PUBLIC HEARING MINUTES

MONDAY, JANUARY 28, 2018, 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, Michael Sanchez, James Hedrick, Frank Veno, and Kennedy Kavanaugh

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

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

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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.

APPROVAL OF PUBLIC HEARING MINUTES

Council Member Ulmer made a motion, seconded by Council Member Mason for Town Council to approve the November 26, 2018 Public Hearing minutes as written.

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

Vice Chairman Plaag made a motion, seconded by Commission Member Veno for Planning Commission to approve the November 26, 2018 Public Hearing minutes as written.

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

CASE PL02128-112918 UNIVERSITY OVERLOOK – CONDITIONAL DISTRICT ZONING MAP AMENDMENT MODIFICATION

Christy Turner stated there was an error in the staff report and noted that the project did not trigger transitional zone requirements. Ms. Turner then presented the case as it was outlined in the meeting packet, noting the request was to add Use 11.15, Other Personal Service Establishment and Use 11.21, Other Business or Professional Office to the Conditional District approval from 2016.

Tyler Moffatt, attorney for the property owner MET Holdings, LLC, further explained that 4 commercial spaces were located in the 2,700 sq. ft. first floor of the University Overlook building and, to date, only 1 was occupied. The lone retail tenant is High Country Disaster Pros. Mr. Moffatt stated that most inquiries about the vacancies were from office or personal service uses, which were not included in the original Conditional District approval. He stated that office and personal services uses would be open during regular business hours and would be equal to or less dense or intense uses than the already approved retail uses. Mr. Moffatt provided Council and Commission members with photos showing the outside of the building as well as the commercial spaces located on the first floor (on file). Mr. Moffatt noted that since the project was completed about 2 ½ years ago all 24 efficiency apartment units have been leased for the entirety of the time.

Council Member Furgiuele asked if 3 of the 4 spaces had been empty since the building was built. Mr. Moffatt replied that was correct and noted that the building was completed in the Fall of 2016.

Council Member Furgiuele asked about businesses being open from 10 p.m. to 6 a.m. Ms. Turner replied that Use 11.20 allowed for businesses with those hours and noted that the applicant was requesting Use 11.21 which allowed hours from 6 a.m. to 10 p.m. Council Member Furgiuele asked if personal service uses were the same as office uses. Ms. Turner stated that parking requirements were the same and they were both considered low impact uses. Discussion ensued regarding the variety of uses listed within the personal service establishment definition. Ms. Shook added that the Ordinance requires the uses within the definition be considered the same because they are in the same category. She stated if someone felt a particular use should not be included in a certain category and wished to have it removed then it would be considered as a text amendment. Council Member Furgiuele noted that laundry mats and dry cleaners that use harmful chemicals are listed in the UDO as a personal service use. Ms. Turner noted that the Fire Marshal indicated there might be a need to reconfigure the sprinkler heads. Ms. Shook added that the UDO did not consider those types of uses separately. Council Member Furgiuele asked Ms. Shook if she had knowledge of any contaminated site where dry cleaners were. Ms. Shook replied that she had no personal knowledge of any such sites. Council Member Furgiuele felt there might be some contamination issues at some old dry cleaner sites in Town and expressed concern about potential negative environmental impacts from dry cleaners in particular. Mr. Ward noted there are two different types of dry cleaners; the type that performs the actual dry cleaning and the type that receives the laundry and ships it off-site for cleaning.

Vice Chairman Plaag asked if restrictions could be placed on the approval that no dry cleaner or similar service would be allowed. Mr. Moffatt replied that his client would be okay with a condition not allowing laundromats or dry cleaners.

Ms. Meade felt the condition would be lawful given the discussion.

Council Member Furgiuele stated the minutes of the original hearing seemed to indicate this was a good location for commercial business yet there are still 3 vacant spaces. Mr. Moffatt explained that the property owner was hopeful to fill those spaces with uses originally approved but has not been able to do that. He noted that there had been interest in the vacancies for office space but that use was not requested in the original approval. Council Member Furgiuele asked how large the commercial units were. Mr. Moffatt stated there was a 15’ x 14’ common area/conference room in the middle and the units are 19’ deep x 22’ wide and vary slightly based on configuration. Council Member Furgiuele asked if all the spaces fronted Blowing Rock Road. Mr. Moffatt replied that two of the units did not front Blowing Rock Road. Council Member Furgiuele asked if there was a requirement in the original approval that the commercial space be divided into 4 different businesses. Mr. Moffatt replied that to his knowledge it was not a requirement. Council Member Furgiuele suggested that the units might be too small, and two of the units are hidden, to attract commercial uses. Mr. Moffatt explained that the commercial space was not divided in the beginning but when tenants did not commit, the decision was made to build out the spaces to make them more marketable.

Vice Chairman Plaag asked Ms. Shook if an office use was considered commercial and she stated that was correct. Ms. Shook explained that the project was approved for commercial uses and the applicant has to identify the use categories they would like to have in the building. Ms. Shook also added that permits were obtained to divide the commercial space sometime within the last year and noted that sometimes tenants will take one or more of the units so the 4 units could become 2 or 3 depending on the need of the tenant.

Council Member Furgiuele asked if there were any examples of other retail tenants going into spaces that do not front on the street. Ms. Shook stated there was commercial space not fronting the street at Highland Crossing located at the old high school entrance but was unsure if there were any retail uses there.

Council Member Furgiuele asked if staff pressured the applicant to limit their original request to retail. Ms. Shook replied that staff did not pressure the applicant.

Council Member Furgiuele asked for the time lapse from the time of Conditional District approval to the building being complete. Mr. Moffatt stated it was about 2 ½ years for the building to be completed with the commercial space being only a shell at that time. The built out commercial spaces became available sometime last year when permits were obtained from the Town.

Vice Chairman Plaag referred to packet page 33 containing minutes of the original Public Hearing and pointed out that Ms. Rice had offered to give 2% of the net proceeds from the development for the first two years to the Town of Boone for the Greenway extension. Vice Chairman Plaag asked if this had taken place. Ms. Shook stated her recollection was that this topic was discussed but was not offered as a condition. Ms. Meade agreed and felt this was offered in a gratuitous spirit and not offered as a condition. Her recollection was that it was not a material part of the conversation and no one at that time felt the need for further discussion of the topic.

Commission Member Veno expressed some concern about the broad uses these classifications could allow as well as the number of parking spaces provided in the development. Mr. Moffatt explained that the minimum requirement for the commercial space was 6 parking spaces. He noted that the uses they were seeking to add have the same parking requirements as the current retail uses.

Council Member Furgiuele stated he could see some office uses needing as many or more parking spaces than retail. Mr. Moffatt replied that he felt the office uses would be less impact and the spaces provided meet the requirements of the UDO.

Council Member Furgiuele asked if it was contemplated that the commercial space would be divided into 4 spaces. Ms. Shook stated she did not know.

Chairperson Shay asked if the residential tenants leased the 22 spaces designated to the residential portion of the development. Mr. Moffatt responded that all 22 spaces were leased by the residents.

Vice Chairman Plaag asked if potential renters gave reasons why they did not find the commercial space desirable for retail use. Todd Rice with MET Holdings, LLC stated they had received inquiries about small offices such as an architect's office or a small nail salon. Vice Chairman Plaag asked why retail tenants did not want to lease the space. Mr. Rice explained that the commercial space was built as a warm, dry shell, meaning the building was left with a dirt floor in order to allow tenants to install underslab utilities as they needed for their use. Mr. Rice stated that the inquiries he had received were looking for turn-key space because of the expense of build-out costs. Because of this, they decided to go ahead and finish the space into 4 units. Vice Chairman Plaag asked if there were issues with the parking. Mr. Rice replied there has not been any issues with parking.

Council Member Furgiuele asked if there was any street parking available. Mr. Rice stated that students could walk to the development. Mr. Moffatt added that there was a metered parking lot beside Stick Boy.

Mayor Brantz asked if there was on-site management. Mr. Rice replied that the development was managed by High Country Rentals which was right down the street from the University Overlook building. Mayor Brantz asked if it was correct that there were single family homes behind the building and Mr. Rice stated that was correct. Mayor Brantz asked if the neighbors had been involved or informed of this request and Mr. Rice replied they had been involved in the original request.

John Ward stated that he drove by the building today at 4:45 p.m. and found about 50% of the parking spaces filled. He explained that he wanted to see what the intensity of the use was at a moment in time.

Mayor Brantz asked if there had been any problems with stormwater. Mr. Rice stated there had been no problems. Mr. Ward stated the planters in front of the building contained inlets to accommodate overflow. Council Member Furgiuele stated that flooding just down the street near Hardee's had been much worse this year and asked if the Town had ascertained if there was any connection. Mr. Ward replied that he did not believe so but did not really know.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:48 p.m.

CASE PL02133-113018 APPALACHIAN MOUNTAIN BREWERY – GENERAL USE ZONING MAP AMENDMENT

Ms. Shook presented the request as it was outlined in the packet. She referred to packet page 55 and explained that a 2014 revision to the UDO allowed microbreweries, brewpubs, and brewery/distilleries in the B3 General Business District by right. Ms. Shook stated that a Special Use Permit or Conditional District approval was required in order to allow a microbrewery at the time of the original approval of Appalachian Mountain Brewery.

Council Member Furgiuele noted the property in question was located within a flood hazard area with a portion being located in the floodway and asked if flooding had been an issue since this business went in. Ms. Shook stated there had been no flooding issues to her knowledge since this business started.

Council Member Furgiuele asked if the applicant has indicated some other type of enterprise that they want to do on this property or what the motivation is to ask for this rezoning. Ms. Shook noted that the business ownership had changed hands and the new owner would like to make some changes. In order to do this, they would have to modify the Conditional District or rezone the property back to general B3. Ms. Shook stated this would allow the owner to make changes to their business as allowed by right without having to go back through Public Hearing and Board approval to modify the Conditional District approval each time they wished to make a change. Ms. Shook noted the development did have some non-conformities but they are still required to provide sufficient parking.

Vice Chairman Plaag asked how "sufficient parking" was defined. Ms. Shook stated that sufficient parking is considered to be adequate parking to serve the need. She noted that the owner had obtained additional off-site parking to help serve the business.

Council Member Furgiuele asked if potential modifications to the business under a general zoning could cause potential issues. Ms. Shook replied that staff had never analyzed all potential uses when considering a request for general zoning. Council Member Furgiuele asked if there were uses that would not be appropriate in a floodplain. Ms. Shook stated the Use Table addressed uses that were felt to be appropriate uses and there were restrictions in place for uses located within flood hazard areas.

Vice Chairman Plaag asked if reverting to general B3 would affect AMB's food truck. Ms. Shook replied that if they continued operating the food truck as they currently were, there should be no problem.

Mayor Brantz asked if the request would affect water & sewer capacity. Ms. Shook stated she could not answer that. She noted that if the property was approved for general B3 zoning, any use allowed in B3 could potentially locate there and water & sewer usage would vary depending on what that use was.

Mayor Pro-Tem Clawson asked if there had been a difference in parking complaints since the off-site parking was obtained. Ms. Shook replied that she was unsure but the Planning & Inspections office had not received any more complaints. Commission Member Veno asked who had complained. Ms. Shook stated that there had been complaints from adjacent property owners as well as Town employees about parking in the street. Council Member Furgiuele asked if Boone Creek Drive was a public street and Ms. Shook replied that it was.

Nathan Kelischek, acting manager with Appalachian Mountain Brewery, addressed Council and the Commission and stated that the 2014 UDO update allowed breweries in the B3 zoning district and having a general B3 zoning classification would allow AMB to operate in the same manner as other breweries in town.

Council Member Furgiuele asked Mr. Kelischek what they wanted to do with the property under general B3 zoning that they could not do under their Conditional District approval. Mr. Kelischek stated they would like to beautify the property. Ms. Shook added that the applicant had expressed a desire to make some exterior modifications to the structure that would affect their site-specific approval. Mr. Kelischek stated that those modifications had not been defined yet so he could not say at this time if they would or would not be doing the modifications. He stated that the new owners, Craft Brew Alliance, had no intention of moving from this location and wanted it to remain Appalachian Mountain Brewery.

Mayor Brantz asked what advantages other breweries had that Appalachian Mountain Brewery did not have. Mr. Kelischek replied that other breweries did not have conditions placed on them and could operate more freely under the general B3 regulations in the UDO.

Commission Member Veno asked if AMB wanted to incorporate a restaurant into their business. Mr. Kelischek replied that, while a restaurant was a great idea, he was all about the beer and not the food so there were no plans for a restaurant.

Ms. Shook explained that Conditional Districts have to stay within the parameters of the original approval of their site plan. Ms. Meade added that with a general zoning request Town Council is legally not supposed to consider specifics and whatever promises might be made about the continued use of the property. Council Member Furgiuele felt that some consideration needed to be given to uses that would not be appropriate for the location in question. For example, he felt the property was not an ideal location for residential development due to flooding. Ms. Meade stated it sounded as though this was a suggestion to not allow any development that was not approved by Town Council and she felt that was problematic.

Ms. Shook stated that commercial buildings in the floodway can flood proof the building but residential uses have to be elevated. Council Member Furgiuele asked if the only reason Appalachian Mountain Brewery got a Conditional District approval was because microbreweries were not allowed by the UDO at that time and not because they were seeking special concessions. Ms. Shook stated that was correct.

Michael Button, who owns apartments on Boone Creek Drive, stated he was still experiencing heavy traffic, mostly in the summer, with cars parking at the end of the street and along the stream where there were no parking spaces. He stated there was mud and damage to landscaping. Mr. Button stated the street gets blocked with cars when the brewery is busy. He noted that extra parking spaces were being leased at the old Employment Security Commission office but if things changed at that building those spaces might not always be available.

Mr. Kelischek stated they now had about 80 parking spaces and he wished they had more but it was in their best interest to keep all that they could.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:21 p.m.

CASE PL02156-121718 CHARLES PERRY – GENERAL USE ZONING MAP AMENDMENT

Vice Chairman Plaag asked to be recused from this case because he is a good friend of Mr. Perry and from the next case because he is the applicant.

Commission Member Veno made a motion, seconded by Commission Member Sanchez to recuse Vice Chairman Plaag from Case PL02156-121718 and Case PL02177-010319.

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

Ms. Shook presented the case as it was outlined in the meeting packet. She explained that the property had been located in the ETJ and was zoned RA at that time. The property was recently annexed into the Town and now needs a zoning classification designated. Ms. Shook stated that the Town was requesting the property be zoned R1 or RA with a Viewshed Protection overlay.

Council Member Furgiuele asked if R1 allowed fewer uses than RA and Ms. Shook stated that was correct and added that R1 was one of the most protected residential zoning districts. Council Member Mason stated that RA seemed to have a higher impact than R1 due to the broader range of uses allowed in RA. Council Member Furgiuele noted that the property in question was carved into RA zoned property and other properties near the subject property were zoned R1A and R1. He asked if zoning this property R1 would create any kind of spot zoning issues given its proximity to RA zoning. Ms. Meade replied that, in her opinion, it would not, given how the adjacent property was being used and the fact that R1 zoning was the most restrictive.

Council Member Mason felt this area might be a good place to look at rezoning properties to R1 in order to achieve extra protection offered by R1 restrictions. She noted that un-zoned properties provide no protection to the neighborhood.

Council Member Furgiuele stated some of the uses that could be allowed in RA include custom slaughter houses and gas stations. It was mentioned that maybe the RA district should be eliminated. Ms. Shook stated that it might be a good idea to retain the RA in case the Town ever got the ETJ back. Ms. Shook also questioned if it was appropriate to zone property inside the Town limits as RA when it was a zoning jurisdiction created for property in the ETJ.

Commission Member Sanchez stated it looked like the property had a lot of trees on it. Mr. Ward responded that the property contained a former house site. Ms. Shook noted that an R1 or an RA zoning designation would have no different impact on tree preservation.

Chairperson Shay asked about stormwater management. Ms. Shook replied that the property would be required to install stormwater detention to capture a 25-year storm.

Charles Perry, owner of the subject property, stated it did not really matter to him if the property was zoned R1 or RA. He stated he did want to have chickens and because chickens are allowed in the RA he would probably choose RA. Mr. Perry informed Council and Commission members that his intent with the property was to build a 1,450 sq. ft. single family home for which he had already submitted permit applications to the Town.

Ms. Shook stated that chickens and small livestock were allowed in both the RA and the R1 and she read the allowance and restrictions from the UDO. Mr. Perry replied that he was fine with an R1 zoning if it allowed chickens.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:37 p.m.

CASE PL02177-010319 PLAAG/TAIT – GENERAL USE ZONING MAP AMENDMENT

Ms. Shook presented the case as it was outlined in the meeting packet noting these 5 properties also used to be zoned RA, located in the ETJ, and were recently annexed into the Town. Ms. Shook stated that R1 or RA zoning with a Viewshed designation were the zoning classifications to consider.

Council Member Furgiuele asked what the minimum lot size would be if the property was zoned RA versus R1. Ms. Shook stated that RA required 10,000 sq. ft. of land area and R1 required 8,000 sq. ft. and the property in question contained 2.99 acres. Council Member Furgiuele asked how many lots could be developed under each zoning classification. Marty Little, Planner replied that a maximum of 9 lots could be developed under RA and 11 lots under R1, based on square footage. Ms. Shook added that discussions for this property have included an architecturally integrated subdivision much like Weekapaug Grove which is across the street.

Council Member Furgiuele asked about access from Eastview and Junaluska. Ms. Shook replied there was potential access from both streets.

Council Member Furgiuele asked about subdivision requirements. Ms. Shook discussed the differences between major and minor subdivisions with a major subdivision requiring a Special Use Permit if it were 11 lots and a minor subdivision if it were 9 lots. Council Member Furgiuele asked if the trigger for a major subdivision was 10 lots or more. Ms. Shook stated that was correct.

Commission Member Veno asked if the property owners had a preference of zoning classification.

Council Member Mason stated that RA allowed more high impact uses while R1 provided the most protection.

Eric Plaag, one of the property owners for this case, explained that the plan for these properties was for cottage housing with strict covenants, much like those of the Weekapaug Grove Subdivision. Mr. Plaag stated he preferred an R1 designation because he wants the area to stay residential. He added that he had no desire to build slaughter houses or movie theaters on the property. Mr. Plaag stated they would have to meet a 25-year water retention and planned to have 2 driveways off of Eastview and 4 driveways off of Junaluska to serve a 9 lot subdivision. He went on to say they had a preliminary plan and the Fire Department was looking at driveway slopes. Mr. Plaag stated they planned to upgrade the 8" sewer line near Wyn Way to the base of their property at their expense.

Commission Member Veno questioned possible traffic issues on Eastview. Mr. Plaag explained that there was currently driveway access onto Eastview from an old house on the property and that driveway will be re-used. This driveway and the new driveway will both be located in straight areas.

Ms. Meade reminded Council and Commission members that they were only to consider the general zoning request of R1 or RA and not take into consideration future plans for the property.

Roberta Jackson, who lives in the Junaluska neighborhood, stated she had spoken with 10-12 people and they would all like to see the property zoned R1.

Adrian Tait, who owns some of the properties included in the request, stated he had lived in the neighborhood for 12 years and would like to have the properties zoned R1.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:57 p.m.

CASE PL01817-082318 UDO SECTION 15.11 – UDO TEXT AMENDMENT

Commission Member Hedrick made a motion to reinstate Vice Chairman Plaag. The motion was seconded by Commission Member Sanchez.

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

Ms. Shook presented the case as it was outlined in the meeting packet and outlined the changes previously requested by Town Council.

Vice Chairman Plaag asked if it was correct that in the past a mixed-use project could allow the parking on the first floor to count toward the commercial space required. Ms. Shook stated that was correct as long as they were still meeting all of the other standards and they would still be required to have street level commercial uses along the front. Ms. Shook noted that the Town currently has no parking structures with residential above or below but it has been conceptually proposed.

Ms. Meade asked how this text amendment would have affected The Standard. Ms. Shook replied that it would not have affected them because they have a single use, stand-alone parking structure.

Council Member Mason added, by way of explanation, that current mixed-use developments did not have the standards in terms of unit sizes to allow for diversity of occupants and unit configurations to meet housing needs for different sectors of the community and this text amendment would allow for that diversity in mixed-use.

Chairperson Shay asked if the King & College project would have failed to meet the requirement in 15.11.01 (F) *No one type of dwelling units, as defined by the number of bedrooms, shall comprise more than 50% of the total units.* Ms. Shook replied that she was didn't know the bedroom makeup of the project at the moment and couldn't answer the question.

Vice Chairman Plaag suggested defining the percentage of common area. Ms. Shook felt that would be difficult. Council Member Ulmer stated she would not use a common area no matter how large it was if she did not know the other people using it or did not feel comfortable there.

Council Member Furgiuele felt that developers chose to develop mixed-use projects as a way to avoid using the family-oriented provisions.

Vice Chairman Plaag felt that having small sized common areas could technically meet the requirement of family oriented but would still be attractive to students.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 8:19 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 8:19 p.m. The motion was seconded by Council Member Mason.

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

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Rennie Brantz, Mayor

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Brenda Henson, Board Secretary

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Elizabeth Shay, Planning Commission Chairperson

Chairperson Shay called a break in the Planning Commission meeting from 8:19 p.m. until 8:28 p.m.

Chairperson Shay announced there was a new Planning Commission member and Kennedy Kavanaugh introduced herself. There were roundtable introductions.

APPROVAL OF PLANNING COMMISSION MINUTES

Commission Member Sanchez made a motion to approve the November 26, 2018 Planning Commission meeting minutes. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None
The motion passed

Due to the time, Commission members discussed how they wanted to proceed. Ms. Shook stated that the Perry and Plaag/Tait cases were time sensitive and suggested the Commission try to address those tonight. After further discussion, the Commission decided to begin with the first case and see how things went regarding time.

CASE PL02128-112918 UNIVERSITY OVERLOOK – CONDITIONAL DISTRICT ZONING MAP AMENDMENT MODIFICATION

Vice Chairman Plaag stated he was troubled by the idea that the Town would resist applicants who wanted to have the zoning that would normally apply to a property for a use that would normally be permitted under that general use zoning. He felt it seemed to put a special onus on an applicant that, had they waited in time, would not otherwise have had to go through a Conditional District process. Vice Chairman Plaag stated he understood the concerns about the parking and the dividing of the commercial space and suggested asking the applicant to consider re-designating the parking spaces. Ms. Shook explained that Planning Commission could make the recommendation to Council to place a condition on the approval regarding re-designation of parking spaces and noted the applicant would have to agree to the condition. Ms. Shook noted that under current ordinance requirements the development would be required to retain a minimum of .7 parking spaces per bedroom for the residential use.

Chairperson Shay agreed with Vice Chairman Plaag's comments and added that she felt having vacant units filled was good for the Town. She also felt the market would sort out the tenants of the spaces and their parking needs.

Discussion ensued regarding maximum parking spaces. Ms. Shook noted Staff had noticed concerns with just having a maximum parking and noted Staff had presented the concept of having minimum and maximum parking requirements to Town Council.

Vice Chairman Plaag felt that a redistribution of parking spaces would allow more spaces for commercial uses.

Chairperson Shay felt comfortable with leaving the parking as it was.

First Motion and Vote:

Vice Chairman Plaag made a motion, seconded by Commission Member Kavanaugh, 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 in alignment with:

Comprehensive Plan Policy 2.1.1 Economic Development:

B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.

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

E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

Comprehensive Plan Policy 2.1.2 Commercial Development:

B. Commercial and Office development shall be encouraged to locate in planned shopping centers, office parks and mixed use developments to stop the proliferation of strip development.

I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.

Comprehensive Plan Policy 2.3.2 Community Character:

B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.

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

There was some discussion of placing a condition on the approval about parking redistribution.

Second Motion and Vote:
Vice Chairman Plaag made a motion, seconded by Commission Member Sanchez, 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 Comprehensive Plan Policies listed in the first motion and vote and recommend a condition be placed on the permit that the applicant agree to meet the minimum requirement of 17 parking spaces for residential and the balance of parking spaces be dedicated to commercial uses, with an allowance for existing contracts and transition to take place by August 31, 2019.

Vote: Aye – 3 (Plaag, Sanchez, Hedrick)
Nay – 3 (Veno, Shay, Kavanaugh)
The motion failed.

Commission Member Kavanaugh asked if there needed to be a condition regarding the exclusion of laundromats and dry cleaners included in the motion.

Vice Chairman Plaag suggested 8 spaces for commercial and 17 spaces for residential.

Second Motion and Vote:
Commission Member Kavanaugh made a motion, seconded by Commission Member Hedrick, 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 Comprehensive Plan Policies listed in the first motion and vote and recommend a condition be placed on the permit that no laundromat or dry cleaner or high intensity uses are allowed. Commission Member Sanchez wished to amend the motion to strike high intensity uses. Commission Members Kavanaugh and Hedrick accepted the amendment.

Vote: Aye – 5 (Kavanaugh, Sanchez, Hedrick, Shay, Veno)
Nay – 1 (Plaag)
The motion passed.

Chairman Plaag explained that he voted against the motion because he was concerned that 6 parking spaces would not be enough for the commercial uses.

CASE PL02133-113018 APPALACHIAN MOUNTAIN BREWERY – GENERAL USE ZONING MAP AMENDMENT

Vice Chairman Plaag stated he felt it was wrong to say to an applicant who used the Conditional District process to get their project approved because it was not allowed by right at that time that they have to stay a Conditional District when the Ordinance changes to allow the use by right. Vice Chairman Plaag stated there were parking issues at Appalachian Mountain Brewery and he urged them to be good neighbors and work toward a resolution.

Commission Member Kavanaugh stated she did not feel this change to general B3 would make any difference to the parking situation.

Chairperson Shay agreed there were parking concerns.

Ms. Shook pointed out that parking requirements are the same under their Conditional District approval or the general B3 zoning classification.

First Motion and Vote:

Commission Member Veno made a motion, seconded by Commission Member Kavanaugh, 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 in alignment with:

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 1.1 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.

Comprehensive Plan Policy 2.1.1 Economic Development:

B. New and expanding industries and businesses shall be encouraged which: 1) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.

Commission Member Hedrick 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 Veno and Kavanaugh accepted the amendment.

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

Second Motion and Vote:

Commission Member Veno made a motion, seconded by Commission Member Kavanaugh, 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 Comprehensive Plan Policies listed in the first motion and vote as well as Comprehensive Plan Policy 2.3.2 Community:

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.

Vice Chairman Plaag wished to amend the motion to include that the approval is a better form of public policy where we recognize why an applicant originally sought Conditional District approval for this site, which was because there was a hole in the Town's planning for these kinds of businesses. The Town has now patched that hole and the applicant is simply being asked to be treated like every other business in the B3 and being permitted by right to do those things as other businesses are currently allowed to do. This is a matter of fairness. Commission Members Veno and Kavanaugh accepted the amendment.

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

<u>CASE PL02156-121718 CHARLES PERRY – GENERAL USE ZONING MAP AMENDMENT</u>

Vice Chairman Plaag stated he wished to recuse himself from the Perry case and the Plaag/Tait case.

Commission Member Sanchez made a motion to recuse Vice Chairman Plaag from the Perry case and the Plaag/Tait case. The motion was seconded by Commission Member Hedrick.

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

Commission Member Hedrick stated that, given the possibilities in an RA, he would recommend an R1 zoning of the property.

Commission Member Sanchez felt the property should be zoned RA because it was surrounded by property zoned RA.

Ms. Shook reminded Commission members that the Town no longer had the ETJ and the property did not have to be zoned RA just based on the fact the neighboring property was zoned RA.

Commission Member Kavanaugh felt the property should be zoned R1 due to environmental concerns and less impact.

Commission Member Veno stated that, since the property owner was okay with either R1 or RA, he felt the property should be zoned R1.

<u>First Motion and Vote:</u>
Commission Member Veno made a motion, seconded by Commission Member Hedrick, 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 and should be zoned R1 because the proposed amendment is in alignment with:

Comprehensive Plan Policy 1.1 Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning

Comprehensive Plan Policy 2.3.2 Community Character:

A. The identification, restoration and active use of structures, building, 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.

Commission Member Hedrick wished to amend the motion to include Comprehensive Plan Policy 2.1.1 Economic Development:

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

Commission Member Veno accepted the amendment.

Vote: Aye – 3 (Veno, Hedrick, Kavanaugh)
Nay – 2 (Shay, Sanchez)
The motion passed.

Chairperson Shay stated it made sense to her to zone the property RA because the neighboring property was zoned RA.

Commission Member Sanchez agreed with Chairperson Shay and also cited Comprehensive Plan Policy 1.1 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, or ridgetops, and on steep slopes.

<u>Second Motion and Vote:</u>
Commission Member Veno made a motion, seconded by Commission Member Kavanaugh, 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 for the property to be zoned R1 with a designated Viewshed because of the Comprehensive Plan Policies listed in the first motion and vote and also cited Comprehensive Plan Policy 2.1.1 Economic Development:

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

Vote: Aye – 4 (Shay, Veno, Hedrick, Kavanaugh)
Nay – 1 (Sanchez)
The motion passed.

<u>CASE PL02177-010319 PLAAG/TAIT – GENERAL USE ZONING MAP AMENDMENT</u>
Commission Member Veno stated it was more important to him to have this property zoned R1 because of the Eastview neighborhood.

Ms. Shook stated she had some additional information but would need to have the public hearing reopened.

Commission Member Veno made a motion to reopen the public hearing. The motion was seconded by Commission Member Sanchez.

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

Ms. Shook stated that she had failed to mention at the public hearing that there is a small portion of the property owned by Plaag Properties LLC that is zoned R1A which is to be rezoned whatever zoning classification was decided by Town Council. She noted the Staff Report does reflect this issue.

Mr. Plaag noted he wanted to clarify that in the area already within the corporate limits there was a 30' easement between his property and the Whittington's property that no one owned. Ms. Shook felt that all easements were ultimately owned by someone but noted that the intent was to only zone the portion of properties owned by Plaag Properties and not property owned by any other person outside of the request.

Commission Member Hedrick felt it was important to protect historic Junaluska.

With nothing further, Chairperson Shay closed the public hearing at 10:09 p.m.

First Motion and Vote:

Commission Member Hedrick made a motion, seconded by Commission Member Kavanaugh, 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 in alignment with:

Comprehensive Plan Policy 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.

Comprehensive Plan Policy 1.1 Trees: Conserve existing trees and plant new trees, especially hardwoods.

Comprehensive Plan Policy 2.1.1 Economic Development:

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

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods:

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

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

It is recommended that property owned by Plaag Properties, LLC be zoned R1 with a Viewshed designation.

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

Second Motion and Vote:

Commission Member Hedrick made a motion, seconded by Commission Member Kavanaugh, 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 Comprehensive Plan Policies listed in the first motion and vote and because of the protection of R1 neighborhoods and the desire of the Commission to protect the community and the limitation of uses provided in R1.

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

Commission Member Hedrick made a motion to reinstate Vice Chairman Plaag. The motion was seconded by Commission Member Veno.

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

CASE PL01817-082318 UDO SECTION 15.11 – UDO TEXT AMENDMENT

Due to the time, Vice Chairman Plaag made a motion to table discussion of UDO Section 15.11 until the next regularly scheduled meeting. The motion was seconded by Commission Member Kavanaugh.

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

OTHER MATTERS

Ms. Shook stated that the regular May meeting fell on a holiday so the meeting date was rescheduled to May 20, 2019.

ADJOURNMENT OF PLANNING COMMISSION

Vice Chairman Plaag made a motion, seconded by Commission Member Sanchez to adjourn the meeting at 10:15 p.m.

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

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Elizabeth Shay, Planning Commission Chairperson **Brenda Henson, Board Secretary**