the property was split zoned R3 and B3. He stated there was a house on the property that was not livable and there was a mature oak tree that they planned to keep.

Mr. Ward shared pictures of the surrounding area in an effort to acclimate members.

Council Member Furguele asked if the general rezoning would still cover tree preservation. Ms. Shook replied that it would but noted that historic trees may be cut if they are located within the building footprint and that it would depend on the applicant's future site plan on whether the tree would be preserved or not.

Mayor Brantz asked if there had been any response from the neighbors. Ms. Shook replied that there was one neighbor signed up to speak. Ms. Turner added that she had received no contact from other neighbors.

Mr. Ward stated he checked with Police and Fire regarding flooding on the property and noted that both entities felt a business use would eliminate a residential zoned area that was, until recently, occupied and was subject to some rescue efforts in the past. If the property were rezoned to B3 and became a car lot as opposed to residential use, Police and Fire preferred a non-residential area that did not have occupancy at night for safety reasons.

Council Member Furguele asked if the property to the south of the subject property was multi-family. Ms. Shook replied that it was. Council Member Furguele asked if it was the complex that was condemned due to flooding. Ms. Shook stated that was correct, noting that during a recent flood event portions of one or two apartment buildings at Bavarian Village were condemned.

Mr. Walters stated they had installed a Type C buffer and were aware that the property was located in a flood zone.

Ms. Shook reminded everyone that this was a general use zoning request and site specific plans could not be considered.

Vice Chair Plaag asked if the structure(s) on the property would have to be brought into compliance with flood requirements. Ms. Shook replied that commercial properties have to flood proof if they made

significant improvements to a structure. If they construct a new building, the building has to be elevated 2 feet above base flood elevation.

Council Member Furguele asked if any uses in the B3 General Business zoning district would trigger a transitional zone which would then require a special use permit. Ms. Turner replied that the property did not appear to trigger transitional zone requirements.

At 6:58 p.m. Mayor Brantz invited public comment.

Jeff Templeton, business owner at 170 Meadowview Drive, stated he was not in favor of Friendship Honda expanding their business because they had not shown to be a good neighbor. He explained that they parked their cars in places that they shouldn't, car haulers blocked the street and his parking lot, and he heard car horns all hours of the day because employees hit the panic button to find the car they were looking for. Mr. Templeton shared pictures of various parking infractions and expressed his frustration.

Jeremy Fields, engineer for the proposed project, stated there was floodway on the property and they had stayed out of that area with their current project. He stated there was flood zone area on the remainder of the property with a Zone X on the site as well. Mr. Fields stated the Zone X was where the house was currently located and was the most developable portion of the property. He noted that this was the portion of the property they were looking to rezone.

Council Member Furguele stated that the Transportation Committee had cited Meadowview Drive as having pedestrian issues and asked if rezoning this property would have any effect on those issues. Ms. Shook replied that B3 zoning districts could also allow multi-family so she could not really say whether or not pedestrian issues would improve under a general use rezoning to B3.

Vice Chair Plaag referred to the "clean hands principle" and asked if violations on other properties could be considered as relevant to this request. Ms. Meade stated she would have to research the issue to be sure but believed the answer was 'no.' Ms. Shook added that Mr. Templeton had contacted Planning & Inspections regarding his concerns, however some were not controlled by Planning & Inspections and were civil issues.

Mr. Templeton suggested that in the future car dealerships should be required to have ample room for loading and unloading of car carriers. Vice Chair Plaag felt that was a fair suggestion and asked if that could be a requirement added to the UDO for that particular use. Ms. Shook replied that it could. She also noted that some dealerships have the necessary room but they park their cars in a way that prohibits the use of the space. Council Member Ulmer also expressed concern about car haulers blocking streets.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:12 p.m.

Case PL04303-102920 Tom and Joan McLaughlin – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of approximately 0.069 acres of property located off of the end of VFW Drive (portion of Watauga County PIN 2910-44-8938-000) owned by Thomas M and Joan E McLaughlin to R1 Single-Family Residential, Viewshed Protection Overlay, and Neighborhood Conservation District in conjunction with the property owner's request for annexation of the property.

Ms. Shook presented the case as it was outlined in the meeting packet. She noted this property was zoned RA when it was located in the ETJ. Ms. Shook stated the property owner would be responsible for making utility connections at the end of Town maintenance at VFW Drive as well as bring all sanitation, recycling, and other special collections to the public right-of-way at the end of VFW Drive.

Vice Chair Plaag noted the cemetery that was near the subject property and wanted to make sure the utility installation would not disrupt the cemetery. Ms. Shook replied that they would use the designated right-of-way for utility installation.

Mayor Pro Tem Clawson stated she did not know why the property was zoned RA when it was located in the ETJ. Ms. Shook replied that the property was zoned RA when she started working for the Town and she was unsure of the reasoning for RA zoning of the property.

Commission Member Zebzda asked if this was two lots. Ms. Shook explained it was one lot that was bisected by the corporate limits.

Mayor Brantz asked if there had been any concerns raised by the neighbors. Ms. Shook replied that she had not been contacted by any of the neighbors.

Vice Chair Plaag stated he looked on GIS at the cemetery and found it had no property owner on record. He asked if the property could be annexed into the Town. Ms. Shook stated she could put it on the list of things to do.

Council Member Ulmer asked if the Town would be notifying the neighbors of this rezoning request. Ms. Shook stated that neighbors had already been notified by mail and the property was posted with a zoning change sign.

With no one from the public to speak and no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:24 p.m.

Adjournment of Town Council

Mayor Pro Tem Clawson made a motion for Town Council to adjourn at 7:25 p.m. The motion was seconded by Council Member LaPlaca.

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

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Chair Shay called a break in the Planning Commission meeting from 7:25 p.m. until 7:33 p.m.

Approval of Meeting Minutes

Vice Chair Plaag made a motion to approve the September 28, 2020 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

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

Case PL04175-083120 – JAH, LLC – General Use Zoning Map Amendment

JAH, LLC has initiated the re-zoning of a .39-acre parcel (Watauga County PIN 2900-69-5102-000) owned by JAH, LLC from Conditional District B3 to R1S, Small Home Residential and a 2,997 square foot portion of a parcel (2910-69-5102-000) zoned B3, General Business to R1S, Small Home Residential. The property is located on Delmar Street.

Vice Chair Plaag stated he was excited about this possible use and preferred it to the original CD approval. He felt small home residential was a good proposal for this location.

Commission Member Tippettt agreed with Vice Chair Plaag stating R1S was a good transition for the area.

Commission Member Veno stated he visited the site and thought the lumber yard across the street was not very pretty to look at but agreed that maybe this would be a good location to try an R1S district.

Chair Shay felt this was a good location for R1S.

First Motion and Vote: Vice Chair Plaag made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.

Comprehensive Plan Policy 2.2.2 Utilities

E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.

Comprehensive Plan Policy 2.3.2 Community Character

E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Commission Member Tippettt. Commission Member Zebzda wished to amend the motion to add:

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit systems; the availability of public services and facilities; and compatibility with adjacent land uses.

- G. Compact, full-service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.

Vice Chair Plaag stated he was hesitant to include 2.3.3(E) but could accept 2.3.3(G). Commission Member Tippet accepted the amendment to add 2.3.3(G).

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Plaag made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because the proposed zoning classification serves as an excellent example of a buffer between a low density residential neighborhood and a high intensity business zoning designation. Furthermore, it serves a known and urgent need for smaller sized, medium density housing in the Town of Boone in an area where that type of housing would be attractive. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL04269-100820 Pegasus Capital Partners – General Use Zoning Map Amendment

Pegasus Capital Partners, LLC has initiated the re-zoning of a .193-acre portion of parcel (Watauga County PIN 2910-32-6612-000) owned by Pegasus Capital Partners from General Use R3, Multi-family residential to B3, General Business (this is a split-zoned parcel). The property is located at 220 Meadowview Drive.

Chair Shay stated she used to live on Meadowview Drive and it was a busy and treacherous street. She asked Vice Chair Plaag for an explanation of the clean hands principle. Vice Chair Plaag stated what it meant was if an applicant had violations or potential violations on other properties in town, those violations should be corrected before considering another request or case, meaning they should have clean hands when making new requests.

Mr. Ward stated that if this request was approved it would hopefully rectify some of Friendship Honda's current parking issues.

Vice Chair Plaag stated that the applicant had made several flood related improvements to the property. Ms. Shook stated those improvements were actually stormwater improvements that were required by the UDO under their current permit for the property.

Commission Member Veno stated he has having a hard time filtering out Mr. Templeton's complaints.

Ms. Shook stated the property had been approved for vehicle sales and service with an office, not for vehicle storage. She noted there were still flood risks for vehicles in the flood area, although those risks were obviously different than flood risks for homes in the flood area. Ms. Shook reminded members to consider all possible uses there could be when going from R3 to B3.

Mr. Ward felt it would be good to look at the issue of delivery of vehicles town-wide.

Ms. Shook noted that the majority of the subject property was located in the AE flood zone and the property would have to meet all of the standards for development or redevelopment whether it was in the R3 or B3.

Commission Member Zebzda stated he was inclined to approve the request but wanted to encourage more conversation between property owners as a way to be good neighbors.

First Motion and Vote: Commission Member Tippet made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

- B. New and expanding industries and businesses shall be encouraged which: 1) diversity the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.

The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because the potential commercial development standards would assist in alleviating future flood event damages due to additional flood requirements and the development is compatible with most of the surrounding business uses. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL04303-102920 Tom and Joan McLaughlin – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of approximately 0.069 acres of property located off of the end of VFW Drive (portion of Watauga County PIN 2910-44-8938-000) owned by Thomas M and Joan E McLaughlin to R1 Single-Family Residential, Viewshed Protection Overlay, and Neighborhood Conservation District in conjunction with the property owner's request for annexation of the property.

First Motion and Vote: Commission Member Zebzda made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Vice Chair Plaag. Vice Chair Plaag wished to amend the motion to add:

Comprehensive Plan Policy 2.3.2 Community Character

- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and

supportive, whenever possible, of Boone's original community character as a High Country small town.

Commission Member Zebzda accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Zebzda made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because zoning the property R1 maintains consistency with the area and protects the neighborhood. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Chair Shay asked about the December Planning Commission meeting and it was decided to cancel the December 28, 2020 Planning Commission meeting.

Ms. Shook informed Commission members that there would be 2 Downtown related projects coming to them in the new year.

Ms. Shook also wanted to encourage any Planning Commission member who might be interested in serving on the Board of Adjustment to speak with her about transitioning off of the Planning Commission to become a member of the BOA.

Vice Chair Plaag added that there were other Town boards in need of volunteers to serve and also wanted to encourage people to apply for a position on the Historic Preservation Commission.

Adjournment of Planning Commission

Commission Member Veno made a motion to adjourn the meeting at 8:31 p.m. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary

Conditional District Zoning Map Amendment Application

Town of Boone Planning & Inspections Department

680 W. King Street, Suite C ♦ Boone, North Carolina 28607

Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ Email: planning@townofboone.net ♦ www.townofboone.net



A. Required to be Submitted at Time of Application (check all that apply)

Note: A pre-application meeting is required prior to application submittal.

Failure to provide the information required on this application may delay the review and scheduling of the requested hearing.

- ☐ Digital copies of all paper submittal documents (may be emailed to planning@townofboone.net)
- ☐ 6 paper copies of complete site plans meeting the requirements of Town of Boone Unified Development Ordinance (UDO) Appendix A (max. size 30" x 42")
- ☐ Deed(s) of all property to be included in the request
- ☐ Both a digital and a hard copy of a written metes and bound legal description with accompanying survey map for a request that would rezone only a portion of a tax parcel or requests for multiple zoning districts.
- ☐ Property Owner Authorization. If you are not the property owner, you will need to provide documentation of property owner authorization to apply for this permit.
- ☐ Permit Fee (See Planning & Inspections Fee Schedule). Each application is allowed two (2) reviews. The 1st review of the submitted information and a 2nd review if revisions or supplemental information is required based upon the 1st review. Each subsequent review after the 2nd review will be charged at 50% of the original fees charged for the application. These fees shall be paid at the time of resubmittal.

B. Requested Hearing – See latest published Meeting Schedule for dates

Date of requested hearing: January 25, 2021

C. Property Information (Project Location)

Street Address:

404 Old Bristol Road Boone NC 28607

Watauga County Parcel Identification Number(s):

2901-40-7729-000, 2901-41-9326-000, 2901-50-0737-000

D. Property Owner Information

Name:

Scott Thomas Peecook and Dorothy Anne Peecook

Complete Mailing Address (Street, City, Zip):

404 Old Bristol Road Boone NC 28607

Phone Number:

828-719-0872

Email Address:

sapeecook@gmail.com

E. Applicant Information

Name:

Olee Joel Olsen, Jr. and Tonje Woxman Olsen

Company:

Complete Mailing Address (Street, City, Zip):

PO Box 1395 Cornelius NC 28061

Phone Number:

704-490-9696

Email Address:

olee.olsen@02emc.com

Preferred Method of Contact for Written/Response Documents (select one): ☐ Mail or ☒ Email

F. Detailed Description of Project

See attached project narrative and use narrative.

Communication: Case PL04401-120920 Application Information (Case PL04401-120920 Lovill House Inn - Conditional District Zoning Map

G. Project Cost

Project Cost:
\$100,000

H. Development Information

Is the development subject to a previous Special Use Permit? ☐ Yes ☒ No ☐ Unknown

If yes, please describe: _____

Are there any other variances granted that impact the property? ☐ Yes ☐ No ☒ Unknown

If yes, please describe: _____

Are there any other variances requested with this development? ☐ Yes ☒ No

If yes, please describe: _____

I. District/Use Information

Existing Zoning District:
CUR3

Proposed Zoning District(s):
CUB3

Existing Land Use(s):
Bed & Breakfast

Proposed Land Use(s) (Specific Use # from UDO Section 15.07 Required):
Bed and Breakfast Category 2 (3.05); (ii) Boarding House (2.07); and (iii) Event Venue Category 2 (5.08) ^{12.06}

J. Site Information (include information for additional buildings on a separate sheet)

HOUSE (See attachment for additional buildings)

Building Footprint Square Footage:	Current:	3,123±	Proposed:
Total Building Square Footage (all floors):	Current:	6,246±	Proposed:
Number of Stories	Current:	2	Proposed:
Building Height:	Current:	30'±	Proposed:
Number of Units:	Current:	6	Proposed:
Number of Bedrooms:	Current:	6	Proposed:

K. Environmental Information

Total Land Area : 3.00 ☐ Sq. Feet or ☒ Acres

Disturbed Area: 0.01 ☐ Sq. Feet or ☒ Acres

Viewshed: Is development occurring within the Viewshed Protection District? ☐ Yes ☒ No ☐ Unknown

Is development occurring on slopes in excess of 30%? ☐ Yes ☒ No ☐ Unknown

Slope:

Is development occurring on slopes in excess of 50%? ☐ Yes ☒ No ☐ Unknown

Is the property located within a designated Water Supply Watershed Area? ☐ Yes ☒ No ☐ Unknown

Watershed:

Unknown If yes, please select: ☐ WS-II-CA ☐ WS-IV-PA ☐ WS-IV-CA

Stream/River: Is there a stream or river on or near the property? ☒ Yes ☐ No

SFHA: Is the property located within the Special Flood Hazard Area? ☐ Yes ☒ No ☐ Unknown

Impervious: What is the existing impervious area in the development? 17,571 ☒ sq. feet ☐ acres

Area: What is the proposed impervious area in the development? 17,859 ☒ sq. feet ☐ acres

K. Design Professional InformationDesigner is an: ☐ Architect ☒ Engineer ☐ Owner ☐ Other: _____

Name: _____ Company: _____

Michael P. Trew _____ Municipal Engineering Services Co., P.A. _____

Complete Mailing Address (Street, City, Zip): _____

820-B State Farm Road Boone NC 28607 _____

Phone Number: _____

828-262-1767 _____

Email Address: _____

mtrew@mesco.com _____

*Additional Designer Information: If additional designers are involved beyond the 1 listed, please provide additional info on a separate sheet.***L. Brownfields Agreement Notification**

- Does the applicant have or is the applicant planning to enter into a Brownfields Agreement with the NC Brownfields Program? ☐ Yes ☒ No (If yes, please answer question #2 below.)
- Anticipated date for the first year of partial exclusion of property taxes: _____

M. Applicant Signature and Property Owner Authorization

I hereby certify that I am authorized to submit this application; that all information is correct and complete; and all work will comply with all applicable State and local laws, ordinances, and regulations. I will ensure that the Planning and Inspections Department is notified of any changes in the approved plans and specifications for the project permitted herein.

Olee Joel Olsen, Jr.

Tonje Woxman Olsen

Applicant (Print)



Applicant (Signature)

12/8/2020

12/8/2020

Date

See authorization letter

Property Owner (Print)

Property Owner (Signature)

Date

Official Use Only				
Permit Name: <u>Lovill House Inn - Conditional District Zoning Map Amendment</u>				
Permit Number: <u>PL04401-120920</u>				
Date: <u>12-9-20</u>	Fee: <u>\$765.00</u>	Receipt Number: <u>015981</u>	Method of Payment: ☐ Cash ☒ Check Number: <u>4092</u>	Paid By: <u>Moffatt + Moffatt</u>

Official Use Only - Hearing/Decision Information

Public Hearing Meeting Date: 1-25-21

PC Meeting Date: 1-25-21

TC Meeting Date: 2-16-21 or 2-18-21

Date of APO Mailed Notification: _____

Date of Posted Notification: _____

Request Approved: ☐ Yes ☐ No If yes, date request sent to GIS: _____

S:\FORMS\PI_Forms_Current\Planning Forms\CDZMapAmend_10202020.docx

K. Site Information**ATTACHMENT****Caretaker Cabin**

Building Footprint Square Footage:	Current:	1204	Proposed:
Total Building Square Footage (all floors):	Current:	1600	Proposed:
Number of Stories	Current:	1 w/loft	Proposed:
Building Height:	Current:	30'±	Proposed:
Number of Units:	Current:	1	Proposed:
Number of Bedrooms:	Current:	1	Proposed:

K. Site Information**Cellar**

Building Footprint Square Footage:	Current:	357	Proposed:
Total Building Square Footage (all floors):	Current:	714	Proposed:
Number of Stories	Current:	2	Proposed:
Building Height:	Current:	24'±	Proposed:
Number of Units:	Current:	1	Proposed:
Number of Bedrooms:	Current:	1	Proposed:

K. Site Information**Barn**

Building Footprint Square Footage:	Current:	1240	Proposed:	1800
Total Building Square Footage (all floors):	Current:	1240	Proposed:	3000
Number of Stories	Current:	1	Proposed:	
Building Height:	Current:	35	Proposed:	
Number of Units:	Current:	n/a	Proposed:	9
Number of Bedrooms:	Current:	n/a	Proposed:	9

Christy Turner - EXTERNAL EMAIL - RE: Remote Meeting Guidance

From: Joel Olsen <joel.olsen@o2emc.com>
To: Christy Turner <Christy.Turner@townofboone.net>
Date: 1/15/2021 10:30 AM
Subject: EXTERNAL EMAIL - RE: Remote Meeting Guidance
Cc: Michael Trew <mtrew@mesco.com>, "tyler@moffattandmoffatt.com" <tyler@mof...>

Hi Christy,

I agree to the remote video link

Olee Joel Olsen Jr
 CEO
 O2 emc / O2 energies
 Tel: +1 704 490 9696
 Email: olee.olsen@o2emc.com

From: Christy Turner <Christy.Turner@townofboone.net>
Sent: Friday, January 15, 2021 10:28 AM
To: Joel Olsen <joel.olsen@o2emc.com>
Cc: Michael Trew <mtrew@mesco.com>; tyler@moffattandmoffatt.com
Subject: Remote Meeting Guidance

Mr. Olsen-

Please see the link below to remote meeting guidance. Please send me an email ASAP that you agree to meeting remotely and the guidance. Thanks and have a good day.

Christy

http://www.townofboone.net/wp-content/uploads/2016/07/BOA_RulesofProcedure_09072017.pdf

Christy M. Turner
 Senior Planner
 Town of Boone
 Planning and Inspections Department
 (828) 268-6960 Phone
 (828) 268-6961 Fax

Disclaimer: The information provided herein is only informal advice. This email is not a final decision, is not binding on the Town, and is not appealable. A binding decision or interpretation may only be provided in response upon proper written application. If you wish to obtain a final and binding decision or interpretation from the Town, you must specifically request such a decision or interpretation and submit the required written application and fee. Please contact the Planning and Inspections Department for more information.

"The Town of Boone is an equal opportunity provider and employer."

Email correspondence to and from this address is subject to public records requests pursuant to the North Carolina Public Records Law, resulting in monitoring and potential disclosure of this message to third parties.

PROJECT NARRATIVE

LOVILL HOUSE INN - CONDITIONAL USE PERMIT MODIFICATION

The Lovill House Inn is a historic house on the west end of Downtown Boone. It was converted into a Bed and Breakfast in 1993 and has operated as such until recently being put up for sale. The prospective buyer is requesting a modification to the existing Conditional Use Permit (CUP) to allow more diversity in the options the property can offer to stay competitive in today's everchanging market. It's important to note the subject property has been used for all three uses during its existence the last few decades hosting small weddings, educational retreats, reunions, etc. It has also hosted guests for stays lasting several weeks in addition to short term rentals.

Before purchasing the property, the prospective buyer would like assurances the property could be used in the same manor going forward. After several meetings with the Town Planning Department it was decided to modify the existing Conditional Use Permit and pursue a Mixed-Use designation incorporating the following uses:

1. Bed and Breakfast (Category 2) -This will allow the Inn to continue the same service it has for the last 27 years.
2. Boarding House – The new owners plan to market the historic Inn to the University for visiting professors, interim pastors, and professionals that are in town on business for extended periods of time.
3. Event Venue (Category 2) - Due to the beauty of the property and the planned alternative energy systems (solar and hydraulic) they plan to offer the grounds for special events.

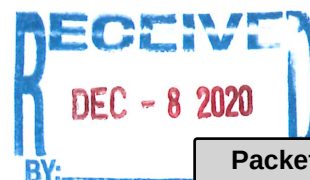
Following is a list of the minor changes proposed for the project:

- Replacement of the existing carport with a larger one that will have solar panels on the roof.
- Addition of solar panels on the Caretakers Cabin.
- Future hydroelectric system to provide alternative energy for the project in hopes of the property becoming the first in Boone to meet the Town's 100% clean energy goal.
- A handicap parking space and ramp will be added.
- Bicycle parking (short and long term) are shown on the Site Plan as additions.

TRANSITIONAL ZONE:

In the new Unified Development Ordinance (UDO) a Category 2 Bed and Breakfast and Event Venue trigger the Transitional Zone while a Boarding House does not.

The property has been used as a Bed and Breakfast for approximately 26 years with no complaints as far as the current Planning Staff can remember. Therefore, it can be safe to say that the topography and existing mature buffers are serving their intended purpose. The B&B is tucked back in a hollow and surrounded by a thick hemlock hedge in the front. The area to the west is steep, with a car repair



business being the closest neighbor. To the east there is a mature stand of thick woods that provides an excellent buffer.

In addition to the existing natural features which mitigate the impacts of the project, the prospective buyers offer the following:

- Specific directions on how to get to and leave the Bed and Breakfast will be added to the website to minimize any confusion and traffic entering the adjoining neighborhood.
- During events, signage will be added to the exit drive directing patrons to turn right to get back out to King Street/US Hwy. 421.

LANDSCAPE STANDARDS:

Both the Boarding House and Bed and Breakfast uses require that the project is subject to the current landscape standards. We visited the site and found the existing landscaping to be in compliance. We developed a Landscape Plan which details this and have attached some photos that show the existing landscaping around the parking area and borders.

COMMUNITY APPEARANCE STANDARDS:

The Lovill House Inn is an existing historic building. No changes to the exterior façade are proposed; however, we believe it meets the intent of the Community Appearance Standards due to its historic nature and appearance.

Lovill House Inn Landscaping Photos



Fence and Street Yard Buffer



Lovill House with Woods Behind



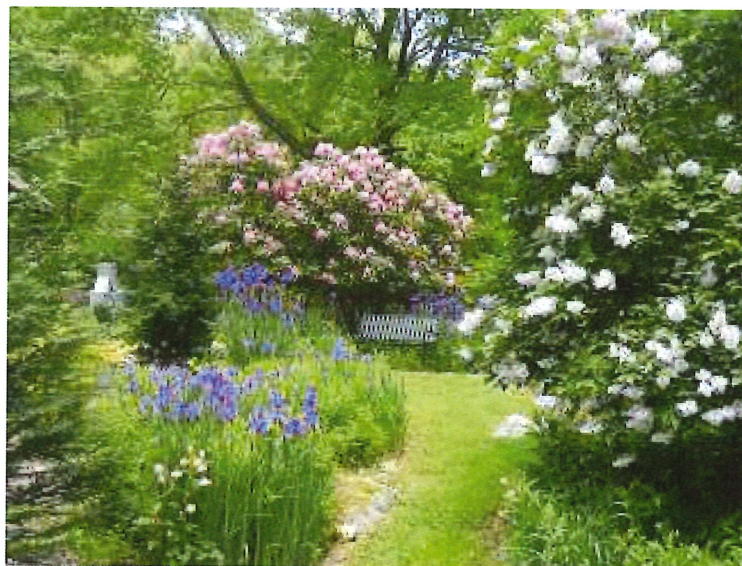
Lovill House with Street Yard Buffer



Parking Lot Landscaping



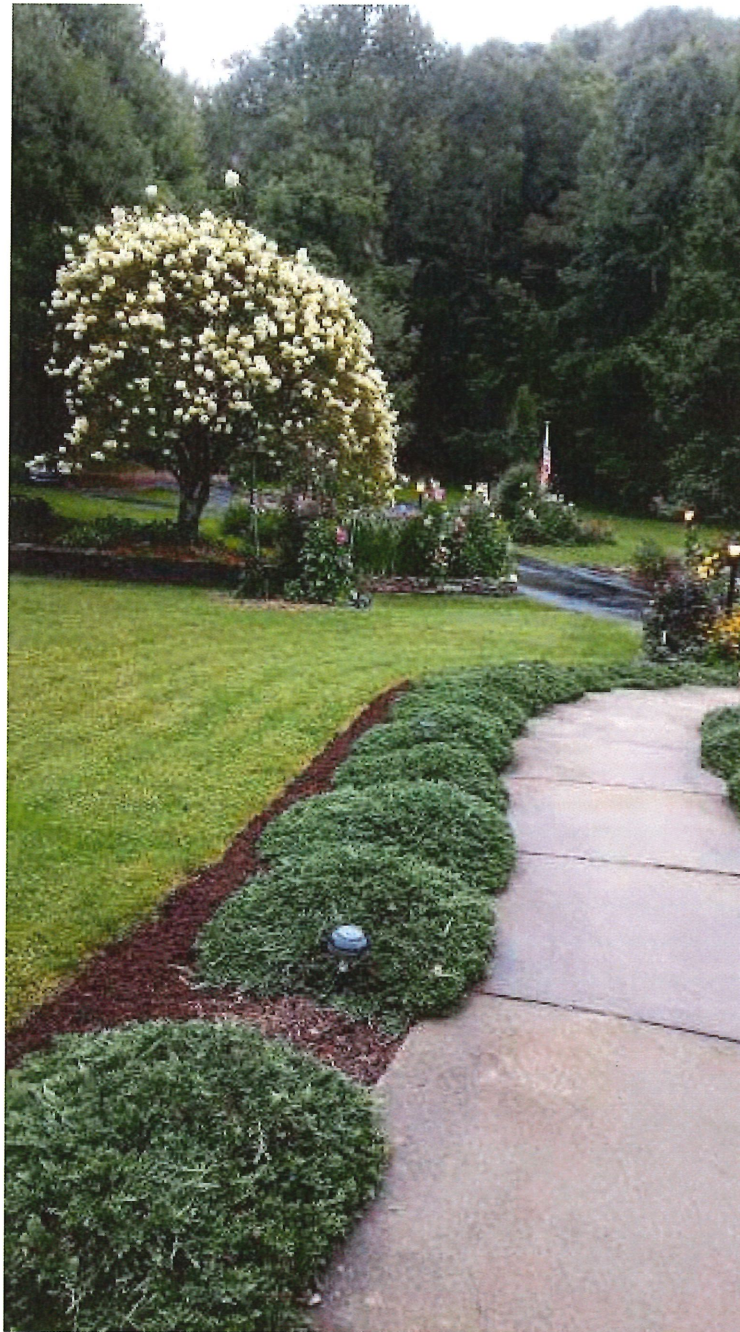
Parking Lot Landscaping



Example of the Grounds



Mature Woods Surrounding the Grounds



Mature Woods Surrounding the Grounds

Exhibit 3

Narrative of Uses

Summary

The Lovill House Inn property has been used for over nineteen (19) years as a bed and breakfast and event venue. As an event venue, the Lovill House has hosted small weddings, reunions, retreats hosted by academic institutions, businesses religious groups, and medical associations. The Lovill House also hosted guests for stays lasting several weeks in addition to short term overnight rentals. Throughout this period, the owners and operators of the Lovill House never received a complaint from anyone in the adjacent neighborhoods.

Specific Uses

It is the intention of the applicant to operate the Lovill House in a manner consistent with the operations over the past two decades. Specifically, Lovill House will be operated as a combination of three (3) principal use categories contained in the Unified Development Ordinance, including: (i) Bed and Breakfast Category 2 (3.05); (ii) Boarding House (2.07); and (iii) Event Venue Category 2 (5.08).

The applicant will operate the Lovill House in compliance with all requirements and restrictions contained in Principal Use 3.05, 2.07 and 5.08, including all supplemental restrictions and requirements contained in the Unified Development Ordinance and applicable to Principal Use 3.05, 2.07 and 5.08.

The applicant also intends to leverage renewable energy by installing a 30 Kilowatts solar carport and a 10 Kilowatts rooftop installation on the owner's cottage structure. In addition, the applicant is intending to have a micro-hydro installation near the waterfall on the property which would all feed to Tesla batteries. The goal of the applicant is for the Lovill House property to be the first in Boone that meets the Town's 100% clean energy goal.



Christy Turner - EXTERNAL EMAIL - Lovill House Inn - Occupancy Type

From: Michael Trew <mtrew@mesco.com>
To: Christy Turner <christy.turner@townofboone.net>
Date: 1/14/2021 7:11 PM
Subject: EXTERNAL EMAIL - Lovill House Inn - Occupancy Type
Cc: Joel Olsen <joel.olsen@o2emc.com>, Tyler Moffatt <tyler@moffattandmoffat...>

Christy,

As per our conversation the Applicant plans to make all rooms at the referenced project available for either short or long term stays (Uses: Bed and Breakfast and Boarding House). This applies to the Main House, the room above the Cellar, the Caretakers Cabin, and the future rooms in Barn Building. They are not trying to be vague but rather need the flexibility to adapt to the ever changing market and clientel.

Let me know if you have any questions or need anything else.

Michael P. Trew PE, Senior Engineer
Municipal Engineering Services Co. P.A.
820-B State Farm Road
Boone NC, 28607
828.262.1767
mtrew@mesco.com



[illegible]

Exhibit 5

Exhibit 5

LOVILL HOUSE INN

MODIFICATION TO CONDITIONAL USE PERMIT

404 OLD BRISTOL RD

BOONE, NORTH CAROLINA

PROJECT NO. B20061.3

Municipal Engineering Services Company, P.A.
Boone, N.C. Garner, N.C.

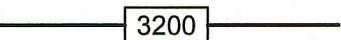
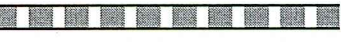
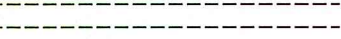
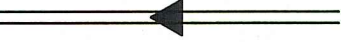
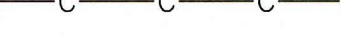


By:  12.
Professional Engineer

APPLICANT:
OLEE JOEL OLSEN JR
PO BOX 1395
CORNELIUS, NC 28061
704-490-9696

CIVIL ENGINEER:
MUNICIPAL ENGINEERING
SERVICES COMPANY, PA
820-B STATE FARM RD
BOONE, NC 28607
(828) 262-1767

SURVEYOR:
D.E. PENNELL
RLS L-2612
OCT 14, 1992
ROUTE 7, BOX II
BOONE, NC 28607
(828) 264-1283

LEGEND		LINETYPES		LAND USE INTENSITY RATIOS		PARKING REQUIREMENTS					
 EX. POWER POLE	 PROPOSED POWER POLE	 PROPOSED WATERMAIN	 PROPOSED CONTOURS	SITE PARTIALLY ZONED R3, PIN # = 2901-40-7729-000 PROPOSED USE (MIXED): 1. BED AND BREAKFAST CATEGORY II: 3.05 2. BOARDING HOUSE: 2.07 3. EVENT VENUE CATEGORY II: 12.06							
 EX. SS MANHOLE	 PROPOSED SS MANHOLE	 EXISTING CONTOURS	 STREAM OR CREEK								
 EX. SS CLEANOUT	 PROPOSED SS CLEANOUT	 STREAM OR CREEK TOP OF BANK	 DITCH OR SWALE								
 EX. GATE VALVE	 PROPOSED GATE VALVE	 STREAM BUFFER	 TROUT BUFFER								
 EX. FIRE HYDRANT	 PROPOSED FIRE HYDRANT	 WTL	 PROPOSED DRAINAGE PIPE								
 EX. LIGHT POLE	 PROPOSED WATER METER	 EXISTING STORM DRAINAGE	 PROPOSED SANITARY SEWER MAIN								
 EX. CATCH BASIN	 PROPOSED LIGHT POLE	 CENTERLINE	 FENCES								
 EX. DROP INLET	 PROPOSED STORMWATER DETENTION OUTLET CONTROL STRUCTURE	 EXISTING WATERLINE	 RIGHT-OF-WAY LINE								
 EX. WATER METER	 PROPOSED STORMWATER DRAINAGE STRUCTURE	 EA	 WS								
 EX. GUY WIRE	 PROPOSED STORMWATER PIPE FLARED END SECTION	 AE	 EXISTING SANITARY SEWER								
 EX. TEST PIT		 PD	 TD								
 EX. DRAINAGE MANHOLE		 SF	 EXISTING WOODS LINE								
 EX. GAS MARKER		 //	 G								
 EX. WELL		 FO	 P								
 EX. TREE		 T	 C								
 EX. BUSH											
 EX. SIGN											
 EX. TELEPHONE PEDESTAL											
 EX. FIBER OPTIC MARKER											

		VEHICLE	BICYCLE (SHORT)	BICYCLE (LONG)
BED & BREAKFAST & BOARDING HOUSE	REQUIRED	9	2	2
	PROVIDED	15	2	2
EVENT VENUE	MAXIMUM	75	N/A	N/A
	PROVIDED	6, PLUS OVERFLOW IN GRASS YARD AS NEEDED	N/A	N/A

* MOTOCYCLE PARKING N/A

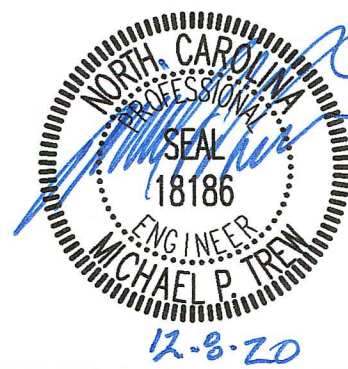
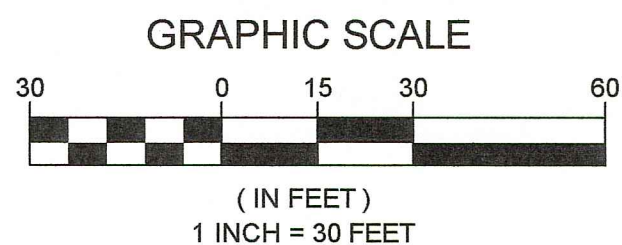
** NO RESTAURANT, LOUNGE, MEETING OR BANQUET ROOM

LOVILL HOUSE INN MODIFICATION TO COND. USE PERMIT 404 OLD BRISTOL RD BOONE, NORTH CAROLINA  MUNICIPAL ENGINEERING SERVICES COMPANY, P.A. 68 SHIPWASH DRIVE, GARNER, NC 27529 - PHONE: 919-772-5393 820-N STATE FARM ROAD, BOONE, NC 28607 - PHONE: 828-262-1767 1 INCHES = 10 FEET (SEE PLAN FOR SCALE)	
COVER SHEET	
SCALE: AS SHOWN	
DATE: 12-08-20	
DRWN. BY: SGJ	
CHKD. BY: MPT	
PROJECT NUMBER	
B20061.3	
DRAWING NO. C-1	SHEET NO. 1 OF 5

1. GENERALLY, NO PORTION OF VEHICULAR SURFACE AREA SHALL BE FURTHER THAN SIXTY FEET (60') FROM THE TRUNK OF A TREE.
2. TREES IN THE STREETYARD MUST BE NO LESS THAN 10' FROM VEHICULAR SURFACE TO COUNT TOWARDS PARKING LOT REQUIREMENTS.
3. SHRUBS MUST NOT BE PLANTED WITHIN SIX FEET (6') OF THE TRUNK OF A NEW TREE, NOR WITHIN THE DRIP LINE OF EXISTING TREES.
4. ALL LANDSCAPING MUST BE INSTALLED BY A NORTH CAROLINA LICENSED LANDSCAPE CONTRACTOR.
5. NO STORAGE OF MATERIALS, DUMPING OF WASTE MATERIALS, FILL OR PARKING OF EQUIPMENT SHALL BE ALLOWED WITHIN PROTECTED TREE AREAS, EITHER DURING CONSTRUCTION OR AFTER COMPLETION.
6. IF PROTECTED TREES OR SHRUBS DIE AFTER CERTIFICATE OF OCCUPANCY IS ISSUED FOR THE PROJECT, THE OWNER(S) OF THE PROPERTY AND THEIR AGENTS, HEIRS, OR ASSIGNS SHALL BE REQUIRED TO REPLACE THE TREES OR SHRUBS USING THE CREDITS IN SECTION 3701 [B]. SUCH REPLACEMENT MUST TAKE PLACE WITHIN THIRTY (30) DAYS AFTER DEATH AND THIS CONDITION SHALL BE A CONTINUING CONDITION OF THE VALIDITY OF THE PERMIT.
7. THE OWNER(S) OF THE PROPERTY AND THEIR AGENTS, HEIRS, OR ASSIGNS MUST BE RESPONSIBLE FOR THE INSTALLATION, PRESERVATION, AND MAINTENANCE OF ALL PLANTING AND PHYSICAL FEATURES REQUIRED UNDER ARTICLE 31 OF THE TOWN OF BOONE UDO.
8. INSTALLER IS TO USE THE NUMBER SPECIFIED ON THE PLAN, ACTUAL PLANTINGS SHOWN ON THE PLAN ARE FOR GRAPHIC REPRESENTATION ONLY.
9. LANDSCAPE CONTRACTOR SHALL REFER TO APPENDIX B OF THE TOWN OF BOONE UDO FOR SPECIFICATIONS REGARDING SOIL PREPARATION, PLANT INSTALLATION, FERTILIZING & LIMING, WATERING, MULCHING, STAKING, PRUNING, TURF AND SOD INSTALLATION.
10. NO AREA LIGHTING, TREES, PARKING SPACES, POWER POLES OR CERTAIN LANDSCAPING SHALL BE PERMITTED WITHIN 15' OF ALL FIRE HYDRANT PORTS OR FIRE DEPARTMENT CONNECTIONS.
11. ALL LANDSCAPED AREAS SHALL RECEIVE 8" MIN. (LOOSE) TOPSOIL.
12. NO TREES OR SHRUBS THAT WILL EXCEED 24" IN HEIGHT AT MATURITY SHALL BE PLANTED WITHIN A 10' x 70' SIGHT TRIANGLE AT THE DRIVEWAY'S INTERSECTION.
13. SUBSTITUTION TO PLANT LIST MAY BE MADE AFTER CONSULTATION AND APPROVAL FROM THE TOWN OF BOONE'S URBAN DESIGN SPECIALIST. (BRIAN JOHNSON @ 828-268-6980)

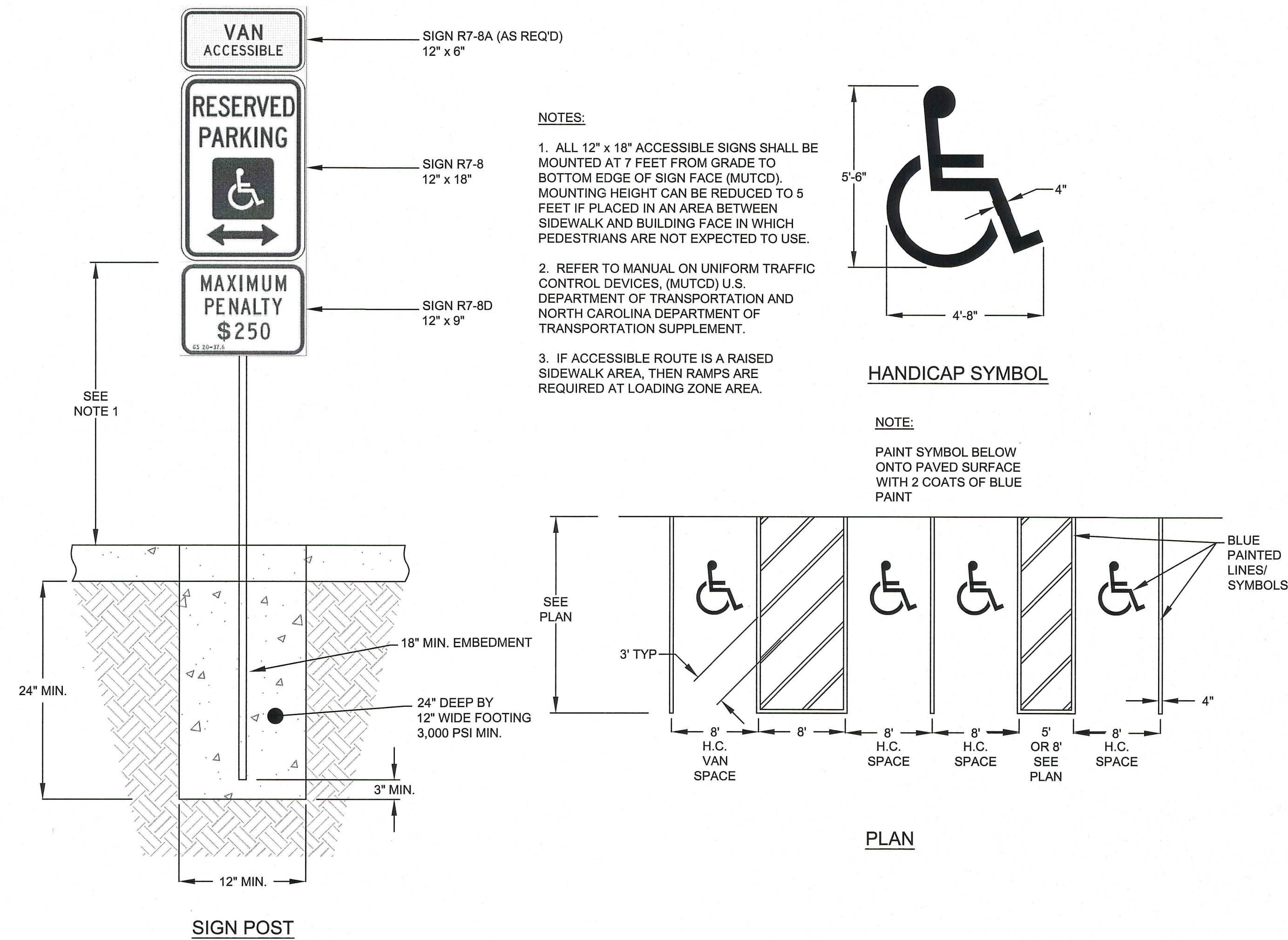
EXISTING EVERGREEN SHRUBS = 31
EXISTING DECIDUOUS SHRUBS = 4

THE EXISTING FOREST AND LANDSCAPING SHALL COUNT AS THE REQUIRED BUFFER PLANTINGS. THE APPLICANT SHALL WORK WITH THE TOWN OF BOONE'S URBAN DESIGN SPECIALIST TO SUPPLEMENT ANY BUFFER PLANTINGS DEEMED NECESSARY.

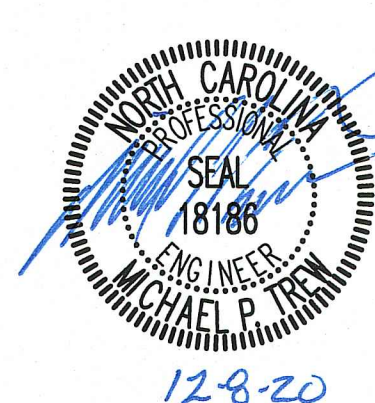


**LOVILL HOUSE INN
MODIFICATION TO COND. USE PERMIT
404 OLD BRISTOL RD
BOONE, NORTH CAROLINA**

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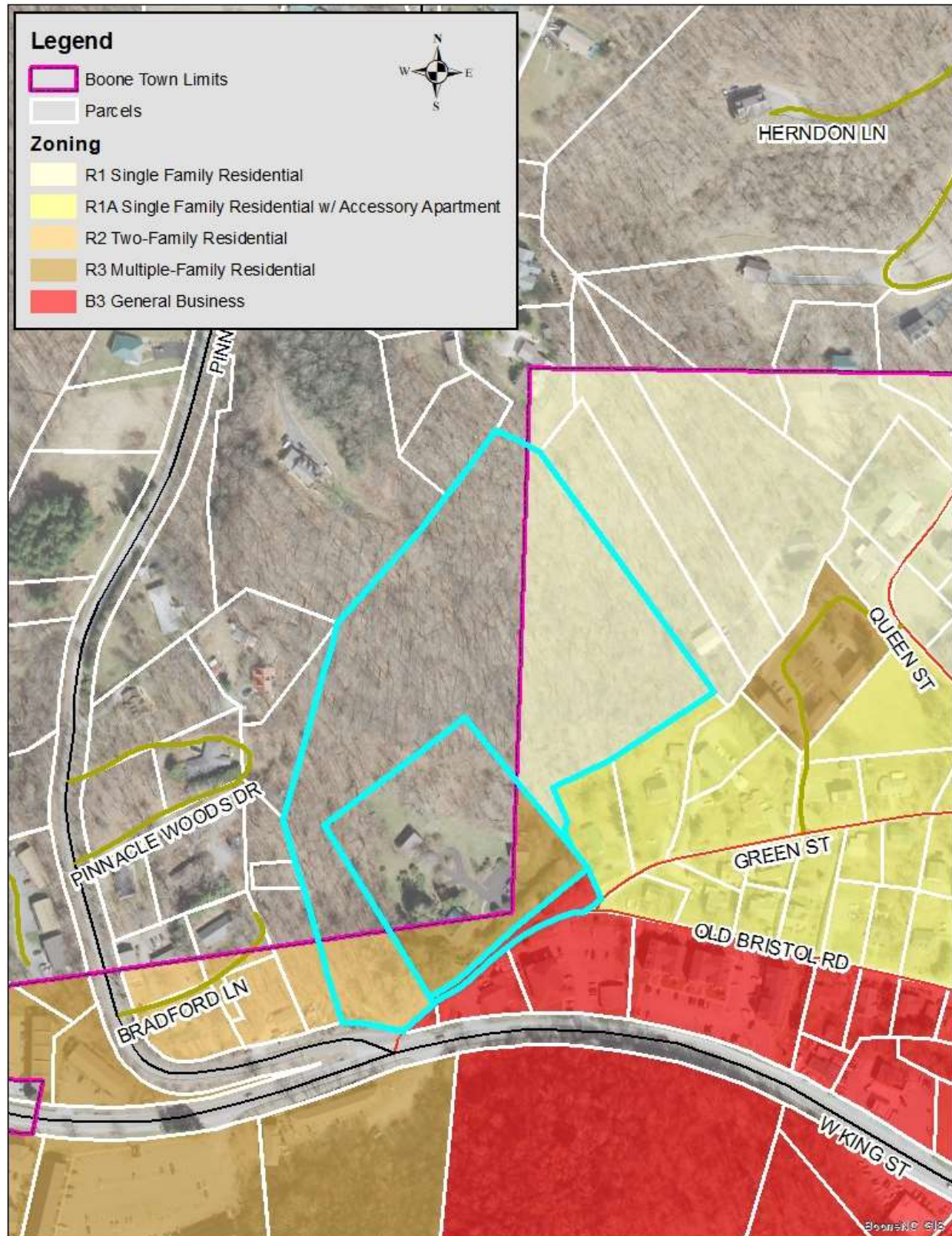


NOT TO SCALE

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Staff Report
Public Hearing
January 25, 2021
Case PL044401-120920 Lovill House Conditional District Zoning Map Amendment



Olee and Tonje Olsen have requested a Conditional District Zoning Map Amendment to rezone the Lovill House Inn and associated properties (Watauga County PINs: 2901-40-7729-000, 2901-41-9326-000, and 2901-50-0737-000) from Conditional Use R3 Multiple-Family Residential to Conditional District B3 General Business with a site-specific development plan for Use 3.05 Bed & Breakfast Category 2; Use 2.07 Boarding House; and Use 12.06 Event Venue Category 2. Subject properties are outlined in blue on the map above.

Property Owners Information:

Address: 404 Old Bristol Road (All structures are currently addressed as 404 Old Bristol Road. This will need to be re-assessed with the commencement of any new uses.)

Size: 8.3 acres

Access: Old Bristol Road, Town Maintained

Viewshed: A portion of the lot, currently in Watauga County's Jurisdiction shows partial Viewshed

Watershed: No

Special Flood Hazard: No

Steep Slope: Yes

Existing Zoning: Conditional Use R3 (Multi-family Residential) and R1, Single Family Residential, B-3 General Business (A very small portion along Old Bristol Road)

Requested Zoning: Conditional Use B3 (General Business)

Phasing: It appears phasing was approved at the time the initial rezoning was approved by Town Council, but only the first phase was completed.

Vesting: Expired



History

- 02-25-93 Boone Town Council approved a request by Tim and Lori Shahan to reclassify the property from R-2, Two-family Residential and B3, General Business to a CUR-3, a Conditional Use, Multi-family Residential zoning district after a unanimous approval from the Town of Boone Planning Commission unanimously approved the request at their meeting on 02-11-93. There were four (4) conditions of approval which were:
1. Breakfast to be served only to those individuals who are renting or leasing rooms at the Inn.
 2. All utility installation and connections are to be coordinated with the Department of Public Utilities.
 3. Annexation of that portion of the property that lies outside current city limits must take place before utility extensions are made to second and third phases.
 4. Coordinate refuse collection with the Department of Public Services.

Staff Note: The project was presented as a three-phase project, but it appears only the first phase was completed. Public Works (Services) Department confirms that no extensions were made to buildings which are not in the corporate limits. The rest of the property was within the Extra-territorial Jurisdiction (ETJ), before the changes occurred with the ETJ and now are in the County's jurisdiction.

Planning Staff Analysis

The applicant is requesting approval for Conditional District B3, General Business zoning district with a site-specific development plan for Use 3.05 Bed & Breakfast Category 2; Use 2.07 Boarding House; and Use 12.06 Event Venue Category 2. Pursuant to UDO Subsection 14.05, a Conditional District (CD) is a zoning district in which the use and development of a property pursuant to a site-specific development plan is approved through the legislative process pursuant to Article 9 of this Ordinance. A CD utilizes the existing zoning district, is limited to the authorized uses and the development standards mandated within that district, and may be subjected to conditions that make the development plan more desirable.

Note: A site specific development plan is defined in UDO Article 34 Definitions as "A plan which has been submitted to the Town by a landowner that describes with certainty the type and intensity of a use for a specific parcel or parcels of property, and includes the boundaries of the site; significant topographical and other natural features effecting development of the site; the location on the site of the proposed buildings, structures, and other improvements; the dimensions, including height, of the proposed buildings and other structures; and the location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways."

Use 3.05 Bed and Breakfast. Category 2 Definition from UDO Article 34 Definitions:

A dwelling with more than three guest rooms within one or more structures where overnight accommodations and meals are provided daily or weekly for compensation.

Use 2.07 Boarding House Definition from UDO Article 34 Definitions:

A dwelling unit where three (3) or more rooms (not to exceed nine (9)) are provided for lodging for definite periods exceeding seven days. Meals may or may not be provided, but there is only one common kitchen facility and no meals are provided to outside guests.

Use 12.06 Event Venue Category 2 Definition from UDO Article 34 Definitions:

A facility providing outdoor space for meetings and gatherings, such as reunions, weddings, conventions, anniversaries, and other similar ceremonies which take place between 6 a.m. and 10 p.m.

Excerpts from UDO Article 14 Zoning District and Zoning Map on the R1 and B3 zoning districts

14.01 Residential Districts Established

14.01.01 Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

14.01.02 The R1 Single Family Residential District is established to provide a low-density living area consisting only of single-family dwelling units and other related uses necessary for a sound neighborhood. The regulations for this district are designed to stabilize and encourage a comfortable, healthy, safe, aesthetically pleasing and pleasant living environment for family life that promotes peaceful quiet enjoyment sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.

...

14.02 Commercial Districts Established

14.02.01 The following commercial districts are hereby established: B1, B2, B3, OI, and WD. These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this Section.

...

14.02.04 The B3 General Business District is established to provide a wide range of consumer goods, convenience goods and personal services for the community and surrounding region. Appropriate residential uses are allowed in this district, normally as part of mixed-use developments. The regulations for this district are designed and intended to create a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment for all appropriate uses.

...

	Adjacent Zoning	Adjacent Land Use
North	Not Zoned (County)	Vacant
East	R-2 Two Family Residential/Vacant (County)	Single-family home, Vacant.
South	R-3 Multi-family Residential/B3 General Business	Across 421 to Apartments, High Country Paint, Across Old Bristol to Apartments
West	R1A Single Family Residential w/Accessory Apartment/R1 Single Family Residential	Apartments/Single Family Home

Use Information

Past Use: 3.05 Bed & Breakfast Category 2

Current/Proposed Use: The property is currently vacant. The proposed use(s) for the property are Use 3.05, Bed & Breakfast Category 2, Use 2.07, Boarding House, and Use 12.06, Event Venue Category 2.

Pursuant to UDO Section 15.07 Use 3.05 Bed & Breakfast Category 2 is an allowed use in B3, General Business subject to additional requirements for that specific use as well as a 125' transitional zone; Use 2.07 Boarding House is an allowed use in B3, General Business subject to additional requirements for that specific use. Use 12.06, Event Venue Category 2 is a permitted use with a 125' transitional zone.

Since this project triggers transitional zones, the applicant is required to mitigate any potential negative effects for the development. See transitional zone discussion below.

Note: *If approved, the applicant will be required to submit detailed plans meeting all **Supplemental Standards**:*

Supplemental Standards: Use 3.05 is subject to the following supplemental standards of Subsection 15.20.02 Bed & Breakfast 2:

15.20.02 Bed and Breakfast Category 2

- A. Without limiting the applicability of other Ordinance requirements, a Bed and Breakfast Category 2 is subject to Article 25 Community Appearance Standards as well as Article 31 Landscape Standards.
- B. The Bed and Breakfast, Category 2 shall be occupied by the owner or managing agent during the time the Bed and Breakfast is open for business.
- C. No display of goods, products, services, or other advertising shall be visible from outside the building.
- D. Activities other than lodging, a morning meal, and an afternoon and/or evening refreshment may be provided.
- E. Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
- F. Parking:
 - 1. Off street parking shall be provided at one (1) space per guest room plus one (1) additional space for every two guest rooms. Dining areas open to the public must provide an additional 12 spaces for every 1000 square feet of dining area or part thereof.
 - 2. Parking shall be on the same lot on which the Bed and Breakfast establishment is located.
 - 3. Parking shall be located at the rear of the lot.

Staff Note: A lighting plan has not been submitted for review. Applicant's Response: The applicant has indicated that since the purchase of the property is contingent on obtaining a CUP, which is not guaranteed, the Applicant chooses to wait until approval before incurring the expense of a Photometric Plan.

Staff Note: The parking requirements have been met for six (6) rooms for a Bed & Breakfast Category 2 and with the addition of a larger carport, a total of 10 total rooms of Bed & Breakfast Category 2 and Boarding House would be allowed for the maximum parking required for both uses.

Staff Note: The parking lot is located to the side of the Lovill House Bed & Breakfast and not the rear. This parking lot is an existing use and has been since 1993.

*Note: If approved, the applicant will be required to submit detailed plans meeting all **Supplemental Standards**:*

Supplemental Standards: Use 2.07, Boarding House is subject to the following supplemental standards of Subsection 15.17:

Boarding House

- 15.17.01** A Boarding House shall provide adequate supervision in light of the number and needs of the residents and security concerns for the use.
- 15.17.02** Without limiting the applicability of other Ordinance requirements, a Boarding House is subject to Article 25 Community Appearance Standards as well as Article 31 Landscape Standards.

Compliance with UDO Article 7, Subsection 7.05.02 Development which requires compliance with UDO

All new development must comply with all UDO requirements. Compliance of existing development with the requirements of the UDO shall be triggered by the costs of the proposed new development as compared to the total development value (building & land) in accordance with the tiered system set up in UDO Section 7.05. Note: the proposed development triggers the first tier and will be required to bring the existing development into compliance with the following standards:

1. **Tier 1:** Repair, reconstruction, modification and alteration of a structure or development in which the cost is certified to exceed ten percent (10%) of the value of the development shall require compliance with the following, to the extent practicable:
 - a. Bicycle parking in accordance with Section 24.09.
 - b. Lighting in accordance with Section 25.05.

Staff note: Please see applicant's site plans for details on proposed compliance.

Transitional Zone: Pursuant to UDO Subsection 6.02.02, transitional zones are established for the purpose of creating special protections for residents of protected districts from the potential adverse impacts of certain potentially incompatible nearby development, based upon the legislative finding that the general requirements of this ordinance have not been sufficient to protect the residents of such protected districts from the adverse consequences of such developments and that the variety of circumstances which may need to be ameliorated in the face of such development are not amenable to a "one size fits all" approach.

Because this development is within 125' of a protected residential zoning district, the applicant will need to show the permit issuing authority (Town Council) that the planned development will effectively and to the greatest degree reasonably possible, mitigate the impacts of the proposed development upon the protected district, including but not limited to:

- a. Noise impacts;
- b. Light impacts; and
- c. Any other predictable negative effect, including but not limited to:
 - i. Negative visual effects;
 - ii. Negative traffic effects; and
 - iii. Negative health effects.

Because of the variable topography and characteristics of particular tracts of land within the town's zoning jurisdiction, the solutions incorporated into the development plan by the applicant must be tailored to specifically address the characteristics of the particular location in relation to the protected district. Only if an applicant can demonstrate by clear and convincing evidence that the normal requirements of the ordinance are themselves sufficient to protect the protected district may the application be approved without additional measures being incorporated into the site-specific development plan.

Note: The Council may deny the application if the requirements of this section are not met, or it may place reasonable conditions on the development, in addition to such conditions as may otherwise be reasonably imposed, specifically designed to mitigate the potential impacts identified herein.

ANALYSIS BY OTHER TOWN STAFF

Public Works (Utilities & Services Divisions):

Utilities Division: (Utility Services Technician)
Approved

Services Division: (Facilities Maintenance Superintendent)

The Applicant seems to understand that they have the option to add more containers or add more pickups per week if needed to provide adequate storage for solid waste.

Fire Department: (Fire Marshal)

Regarding the main house, to add the event venue capability to the permit exit signs and egress lights will need to be added to the building and a simple electrical permit will need to be obtained

If the barn stays as the current use, nothing new will be needed. Any future uses will require a building permit

If the cellar stays as current use, nothing new will be need to be added.

Cabin use as an event venue use will require permit exit signs and egress lights will need to be added to the building. A simple electrical permit will also need to be obtained.

If a tent is used on the grounds, applicant will need to contact the fire department for a permit and inspection.

Urban Design: A lighting plan has not been submitted for review. Applicant's Response: The applicant has indicated that since the purchase of the property is contingent on obtaining a CUP, which is not guaranteed, the Applicant chooses to wait until approval before incurring the expense of a Photometric Plan.

Stormwater, Grading and Erosion Control will be reviewed for compliance during the zoning permit application review.

UDO 31.10.02 requires a large deciduous tree to be within 60 feet of the vehicular surface area. There appears to be areas of the vehicular surface area not meeting this requirement. This requirement can be met during the zoning permit application submittal if the applicant chooses to address at that time.

The entire property is very well vegetated with existing vegetation. Landscape buffers as shown on the proposed plans appears to meet the buffering requirements of Article 31. As noted on Sheet C-4 in the proposed plans, additional plantings may be required in areas that are insufficient with existing vegetation. Staff recommends this as a condition and staff will review during the zoning permit review.

Regulatory Standards Review

- Intensity:** Development in the B3, General Business is required to meet a livability space requirement of .27. The applicant has indicated that they are in compliance with this requirement with a livability space of .88% (3 acres).
- Setbacks:** As proposed, the existing buildings meet the setback requirements as listed in UDO Article 16 District Standards.
- Building Height:** The maximum building height in the B3, General Business is 3 stories/45' (primary)-4 stories/56' (secondary). The applicant has indicated that the all buildings meet this requirement with two (2) stories.
- Appearance:** No new buildings elevations have been submitted for review which include the possible redevelopment of the existing barn so staff is unable to determine is the structure meets the requirements of UDO Article 25. Details meeting the requirements of the UDO shall be submitted during zoning compliance.
- Landscaping:** The entire property is very well vegetated with existing vegetation. Landscape buffers as shown on the proposed plans appears to meet the buffering requirements of Article 31. As noted on Sheet C-4 in the proposed plans, additional plantings may be required in areas that are insufficient with existing vegetation. Staff recommends this as a condition and staff will review during the zoning permit review.
- Parking:** **Bicycle Parking:** The applicant has demonstrated bringing the site into compliance with bicycle parking requirements. Details meeting the requirements of the UDO shall be submitted during zoning compliance.

Number of Units	Number of Spaces Required	Number of Spaces Provided
9 Total Units (Either B & B or Boarding House)	Short-Term , 1 per 20 beds= 1 Long-Term, 1 per 10 = 2 (Bed & Breakfast)	Short-Term = 2 Long-Term = 2 (Boarding House)
9 Total Units (Either B & B or Boarding House)	2 Short-Term 2 Long-Term	Short-Term = 2 Long-Term = 2 (B & B)
Event Venue	N/A	N/A

Automobile Parking: Pursuant to UDO Section 24.01, all developments in all zoning districts shall initially and continually provide a sufficient number of permanent off-street motor vehicle and bicycle parking spaces, in compliance with this Article, to accommodate the residents, employees, customers, visitors and others who may spend time at that development.

Number of Units	Minimum Number of Spaces Required	Number of Spaces Provided
9 (For B & B and Boarding House)	1.25 space/rentable room, plus 10 per 1000 ft ² of restaurant/lounge, plus 20 per 1000 ft ² per meeting/banquet room Total Required = 11.25	15 Total Spaces for the entire site

GFA/Outdoor Area ft ²	Minimum Number of Spaces Required	Number of Spaces Provided
Applicant has not provided the total area to be used as Event Venue Space	5 spaces/1000 ft ² GFA or outdoor area used for principal use	6, plus overflow parking in grass*

*Parking for the proposed uses is not allowed per UDO Subsection 24.03.11-24.03.13 to use the grass as required parking (please see below.)

- 24.03.11** Except for single- or two-family dwellings and excluding vehicle accommodation areas designed for two (2) vehicles or less, all vehicle accommodation areas shall be surfaced with a bituminous paving or NCDOT standard ABC stone. ABC stone may not be used on vehicle accommodation areas with slopes greater than five percent (5%).
- 24.03.12** Parking spaces in areas surfaced with bituminous paving shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced with NCDOT standard ABC stone shall be demarcated whenever practicable.
- 24.03.13** Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicular accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

CONFORMITY TO ADOPTED PLANS

COMPREHENSIVE PLAN UPDATE

1.1 Overall Objectives for the Boone Comprehensive Plan (p. 15):

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

Economic Development: Acknowledge the area's natural beauty, university, and medical center presence as the Town's greatest assets for economic development and jobs creation. Treat them accordingly.

Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.

Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

Environmental Quality: Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

Trees: Conserve existing trees and plant new trees, especially hardwoods.

Automobile Transportation: Maximize the efficiency of existing facilities, but not at the expense town and neighborhood character and livability. Build or expand transportation facilities and parking areas as needed, but with care. Work to reduce auto dependency, use, and congestion.

Bikeways: Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

Mass Transit: Enhance and support the mass transit system as an effective alternative to the congestion created by the individual automobile.

Pedestrian Movement: Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

Infrastructure: Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

Public Safety: Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

Energy and Waste: Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

University: Emphasize cooperative planning among the Town, County, and University.

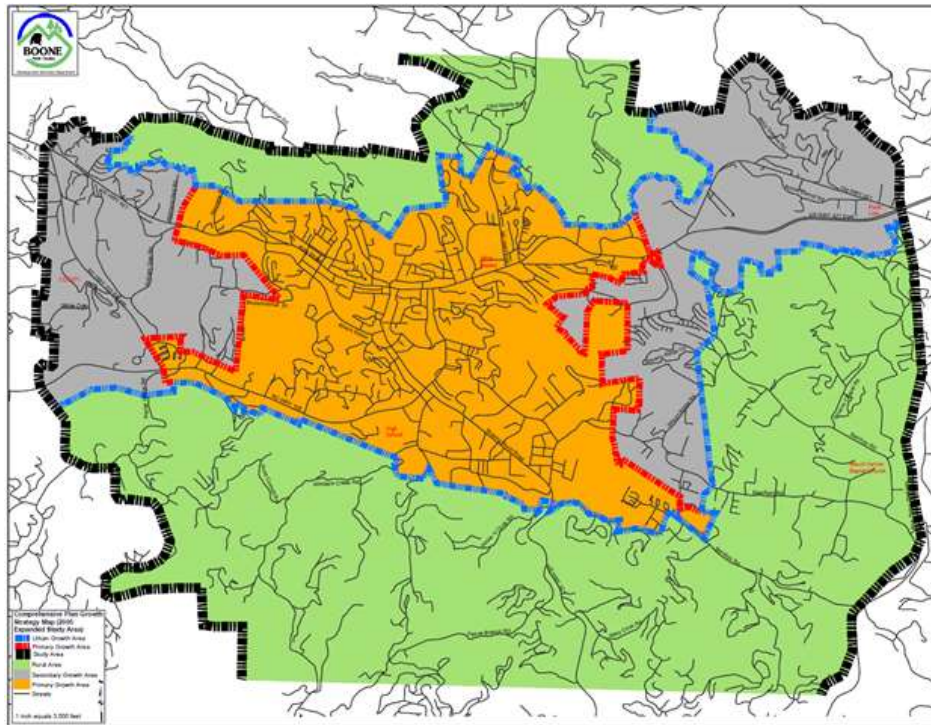
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

Recreation: Strive for additional public recreation facilities, especially sports fields, greenways and indoor recreation centers.

Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Public Involvement: Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

1.2 Growth Strategy Map (p. 17): The property is located within Primary Growth Area.



The property is located within the Primary Growth area. The Primary Growth Area is that portion of the urban growth area where urban level or facilities are already in place or can be provided most cost effectively. This is the area where near term growth and development is to be especially encouraged.

The Secondary Growth Area is that portion of the urban growth area where urban level services can be provided, but on a lower priority basis than in the primary growth area.

Additionally, for comparison, the Rural Area is that portion of the planning study area that is influenced by urban area growth forces, but within which urban level development should be strongly discouraged. Urban level services and associated development densities should not be planned for this area, except in case by case evaluations of major economic development projects.

Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation. See below:

2.1 Economy

...

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.
- B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- C. The Town shall encourage the development of a well-balanced tourism trade as a primary element of the area's economic future. Investments in services, facilities, and proper growth management shall be employed in furtherance of this objective.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
- G. The Town shall support the development of new business parks.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.
- K. Boone shall identify and provide services consistent with the needs of the area's growing retiree population.

...

...

2.2.2 Utilities

- A. Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited.
- B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.

- C. The Town shall consider the highest level of participation in the cost of providing water and sewer services within the Primary Growth Area with the next highest level of participation considered for the Secondary Growth Area.
- D. Water and sewer services shall not be extended to properties in the Rural Area (outside the Urban Growth Area). Exceptions to this policy may include the provision of services to other local governments, cooperative agreements on major economic development initiatives, and extensions needed to address imminent public health problems or related environmental hazards.
- E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.
- F. Area-wide cooperation and support shall be sought in bringing in alternative utility services to the Boone Area.
- G. Long range planning for a possible stormwater collection and treatment system shall be supported, including the development of financial and regulatory strategies.

...

2.3 THE COMMUNITY

- A. Urban type development within the Urban Growth Area shall meet appropriate Town standards.
- B. Properly planned, mixed use developments that promote efficient provision of public services shall be encouraged within the Urban Growth Area.
- C. Funding for outside agencies and organizations serving the citizens of Boone shall continue to receive support consistent with area service needs and Town budget constraints.
- D. Coordinated inter-governmental and university-town planning for urban area land use and development, transportation, utilities, recycling, environmental management, law enforcement, education, recreation, tourism and economic development shall be encouraged.

2.3.1 Community Appearance

- A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged.
- B. The significance of street trees in providing visual relief, summer cooling, improved air quality and livability shall be recognized through public policies and actions to encourage their planting and maintenance.
- C. The significance of major roadway entrances into Boone as measures of community image and quality shall be recognized through building placement, landscape, signage and other visual improvements. The Town, along with private property owners and developers, shall work to jointly improve the appearance and design of major street corridors.
- D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.
- E. The Town shall encourage public, private, and utility company efforts to place utility wires underground whenever feasible.

2.3.2 Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources

shall be encouraged.

- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

...

Conclusion

Please see the applicant's attached exhibits. Staff has reviewed the application as presented for compliance with UDO standards. If approved, Staff recommends the following conditions:

1. Where there is a conflict between the application information and the plans (dated December 9, 2020) the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project 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 any other applicable plans for review and approval necessary to issue Zoning and Building Permits.
4. Any other conditions agreed upon ...

Certificate of Mailing

I, Brenda Henson, certify that individual notices meeting the requirements of Article 9 of the Town of Boone UDO were placed in the mail (first class) on December 31, 2020.

/s/ Brenda Henson

Brenda Henson, Administrative Support Specialist

Certification of Posting

I, Darrell Pulliam, certify that the subject property was posted as required in Article 9, Subsection 9.03.03(B)(2) of the Town of Boone UDO on December 31, 2020.

/s/ Darrell Pulliam

Darrell Pulliam, Building Inspector

PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because *[describe elements of controlling land use plans and how the amendment is or is not consistent]*:

Second Motion and Vote: The Planning Commission recommends ☐approval OR ☐denial of the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and in the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the Commission recommends approval despite inconsistency with the comprehensive plan and/or any other applicable plan: The Planning Commission recommends approval of the amendment despite inconsistency with the comprehensive plan and/or other applicable adopted plans because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

TOWN COUNCIL ACTION

Per NCGS 160A-383, zoning regulations shall be made in accordance with a comprehensive plan. Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.

First motion and vote: The proposed amendment to the Town's zoning map ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that is applicable because *[describe elements of controlling land use plan(s) and how the amendment is or is not consistent]*:

Second Motion and Vote: The Town Council ☐approves OR ☐denies the proposed amendment to the Town's Zoning map and believes ☐approval OR ☐denial is reasonable and the public interest because *[Briefly explain why. Factors may include public health and safety, character of the area, relationship of uses, applicable plans, or balancing benefits and detriments]* :

Third Motion and Vote – Required only if the proposed amendment is approved despite inconsistency with the comprehensive plan and/or any other applicable adopted plan(s): The Town Council approves the amendment and declares that this approval also amends the Comprehensive Plan (and/or other approved and applicable plan) because *[provide explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment]*:

**1993 WINTER QUARTER PUBLIC HEARING
ZONING MAP AND TEXT AMENDMENTS
FEBRUARY 11, 1993**

The 1993 Winter Quarter Public Hearing on Zoning Map and Zoning Ordinance Text Amendments was called to order at 7:00 p.m. in the Town Council Chambers by Mayor Velma Burnley. Town Council members present were Saul Chase, Jim Dugger, Louise Miller, James Smith, and Ben Suttle. Planning Commissioners present were Ken Abbott, Carl Day, Garry Cooper, Graydon Eggers, Jr., Vice Chair Jan Lamm, Marc Millis, Max Schrum, and Paul Smith. Town Planning Staff members present were Jerry Haire, Director of Planning and Inspections, Wayne Herron, Senior Planner, Lu Ann Greene, Administrative Clerk.

The Council and Commission then heard one Zoning Map amendment request and three Zoning Text amendment requests.

ZONING MAP AMENDMENT:

Case 93-04 Tim and Lori Shahren request the rezoning of property located at 221 Old Bristol Road, containing 3 acres or less and being Watauga County Tax Parcel No. 2901-40-7729-000. The request is to reclassify the property from an R-2, Two-Family Residential/B-3, General Business, to a CUR-3, Conditional Use - Multiple-Family Residential, zoning district.

Mr. Herron gave an overview of the Staff Report and site plan. He noted that the property currently had multiple zoning districts. He also explained that the project is proposed in three phases. Mr. Herron informed the Council and Commission that due to the phased plan, the Community Appearance Committee had recommended approval of the plan with the condition that all landscaping which would not be affected by the construction be planted during the first phase of construction. He went on to say that Staff was also recommending approval with the following additional conditions:

1. Breakfast to be served only to those individuals who are renting or leasing rooms at the Inn.
2. All utility installation and connections are to be coordinated with the Department of Public Utilities.
3. Annexation of that portion of the property that lies outside current city limits must take place before utility extensions are made to second and third phases.
4. Coordinate refuse collection with the Department of Public Services.

Mayor Burnley recognized Mr. Tim Shahren. Mr. Shahren gave a brief summary of historical events which had taken place at the house and of how the house was obtained. He stated that he would like to preserve the house for its historical significance and he felt that renovating the house into a bed and breakfast was the most appropriate use for the property.

Mayor Burnley called for questions for Council or Commission. Commissioner Schrum asked if the renovations would exceed 50% of the property value. Mr. Herron replied that a building permit had been issued and that it was his understanding that the building code did not allow renovations which exceeded 50% of the property's value.

Councilmember Smith stated that he was impressed with the concept of the proposal.

There being no further discussion, Case 93-04 was closed at 7:13 p.m.

ZONING ORDINANCE TEXT AMENDMENTS:

Chair McRae recognized Mr. Dewey. Mr. Dewey addressed concerns for the common drive to lot number 3. He requested approval of an entrance without establishing a definite location at this time. He stated that a plan would be presented to the Commission at such time when a use for the lot was determined.

Chair McRae explained to Mr. Dewey and Mr. Dufour that the Commission was concerned with the protection of the public as well as that of the applicant. Chair McRae then allowed the applicants to review the conditions as recommended by the Planning Staff. The applicant offered no opposition to the conditions.

Commissioner Eggers moved that the findings had been met and moved to recommend approval of the Special Use Permit and Subdivision with the conditions as recommended by the Planning Staff. Commissioner Smith provided the second.

VOTE: Aye - All

Nay - None

ZONING MAP AMENDMENT:

Case 93-01 Tim and Lori Shahan request the rezoning of property located at 221 Old Bristol Road, containing 3 acres or less and being Watauga County Tax Parcel No. 2901-40-7729-000. The request is to reclassify the property from an R-2, Two-Family Residential/B-3, General Business, to a CUR-3, Conditional Use - Multiple-Family Residential, zoning district.

Mr. Herron stated that staff had no further comments than those presented at the Quarterly Public Hearing but would be glad to answer any questions.

Commissioner Abbott inquired if the property owners were planning to request annexation. Mr. Herron responded that it was his understanding that the property owners would request annexation so that utilities could be provided for the project.

Commissioner Abbott moved to recommend approval of the Shahan's request. Commissioner Baruth provided the second. Commissioner Eggers made a friendly amendment to the motion to include the conditions as suggested by the Planning Staff. The amendment was accepted.

VOTE: Aye - All

Nay - None

Case 93-03 Town of Boone Planning Staff requests an amendment to the Town of Boone Zoning Ordinance, Article 6, Section 6.2. The proposed amendment would clarify applicability of Article 6 when an addition is proposed for existing development. The Planning Commission also unanimously recommended approval of this amendment. On a motion by Councilmember Suttle, seconded by Councilmember Chase, Council approved this ordinance amendment.

VOTE: Aye-All
Nay-None

Case 93-04 Tim and Lori Shahan request the rezoning of property located at 221 Old Bristol Road, containing 3 acres or less and being Watauga County Tax Parcel No. 2901-40-7729-000. The request is to reclassify the property from an R-2, Two-Family Residential/B-3, General Business, to a CUR-3, Conditional Use - Multiple Family Residential zoning district. Planning Director Haire stated the Planning Commission unanimously recommended approval of this map amendment. On a motion by Councilmember Smith, seconded by Councilmember Dugger, Council approved this map amendment.

VOTE: Aye-All
Nay-None

DISCUSSION OF MAIN STREET PROGRAM APPLICATION

MSD Secretary Kay Edmisten presented proposals regarding the Main Street Program application. Councilmember Chase stated his only concern was the waiver of the principal and interest on the Vance Lot. Mr. Chase suggested waiving just the principal, since the Municipal Service District has a sound fund balance and the burden would be more equally shared between the Town and the MSD. Councilmember Chase made a motion to that effect, but later withdrew the motion. Ms. Edmisten explained that the fund balance is used as security on the Vance Lot loan and could be used as matching funds for any grants received. On a motion by Councilmember Miller, seconded by Councilmember Smith, Council adopted the following:

- Permission to expand the present MSD Committee by adding six members, bring the total membership to fifteen. Nominations of the new board members to be presented to the Boone Town Council for approval by April, 1993.
- Permission to merge with the Downtown Boone Business Association in forming a new organization to be known as the Downtown Boone Development Association. Membership and committee structure of the organization is to follow the proposed Organizational Chart. By-laws, budget, etc., for the organization is to be developed by the beginning of fiscal year 1993.
- Permission to apply for designation as a North Carolina Main Street city by submitting the appropriate application materials to the North Carolina Main Street Center by March 3, 1993. Financial commitment from the Town that will enable the downtown revitalization committee to complete budgeted downtown improvement projects (Waiver of Vance lot principal and interest payment for the next three fiscal years.), and passage of the following resolution supporting and authorizing application to the 1993 North Carolina Main Street Program.

RESOLUTION SUPPORTING AND AUTHORIZING AN APPLICATION TO THE 1993 NORTH CAROLINA MAIN STREET PROGRAM

WHEREAS, the Boone Town Council recognizes that the continued

Town of Boone

DEPARTMENT OF PLANNING AND INSPECTIONS
635B Blowing Rock Road
Boone, North Carolina 28607

Telephone
704/262-4540

Certified Mail # P 411 767 520

July 6, 1993

Tim and Lori Shahan
221 Old Bristol Road
Boone, NC 28607

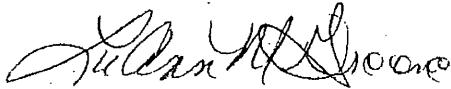
Dear Mr. and Mrs. Shahan:

Enclosed is a copy of the official decision passed down by the Boone Town Council with regards to your Conditional Use Permit request of February 11, 1993.

Please be advised that the Planning and Inspections Department has recorded this Conditional Use Permit with the Office of the Register of Deeds.

If you have any further questions on the above items, please contact Wayne Herron at 262-4540.

Sincerely,



Lu Ann M. Greene
Administrative Clerk

enclosures

LMG



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TOWN OF BOONE

BY: *Ameybrook* **CONDITIONAL USE PERMIT**
DEPUTY

GRANTED

WATAUGA COUNTY, NC

On **February 11, 1993** the Boone Town Council and Boone Area Planning Commission held a public hearing to consider an application for the Conditional Use Permit described below. A copy of the application is attached.

APPLICANT: Tim and Lori Shahan

REQUEST: From: R-2, Two Family Residential/B-3, General Business.
To: CUR-3, Conditional Use Multiple Family

PROPERTY LOCATION: 221 Old Bristol Road

PARCEL IDENTIFICATION NUMBER: 2901-40-7729-000

PROPOSED USE OF PROPERTY: Tourist Home (Bed & Breakfast)

PUBLIC HEARING DATE: February 11, 1993

SITE PLAN TITLE: Lovill House Inn

SITE PLAN DATE: January 1993

Following the public hearing, the Boone Area Planning Commission met on **February 15, 1993** to make a recommendation to the Boone Town Council on the request.

The Boone Town Council, on **February 25, 1993**, having heard all the evidence and arguments presented at the hearing and considering the recommendation of the Planning Commission, finds the request **IN COMPLIANCE** with all the applicable requirements of the Boone Zoning Ordinance, and therefore **ISSUE** this Conditional Use Permit to make use of the above described property for the purpose indicated, specifically as described on the above referenced site plan, subject to all applicable provisions of the Boone Zoning Ordinance and the following conditions:

1. Breakfast to be served only to those individuals who are renting or leasing rooms at the Inn.
2. All utility installation and connections are to be coordinated with the Department of Public Utilities.
3. Annexation of that portion of the property that lies outside current city limits must take place before utility extensions are made to second and third phases.
4. Coordinate refuse collection with the Department of Public Services.

LuAnn M. Greene
LuAnn M. Greene, Admin. Clerk

Velma Burnley
Velma Burnley, Mayor

NORTH CAROLINA, WATAUGA COUNTY

I, **Barbara S. Young**, a Notary Public of **Watauga County, North Carolina**, certify that **Lu Ann M. Greene**, Administrative Clerk in the Department of Planning and Inspections for the Town of Boone, personally appeared before me this day, and being duly sworn, stated that she knows the handwriting of **Velma Burnley**, and that the signature of **Velma Burnley** as a subscribing witness to the foregoing instrument is the signature of **Velma Burnley, Mayor, Town of Boone**, and acknowledged, on behalf of the **Town of Boone**, the due execution of the foregoing instrument.

Witness my hand and official seal, this the 14th day of

May, 1993.

(OFFICIAL SEAL)

Barbara S. Young
NOTARY PUBLIC

My Commission Expires **July 31, 1994**.

NORTH CAROLINA, WATAUGA COUNTY

The foregoing certificate Barbara S. Young, Watauga County, N.C.
Notary Public is certified to be correct. This instrument was
presented for registration and recorded in the office in Book
249, Page 592.

This 29th day of June, 1993, at 10:02
o'clock a.m.

Wanda C. Scott

REGISTER OF DEEDS

By: Amey Shook

Deputy

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Watauga County within 30 days after the date this order is served on you. See Section 15.4.5 of the Town of Boone Zoning Ordinance.

**PLANNING COMMISSION MEETING MINUTES
MONDAY, OCTOBER 23, 2020 AT 6:00 P.M.
IN TOWN COUNCIL CHAMBERS**

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chair, Eric Plaag-Vice Chair, John Tippet, Frank Veno, and Adam Zebzda

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Christy Turner-Senior Planner, Mike James-Senior Planner, Stacey Miller-Deputy Director of Planning & Inspections & Chief Building Inspector, and Brenda Henson-Board Secretary

OTHERS PRESENT: Allison Meade-Town Attorney

Call to Order

Chair Shay called the Planning Commission meeting to order at 6:01 p.m.

Adoption of Agenda

Vice Chair Plaag made a motion to adopt the agenda. The motion was seconded by Commission Member Tippet.

Vote: Aye - All
Nay - None

The motion passed.

Board Training

Ms. Meade referred to the section in the training materials on Meeting Procedures that stated:

“The business of the body or sub-committee shall be conducted in a manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the chair, and members of the committee, task force or advisory body shall be respectful to each other and shall avoid interrupting each other.”

Ms. Shook noted that Town Council recently approved changes to board terms and Planning Commission terms would be changed from four (4) year terms to three (3) year terms with no more than three (3) consecutive terms allowed to be served. She stated this would be retroactive and would take a year off of each Commission member’s term. Ms. Shook stated staff would send Commission members a letter this week letting them know when their terms would now expire.

Vice Chair Plaag stated he made notes and kept meeting packets and materials and asked if those were things he would be obligated to keep as a public record. Ms. Meade replied that not all records were required to be kept and would consider the items Vice Chair Plaag mentioned to be items for his personal use that would not have to be retained. However, if there was correspondence from constituents about cases, Commission members might need to retain that type of information. Ms. Meade suggested a ten (10) year retention period.

Ms. Meade addressed conflicts of interest and noted that Commission members should ask to be recused from voting on issues where they have a financial interest. She stated that any member of a Town board should not accept gifts and each member should be prepared for meetings.

Commission members watched a training module from the School of Government on conflicts of interest. Ms. Meade stated that the Planning Commission made legislative decisions and the key conflict of interest in legislative decisions was a personal financial impact. She noted that a Commission member who was recused

from a case was disqualified from voting but could participate in the discussion.

Vice Chair Plaag asked what would happen if a member would not recuse themselves. Ms. Meade stated that the Commission could vote to recuse the member if they felt there was a just cause.

Ms. Meade explained that Planning Commission members could talk with anyone about cases because they made legislative decisions and not quasi-judicial decisions. Vice Chair Plaag asked if those communications should be disclosed at the meeting. Ms. Meade felt it was an appropriate and positive type of transparency but it was not required.

Chair Shay asked if Planning Commission members could speak to Town Council members about cases. Ms. Meade replied that they could but she cautioned them against having enough members of either board present to constitute a quorum.

General Use Zoning Map Amendments were discussed. Ms. Meade stated that specific plans were not legally relevant to a general use rezoning. Ms. Shook noted that staff counseled applicants not to present a specific project when requesting a general use rezoning. She added that a general use rezoning was either approved or denied and had no conditions attached.

Commission members then watched a training module from the School of Government on spot zoning. Ms. Meade explained that spot zoning was zoning that made one property significantly different than surrounding properties. She noted that not all spot zoning was bad and could be harmonious with the surrounding area.

Factors to determine the validity of spot zoning:

1. Site of tract
2. Relationship of uses
3. Compatibility with Comp Plan & applicable plans
4. Balancing benefits & detriments

Statutory requirements to approve spot zoning:

1. Zoning in accordance with a Comp Plan
2. Planning board review & comment
3. Statement of consistency & reasonableness

Ms. Meade stated that as long as the Planning Commission and Town Council articulated a reasonable basis for their decision to approve spot zoning, that decision should be defensible.

Due to the time, Ms. Meade wished to continue the training session to a later date. Ms. Shook noted that the next Planning Commission meeting that would be available for training was on December 28, 2020. Ms. Meade stated she would not be able to attend on that date. Commission members agreed they would discuss an alternate meeting date for training at the Public Hearing/Planning Commission meeting on November 23.

Adjournment

Vice Chair Plaag made a motion to adjourn the meeting at 7:52 p.m. The motion was seconded by Commission Member Tippet.

Vote: Aye - All
Nay - None

The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary

**PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 23, 2020, 6:00 P.M.
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Rennie Brantz-Mayor, Loretta Clawson-Mayor Pro Tem, Sam Furgiuele, Dustin Hicks, Nancy LaPlaca and Connie Ulmer

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice Chair, Chris Behrend, John Tippet, Frank Venio, and Adam Zebzda

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Christy Turner-Senior Planner, and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: John Ward-Town Manager, Rick Miller-Public Works Director, and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Tucker Deal, John Hodges, Jeremy Fields, Dustin Walters, Tom McLaughlin, and Jeff Templeton

Call to Order

Mayor Brantz called the Town Council to order at 6:01 p.m. for the Public Hearing/Planning Commission meeting held via WebEx and Chair Shay called the Planning Commission to order at 6:02 p.m.

Approval of Meeting Minutes

Ms. Meade wished to make the following corrections to the September 28, 2020 Public Hearing minutes:

- Packet page 7, second to last paragraph should read; *Ms. Shook asked Ms. Meade to speak about in-town residency for board membership. Ms. Meade explained that State law required that Planning Commission and Community Appearance Commission members be Town residents and should be deemed resigned when they move out of town. State law does not place the same requirement on the Board of Adjustment. Council had indicated its view that Board of Adjustment members should be in-town residents, but there remained a question about whether they should be allowed to continue to serve after moving out of town if they were participating in an unfinished case. She noted the following options that were contained in the meeting packet for consideration:*
- Packet page 8, fourth from the last paragraph should read; *Vice Chair Plaag stated he would like for resignations to be effective immediately on Historic Preservation Commission. Ms. Meade replied that it was clear under State law that this needed to be the case for HPC and CAC but Council had flexibility with respect to the BOA.*

Council Member LaPlaca made a motion to approve the September 28, 2020 Public Hearing minutes as amended. The motion was seconded by Council Member Hicks.

Vote: Aye – All
Nay – None

The motion passed.

Vice Chair Plaag made a motion to approve the September 28, 2020 Public Hearing minutes as amended. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook reminded all participants to mute their microphone when they were not speaking. She then reviewed the general guidelines for each case presented at the Public Hearing. Ms. Shook reminded everyone that the cases to be heard tonight were general use zoning map amendments and should be considered on the basis of all allowed uses for the requested zoning district instead of any possible site specific plan.

Case PL04175-083120 – JAH, LLC – General Use Zoning Map Amendment

JAH, LLC has initiated the re-zoning of a .39-acre parcel (Watauga County PIN 2900-69-5102-000) owned by JAH, LLC from Conditional District B3 to R1S, Small Home Residential and a 2,997 square foot portion of a parcel (2910-69-5102-000) zoned B3, General Business to R1S, Small Home Residential. The property is located on Delmar Street.

Ms. Turner presented the request as it was outlined in the meeting packet. She explained that the .39-acre parcel was part of a Conditional District that was approved in 2011 with a 5 year vesting for a phased project and that the vesting period had expired. Ms. Turner noted an error in the meeting packet that indicated there would be a 14 ft. interior setback for this property when it should be a 7 ft. interior setback.

Ms. Meade asked if packet pages 29 and 30 were irrelevant due to the fact that the original vesting period had expired. Ms. Turner replied that pages 29 and 30 were provided in the meeting packet as a history of the property. Ms. Shook added that Phase 1 of the original approval was completed but Phase 2 that contained the commercial component of the project was never completed and the vesting for that phase had expired.

Mr. Ward shared pictures of the surrounding area in an effort to acclimate members.

There was some question about this request containing two lots and Ms. Shook explained that, if the request were to be approved, the .39-acre parcel and the 2,997 square foot portion of the other parcel would be combined into one parcel.

Chair Shay asked if any proposed development was predicated on the sale of the 2,997 square foot portion of property. Ms. Shook responded that some form of development could still occur on the .39-acre parcel but suggested asking the applicant the question about the sale of a portion of the other property.

Council Member Furguele asked how many homes could fit on the property. Ms. Turner replied that 4 homes could fit on the property with the additional square footage from the other property.

Tucker Deal, attorney representing JAH, LLC, directed members to the authorization from Kyle Sigmon contained in the meeting packet, noting Mr. Sigmon was the owner of the property where JAH was requesting a 2,997 square foot portion. Mr. Deal stated that the document authorized JAH, LLC to request the rezoning and, if approved, agreed to the sale of the portion of the property requested. Mr. Deal stated this rezoning would essentially return property from a B3 zoning to a residential zoning, expand the supply of single family homes, and provide a reasonable transition from a B3 zoning district to an R2 zoning district. He felt that the requested zoning classification met the goals of the Comprehensive Plan by addressing growth factors, reducing commute times, having access to the greenway, and being located in a primary growth area.

Vice Chair Plaag noted that the 2011 agreement contemplated that the commercial portion of the Delmar Bungalows subdivision would be low density commercial on the bottom with residential above with 3,867 square feet of green space to be located between the B3 and R2 to add buffering and recreation area. He asked, if approved, what would happen to that common area. Mr. Deal stated that would have to be worked out between all of the property owners of the various lots.

Ms. Meade asked if the livability space requirements for the R2 would still be enforced even though the B3 portion was never built. Ms. Shook replied that the R2 and B3 portions were standalone and explained

that the R2 properties had open space on what appeared to be a vacant lot at the back of the R2 properties. She noted that the remaining property should be able to meet its own livability space requirements.

Vice Chair Plaag asked if sufficient livability space would be provided if 4 units were developed on the subject property. Ms. Shook replied that she could not answer that question without having specific dimensions for each lot. Vice Chair Plaag asked if it was correct that livability space requirements for R1S would have to be met if this request was approved. Ms. Shook stated that was correct.

With no one from the public to speak and no further questions or comments, Mayor Brantz closed the public hearing for this case at 6:38 p.m.

Case PL04269-100820 Pegasus Capital Partners – General Use Zoning Map Amendment

Pegasus Capital Partners, LLC has initiated the re-zoning of a .193-acre portion of parcel (Watauga County PIN 2910-32-6612-000) owned by Pegasus Capital Partners from General Use R3, Multi-family residential to B3, General Business (this is a split-zoned parcel). The property is located at 220 Meadowview Drive.

Ms. Turner presented the request as it was outlined in the meeting packet.

Some errors were noted in the Zoning & Use of Adjacent Properties table on packet page 71.

Dustin Walters, one of the owners of the subject property, noted that the property was split zoned R3 and B3. He stated there was a house on the property that was not livable and there was a mature oak tree that they planned to keep.

Mr. Ward shared pictures of the surrounding area in an effort to acclimate members.

Council Member Furgiuele asked if the general rezoning would still cover tree preservation. Ms. Shook replied that it would but noted that historic trees may be cut if they are located within the building footprint and that it would depend on the applicant's future site plan on whether the tree would be preserved or not.

Mayor Brantz asked if there had been any response from the neighbors. Ms. Shook replied that there was one neighbor signed up to speak. Ms. Turner added that she had received no contact from other neighbors.

Mr. Ward stated he checked with Police and Fire regarding flooding on the property and noted that both entities felt a business use would eliminate a residential zoned area that was, until recently, occupied and was subject to some rescue efforts in the past. If the property were rezoned to B3 and became a car lot as opposed to residential use, Police and Fire preferred a non-residential area that did not have occupancy at night for safety reasons.

Council Member Furgiuele asked if the property to the south of the subject property was multi-family. Ms. Shook replied that it was. Council Member Furgiuele asked if it was the complex that was condemned due to flooding. Ms. Shook stated that was correct, noting that during a recent flood event portions of one or two apartment buildings at Bavarian Village were condemned.

Mr. Walters stated they had installed a Type C buffer and were aware that the property was located in a flood zone.

Ms. Shook reminded everyone that this was a general use zoning request and site specific plans could not be considered.

Vice Chair Plaag asked if the structure(s) on the property would have to be brought into compliance with flood requirements. Ms. Shook replied that commercial properties have to flood proof if they made

significant improvements to a structure. If they construct a new building, the building has to be elevated 2 feet above base flood elevation.

Council Member Furgiuele asked if any uses in the B3 General Business zoning district would trigger a transitional zone which would then require a special use permit. Ms. Turner replied that the property did not appear to trigger transitional zone requirements.

At 6:58 p.m. Mayor Brantz invited public comment.

Jeff Templeton, business owner at 170 Meadowview Drive, stated he was not in favor of Friendship Honda expanding their business because they had not shown to be a good neighbor. He explained that they parked their cars in places that they shouldn't, car haulers blocked the street and his parking lot, and he heard car horns all hours of the day because employees hit the panic button to find the car they were looking for. Mr. Templeton shared pictures of various parking infractions and expressed his frustration.

Jeremy Fields, engineer for the proposed project, stated there was floodway on the property and they had stayed out of that area with their current project. He stated there was flood zone area on the remainder of the property with a Zone X on the site as well. Mr. Fields stated the Zone X was where the house was currently located and was the most developable portion of the property. He noted that this was the portion of the property they were looking to rezone.

Council Member Furgiuele stated that the Transportation Committee had cited Meadowview Drive as having pedestrian issues and asked if rezoning this property would have any effect on those issues. Ms. Shook replied that B3 zoning districts could also allow multi-family so she could not really say whether or not pedestrian issues would improve under a general use rezoning to B3.

Vice Chair Plaag referred to the "clean hands principle" and asked if violations on other properties could be considered as relevant to this request. Ms. Meade stated she would have to research the issue to be sure but believed the answer was 'no.' Ms. Shook added that Mr. Templeton had contacted Planning & Inspections regarding his concerns, however some were not controlled by Planning & Inspections and were civil issues.

Mr. Templeton suggested that in the future car dealerships should be required to have ample room for loading and unloading of car carriers. Vice Chair Plaag felt that was a fair suggestion and asked if that could be a requirement added to the UDO for that particular use. Ms. Shook replied that it could. She also noted that some dealerships have the necessary room but they park their cars in a way that prohibits the use of the space. Council Member Ulmer also expressed concern about car haulers blocking streets.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:12 p.m.

Case PL04303-102920 Tom and Joan McLaughlin – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of approximately 0.069 acres of property located off of the end of VFW Drive (portion of Watauga County PIN 2910-44-8938-000) owned by Thomas M and Joan E McLaughlin to R1 Single-Family Residential, Viewshed Protection Overlay, and Neighborhood Conservation District in conjunction with the property owner's request for annexation of the property.

Ms. Shook presented the case as it was outlined in the meeting packet. She noted this property was zoned RA when it was located in the ETJ. Ms. Shook stated the property owner would be responsible for making utility connections at the end of Town maintenance at VFW Drive as well as bring all sanitation, recycling, and other special collections to the public right-of-way at the end of VFW Drive.

Vice Chair Plaag noted the cemetery that was near the subject property and wanted to make sure the utility installation would not disrupt the cemetery. Ms. Shook replied that they would use the designated right-of-way for utility installation.

Mayor Pro Tem Clawson stated she did not know why the property was zoned RA when it was located in the ETJ. Ms. Shook replied that the property was zoned RA when she started working for the Town and she was unsure of the reasoning for RA zoning of the property.

Commission Member Zebzda asked if this was two lots. Ms. Shook explained it was one lot that was bisected by the corporate limits.

Mayor Brantz asked if there had been any concerns raised by the neighbors. Ms. Shook replied that she had not been contacted by any of the neighbors.

Vice Chair Plaag stated he looked on GIS at the cemetery and found it had no property owner on record. He asked if the property could be annexed into the Town. Ms. Shook stated she could put it on the list of things to do.

Council Member Ulmer asked if the Town would be notifying the neighbors of this rezoning request. Ms. Shook stated that neighbors had already been notified by mail and the property was posted with a zoning change sign.

With no one from the public to speak and no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:24 p.m.

Adjournment of Town Council

Mayor Pro Tem Clawson made a motion for Town Council to adjourn at 7:25 p.m. The motion was seconded by Council Member LaPlaca.

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

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Chair Shay called a break in the Planning Commission meeting from 7:25 p.m. until 7:33 p.m.

Approval of Meeting Minutes

Vice Chair Plaag made a motion to approve the September 28, 2020 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

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

Case PL04175-083120 – JAH, LLC – General Use Zoning Map Amendment

JAH, LLC has initiated the re-zoning of a .39-acre parcel (Watauga County PIN 2900-69-5102-000) owned by JAH, LLC from Conditional District B3 to R1S, Small Home Residential and a 2,997 square foot portion of a parcel (2910-69-5102-000) zoned B3, General Business to R1S, Small Home Residential. The property is located on Delmar Street.

Vice Chair Plaag stated he was excited about this possible use and preferred it to the original CD approval. He felt small home residential was a good proposal for this location.

Commission Member Tippettt agreed with Vice Chair Plaag stating R1S was a good transition for the area.

Commission Member Veno stated he visited the site and thought the lumber yard across the street was not very pretty to look at but agreed that maybe this would be a good location to try an R1S district.

Chair Shay felt this was a good location for R1S.

First Motion and Vote: Vice Chair Plaag made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.

Comprehensive Plan Policy 2.2.2 Utilities

E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.

Comprehensive Plan Policy 2.3.2 Community Character

E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Commission Member Tippettt. Commission Member Zebzda wished to amend the motion to add:

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit systems; the availability of public services and facilities; and compatibility with adjacent land uses.

- G. Compact, full-service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.

Vice Chair Plaag stated he was hesitant to include 2.3.3(E) but could accept 2.3.3(G). Commission Member Tippet accepted the amendment to add 2.3.3(G).

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice Chair Plaag made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because the proposed zoning classification serves as an excellent example of a buffer between a low density residential neighborhood and a high intensity business zoning designation. Furthermore, it serves a known and urgent need for smaller sized, medium density housing in the Town of Boone in an area where that type of housing would be attractive. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL04269-100820 Pegasus Capital Partners – General Use Zoning Map Amendment

Pegasus Capital Partners, LLC has initiated the re-zoning of a .193-acre portion of parcel (Watauga County PIN 2910-32-6612-000) owned by Pegasus Capital Partners from General Use R3, Multi-family residential to B3, General Business (this is a split-zoned parcel). The property is located at 220 Meadowview Drive.

Chair Shay stated she used to live on Meadowview Drive and it was a busy and treacherous street. She asked Vice Chair Plaag for an explanation of the clean hands principle. Vice Chair Plaag stated what it meant was if an applicant had violations or potential violations on other properties in town, those violations should be corrected before considering another request or case, meaning they should have clean hands when making new requests.

Mr. Ward stated that if this request was approved it would hopefully rectify some of Friendship Honda's current parking issues.

Vice Chair Plaag stated that the applicant had made several flood related improvements to the property. Ms. Shook stated those improvements were actually stormwater improvements that were required by the UDO under their current permit for the property.

Commission Member Veno stated he has having a hard time filtering out Mr. Templeton's complaints.

Ms. Shook stated the property had been approved for vehicle sales and service with an office, not for vehicle storage. She noted there were still flood risks for vehicles in the flood area, although those risks were obviously different than flood risks for homes in the flood area. Ms. Shook reminded members to consider all possible uses there could be when going from R3 to B3.

Mr. Ward felt it would be good to look at the issue of delivery of vehicles town-wide.

Ms. Shook noted that the majority of the subject property was located in the AE flood zone and the property would have to meet all of the standards for development or redevelopment whether it was in the R3 or B3.

Commission Member Zebzda stated he was inclined to approve the request but wanted to encourage more conversation between property owners as a way to be good neighbors.

First Motion and Vote: Commission Member Tippet made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

- B. New and expanding industries and businesses shall be encouraged which: 1) diversity the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.

The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because the potential commercial development standards would assist in alleviating future flood event damages due to additional flood requirements and the development is compatible with most of the surrounding business uses. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL04303-102920 Tom and Joan McLaughlin – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of approximately 0.069 acres of property located off of the end of VFW Drive (portion of Watauga County PIN 2910-44-8938-000) owned by Thomas M and Joan E McLaughlin to R1 Single-Family Residential, Viewshed Protection Overlay, and Neighborhood Conservation District in conjunction with the property owner's request for annexation of the property.

First Motion and Vote: Commission Member Zebzda made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Vice Chair Plaag. Vice Chair Plaag wished to amend the motion to add:

Comprehensive Plan Policy 2.3.2 Community Character

- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and

supportive, whenever possible, of Boone's original community character as a High Country small town.

Commission Member Zebzda accepted the amendment.

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

Second Motion and Vote: Commission Member Zebzda made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because zoning the property R1 maintains consistency with the area and protects the neighborhood. The motion was seconded by Commission Member Behrend.

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

Other Matters

Chair Shay asked about the December Planning Commission meeting and it was decided to cancel the December 28, 2020 Planning Commission meeting.

Ms. Shook informed Commission members that there would be 2 Downtown related projects coming to them in the new year.

Ms. Shook also wanted to encourage any Planning Commission member who might be interested in serving on the Board of Adjustment to speak with her about transitioning off of the Planning Commission to become a member of the BOA.

Vice Chair Plaag added that there were other Town boards in need of volunteers to serve and also wanted to encourage people to apply for a position on the Historic Preservation Commission.

Adjournment of Planning Commission

Commission Member Veno made a motion to adjourn the meeting at 8:31 p.m. The motion was seconded by Commission Member Tippet.

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

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary