

PUBLIC HEARING MINUTES
MONDAY, APRIL 29, 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: James Hedrick-Acting Chairman, Frank Veno, Chris Behrend, and Kennedy Kavanaugh

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, 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 6:00 p.m. and stated that neither the Planning Commission Chair or Vice Chair were present. He explained that he could appoint a Chair or the Planning Commission could elect one themselves. Commission Member Hedrick volunteered to act as Chairman.

Acting Chairman Hedrick called the Planning Commission to order at 6:01 p.m.

APPROVAL OF PUBLIC HEARING MINUTES

Council Member Ulmer made a motion, seconded by Mayor Pro Tem Clawson for Town Council to approve the January 28, 2019 Public Hearing minutes with the correction that the date be changed on the minutes from 2018 to 2019.

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

Commission Member Veno made a motion, seconded by Commission Member Behrend for Planning Commission to approve the January 28, 2019 Public Hearing minutes with the date correction from 2018 to 2019.

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

CASE PL02285-021419 ASU – GENERAL USE ZONING MAP AMENDMENT

Appalachian State University has submitted a Planning Permit Application to request that a 34 acre portion of their 74.63 acre property located off of Highway 105 and High School Drive (Watauga County Parcel ID: 2910027414000) be rezoned from B3 General Business to E1 Educational District.

Ms. Shook presented the request as it was outlined in the packet. She stated that ASU wished to rezone a portion of the old High School property from B3 to E1 which would not include any residential use.

Council Member Furgiuele asked what uses would be allowed in the E1 district. Ms. Shook replied that the E1 district allowed any use that was related to university use. Council Member Furgiuele asked if the property could be all parking. Ms. Shook stated that was correct and added that the Town could not regulate the use of parking not associated with another use on state owned property. Council Member Furgiuele asked Ms. Shook if she had asked ASU if they would consider a Conditional District zoning for this property. Ms. Shook deferred that question to the ASU representative present at the hearing.

Ms. Meade reminded everyone that this was a general use zoning map amendment and the only thing they should consider were the uses allowed under E1 zoning and evaluate whether or not they felt these uses would fit the area.

Nick Katers with ASU's Office of Business Affairs addressed Council Member Furguele's question regarding a Conditional District zoning and stated the university was not inclined to do a Conditional District because they would have to go to the Council of State. Mr. Katers provided Council and Planning Commission members with the latest artist's rendering of the University's plans for the property in question. He stated they planned to first refurbish the softball field in the existing softball field location. Mr. Katers stated that the orientation of the track and tennis courts would be changed and would be done as the funding became available.

Council Member Furguele asked what assurance the Town would have if the funding fell through. Mr. Katers replied that these would be NCAA facilities and the Town had his assurance that these facilities would be completed. Council Member Furguele expressed concern about the future with a general zoning instead of a Conditional District. Mr. Katers assured Council Member Furguele that the University was committed to building the softball field, track, and tennis courts on this property. Council Member Furguele stated that in 25 years ASU could do anything else they wanted to on the property that was allowed in E1.

Commission Member Kavanaugh asked if buildings could be placed on the property if it was zoned E1. Ms. Shook replied that buildings could be placed on the property and read the description of E1. She stated that university uses, except for residence halls or dormitories, would be allowed.

Commission Member Kavanaugh expressed concern about potential traffic and parking problems. Mr. Katers stated there were 1,100 freshman parking spaces on the property currently and most of those cars remain parked for the week. Commission Member Kavanaugh asked what would happen when there were matches. Mr. Katers replied that there were 100 more spaces available on the site.

Mr. Ward stated that the Hwy. 105 project indicated a return of the traffic light and a turn lane at this location. Council Member Furguele asked how many years Hwy. 105 would be under construction. Mr. Ward replied it would be 2-4 years. He added that there would be another hearing regarding the Hwy. 105 project on Tuesday, May 6, 2019.

Reporter Thomas Sherrill asked when the softball field would be completed. Mr. Katers replied that they would like to have it complete by January 1, 2020. Mr. Sherrill asked what the capacity would be for the softball stadium. Mr. Katers stated it would be 100-150.

Council Member Furguele asked if ASU had moved forward with their plans for this property with the Hwy. 105 project in mind. Mr. Katers replied that they were neutral on the Hwy. 105 project and would move forward with their plans regardless of the Hwy. 105 project.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:22 p.m.

CASE PL02333-030719 INITIATION OF AMENDMENTS – UDO TEXT AMENDMENT

The Town of Boone has initiated a text amendment to revise UDO Article 9 Amendments with respect to the process for the initiation of zoning map and text amendments.

Ms. Shook noted that staff reports for text amendments have changed. She pointed out additional new language on the first page of the staff report that would help lay out the intent and purpose of the text amendment being presented.

Ms. Shook stated this text amendment was a request to revise UDO Article 9 Amendments to allow applications for map amendments submitted by citizens or property owners to be sent directly to the next

regularly scheduled public hearing upon submittal of a complete application. She explained that the Ordinance currently has a process that requires the request be sent to Town Council first for them to send to Public Hearing. Due to the fact that there has never been a request that Council did not agree to send to Public Hearing, it was felt to be an unnecessary step in the process so this text amendment would provide a direct line to the Public Hearing upon receipt of the application. Ms. Shook noted that text amendments would still follow the current process of being sent to Council before being sent to Public Hearing.

Mr. Ward asked for the approximate reduction in time. Ms. Shook replied that the proposed amendment would reduce wait times for applicants by approximately one month.

Council Member Furguele felt that the stipulation for proceeding found in B. 2. Under Map Amendments that reads *Upon the initiative of the Administrator or the Town Attorney* should also include the Town Manager. He expressed concern that this could allow a significant text amendment to go to Public Hearing without Council's knowledge. Council Member Furguele referred to A. 1. Text Amendments and asked that the word *heard* in the last sentence of the first paragraph be changed to *scheduled for consideration* due to the fact that Council is not always able to hear all of the items on their agenda in a given meeting.

Ms. Meade agreed that the rewording from *heard* to *scheduled for consideration* in A. 1. Text Amendments was a good suggestion by Council Member Furguele. Ms. Meade then addressed Council Member Furguele's concern regarding the language in B. 2. She explained that there could be extraordinary cases where the Planner or the Town Attorney might need authority to send something directly to Public Hearing without the additional delay. Ms. Meade offered examples such as changes in State law or code language that could have a negative impact and needed to be addressed quickly.

Council Member Furguele stated he had no problem with map amendments going straight to Public Hearing no matter who initiated them. He stated he agreed with Ms. Meade about the need for a bypass in the examples she gave.

Ms. Shook stated this was not new language and was already in the UDO.

Council Member Furguele suggested changing B. 2. to read *Upon the initiative of the Administrator, Town Attorney, or Town Manager with a concurrence of all three*. Mr. Ward stated they typically operated that way anyway.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:33 p.m.

CASE PL02335-030719 BURDEN OF PROOF & TRANSITIONAL ZONE CLARIFICATIONS – UDO TEXT AMENDMENT

The Town of Boone has initiated a text amendment to modify UDO Article 6 Board of Adjustment Hearings to clarify the applicant's responsibility to produce substantial competent evidence, and to modify UDO Article 9 Amendments to clarify that any Conditional District application which triggers transitional zones shall meet the requirements of UDO Subsection 6.02.02 Transitional Zones.

Ms. Shook presented the request, stating the changes would provide greater clarity regarding an applicant's responsibility to produce competent evidence when requesting approval for variances or Special Use Permits from the Board of Adjustment. She stated it would also clarify the applicant's responsibility to produce substantial competent evidence with addressing transitional zone requirements for Special Use Permits or Conditional Districts.

Council Member Furguele asked if it was fair to say that the General Assembly has made it more difficult for Boards of Adjustment to consider lay testimony. Ms. Meade felt that was a fair assessment. She stated that requiring expert testimony has made the process more expensive for developers and has

sometimes made it almost impossible for other interested parties/neighbors to come forward to give testimony about traffic and value without hiring an expert to give testimony.

Council Member Furgiuele stated he was in favor of this amendment and felt it was an improvement. Council Member Furgiuele stated had never seen the Board of Adjustment make an adverse credibility determination even though they have the power to do so under their Rules of Procedure. He felt it might strengthen the language if the word *credible* was added to the areas of the text so they would read *substantial, credible evidence*. Ms. Meade agreed that would be a good suggestion. She noted that the proposed language would help focus people but felt this was also a training issue.

Council Member Furgiuele felt that there were higher standards for someone to testify at a Board of Adjustment than in court.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 6:43 p.m.

CASE PL02336-030719 WIRELESS COMMUNICATION FACILITIES – UDO TEXT AMENDMENT

The Town of Boone has initiated a text amendment to revise UDO Articles 15 District Use Requirements and 34 Definitions to modify regulatory standards related to wireless communication facilities and wireless support structures.

Ms. Shook presented the request as it was outlined in the packet noting that the proposed language would modernize regulations and bring them up-to-date with State and Federal regulations.

Mayor Brantz asked what a small wireless facility was. Ms. Meade replied there was a size requirement for the facility that she thought was something like 18” high. She explained that the statute requires municipalities to allow the use of their right-of-ways for these facilities and greatly limit the extent to which the Town can regulate them elsewhere. Ms. Meade stated the statute also requires the Town to accept up to 25 applications as one application. She stated the draft text presented was her best attempt using both Cary and Durham’s Ordinances and noted there could still be some inconsistencies in the language. Ms. Meade felt, once the Town has more experience with these applications, there could be a need for revisions to the text.

Mr. Ward stated the small cell wireless was a change from putting up large cell towers and provides a quicker way of creating a grid to move from 4G to 5G. Ms. Meade felt it was good that better communication could be attained with smaller packages and this code was intended to encourage stealth systems because they can be placed on existing poles and towers. She stated what was not encouraged was new towers, new poles, and non-stealth wireless on buildings.

Mr. Ward noted this was about cellular not broadband. He felt, because of the University, we were pretty well served with broadband in our area.

Ms. Meade noted the current Ordinance allows structures up to 120’ in height and the proposed text reduces that height to 50’.

Council Member Furgiuele referred to the section regarding the Blue Ridge Parkway view shed protection and asked if there were properties within the Town that would be within one mile of the Parkway centerline. Ms. Shook replied that she did not believe so and noted this was language from the existing Ordinance. Mr. Ward stated there was some discussion about this but felt it should be left in the Ordinance due to the potential for growth of the Town.

Council Member Furgiuele referred to the section regarding Setback Reductions and thought the consideration of reducing setbacks in a Special Use Permit sounded like a variance. Ms. Meade felt this was required to meet the legal limits on the Town’s ability to regulate communications in the sense that you cannot have regulations that end up prohibiting these communications as a matter of Federal law.

She stated the proposed language included these type of flexible mechanisms so that if there was a proposal where the ordinary restrictions would basically end up not allowing the communication facility, there would at least be some flexibility to address that extraordinary circumstance.

Ms. Shook referred to Section 15.24.12 Outside Experts and Disputes and stated there would be a fee for a review by an outside consultant. She noted, however, that the short list of engineers already approved by Town Council were not qualified engineers in the communications field but felt the Town use them to subcontract a consultant to perform a review. Council Member Furguele felt this requirement was appropriate in order to gain expertise that Board members would not have. Mr. Ward suggested that the Town go ahead and put the list of engineering firms on notice so they could be aware and prepared.

Mayor Brantz asked what a balloon test was. Ms. Shook explained that a balloon would be floated in the air to the height of the proposed tower and it provides a visual of how high the tower would actually be. She added that a balloon test would be very helpful in determining viewshed requirements as well. Ms. Meade stated that the proposed text required the applicant to notify adjoining property owners when the balloon test would be performed so they could observe it if they wanted to.

Council Member Furguele questioned maintenance responsibilities. Ms. Meade replied there were sections in the Ordinance that required the Administrator to give notice and then give a certain period of time for remedy. Council Member Furguele asked how you would give notice if contact information had not been maintained. Ms. Shook stated they would then contact whoever was listed as the property owner. Council Member Furguele questioned proof of insurance. Ms. Shook replied that it was required at the time of permit submittal but there is no reporting mechanism built into the Ordinance. Council Member Furguele asked if there should be annual reporting required. Ms. Shook stated, while maybe there should be from a maintenance perspective, Staff would then be required to keep track of any kind of reporting. Council Member Furguele asked about abandonment of facilities. Ms. Meade replied that abandonment of small wireless facilities was addressed in Section 15.25.04(B)(5) Public Safety but felt it would be a good idea to some type of enforcement mechanism for communication towers. Ms. Shook asked if that was something Council would want to see with this particular text because there were applicants currently waiting on this text to be adopted before submitting their application. Council Member Furguele stated he saw no reason to delay the text as it was proposed and consider a further amendment at a later date. Ms. Meade felt she could add some limited provisions regarding insurance reporting before this amendment was considered by Town Council.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:08 p.m.

CASE PL02337-030719 AWNINGS IN THE B1 – UDO TEXT AMENDMENT

The Town of Boone has initiated a text amendment to revise UDO Article 18 B1 Central Business District Standards to allow awnings and canopies on existing buildings.

Ms. Shook stated this amendment would allow the installation of historically appropriate awnings and canopies on existing buildings in the B1 Central Business zoning district whether they were historically on the building or not.

Council Member Furguele questioned the types of materials for metal frame awnings. Ms. Shook noted this was scheduled to be a topic for discussion at tomorrow night's Community Appearance Commission meeting. Council Member Furguele asked if metal awnings could be used. Ms. Shook replied that they were not considered historically appropriate and noted that some clarifying language needed to be added to the proposed text. Mr. Johnson stated that a metal cable-hung awning would be appropriate.

Council Member Furgiuele stated he did not want to delay this amendment. He stated he was in favor of this and felt it would enhance the look of Downtown. Ms. Shook hoped to have additional language in this draft to present at the next Town Council meeting.

Mr. Ward noted that awnings with vertical supports were difficult to navigate snow plows around.

Ms. Shook stated that any awning that protruded over the Town sidewalk would still be required to get an encroachment agreement through the Town Manager's office. Mr. Ward added that the encroachment agreement places maintenance responsibilities on the person who installs the canopy.

Acting Chairman Hedrick asked if this amendment would apply to new awnings only or to existing ones as well. Ms. Shook replied that this would apply to new awnings or replacements of old awnings.

Commission Member Veno asked if this amendment would apply to 2nd story canopies. Mr. Johnson responded that 2nd story canopies would not be historically appropriate. Ms. Meade felt it would be good to make that clear in the language.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:17 p.m.

CASE PL02338-030719 PERMIT PROCESS – UDO TEXT AMENDMENT

The Town of Boone has initiated a text amendment to revise UDO Article 4 Permits to modify the schedule pursuant to which a permit is to be processed.

Ms. Shook presented the request as it was outlined in the packet. She stated this amendment would allow Staff flexibility in the processing of permit applications. Ms. Shook explained that the UDO currently allows only 20 business days for review and comment on applications regardless of the size or complexity of an application or other demands on Town Staff. This sometimes leaves Staff very little time to review projects within the 20 day required time period. Ms. Shook stated that Staff was requesting the 20 day time limit be removed and Staff be allowed to adopt a departmental policy setting forth anticipated review timeframes. She felt that complicated commercial reviews could take up to 25 days, but could be more if review by outside agencies or special reviews were required. Ms. Shook emphasized that, although this amendment would allow Staff extra time, it does not mean Staff will take an excessive amount of time for review.

Ms. Meade stated this was a common sense recognition of the fact that review of The Standard or Rivers Walk projects was a whole different animal than the review of a single family home or smaller commercial project. She noted that review required a high level of detail and this amendment would help Staff to not be up against the wall with a strict time requirement when what they are doing is in the public interest.

Mr. Ward anticipated he would have draft review fees from Planning & Inspections, Public Works, and the Fire Department at next week's Town Council meeting. He added that he had no concern over any extended review and felt it was necessary to give Staff time to review those extreme projects.

Ms. Meade referred to Section 4.05.02(A)(4)(a) Incomplete Applications and suggested changing the language from *it will be deemed withdrawn* to *it may be withdrawn at the discretion of the Administrator*. Ms. Shook felt there could be cases when that would be necessary. Council Member Furgiuele expressed concern that the flexibility could create additional layers of back and forth with an applicant. Ms. Shook stated that the Town currently does not charge review fees but noted that review fees are being proposed in the new fee schedule and she hoped this would help reduce the number of reviews necessary.

Mayor Brantz asked how long an applicant had to wait to resubmit if their application is withdrawn. Ms. Shook replied that it would depend on the type of permit but noted that zoning permit applications can be resubmitted right away.

Council Member Furguele pointed out that there could be Ordinance changes during an extended review time and projects could still be permitted under Ordinance requirements that are no longer in place. He felt if there was a need for more than three submittals and Ordinance requirements had changed that pertained to the applicant's project, they could resubmit under the new Ordinance requirements. Ms. Meade replied that she understood what Council Member Furguele was saying but felt that would add a great deal of pressure on Staff. Ms. Shook stated the text put pressure on the applicant but also put pressure on Staff to make sure they had requested all of the information needed within the three submittals. Ms. Meade pointed out that Staff could make an error in their requested information that could cause the need for another submittal and requiring a withdrawal of the application after three submittals would allow no flexibility. Ms. Meade suggested leaving the language about a withdrawal after three submittals and adding language regarding and extension being allowed for extraordinary circumstances. Council Member Furguele asked who would determine what the extraordinary circumstances were and noted that people could always argue that they had an extraordinary circumstance and he was concerned that the Town would get played. Ms. Meade suggested adding language to accept further submittals *in extraordinary circumstances arising from events beyond the applicant's control*. Council Member Furguele suggested giving examples of extraordinary circumstances in the text.

Council Member Furguele referred to Section 4.07.01 Application to be Processed Expeditiously and suggested removing the wording *Recognizing that inordinate delays in acting upon applications may impose unnecessary costs on the applicant*. Ms. Meade agreed.

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 7:35 p.m.

CASE PL02408-040419 TEMPORARY USE 9.01 T-13 TEMPORARY USE 9.01 PUBLIC COLLEGES & UNIVERSITIES – UDO TEXT AMENDMENT

The Town of Boone has initiated a text amendment to revise UDO Article 15 to allow use T-13 Temporary Use 9.01 Public Colleges and Universities within the B3 General Business Zoning District subject to certain restrictions.

Ms. Shook stated this was a request to modify Article 15 of the UDO to allow T-13 Temporary Use 9.01 Public Colleges and Universities within the B3 General Business zoning district. She noted the use was currently allowed in the M1 and O/I zoning districts. Ms. Shook referred to 15.69.14(A)(8) that states *Temporary Use 9.01 is not permitted on any property any part of which is within 400 feet of the centerline of Highway 321/Hardin Street between King Street and Highway 105* and noted this restriction applied to this area only. Ms. Meade referred to the 400 ft. buffer map contained in the Board packet, noting that the protected area was shown in blue and also included any parcel touching the blue line so that area and those parcels would not be allowed to have T-13 Temporary Uses.

Council Member Furguele referred to 15.69.14(A)(7) that reads *The applicant is permitted to lease the same property for a different temporary use subsequent to the termination of a temporary use permit for another use*. He noted that the first temporary permit could go for seven years and asked for the reasoning behind allowing another temporary use to subsequently occupy. Ms. Shook replied that, due to various needs of the University for temporary office space, this text allowed a different University office use to move into the same space that was just vacated by a previous University office use. Council Member Furguele asked if that was really a different temporary use. Ms. Shook stated that, based upon previous discussion, it would be. Ms. Meade added that it would still be an office space but would be a new need.

Council Member Furgiuele expressed concern about allowing this temporary use in the B3. He stated there was a special University zoning district and thought this was developed so the University would not essentially take over the business districts. Council Member Furgiuele thought this seemed like an attempt to avoid ad hoc rezoning to University uses. He questioned the allowance of such long-term use because the retail space then becomes a de facto part of the University without any rezoning. Council Member Furgiuele stated the University could stay in one area so long that it takes up retail space for seven years with a renewal of seven years. He noted that he felt the University was important and was not against it but felt their growth should be more intentional. Ms. Meade noted that the language states the permit shall be valid for five years with a possible 2-year extension if there are extraordinary circumstances and the University has to show that they have plans to accommodate a permanent use within the five-year period of time. Ms. Meade stated there was no cap on the number of times the temporary use could be leased by the University and suggested that be addressed if it was a concern.

Council Member Ashcraft felt there was a real problem providing places for economic development improvement in the M1 and he had never understood why M1 was included as an area for temporary University uses and B3 was excluded. He stated he would be inclined to take M1 out of the allowed area so the University would not be competing for space in what was already a very limited market. Council Member Ashcraft stated he preferred a distance requirement instead of not allowing the uses along the corridor. He agreed that the language needed to be tightened up so there could not be indefinite extensions for University uses. Council Member Ashcraft also felt allowing temporary University uses closer to the University could cause less traffic impact and provide more convenience for the University's use. Council Member Ulmer agreed with Council Member Ashcraft's statements.

Commission Member Behrend expressed concern about the length of time the University could occupy one space as well as the number of temporary uses that could occur in a close area.

Council Member Furgiuele asked Council Member Ashcraft to clarify if he favored a distance requirement. He replied the he would like to see the proposed 400' protected buffer area along the corridor be opened up and instead impose a distance requirement so it would not turn into an extension of the University. Council Member Furgiuele stated he would not be against that and asked Ms. Shook if there would be any problems with imposing a distance requirement. Ms. Shook stated there are currently two permits issued for property in the M1 that are adjacent to each other. She also noted there may be other areas that offer spaces close to each other that would offer the ability to have some shared parking. Ms. Shook felt a distance requirement could cause unintended consequences.

Council Member Furgiuele asked Council Member Ashcraft about time limits and he replied that he was open to discussion but felt they were necessary. Ms. Shook recalled testimony from a previous meeting regarding the expense to property owners to get tenant spaces ready to lease and that property owners were concerned that 5 or 6 years would not be a sufficient amount of time to recoup those costs. Council Member Furgiuele stated if the University finishes out a space it would be a benefit to the property owner.

Council Member Furgiuele stated he was not against a longer period of time if it was a finite period of time however, he felt that, if the University wanted to grow their campus, they should use University zones for University uses and this would offer the public an opportunity to weigh in.

Mr. Katers stated the University had no intention of moving into these locations permanently. He stated the University had the need for about 200 spaces temporarily while they go through renovations. Mr. Katers noted that Sanford Hall would be taken off-line this summer and the English and Languages Department would have to be moved to another location. He stated the same thing would happen in the future as they renovate other older facilities and felt most renovations would generally fall within the 5-7 year timeline for completion. Mr. Katers explained that currently in the Charleston Forge building they are housing some of their administrative staff and considering moving some of their IT professionals as

well. He stated though they had a desire, as part of their Master Plan, to build an auxiliaries building within ASU's footprint in the near future, it would not be happening within the next two years. Mr. Katers stated it was the University's intent to house everyone within their footprint within the 5-7 year timeline. He noted there were about 50 administrative staff at Charleston forge and about 100 IT professionals to move and there were other smaller administrative sections that will be displaced due to renovations. Mr. Katers stated when the University renovated academic facilities they tend not to move administrative staff back into those buildings because they become faculty/student use primarily.

Mayor Pro Tem Clawson asked if it was correct that ASU planned to have buildings where they would take the temporary uses back to permanently. Mr. Katers replied that was correct and the plan was for that to happen within 5-7 years.

Council Member Ulmer asked where that building would be placed. Mr. Katers stated that was still undetermined but hoped to have a better idea within the next six months or so.

Council Member Ashcraft stated he took away from Mr. Katers comments that it might be useful to have seven years instead of five but it was not likely there would be a true need for anything beyond seven years and asked if that was correct. Mr. Katers stated that was correct. He stated this was a conscious move by the University to consolidate administrative positions into a new administrative facility in the future. Mr. Katers added that currently that was not available but was in their short term Master Plan.

Council Member Furguele asked if it was legal for Council to sunset a provision in the UDO. Ms. Meade replied that she had not researched that but felt Council could add a limitation that this particular use could not be done at the same property for more than seven years. She stated she would have to look into the possibility of sunseting but did not see why it could not be done based on the justification that has been presented that it is, in fact, a temporary need. Ms. Meade advised Council that it should be added now if they wished to do so because it would give notice to potential private owners that this is not going to be available to them after a certain period of time. Council Member Furguele stated he would be more comfortable with that.

Ms. Shook asked Mr. Katers if, after the current needs are met, there would be need for more swing space in the future. Mr. Katers replied that the University anticipated the need for swing space to decrease over time as some of the upgrades to older buildings are completed. He noted they were down to the last few with Sanford Hall on line next and Wey Hall behind that at some point. Mr. Katers stated that, at that point, most of their academic facilities will have been through at least one major renovation.

Ms. Meade stated she thought she heard Mr. Katers say the University did not anticipate needed the temporary office space for its needs after seven years. Council Member Furguele stated he was not suggesting the sunset piece apply to anything other than the B3. He stated he did not have as much of a problem with O/I but was concerned with B3 because, even though people complain that the Town has a lot of empty commercial space, as Boone continues to grow people will want the commercial space for commercial uses and the temporary office uses could detract from viability in the future. Council Member Furguele felt commercial corridors should be protected for commercial uses in the long-term. He stated if a sunset could be placed on the B3 he would be okay with removing the protected area, allowing a seven-year period without having to show extraordinary circumstances, and having no distance limitation between uses.

Paul Forte, Vice Chancellor of Business Affairs, stated that, as they go through this building period, they would like to utilize some of the currently vacant property and keeps tax paying businesses getting an income stream. He felt the seven-year compromise would be reasonable. Council Member Furguele stated he would not be against a slightly longer sunset period so some staggering could take place but felt 10 years would be enough. Council Member Ashcraft noted that if the University wanted something long-

term it would necessitate rezoning. Mr. Forte felt that the 10-year sunset period in the B3 would work for them.

James Milner with Appalachian Commercial Real Estate, addressed Town Council and Planning Commission members stating he had been retained by owners of The Standard as the landlord's agent for the main level commercial space. Mr. Milner referred to the 400 ft. buffer map contained in the Board packet on page 127. He noted that the only property from King Street to Clement Street that was zoned B3 was the University Overlook property, aside from Earthfare and Grace Lutheran Church. Mr. Milner felt the focus of the map would be from Clement Street to the intersection with 105 and there were only two available spaces for lease in that area. He stated there would be about 1,600 sq. ft. of space available at the corner of Clement Street and Blowing Rock Road at Winkler's Square and did not think the University would be excited about being next to a vape shop and kava bar. Mr. Milner noted the only other available project within that area would be The Standard. Council Member Furguele stated there were other spaces that could become available or structures that could be torn down and rebuilt. Mr. Milner disagreed. Mr. Milner stated they could live with the 10-year sunset period but could not live with was the 400 ft. buffer. He felt if temporary uses were going to be allowed in B3 they should be allowed in all B3 without exception.

Jeff Carter, commercial asset manager for Landmark, stated he was charged with filling the retail space at The Standard. He stated he was glad to hear the suggestion of the 10-year time period for the B3. Mr. Carter noted that commercial uses would be beneficial to everyone but they have vacant property and ASU has a need. He stated they would still be trying to get commercial tenants to lease space.

Bill Aceto, resident of the Town of Boone and commercial real estate broker with Blue Ridge Realty & Investments, stated he was representing the former BB&T Bank on Hwy 105. Mr. Aceto offered the BB&T space as a potential swing space for the University as they have been struggling to secure a tenant due to the uncertainty of the Hwy 105 widening. Mr. Aceto felt there was currently more commercial space available than there was demand. He encouraged the University to lease rather than to own so the property stays on the tax rolls. Mr. Aceto felt barriers needed to be removed and more opportunities needed to be allowed in the vacant spaces.

Ms. Meade asked if there was agreement to sunset the B3 after 10 years and if there was also interest in not dictating lease terms but simply allow the term per lease of whatever length to sunset in 10 years or whether Council still wanted to specify maximum lease terms. Council Member Ashcraft replied he would still want to limit the term to seven years because it serves the Council's purpose of making it clear they do not want these to be long-term uses. He stated he did not hear anything that indicated to him there was a need to do more than seven years. Council Member Furguele noted that the 10-year sunset would still allow for some staggering and agreed with Council Member Ashcraft that the lease could be for seven years but with no extension. Council Member Furguele stated this would be for the B3 only and could possibly be considered for the M1 also. Ms. Meade replied that consideration of M1 was not part of this amendment but could be brought back to another Public Hearing if that was the desire of Council. Council Member Furguele felt M1 should be reconsidered at some point.

Mr. Milner felt seven years would give them enough time to amortize their improvement dollars. He noted that finishing out a first generation space made the space more appealing to a second generation user. Council Member Furguele replied that the commercial space would be made into office space and the next tenant may want commercial space. Mr. Milner stated it would depend on the floor plan and business concept as to the usability of the space.

Mayor Brantz asked if there was consensus among Council members regarding seven-year leases with a 10-year sunset in the B3. Ms. Meade felt there seemed to be a general consensus for those terms. Council Member Furguele stated he would like to hear what members of the Planning Commission thought.

Commission Member Behrend stated she would have a hard time with allowing a 10-year lease and it was the general consensus of Planning Commission members that a seven-year lease would be acceptable.

Ms. Meade felt there was need for some clarification on whether or not the same space could be leased for seven years and then leased for three years or would it be for only one seven-year lease per space. She mentioned the idea of a seven-year sunset if there was a seven-year lease. Mr. Ward noted that the 10-year sunset would start now but the University might not be ready for a space for two more years so the seven-year lease would still be able to fall within the 10-year sunset window. Ms. Meade asked if the same property could be leased more than once within the 10-year time period.

Mr. Forte stated, if money had been spent to upfit a space, they would like to be able to reuse that space with a second swing space opportunity. He felt the ability for the University to rent property for the next 10 years as swing space and require no particular lease time would be the easiest way to handle things. Mr. Forte stated that the University would try to accommodate as many of their displaced staff on the ASU footprint as possible.

There was general consensus to place a 10-year sunset on Use T-13 in the B3 only, with no lease period. Ms. Meade felt it would be best to set a calendar date for expiration of the allowed use, which would be 10 years from the date of approval by Council with no lease to extend beyond that date.

Ms. Shook noted that properties which are zoned Conditional District would have to make sure that the use is actually an approved use under their approval. She stated this was not a use when The Standard was approved so their approval would have to be modified to add this use.

Commission Member Veno stated this made more sense to him and felt it was a good way to fill empty spaces.

Ms. Shook felt it would be helpful to Planning Commission, who would be considering these cases directly after the Public Hearing, for Council to prioritize the cases they would like for Planning Commission to try to make recommendations on tonight, given the late start of the Planning Commission meeting. Ms. Shook stated she would like to have a recommendation from Planning Commission tonight regarding the Wireless Transmission Facilities due to the fact that there are several people waiting to make application. She also felt the ASU Temporary Use case should be heard tonight as well. After some discussion, the following priority list for recommendations by Planning Commission was established by Town Council:

1. ASU Temporary Use
2. Wireless Transmission Facilities
3. Awnings in B1
4. ASU Rezoning
5. Initiation of Amendments
6. Burden of Proof
7. Permit Process

With no further questions or public comment, Mayor Brantz closed the public hearing for this case at 8:30 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 8:30 p.m. The motion was seconded by Council Member Furguele.

Vote: Aye – All
Nay – None

The motion passed.

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

James Hedrick, Acting Planning Commission Chairman

Acting Chairman Hedrick called a break in the Planning Commission meeting from 8:30 p.m. until 8:40 p.m.

APPROVAL OF PLANNING COMMISSION MINUTES

Commission Member Kavanaugh made a motion to approve the January 28, 2019 Planning Commission meeting minutes with the amendment that the date on the minutes be changed from 2018 to 2019. The motion was seconded by Commission Member Venio.

Vote: Aye – All
Nay – None

The motion passed

There was discussion regarding the order Planning Commission should consider the cases and it was decided that they would go in the order in which they were heard at the Public Hearing and try to address all of the cases.

CASE PL02285-021419 ASU – GENERAL USE ZONING MAP AMENDMENT

Ms. Shook reminded Commission members that this was a request to rezone a portion of property owned by ASU from B3 to E1.

Commission Member Kavanaugh expressed concern with traffic on Hwy. 105. Commission Member Venio noted that the subject property used to house Watauga High School and he did not see the traffic being any worse. He asked if was correct that the traffic light would be re-installed and a turn lane would be added.

Ms. Shook explained that ASU would have to submit a zoning permit application to the Town to perform work on this property and part of the review process would be for NCDOT to review and determine if the use would require a traffic signal on Hwy. 105. Ms. Shook stated DOT did take into consideration in their planning process for the Hwy 105 improvement project the plans ASU had for this site.

Acting Chairman Hedrick stated ASU already owns the property and the Commission just needed to decide if the allowed uses would be appropriate for that property. Ms. Shook replied that was correct and noted the property was currently being used as a parking lot and, under State law, the Town could not regulate their use of the property for parking.

Commission Member Venio stated he had been following the property since the high school left and he felt what ASU wanted to do with the property was better than other things that could go in that location.

Acting Chairman Hedrick stated the removal of the softball field and tennis courts on campus could open up the potential for future buildings on the campus footprint.

Ms. Shook reminded Commission members that this was a general use rezoning and, while specific plans were presented by ASU, the Board could only consider uses allowed in the E1, which would be educational or university related uses, with the exception of dormitories/residence halls.

First Motion and Vote:

Commission Member Kavanaugh 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 because the proposed amendment is consistent with:

Comprehensive Plan Policy 1.1 Overall Objectives for the Boone Comprehensive Plan

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

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.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.

Vote: Aye – All
Nay – None

The motion passed.

Acting Chairman Hedrick asked if he could amend the motion to add Comprehensive Plan Policy 2.3.2.E. Ms. Shook explained that the vote had already been taken but could be withdrawn if they wished to start over. Commission Members Kavanaugh and Behrend agreed to the amendment and Commission Member Kavanaugh noted that she would restate her motion.

First Motion and Vote:

Commission Member Kavanaugh 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 because the proposed amendment is consistent with:

Comprehensive Plan Policy 1.1 Overall Objectives for the Boone Comprehensive Plan

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

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.

- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.
- I. Small business start-ups, expansions and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.
- J. Appropriate educational and training programs shall be encouraged to help local residents, especially those unemployed and underemployed, take advantage of business expansion and to develop new skills.

Comprehensive Plan Policy 2.3.2 Community Character

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

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 map and believes approval is reasonable and in the public interest because the University is expanding so rapidly and intensely and there is so much unused property that could be revitalized and this is a good way to do that on the old high school site and is an appropriate use of the existing property.

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

CASE PL02333-030719 INITIATION OF AMENDMENTS – UDO TEXT AMENDMENT

Ms. Shook noted that changes to the proposed text that were suggested during the Public Hearing were as follows:

9.02.01 [A][1] Text Amendments

The last sentence of the first paragraph should read *Such request shall be scheduled for Council consideration at the next available regularly-scheduled meeting.*

9.02.01 [B][2]

This should read *Upon the initiative of the Administrator, Town Attorney, or Town Manager, with concurrence of all three.*

First Motion and Vote:

Acting Chairman 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, with changes to 9.02.01 [A][1] Text Amendments with the last sentence of the first paragraph reading *Such request shall be scheduled for Council consideration at the next available regularly-scheduled meeting* and 9.02.01 [B][2] reading *Upon*

the initiative of the Administrator, Town Attorney, or Town Manager, with concurrence of all three, 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.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote:

Commission Member Kavanaugh made a motion, seconded by Commission Member Behrend, that the Planning Commission recommends approval, based on the notion that the changes discussed will be sent through, of the proposed amendment to the Town's Zoning ordinance and believes approval is reasonable and in the public interest because it allows for quicker and more efficient initiation of amendments, both text and map, and provides some ease on the part of the Town Council, Planning Commission, and staff.

Vote: Aye – All
Nay – None

The motion passed.

CASE PL02335-030719 BURDEN OF PROOF & TRANSITIONAL ZONE CLARIFICATIONS – UDO TEXT AMENDMENT

Ms. Shook noted it was suggested at the Public Hearing to add the word *credible* to all areas of the text that mentioned substantial competent evidence so that the text would read *substantial credible competent evidence*. Ms. Shook explained this language would clarify that the burden of proof is on the applicant making a request before the Board of Adjustment and testimony should be provided for the record even when there is no opposition on a topic.

Ms. Shook stated this text amendment also included a change that Transitional Zone requirements be part of a Conditional District and not just a Special Use Permit.

Ms. Shook noted that, under State law, traffic and property values are required to be qualified by a professional such as traffic engineers or appraisers. Commission Member Veno stated that would then put an additional financial burden on whomever needed those types of witnesses. Ms. Shook replied that it would but noted that this was already a requirement under State law and this language would just clarify the requirements.

First Motion and Vote:

Commission Member Kavanaugh made a motion, seconded by Acting Chairman 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, with the addition of the word *credible* in all applicable areas of the text so that it should read *substantial credible competent evidence*, 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.

Comprehensive Plan Policy 2.3.4 Public Involvement

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

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

Second Motion and Vote:

Commission Member Behrend 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 the changes clarify the responsibility of everyone involved in the process so each person knows what they are responsible for.

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

CASE PL02336-030719 WIRELESS COMMUNICATION FACILITIES – UDO TEXT AMENDMENT

Ms. Shook stated that the technology for wireless was complex and the way the state requires wireless facilities to be regulated was complex. She stated that what was proposed was what the Town Attorney and Staff thought was the best solution for regulations based on Ms. Meade's research. Ms. Shook noted that permitting offices across the State were struggling to know how to understand the changes in State law.

Ms. Shook felt that after processing a few applications staff would likely find areas of the text that would need to be modified. She stated she did feel comfortable with the facilities that would require a Special Use Permit because she would be allowed to go to an outside consultant for assistance and that fee would be paid for by the applicant. Ms. Shook stated she was not an expert in wireless communication facilities but the Town would be hiring someone who was when Special Use Permits were necessary.

Acting Chairman Hedrick mentioned language that Ms. Meade stated in the Public Hearing that she would add. Ms. Shook stated that was correct and although she did not have that exact language additions would be added regarding a mechanism for the applicant to notify the Town on an annual basis that the insurance is being maintained and the other change would be to create language in 15.24 regarding abandonment of the sites. Commission Member Behrend and Acting Chairman Hedrick felt those additions were appropriate and important.

Commission Member Venno stated he was overwhelmed by the text and never knew anything about wireless facilities until he read the packet. Ms. Shook stated that, as proposed, the text was more comprehensive than what was currently in the UDO and has expanded to cover changing technology from when the ordinance was first drafted. Ms. Shook noted there could be unanticipated consequences from the text due to the rapidly changing technology and, while neither she or Ms. Meade were experts on wireless communication facilities, the text presented was what they felt was the best for the protection of the community.

Acting Chairman Hedrick stated they could look at this like a framework that may need to be revisited from time to time as technology changes. Ms. Shook stated that Ms. Meade drafted the language based

on current legislation and other ordinances that have been adopted. She noted that Ms. Meade chose what she felt was the cleanest or best language from each of those ordinances and combined them with some of the Town's current standards.

Commission Member Veno referred to Ms. Shook's comment during the Public Hearing that several applications had been submitted for wireless facilities. Ms. Shook explained that several applicants from different providers had called who wished to make application but are waiting for the new text to be adopted.

Ms. Shook stated that under the current ordinance the Town would have to allow 25 small wireless facilities on one application or allow facilities in the Town's right-of-way and on Town utility poles. Commission Member Veno asked if they had to apply for a permit. Ms. Shook replied that they did have to apply for a permit but staff would have to issue the permit.

Commission Member Behrend asked if there were size or height requirements for the small wireless facilities in the current ordinance. Ms. Shook replied there was not. She added that was also no requirement in the ordinance about how many poles could be placed or how far apart.

Ms. Shook explained that small wireless facilities were placed in a small area and used to boost signal. She noted that most of the definitions contained in the proposed text were State law definitions.

Commission Member Veno again stated that he was overwhelmed but this text was the best they had. Acting Chairman Hedrick replied that the intention was protection of the Town and community as a whole.

Commission Member Kavanaugh stated wireless communication facilities were going to come to this town regardless and she felt it should be more on our terms.

Ms. Shook noted that the more people who did not have dedicated home phone lines and relied on cell phones placed more demand on wireless transmission facilities and affects the 911 system. While there is a necessity for them, Ms. Shook stated there was also a necessity to regulate them.

Commission Member Behrend felt it was important to get this text adopted and have these regulations in place. She stated she did not know if this was the perfect plan but it would be a start.

Acting Chairman Hedrick felt it was a good first step.

Commission Member Veno stated that he hated to act on something because he was ignorant of it but he guessed this text was a start. He added that he did not disagree with the fact that this was needed he just found it difficult to understand. Ms. Shook offered to go through and explain the general regulations in each section if the Commission members wanted.

Ms. Shook noted that emergency response communication antenna requirements had not changed and were also in the current ordinance.

First Motion and Vote:

Commission Member Hedrick 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 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

- 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.
- H. The Town shall promote coordination of economic development resources with the appropriate institutions and agencies. Regional coordination and interaction among areas with a shared economic interest shall be encouraged.

Comprehensive Plan Policy 2.3 The Community

- A. Urban type development within the Urban Growth Area shall meet appropriate Town standards.

Vote: Aye – All

Nay – None

The motion passed.

Second Motion and Vote:

Commission Member Kavanaugh made a motion, seconded by Acting Chairman 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 it allows further Town control and regulations over the implementation of these wireless communication facilities as well as allows these facilities to come in with more ease and is more transparent with what regulations are set forth in order for them to put these in.

Vote: Aye – All

Nay – None

The motion passed.

CASE PL02337-030719 AWNINGS IN THE B1 – UDO TEXT AMENDMENT

Ms. Shook noted that two changes were suggested during the Public Hearing; the installation of awnings over street level uses and allowed fabrics. Ms. Shook noted that the Community Appearance Commission would be meeting tomorrow night and would further discuss these items so that revised language could be presented to Town Council prior to adoption of the text.

Ms. Shook explained that the awning or canopy would have to be historically appropriate and under the current ordinance an awning could not be installed on a building unless there had been one on the building in the past. This text would allow those buildings to install an awning as long as it was historically appropriate.

Commission Member Veno asked if awnings would have to be removed if they were not conforming. Ms. Shook replied that that these requirements would be for new installations or replacements.

First Motion and Vote:

Commission Member Veno 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 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 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 2.3.2 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.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged. 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 – All
Nay – None

The motion passed.

Second Motion and Vote:

Commission Member Kavanaugh made a motion, seconded by Commission Member Behrend, 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 amendment allows for the historical qualities of Boone to be maintained as well as encourages the community appearance that we seek out in the Comprehensive Plan and encourages pedestrian safety.

Vote: Aye – All
Nay – None

The motion passed.

Acting Chairman Hedrick called a break in the meeting from 10:00 p.m. until 10:05 p.m.

CASE PL02338-030719 PERMIT PROCESS – UDO TEXT AMENDMENT

Ms. Shook stated that currently there are a limited number of days allowed by the UDO for staff to review application submittals noting that staff had 20 business days from the time an application was submitted to review the submission and respond to the applicant. She stated that, while some projects such as single family homes, were simpler, some projects were very complex and required detailed review by not only Planning & Inspections but the Fire Department, Public Works, and possibly DOT or other outside agencies. Ms. Shook noted various deadlines being juggled by Planning & Inspections and emphasized the difficulty of getting reviews and responses completed within 20 days.

Commission Members Kavanaugh and Behrend agreed that staff needed more time for review.

First Motion and Vote:

Commission Member Kavanaugh made a motion, seconded by Acting Chairman 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 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.

Vote: Aye – All

Nay – None
The motion passed.

Second Motion and Vote:

Acting Chairman 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 it will reduce the burdens of time and deadlines on the Planning staff and ensure a more thorough and complete review of applications and allow for equitable and agreeable development into the future.

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

CASE PL02408-040419 TEMPORARY USE 9.01 T-13 TEMPORARY USE 0.01 PUBLIC COLLEGES & UNIVERSITIES – UDO TEXT AMENDMENT

Commission Member Kavanaugh stated she got a little bit lost on this case and did not know what sunseting meant. Ms. Shook explained that sunseting meant a date certain would be chosen for the use to no longer be allowed.

Ms. Shook noted that the O/I and M1 currently allow these temporary uses. This text amendment would allow public colleges and universities to have temporary uses in the B3 as well.

There was some concern or confusion expressed about the 10 year allowed time frame. Ms. Shook noted that Town Council was okay to have no buffer if the text for B3 sunsets in 10 years.

Commission Member Kavanaugh asked if a new building could be built to use as the temporary space. Ms. Shook replied that the text required that existing space be leased so while a new building could be built it would not be likely built by the University.

Commission Member Behrend asked if having the University in a commercial space would hinder other businesses from coming to the area. Mr. Johnson replied that while ASU was using the commercial space another tenant could not go into the space.

Commission Member Veno asked if this could increase the tax base. Ms. Shook felt it would depend on the level of improvements done to a space and when tax evaluations were performed.

Commission Member Behrend stated she was feeling better about the text but knew that some people were concerned with ASU taking over the town.

Ms. Shook reminded Commission members that the 10 year time frame applied only to B3.

Commission Member Kavanaugh and Acting Chairman Hedrick felt 10 years was reasonable.

Commission Member Behrend stated she was okay with 10 years.

Commission Member Veno felt that empty spaces were better occupied and stated he was a little bitter about the unintended consequence of empty spaces caused by mixed use projects.

First Motion and Vote:

Acting Chairman Hedrick 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, considering the discussion at the Public Hearing and that language is added, because the proposed amendment is consistent with:

Comprehensive Plan Policy 1.1

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.

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

Comprehensive Plan Policy 2.3 The Community

- 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.

Vote: Aye – All

Nay – None

The motion passed.

Second Motion and Vote:

Acting Chairman 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 this amendment, including the 10 year sunset period, will provide a period of transition for the University to occupy the B3 zoning district while enhancing their own capacity on the main campus to house their faculty, staff, and other needs.

Vote: Aye – All

Nay – None

The motion passed.

OTHER MATTERS

There were no other matters discussed at this meeting.

ADJOURNMENT OF PLANNING COMMISSION

Commission Member Kavanaugh made a motion, seconded by Commission Member Behrend to adjourn the meeting at 10:36 p.m.

Vote: Aye – All

Nay – None

The motion passed.

James Hedrick, Acting Planning Commission Chairman Brenda Henson, Board Secretary