

**Town of Boone
Public Hearing
6:00 PM, Jan. 27, 2020
Council Chambers, 1500 Blowing Rock Road**

The appearance times contained within this agenda are approximate and are subject to change at any time. No agenda item will be started after 10:30 p.m. Remaining items will be addressed at a continuation meeting or will be tabled until the next available meeting.

General Guidelines for Each Case Presented at the Public Hearing

1. Presentation of Case
2. Questions by Town Council & Planning Commission
3. Public Comment
4. Discussion/Questions by Town Council & Planning Commission
5. Public Hearing for Case is Closed

I. Call to Order of Town Council

II. Call to Order of Planning Commission

III. Approval of Meeting Minutes (Town Council and Planning Commission)

1. November 25, 2019 Public Hearing Meeting Minutes (Packet Page 3)

PUBLIC HEARING

IV. Cases PL03452-123119 & PL03453-123119 Taylor, Christopher - General Use Zoning Map Amendment

1. Case PL03452-12319 Application Information (Packet Page 21)
2. Case PL03452-12319 Deeds (Packet Page 23)
3. Case PL03452-12319 Staff Report (Packet Page 27)

V. Case PL03449-123119 Non-substantive Errors - UDO Text Amendment

Case PL03474-011020 Application Information (Packet Page 36)

Case PL03449-123119 Correction of Non-substantive Errors (Packet Page 37)

VI. Adjournment of Town Council

PLANNING COMMISSION

VII. Approval of Meeting Minutes

1. May 20, 2019 Public Hearing/Planning Commission Meeting Minutes (Packet Page 41)
2. August 26, 2019 Public Hearing/Planning Commission Meeting Minutes (Packet Page 54)
3. December 9, 2019 Planning Commission Meeting Minutes (Packet Page 68)

Planning Commission Consideration of Cases Heard at Public Hearing

VIII. Election of Officers

IX. Other Matters

X. Adjournment of Planning Commission

**PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 25, 2019, 6:00 P.M.
TOWN COUNCIL CHAMBERS**

COUNCIL MEMBERS: Rennie Brantz-Mayor, Loretta Clawson-Mayor Pro-Tem, Marshall Ashcraft, Sam Furguele, Connie Ulmer, and Lynne Mason

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

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

OTHERS PRESENT: John Ward-Town Manager, Allison Meade-Town Attorney and Rick Miller-Director of Public Works

CALL TO ORDER

Mayor Brantz called the Town Council to order at 6:00 p.m.

Chair Shay called the Planning Commission to order at 6:00 p.m.

APPROVAL OF MEETING MINUTES

Council Member Furguele made a motion to approve the September 23, 2019 Planning Commission meeting minutes as amended, seconded by Mayor-Pro Tem Clawson.

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

Planning Commission Member Venio made a motion to approve the September 23, 2019 Planning Commission meeting minutes as amended, seconded by Commission Member Behrend.

**Vote: Aye – (Behrend, Hedrick, Plaag, Shay, Venio)
Nay – None
Abstain – 1 (Tippet)
The motion passed.**

PUBLIC HEARING

CASE PL03271-110419 HACKETT PROPERTIES INC – GENERAL USE ZONING MAP AMENDMENT

Ms. Christy Turner, Senior Planner presented this case as outlined in the meeting packet. She explained that the Town of Boone had initiated the zoning of a 10.813-acre portion (see Exhibit 1) for a property owned by Hackett Properties, Inc. to R1, Single Family Residential or R1-A, Single Family Residential with Accessory Apartment. Zoning is to coincide with the property owner's voluntary annexation of the property. The property is contiguous to the Corporate Limits of the Town of Boone located off Park Street and Junaluska Road. The subject annexation area is a 10.813-acre tract, and is shown in Exhibit 1 (permanently on file).

Ms. Turner referred to pages 40 and 41 of the meeting packet that showed a map and survey of the said property. Mr. Turner opened the floor for questions. Council Member Furguele asked if the property was annexed would there be two separate parcels. Ms. Turner said the applicant has submitted an application to recombine the two parcels. Ms. Turner said the applicant was waiting to review said application to see how the parcels would be zoned, when it was annexed. Council Member Furguele

asked if this would create a split-zone property. Council Member Furgiuele confirmed that the lower part of the property currently in Town limits is currently zoned R4 with portions zoned R1 and R1A.

Member Furgiuele asked if the parcels were annexed and if the upper portion of the property was zoned R1 and R1A would it allow an increase in density in the lower portion of the development which is zoned R4. He asked would this in any way prevent them from meeting intensity rules. Ms. Turner said the land use intensities have to belong to the appropriate zoning districts. Member Furgiuele confirmed that the R1 property would have to be developed with R1 densities and the lower property would be unaffected and whatever can be done now could still be done but not more. Ms. Turner agreed.

Member Furgiuele asked Ms. Turner if Park Street is adequate for the low-density residential development that is proposed for the upper property. Ms. Turner said that in the past the Fire Department has noted some concerns about the grade of Park Street. Member Furgiuele referred to a letter written to the Town Council dated December 17, 2019 from Mr. Lloyd Scott and Mrs. Cheryl Scott (permanently on file). Council Member Furgiuele noted that in the letter Mr. Scott said that his moving truck was physically unable to negotiate the road up to his house. Ms. Turner said the width of the road was not a concern mentioned by the Fire Department.

Member Furgiuele asked Ms. Turner about the removing of trees that had been mentioned in the letter from the Scott's. Ms. Turner said they were allowed to cut some brush and some small saplings for access into the property. She also noted that there was a permit issued for the demolition of the house located on the property.

Member Furgiuele asked if there were other ways to access Park Street. Ms. Turner said there is a small access off of Junaluska Road but it is not adequate for road access at this time. Council Member Furgiuele asked how is the road not adequate for road access. He said that previously it was said that the area was being used for utilities. Ms. Turner said the applicant had indicated this information. Council Member Furgiuele asked the dimensions of the access road.

Council Member Furgiuele asked how is the parcel characterized in the Growth Strategy Map. Ms. Turner said it was on the edge of the Rural Growth Area. Council Member Furgiuele asked when the Growth Strategy Map was adopted. Ms. Turner said in 2006.

Council Member Mason confirmed that the parcel connected to Junaluska Road is already in the Town Limits. Ms. Turner agreed.

Ms. Meade asked Ms. Turner to clarify that in the case the applicant is asking for voluntary annexation even though the Town has initiated the request for a zoning change. Ms. Turner agreed.

Ms. Meade asked Ms. Turner to explained why the applicant is asking for voluntary annexation. Ms. Turner said for purposes of water and sewer.

Council Member Furgiuele asked if the said parcel is in the secondary pressure zone. Ms. Turner said parts of the parcel are in the secondary pressure zone.

Ms. Meade asked about the intensity of development of the R4 versus the R1, she said would the R4 be reviewed for intensity separately even if the two parcels were combined. Ms. Jane Shook, Director of Planning and Inspections said the two districts would be looked at separately if combined except for Viewshed which would apply to the property as a whole. Ms. Turner pointed out the Viewshed on the map on page 24 of the packet and noted that this is a presumed Viewshed because the Staff has not looked at on site.

Planning Commission Vice-Chair Plaag asked Ms. Turner if the applicant could use the proposed R1 annexation area once the existing R4 area to calculate that percentage of permitted land disturbance within the Viewshed. Ms. Turner said this is correct.

Council Member Furguele asked what the limitations on land disturbance in the Viewshed are. Ms. Shook explained that the rules are three-quarters of an acre for the first two acres and an additional 30 percent of the remaining acreage.

Ms. Shook said a site-specific development plan would be needed to determine whether a development was within the Viewshed.

Planning Commission Vice-Chair Plaag asked about the map on page 40 of the meeting packet. He asked Ms. Turner if the information in the top-right corner of the map was accurate. Ms. Turner noted that this map was submitted by the applicant. He further noted that from this map, it looks like a sizeable amount of land potentially coming into the Town Limits and a relatively small portion of the lower parcel remaining in the County. Ms. Turner agreed. He asked if the Staff had received any community input from the residents of Junaluska Road in regards to this proposed change. Ms. Turner said that she has heard from several residents about this proposal. He asked Ms. Turner to summarize the information that she had received from the Junaluska residents. Ms. Turner said that she had received one phone call from a person from the community and she said they were not very concerned about the proposed development. Ms. Turner said that she had heard from a lot of residents from the Park Street area.

Planning Commission Vice-Chair Plaag asked if the street would reach out to Junaluska Road would the width of this street be sufficient to serve the R4 area. Ms. Turner said the road would have to be at least 18 feet with curb and gutter.

Council Member Ashcraft asked if the Fire Department take into account the zoning of the R1 and R1A. Ms. Turner said the review of the Fire Department is on the annexation and not the rezoning. Ms. Shook pointed out that the Director of Public Works is present at the meeting to answer any questions.

Member Furguele asked if have been reports of accidents in areas in the Town that are similar to Park Street and Junaluska Street. Ms. Shook said there has not been any accidents that have been reported to the Planning and Inspections Department.

Mayor Pro-Tem Clawson asked about the drainage issues on the proposed parcels. Ms. Turner explained that for single-family areas, rain barrels, rain gardens or swales could be used for the drainage issues.

Planning Commission Chair Plaag asked in regards to the existing R4 parcel, what is the water and sewer allocation to this parcel and will it serve the maximum density that could be developed on that existing parcel. Mr. Rick Miller, Director of Public Works said the water would have to come from the secondary pressure zone. He said the water line on Park Street is six inches and the sewer lines are six to eight inches. Mr. Miller confirmed that the R1 parcel would also be in the secondary pressure zone area. Planning Commission Chair Plaag asked how would a developer obtain water from the secondary pressure zone. Mr. Miller said the water could be obtained from Junaluska Road tank or the Charles & Gladys Street tank. Mr. Miller also noted that an extension for water is necessary for the parcel already in the Town limits and it comes from the secondary pressure zone. Mr. Miller further explained that some of the requirements would not have to be met because the tanks and pump stations are already in place.

Mr. John Ward, Town Manager said the connection from Junaluska Road is approximately 30 feet in width. Council Member Furguele asked if the 30 feet would serve a major subdivision. Ms. Shook said the minimum private street requires a 30 feet right of way. She explained that there are no limitations on what a private street can serve.

Council Member Furguele asked if there are any other potential ways to access Park Street without easements. Mr. Miller said there could be an access point from the private road to the water tank but the Town would have to grant an easement. Mr. Miller said it is just a gravel path about 10 to 12 feet wide.

Planning Commission Chair Plaag asked if sidewalks could be installed from Junaluska Road to the proposed development. Ms. Turner said yes.

Planning Commission Vice-Chair Plaag asked about the implications of the land disturbance of running lines and road over or along the ridgeline. Ms. Turner said the red on the map indicates greater than 50 percent slope which would go over the 10 percent that is allowed. Mr. Miller noted that once a site-specific development plan was submitted, the burden would fall on the developer to demonstrate how they would run the lines and road along or over the ridgeline.

Planning Commission Member Veno asked if the reason that the developer wants to annex the property is for development. Ms. Turner said that a development plan has not been submitted yet. Ms. Turner said the zoning is being discussed as a result of the annexation application that has been submitted for this case. He asked about the concern of Mr. Lloyd and Cheryl Scott had regarding the development. Ms. Turner said she has spoken to them and explained the development possibilities for this zoning district and their concern was for the R4 zoning. She further explained that some of the uses have transitional zones involved that would need further board approval, if triggered.

Council Member Furguele asked if the parcel that is in the County remains in the County what could occur on the property. Ms. Turner said the County would review it for well and septic requirements. She said there is no zoning in the County other than lot size. Ms. Shook said the County has other requirements but was not sure as to what they were.

Planning Commission Vice-Chair Plaag explained that in this hearing the zoning is being discussed. He asked at what future meeting the annexation would be considered. Ms. Turner said, if the zoning is approved, the annexation would be the next thing discussed in the process at the December Council meeting. Ms. Meade explained that the Council has proceeded to consider both the zoning and the annexation review simultaneously.

Planning Commission Chair Shay confirmed that the actually building on the parcels is not being considered in this hearing. Ms. Turner said this hearing is only considering the zoning of the property.

Council Member Mason asked about the slope of the property. Ms. Shook noted that the Town has mapped steep slopes which are slopes between 30-50% and very steep slopes which are slopes greater than 50%. Discussion ensued as to the requirements for geologists and geotechnical engineers when there was disturbance of a steep or very steep slope.

The applicant, Mr. Dino Hackett of Hackett Properties, Inc. came to the podium. He said he wanted to address the questions that he has heard at this hearing and from the October 17, 2019 Town Council meeting.

Mr. Hackett said that he purchased the Junaluska Road property exclusively to be able to make the water connection. He said that he does not have plans to put a road in and will not put a road in along as he owns the property.

Mr. Hackett said the small trees were removed as a result of a demolition permit that he applied for to take down an old house because he had received numerous complaints regarding vandalism and squatters being there. He said he was not able to get heavy equipment to remove the house without removing some of the small trees.

Mr. Hackett said that in all of his conversations with the Fire Department, he was never told that Park Street was a problem for the Fire Department to get to his property. He said he was told that the 10 percent is the maximum grade and he would need approval for over 10 percent.

Mr. Hackett gave a brief history of his properties. He said in 2010 he purchased 20 plus or minus acres at 232 Park Street which was zoned for 50 units for town homes. He said that 10 plus or minus acres was

inside the Town limits, he said the other 10 plus or minus acres which is shown on the map with the unusual border was outside the Town limits and dedicated green space for the town homes. He said the green space is located in the previous Extra-Territorial Jurisdiction (ETJ). He said in 2012, he purchased an additional 44 acres that goes up to almost where the fire tower used to be. He explained that around 2017 the ETJ was discontinued but he was not told about this change to his property. In 2018, he revisited the possible development of the property. He said that he assumed that the green space gave him the density that he needed for the 10 acres and below. Mr. Hackett said he could get utilities because his property touches the tank on Queen Street. He said he hired a civil engineer to create a map and a description of approximately ten acres to be annexed into the Town limits. He said he made the change on the map to make a more square-like boundary. He said this is the reason he is at this hearing is to bring his parcels into a continuous 20-acre tract of land. He said he wanted to know why the green space on his property was impacted by the ETJ law change for purposes of development. Mr. Hackett said he has made three sets of civil drawings, two sets of architectural drawings, two traffic studies, two noise studies, two light intrusions studies, and he has paid for water allocation and attorney fees on top of his initial investment for the property.

Mr. Hackett said that on July 27, 2011 he met with the neighbors on Park Street and there was no opposition of what he was proposing to do on his property with the zoning designations listed. He said he feels confident that he can develop a successful residential neighborhood that will help satisfy the need for affordable and quality housing.

Mr. Hackett said he did not want to see his property reduced zoned to R1 and he is not interested in the annexation part being zoned R1. He said the annexation was meant to encompass the extra land that is above his property and he would be willing for the annexation to encompass a smaller area. He referred to the ridgeline map and stated that he has no intentions of building outside of the current field as shown on the map.

Council Member Furguele confirmed with Mr. Hackett that he has new architectural plans. Mr. Hackett said he does have a preliminary site plan. Council Member Furguele asked Mr. Hackett if he had considered conditional district zoning. Mr. Hackett said yes this is the process that he is trying to do. Council Member Furguele explained that the case before them is for general use zoning.

Mr. Hackett explained that he is confused and believes that he has been misinformed regarding the use of his R4 parcel. Mr. Hackett noted that his previous Special Use Permit approval had expired. Ms. Meade explained that Mr. Hackett is now having to start from the beginning. She further explained that the case being reviewed at this time is for the ten-acre parcel to be considered as R1 zoning for single-family development only. Council Member Furguele explained that a site development plan would be needed in order for more answers to be given to Mr. Hackett on his properties.

Discussion ensued on the amount of property owned by Mr. Hackett that is in the Town Limits.

Council Member Mason asked Ms. Shook what uses were allowed in the R1, R1A and R4. Ms. Shook noted that the tables prepared for the report went over the R1 and R1A and not the R4 but that the uses in the in the UDO would need to be reviewed.

Council Member Mason asked about the occupancy requirements in the R1 and R4. Ms. Turner noted both were no more than two unrelated.

Mr. Hackett explained that after hearing all of the comments from this hearing, he wants to withdraw his request for a zoning change and put together a site plan for luxury town homes and show the neighbors what he is planning to do. Planning Commission Vice-Chair Plaag asked Mr. Hackett about what he had said earlier about building affordable homes. Mr. Hackett said that in his opinion selling the town homes at \$250,000 to \$325,000 is affordable to what you can buy in the Town of Boone. Mr. Hackett noted that

he does not have anything to compare his costs to since there has not been much development in Boone for town homes in the last ten years.

Council Member Furguele talked about a discussion that occurred at the September 2019 Council meeting regarding annexation and conditional district zoning as the initial zoning. He asked if there was a resolution to this type of situation. Ms. Meade and Ms. Shook indicated that it had been discussed and agreed it could be done.

Ms. Shook explained that she and Ms. Turner had met with Mr. Hackett and they had explained to him the different zoning options for his property. Ms. Shook said that Mr. Hackett wanted to move forward with an application for general use and wanted to do a by-right development that did not need additional board approvals.

Planning Commission Member Behrend explained to Mr. Hackett that affordable housing is important to the people who work in Boone.

Mr. Hackett said he hopes to show the Town how he plans on bringing in the water to the property and showing the neighbors what he is planning to do.

Council Member Mason informed Mr. Hackett about the proposed creation of the R1S Small Home Residential District which is a zoning district that is on this public hearing agenda. She said this proposed zoning district would allow R1 zoning with lower density which he may be interested in reviewing this zoning district for his proposed development.

Ms. Meade also reminded Mr. Hackett to keep in mind how much property he is bringing into the Town through annexation and possibly bringing some of the green space into the Town so it can be part of the project.

Council Member Furguele talked about the two primary standpoints from his point of view which are the impact on the existing neighborhood and the old infrastructure of Park Street. He further talked about the right of ways that may need to be worked out for the proposed projects.

Ms. Meade confirmed that Mr. Hackett is withdrawing his zoning and annexation request outlined in this case.

Mayor Brantz opened the floor for public comments. Ms. Meade asked the Council if public comment should occur since Mr. Hackett has withdrawn his application. It was the consensus of the Council to hear the comments on this case.

The first speakers were Mr. Paul Zimmerman and Mrs. Marjon Zimmerman who live at 366 Park Street. Mrs. Zimmerman handed out a booklet that contained information on their thoughts of what responsible development in their neighborhood should be (permanently on file). She said that the Town does not need more student housing, and hopes that there will not be a mixed-use development in their neighborhood and noted the need for affordable housing for families in the area. Mr. Hackett was given a copy of the booklet.

The second speaker was Mr. Wilt Boone who lives at 346 Park Street. He explained that his concerns are with water running down the edge of the R4 lot between his property and the Zimmerman's property. He talked about the loss of tree canopy during developments and feels this should be discussed. He talked about the potential for landslides on the property.

The third speaker was Mr. Michael Curcio who lives at 267 Park Street and he also owns property at 158 Dotson Drive. He said he thought the R4 parcel was six acres but it is ten acres. He supports the development of the R4 property exactly how he bought it. He said he is against the area being annexed

into the Town limits unless it is zoned R1 or R1A. He is concerned with the water run-off and the narrow width of the road.

Council Member Furguele asked the Planning Staff if there were types of development that could have been done by right. Ms. Shook said yes.

Council Member Furguele said that he appreciates that Mr. Hackett is willing to come back to the Town with a site-specific development plan. He talked about the impact issues that the Town reviews and the development issues that have to be addressed by the applicant.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:33 p.m.

CASE PL03227-101819 T-13 TEMPORARY USE 9.01 PUBLIC COLLEGES AND UNIVERSITIES in B1 – GENERAL USE ZONING MAP AMENDMENT

In October 2019, Town Council requested that draft text be prepared for the November Public Hearing which would modify the Town of Boone Unified Development Ordinance to allow Use T-13: Temporary Use 9.01 Public Colleges and University Leased Swing Space in the B1 Central Business District as an accessory use for Use 12.03 Indoor Theater to subject to limitations.

This request was initiated when Council was approached by Appalachian State University who wished to use the recently opened Appalachian Theatre as classroom space. Please see Exhibit 1: ASU's presentation to Council on October 17, 2019 (permanently on file).

Planning Commission Vice-Chair Plaag said in the interest of full disclosure, he wished to note that he serves as a trustee on the Board of Trustees of the Appalachian Theatre of the High Country. He said that he has reviewed the conflict of interest and based upon his review of the Board's policies, that he does not have a conflict of interest in this case as defined by the theater. He said that he has also reviewed the Town of Boone Municipal Code Section 30.52 regarding the Town's Code of Ethics, and because this case does not involve his own "direct or indirect financial interests or official conduct" that it appears he is not under any obligation to legally or ethically recuse himself from this case. He said it is his understanding that the Planning Administrator and the Town Attorney concur with his interpretation. In addition, he said that he wishes to emphasize that he believes he can be objective to all parties in the hearing of this case. He said that he fully recognizes that his obligation in this matter is to represent the best interests of the Town of Boone and its residents above any other associations.

Council Member Mason acknowledged that she has served in an Ex-Officio position on the Board of Trustees for the Theatre. She is not a voting member and has attended periodic meetings. She said that she does not feel that she has any reason to recuse herself from the hearing of this case.

Council Member Ashcraft noted that his wife is on the faculty at ASU and he does not feel like he has a conflict or reason to recuse himself from the hearing of this case.

Ms. Meade talked about the conflict of interest at the State level and she did not feel that there was a conflict of interest with the members present at this hearing.

Ms. Shook presented this case as outlined in the meeting packet. Ms. Shook read the proposed changes to Section 15.69.14 for T-13 Temporary Use which will require a zoning permit. She said the proposed text was based on the perimeters that the Council had discussed previously. Council Member Furguele said the thought that Council Member Ulmer had suggested a two years' sunset period and a review after two years with a determination. Ms. Meade said there was clear direction that the temporary use itself should terminate automatically after the ten years. She said the question was how would the Town police parking and traffic on an ongoing basis. Council Member Furguele asked what are the standards that the

administrator would apply to see if the applicant has not met the required demonstration of efficient parking. Ms. Shook said as discussed at the Council meeting there is not a good answer for this question.

Mr. Ward noted that the Town does have concerns for parking and they are not sure right now they would be able to keep a check on the parking.

Ms. Shook noted that the presentation that the University presented at the Council meeting is in the Board book. She said the University discussed the parking changes that they had made. Ms. Shook said the University noted that there would be problems with them not allowing students to park in the Downtown area. Council Member Furguele noted that the University can check on parking but they choose not to or does not seem willing to.

Council Member Furguele asked Mr. Ward what has been the experience with the parking lot at the Greenway Trail as it has been used by students attending the Levine Hall. Mr. Ward said that he has dedicated additional resources to parking enforcement on the specific Deerfield Road lot and the Clawson-Burnley due to use by students. Mr. Ward said that additional signage has been put up and the Police and Public Works Departments, as well as parking enforcement employees have patrolled these areas. Council Member Furguele asked if this helped the parking issue. Mr. Ward said it changes depending on rainy or cold weather and he noted that it may be a larger issue.

Planning Commission Vice-Chair Plaag asked Mr. Ward if there is a mechanism for subsequent parking tickets after the first ticket has been issued. Mr. Ward said if a vehicle remains in violation, there could be additional charges.

Council Member Mason asked Mr. Ward about the base line data on the metered parking spaces in the Downtown area for the time period of between 8 a.m. and 9 a.m. Mr. Ward responded by saying that in the general area from approximately the College of Education down to Grand Boulevard, the Town is seeing the majority of the spaces being filled by 9 a.m. and it seems to continue on down King Street. He said the Town lot spaces can be prepaid up to eight hours and is the first one to fill up. He also pointed out that there is not a requirement who can utilize the public parking spaces as long as the fees are being paid.

Ms. Meade talked about the research she had done. She said at American University, located in a residential area of Washington, DC, has a campus wide zoning permit that says that students cannot park in the residential neighborhoods and has some enforcement mechanisms. She said this parking information is noted on the University website. She explained that the other city that she looked at has parking districts that are actually marked “no University student parking”. She also talked about having for example an Excel spreadsheet listing of the student’s license plate numbers. She said she believes that there is a means and a law to address University students from parking in the Downtown area. Mr. Ward said in other cities where there is university, residential or commercial interactions where it comes to parking, he has seen parking decals issued and placed on vehicles and if a vehicle did not have a decal, it could not park in that area. Planning Commission Vice-Chair Plaag said he is familiar with this type program at Georgetown University.

Ms. Shook noted when ASU applies for their permit, they have to demonstrate parking requirements. She noted it will be difficult to know who is parking Downtown without some type of mechanism to track it. She said the tracking of parking is beyond the scope of what the Planning Staff usually handles. Mr. Ward said this would be the same situation that is occurring on the parking enforcement on Linney Street.

Planning Commission Vice-Chair Plaag voiced one solution would be the University dedicating a portion of the Peacock lot between the hours of 8 a.m. and 12:30 p.m. reserved specifically for students enrolled in classes that are being held at the theatre. Mr. Ward said this could be a potential solution to the parking

issue because Mr. Paul Forte, ASU Vice Chancellor had previously noted available parking spaces on campus.

Council Member Mason noted her concerns about the students not being able to afford parking passes. Planning Commission Vice-Chairperson Plaag said that this request that the University is making is extraordinary which requires extraordinary action on behalf of the applicant. He said it seems to him that the University dedicating some of their resources to facilitate this request such as not charging the students to park in the upper part of the Peacock parking lot until 12:30 p.m. seemed reasonable. He suggested that this would be proposed as a free parking pass to incentivize students to park away from the Downtown area.

Discussion ensued as to the locations of the metered parking downtown.

Discussion ensued as to the possibility of changing the timing on the meter so as to limit the likelihood a student would use the metered parking. Council Member Furgieuele suggested limiting the parking on King Street from 8:00 a.m. to 11:30 a.m. and to only allowing parking for 30 minutes at a time and patrol and ticket the spaces and switch the meters back to multiple hours for the rest of the day after 11:30. Mr. Ward indicated that the smart meters could do what is being suggested. Mr. Ward noted that part of the Town's goal with the smart meters was to cut down on signage and program the information into the meter. Mr. Ward talked about the complaints about the one-hour parking and then the meters were changed to two hours and it cut down on the parking time complaints. Mr. Ward said the only concern he has is the possible deterring of the lunch people for parking that starts around 11:30 a.m. He said he could start a test phase on the parking meters for the times of between 8:00 a.m. and 11:00 a.m. and allow longer parking periods from 11:00 a.m. on.

Council Member Ulmer suggested contacting ASU and ask them to track the parking of their students.

Council Member Mason said we might need to factor in that between the timeframe of 8:00 a.m. to 11:15 a.m., there could be multiple classes held in the theatre. She said there could be overlap and competition for the parking spaces.

Council Member Furgieuele asked a question regarding a possible modification to Section 15.69.14(B)(3)(b) by adding "in every two years thereafter for the duration of the permit there", and in Section 15.69.14(C) change "to allow the Town Council to suspend and revoke the permit".

Council Member Ashcraft said that he does not see a limit in the ordinance for the number of class room attendees. He suggested monitoring the number of students. Council Member Furgieuele suggested instead of limiting the ordinance, could we make the failure to keep the commitment made in the materials from the University now the basis to revoke their permit like for example a conditional district process is handled. Ms. Meade pointed out that this is not a special use permit or site specific type permit.

Planning Commission Vice-Chair Plaag said that he listened to Mr. Paul Forte's presentation from the October 2019 Council meeting. He said that Mr. Forte did say that he anticipated 150 students at the beginning but Mr. Forte also felt that later on they could fill the theatre with students. Planning Commission Vice-Chair Plaag noted that he is concerned that there is the possibility that there will be more than 150 students up to approximately 640 students coming to the theater for classes with some portion of them looking for parking in Downtown Boone.

Ms. Meade suggested some re-structuring of the proposed text in Section 15.69.14(B)(3)(a). She suggesting keeping the first sentence and removing the text from the rest of this section. She also suggested moving the text from c. into the b. section and moving the text from b. into the c. section. The Council members agreed with this proposed change.

Planning Commission Member Veno voiced his concern for parking in the Downtown area and he said there is no way that the Downtown area can accommodate the need for the amount of parking being proposed in this case.

Planning Commission Chair Shay pointed out that at the University it is rare to have over 200 or 250 students attending a lecture.

Mr. Ward said he has seen when the students are running late for class or work and in extremely bad weather parking in the Downtown and risking getting a ticket under these types of circumstances. He also explained that the current requirement is to get a permit to park on campus anywhere other than the hourly lots and this type of parking requires prepayment. He said there are also students that may not be able to afford to prepay for parking and they may be the ones paying the parking meters in the Downtown area.

Planning Commission Chair Shay pointed out that the University has some parking options that they have not yet considered. She suggested that the University let the students purchase parking by the day or a portion of a day. Council Member Mason noted that at Virginia Tech they provide a certain number of free parking passes for designated lots. She said this encouraged the students to walk or bike to class.

Mr. Nick Katers, Associate Vice-Chancellor for Facilities Management from Appalachian State University came to the podium. He explained that the University continues to add parking every year. He said the University added 652 parking spaces in 2019 and they will add 585 parking spaces in 2020. He said they encourage the students to ride the Appalcart and will help Appalcart purchase electric buses. He noted that the University is working with the Town to provide ride-share bicycles. He said the University classes to be held in the theater are capped at 150. He noted that the students attending classes at the theatre are freshmen and sophomores and they are not allowed to have vehicles on campus, they have to use the satellite parking lots and find other means of transportation to campus. He said that the University does not collect license plate information from the freshmen and sophomore students because they are not eligible to purchase parking passes. Council Member Furguele asked Mr. Katers how the University knows if the students are parking in the correct places. Mr. Katers said the students that purchase parking passes provide their license plate information otherwise this information is not required. He said the University instructors would put in the freshmen and sophomore's student syllabus that the students are not to park on King Street or on campus.

Planning Commission Vice-Chair Plaag asked Mr. Katers what the University's mechanism is to enforce parking. Mr. Mark Ginn, Vice-Provost for Undergraduate Education said that the students can be emailed as well as the information being put into the student syllabus about not parking in the Downtown area.

Planning Commission Vice-Chair Plaag noted the University had two facilities on campus that are not being used for theatrical type classes and noted that these facilities sit vacant most of the time. He asked Mr. Ginn if the University is not going to use the large auditorium spaces on their campus for classes why should the Town endorse use for these types of classes in the B1. Mr. Ginn said he said the facility spaces do not have good projection equipment or atmosphere for certain types of classes. He noted one of the facilities housed the University's organ and the students have to schedule the time they want to use the space.

Planning Commission Vice-Chair Plaag referred to comments made by Mr. Forte at the October 2019 Council meeting stating "the University is in support of this change to the UDO". Planning Commission Vice-Chair Plaag said to his knowledge neither the ATHC board or its executive committee have endorsed this proposed zoning change. He also pointed out that there are no other people present at this hearing from the Appalachian Theatre of the High Country other than himself. He also pointed out that there were no people present at the October 2019 Council meeting, when Mr. Forte gave his presentation. He

asked what is the basis for Mr. Forte saying, the theatre board supports the proposed zoning change. Mr. Ginn said the Theatre wants the patronage they have offered up in exchange for the facility use agreement (permanently on file). Mr. Ginn said that the Appalachian Theatre administrator, Laura Kratt made the pitch for the proposed zoning change and he had talked to other board members that were in support of this proposed zoning change. He said that Ms. Kratt knew that a zoning change would be needed to allow for the facility use agreement to take effect. Planning Commission Vice-Chair Plaag said that is not accurate because the first time this topic became an issue was at a Planning Commission meeting, with respect to the HOW Space and the transitional zones that were being discussed at that time. Planning Commission Vice-Chair Plaag noted that at that time no one knew there was an issue with respect to zoning. He said that he recalled specifically three members of Council did not know about classes in the theater. Mr. Ginn said that the University was approached and asked if they would like to use the theatre for classes.

Ms. Meade said that she and Ms. Shook knew that this was an issue going back approximately one year plus.

Council Member Mason asked about possible damage to the theater and who will be responsible for possible damages to it, she said it was not clear who would be responsible. She added that the community has worked for years on fundraising for the theatre and they are very proud of it. Mr. Ginn said that he is not sure of the provisions in the agreements but the University would take care of possible damages at the theatre.

Planning Commission Vice-Chair Plaag asked Mr. Ginn if he was familiar with the approval of the HOW Space and the UDO process. Ms. Michele Novacek from Appalachian State University, Facilities Operations Department came the podium, she noted that she was aware of the HOW Space approval process. Planning Commission Vice-Chair Plaag asked Ms. Novacek, if she knew that the University had been using the building for University uses for one year and one half until it came to the attention of the Council in 2018. He said a use exception was created retroactively to bring the University into compliance with the UDO. She said she was aware of these actions. He asked Ms. Novacek if she was aware of UDO Section 15.70 says "that the activities involved in the use must be the same as activities of uses allowed as of right in the zoning district". Ms. Novacek said yes. He asked if the University was teaching an activity of use that is permitted in the B1 zoning district presently. Ms. Novacek said no.

Planning Commission Vice-Chair Plaag handed out a three-page excerpt from, "The Appalachian" containing an article on the Walker College of Business dated October 6, 2019 (permanently on file). He said the article is about the Walker WORKspace which is at the HOW Space location. He explained that after the approval was given by Council the HOW Space closed in the fall of 2019, then, Walker College of Business launched the "Walker WORKspace". He read the description of the WORKspace found on page three of the handout. He asked Ms. Novacek if she was familiar with an article dated October 6, 2019 written by Hayley Canal of "The Appalachian". Ms. Novacek said no. He said included in this article is information from Mr. Bob Stec a management lecturer and experiential learning faculty fellow for the college and Ms. Jacqueline Tilton, an assistant management professor who teaches business ethics. He read parts of this article. He continued to say that there is a long history of the University promising one thing and doing something else. He asked Ms. Novacek how is the Town to trust the University now with this special consideration of the proposed zoning change.

She asked Planning Commission Vice-Chair Plaag when he found this article. He told her it had been scrubbed from their website and he found it from the use of the way back machine. She said if the University is ever in violation, they want to correct it. She further said that the purpose of the said HOWspace is so the students can practice what they learn in the classroom with the intention for the students to help local businesses with things such as marketing and IT solutions. She said the University

language needs to be changed so that groups that are available to the entire community are allowed. Planning Commission Vice-Chair Plaag asked Ms. Novacek who sets the location for classes for the University, she said it is the office of academic affairs. She noted that no classes are scheduled in the space.

Council Member Furgiuele agreed that representations have been made by the University that have not been kept.

Mayor Brantz called for a ten-minute break at 8:42 p.m.

Mayor Brantz reconvened the hearing at 8:55 p.m.

Ms. Meade asked Ms. Shook to talk about her communications on the HOW Space. Ms. Shook was in the Downtown area one night and she noticed some activity at the HOW space. She contacted Ms. Novacek to ask what was going on there. Ms. Novacek let Ms. Shook know that the way the semester works that they were too late to use the event this semester so they were using it for some events related to the Walker School of Business. Ms. Shook said there was one event that did not meet the criteria. Ms. Shook said she let Ms. Novacek know what uses were allowed in the space.

Planning Commission Vice-Chair Plaag asked Ms. Shook when her last conversation was with Ms. Novacek regarding this topic. Ms. Shook said maybe one month or less. He further asked Ms. Shook if she had been told that classes had been held there. Ms. Shook said no.

Council Member Furgiuele asked Ms. Shook if the University recognizes what the zoning requirements were for the HOW Space. Ms. Shook yes at the time the application was submitted, they have stated the standard and how they are meeting the standard. Planning Commission Vice-Chair Plaag asked, when the application was submitted. Ms. Shook said she does not have that information with her at this meeting. She confirmed that it was submitted in 2019. Ms. Novacek said that the application was submitted after August of 2019 because the lease was signed for the space around August 15, 2019.

Council Member Furgiuele talked about his concern that the University may not be paying attention to the zoning ordinance after their University approvals. Ms. Novacek said that her job position was recently created to police the properties that are leased by the University. Council Member Furgiuele noted that he is wondering if the Town should do an inventory of the Council approved University uses in the B1 to make sure the uses are being used correctly. He noted two changes that Council had approved in the last year. Ms. Novacek said the University has changed their forms to include how the leased space will be used to benefit the community.

Council Member Mason voiced her concern on how the theatre will be shared knowing the success of the theatre is based on having a schedule of active performances. She asked how will the space be compatible, if it takes several days to set an event up. Ms. Novacek stated that the University is not having classes on Fridays so the theatre can prepare for their weekend events and the University students would be out of the theatre on Thursday afternoons.

Planning Commission Member Venio noted that the largest issue in regards to the proposed zoning change is parking. Mr. Ginn said that the University does not see parking being an issue for the Downtown as it relates to this case. He said the University would love to have more parking decks available during the day for their students and more parking is in the making at the University that would be available for the Town during the afternoons and evening as well.

Ms. Meade asked if freshmen students are required to live on-campus and what are the parking rules with respect to the ASU sophomore students. Mr. Katers said that freshmen are required to live on campus but sophomores are not though they can purchase a parking pass for limited on-campus parking but for the most part they park at the satellite parking lots.

Ms. Meade asked Mr. Katers what is to prevent the sophomore students who live off campus from parking on King Street. He said it is inconvenience because there are only 200 parking spaces on King Street. He said the University is in the process of upgrading their parking areas and adding gates to the lots. Ms. Novacek said that there is hourly parking for students in the Rivers Street deck.

Mayor Brantz opened the floor for public comment.

The first speaker was Mr. Michael Curcio said he is a coach at Appalachian State University. He talked about his difficulties of finding a parking space at the University. He said that Mr. Forte noted in his presentation to Council that the University is encouraging biking and public transportation to the students. He said he does not bike to the University campus anymore because it is too dangerous for him to do so. He said the parking permits at the University has increased to \$260.00 per year. He talked about trucks unloading on campus in the early mornings and blocking the sidewalks. He said that he wants the theatre to be successful but has concerns about the parking.

The second speaker was Ms. Libby Hendley who lives at 236 Harrison Lane and she owns a Downtown Business at 549 W. King Street which is two doors from the Appalachian Theatre. She expressed concerns regarding parking. She noted there is already a parking issue with the students in the Downtown area. She felt like if we allow the proposed zoning request, there will be more of a parking issue than we have currently.

Mr. Ward handed out information about the parking in the Municipal Service District (permanently on file). Mr. Ward explained that all of the parking is in the Municipal Service District because of its expansion. Ms. Lane Moody noted that the numbers that Mr. Ward is talking about have not been updated since the lot was opened up Town Hall. He reviewed the information on the handout as presented.

Mayor-ProTem Clawson she noticed that the Horn in the West parking lot does not have that many vehicles in it. Mr. Ward said he would have to double check the parking spaces at this lot.

Mr. Ward said the University is doing a parking study analysis. He said that the elevated Queen Street parking lot is permit based parking that supports the Downtown businesses and their employees. He also talked about the revenues from this lot and the availability in it. He said he can show where the parking spaces are located.

Mr. Ward said over time the Town has expanded the Depot Street lot and the parking lot next to Town Hall are the only two long-term parking options in Downtown Boone. He explained the change to the parking meters on Queen Street to expand the time allowed in the parking spaces.

Mr. Ward said there were more complaints with one-hour parking but the complaints lessened with the change to two-hour parking and he talked about other changes. He said that more adjustments will be made as needed.

Ms. Meade asked Mr. Kater if one reason the University has the facilities agreement is because they want to give funding to the theater and it needs to get something in exchange. Mr. Kater said yes. She noted that the University cannot just give the theatre a donation. Mr. Kater said that is correct. She asked if classes from 8 a.m. to 10:15 a.m. work for the University. He said that he would have to ask the Administration but probably would not work for the University. Mr. Ginn said that 8:00 a.m. to 11:00 a.m. might be a more reasonable timeframe. Mr. Ginn explained that if they could have 8:00 a.m. to 12:15 a.m., it gives them three blocks of time which is what they are requesting. He further explained that 8:00 a.m. to 11:00 a.m. gives them only two blocks of time.

Ms. Meade asked Mr. Kater asked if the University has discussed with the theatre any other way to justify its annual contribution other than the use of classroom space. Mr. Kater said there have been previous

discussions on other forms of contribution, and he said that he has been told that the classes have to be included in the deal from the Administration's perspective. Council Member Mason asked if the other provisions in the agreement for other use is contingent on the classroom use as well and cannot be a partial agreement. Mr. Kater said no.

Planning Commission Vice-Chair Plaag asked if it is true that the theatre has suggested to the University performative uses such as for example having film screenings for the film classes that were open to the public and to the students to attend for free. He asked if uses like this example were proposed. Mr. Kater said yes but they were rejected.

Ms. Shook noted the time at 9:36 p.m. and she asked the Council if they still want the Planning Commission to consider this case or do they feel it needs more discussion. Mr. Ward pointed out the logistics of the review process, if this case moves forward or not. He said that a recommendation is needed if this case is to be considered at the December 16, 2019 Special Council meeting. He noted that the new Council members would be hearing this case after said date. Ms. Meade said in that case, it would be proper for the new Council members to watch the video of this hearing. Council Member Furguele said he is interested in the recommendations of the Planning Commission. The consensus of the Council Members is to proceed with this case prior to December 16, 2019.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 9:38 p.m.

CASE PL03178-100319 MAXIMUM HEIGHT IN B3 – UDO Text Amendment

In August 2019, Town Council requested that the Town of Boone Unified Development Ordinance be modified to reduce the maximum building height in the B3 Zoning District to 4 stories.

Ms. Shook presented this case as outlined in the meeting packet. Ms. Shook noted a correction in Section 16.08.02 to the B2 which is three stories at 40 feet.

Council Member Furguele confirmed that the maximum setbacks in Section 16.08.03. Ms. Shook confirmed that all setbacks increase by 11 feet for the fourth story.

Planning Commission Vice-Chair Plaag asked Ms. Shook to explain why Council proposed this change. Ms. Shook explained that there is an overall concern for the height in the B3 zoning district especially in the secondary height being too tall for the corridors. She said this is the intermediary step to make this correction. Council Member Mason said in order to address community character issues, she said it can be part of a plan but it also has to be done by the UDO.

Planning Commission Vice-Chair Plaag asked about the need for developer to apply for variances to be reviewed by the Board of Adjustment. Ms. Meade said a variance has to be site specific. She pointed out that this topic has already been before the Board of Adjustment once and it was rejected. She further pointed out that it is hard to imagine that height poses a hardship.

There was no public comment on this case, Mayor Brantz closed the public hearing for this case at 9:45 p.m.

Case PL03173-100319 MINIMUM LOT SIZE IN R3 – UDO TEXT AMENDMENT

In August 2019, Town Council requested that the Town of Boone Unified Development Ordinance be modified to increase the minimum lot size of the R3 Multiple Family Zoning District to 20, 000 square feet.

Ms. Shook presented this case as outlined in the meeting packet. She noted that the proposed change is recommending that any new lot in the R3 has to meet the minimum of 20,000 square feet.

Council Member Mason asked Ms. Shook what will happen to the parcels that the Council reviewed for possible rezoning that are currently in the R3 zoning district and are this size. Ms. Shook said they would

be considered legal nonconformities or grandfathered and could be developed if they don't meet the standards though new lots cannot be subdivided into smaller than 20,000 square feet. Ms. Shook explained the uses for this zoning district.

Planning Commission Vice-Chair Plaag recommended against stackable units.

Ms. Meade asked are there simple apartment complexes in the R3 that are on lots 10,000 or 15,000 square feet. Ms. Shook said there are triplexes that are on lots of this size. Ms. Meade asked Ms. Shook if there will be issues, if extensive upgrades are proposed for these types of lots because of expanding a non-conforming with the tiered system. Ms. Shook explained the tiered system 1, 2 and 3.

Council Member Ashcraft noted that that the danger is infill development.

There was no public comment on this case, Mayor Brantz closed the public hearing for this case at 9:54 p.m.

CASE PL03171-100319 CREATION OF R1S SMALL HOME RESIDENTIAL DISTRICT – UDO TEXT AMENDMENT

In January 2018, Town council requested Staff research the possibilities regarding higher density for single-family dwellings due to the desirability of create acceptable transitions between higher density and lower density uses and due to the concern over the lack of affordable housing in the Town of Boone.

The following November, Staff presented a preliminary report on cottage housing outlined two different concepts. The first concept was a new zoning district which would allow smaller single-family homes to be built on lots smaller than currently allowed in the UDO. The second concept was for a cottage housing type of principal use, which in concept, would be allowed to be constructed in existing residential zoning district subject to limitations. After discussion, Council authorized Staff to proceed with a new zoning district, "R1S" and outlined parameters for the new district, including implementation process, application process, density, building height, setbacks, uses, and parking.

Subsequent to this direction, Staff drafted text based upon the requested parameters and brought draft text back to Council in August 2019 for review. At that time, with some modification, Council authorized the text to be sent to public hearing.

Ms. Shook presented this case as outlined in the meeting packet. Ms. Shook explained that previously the Council asked the Planning Staff to research the possibilities regarding higher density for single-family dwellings. She said the options the Planning Staff found were to either create new zoning district or new uses for existing zoning districts.

Ms. Shook referred to page 80 of the meeting packet and pointed out the proposed changes that the Planning Staff has made. She pointed that in Article 14 the numbering of the sections will be different as proposed changes are made. She further pointed out that R5 is not in this article because it was not adopted at the time the proposed changes were being made by the Planning Staff. She referred to page 83 of the meeting packet and pointed out that the R1S has been added to the Table of Principal Uses.

Discussion ensued as to why vehicular gates were allowed. Ms. Shook noted that vehicular gates were regulated so that the Fire Department could ensure certain standards were met.

Council Member Mason asked about garages and carports being excluded from the maximum footprint. Ms. Shook said she doesn't remember that being part of the exclusions discussed. Council Member Furguele said he thought that an apartment over a garage should be part of the calculation. Ms. Shook said she thought it would be difficult to do this calculation. Mr. Ward said he has seen in some communities a beach style construction that has the parking underneath the living unit.

Planning Commission Vice-Chair Plaag asked about basement spaces. He referred to a home that was built due to the terrain with the main living space being in the basement with the bedrooms on the top floor. Ms. Shook suggested that this type of change needs to be discussed and modified to be included if desired.

Discussion ensued as to the setbacks. Mr. Ward noted that the Fire Department or the Building Inspectors may need to be consulted.

Discussion ensued as to possible changes on how height should be calculated and how the text could be revised to allow a basement due to topography. Council Member Mason suggested having some options for structures being built on a slope. And she said it is a smaller footprint and lot. Ms. Shook noted a one and one-half story house allows more light into a home than a two-story home built close together. Planning Commission Vice-Chair Plaag said one way around this is to go back to the garage idea. He said by allowing the one and one-half story from a flat grade or permit half of the basement as finished space and the other half could serve as a garage non finished space. Ms. Shook said it sounds great but it will depend on where the slope is located on the property and whether you can get a driveway to the basement portion of the building. Ms. Shook noted that some thought needs to be given to the lots that have significant topography. Council Member Furguele said if we exclude garages and redefine stories in Section 16.08.01B and have the option of one and one-half story be above or below the grade or have one story with finished basement height. Ms. Shook said the solution would be to begin with the modification of Section 16.08.01(A) and (B) with the maximum building footprint and the upper story. Planning Commission Chair Shay said we want neighborhoods that look modest and cohesive and that fit together well. She was in agreement with what Council Member Furguele said regarding this proposed text change. Council Member Furguele noted that he felt that as proposals come in some of the text may need to be revisited. Ms. Meade talked about the different types of grades for example the primary street grade. She said one way to approach the text change is to give maximum square feet, then deal with the scale issue to measure it. Planning Commission Vice-Chair Plaag suggested that by limiting the amount of heated square footage, someone could potentially take advantage of the zoning and create something different than you are intending and keeps you in the neighborhood of what you are trying to accomplish with the new zoning classification. Ms. Meade noted that the Planning Staff may have enforcement issues regarding the limiting of the square footage. She said if someone builds an unfinished basement what is there to prevent it from being finished in the future and it will require enforcement on the front end and on the back end. Council Member Mason said the basement almost becomes a plus for a parcel of land that it fits. Ms. Meade said a description will need to be added on where to measure the one and one-half stories. Council Member Furguele pointed out that the garage should be excluded as part of the footprint because if you put in a garage you will have a larger lot. Council Member Mason said that a garage could be possible with a creative developer. Ms. Meade confirmed to keep in the language the maximum building footprint. Ms. Shook recapped the proposed changes from this discussion, she said modifications need to be made from there the height is measured and staying with the one and one-half story, and a below grade basement is allowed if possible.

Ms. Shook noted that the rest of the proposed changes in the staff report are fitted into the new zoning district where the current R1 is located.

Council Member Furguele confirmed that the development of small houses will be on separate parcels and Ms. Shook said the permitted use is a single-family home on a single lot.

There was no public comment on this case, Mayor Brantz closed the public hearing for this case at 10:36 p.m.

Discussion ensued on continuing the Planning Commission tonight and if so which cases do they want to consider or if they want to defer the considering of these cases to another meeting that quorum can be

obtained. Ms. Shook asked the Council to direct the Planning Commission on the cases that they would like for the Planning Commission to make decisions on agenda items one through four.

Discussion ensued on the most important cases to be considered first. Council Member Mason said the cases for the Town are more important and the Appalachian State University case could wait another month. Ms. Meade noted that ASU wanted to know about their approval because of getting the information into their fall catalog for classes and locked in by January 2020.

Planning Commission Chair Shay suggested continuing the Planning Commission to another date and time to discuss and make decisions on the active cases. It was noted that Case PL03271-110419 Hackett Properties, Inc. – General Use Zoning Map Amendment was withdrawn with no further consideration needed.

OTHER MATTERS

There were no other matters discussed at this hearing.

ADJOURNMENT OF TOWN COUNCIL

Mayor Brantz made a motion, seconded by Council Member Ulmer for the Town Council to adjourn at 8:45 p.m.

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

Rennie Brantz, Mayor

Marlene Crosby, Board Secretary

Elizabeth Shay, Planning Commission Chair

CONTINUATION OF PLANNING COMMISSION MEETING

Chair Shay opened the Planning Commission meeting at 10:42 p.m.

Discussion ensued on choosing another meeting date to continue the Planning Commission meeting on the four active cases. It was the consensus of the Commission members to schedule a Planning Commission meeting on Monday, December 9, 2019 at 6 p.m. in the Council Chambers located at 1500 Blowing Rock Rd.

Chair Shay introduced the new Planning Commission Member John Tippet to the Commission, she asked each Commission member to introduce themselves to Commission Member Tippet.

ADJOURNMENT OF PLANNING COMMISSION

With no other matters to discuss at this meeting, Commission Vice-Chair Eric Plaag made a motion, seconded by Commission Member Tippet, to adjourn the meeting at 10:50 p.m.

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

Elizabeth Shay, Planning Commission Chair

Marlene Crosby, Board Secretary

DRAFT



General Use 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

Notes: It is recommended that applicants schedule a meeting with Planning & Inspections Staff prior to application submittal.

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

- ☐ Property Owner Authorization for all property included in the request. See [Section D](#).
- ☐ 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.
- ☐ 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. Property Information

Street Address: 273 Paul Critcher Rd. Watauga County Parcel Identification Number: 2920-31-8460-000 & 2920-31-8255-000

Existing Zoning District(s): N/A Proposed Zoning District(s): WS-IV PA

Adjacent Land Uses: N: Single-Family Dwelling E: Single-Family Dwelling
S: Single-Family Dwelling W: Single-Family Dwelling

Are there any existing variances or site specific approvals granted to the property? ☐ Yes ☐ No ☒ Unknown

If yes, describe: _____

Total Land Area: 1.17 acres

C. Property Owner Information

Name: Christopher Taylor

Complete Mailing Address (Street, City, Zip): 273 Paul Critcher Rd., Boone, NC 28607

Phone Number: _____ Email Address: _____

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

D. Applicant Signature and Property Owner Authorization

By signing this form you are certifying that this application and any attached information are accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

NA NA N/A
Property Owner (Print) Property Owner (Signature) Date

Official Use Only

Permit Name: Taylor, Christopher – General Use Zoning Map Amendment				
Permit Number: PL03452-123119 & PL03453-123119				
Date: January 2, 2020	Fee: NA	Receipt Number: NA	Method of Payment: ☐ Cash ☐ Check NA Number: _____	Paid By: NA

Official Use Only - Hearing/Decision InformationPublic Hearing Meeting Date: January 27, 2020PC Meeting Date: January 27, 2020TC Meeting Date: February 20, 2020Date of APO Mailed Notification: January 3, 2020Date of Posted Notification: January 3, 2020Request Approved: ☐ Yes ☐ No If yes, date request sent to GIS: _____

S:\FORMS\PI_Forms_Current\Planning Forms\GenUseZMapAmend_07012019.docx

Bk 1760 Pg 195 (4)
Recorded: 07/03/2014 at 02:36:55 PM
Doc No: 628122 Kind: DEED



Excise Tax \$ ~~340.00~~ ^{332.00}

NORTH CAROLINA GENERAL WARRANTY DEED

Prepared without benefit of title examination and/or survey. The drafting Attorney was not the closing Attorney and did not disburse any funds or closing proceeds.

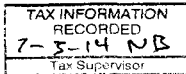
Brief Description for the Index:

0.739-Acre Tract ("Tract 1") and a 0.438-Acre Tract ("Tract 2"), Paul Critcher Subdivision,
Blue Ridge Township

THIS DEED, made this 3rd day of July 2014, by and between:

**SONYA FROST MCMILLAN, as Executrix of the Estate Nancy Critcher Frost,
Watauga County File # 13-E-242, and SONYA FROST MCMILLAN (Divorced and
Not Re-married), Individually
(GRANTORS)**

11110 Indian Village Drive, Alpharetta, GA 30022; and



**CHRISTOPHER W. TAYLOR, Married
(GRANTEE)
700-1 Hardin Road, Boone, NC 28607** ✓

The designations "Grantors" and "Grantee" as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantors, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, have and by these presents do grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Blue Ridge Township, Watauga County, North Carolina, and more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein by reference.

For back reference, see Book of Records 1722, Page 638; Deed Book 211, Page 750, Watauga County Registry, and Watauga County Estate File #13-E-242.

Prepared by: Turner Law Office, PA, 136 N. Water Street, Boone, NC 28607

_____ If initialed, the property includes the primary residence of Grantor. (NC GS § 105-317.2)

The purposes of this conveyance are both to make assets to address claims against the Estate of Nancy Critcher Frost and to thereafter fund the distribution of inheritance to Grantor, Sonya Frost McMillan, who with her brother, Kenneth Frost, are the sole beneficiaries of the Estate. Kenneth Frost has previously quitclaimed any right, title, or interest in and to the subject property by deed recorded in Book of Records 1722 at Page 638 of the Watauga County Registry.

TO HAVE AND TO HOLD the aforesaid lots or parcels of land and all privilege and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantors covenant with the Grantee, that Grantors are seized of the premises in fee simple, have the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantors will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

1. Ad valorem taxes for Watauga County for 2014 and subsequent years not yet due.
2. Rights-of-way and/or easements whether or not of record.
3. Easements identified in the legal descriptions attached hereto as Exhibit "A".

IN WITNESS WHEREOF, the Grantors have hereunto their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

Sonya Frost McMillan Executrix (SEAL)
Sonya Frost McMillan, Executrix

Sonya Frost McMillan (SEAL)
Sonya Frost McMillan

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: **Sonya Frost McMillan, as Executrix of the Estate of Nancy Frost, Watauga County File #13-E-242, and Sonya Frost McMillan, Individually.**

Date: 7.3.14

Krista R Lambert
Notary Public
Wilkes County, NC

Official Signature of Notary Public: Krista R. Lambert

Notary's Printed/Typed Name: Krista R. Lambert

My Commission Expires: 7.23.2018

Communication: Case PL03452-12319 Deeds (Packet Page 23) (Cases PL03452-123119 &

Exhibit "A"**Tract 1:**

Being all of 0.739-acre tract accessed by a privately-maintained drive through the Paul Critcher property (now being the 0.438 acre tract described below as Tract 2) 148 feet North of the intersection of an existing privately-maintained street (n/k/a Paul Critcher Drive) through the Critcher subdivision at a point approximately 800 feet North of the intersection of said street with Deerfield Road (NCSR 1523); being a portion of the former Paul Critcher property recorded in Deed Book 73 at Page 117, and being bounded (now or formerly) by Paul Critcher, Carlton Critcher, Camp Rock Subdivision and Nancy Frost, and being more particularly described as follows:

BEGINNING on an iron found approximately 180 feet North of the center of a street (Paul Critcher Drive) through the Critcher Subdivision; said iron being the Northwestern corner of the subject Nancy Frost property recorded in Deed Book 129 at Page 538 and an Eastern corner of the Camp Rock Subdivision as shown on Plat Book 3 at Page 100 and being located North 00° 51' West 164.76 feet from an iron in the Northern margin of the Street through the Critcher Subdivision; thence from the beginning and with the Frost line South 00° 51' West 22.89 feet to an iron set, a new corner to Paul Critcher in the Frost line; thence with a new line through the Critcher property North 79° 40' West 168.77 feet, crossing a driveway, to an iron set in the Western margin of said drive, a corner to Critcher in the Carlton Critcher line as described in Deed Book 76 at Page 240, (said iron being located with the Critcher fenced lines and being the Western margin of a 15-foot privately-maintained drive through the Paul Critcher property approximately North 09° East 150 feet from a point in the Western margin of the existing street through the Critcher property); thence with the Carlton Critcher fenced line North 09° 17' East 199.39 feet to an iron set; thence South 86° 28' East 140.97 feet to an iron set at a mound of stones and fallen Chestnut in a fence line, a corner to Carlton Critcher in the line of the Camp Rock Subdivision; thence with the Camp Rock fenced line South 01° 54' West 195.57 feet to the BEGINNING, containing 0.739 acres and being the same parcel as shown and described on survey #81022 made June 18, 1981 under the supervision of David K. Stern, RLS No. L-1301.

Conveyed herewith are water rights to that certain well (the "Well") located on the adjoining 0.438 acre property described below in this deed as Tract 2. Said water right to be in common with other parties who may have a legitimate use therefor, with the costs of utility service, maintenance and upkeep of the Well to be divided equally per household served by the Well. By acceptance of this deed, Grantee, for himself, his heirs and assigns, agrees and covenants to promptly and fully pay his equal share per household served by the Well in its operating, maintenance, and repair expense. Grantors do not warrant or guarantee the quality or purity of water drawn from the Well.

There is also conveyed herewith unto the Grantee, his heirs and assigns, a right-of-way from the public road along and upon the 30-foot street known as Paul Critcher Road, as it now is constructed, to the Southern boundary of the 0.438 acre tract, and there is further conveyed herewith a permanent, non-exclusive and appurtenant easement and right-of-way over, upon, and within the fifteen-foot wide described premises.

This deed is made, delivered and accepted with the full understanding that the following restrictions shall run with the land:

1. There shall be only one residence constructed on the above lot.
2. There shall be no mobile homes or trailers parked on the above premises either temporarily or permanently
3. There shall be no cinder blocks or concrete block walls exposed.
4. There shall be no apartment houses constructed on the above lot.

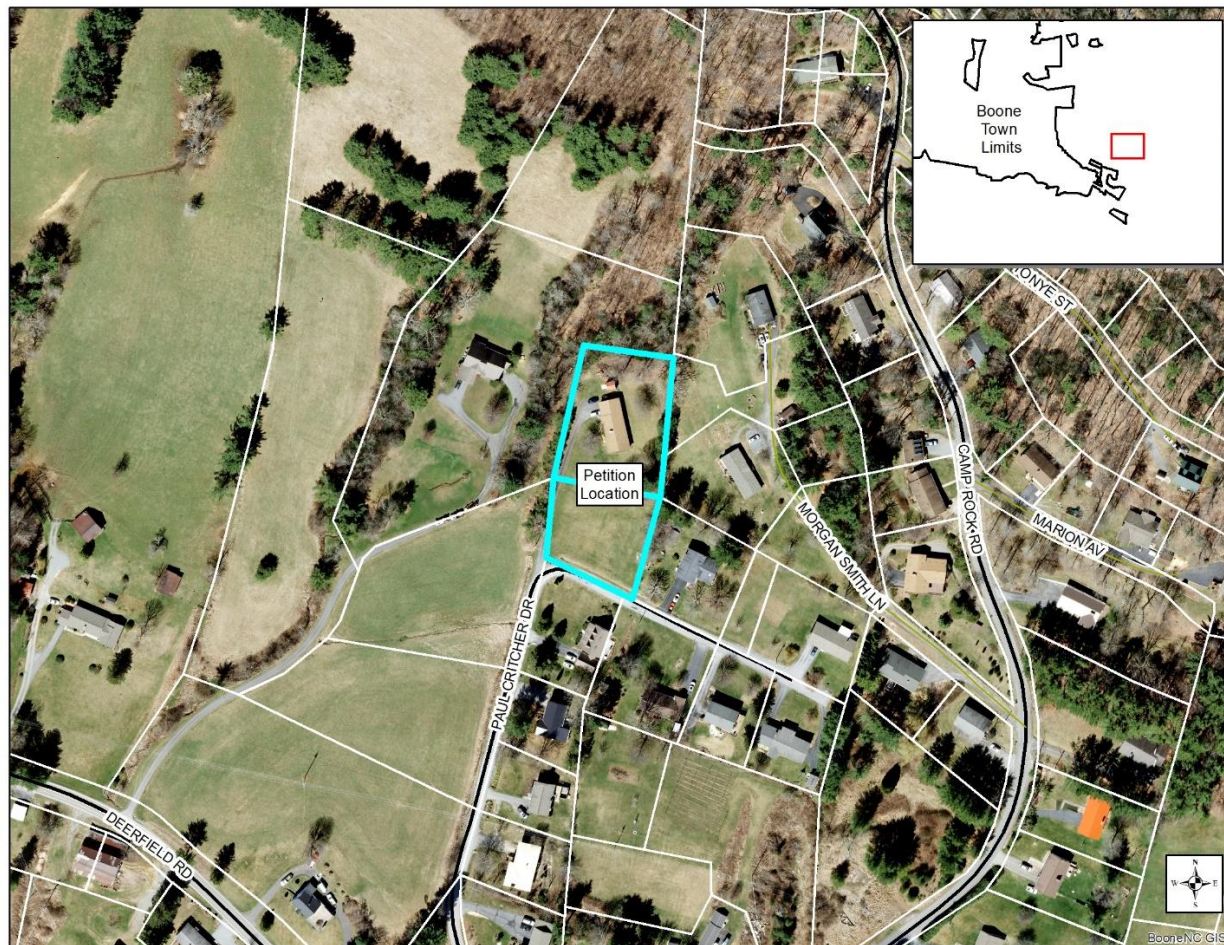
Tract 2:

Being a 0.438-acre parcel which now adjoins 273 Paul Critcher Drive, Boone, NC, and which contains a Well (the "Well") and well house and water lines extending to both the home at 273 Paul Critcher Road (located on the 0.738 acre tract to the immediate North and described in this deed as Tract 1) and to the right-of-way of Paul Critcher Drive and being a 0.438-acre tract of land located on Paul Critcher Drive (NCSR 1633), being the remainder of property described in Deed recorded in deed book 47 at page 523, Watauga County Public Registry, and being more particularly described as follows: BEGINNING on a ¾ inch new iron pipe, said beginning point being located North 06 degrees 00 minutes 32 seconds East 18.93 feet from a right-of-way monument on the western right-of-way line of Paul Critcher Drive, said beginning point also being located North 74 degrees 23 minutes 56 seconds East 1,935.97 feet from NCGS "Airport"; running thence North 13 degrees 58 minutes 14 seconds East 99.84 feet to a ¾ inch existing iron pipe in the corner of the Nancy C. Frost property; running thence with the Frost line, South 74 degrees 59 minutes 21 seconds East 168.80 feet to a ¾ inch existing iron pipe in the property of Wells; running thence with the Wells line, South 14 degrees 57 minutes 30 seconds West 127.45 feet to a ¾ inch existing iron pipe in the northern right-of-way line of Paul Critcher Drive; running thence with the right-of-way line of Paul Critcher Drive, North 65 degrees 36 minutes 09 seconds West 169.38 feet to the BEGINNING, containing 0.438 acres as shown on survey dated October 29, 1996, by Tyrone Richard Bishop, RLS L-2427.

Tract 2 is conveyed subject to the non-exclusive rights of others to the use of the Well on the subject lot and to any connecting water lines as set forth in previous deeds from Paul Critcher for lots in the Critcher Subdivision. The use of the Well shall be in common with other parties who may have a legitimate use therefor, with the cost of utility, maintenance, and upkeep of said well to be divided equally per household served by the Well.

Tract 2 is conveyed subject to a fifteen-foot wide ("15") driveway easement within the Western boundary of the subject Tract 2 over the existing driveway (the "Driveway") for ingress, egress and regress to and from the above-described Tract 1. As part of the consideration for this conveyance, Grantee herein, for himself, his heirs and assigns, by acceptance of this Deed, hereby agrees and covenants to be solely responsible for the maintenance and repair of the Driveway.

**STAFF REPORT
PUBLIC HEARING
JANUARY 27, 2020
CASES PL03452-123119 & PL03453-123119
TAYLOR, CHRISTOPHER - GENERAL USE ZONING MAP AMENDMENT**

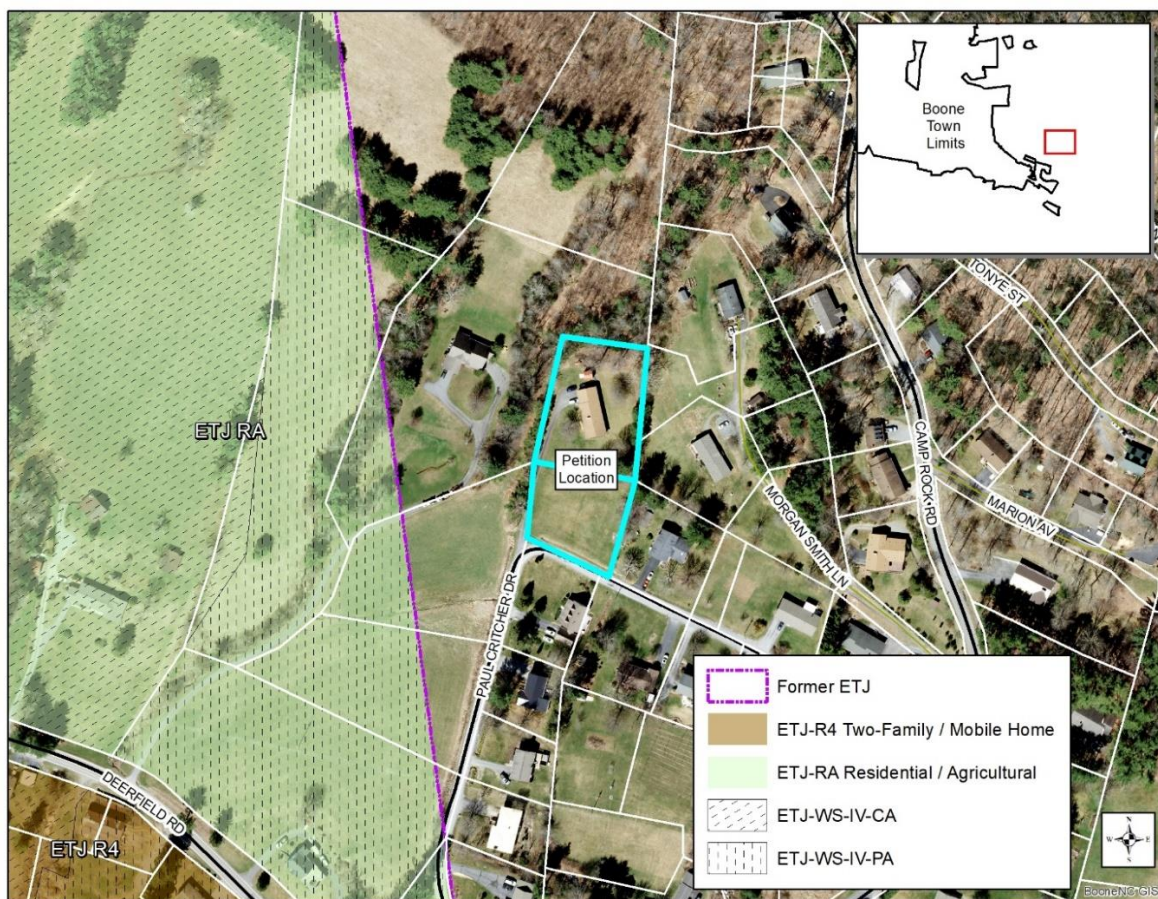


Request

The Town of Boone has initiated a General Use Zoning Map Amendment for property owned by Christopher and Kimberly Taylor (Watauga County PINs: 2920-31-8460-000 and 2920-31-8255-000) to R1 Single-family Residential with WS-IV Watershed Areas Protected Area (WS-IV-PA). Zoning is to coincide with the property owner's voluntary annexation of the properties. The properties are located along Paul Critcher Road.

History

11-19-19 The first step of the annexation process occurred in November, where the voluntary annexation petition was presented. The Town Clerk found that the petition was sufficient and presented the Council with a Certificate of Sufficiency. Council passed a resolution scheduling a date for a public hearing on annexation (February 20, 2020). Council directed that the zoning of the properties be sent to the January 27, 2020 Public Hearing and for Planning Staff to advertise for R1 zoning with the WS-IV-PA overlay district.



Parcel(s) Information

Address:	273 Paul Critcher Road
Watauga County PINs:	2920-31-8460-000 & 2920-31-8255-000
Property Owner:	Christopher and Kimberly Taylor
Total size:	1.17 acres
Jurisdiction:	Watauga County
Access:	Paul Critcher Road (NCDOT)
SFHA:	No
Watershed District:	South Fork New River Watershed - Classification WS-IV Protected Area
Corridor District:	No
NCD:	No
Viewshed:	No
Utilities:	Town water
Current Zoning:	Not zoned
Proposed Zoning:	R1 Single-Family Residential with WS-IV-PA overlay district
Current Uses:	Single-family dwelling, vacant

Zoning & Use of Adjacent Properties		
Zoning		Land Use (according to tax records)
North	Not zoned	Single-Family dwellings
East	Not zoned	Single-Family dwellings
South	Not zoned	Single-Family dwellings
West	Not zoned	Single-Family dwellings

Planning Staff Analysis

Unified Development Ordinance (UDO) Zoning District Descriptions:

...

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.

...

14.07.01 The watershed districts are established as overlay districts intended to regulate the water supply watershed areas pursuant to Article 29 Watershed Protection.

...

Land Use:

The current use of the northern property (2920-31-8460-000) is a single-family dwelling; the southern property (2920-31-8255-000) is vacant. According to the petitioner, the use of the northern property is to remain a single-family dwelling and the southern property is to remain vacant.

Intensity/Density Regulations:

Excerpt from UDO Article 16, Subsection 16.01.02

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.

Building Height:

Excerpt from UDO Article 16, Subsection 16.08.02

Zone	Height Limitation (Feet)
R1	3 stories/40'; accessory structures may not exceed 25'

Watershed Regulations:

The properties appear to be in general compliance with UDO Article 29 for the WS-IV Watershed Areas Protected Area (WS-IV-PA). The current use consists of a single-family dwelling (that was constructed

before the effective date of UDO Article 29) and a vacant lot. These uses are allowed in the WS-IV-PA. The properties do not exceed the two (2) single-family dwellings per acre density standard.

General Use Zoning Map Amendment Guidance

Pursuant to UDO Subsection 9.07.01, in deciding whether to adopt a proposed amendment to the UDO, the central issue before the Council is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Mayor and be excluded. In particular, when considering proposed general use map amendments, the Council shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible ranges of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. The Council shall only consider the impact of the proposed change on the public at large.

2006 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.

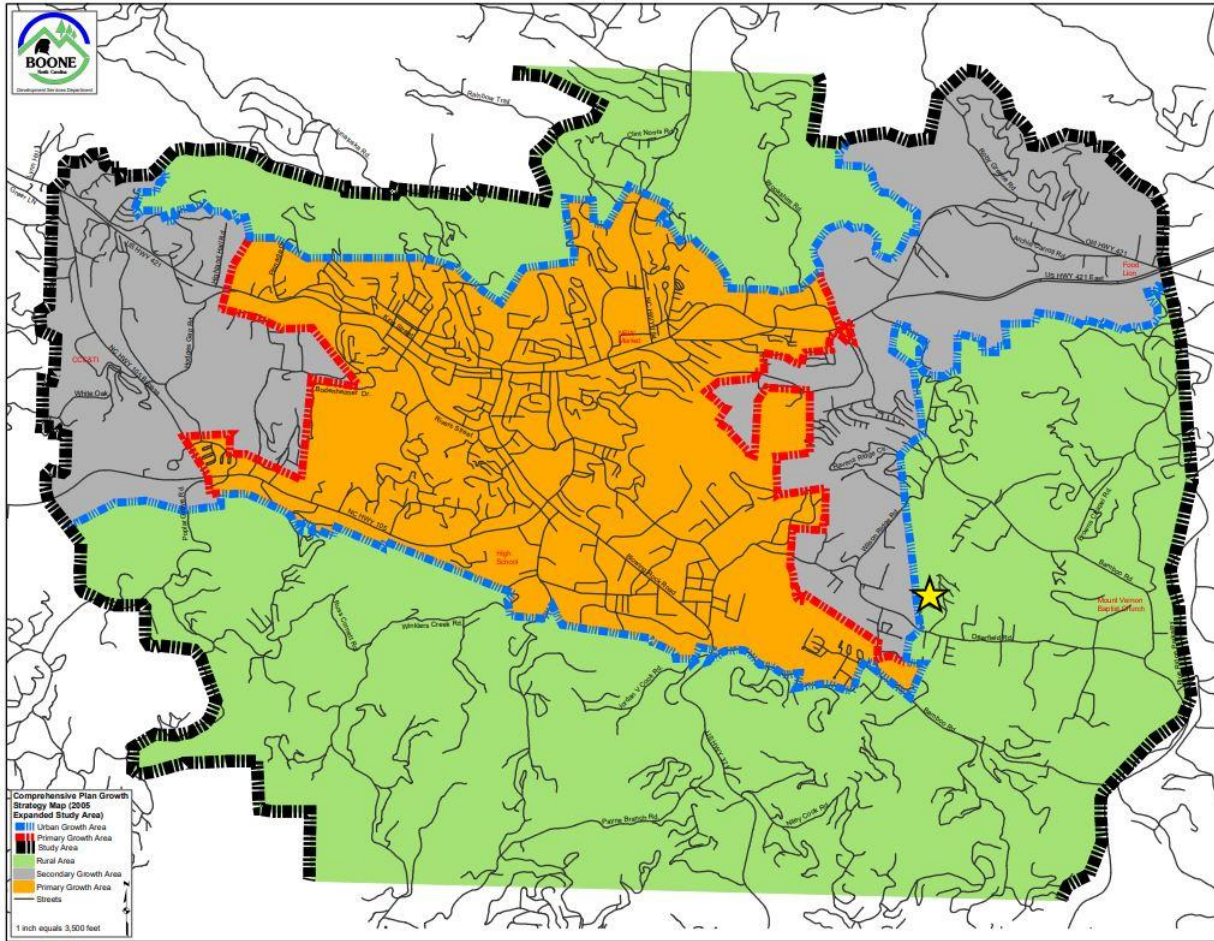
Downtown: Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

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 the **Rural Area**. 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. See Growth Strategy Map on the following page. Applicant location is starred.



Relevant Comprehensive Plan Policies: 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.

...

2.3 Community (p. 67)

- 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.

...

2.3.2 Community Character (p.75)

- 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 (p. 79)

- 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.

2.3.4 Public Involvement (p. 85)

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

- B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs.
- C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County.
- D. Special committees, advisory panels, educational forums, public workshops, leadership seminars, town meetings and media contacts shall be encouraged and fostered to enhance the effectiveness of citizen involvement in community planning and action.

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 January 3, 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 January 3, 2020.

/s/Darrell Pulliam

Darrell Pulliam, Building Inspector

Planning Commission 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]*:

Planning Application - UDO Text Amendment

Town of Boone Planning & Inspections Department
680 W. King Street, Suite C ♦ Boone, North Carolina 28607
Phone (828) 268-6960 ♦ Fax (828) 268-6961 ♦ www.townofboone.net

Official Use Only

Case Number:
PL03449-123119
Case Name:
Correction of Non-substantive Errors

A. CONTACT INFORMATION

Applicant: Town of Boone Company: _____
Address: 567 West King Street
Phone Number: 828-268-6200 Email Address: planning@townofboone.net

B. TEXT INFORMATION

Amendment is to:

Article(s): 1 General Provisions

Section(s): 1.27

Brief Description of Amendment (Attach Proposed Text):

To modify the UDO to allow typographical errors, spelling changes, numerical reference errors, errors in section or page numbering or other purely non-substantive editorial changes to be corrected by the Planning Director without formal adoption by the Town Council provided that such corrections do not change the meaning of the Ordinance.

C. APPLICANT SIGNATURE: By signing this form you are certifying that this application and any attached information is accurate. Failure to provide accurate information or failure to provide any requested information may result in delays to permit processing.

Jane Shook
Applicant (Print)

/s/ Jane Shook
Applicant Signature

December 31, 2019
Date

Official Use Only

Date:	Fee:	Receipt Number:	Method of Payment:	Paid By:
NA	NA	NA	NA	NA

Hearing/Decision Information

Public Hearing Meeting
Date: January 27, 2020
PC Meeting
Date: _____
TC Meeting
Date: _____
Text Approved: ☐ Yes ☐ No
Notes: _____

S:\FORMS\Current Forms\Planning\UDOTextAmendment_PlanningApplication_09252017.doc

Communication: Case PL03474-011020 Application Information (Packet Page 36) (Case PL03449-123119 Non-substantive Errors - UDO Text



STAFF REPORT
PUBLIC HEARING
JANUARY 27, 2020

Case PL03449-123119 Correction of Non-substantive Errors - UDO Text Amendment

Request

To modify the UDO to allow typographical errors, spelling changes, numerical reference errors, errors in section or page numbering or other purely non-substantive editorial changes to be corrected by the Planning Director without formal adoption by the Town Council provided that such corrections do not change the meaning of the Ordinance.

Any such corrections shall be reported in the next UDO update published by the Department.

Proposed Ordinance Amendment

ORDINANCE # _____

**AN ORDINANCE TO REVISE THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE (UDO)
RELATING TO THE CORRECTION OF NON-SUBSTANTIVE ERRORS**

WHEREAS, the Town Council recognizes the need to make corrections in the UDO from time to time to correct typographical errors, spelling changes, numerical reference errors, errors in section or page numbering or similar purely non-substantive changes; and

WHEREAS, the Town Council finds that it is in the best interest of the Town and its citizens that such non-substantive corrections can be made without requiring unnecessary expenditure of staff and Town Council time involved in formal Town Council action; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160A, Article 19; and

WHEREAS, this proposed UDO text amendment was duly noticed for public hearing; a public hearing was held with respect to the proposed amendment on January 27, 2020 ; and the Boone Planning Commission has had an opportunity to submit a written report to the Boone Town Council with respect to the proposed amendment;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. The following subsections of Article 1 of the Boone UDO are hereby amended as follows, with deletions and additions shown in ~~red~~ and blue respectively:

Article 1 General Provisions

...

1.27 Corrections of Scrivener Errors and Changed Reference Citations

1.27.01 Without further approval by Town Council being required and provided that any such correction clearly does not change the meaning of the Ordinance, the Planning Director is authorized to correct the following in the Ordinance: typographical, spelling changes, or numerical reference errors; errors in section or page numbering; corrections to conform to changes in citations for internal or external references; and other similar, non-substantive corrections.

SECTION 2: This Ordinance shall be effective upon the date it is adopted by Town Council.

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.

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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.

Comprehensive Plan Policies: 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.

COMPREHENSIVE PLAN POLICIES

2.1 THE ECONOMY

2.1.1 Economic Development

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.

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

PLANNING BOARD REPORT/RECOMMENDATIONS

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 ordinance ☐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 ordinance 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 ordinance ☐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 ordinance 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 Unified Development Ordinance (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]*:

**PUBLIC HEARING MINUTES
MONDAY, MAY 20, 2019, 6:00 P.M.
TOWN COUNCIL CHAMBERS**

COUNCIL MEMBERS: Rennie Brantz-Mayor, Loretta Clawson-Mayor Pro-Tem, Marshall Ashcraft, Sam Furguele, Connie Ulmer, and Lynne Mason (arrived at 6:02 p.m.)

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chairperson, Eric Plaag-Vice Chairman, Frank Veno, Chris Behrend, and Michael Sanchez (arrived at 6:06 p.m.)

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

OTHERS PRESENT: John Ward-Town Manager and Allison Meade-Town Attorney

CALL TO ORDER

Mayor Brantz called the Town Council to order at 6:00 p.m.

Chairperson Shay called the Planning Commission to order at 6:00 p.m.

Mayor Brantz noted that today was Council Member Ulmer's birthday and she sang Happy Birthday to herself.

CASE PL02397-032719 James Bates – Conditional District Zoning Map Amendment Modification

James Bates has filed a Planning Permit Application to modify an existing Conditional District Zoning Map Amendment approval granted for property located at 225 Delmar Street in 2011. The original approval allowed the rezoning from R1 Single-family residential to Conditional District R2 Two-family residential for a site-specific development plan for a single-family dwelling with accessory apartment (Use 1.01 Single-family dwelling and Use A3 Accessory Dwelling Unit). At this time, James Bates is requesting to modify the original approval to remove a condition regarding owner occupancy.

Marty Little outlined the request noting that approval would result in the removal of condition number 6 of the original approval for Conditional District R2 which states *If both units are occupied, then one unit must be owner-occupied.*

Council Member Furguele asked if the adjacent property was split-zoned. Mr. Little replied that there were several properties that were part of the same subdivision but none of the individual properties were split-zoned. Council Member Furguele asked if the owner occupancy condition was proposed by the applicant. Mr. Little replied that he did not believe it was. Council Member Furguele asked if all of the original conditions had been complied with. Mr. Little stated they were to his knowledge. Council Member Furguele asked if there had been any complaints and Mr. Little stated there had been no complaints that he was aware of. Council Member Furguele asked if the lot met the size requirements for R2 and Mr. Little responded that it did.

Vice Chairman Plaag referred to UDO Section 15.54 that indicated the owner must occupy either the primary residence or the accessory dwelling unit. Mr. Little stated that was correct but noted there were some alternatives to that requirement.

Jane Shook stated there was case law prohibiting the Town from requiring owner occupancy. She noted that the accessory dwelling unit requirements were adopted at a time when the Town thought it could require units to be owner occupied. After learning this was not allowed, the Ordinance was revised to state if the unit is not owner occupied the property has to meet the requirements of a Neighborhood Conservation District whether the property is located within a NCD or not.

Council Member Furgiuele asked if it was correct that the subject property was zoned R1 before receiving approval for R2 Conditional District. Ms. Shook stated that was correct.

Vice Chairman Plaag noted that 15.54.01(A) indicated a percentage requirement that would apply to any residential zoning district that has an accessory dwelling unit. Ms. Shook stated that may need to be looked at because it was not the intent.

James Bates introduced himself. He stated he understood his property was the only property in town with the owner occupancy requirement and they would like to be on par with everyone else. Mr. Bates stated the owner occupancy condition had cost them thousands of dollars over the last few years. He explained that the property was in need of some major repairs and he and his wife were in need of some revenue coming in from the property to help pay for the repairs. Mr. Bates stated that Town Council had previously denied their request for the property and when they put in a second request Town Council would not approve their request unless they agreed to the owner occupancy condition. He noted that he and his wife felt like agreeing to that condition was the only way they would gain approval of their request. Mr. Bates stated that he recently became aware that the State Supreme Court had ruled against owner occupancy clauses and he was requesting that the condition be removed from their Conditional District approval.

Mayor Brantz asked when the law changed. Mr. Bates replied that he did not know.

Council Member Mason asked Mr. Bates if he was okay with all of the other conditions and he stated that he was.

Council Member Furgiuele asked Mr. Bates if he proposed the owner occupancy condition and he stated that he did not. Council Member Furgiuele asked if that meant the two units had never been occupied. Mr. Bates replied that his daughter lived in the apartment for two years and the house for two years. Council Member Furgiuele referred to the May 3, 2010 meeting minutes where Ms. Bates stated the apartment was only big enough for one person. Mr. Bates stated the apartment was pretty small, about 400 sq. ft., and it was old and had an odd layout. Council Member Furgiuele stated the approval allowed up to 3 family members or 2 unrelated persons and he felt that was odd given the statement that the apartment was so small. Council Member Furgiuele asked if Mr. Bates would be willing to limit the occupancy of the apartment to only one person. Mr. Bates felt that was not unreasonable. Council Member Furgiuele asked if there was room for parking if there were multiple people there. Mr. Bates stated there would be adequate parking. Council Member Furgiuele noted one of the requests made by a neighbor during one of the previous public hearings was to have a way to contact the Bates should they move out of town and issues arise. He asked if Mr. Bates would agree to a condition that a name and contact information be provided for a local agent if there were issues or complaints. Mr. Bates was agreeable.

Mayor Brantz asked if the property was currently for sale. Mr. Bates replied that it was not.

Vice Chairman Plaag asked if the Supreme Court ruling on the occupancy requirement would apply to negotiated conditions on a conditional use or would it apply only to standard zoning. Allison Meade responded and stated she felt the ruling would apply to both conditional and standard zoning.

Vice Chairman Plaag asked if Section 15.54 would apply to a standard R2 zoned property that has an accessory dwelling unit on it. Ms. Shook stated that it would. Vice Chairman Plaag asked if Mr. Bates would be willing to accept a condition that requires him to meet all of the regulations that all other R2 zoned properties with an accessory dwelling units have to meet. Mr. Bates agreed and felt that would be what he expected.

Mayor Brantz asked if any of the houses in the Delmar Bungalows development were rentals. John Ward noted that at least one of the houses currently had a For Sale sign in the yard but did not know if all of the houses were owner occupied or being rented. He noted they were smaller houses on a small footprint.

Mayor Brantz noted there were several members of the public wishing to speak.

The first speaker was David Brumfield. Mr. Brumfield stated he had lived at 321 Delmar Street for about 4 ½ years and had no problems with the current situation. However, he was concerned about the makeup of the neighborhood should this request be approved. Mr. Brumfield also expressed concern about the possibility of Airbnb's or transient living. He felt the approval of this request could create a domino effect and was concerned about subsequent owners if the property was ever sold. Mayor Brantz asked if Airbnb's had taken hold in Mr. Brumfield's neighborhood. Mr. Brumfield replied that he had heard rumors but was not sure. Council Member Furguele asked if it was correct that tourist homes were not allowed in R2. Ms. Meade stated that was correct and noted that issue would be before Council at a special hearing on June 27, 2019.

The next speaker was Lisl Doughton. Ms. Doughton stated she lived at 189 Delmar Street and was concerned with property values given the possibility of more than two students there and not having the owners there. She stated she had not had any problems with students living there so far but was concerned about noise should this request be approved. Ms. Doughton stated she did not want to be the one to have to call in complaints. She felt this could change the character of the neighborhood. Council Member Mason stated that one of the conditions currently in place states that leases and/or rental agreements must contain clauses that have penalty and termination clauses for noise at night between 9 p.m. and 7 a.m.

Council Member Furguele asked if occupancy would be limited to two unrelated people in the main house unless it was a family. Ms. Shook stated that was correct. Council Member Furguele asked if it was correct that four unrelated people could not live in the main house. Ms. Shook stated that was correct.

Mr. Ward asked how many bedrooms were in the main house. Mr. Bates stated there were two.

Commission Member Veno asked, if no more than two unrelated people could live in the house, how many people would be allowed in the apartment. Council Member Furguele replied that it would be the same except he had asked the Bates' if they would agree to limit the occupancy to one person. Council Member Furguele asked Ms. Meade if there would be any reason that type of condition could not be imposed. Ms. Meade replied that she would need to review the Fair Housing Act to answer that question. Council Member Furguele stated there had to be at least four units for Fair Housing laws to apply. Ms. Meade asked for the square footage of the apartment and Mr. Bates stated it was about 400 square feet. Council Member Furguele asked Mr. Bates if he had four rental units. Mr. Bates replied that this would make four if the request was approved. Ms. Meade suggested a possible condition of one occupant or two related occupants in the apartment.

The next speaker was Greg Simmons. Mr. Simmons stated he lived at 310 Delmar Street and had concerns from a residential planning perspective. He stated that, as currently permitted, this property could have five occupants. Mr. Simmons noted that his concern was not with modifying the conditions but about leaving the current density in place. He felt that Council Member Furguele was on the right track and stated it would be incredibly wrong to simply remove the owner occupancy condition and leave everything else in place. Mr. Simmons stated that kind of density without a resident owner was a recipe for conflict with an existing R1. He noted that the Delmar Bungalows project was very successful and presented a good transition to the neighborhood. Council Member Furguele asked if it was correct that the B3 portion of Delmar Bungalows was not built out at all and Mr. Simmons replied that was correct. Council Member Furguele asked Mr. Simmons if he had any other issues about this property other than

occupancy. Mr. Simmons noted his concern was with what might happen if the property was ever sold as well as what was the most intense use that was legally possible.

Vice Chairman Plaag asked Mr. Bates if there were currently occupants in either the house or the apartment. Mr. Bates replied they were in between tenants but there would be tenants moving into the house at the first of the month. Vice Chairman Plaag asked if there had ever been a time, since the Conditional District was approved, when there had been occupants in both the house and the apartment. Mr. Bates stated there had not.

The next speaker was Janet Bates. She stated if the property was ever sold the new owners would have to abide by the same conditions and regulations they do so there should be no difference from property owner to property owner. Ms. Bates stated the property was in need of repairs and felt it was currently an eyesore for the neighborhood. She stated without the extra money from rent they would not have enough money to do the needed repairs. Ms. Bates felt that improving the property would be better for everyone in the neighborhood's property value. She noted that the property was just shy of being large enough to separate into two lots. Ms. Bates stated that one of the concerns of the neighbors during the original hearings was increased traffic and noted this was before Delmar Bungalows was built. She stated they had done their best to be a part of the neighborhood and be concerned about any tenants they put there. Ms. Bates stated their preference was to not have students and they would rather have someone who would be a long-term tenant but noted it was difficult to increase the rent or have families there without making some much needed improvement. She stated their understanding was that they were the only ones who had the occupancy clause and they were just asking for an even playing field.

Council Member Furguele asked Mr. Bates if there was a possibility in the future that the accessory apartment would be torn down. Mr. Bates replied that he had no plans to tear it down. He stated the apartment was primarily built out of cinderblock so it should last a while. Mr. Bates stated the roof on the house would need to be replaced in the next 1-2 years. Council Member Furguele asked if the apartment was removed in the future would Mr. Bates be willing to accept a condition that the property revert back to R1. Mr. Bates replied that he had not thought about that. He stated he hoped to keep the apartment and would rather not accept that condition. Mr. Bates felt he would be okay with a condition that there be only one occupant in order to keep the density down.

Ms. Meade asked why the property was zoned R2 instead of R1A. Ms. Shook explained that the development did not fit the requirements of R1A at the time. Ms. Meade asked if the apartment was removed would they be allowed to build it back. Ms. Shook stated the property was tied to a site specific plan and rebuilding would be dependent upon the reason the building was removed.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:57 p.m.

CASE PL02351-031319 Templeton/Glen Wilde – General Use Zoning Map Amendment

Jeff Templeton Rentals, LLC has filed an application for a General Use Zoning Map Amendment to rezone property owned by Jeff Templeton Rentals, LLC and located at 584 State Farm Road (Watauga County PIN: 2910-44-8269-000) from R3 Multiple-Family to O/I Office/Institutional.

CASE PL02452-041619 and PL02453-041619 Glen Wilde – General Use Zoning Map Amendment

The Town of Boone has initiated a General Use Zoning Map Amendment to rezone property owned by Glen Wilde, LLC, Colette Pement Krantz, LT Creations, LLC, and Zimmerman Investments, LLC and located at 610 State Farm Road (Watauga County PINs: 2910-44-9160-000, 2910-44-9160-001, 2910-44-9160-002, and 2910-44-9160-003) from R3 Multiple-Family to O/I Office/Institutional.

Ms. Shook stated she would like to address these cases together noting that the property as a whole contained a common area and two condoed-out buildings. She presented the request as it was outlined in the packet.

Council Member Furguele noted several uses that would be allowed in OI and asked for the definition of a halfway house, seasonal retail activities and amusements, and temporary classrooms. Ms. Shook read the following definitions:

Halfway House, Category 1: A facility in which not more than six (6) persons at one time temporarily reside, where each of the residents is in transition from in-patient treatment for alcoholism or drug abuse or from incarceration back into the community.

Seasonal Retail Activities and Amusements: Sales, services and associated attractions such as Christmas tree lots, pumpkin patches, corn mazes and similar holiday-specific commercial activities.

Temporary Classroom: A temporary use accessory only to Use 9.0 Education and Use 11.23 Hospital.

Council Member Furguele asked if a temporary classroom could be used by ASU at this location. Ms. Shook replied that temporary classrooms were separate accessory structures and were not intended as a use in the primary structure. Council Member Furguele asked if the property was subject to a transitional zone and Ms. Shook replied that it was.

Ms. Meade asked if the shell building belonging to Mr. Templeton was originally built for office use. Ms. Shook stated that it was.

Chairperson Shay asked if OI would allow for small retail or restaurant use. Ms. Shook replied that it would but adequate parking would have to be demonstrated.

Vice Chairman Plaag asked if it was correct that if Mr. Templeton had not made an application for this zoning change the Town could likely have looked to make the change anyway. Ms. Shook stated that was correct. Vice Chairman Plaag expressed some concern about the proximity of this property to residential property and asked if the property could be zoned Conditional OI. Ms. Shook replied that Conditional OI was not the request that was made and felt the request for general OI was the request that would need to be considered at this time. Vice Chairman Plaag stated he was concerned about the neighbors across the street and felt they might not like all of the uses that could potentially go into an OI zone. Ms. Shook explained that neighboring property owners were notified of the requested zoning change and no phone calls were received regarding the requested change.

Ms. Meade asked why the properties were currently zoned R3. Ms. Shook stated that office uses were allowed in an R3 zone at the time the development was built. Because office uses are no longer allowed in an R3, the only way to use Mr. Templeton's building as office space is to rezone the property to a zone where it would be allowed.

Council Member Furguele asked Vice Chairman Plaag if there were particular uses not subject to the transitional zone that he was concerned with. Vice Chairman Plaag stated he had not reviewed each of the possible allowed uses but felt a restaurant or veterinary office could be some uses that would generate traffic or noise. Council Member Furguele stated there were more noxious uses allowed in an R3 than in an OI.

Mayor Pro Tem Clawson felt OI was a better zoning designation for the property than R3.

Council Member Mason added that the transitional zone would be in place for higher density uses. Council Member Furguele stated he was in support of the OI zoning if all three properties were included.

Vice Chairman Plaag agreed that OI made sense but worried about other parts of Town wanting to do the same thing.

Council Member Mason stated these properties were located in an OI area and felt the bigger picture of an area should be considered when discussing rezoning property.

Mayor Brantz invited public comment.

Allen Moseley, attorney for Jeff Templeton Rentals, addressed the Boards. Mr. Moseley stated that both office buildings were considered non-conforming under the current UDO. He noted that Mr. Templeton's building was a shell but it did contain an elevator and was sprinkled. Mr. Moseley stated his client had spent a great deal of money on this building and it was ready to be upfitted for office tenants that may have a desire to lease there.

Council Member Furguele stated the building could be torn down and something else built there. Mr. Moseley responded that was true but felt even if that ever happened it would be better to have the property zoned OI than R3. Mr. Furguele asked why the building had sat vacant for so long. Mr. Moseley replied that he was not involved with the project at that time but thought the person who bought and developed the property held the shell building as an investment and wound up losing it through foreclosure.

Council Member Furguele asked if the Town knew what the position was of the other property owners of the other building. Ms. Shook explained that she sent a letter to those property owners, APO letters were sent out, and she physically went to Dr. Krantz's office and met with them regarding the proposed zoning change. She stated they were a little confused at first but after their last conversation they were agreeable.

Mr. Moseley added that Mr. Templeton met with the other property owners as well and Mr. Templeton indicated they were agreeable to the change as well. Mr. Moseley noted those property owners were not present at this hearing and he did not represent them so he could not speak for them.

Ms. Shook stated that when she met with Dr. Krantz's staff she urged them to attend this meeting if they had any concerns and they understood that.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:30 p.m.

CASE PL02455-041619 Article 9 Public Hearing Process – UDO Text Amendment

The Town of Boone has initiated a UDO Text Amendment to Article 9 to clarify and modify the public hearing process for consideration of UDO map and text amendments.

Ms. Shook presented the request as it was outlined in the packet.

Ms. Meade noted an error in the text at Section 9.05.02 where the word *accept* should be *except*. Ms. Meade stated the point of 9.03.02(F) was to expand upon the way public hearings should be conducted in terms of the process. She noted that section (G) and (H) encourage a full and open dialogue between Planning Commission and Town Council members to discuss any potential concerns or conditions.

Ms. Meade stated Article 9 clarified the beginning of Planning Commission's 30 days to provide a report to Town Council of their recommendations on a case, included clarification regarding the reopening of public hearings and scheduling second public hearings, as well as setting forth expectations regarding the answering of questions and acceptance or denial of conditions by the applicant.

Council Member Furguele stated he supported all of the proposed changes but felt 9.06.01(A)(5) regarding referring a proposed amendment back to Staff and/or Planning Commission should be reworded. Ms. Meade suggested the following wording, *Refer the proposed amendment back to Staff for*

such further consideration as Council may direct, including but not limited to a second public hearing with the Planning Commission. Council Member Furgiuele agreed to that suggested language.

Vice Chairman Plaag stated he understood why this language was being proposed and he agreed with the spirit and intent. He noted that Town Council had an advantage that Planning Commission did not. Vice Chairman Plaag explained that Planning Commission got a 10-minute break after hearing all of the cases at public hearing and then has to make recommendations on those cases while Town Council has another 30 days to think about the cases before making their decision. Vice Chairman Plaag stressed that it was not the intent of Planning Commission to try to usurp the process when they had asked clarifying questions at Planning Commission meetings in the past. Council Member Mason replied that she understood that and felt this proposed text would add clarity to the process and help ensure everyone would be operating with the same information.

Council Member Furgiuele stated that Town Council also missed the conversations had by Planning Commission members as they deliberated cases. He felt this text amendment would invite debate and discussion between Town Council and Planning Commission members during the public hearing that would result in more well thought out results.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:49 p.m.

OTHER MATTERS

There were no other matters discussed at this hearing.

ADJOURNMENT OF TOWN COUNCIL

Mayor Pro-Tem Clawson made a motion for Town Council to adjourn at 7:49 p.m. The motion was seconded by Council Member Mason.

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

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chairperson

Chairperson Shay called a break in the Planning Commission meeting from 7:49 p.m. until 7:57 p.m.

CASE PL02397-032719 James Bates – Conditional District Zoning Map Amendment Modification Ms. Shook reminded Commission members of the following conditions Mr. Bates agreed to during the Public Hearing:

1. Follow the requirements of UDO Section 15.54.
2. Limit occupancy of the garage apartment to 1 person.

Vice Chairman Plaag felt the property owner was caught in an unusual circumstance and it seemed the Bates' were seeking an equitable playing field with other properties who do not have an owner occupied condition. The removal of the owner occupied condition has created concern from the neighborhood and Vice Chairman Plaag stated he was encouraged by the Bates' willingness to accept the new conditions that would help address some of the neighbor's concerns regarding current and future use of the property.

Commission Member Veno stated that it was required in his neighborhood to have a local managing agent if the property owner lived more than 50 miles away and rented their home. Ms. Shook replied that Commission Member Veno lived in an R1 zoned neighborhood within a Neighborhood Conservation District. Ms. Shook added that, under 15.54, the subject property would be required to meet the requirements of a Neighborhood Conservation District if one of the units was not owner occupied.

Vice Chairman Plaag asked Ms. Shook to explain the requirements of UDO Section 15.54. Ms. Shook stated that Section 15.54 required documentation be submitted, if one of the units was not owner occupied, stating they would follow the registration requirements as if they were in a Neighborhood Conservation District. Vice Chairman Plaag noted the Town attorney's remarks during the Public Hearing that requiring owner occupied units was no longer permissible and should condition #6 be challenged it would likely be found to be unlawful. Ms. Shook stated that was correct. Vice Chairman Plaag stated if condition #6 was lifted the property would then be subject to regular R2 requirements located in Section 15.54. He asked if the property currently met other requirements of an R2 and Ms. Shook replied that it did.

Vice Chairman Plaag noted that Mr. Bates agreed to limiting the apartment to one tenant. Ms. Shook reminded Commission members that Ms. Meade was uncomfortable with limiting the apartment to only one tenant and suggested a limitation of one tenant or two related tenants.

Vice Chairman Plaag stated his initial concern was amplified by learning that this property was originally zoned R1 when it was approved for the Conditional R2 zoning. In the interest of protecting the neighborhood, Vice Chairman Plaag stated he was not so concerned about this applicant because he did not hear that they were bad neighbors or that they had not previously complied with the conditions of their approval. He noted he was worried about some of the concerns the neighbors expressed and was unsure how to remedy them given Councils direction regarding owner occupancy requirements. However, Chairman Plaag felt that the applicant was willing to work with the Town to address the concerns while also acquiring the removal of condition #6.

Chairperson Shay stated she was inclined to remove the original condition #6 that states one unit must be owner occupied out of a sense of equity. She stated she heard the concerns of the neighbors about a possible AirBnB coming in and she was heartened to hear Ms. Meade indicate that was a topic under Town Council's consideration. Chairperson Shay stated she also heard the concerns about density but did not feel that 4-5 people on the lot overall was too dense.

Commission Member Sanchez noted that the Bates' were planning to do some improvements to the property and with the extra money from rent they could give it a facelift which would be a positive for the neighborhood and could improve property values.

Commission Member Behrend stated she was concerned with student rentals but was okay with getting rid of condition #6 with the addition of the new condition limiting the number of occupants. Chairperson Shay felt that a 400 sq. ft. apartment was sort of self-limiting and felt it would be unlikely that two unrelated people would want to share an apartment of this size.

Commission Member Veno stated he was not comfortable with removing the owner-occupied condition due to the concerns of the neighborhood. He asked why the property was rezoned to R2. Ms. Shook explained that the apartment was there when the Bates' purchased the property and they thought they

were in compliance but later found out that was not the case so they reached out to Planning & Inspections to see what they could do to remedy the situation and that is when the property was zoned Conditional R2. Ms. Shook noted that the Delmar Bungalows project was zoned R2 and R2 was a transition from the R1 zoned properties on one side to the B3 zoned properties on the other. Commission Member Venio stated he had read the history in previous meeting minutes and was concerned about noise and other neighborhood issues. Vice Chairman Plaag stated the Bates' have a more restrictive lease requirement than the Town's noise current noise ordinance, with the restriction being from 9 p.m. to 7 a.m. as noted in condition 2.c. of their original approval.

Ms. Shook noted that the Ordinance did not regulate the rental of units to students and could not distinguish between student or non-student.

First Motion and Vote:

Vice Chairman Plaag made a motion, seconded by Commission Member Behrend, 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, with the addition of the following new conditions:

1. Occupancy of the accessory dwelling unit shall not exceed one unrelated or two related individuals.
2. The property owner shall comply with all requirements of UDO Section 15.54 Accessory Dwelling Unit as currently construed to replace any prior requirements concerning Section 181.

and the proposed amendment is consistent with those conditions 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 2.3.3 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 valuable 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.

Vote: Aye – 4 (Shay, Plaag, Behrend, Sanchez)
Nay – 1 (Venio)

The motion passed.

Second Motion and Vote:

Vice Chairman Plaag made a motion, seconded by Commission Member Behrend, that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map, with the addition of the 2 new conditions listed in the first vote, and believes approval is reasonable and in the public interest because the new conditions help address neighborhood concerns about occupancy issues that may arise with the accessory structure and places the property on par with other R2 properties regarding the accessory dwelling unit requirements within Section 15.54 while retaining the other conditions that were already initially approved on the Conditional District for this property.

Vote: Aye – 4 (Shay, Plaag, Behrend, Sanchez)
Nay – 1 (Venio)

The motion passed.

CASE PL02351-031319 Templeton/Glen Wilde – General Use Zoning Map Amendment**CASE PL02452-041619 and PL02453-041619 Glen Wilde – General Use Zoning Map Amendment**

Commission members discussed considering all three of these cases together.

Vice Chairman Plaag made a motion to consider all three cases together. The motion was seconded by Commission Member Sanchez.

Vote: Aye – All
Nay – None

The motion passed.

Vice Chairman Plaag noted that R3 would allow for more intense density developments that could be townhouses or apartments. He explained that office uses were allowed in R3 zones in the past and that was how these properties came to be. Vice Chairman Plaag stated that Town Council was looking at these properties for future rezoning but Mr. Templeton wished to go ahead and proceed with this rezoning request.

Vice Chairman Plaag stated he was worried about setting a precedent by rezoning property to O/I when it was located across the street from R1. Ms. Shook replied that she did not think you could set a precedent with rezoning because each request was examined individually and she did not feel there would be legal standing. Vice Chairman Plaag stated he realized it may not carry legal weight but there could be political weight and that frustrated him. Vice Chairman Plaag stated that some uses had transitional zone requirements but category 1 churches, small restaurants, and retail stores were allowed by right and these uses could cause noise or traffic that affected single family properties. He stated he liked to consider the worst thing that could happen. Vice Chairman Plaag stated he heard the remarks by Town Council that zoning the properties O/I made more sense than leaving them zoned R3. He added that he did not know if his concerns were enough to make him vote no but it was a worry.

Chairperson Shay stated she was less concerned about different zoning districts being across the street from each other on State Farm Road. She noted that Town Council thought there were less undesirable uses in O/I than in R3 and she was supportive of the change.

First Motion and Vote:

Commission Member Veno made a motion, seconded by Commission Member Sanchez, 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 the proposed amendment is consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

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

Comprehensive Plan Policy 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.

- E. New development, redevelopment and rehabilitation of structures and sties 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 County small town.

Commission Member Veno stated this would apply to Case PL02351-031319 Templeton/Glen Wilde, Case PL02452-041619 Glen Wilde, and Case PL02453-041619 Glen Wilde.

Chairperson Shay wished to amend the motion to include:

Comprehensive Plan Policy 2.1.2 Commercial Development

- C. Community/Commercial Centers shall be located adjacent to a major street and contain or be adjacent to other appropriate community facilities.
- F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.
- I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.

Commission Members Veno and Sanchez accepted the amendment.

Vote: Aye – 4 (Shay, Veno, Sanchez, Behrend)
Nay – 1 (Plaag)

The motion passed.

Second Motion and Vote:

Commission Member Veno made a motion, seconded by Commission Member Behrend, 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 of the aforementioned Comprehensive Plan policies and the amendment will address underutilized property and reduce undesirable land uses.

Vote: Aye – 4 (Shay, Veno, Sanchez, Behrend)
Nay – 1 (Plaag)

The motion passed.

CASE PL02455-041619 Article 9 Public Hearing Process – UDO Text Amendment

Ms. Shook stated the text would provide a framework for staff, Planning Commission, Town Council, and applicants to follow. She noted that public comment needed to take place at Public Hearings so that both Planning Commission and Town Council can hear the same information. Ms. Shook explained that if Planning Commission felt they were not ready to make a decision on a case on the same evening as the Public Hearing they could delay their decision to another meeting. If they felt the need for more public input, they could request from Town Council an additional Public Hearing. Chairperson Shay stated that Planning Commission could not have further interaction with the public once the Public Hearing was over but could ask questions of staff. Ms. Shook replied that was correct.

Chairperson Shay felt Article 9 provided structure, guidance, and transparency.

Vice Chairman Plaag commended Ms. Meade on the language she crafted for Article 9 because it allows an applicant time to consider conditions and provides guidance in a nice way.

First Motion and Vote:

Commission Member Sanchez made a motion, seconded by Commission Member Behrend, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan

and any other adopted plan(s) of the Town that are applicable because the proposed amendment is consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

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

Vice Chairman Plaag wished to amend the motion to include:

Comprehensive Plan Policy 2.1.1 Economic Development

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.

Commission Members Sanchez and Behrend accepted the amendment.

Vote: Aye – All

Nay – None

The motion passed.

Second Motion and Vote:

Commission Member Sanchez made a motion, seconded by Vice Chairman Plaag, that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning ordinance and believes approval is reasonable and in the public interest because the text will be more in depth, no one can game the system, it will be a better solution for everyone, and is very practical.

Vote: Aye – All

Nay – None

The motion passed.

OTHER MATTERS

Ms. Shook noted that Commission Member James Hedrick would be out of town with an excused absence by Town Council until August, 2019.

Ms. Shook explained to Commission members that, due to the fact that the Town was trying to reduce paper consumption, she was considering purchasing small laptops for Commission/Board members to use during meetings to access their packets. Several members stated they would be willing to use their own laptops. One member requested to still receive a paper copy because it was difficult for her to read the packet on a computer screen. Ms. Shook asked Commission members to think about the idea for discussion at another time.

Ms. Shook noted that the next regularly scheduled Planning Commission meeting was June 24, 2019. Commission Member Behrend stated she would be unable to attend. Commission Member Sanchez stated he may be unable to attend as well.

Vice Chairman Plaag asked where the Comprehensive Plan review stood. Ms. Shook replied that Town Council had assigned five priorities for the Planning Department that they wanted to have worked on before returning the Comprehensive Plan.

Ms. Shook noted that Board training would resume soon.

ADJOURNMENT OF PLANNING COMMISSION

Chairperson Shay made a motion, seconded by Commission Member Behrend to adjourn the meeting at 9:15 p.m.

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

Elizabeth Shay, Planning Commission Chairperson

Brenda Henson, Board Secretary

**PUBLIC HEARING MINUTES
MONDAY, AUGUST 26, 2019, 6:00 P.M.
TOWN COUNCIL CHAMBERS**

COUNCIL MEMBERS: Rennie Brantz-Mayor, Loretta Clawson-Mayor Pro-Tem, Marshall Ashcraft, Sam Furgiuele, Connie Ulmer, and Lynne Mason

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chairperson, Eric Plaag-Vice Chairman, Frank Veno, Chris Behrend, and James Hedrick

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Marty Little-Senior Planner, Brian Johnson-Urban Design Specialist, and Brenda Henson-Board Secretary

OTHERS PRESENT: John Ward-Town Manager and Allison Meade-Town Attorney

Call To Order

Mayor Brantz called the Town Council to order at 6:01 p.m.

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

Approval of Public Hearing Minutes by Town Council & Planning Commission

Mayor Pro Tem Clawson made a motion to approve the April 29, 2019 Public Hearing minutes as correct. The motion was seconded by Council Member Mason.

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

Commission Member Behrend made a motion to approve the April 29, 2019 Public Hearing minutes as correct. The motion was seconded by Commission Member Hedrick.

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

Case PL02654-060619 East King Street Hotel – Conditional District Zoning Map Amendment

Dan Norman with North Star Villages, LLC has applied for a Conditional District Zoning Map Amendment to construct a four-story, 107-room hotel located at the corner of East King Street and Hillside Drive. Four properties are currently split-zoned B3 General Business and R3 Multi-family residential, and two properties are wholly zoned R3 Multiple-family residential. The proposed zoning district for all six properties (Parcel IDs: 2910-18-8163-000, 2910-18-9020-000, 2910-18-9036-000, 2910-28-0036-000, 2910-28-1022-000, and 2910-27-1827-000) is Conditional District B3 General Business, and the proposed use is Use 3.08 Hotel.

Marty Little presented the request as it was outlined in the meeting packet. Council Member Furgiuele noted the staff report indicated this project was turned down by the Board of Adjustment but did not give the reason why, nor did it state how the Conditional District proposal was different from the Special Use Permit request. Mr. Little replied that he was not at the Board of Adjustment meeting. Council Member Furgiuele stated he did not see any mitigation for transitional zones outlined in the packet. Mr. Little deferred to the applicant for presentation of that information. Council Member Furgiuele referred to the neighborhood meeting that was mentioned in the packet and asked Mr. Little if he knew what changes were made to the plans as a result of that meeting. Mr. Little replied there was not an access to the property from Hillside Drive and as a result of the neighborhood meeting a right-in, left-out onto Hillside Drive was added. Council Member Furgiuele stated he thought there could only be one driveway access

in the Corridor Overlay District, and the plans made it appear that they would be using Hillside Drive as a second entrance to the development. Mr. Little explained that the entrance on the far left of the property would be an entrance for emergency vehicles only. Council Member Furguele stated there would then be three entrances. Council Member Mason asked if the entrance from Hillside Drive was required. Mr. Little replied that Corridor District standards preferred to have the only access from Hillside Drive, but the standards did allow Staff the ability to find that access from secondary roads to be unreasonable, and allow an entrance onto East King Street if NCDOT felt it was necessary. Council Member Mason stated Council had been reviewing a variety of parcels for possible rezoning and asked Mr. Little what direction Council had discussed for these parcels. Mr. Little stated, as he recalled, Council had wanted to have the five parcels fronting East King Street be zoned B3, with the Ramsey tract on Hillside Drive being rezoned from R3 to R1, unless the project wanted to seek Conditional District approval.

Council Member Furguele asked what standards existed in the UDO for hotels. Mr. Little replied there were no standards in the UDO for hotels specifically. Council Member Furguele asked how they would distinguish a dormitory from a hotel. Mr. Little stated they would be distinguished by definition. He added that in order to be used for multi-family the requirements of UDO Section 15.10 would have to be met. Council Member Furguele asked what the Planning policy was behind having 1.25 parking spaces per room. Mr. Little replied that he was unsure what the policy was behind that and noted that the Ordinance required 1.25 parking spaces per hotel room unless a parking analysis was completed that showed 1.25 spaces would be excessive. Council Member Furguele asked that if the standard was met there would be 134 spaces. Mr. Little stated that was correct.

Vice Chairman Plaag asked for clarification on the height relative to the setback, noting his understanding was that the 56' height proposed would be sufficiently set back from the 20' setback line, so that for each foot back from that line they would accrue an additional foot in building height. Mr. Little stated that was correct and noted the entire structure would need to be set back an additional one foot to gain an additional foot in height. Vice Chairman Plaag asked if the fire pit area was considered part of the structure for purposes of setbacks. Mr. Little stated the fire pit was not considered part of the structure. Vice Chairman Plaag stated that NCDOT did not require a traffic study and asked what the plan was for the extra 27 cars entering and exiting the site during peak hours. Mr. Little noted there was a Transportation Technical Memorandum on packet page 48 that was submitted even though the project did not trigger a Traffic Impact Analysis from the Town or DOT.

Council Member Furguele felt the numbers in the transportation memo seemed a little fishy but noted he was not a traffic engineer. He stated some of the trip numbers and times seemed inconsistent with his experiences of staying at hotels and he did not believe the information contained in the report. Council Member Furguele asked if the Town made any attempt to have a traffic analysis done themselves. Mr. Little replied that Public Works staff reviewed the project and did not have any comments. Council Member Furguele asked if the Town hired an independent engineer to evaluate and Mr. Little stated they did not. Vice Chairman Plaag asked if it was within the Planning Department's normal policies to trigger a Town-hired traffic study on areas within Town that are known to be problematic. Mr. Little replied that it was not.

Chelsea Garrett, attorney for the applicant, introduced those present on their project team. Ms. Garrett introduced Dan Norman and Tom Odai as the principals of North Star Villages, Mike Trew with Municipal Engineering, Bill Dixon with Appalachian Architecture, Randy Goddard a transportation engineer with the Design Resource Group, Alan Reick an appraiser with T.B. Harris Jr. & Associates, and Ron Cultlip a landscape architect. Ms. Garrett stated that the proposed hotel would be an appropriate use for this location and would combine the six properties into one use versus possibly having four different uses along the major corridor. She noted there were two community meetings held, one on June 25 with the sign-up sheet contained in the packet and one on August 7 with a sign-up sheet that was very similar and

could be provided if needed. Ms. Garrett stated the second meeting was held to discuss the changes that were incorporated into the plan based upon the suggestions at the first neighborhood meeting. Ms. Garrett noted that the letters sent out for the neighborhood meeting expanded beyond the 200' transitional zone to 300'.

Ms. Garrett noted that the orientation of the building had originally been located closer to Hillside Drive but had been moved down to the west side of the property as far as possible. She also stated the swimming pool had been removed.

Ms. Garrett asked Bill Dixon to address the differences in the project from the initial design after the neighborhood meeting. Mr. Dixon stated he was not at the first neighborhood meeting but thought the overall reaction to the initial design was not very good, noting, from an architect's perspective, it looked like a bad hospital from the 60's. He stated he redesigned the front façade to have some offsets to break up the flat exterior, and he incorporated stone. Ms. Garrett asked Mr. Dixon if he made the building footprint narrower and he replied that the footprint did get smaller due to the offsets.

Mayor Brantz asked if there was a landscaping plan. Ms. Garrett stated there was and that the presentation would address it later.

Council Member Furgiuele asked if the entrance to the hotel faced the parking lot and not King Street. Ms. Garrett stated that was correct, noting the driveway entrance off of King Street took residents to a porte-cochere on the side of the building facing Hillside Drive.

Ms. Meade asked for the length of the building as it faces King Street and how it would compare to the larger building of The Standard. Mr. Dixon replied that the building was about 200' long and would be about 1/3 the size of The Standard. He stated the building would be shorter and set back farther from the street.

Council Member Furgiuele asked if the roofs would be higher than the maximum allowed. Mr. Dixon stated that no areas of the building would be above the maximum height allowed at the mean average grade along the street. Council Member Furgiuele asked if they would be higher than 56'. Mr. Dixon replied that the building would be 61' at its highest points and that would be including parapets.

Vice Chairman Plaag stated that the terrace area and fire pit were not shown on the elevations and asked if that area would be elevated. Mr. Dixon replied that he was unsure. Mike Trew responded that the terrace area and fire pit would be at the same elevation as the finished floor and below grade from the sidewalk. Vice Chairman Plaag questioned the spa that was to be on the roof. Mr. Dixon explained that the hotel chain required a pool or a spa, which would probably be a 4-person hot tub. He stated it would be for guests only, have controlled hours, and screened with planters. Vice Chairman Plaag asked if the spa would be outside. Mr. Dixon replied that was correct. Ms. Garrett asked, if installed, would the spa area be accessible only by key fob with the lock on the door shutting off at a certain hour. Mr. Dixon stated that was correct.

Council Member Mason asked Mr. Dixon to restate the length of the building. He replied that it was 200' and some change. Mr. Trew stated he scaled the length at roughly 213'.

Council Member Furgiuele asked if all of the changes from the neighborhood meeting had been presented and Ms. Garrett replied that they had not. She stated that would be largely what Mr. Trew would be speaking to.

Mike Trew with Municipal Engineering stated his firm developed the site and grading plan for this project. Council Member Furgiuele asked if there was steep slope on the back of the property. Mr. Trew replied there was no steep slope there that he was aware of. Council Member Furgiuele asked if fill would be required in order to create parking. Mr. Trew stated there would be about 13-17' of fill on the west side

of the property. Council Member Furguele asked how that would be retained. Mr. Trew stated it would be mechanically stabilized earth, meaning a living wall. Council Member Furguele asked if it would be a solid wall or stepped. Mr. Trew replied it would be stepped with planting areas. Council Member Furguele asked where the drainage for the wall would be. Mr. Trew stated it would be behind the wall and it would drain down to a collection pipe that would take it down to Greasy Corner. Mr. Trew noted there was a 24" culvert that ran right through the middle of this property that they would be rerouting because it was in the way and it was also antiquated. Council Member Furguele asked how they would reroute the culvert if they did not own the property all of the way to Greasy Corner. Mr. Trew explained that there was a junction on the west of the subject property that they could tie to. Council Member Furguele asked if this would be a satisfactory drain. Mr. Trew replied that it would. Council Member Furguele asked if there had been an analysis of that. Mr. Trew stated there had not. Council Member Furguele asked Mr. Trew how he knew the culvert would be sufficient if there had been no analysis. Mr. Trew explained that the Town's UDO required them to not discharge any more water than was currently being discharged off of the site and they are bound by that. He noted that DOT maintained the first section of the pipe or storm drainage system and they had a permanent drainage easement. Mr. Trew stated they planned to tie onto the end of DOT's structure and route the pipe around behind the back of the hotel and connect it back to where it currently goes off of the property. Mr. Trew noted there was also an old 6" and 8" clay sewer line that ran through the property and they would be rerouting that to the back of the property at the suggestion of the Town's Public Works Department. He explained there had been problems with the sewer line and other properties were tied into it so this would help alleviate those problems. Council Member Furguele asked where the culvert pipe currently discharged. Mr. Trew replied that it currently discharged underneath Laurelwood Apartments and he thought it stayed underground all of the way to Greasy Corner. Council Member Furguele noted there was flooding that occurred in front of Bill's Garage on King Street. Mr. Trew stated that was on a different drainage system that came from the Cherry Drive area.

Vice Chairman Plaag questioned the storm drainage pipe and asked if the sharp angle in it would cause a clog. Mr. Trew replied that there was a risk of debris clogging any storm drainage pipe and would be a matter of maintenance. Vice Chairman Plaag asked if that maintenance would be the responsibility of the Town or the property owner. Mr. Trew stated it would be the responsibility of the property owner.

Council Member Furguele asked where the water got detained. Mr. Trew stated there were several detention systems planned as well as a rain garden. Council Member Furguele asked if there had been any consideration for using some type of permeable surface. Mr. Trew stated some would be used at the emergency entrance but it was not included in the rest of the design because it was not very practical in the mountains due to the soils that do not absorb water as well. Council Member Furguele asked about permeable concrete. Mr. Trew replied that it had not proven itself yet.

Mayor Brantz asked if there would be any green features. Mr. Trew stated they had gone above and beyond on the landscaping. He noted the rain garden, the permeable emergency exit for the Fire Department, and the underground detention basins that would create cooler water upon release.

Mr. Trew stated that the neighborhood meeting was very informative and felt the biggest concern of the neighbors was the look of the hotel. He noted that Ms. Little did request a fence at her property. Ms. Garrett stated that the fence was required by the UDO to be located in a certain place but if the Town would approve it to be placed in an alternate location they could accommodate the wishes of the neighbor to have it located where she preferred it to be.

Mr. Trew noted there was currently a white pine buffer and they would preserve as many of those trees as possible. He stated that headlights from cars entering the hotel and onto Hillside Drive would shine into the bank due to the topography. Mr. Trew stated that the dumpster location had changed and they

would be the second pick-up for trash, which would be after 8:00 a.m. Vice Chairman Plaag asked Mr. Trew if they would be willing to accept a condition regarding the trash pick-up time and he relayed that they would accept that condition.

Ms. Garrett asked if it was correct that IONCON was hired to do the lighting plan. Mr. Trew replied that was correct. He stated there was nothing special about the lighting plan, noting all of the site lighting would be down lighting and per UDO requirements. Ms. Garrett noted that none of the surrounding residential properties were below grade of the hotel.

Ms. Garrett asked if the primary entrance to the hotel off of King Street was a slight slope down. Mr. Trew replied that it was, noting the finished floor was about 4' below the road grade and there would be a small retaining wall between the bank and the parking lot along King Street. Mr. Trew stated there was a slight slope down when you turn onto Hillside Drive then a slight slope back up. He noted the parking lot would mimic that slope, which was about a 5% grade. Vice Chairman Plaag asked if that 5% grade in the parking lot would cause headlights to shine up into the houses. Ms. Garrett replied that it would not, noting the headlights should still shine into the bank. Mr. Trew stated they would be willing to create an 8' tall fence instead of a 6' tall fence if necessary.

Ms. Garrett asked if they would be adding a sidewalk along Hillside Drive. Mr. Trew replied that they would.

Council Member Furgiuele asked where else there would be retaining walls. Mr. Trew stated there would be a retaining wall in the front of the property that would be no higher than 4' below grade. He noted there would also be the mechanically stabilized earth wall on the west side of the property as well as a retaining wall along the pedestrian way on the west side leading to the sidewalk on King Street.

Vice Chairman Plaag asked how many of the 107 guest parking spaces would be handicap spaces. Mr. Trew replied there would be 5 handicap parking spaces. Vice Chairman Plaag noted there would be 102 regular guest spaces but if the hotel was full of regular guests, and no guests with handicaps, where would 107 regular guest cars park when there were only 102 regular spaces. Mr. Trew stated he did not know and felt that would be more of an operational question to be addressed by the owners. Mr. Trew stated he knew that the requirement of this hotel chain and several others was a one-to-one ratio of parking spaces to guest rooms, but he did not know if that included the handicap spaces. He noted an architect was consulted who designed hotels and that architect stated it was standard to have a one-to-one ratio of parking and felt it was sufficient for hotels.

Council Member Furgiuele asked about the number of staff for the hotel. Dan Norman replied there would be a manager and a maintenance manager overnight and housekeeping staff would come in around 9:00 or 10:00 a.m. after many of the guests have left, so there would be parking available for staff at that time. Council Member Furgiuele asked if the hotel would serve continental breakfast. Mr. Norman replied there would be a small breakfast area.

Ms. Garrett asked if it was correct that there was no conference or meeting space proposed. Mr. Trew stated that was correct.

Vice Chairman Plaag asked how they planned to handle students who wanted to park in their lot during the day. Mr. Trew deferred that question to the developer.

Ms. Garrett asked Ron Cutlip, the landscape architect for the project, to speak about the landscaping. Mr. Cutlip stated there would be 1, 2, and 3' mounds or berms, and boulders would be used to create a more natural feel. He noted he would be on site during the grading of the property in order to ensure the protection of the trees and to try and keep the root systems safe.

Mayor Brantz asked what kind of maintenance would be necessary for the landscaping. Mr. Cutlip replied that he could recommend people to maintain the site so it still looked good for years to come. He stated he would not cut down any trees to install the fence.

Ms. Garrett asked Randy Goddard to speak about traffic. Mr. Goddard stated he was a professional engineer in the state of North Carolina and had been practicing traffic engineering for almost 32 years, and that a lot of the traffic studies he had done had been for hotel land uses. Ms. Garrett asked Mr. Goddard if he had visited the site. Mr. Goddard replied that he visited the site on July 5, 2019. He noted that neither the Town, nor NCDOT, required a Traffic Impact Analysis, but they decided to go above and beyond and did a Transportation Technical Memo, which was a reduced version of a study. Mr. Goddard stated they used the Trip Generation Manual, which was the national standard, to calculate trip numbers using to highest intensity hotel category and that number was 782 trips per 24-hour period. Mr. Goddard noted they did evaluate the access on Hillside Drive. He stated that the Hillside driveway would serve those who might have missed the primary entrance and there would be signage noting indicating the right-in, left-out pattern. Ms. Garrett asked about sight distance at the primary exit and Mr. Goddard replied that the sight distance far exceeded NCDOT's sight distance requirements.

Vice Chairman Plaag asked what the basis was for peak hour calculations. Mr. Goddard replied that the studies assume there would be full occupancy of a hotel when calculating peak hour trips.

Council Member Furguele expressed concern with traffic. He noted in his personal experience there was not an even distribution of people exiting hotels during business hours. Council Member Furguele felt a peak number of 27 cars exiting did not make sense. Mr. Goddard stated that the number would have one car leaving every two minutes in a one-hour peak period. Council Member Furguele stated his bigger concern was the prediction that only 20% of exiting traffic would go onto Hillside Drive. As designed, it looked like Hillside Drive was the exit road for the parking lot and there was no information regarding the level of service at the intersection of Hillside Drive and King Street. Council Member Furguele asked how they could make a determination of the impact to the protected neighborhood regarding traffic when there was no information available. Mr. Goddard replied that would be engineering judgement and felt most people would use the same access point to exit as they did to enter. Mr. Goddard noted that even if 50% of the cars exited onto Hillside he did not feel the level of service would change for that intersection. Council Member Furguele stated there was zero information about the number of cars that exit from the protected neighborhood. Ms. Garrett replied that they would have some of the neighbors speak to Council Member Furguele's concerns, as they use the roads and had personal knowledge of the roads.

Council Member Mason asked if it was possible to not have an entrance or exit on Hillside Drive, or if it was required, how would the left-out, right-in turns be ensured. Ms. Garrett stated she would like to have Mr. Trew address those questions. Council Member Mason stated she heard the comment about using the Hillside Drive entrance if the primary entrance was missed but noted there were U-turns that could be utilized on King Street.

Vice Chairman Plaag noted that there had been a lot of focus on the number of cars exiting during the peak hours and asked if it was correct that there would be 55 vehicles within the peak hour that would be either entering or exiting the driveway. Mr. Goddard replied that was correct for the in's and the outs.

Council Member Ulmer asked if the traffic flow would be different at a 107 room hotel in a larger town. Mr. Goddard replied that the same trip generation numbers would be used in other towns but might be adjusted based on proximity to public transit systems however, the base number would be the same.

Ms. Meade asked if it was correct that the trip generation numbers were based on maximum occupancy. Mr. Goddard stated that was correct. Ms. Meade asked if the ITE Manual took into consideration whether or not a hotel housed a conference facility. Mr. Goddard replied there were different hotel categories

that took different hotel land uses into consideration and he used the category with the highest impact to generate the trip numbers.

Ms. Garrett asked Council Member Ulmer if her suggestion was that a smaller size hotel should go in a smaller size town. Council Member Ulmer indicated that was correct. She stated that the street where a hotel was located or the activities of the town would have an impact on the traffic flow. Ms. Garrett noted that the property owners chose this site, in part, due to the walkability to Downtown.

Vice Chairman Plaag expressed concern that the hotel parking lot would be a magnet for students due to its proximity to the university. Mr. Norman replied that they would issue parking tags for the hotel guests. Vice Chairman Plaag questioned the enforcement mechanism. Mr. Norman stated management would check the cars for the parking tag and would have vehicles towed. Council Member Furguele asked where management would park on days when the hotel was at full capacity. Mr. Norman stated they would arrange for third party parking for their employees, especially during events like home football games.

Ms. Garrett asked Mr. Norman if they would provide maps of the Downtown to the guests to promote walkability. Mr. Norman replied that they would and felt that their proximity to Downtown would be part of their draw. He noted they would not have a meeting room and would not be serving alcohol, so some of the things that are experienced at the Courtyard Marriott will not be experienced at his location.

Council Member Furguele asked Mr. Norman if he would consider having no entrance off of Hillside Drive. Mr. Norman felt it was very important to have that entrance because if people do miss the primary entrance, they will try to go up into the neighborhood and he would like to avoid that happening.

Council Member Furguele asked Mr. Norman if he did some type of market study before he decided to move forward with this project and he replied that he did. Council Member Furguele asked Mr. Norman if he was aware of the hotel that was proposed to be built at the corner of Water Street and King Street and, if so, did it have any impact on what he anticipated his demand would be. Mr. Norman replied that all hotels had an impact on demand. Ms. Garrett asked if Mr. Norman felt the other proposed hotel would impact his negatively. Mr. Norman stated he did not.

Ms. Garrett asked Mr. Trew to speak about the Hillside Drive entrance. Mr. Trew explained that before the neighborhood meeting they had proposed only an exit onto Hillside Drive and no entrance. He noted that one of the neighbors brought up the thought that people might miss the primary entrance and turn up Hillside looking for a way to get into the hotel and would end up driving into the neighborhood. Mr. Trew stated that was when they added the right-in. He stated the left-out onto Hillside Drive came about because of the porte-cochere and the possibility of tour buses. They felt it would be easier for buses to get out of the parking lot at Hillside Drive. Mr. Trew stated this project was located in the Corridor District and according to the UDO, when there was access to a side street, that side street was supposed to be used exclusively and not have a connection to the thoroughfare street. Mr. Trew stated they had several meetings with Staff and Staff did not want the main entrance to be on Hillside Drive. Council Member Furguele asked where the buses would park. Mr. Trew replied that he did not know.

Mr. Trew stated there had been discussion about traffic impacts and noted that the existing use of the property was student parking. He noted there were 70 some spaces being used and felt that currently had an impact on traffic.

Ms. Garrett asked Mr. Trew to address the lane design on Hillside Drive. Mr. Trew stated the entrance would be curbed and narrowed to deter right turns onto Hillside Drive and striping could be done if necessary. He felt however, that if someone wanted to take a right onto Hillside Drive, they would take a right onto Hillside Drive regardless. Mr. Trew stated he did not feel this use would create more traffic onto Hillside Drive than any other use would. Council Member Furguele stated he was concerned with

traffic stacking upon Hillside Drive. Mr. Trew stated he passed by Hillside Drive every morning on his way to work and it was rare that he ever saw a car coming out of Hillside Drive.

Council Member Mason stated there had been a concern that someone could build a hotel to be long-term housing for students. Ms. Meade noted that they were seeking approval for a hotel and hotels were defined in the UDO as providing lodging for travelers and other paying guests with occupancy by transients rather than by residents. Ms. Meade stated if this became a long-term residence it would be illegal.

Vice Chairman Plaag stated for 14 years he traveled to Massachusetts to see his son and he stayed at a residence inn where they put him in the same room every time and across the hall was a lady who had lived there for four years. He stated this was a Marriott that had long-term rates. Vice Chairman Plaag stated that, while the UDO may have a rule, he was unsure of the enforcement mechanism. Ms. Meade felt this could be remedied with a condition on the approval and if added, while there were gaps in enforcement, there was no doubt in her mind that the Town could enforce this issue.

Commission Member Behrend noted that hotels were sometimes used to house students when their apartments were not ready. Ms. Meade added that hotels were also used by people like the Red Cross to temporarily house those who had been displaced and felt that things like that would happen from time to time but would not be considered part of the primary business model for the hotel. Mr. Norman replied that this would be a hotel and would be conditioned as such. He noted that each room would have a microwave and refrigerator. Mr. Norman stated there would be nightly rates that were not for long term stays. Ms. Garrett asked if there would be long-term pricing options and Mr. Norman replied that there would not.

Parking enforcement and towing were discussed. Mr. Trew felt towing would be a reasonable way to help control parking violations. Mr. Norman stated he would have video security outside.

Council Member Furguele asked why the Board of Adjustment turned down the height and setback variances. Mr. Trew explained that they sought a variance to encroach into the front building setback by 12" and a variance to allow four stories in the primary height district. He stated these variances were requested due to the permanent drainage easement held by NCDOT and both variances were denied by the Board of Adjustment. Council Member Furguele asked how many rooms were going to be in the hotel when the proposal was presented to the Board of Adjustment. Mr. Norman replied that there were 99 rooms presented at that time. Mr. Trew noted that national hotel chains had minimum requirements and the only way those requirements could be met was to request four stories.

Mayor Brantz called a break in the meeting from 8:36 p.m. until 8:46 p.m.

Ms. Garrett asked Allan Reich, a certified appraiser with T.B. Harris Jr. & Associates, to speak. She noted he did an impact study of many of the hotels in the area and the houses nearby. Ms. Garrett provided copies of the study, noting Mr. Reich would provide a summary. She stated that, while this analysis was not required, the developer thought it might help address any property value concerns neighbors might have. Mr. Reich stated he was the owner of T.B. Harris Jr. & Associates and they did commercial real estate appraisals and consulting. He explained that the impact study compared the value of residential housing adjacent to other hotels in the Boone area as well as housing that was not adjacent. Mr. Reich stated there was not sufficient sales data so they looked at assessed values. The study found there would be no negative impact to the residential properties surrounding the proposed hotel. Ms. Garrett asked which hotels were included in the study. Mr. Reich replied that the study included the Courtyard Marriott, Comfort Suites, Hampton Inn, and Thomas Hall. He noted there was also a study done on an 8 story high-rise in Charlotte that had million dollar homes adjacent and when some of the homes sold they were sold with no decrease in value.

Council Member Furgiuele asked if it was correct that the Council's consideration was not the effect of property values for the surrounding neighborhood but what was in the best interest of the Town. Ms. Meade replied that was correct and noted Ms. Garrett had indicated the information was being offered to the extent it might be relevant to public safety, health, or welfare which were basic rezoning concerns. With respect to transitional zones, Ms. Meade stated there was no specific concerns at issue about whether there would be an increase or decrease in property values.

Ms. Garrett asked Carol Norris, who lives on Woodland Drive, to speak. Ms. Norris stated she lived two blocks up from the proposed hotel. She stated she appreciated Council Member Furgiuele's comments about traffic on Hillside Drive but noted there were maybe five people who drive to work, not students who walk to the university, that exit on Hillside Drive so she felt that traffic stacking up to exit Hillside Drive would not be an issue.

Mayor Brantz opened the floor for public comment at 8:58 p.m.

The first speaker was Carol Norris. She stated she was quite distressed when the hotel was first proposed but after several meetings with Dan Norman and his team she felt they had bent over backwards to listen to the neighbors and accommodate their concerns. Ms. Norris stated that this hotel, as presented, was the best choice of any other options that could locate on the property and asked that Council vote in favor of the request.

The second speaker was John Tippet of 255 Woodland Drive who stated he was speaking on behalf of several neighbors. Mr. Tippet stated he was not opposed to appropriate commercial development on King Street. He noted the traffic analysis indicated there would be 782 trips per day and stated there were 14 children under the age of 10 in his neighborhood with no sidewalks on any of their streets. Mr. Tippet stated the neighborhood streets had a low volume of traffic with children and walkers. He expressed concern that Google Maps would take traffic through the neighborhood to areas on the other side of town and felt the project would create more traffic on their streets. Mr. Tippet suggested that Staff contact the navigation apps and ask them to give direction for traffic to stay on the major highways. He also suggested that signage be posted on Hillside Drive that it was not a through street, there be an investigation of additional speed humps, and the hotel staff be trained to tell guests to stay on the main streets.

Council Member Furgiuele stated that Google Maps was interactive and may take someone through the neighborhood. He suggested the possibility of making Hillside Drive a one-way street so traffic would exit only.

The third speaker was Ted Hagaman, Jr. who was representing Trailway Laundry. Mr. Hagaman stated they also received several offers to purchase the property for student housing but felt a hotel would be an ideal use for the property and would provide a good tax base. He noted that the Trailway Laundry property owners still lived in Watauga County and wanted to be proud of the site. Mr. Hagaman asked that Council approve the project and felt it would be a benefit to the town.

Council Member Furgiuele asked if the property was a Brownfield site. Mr. Hagaman replied that the property had been through all State procedures and had been cleared by the State.

The fourth speaker was Joe Mathis. He stated he had owned property at the corner of Hillside Drive and Windy drive since 1985. Mr. Mathis stated he liked the development but had concerns about traffic and the rezoning of the property because it reduced his buffer and affected the tenants of his duplex.

Steve Rigell signed up but did not speak.

The fifth speaker was Henry Knoll. He stated he had owned an apartment at 147 Hillside Drive since 1986 and he had no complaints and saw no issues with the project.

The sixth speaker was Alex McAllister of 272 Woodland Drive. Mr. McAllister expressed concern with traffic on Hillside Drive. He noted the road was narrow and difficult to navigate and was unsure about a curbed exit. Mr. McAllister suggested a traffic study be done.

The seventh speaker was Geoff Graham. He stated he was the co-owner of one of the tracts being considered for the hotel development and also owned a piece of property on Windy Drive. Mr. Graham echoed what Mr. Hagaman said noting he felt the project would be a nice addition to Boone. He stated he was pleased with Mr. Norman's response to the neighbor's concerns.

Linda Rigell signed up but did not speak.

David Thompson signed up but did not speak.

The eighth speaker was Tasse Little of 255 Windy Drive. She stated she was the adjoining neighbor to the subject property. Ms. Little noted that the hotel team had been very receptive to her concerns regarding lighting, landscaping, and fencing. She stated they would be keeping as many large pine trees as possible. Ms. Little felt the car headlights would not be a problem and offered her support for the project.

The ninth speaker was Ed Stamey. Mr. Stamey felt this project was the best thing the town could get and stated that, as for traffic, Boone was a traffic jam anywhere you went.

The tenth speaker was Jamey Russell of 171 Woodland Drive. Mr. Russell noted the neighborhood streets were narrow with blind turns and hills and, while he did not have any problems with the proposed use, he would be supportive of a traffic study.

Mr. Stamey suggested, if Hillside Drive was not a desirable entrance, another entrance could be made onto King Street at the top of the property.

Ms. Garrett stated the topography and characteristics of the tracts should be taken into consideration with regards to transitional zone requirements. She explained that the project would sit below grade, the 5% grade on the parking lot would not cause headlights to shine into neighboring homes, there would be berms and landscaping installed, dumpster pickup would be the second pickup, and a fence could be installed to help protect Mr. Mathis' property if he wanted. Ms. Garrett stated they would accept a condition that a Traffic Impact Analysis be done for Hillside Drive with the approval being contingent on the levels being good. She noted the hotel use would involve people who do not know Boone and do not know about cutting through neighborhoods.

Council Member Furguele asked if the applicant would be agreeable to design the stormwater to a 100-year storm. Mr. Trew explained that when you design to a higher storm you have a bigger capacity that can carry more water but the detention is not designed for a smaller storm so they pass right through and do not get detained. He did not think designing for a larger storm would result in less flooding. Council Member Furguele stated there was a problem with flooding in town that was getting worse. He noted the hotel project would add more impervious surface and felt that every project changed things. Mr. Trew agreed that there was more run-off with increased development. He noted the Town had been proactive in requiring stormwater detention and suggested that the Town hire an engineering firm to come up with some long range solutions to stormwater town-wide rather than asking individual developments to design larger systems. Council Member Furguele replied that the Town did have an engineering firm looking at stormwater and that process was very slow and costly. He noted the Town was looking to increase stormwater standards in the UDO and to approve a project now that might not meet revised standards in a year did not make any sense. Council Member Furguele asked when the hotel project would be built. Mr. Trew felt the project could be started in the spring. Council Member Furguele asked if the new standards were in place before the project was permitted if they would accept a condition to revise their

plans and build the stormwater to the new standards. Mr. Trew felt that would be a decision for Mr. Norman to make.

Ms. Meade pointed out that, according to the procedures, if an applicant felt they needed more time to answer they could ask for that additional time to consider the proposed condition. Mr. Trew asked if they could step outside for 5-10 minutes to discuss the ramifications of the condition.

Council Member Furguele asked if it was correct that the applicant would not agree to eliminating the entrance on Hillside Drive and have only the one entrance/exit on King Street, aside from the emergency entrance. Vice Chairman Plaag asked if the emergency entrance could be used and the first entrance instead. Ms. Shook replied that only one driveway was allowed on King Street without seeking a variance.

Vice Chairman Plaag asked if the applicant would consider extending the fence line they proposed to go all of the way to Hillside Drive to afford Mr. Mathis the same protection as Ms. Little. Vice Chairman Plaag also asked if the applicant would be opposed to the Town making Hillside Drive a one-way street as an exit only. Mayor Pro Tem Clawson replied that the neighbors would likely be opposed.

Council Member Mason suggested signage at Hillside Drive indicating there was no hotel access on the street if it was determined that there could be no entrance and exit on Hillside Drive. Vice Chairman Plaag wondered if Council Member Mason's suggestion would buy the hotel a few more parking spaces. Mr. Trew replied they did consider that and his initial guess would be that they would not gain parking spaces.

At 10:03 p.m. Mayor Brantz excused the hotel team to discuss the issues and conditions posed. Members agreed to table this case and proceed to the next agenda items until the hotel team returned to the hearing.

Case PL02928-080519 Ward – General Use Zoning Map Amendment

The Town of Boone has initiated a General Use Zoning Map Amendment to rezone property owned by Mr. John A. Ward III, located at 282 Daniel Boone Drive Extension from CD-OI Conditional District Office Institutional to R1 Single-Family Residential. Originally, the property was included in the Watauga High School Conditional District Zoning Map Amendment (Case 20070229).

Mr. Little presented the request it was outlined in the meeting packet.

Vice Chairman Plaag asked why the property was zoned OI to begin with. Mr. Ward explained that the property containing a single family home was part of the High School property and the entire property was zoned OI. Later the County decided to sell that piece of property but the zoning had never been changed.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 10:05 p.m.

Case PL02632-060519 Section 4.16 Modification of Permits – UDO Text Amendment

Amend UDO Article 4 Permits, Section 4.16 Modification of Permits to clarify the process for changes made to a project after a permit has been issued.

Ms. Shook presented the request as it was outlined in the meeting packet. She noted that insignificant, minor, and major modifications were being struck from the text because they were difficult for Staff to determine. Ms. Shook stated that the proposed text would include only minor modifications to be approved at Staff level and all other modifications being approved by the original permit issuing authority.

Council Member Furguele expressed concern with changing the word *discernible* to *substantial* and felt those terms were very different. He thought the terminology *discernible negative impact* should be the language used.

Vice Chairman Plaag asked if the word *minor* was defined anywhere else in the UDO other than in Section 4.16.02. Ms. Shook replied that the only definition was provided in Section 4.16.02. Vice Chairman Plaag stated he agreed with Council Member Furguele's concern.

Ms. Meade stated that the word *discernible* mean perceptible and put Staff in an impossible position because any change was perceptible.

Council Member Furguele stated he did not think *discernible* was an impossible standard and noted it was the current standard in the UDO. He stated there was not a question of whether or not someone could get a modification but a question of whether the neighboring property owners and the public have an opportunity to weigh in.

Council Member Ashcraft agreed with Ms. Meade and felt *discernible* would be like measuring the unmeasurable. He stated they needed to trust Staff more than that and rely on them to make good judgements. Council Member Furguele replied that the Town currently had a remarkable Planning Staff but stated the reputation of Planning Staff was that they had approved things in the past behind closed doors and that had created suspicion of the Town and the perception that the Town did not care about neighborhoods. He stated he believed and had been told by developers that changes had been made at a Staff level without any public input and violations of the Ordinance were made at a Staff level.

Council Member Ashcraft felt the use of the word *discernible* would take away Staff's discretion to exercise professional judgement. Vice Chairman Plaag asked Council Member Ashcraft if he would feel more comfortable with the use of a different word such as *material* or *demonstrable*. Council Member Ashcraft replied he would be okay with something that would provide a little more leeway than *discernible*.

Commission Member Behrend asked why *substantial negative impact* was not suitable. Council Member Ashcraft felt the word *substantial* could potentially give too much leeway and almost contradicted how the Ordinance defined *minor*.

Council Member Furguele stated he agreed with going to two standards but noted he was concerned that, with two standards, the public would not have an opportunity to weigh in. He explained that changes that Staff thought might not be a big deal might be a big deal to neighbors. Council Member Furguele felt that Staff should still have the ability to allow changes but those changes should only be internal changes that would not discernibly impact neighboring property.

Mayor Pro Tem Clawson agreed with Council Member Furguele, noting that the voice of the people did not need to be removed from the process.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 10:20 p.m.

Continuation of Case PL02654-060619 East King Street Hotel – Conditional District Zoning Map Amendment

Mayor Brantz reconvened the public hearing for the East King Street Hotel case at 10:20 p.m.

Ms. Garrett relayed a willingness by the applicant to have the Hillside Drive driveway be a one lane curved entrance only with no exit. She stated this would help alleviate concerns about traffic entering the neighborhood and could include arrows and standard "No thru-street" signage. Ms. Garrett offered this in lieu of the Traffic Impact Analysis for Hillside Drive because traffic would not be exiting from the hotel to create stacked cars.

Ms. Garrett addressed the suggested upgraded stormwater detention and stated it was a bit unnerving to agree with a potential huge unknown and extra costs of a redesign. She stated the applicant would be willing to comply with the standards in place at the time of application submittal with a 20% increase in storage.

Ms. Garrett stated the applicant would be willing to extend the fence along the property line all the way to Hillside Drive, as discussed.

Ms. Garrett noted that if the Town decided to change Hillside Drive to a one-way street, they would ask that the Hillside Drive access be allowed as an exit-only to help with traffic flow from the parking lot.

Ms. Meade asked Ms. Shook if there was enough certainty in the suggested stormwater condition that it would work from the Town's perspective. Ms. Shook stated her understanding of the condition was that they would comply with whatever regulations were in effect at the time they submit their zoning permit application. Ms. Garrett interjected that they would comply with the current standard at the time of permit submittal and increase that by 20% or if a new standard had been adopted by the time of application submittal they would comply with the new standard. Ms. Shook stated their approval would be tied to the Conditional District and they would have to comply with whatever standard was in place at the time of the CD approval. Ms. Meade asked if what they were really offering was to build the detention system 20% above the current standards for storage. Ms. Garrett replied that was correct.

Vice Chairman Plaag asked if they were still willing to agree to parking enforcement on site and Ms. Garrett replied that they were.

Council Member Furguele asked if they were still willing to condition the trash pick-up time and Ms. Garrett stated they were.

Ms. Shook asked if the whole stormwater system would be sized for 20% or just the storage areas. Mr. Trew replied that the 20% increase would be for the storage only. He stated he did not feel there was a big need to increase the size of the carrying system because the upsize would just cause the water to flow faster to the detention area. Ms. Shook stated she just wanted to make sure everything was sized appropriately to capture the increase. Mr. Trew noted that the water would still discharge at a 25-year storm rate, there would just be more storage.

Vice Chairman Plaag asked if the applicant would be willing to tie the spa hours to the Town's noise ordinance. Ms. Garrett replied that the applicant would be willing to do that.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 10:30 p.m.

Case PL02860-071119 Hotels in the B1 Central Business Zoning District – UDO Text Amendment

Amend UDO Article 15 District Uses to only allow Use 3.08 Hotel in the B1 Central Business zoning district with Conditional District zoning and to amend UDO Section 24.01.04 to not except Use 3.08 Hotels in the B1 from compliance with the parking requirements of UDO Article 24.

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

Council Member Furguele asked if the proposed hotel on West King Street had obtained a permit. Ms. Shook replied that a zoning permit had been issued but not a building permit. Ms. Meade added that there was a current request for an extension of the zoning permit.

Council Member Furguele asked where the Town stood with the development of hotel standards. Ms. Shook replied that it was on Staff's list but it had not yet been addressed.

Council Member Furguele felt this text would be a great improvement and was needed for the Downtown.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 10:36 p.m.

OTHER MATTERS

There were no other matters discussed at this hearing.

ADJOURNMENT OF TOWN COUNCIL

Mayor Pro-Tem Clawson made a motion for Town Council to adjourn. The motion was seconded by Council Member Ulmer. Council Member Furguele stated he thought there was supposed to be an item on the agenda after each case that allowed for discussion of the cases between Town Council and Planning Commission and asked that this formally be placed on the meeting agendas.

Vote: Aye – All

Nay – None

The motion passed and Town Council was adjourned at 10:39 p.m.

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chairperson

Chairperson Shay called a break in the Planning Commission meeting from 10:40 p.m. until 10:46 p.m.

Approval of April 29, 2019 Planning Commission Meeting Minutes

It was the consensus of the Planning Commission to table the approval of the April 29, 2019 Planning Commission meeting minutes until the next meeting.

Due to the late hour, Commission members decided to call a special meeting on Thursday, August 29, 2019 at 7:00 p.m. to consider the items on their agenda.

Vice Chairman Plaag made a motion to table the Planning Commission agenda until Thursday, August 29, 2019 at 7:00 p.m. The motion was seconded by Commission Member Behrend. Ms. Shook added that the meeting would be held in Town Council Chambers, if it was available.

Vote: Aye – All

Nay – None

The motion passed.

ADJOURNMENT OF PLANNING COMMISSION

Commission Member Veno made a motion, seconded by Vice Chairman Plaag, to adjourn the meeting at 10:50 p.m.

Vote: Aye – All

Nay – None

The motion passed.

Elizabeth Shay, Planning Commission Chairperson

Brenda Henson, Board Secretary

**PLANNING COMMISSION MEETING MINUTES
MONDAY, DECEMBER 9, 2019 AT 6:00 P.M.
IN TOWN COUNCIL CHAMBERS**

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chairperson, Eric Plaag-Vice Chairman, John Tippet, and Frank Venio

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

CALL TO ORDER

Chairperson Shay called the Planning Commission meeting to order at 6:00 p.m.

Approval of Meeting Minutes

Vice Chairman Plaag felt he needed more time to review the minutes and made a motion to table consideration of the September 23 and October 28, 2019 Planning Commission meeting minutes until their next meeting. The motion was seconded by Commission Member Venio.

Vote: Aye - All
Nay - None

The motion passed.

Case PL03271-110419 Hackett Properties Inc – General Use Zoning Map Amendment

Case PL03227-101819 T-13 Temporary Use 9.01 Public Colleges and Universities in B1 – UDO Text Amendment

Chairperson Shay noted that both of these cases had been withdrawn from the agenda and would not be considered at this meeting.

Vice Chairman Plaag stated he had a question about non-conforming uses. He referred to the Turchin Center, noting it was located in a B1 zoning district. Vice Chairman Plaag stated that ASU was teaching classes there and when he inquired of the Town Manager how that was allowed to happen he received a reply back from the Town Attorney that indicated that use was occurring before the change to the UDO prohibited that use. Vice Chairman Plaag asked Ms. Shook for an explanation of non-conforming uses, how they happen, how they are treated, and why they are permitted to continue even though the UDO has changed.

Ms. Shook explained that non-conforming uses occur when regulations change that cause a use that was previously allowed to no longer be permitted. Those non-conforming uses were then legally allowed to continue within the parameters set forth in Article 7 of UDO. Ms. Shook confirmed that the Turchin Center was having classes there before the Ordinance changed.

Vice Chairman Plaag noted that Council had been looking at the discontinuance of accessory apartments in the R1 and possible non-conformities. He asked Ms. Shook what enabled Staff to look at a non-conforming use in that manner. Ms. Shook stated that some people call this amortization and towns were allowed to do this as a way to bring structures back into compliance. She explained that commercial properties have a tiered system in the UDO that would require them to bring certain nonconformities other than use into compliance based on the scope of work they were doing to the structure and the value of the development.

Vice Chairman Plaag then referenced the building on the corner of Depot and Rivers Street that used to

be the old bus depot and was now owned by the University and rezoned to U1. He asked why this building was rezoned U1 for University use but the Turchin Center remained B1. Ms. Shook replied that the Beasley Broadcast building came in for permitting after the Ordinance was changed so there would have been no allowable use for that building outside of being zoned U1. Ms. Shook added that the University does have a list of properties they own that are not zoned for University use and she anticipated they may request some of those properties be rezoned in the future.

Commission Member Tippet asked Ms. Shook if there had been any indication that the University might bring the Temporary College Uses in B1 request back to the Board. Ms. Shook replied that she only knew they withdrew the request.

Vice Chairman Plaag stated he understood there was at least one Council member who requested, outside of the hearing process, a statement from the Theatre regarding what their position on the requested text amendment was, which was communicated to the Theatre by the Town Manager. Vice Chairman Plaag asked if there was ever a response submitted by the Theatre. Ms. Shook replied that there was a response submitted but she believed it was just an excerpt from minutes, not something in a letter format. Vice Chairman Plaag stated that the Planning Commission had been scolded in the past by at least one Council member for attempting to re-open hearings or gather information outside of the hearing process from people who have a stake in a particular case. He asked Ms. Shook if she would be willing to comment on how that request made by a Council member for a solicited statement from someone who neither requested the UDO change nor appeared at the hearing sat with the idea of re-opening a hearing. Ms. Shook stated she had no comment regarding that, noting that took place outside of her department and she did not have all of the information in order to respond. Vice Chairman Plaag stated, given the manner in which the Commission was scolded, he was surprised that a Council member would, without the participation of the Planning Commission, seek to solicit a statement from a member of the community who was not part of the case request or the hearing. He stated that struck him as strange and he would appreciate some sort of response from Council as to why that was considered appropriate. Ms. Shook replied that she would put that request forward.

CASE PL03178-100319 Maximum Height in B3 – UDO Text Amendment

In August 2019, Town Council requested that the Town of Boone Unified Development Ordinance be modified to reduce the maximum building height in the B3 Zoning District to 4 stories.

Chairperson Shay asked Ms. Shook for a reminder of the details. Ms. Shook stated this amendment would change the maximum height allowed in B3 from 5 stories to 4 stories and would correct an error found in the B2 height limitation. She noted this was a request from Town Council who had long been discussing the impacts of taller buildings along the corridors. Ms. Shook stated they realized taller buildings on appropriately sized and configured lots could be acceptable and review of this topic was on Staff's work plan but this text amendment would be a stop-gap measure in order to allow Staff time to research and provide proposed revisions.

Chairperson Shay stated what concerned her about this was that allowing less stories could cause property owners to have less usable space in a community that was already struggling to manage its busy town. Ms. Shook replied that Council was not saying that 5 stories were inappropriate everywhere but until they could get a handle on where that would be appropriate they wanted to reduce the allowed height to 4 stories. Chairperson Shay felt the length of the building and how long an uninterrupted expanse could go could also be an issue. Ms. Shook replied that was correct and felt that would come up soon. She added that the Community Appearance Commission was currently reviewing massing and other standards in the B1 and eventually some of those standards would be applied to other zoning districts.

Commission Member Tippettt stated he was okay with taller buildings if they were not right up on the street, were set back a good distance, and fit the environment so they were aesthetically pleasing. Commission Member Veno felt topography played an important role in the appropriateness of height.

Commission Member Veno stated he was unclear what Chairperson Shay's concern was with respect to building height. Chairperson Shay replied that she was concerned about codifying prescriptions against height instead of looking for language about appropriate height. She stated she did not want there to be too much control over height in areas where height would be fine. Chairperson Shay stated she realized Council was treating this amendment as an intermediate step and she would like to encourage Staff to continue working on language that would support thoughtful context and appropriate height and not just outlaw it in places where it could actually be appropriate.

Vice Chairman Plaag made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it comports with the following:

1. Comprehensive Plan Overall Objective 1.1 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.
2. Comprehensive Plan Policy 2.1.1(F): New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
3. Comprehensive Plan Policy 2.1.2(A): Uncontrolled strip development along the areas through streets shall be prohibited. The undesirable effects of existing strip development shall be reduced and/or reconfigured when redevelopment opportunities permit. New strip development on isolated single lots along through streets shall be discouraged.
4. Comprehensive Plan Policy 2.1.2(J): Highway Oriented Commercial uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movements, and consistent sign standards.
5. Comprehensive Plan Policy 2.3.2(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.

The motion was seconded by Commission Member Tippettt.

Chairperson Shay stated some of the policies Vice Chairman Plaag mentioned helped address her concerns about having compact development that was not sprawling or strip development, as long as Staff continued to work on language that didn't just outlaw height everywhere.

Vote: Aye - All
Nay - None

The motion passed.

Vice Chairman Plaag made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's zoning ordinance and believes approval is reasonable and in the public interest because of the expressed concerns about development that has occurred in the B3 that is in excess of the proposed height that has created a concern among the Town's residents. This proposed change allows the Town to essentially choose an intermediate step that allows the Town time to evaluate whether changes to this height in the future as the Town grows may be needed and to evaluate such things as

siting, topography, and other factors that might allow for greater height in development on a site appropriate basis. The motion was seconded by Commission Member Tippet.

Vote: Aye - All
Nay - None

The motion passed.

Case PL03173-100319 Minimum Lot Size in R3 – UDO Text Amendment

In August 2019, Town Council requested that the Town of Boone Unified Development Ordinance be modified to increase the minimum lot size of the R3 Multiple Family Zoning District to 20,000 square feet.

Chairperson Shay stated this was a big change from a 5,000 sq. ft. minimum size to a 20,000 sq. ft. minimum size and she was struck by some of the comments she had heard such as, “How could there possibly be an occasion where 20,000 square feet be a problem.” She stated she would be interested in something in between those numbers because this request was such an enormous leap in the minimum square footage for R3. Chairperson Shay explained that she was concerned about overly controlling minimum lot sizes and driving more sprawl. She suggested a 10,000 sq. ft. minimum.

Vice Chairman Plaag read UDO Section 14.01.06 that states: The R3 Multiple-Family Residential District is established to provide a high density area consisting of three or more dwelling units per lot plus limited service use. The regulations for this district are designed and intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment in which to live and provide for compatible and non-disruptive activities that properly belong in nonresidential districts.

Vice Chairman Plaag asked Ms. Shook if she could give an example of a property that was zoned R3 on a 5,000 sq. ft. lot. She replied that there was a multi-family development at the corner of Pine and Oak Street that was on a smaller lot but was unsure the size of the lot. Discussion ensued as to lot sizes of existing multi-family development within the Town. Ms. Shook noted that there are some R3 lots that have either single-family or two-family homes on the lots that was still useful and the value of doing a demolition and rebuilding multi-family would not be worth the investment for the size of the lot. Ms. Shook felt that larger lots attracted larger developers that had deeper pockets. Ms. Shook stated this would not affect existing lots but would be for newly created lots. She noted that single family homes in the R1 were allowed to go on 8,000 sq. ft. while multi-family, which consists of 3 or more dwelling units, can go on only 5,000 sq. ft.

Vice Chairman Plaag stated this amendment brought to mind Green Street and all of the R3 development that essentially destroyed the character of that neighborhood.

Ms. Shook noted that Town Council has had some discussion regarding creating a new use category for triplexes and allowing them in more zoning districts which would allow additional residential housing that was not large multi-family projects. Ms. Shook stated this amendment was also an intermediate step until more research could be done and this was on Staff’s work plan. She explained that right now Council was focused on the Downtown and working with the Community Appearance Commission and the Historic Preservation Commission on downtown specific regulations. After that was complete, Staff could move on to other items on the work plan.

Commission Member Veno asked how this amendment would affect parking requirements. Ms. Shook replied that parking was related to use so a development would have to meet whatever parking standards were currently in place for their proposed use. She stated that a multi-family project would require .7 parking spaces per bedroom. Ms. Shook noted a review of parking was also on the work plan.

Vice Chairman Plaag asked Chairperson Shay what minimum square footage she would be comfortable with. She stated she would be comfortable with 10,000 or 11,000 sq. ft., noting that 11,000 sq. ft. was approximately $\frac{1}{4}$ of an acre. Chairperson Shay stated she recognized there was some arbitrariness there and context really mattered.

Vice Chairman Plaag asked if it would be possible to create two categories within the R3, having, for example, a minimum square footage for six or fewer bedrooms be 5,000 sq. ft. and anything above that be 15 or 20,000 sq. ft. Ms. Shook replied that she would not feel comfortable with that because it deviated too far from the revised text. Chairperson Shay stated she was inclined toward the less prescriptive.

Vice Chairman Plaag asked if the Commission could recommend a different square footage than what was advertised. Ms. Shook replied that they could recommend a lower square footage but not a higher one.

Commission Member Tippettt stated he could support a lower square footage. He noted that before Chairperson Shay spoke he was thinking about suggesting 15,000 sq. ft. but stated he did not feel that strongly about 15,000 since this was an interim step. Commission Member Tippettt stated he did not really want to allow less than 11,000 sq. ft.

Commission Member Veno asked Chairperson Shay what her objection to 20,000 sq. ft. was and she replied that larger lots encouraged sprawl.

Vice Chairman Plaag stated he would be okay with 11,000 sq. ft. as an intermediate measure with the understanding that this number will be revisited. He felt this amendment would not restrict someone who wanted to do something modest and bought some protection while not preventing everyone from doing something. Chairman Plaag stated he said this while keeping in mind that this would only affect new construction. Ms. Shook added that it would affect new subdivisions or division of land as well.

Chairperson Shay stated there was a problem in Boone with housing and congestion and felt those two things were directly related. She stated the Town needed to look at ways to add modest, acceptable housing close in town and felt that could potentially cut down on car ownership and ease some of the congestion problems.

Vice Chairman Plaag asked if the Commission could suggest changes to any of the other data besides the minimum gross land area such as raising the minimum livability space ratio from .40 to .48. Ms. Shook replied that Section 15.10 already required a .50 minimum livability space ratio for multi-family so only every other use would be subject to the .40 minimum livability space ratio.

Vice Chairman Plaag asked if the other Commission members felt 11,000 sq. ft. was too low or not. Chairperson Shay replied that she liked 11,000 sq. ft. Commission Members Tippettt and Veno both stated they could support 11,000 sq. ft.

Chairperson Shay made a motion that the proposed amendment as amended to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because they are consistent with the Town's goals as articulated in the following:

1. Comprehensive Plan Policy 2.3.2(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. Comprehensive Plan Policy 2.3.3(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.
3. Comprehensive Plan Policy 2.3.3(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.

4. Comprehensive Plan Policy 2.3.3(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.
5. Comprehensive Plan Policy 2.3.3(H): The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The Planning Commission recommends replacing the 5,000 sq. ft. minimum lot with an 11,000 sq. ft. minimum lot rather than the current proposal for 20,000 sq. ft. The motion was seconded by Commission Member Venio.

Vice Chairman Plaag wished to amend the motion to include:

6. Comprehensive Plan Overall Objective 1.1 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.
7. Comprehensive Plan Overall Objective 1.1 Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Chairperson Shay and Commission Member Venio accepted the amendment.

Vote: Aye - All
Nay - None

The motion passed.

Chair Shay made a motion that the Planning Commission recommends approval of the proposed amendment to the Town’s zoning ordinance and believes approval is reasonable and in the public interest because it supports the Town’s goals for healthy, diverse communities and because the Planning Commission recognizes the need to make a change from the current very small minimum lot size to something larger as an interim step while Staff continues to study all other small multi-family uses. The motion was seconded by Vice Chairman Plaag.

Vote: Aye - All
Nay - None

The motion passed.

Ms. Shook wanted to verify the recommendation and reasoning of Planning Commission that they wanted to raise the minimum gross land area from 5,000 sq. ft. to 11,000 sq. ft. instead of 20,000 sq. ft. to still allow for modest type development on modest sized lots. Ms. Shook felt, through Planning Commission’s conversation, they would like to recommend that other standards be reviewed to help guide development impacts in the R3 and that they felt 5,000 to 20,000 was too big of a jump.

Vice Chairman Plaag felt there really was a difference between a triplex and a big apartment building. He noted his only concern was one that he expressed at the public hearing that triplexes not be allowed to be stackable.

Case PL03171-100319 Creation of R1S Small Home Residential District – UDO Text Amendment

In January 2018, Town Council requested Staff research the possibilities regarding higher density for single-family dwellings due to the desirability of create acceptable transitions between higher density and lower density uses and due to the concern over the lack of affordable housing in the Town of Boone.

The following November, Staff presented a preliminary report on cottage housing outlined two different concepts. The first concept was a new zoning district which would allow smaller single-family homes to be built on lots smaller than currently allowed in the UDO. The second concept was for a cottage housing type of principal use, which in concept, would be allowed to be constructed in existing residential zoning district subject to limitations. After discussion, Council authorized Staff to proceed with a new zoning district, "R1S" and outlined parameters for the new district, including implementation process, application process, density, building height, setbacks, uses, and parking.

Subsequent to this direction, Staff drafted text based upon the requested parameters and brought draft text back to Council in August 2019 for review. At that time, with some modification, Council authorized the text to be sent to public hearing.

Ms. Shook stated what she took away from the conversation at the public hearing regarding R1S was that generally everyone was in agreement with the standards. She noted the only standards that were discussed in additional detail was what was exempted from the footprint and it was suggested that carports and garages be added to the exemptions. Ms. Shook stated there was also discussion on building height and how that was measured.

Ms. Shook provided Commission members with a copy of the proposed text, as revised following discussion at the public hearing (attached). Ms. Shook noted the addition of carports and garages to 16.01.01(C) so that it would read *In the R1S Zoning District, a maximum building footprint of 800 square feet, exclusive of decks, porches, steps, carports, or garages, is allowed. Buildings shall be oriented to the primary public way.* She stated that Staff looked at several ways to try to make the height measurements work without changing the way height was measured in other zoning districts. Ms. Shook felt a more comprehensive review on how height was measured and how the graphics were provided to help people understand how height was measured was needed. For the purposes of this text, she stated a new Subsection was created (16.08.11) regarding height, as well as a new graphic. Ms. Shook stated this section took into account the 1.5 story allowance from the street level. She noted that no other residential district, aside from this one, required that homes be oriented to face the primary public way and that worked in their favor when it came to measuring height. Ms. Shook felt after discussion at the public hearing, there was agreement that it was acceptable if the homes had a basement to take advantage of down slope topography. She noted, in her research, that some other jurisdictions calculate solar setbacks, which means the shadow effect given certain positions of the sun on certain days.

Ms. Shook thought solar setbacks could work for all types of development when measuring height and could be something the Town would consider implementing in the future. Ms. Shook stated that Council wanted to have small homes on small lots and did not want to have something that looked like two-story homes right next to each other and allowed no sunlight between the homes. Ms. Shook felt the revised proposed text honored the original concept and allowed for a basement where it was warranted due to topography.

Vice Chairman Plaag stated he appreciated Ms. Shook taking the discussion they had at the public hearing and trying to put it into something that would work. Ms. Shook replied that there were likely other solutions but her timeframe did not allow for a great deal of exploration of other ideas.

Vice Chairman Plaag stated he thought the Town needed to get serious about whether it wanted to do a zoning district that was designed to facilitate tiny and/or cottage homes because a 2,000 sq. ft. home, which would be possible with this text amendment, was not a small home. He stated he feared this would create districts that would become big houses on small lots and that was not the intent. Ms. Shook agreed that was not the intent. She noted the idea of allowing a basement due to topography was just brought up at the public hearing and had not been a consideration of Council prior to that. Ms. Shook felt that everyone would not be able to take advantage of the inclusion of a basement but urged Commission

members to discuss the issue and recommend what they felt comfortable with. She did agree that this could allow for a 2,000 sq. ft. home.

Chairperson Shay stated if there was any slope to the land the entire lower level would not be able to be used as a basement. She felt, exclusive of the basement, the home should not be larger than 1,200 sq. ft. and on the occasions that topography allows the basement, they should be allowed to have one. Chairperson Shay thought this was a huge improvement.

Ms. Shook noted she had a similar situation when she built her house in that it was designed to be 1 ½ stories but during grading it was determined that she would have a 9' crawl space so she decided to go ahead and put in a basement instead of having such a large crawl space. Ms. Shook felt there were a lot of properties in Town that would necessitate a fairly tall crawl space due to the topography. Vice Chairman Plaag replied that this was how there would then be 2,000 sq. ft. homes where they were intended to be 1,200 sq. ft. homes.

Vice Chairman Plaag suggested was that the main level be limited to 800 sq. ft. and you could go either up or down with an additional 400 sq. ft. He asked if this could present an enforcement issue for Staff. Ms. Shook replied that it could be an issue if the lower level was heated square footage. For example, someone could finish and heat 400 sq. ft. of the lower level, which would be the footprint, call the other 400 sq. ft. the basement, then convert that space into living space after the home was completed.

Ms. Shook asked, if carports and garages were excluded from the square footage footprint, how square footage of the footprint would be calculated if the garage was built into the home. She stated the calculations would work fine if the garage or carport, with no living space above or below them, was a separate structure or attached to the home but not built into the home. Ms. Shook stated they had to realize that garages were often built into homes but if garages were excluded from the calculation of the footprint she was unsure how Staff would calculate square footage appropriately.

Vice Chairman Plaag stated he would not be opposed to someone having the 800 sq. ft. main level, 400 sq. ft. living space downstairs, and 400 sq. ft. as a garage that was actually used as a garage.

Chairperson Shay asked if the goal was to have homes that look uniform. Ms. Shook replied that was not the goal. She explained that this text gave the option to have a single story home or a 1 ½ story home. Ms. Shook felt some of the Commission members were okay with the idea of allowing the extra square footage because everyone would not be able to take advantage of it, while some members felt that defeated the purpose of the district.

Chairperson Shay stated if a home was built with 400 sq. ft. below to live in the home would be appraised at a lower value just by virtue of being on that lower level. She stated she was entirely comfortable with allowing the 400 sq. ft. below with the garage as well.

Vice Chairman Plaag felt Chairperson Shay was indicating something was being imposed on homeowners but noted these regulations applied to new subdivisions and new construction only so whomever decided they wanted to build in the R1S needed to make smart choices about what they really wanted. He stated he wanted to guard against someone building medium sized homes where it was intended to be for smaller homes.

Commission Member Veno stated there was nothing to stop anyone from converting a garage into living space. Chairperson Shay replied that this would decrease the appraised value of the home, noting she had recently purchased a home and found this to be the case. Vice Chairman Plaag stated that homeowners would need a permit from the Town to convert garage space to living space and in the case of an R1S property that already had 1,200 sq. ft. of living space, they would be denied a permit to convert. Ms. Shook replied that was correct. Commission Member Veno stated they could go before the Board of

Adjustment to get a variance. Ms. Shook responded that a variance could be requested from the Board of Adjustment for any standard in the UDO other than use but that did not mean the variance would be granted because there were hardships that had to be proven in order to grant a variance.

Commission Member Tippet asked Vice Chairman Plaag what he suggested to limit the creep. Vice Chairman Plaag suggested controlling size with square footage requirements and height. He stated you could have 800 sq. ft. on a slab or crawl space and then go up 400 sq. ft. if you wanted the full 1,200 sq. ft. or you could have 800 sq. ft. on the top level along with a true attic space that was not expandable and 400 sq. ft. of living space below, not inclusive of garages or carports.

Ms. Shook suggested revising 16.01.01(C)(1) to read *An upper or lower story of no more than 400 square feet is permissible.* Vice Chairman Plaag felt that would work. Ms. Shook felt garages and carports might need some additional language instead of just being grouped in with decks, porches, and steps.

Vice Chairman Plaag mentioned setbacks and stated there would be no interior setbacks for subdivisions. Ms. Shook corrected that statement and noted that subdivisions would have interior setbacks of 7' when adjacent to another R1S property and when and R1S abutted property of a different zoning district they would have to meet the setbacks of the abutting zoning district. Vice Chairman Plaag felt that a 5,000 sq. ft. lot would likely not allow for a 3-car garage. Ms. Shook stated there were not a lot of descriptive requirements for a lot other than a minimum lot width and a minimum lot size but noted those were minimum standards. She stated those minimum standards could be exceeded and there would be homes on 6,000 sq. ft. lots that could allow more room for standalone garages.

Ms. Shook gave the scenario of someone wanting to build their 800 sq. ft. home with 400 sq. ft. above and a garage in the entire 800 sq. ft. level below. She stated she did not know how to calculate that or say no to that. Vice Chairman Plaag stated he was not sure he would be opposed to that type of scenario even though he felt it was a foolish way of building a house.

Commission Member Tippet asked if this text amendment was driven by the need for affordable housing. Vice Chairman Plaag replied that he felt there had been interest in doing this type of development but the UDO did not provide a way to make it work. He noted that affordable housing meant different things to different people. Vice Chairman Plaag stated he liked the term workforce housing and noting the Town was very much in need of workforce housing that was not apartment complexes. Chairperson Shay added that if the smaller homes were close to amenities they could possibly require less vehicles.

There was discussion about how height would be measured on downward slopes and Ms. Shook expressed concern that height requirements might not be met when building on a downward slope. Ms. Shook noted that if there was a garage entrance at the rear of the house there would still likely be parking in front of the house and noted that people did not always park in their garages. Vice Chairman Plaag stated that garages often became storage areas.

Ms. Shook stated she was uncomfortable with the idea of excluding garages from the footprint calculation and expressed concern that standalone garages would end up with living space above them. Vice Chairman Plaag stated, in terms of living space efficiency and living space affordability, it that was the goal he would be okay with including garages in the footprint calculation. He felt carports would be different because they were not closed in as easily. Vice Chairman Plaag suggested 16.01.01(C) be revised to read *In the R1S Zoning District, a maximum building footprint of 800 square feet, exclusive of decks, porches, steps, or carports, is allowed. Garages however, count toward calculation of the footprint. Buildings shall be oriented to the primary public way.* Vice Chairman Plaag did not understand why anyone wanted to build a garage under their house when it was such a waste of money and resources and felt that cars were meant to get wet and snowy. Ms. Shook suggested, in place of Vice Chairman Plaag's revision to 16.01.01(C) that she add language that says standalone carports and garages would not be included but

those that are built into the footprint are included in the calculation. Vice Chairman Plaag agreed that would address the issue. Chairperson Shay asked what that would mean for those who could build a full basement because of the slope. Ms. Shook replied that the 800 sq. ft. would count toward the total square footage allowed.

Ms. Shook stated there were minimum building code requirements for habitable space that would have to be met. She noted the possibility of violations that could occur from the illegal conversion of garage space to living space and how difficult enforcement was when renovation work was done in lower level spaces.

Vice Chairman Plaag offered the following revised text for Section 16.01.01(C): *In the R1S Zoning District, a maximum building footprint of 800 square feet, exclusive of decks, porches, or steps, is allowed. Buildings shall be oriented to the primary public way. 1. Either an upper story or a basement of no more than 400 square feet is permissible for a maximum living space of 1,200 square feet. 2. A standalone or attached carport or garage, with no habitable space above or below, is permissible.*

Commission Member Tippet asked if there were definitions of garages and carports in the UDO. Ms. Shook replied that they were not defined in the UDO so the dictionary definition would be used. Commission Member Tippet asked if the intent for a carport was that it would not be enclosed. Ms. Shook stated that was correct.

Chairperson Shay asked that *finished living space* be added to Vice Chairman Plaag's suggested language after *400 square feet* in 16.01.01(C)(1). Vice Chairman Plaag agreed to that change. There was discussion about finished living space and habitable space and what would be the appropriate term.

Ms. Shook asked what the difference was in an 800 sq. ft. garage and an 800 sq. ft. basement. Vice Chairman Plaag stated they were now back to the same problem, noting that allowing 800 sq. ft. on the lower level would create more likelihood of that space being converted to living space. He stated he would like to keep the language in 16.01.01(C)(1) as he had proposed it and not incorporate Chairperson Shay's suggested addition.

Vice Chairman Plaag stated he was not okay with allowing space that could be converted and not comply with the building code. He asked if basement was defined in the UDO. Ms. Shook replied stated it was only defined for the purpose of Special Flood Hazard regulations. Chairperson Shay stated she was okay with the language presented and the revisions suggested but felt she would rather risk the occasional illegal conversion of space than to be overly controlling and prevent people from using their property efficiently and effectively. She felt the footprint requirement would help provide modest size houses.

Ms. Shook asked if there would be a lot of difference between 800 sq. ft. of garage and 800 sq. ft. of basement and how you would visually perceive this small home. Vice Chairman Plaag replied that if the house was oriented toward the roadway, as required, and the grade fell off from the roadway, then the main living area would be the first story that was actually at grade and you could go down 400 sq. ft. or up 400 sq. ft. If the situation were reversed, then the footprint would be at the lower level and you could go up 400 sq. ft. or down 400 sq. ft. if someone chose to build the basement level completely underground. Whether building on the upslope or downslope, you could not build both up and down. Chairperson Shay asked why someone should not be allowed to build an 800 sq. ft. foundation if the topography would accommodate that. Vice Chairman Plaag replied that the goal of the zoning district was to encourage small houses, not to encourage people to get as much house out of the topography as possible. Chairperson Shay felt if topography allowed for utilitarian space then that should be permissible.

Vice Chairman Plaag stated he did not want to have happen was 2,000 sq. ft. houses in a district that was intended to be small, workforce housing.

Commission Member Veno stated he was happy with what they had right now but felt things were getting a little convoluted. He stated he thought this type of housing was designed for people who wanted affordable housing or starter homes or retirees.

Commission Member Tippettt stated he was trying to wrap his head around the economics of this and how the long-term economics would be affected by Vice Chairman Plaag's proposal as opposed to the flexibility in Chairperson Shay's proposal. He stated he liked the idea of allowing some flexibility but at the same time he did not want developers to twist that flexibility to maximize the square footage.

Vice Chairman Plaag stated he thought the Commission had to look at what Council's intent was by proposing this text, which was to create a zoning district that did not currently exist and make it available for this type of housing and they needed to try to make sure that was exactly the type of housing that went into that zoning district.

Chairperson Shay felt people needed homes that they could love for a long time, but with a little wiggle room for families with changing dynamics. She stated she liked the proposed text and she liked Vice Chairman Plaag's revisions but would like to offer the flexibility of allowing 400 sq. ft. of living space and 400 sq. ft. of utilitarian space on the lower level.

Ms. Shook asked Commission members if they felt the text amendment needed more discussion so that it would not move forward at this time. She noted that later this month new Council members would be sworn in and while the process could continue it would, in a sense, be like starting over with this text amendment.

Vice Chairman Plaag asked Ms. Shook if she would prefer the wording habitable space or living space. Ms. Shook contacted a building inspector who provided the building code definition of habitable to be a space in a building for living, sleeping, eating, cooking, bathrooms, toilet rooms, closets, halls, storage, or utility spaces and similar uses. Ms. Shook stated that living space was defined in the residential code, according to the building inspector, as space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes. She noted the building inspector indicated that he would not consider carports and garages to be part of livable space. Garages and carports are not defined in either the building code or the residential code. Vice Chairman Plaag stated he preferred the term living space because habitable space referenced storage and living space did not. He stated he was fine with allowing someone who built the 400 sq. ft. upper story to pour a slab on the basement level to use for storage given the topography. The other Commission members agreed that this would be acceptable and offer some flexibility for storage.

Vice Chairman Plaag felt they were okay to leave the requirement of 800 sq. ft. of building footprint without defining it as living space. He suggested that 16.01.01(C)(1) read *No more than 400 square feet either above or below is permissible for a maximum of 1,200 square feet of living space*. Ms. Shook stated she could add a definition of living space to the text.

Ms. Shook asked if Commission members wanted to remove Section 16.08.11 and the graphic and go back to the 1.5 stories/25' height limitation or keep the text in 16.08.11 and remove the graphic. She felt the graphic confused things and suggested removing 16.08.11(A) and the graphic. Commission members were in agreement.

Vice Chairman Plaag suggested that 16.08.11 read *In the R1S district, building height and stories shall be measured from the mean elevation of the finished grade along the primary façade of the building*. Commission members agreed to this change.

Vice Chairman Plaag suggested that 16.01.01(C)(2) read *Carports and garages are not allowed as part of the building footprint*. Ms. Shook stated she may have to check with the Town Attorney because the Town

cannot prescribe the design on single family homes and she was afraid this requirement might be getting close to that. She felt if the carport or garage was located within the building footprint it would have to be counted as part of the footprint. Vice Chairman Plaag asked if that would mean someone could use the below grade level as a carport or garage and have no upper level. Ms. Shook felt that would be accurate. Ms. Shook felt there was still some confusion about garage space and footprint calculations. She asked Commission members if they meant a structure with a story and a half story above that wanted to finish out a crawl space to allow for additional storage would be allowed to do that without it being considered another story. Commission members agreed that was what they meant. Vice Chairman Plaag suggested wording such as storage spaces, crawl spaces, etc. must be designed so that they cannot be converted to living space at a future date. Commission Member Veno felt you would then have to restrict the height of the crawl space area to something like 7'. Ms. Shook stated there would be instances where areas of the crawl space could be taller than 7' due to topography and she did not want to micromanage construction type.

Ms. Shook asked if it would or would not count toward the footprint if someone wanted to build a garage or carport within the structure. Vice Chairman Plaag replied that it would count toward the footprint. Ms. Shook asked if that meant they were completely going away from the idea that garages and carports were excluded. Vice Chairman Plaag stated he was concerned to have garages or carports attached to the house because they would be easier to convert into an accessory apartment than detached garages.

Chairperson Shay suggested that 16.01.01(C) read *In the R1S Zoning District, a maximum building footprint of 800 square feet is allowed, exclusive of decks, porches, steps, carports, and standalone garages (with no living space above or below). Buildings shall be oriented to the primary public way.* With this text revised, Chairperson Shay stated the language previously suggested about carports and garages in a proposed 16.01.01(C)(2) could be removed. There was also consensus from the Commission that the 16.08.11graphic

Vice Chairperson Plaag made a motion that the proposed amendment, as amended through discussion at the December 9, 2019 Planning Commission meeting, to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because the proposed amendment aligns with the following:

1. Comprehensive Plan Overall Objective 1.1 Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.
2. Comprehensive Plan Policy 2.1.1(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.
3. Comprehensive Plan Policy 2.3.2(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.
4. Comprehensive Plan Policy 2.3.3(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.
5. Comprehensive Plan Policy 2.3.3(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.
6. Comprehensive Plan Policy 2.3.3(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.

The motion was seconded by Commission Member Tippet.

Vote: Aye - All
Nay - None

The motion passed.

Vice Chairman Plaag made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's zoning ordinance and believes approval is reasonable and in the public interest because the proposed zoning amendment encourages the creation of a zoning district and use that encourages the creation of workforce housing within the limits of the Town of Boone and addresses an overwhelming housing need within our community. The motion was seconded by Commission Member Tippet. Commission Member Veno wished to amend the motion to add that the whole idea was to create a more environmentally sustainable community, noting that the whole small house movement was gaining momentum and the Town needed to participate. Vice Chairman Plaag and Commission Member Tippet agreed to the amendment.

Vote: Aye - All
Nay - None

The motion passed.

Other Matters

Ms. Shook noted that the next meeting on January 27, 2010 would be a Public Hearing. She reminded Commission members about the Volunteer Appreciation Breakfast scheduled for December 13, 2019 at 9:00 a.m. at the Dan'l Boone Inn and urged everyone to attend.

Adjournment

Commission Member Tippet made a motion to adjourn the meeting at 9:10 p.m. The motion was seconded by Vice Chairman Plaag.

Vote: Aye - All
Nay - None

The motion passed.

Elizabeth Shay, Planning Commission Chairperson

Brenda Henson, Board Secretary

Article 16 District Standards

Schedule of Land Use Intensity Regulations

16.01.01 Unless otherwise specified, development in the following zones shall comply with the intensity regulations indicated in the following Intensity Table.

A. Unless otherwise provided in this Ordinance, the land use intensity regulations for architecturally integrated subdivisions shall apply to the development as a whole and not to individual parts thereof.

B. In the B1 Zoning District, a minimum "Building Footprint" of fifty percent (50%) of the lot or parcel area is required. All other regulations in the Intensity Table apply.

C. In the R1S Zoning District, a maximum building footprint of 800 square feet exclusive of decks, porches, steps, carports, or garages is allowed. Buildings shall be oriented to the primary public way.

B.1. An upper-story of no more than 400 square feet is permissible.

16.01.02 Intensity Table

Zoning District	Minimum Gross Land Area	Minimum Lot Width	Minimum Street Frontage	Minimum Livability Space Ratio* (LSR)	Minimum Setbacks	
					Street	Interior
Residential Zoning Districts						
RA No Public Water & Sewer Available	20,000 sq. ft.	100 ft.	80 ft.	.65	20 ft.	18 ft.
RA Public Water Available	15,000 sq. ft.	80 ft.	64 ft.	.65	20 ft.	18 ft.
RA Public Water & Sewer Available	10,000 sq. ft.	65 ft.	52 ft.	.65	20 ft.	14 ft.
R1	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
R1A	8,000 sq. ft.	70 ft.	56 ft.	.53	20 ft.	14 ft.
RR	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
<u>R1S</u>	<u>5,000 sq. ft.</u>	<u>35 ft.</u>	<u>28 ft.</u>	<u>Refer to UDO Subsection 16.01.01(C)</u>	<u>20'</u>	<u>7'</u> <u>Refer to Subsection 16.06.10</u>
R2	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R4	6,000 sq. ft.	70 ft.	56 ft.	.48	20 ft.	13 ft.
R3	5,000 sq. ft.	80 ft.	64 ft.	.40	20 ft.	13 ft.
MH	87,120 sq. ft.	None	56 ft.	.51	20 ft.	20 ft.

*LSR is a ration where the numerator is the square footage of Livability Space and denominator is the square footage of the entire parcel

16.06 Building Setback Requirements

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16.06.01 Subject to Sections 16.07 and 16.11 and the other provisions of this Section, no portion of any building may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the Intensity Table.

- A. If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline. Whenever a lot fronts a street with a right-of-way of thirty feet (30') or less, the setback shall be measured from a line running parallel to the centerline at a distance of fifteen feet (15') from the centerline.
- B. As used in this Section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
- C. As used in this Section, the term "building" includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - 1. Gas pumps and overhead canopies or roofs.
 - 2. Fences running along lot boundary adjacent to public street rights-of-way if such fences exceed nine feet (9') in height and are substantially opaque.
 - 3. Retaining walls which exceed four feet (4') in height.
- D. Flagpoles, bridges, transmission poles, cables, heat pumps, generators, air condition units and pad mounted transformers shall be exempt from building setback requirements, however, walk in coolers and refrigeration units must meet the requirements for accessory buildings.

16.06.02 In the B1 district, existing development may rebuild to existing building footprint lines, but cannot rebuild any closer to a street than the established existing building setback line as noted on the Official Existing Building Line Maps recorded with the Watauga County Registry in Deed Book 239, Pages 132-138. Structures existing prior to February 25, 1993 that do not meet the required setbacks shall not be considered to have nonconforming features.

- 16.06.03** In the B1 district, the minimum street setback distance shall not apply to a projecting theater marquee, canopy or roof overhang supports as long as such supports do not go beyond the edge of the sidewalk. This exemption shall not obviate the need for an encroachment agreement.
- 16.06.04** The interior setback for the B1 zoning district is 0', unless the lot abuts a district other than a U1 zoning district, in which case the lot boundary setback shall be fifteen feet (15').
- 16.06.05** In the B2 and B3 zoning districts, sideline to sideline construction may be permitted on one or more lots of at least 100 feet road frontage upon issuance of a special use permit in accordance with the provisions of Article 6 and subject to the following conditions:
- A.** The building must be constructed in accordance with the regulations for the primary fire district as contained in the North Carolina State Building Code.
 - B.** There shall be a deeded street or right-of-way, built to Town standards, at both the front and the rear of the property.
 - C.** Loading, unloading and refuse disposal access shall be from the street at the rear of the property.
 - D.** Loading and parking shall be in compliance with Article 24 of this Ordinance.
- 16.06.06** Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.
- 16.06.07** Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).
- 16.06.08** In the U1 district, the minimum street setback of ten feet (10') shall apply only when development is proposed adjacent to Town maintained streets.
- 16.06.09** In the U1 district, the minimum interior setback shall be increased to fourteen feet (14') only when development is proposed adjacent to R1 zoned property. Additional setback provisions in Section 16.06.05 do not apply in the U1 district. The minimum interior setback is zero feet (0') only when development is proposed adjacent to B1 zoned property.
- 16.06.10** Whenever a lot in a R1S district has a common boundary line with a lot in a different zoning district, the interior setback requirement applicable to that boundary of the R1S lot shall be the interior setback required for the adjacent lot. By way of illustration, if the R1S lot shares a common boundary with a lot zoned so as to require a 14-foot interior setback, the R1S lot

would be required to have a 14-foot interior setback along its common boundary with that different-zoned lot.

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16.08 Building Height

16.08.01 For the purposes of this Section:

- A. The height of a building shall be the vertical distance measured from the mean elevation of the finished grade to the highest point of the building except as provided for herein.
- B. "Stories" as used herein refers to the number of heated, habitable floors above grade. Where both stories and heights are listed in the table below at section 16.08.02, the building can have no more than the listed number of stories, and also may not exceed the specified height in feet.

16.08.02 Subject to the remaining provisions of this Section, building height limitations in the various zoning districts shall be as follows:

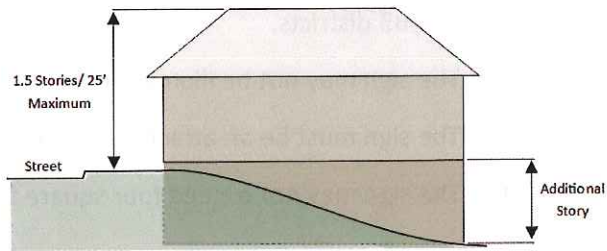
Zone	Height Limitation
R1, R1A, RR, R2, R4, RA	3 stories/40'; accessory structures may not exceed 25'
<u>R1S</u>	<u>1.5 stories/25' Refer to Subsection 16.08.11</u>
R3	3 stories/50'
MH	35'
OI	4 stories/67'
B1	See Subsection 16.08.04
B2	3 stories/40'
B3, E1, E2, E3	3 stories/45' (primary) – 5 stories/67' (secondary)
U1	Refer to Subsection 16.08.09
M1	67'

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16.08.11 In the R1S district, building height shall be measured from the mean elevation of the finished grade along the primary façade of the building.

- A. Where a lot slopes downward from the front property line, one story that is additional to the specified maximum number of stories may be built on the lower, rear portion of the lot as demonstrated in Graphic 16.08.11.

Graphic 16.08.11



Article 26 Signs

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26.05 Signs Permitted in the R1, R1S, RA, RR, R1A, R2, R4 and MH Districts

26.05.01 The residential districts provide for a quiet environment and sound neighborhoods. While some service oriented businesses are allowed, the general usage is for family life. The intent of this Section is therefore to provide for a limited use of signs which are generally not illuminated and which will preserve the family oriented character of neighborhoods.

26.05.02 One sign at each entrance announcing the name of a subdivision, residential development or mobile home park is allowed.

- A. The sign copy is limited to the name of the development only.
- B. The sign may be freestanding or placed on the entrance wall of the development.
- C. The sign may not exceed thirty square feet (30 ft²) in area, or eight feet (8') in height.
- D. The sign may be illuminated.

26.05.03 Any Use 5.2 Churches, Synagogues and Temples is permitted two signs from the following categories: attached or freestanding.

- A. Freestanding signs may not exceed thirty square feet (30 ft²) in area, or eight feet (8') in height.
- B. Attached signs may not exceed an area equal to one square foot (1 ft²) of sign area per linear foot of the building frontage. The maximum square footage for an attached sign is thirty square feet (30 ft²).
- C. Signs may be illuminated.

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26.14.01 The following regulations shall apply solely to home occupation signs.

- A. Home occupation signs are permitted in the R1, R1S, R1A, RA, R2, R3, R4, MH, B1, B2, and B3 districts.
- B. The sign may not be illuminated.
- C. The sign must be an attached sign mounted flat on the building.
- D. The sign may not exceed four square feet (4 ft²) in size.

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Article 27 Residential Occupancy Controls

27.01.01 Except for authorized group living, residential occupancy is limited in the Town's jurisdiction based upon zoning district in accordance with the following table.

Number of Persons	Relationship	RA	R1	<u>R1S</u>	R1A	RR	R2	R4	MH	R3	OI	B1	B2	B3	M1	U1	E1	E2
Unlimited	Family	P	P	<u>P</u>	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Up to 2	Unrelated	P	P	<u>P</u>	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Up to 4	Unrelated								P	P				P	P	P		
5+	Unrelated															P		

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SECTION 2: This Ordinance shall be effective upon the date it is adopted by Town Council.

Adopted this ____th day of _____, _____.

Rennie Brantz, Mayor

ATTEST: _____
Town Clerk

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.