

**PUBLIC HEARING MINUTES
MONDAY, MAY 23, 2022, 6:00 PM
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Mayor Tim Futrelle, Mayor Pro-Tem Edie Tugman (joined at 6:12 p.m.), Todd Carter (joined at 6:06 p.m.), Dalton George, Becca Nenow, and Virginia Roseman

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice-Chair, Chris Behrend, John Tippet, Frank Venno, and Smith Warren

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Jessica Mitchell-Long-Range/Special Projects Planner, Christy Turner-Senior Planner (joined at 6:15 p.m.), and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: Amy Davis-Interim Town Manager, and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Michael Hartnett, Alan Crees, and JC Fiemster

Call to Order

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

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Vice-Chair Plaag suggested the following correction to the third sentence in the second full paragraph on page 2 of the March 28, 2022 Public Hearing minutes:

- Vice-Chair Plaag asked what happened if there was a non-conformities on the property should read, Vice-Chair Plaag asked what happened if there were any non-conformities on the property.

Council Member Roseman made a motion to approve the March 28, 2022 Public Hearing minutes as amended. The motion was seconded by Council Member George.

Vote: Aye – All
Nay – None

The motion passed.

Vice-Chair Plaag made a motion to approve the March 28, 2022 Public Hearing minutes as amended. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Council Member Carter joined the meeting at 6:06 p.m.

Case PL05689-050322 & PL05690-050322 Modern Real Estate Investors – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of a portion of 185/225 Modern Drive (Tract 1) to B3 General Business and Corridor District overlay as well as a portion of Watauga County PIN: 2911-71-6673-000 (Tract 2) to R1 Single-Family Residential, R3 Multiple-Family Residential and Viewshed Protection overlay.

Both parcels are owned by Modern Real Estate Investors LLC. Zoning is to coincide with the property owner's voluntary annexation of the properties. This request includes portions of two separate parcels. Both parcels are currently bifurcated by the Town of Boone corporate limits, where a portion of each parcel is within corporate limits and a portion of each parcel is located outside of the Town's corporate limits within Watauga County's jurisdiction.

Mr. Mike James, Senior Planner with the Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet. He noted that a large portion of Tract 1 was zoned B3. This request was to zone the remaining portion of the parcel as B3 with a portion corridor district overlay. Tract 2 currently had a portion of the property zoned R3. The request was to zone portion of the parcel outside of corporate limits as R3 and R1 (as shown on the Exhibit in the board packet) with a majority of the area also zoned with viewshed protection overlay.

Council Member George noted that Rick Miller, Director of Public Works, indicated during a Town Council meeting that the proposed R1 property would not be able to be served by Town water because the property was too steep. Mr. James replied that was correct. Mr. Mike Hartnett, speaking on behalf of Modern Real Estate Investors, stated they were aware of that situation and were okay with it because they had no plans or intentions to develop the upper portion of the property.

Vice-Chair Plaag asked if the upper triangle of Tract 2 would be included in the Viewshed Protection Overlay. Mr. James replied that he assumed it would, but did not have all of the topography yet.

Vice-Chair Plaag asked if there were any known non-conformities on the subject parcels. Mr. James stated there were none that he was aware of. He noted that a variance was granted for the dealership for their signage.

Ms. Shook noted that no one had signed up to speak regarding this case.

Council Member Tugman joined the meeting at 6:12 p.m.

With no public comment, Mayor Futrelle closed the public hearing for this case at 6:12 p.m.

Case PL05504-021822 Minor and Major Work for COA's – UDO Text Amendment

The Town proposes to amend UDO Article 8 and Appendix D with respect to the Downtown Boone Historic District to clarify and elaborate on what repair and construction activities will be considered "minor work," which may be approved administratively, and what activities are considered "major work," which require a hearing and approval by the Historic Preservation Commission (HPC).

Ms. Jessica Mitchell, Long-Range/Special Projects Planner, presented the case as it was outlined in the meeting packet. She stated that this amendment would better clarify minor and major works. Ms. Mitchell noted that minor work and routine maintenance required staff approval and permits. She stated that the proposed amended language would be in Article 8 and Appendix D. Ms. Mitchell noted that the revision process started by presenting the idea to Town Council earlier this year, then Planning staff modified the text and presented it to the HPC. HPC reviewed the text at their May 3, 2022 advisory meeting and proposed changes that staff presented tonight.

Vice-Chair Plaag felt that since he played a role in drafting the amendment in his role as Chair of the HPC he should be recused from this case.

Ms. Christy Turner joined the meeting at 6:15 p.m.

Ms. Meade replied that Vice-Chair Plaag should be allowed to recuse himself if no one objected. She added that Vice-Chair Plaag, while recused from voting as a PC member, should be welcome to participate as an HPC member and speak to issues in an advisory role. Dr. Plaag stated he would be happy to answer any questions that the Commission or Council members might have.

Ms. Meade noted that the text contained a provision that even ordinary maintenance or repairs would need to get a building or zoning permit. She explained that the idea behind that language was to make sure staff had a way to give some level of review to virtually any work proposed in the historic district, and to make sure it was what had been classified as ordinary maintenance, minor work, or major work. Ms. Meade noted that she and Ms. Shook spoke about the possibility of having a more preliminary sort of review for the most minor types of maintenance and repair as a customer service, so that customers were not paying a permit fee to confirm that nailing back up a gutter did not require a permit. She stated that they may adjust the language slightly to ensure staff had a common sense way to make sure the right thing was happening.

Mayor Futrelle stated he would like to change people's perspective that even the simplest things were really scrutinized in a difficult way. He added that he did not want to make things more difficult for people, even in the historic district, but he did want to preserve the historic district. Mayor Futrelle felt it was important to craft text in a way that was easy to understand.

Chair Shay asked Dr. Plaag if he saw the range of repairs and actions that needed to be done was falling neatly into a binary minor and major category, or if there was a continuum where there may be a substantial gray area where staff had to decide which way to go. Dr. Plaag replied that the HPC spent a lot of time reviewing this language and tried to anticipate as many kinds of situations as they could. He stated they were careful to try to land on something that staff, Ms. Meade, and HPC felt reasonably comfortable with. Dr. Plaag stated this text would not address every gray area, but he hoped it would help streamline the process as much as possible for applicants so as to avoid making things harder than they needed to be.

Mayor Futrelle stated he thought it was really important that we help people understand how thoughtful the Town, the Planning Department, and the Historic Preservation Commission were and that they were not just trying to make things difficult for the public.

Ms. Meade stated that she and staff did not think HPC was looking to add any burdens at all. She felt they were trying to fulfill the purposes and principles that were to be served in the historic district and trying to do it in the most customer-friendly way possible. Ms. Meade stated that what was frustrating to both staff and property owners were the gray areas that left them unsure of how to proceed. She felt that if the rules were very clear about how to proceed, even if it did mean having a hearing with HPC, then customers and staff would be more comfortable. Ms. Meade stated that staff and HPC spent a good amount of time carefully going through and making this table as precise and clear as possible.

Council Member Roseman stated she knew what the list used to look like, and this revised list was nicely streamlined and much friendlier to anyone who would want to make any changes to a historic property.

Mayor Futrelle thanked everyone for their input.

Ms. Shook noted that no one had signed up to speak regarding this case.

With no public comment, Mayor Futrelle closed the public hearing for this case at 6:29 p.m.

Vice-Chair Plaag rejoined the meeting.

Case PL05688-050322 Miscellaneous Revisions – UDO Text Amendment

The Town proposes amendments to the UDO to correct formatting and other scrivener errors made in the course of recent approved text amendments. These includes correcting section references and confirming parking uses to be allowed in the B1 districts subject to conditional district approval.

Staff maintains an ongoing list of potential ordinance and code changes that are suggested by Council or Town staff. The proposed revisions for this case are intended to improve the clarity of regulations, to streamline regulations, and to correct errors that create difficulties for customers, boards and staff.

Ms. Shook outlined the request as it was presented in the meeting packet, and she noted there were Section reference corrections. Ms. Shook referred to packet page 81 containing a table where parking lots and parking structures were added as needing Conditional District approval in both the B1 Downtown Core and the B1 Downtown Interface. She noted that these items were inadvertently omitted from the original text approval in October 2021.

Vice-Chair Plaag referred to packet page 87 under Section 15.62.02(I). He noted that he did not think there was supposed to be an (I) that said “days” after it. Ms. Shook agreed that item (I) was a typo.

Ms. Shook noted that no one had signed up to speak regarding this case.

With no public comment, Mayor Futrelle closed the public hearing for this case at 6:34 p.m.

Adjournment of Town Council

Council Member Roseman made a motion to adjourn the Town Council at 6:34 p.m. The motion was seconded by Council Member George.

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

Tim Futrelle, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Public Comment

Ms. Shook noted that no one had signed up to speak under public comment.

Approval of Meeting Minutes

Vice-Chair Plaag made a motion to approve the March 28, 2022 Planning Commission meeting minutes. The motion was seconded by Commission Member Behrend.

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

Case PL05689-050322 & PL05690-050322 Modern Real Estate Investors – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of a portion of 185/225 Modern Drive to B3 General Business and Corridor District overlay as well as a portion of Watauga County PIN: 2911-71-6673-000 to R1 Single-

Family Residential, R3 Multiple-Family Residential and Viewshed Protection overlay. Both parcels are owned by Modern Real Estate Investors LLC. Zoning is to coincide with the property owner's voluntary annexation of the properties. This request includes portions of two separate parcels. Both parcels are currently bifurcated by the Town of Boone corporate limits, where a portion of each parcel is within corporate limits and a portion of each parcel is located outside of the Town's corporate limits within Watauga County's jurisdiction.

Vice-Chair Plaag stated that he appreciated the applicant's thoughtfulness in the split zoning of Tract 2. He noted that the alignment of the R3 portion to the neighboring R3 parcels was reasonable. Vice-Chair Plaag stated that zoning the portion of the property above the R3 zoned portion as R1 would be more restrictive, and help to prevent some of the ridgetop development that has been seen in Boone in the past. He stated that he fully supported the proposed annexation and the recommended zoning.

Commission Member Tippettt concurred with Vice-Chair Plaag. He felt the request seemed to be compatible with the surrounding neighborhood, and the portion being zoned R1 would have a low development potential for the area.

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

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

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

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.

The motion was seconded by Commission Member Tippettt.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Plaag made a motion that the Planning Commission recommends approval of Ordinance PL05689-050322 and PL05690-050322 and believes approval is reasonable and in the public interest because the proposed annexation and zoning classifications attached to the proposed annexation not only help to protect, through the thoughtful planning for these two parcels that are not currently in town limits, for the foreseeable future, but also the zoning that was applied is very thoughtful

with respect to adjoining parcels, the terrain and various other matters that are of concern to the town. The motion was seconded by Commission Member Behrend.

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

Case PL05504-021822 Minor and Major Work for COA's – UDO Text Amendment

The Town proposes to amend UDO Article 8 and Appendix D with respect to the downtown Boone historic district to clarify and elaborate on what repair and construction activities will be considered "minor work," which may be approved administratively, and what activities are considered "major work," which require a hearing and approval by the Historic Preservation Commission.

Vice-Chair Plaag recused himself from this case, stating he would not be voting or participating in deliberation. He noted that he would be happy to answer questions in his capacity as an HPC person familiar with the discussions regarding this topic.

Chair Shay stated she was persuaded and comforted by Dr. Plaag describing the process and by Council Member Roseman's comments regarding what the list used to look like and what a nice job of streamlining it had been done. Chair Shay felt this amendment lowered the burden on staff time and effort and it also reduced confusion. She stated she was in favor of the changes.

Commission Member Behrend stated she was impressed with the graph and felt the revisions were much more understandable.

Ms. Shook thanked Ms. Mitchell for all of her hard work on the table.

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

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.
- 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.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- D.1 Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.

Comprehensive Plan Policy 2.1.5 Downtown

- A. A compatible design character for the downtown area, drawing upon the locality's original High County small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.
- A.4 Establish specific architectural and design standards for downtown consistent with its location, setting, and various functions.

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.

B.1 Amend development regulations to offer flexibility for restoration and active use of historic structures and other resources.

The motion was seconded by Commission Member Venio.

Vote: Aye – 5
Nay – None
Recused – 1 (Plaag)

The motion passed.

Second Motion and Vote: Commission Member Tippettt made a motion that the Planning Commission recommends approval of Ordinance PL05504-021822 and believes approval is reasonable and in the public interest because the amendment with respect to Downtown Boone's Historic District does clarify and elaborate on what repair and construction activities will be considered minor work, which may be approved administratively, and what activities are considered major work, which require a hearing and approval by the Historic Preservation Commission. The motion was seconded by Commission Member Behrend. Chair Shay wished to amend the motion to add that the proposed amendment preserves Town resources and staff time by reducing the need for review on minor or routine activities while still preserving the review and approval process for larger-scale projects with a greater impact on historic assets. Commission Members Tippettt and Behrend accepted the amendment.

Vote: Aye – 5
Nay – None
Recused – 1 (Plaag)

The motion passed.

Vice-Chair Plaag rejoined the meeting.

Case PL05688-050322 Miscellaneous Revisions – UDO Text Amendment

The Town proposes amendments to the UDO to correct formatting and other scrivener errors made in the course of recent approved text amendments. These includes correcting section references and confirming parking uses to be allowed in the B1 districts subject to conditional district approval.

Staff maintains an ongoing list of potential ordinance and code changes that are suggested by Council or Town staff. The proposed revisions for this case are intended to improve the clarity of regulations, to streamline regulations, and to correct errors that create difficulties for customers, boards and staff.

Vice-Chair Plaag noted that any motion should reference the minor change on packet page 87, Section 15.62.02(I), which was a typo.

Chair Shay stated she was always in favor of streamlining and cleaning up, and was amazed at how Town professionals and staff keep it all straight.

First Motion and Vote: Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable with a minor correction noted during discussion on page 87 because the amendment is consistent with:

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.
- 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.

The motion was seconded by Commission Member Warren.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Behrend made a motion that the Planning Commission recommends approval of Ordinance PL05688-050322 and believes approval is reasonable and in the public interest because it makes the whole plan uniform and corrects any prior errors. The motion was seconded by Commission Member Warren.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Ms. Shook noted that staff was trying to wrap up some text and would be requesting from Council the consideration of a Special Public Hearing in June, which was the normal Planning Commission meeting time. She stated that Council would consider this request at their meeting on Wednesday evening, and she would let everyone know what decision was made.

Vice-Chair Plaag stated he noticed on Town Council's agenda a discussion of a timeline for working on a Comprehensive Plan. He asked Ms. Shook when this item might be coming to Planning Commission for consideration. Ms. Shook replied that it would depend on a variety of factors. She explained that between now, if Council approved it, and August, Staff would be putting the pieces together. Ms. Shook stated that the goal would then be, in a best-case scenario, to utilize a variety of public input methods within a short period of time to get the most public input. She noted that she hoped to use the Planning Commission during that phase as part of the team for the Comprehensive Plan. Ms. Shook stated she would share any updates with all boards and commissions.

Adjournment of Planning Commission

Vice-Chair Plaag made a motion to adjourn the meeting at 6:58 p.m. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary