

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

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

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

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

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

CALL TO ORDER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Brantz invited public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OTHER MATTERS

There were no other matters discussed at this hearing.

ADJOURNMENT OF TOWN COUNCIL

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

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

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chairperson

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

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

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

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

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

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

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

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

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

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

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

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

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

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

First Motion and Vote:

Vice Chairman Plaag made a motion, seconded by Commission Member Behrend, that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable, with the addition of the following new conditions:

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

and the proposed amendment is consistent with those conditions because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

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

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly valuable community.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

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

The motion passed.

Second Motion and Vote:

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

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

The motion passed.

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

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

Commission members discussed considering all three of these cases together.

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

Vote: Aye – All
Nay – None

The motion passed.

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

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

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

First Motion and Vote:

Commission Member Veno made a motion, seconded by Commission Member Sanchez, that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because the proposed amendment is consistent with:

Comprehensive Plan Policy 2.1.1 Economic Development

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

Comprehensive Plan Policy 2.3.2 Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.

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

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

Chairperson Shay wished to amend the motion to include:

Comprehensive Plan Policy 2.1.2 Commercial Development

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

Commission Members Veno and Sanchez accepted the amendment.

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

Nay – 1 (Plaag)

The motion passed.

Second Motion and Vote:

Commission Member Veno made a motion, seconded by Commission Member Behrend, that the Planning Commission recommends approval of the proposed amendment to the Town’s Zoning map and believes approval is reasonable and in the public interest because of the aforementioned Comprehensive Plan policies and the amendment will address underutilized property and reduce undesirable land uses.

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

Nay – 1 (Plaag)

The motion passed.

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

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

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

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

First Motion and Vote:

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

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

Comprehensive Plan Policy 2.1.1 Economic Development

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

Vice Chairman Plaag wished to amend the motion to include:

Comprehensive Plan Policy 2.1.1 Economic Development

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

Commission Members Sanchez and Behrend accepted the amendment.

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

Second Motion and Vote:

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

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

OTHER MATTERS

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

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

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

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

Ms. Shook noted that Board training would resume soon.

ADJOURNMENT OF PLANNING COMMISSION

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

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

Elizabeth Shay, Planning Commission Chairperson

Brenda Henson, Board Secretary