

**PUBLIC HEARING MINUTES
MONDAY, AUGUST 24, 2020, 6:00 P.M.
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Rennie Brantz-Mayor, Loretta Clawson-Mayor Pro Tem, Connie Ulmer, Dustin Hicks, Sam Furguele, and Nancy LaPlaca

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

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

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: John Ward-Town Manager, Rick Miller-Director of Public Works, and Allison Meade-Town Attorney

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Nick Katers, Matt Dull, Randy Jones, Brandy & Austin Combs, and Nancy Lewis

Call to Order

Mayor Brantz called the Town Council to order at 6:02 p.m.

Chair Shay called the Planning Commission to order at 6:02 p.m.

Approval of Meeting Minutes

Council Member LaPlaca made a motion to approve the July 27, 2020 Public Hearing minutes as written. Council Member Hicks seconded the motion and requested a change to the 4th paragraph on page 2 of the minutes to add the word home after the word mobile so that the first sentence would read *Council Member Ulmer asked if there was a mobile home on the 170 Clawson Street property.*

Vote: Aye – All
Nay – None

The motion passed.

Vice Chair Plaag made a motion to approve the July 27, 2020 Public Hearing minutes as amended by Town Council. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

General Guidelines for Each Case Presented at Public Hearing

Ms. Shook read the guidelines that are to be followed during public hearing cases.

Case PL04085-072720 Create E4 Educational District - UDO Text Amendment

In July 2020, Appalachian State University approached Council to request the creation of a new educational zoning district that would be limited to (and allow by right) child daycares. Appalachian State University presented the request as a solution to a concern regarding the June 2020 request to rezone/zone a parcel on Poplar Grove Road to E1 Educational District.

Discussion at the June 2020 Public Hearing/Planning Commission meeting and the July 2020 Council meeting included a concern that the E1 (and the other educational zoning districts) were broad in description and permitted a wide range of college and university uses.

Council agreed to consider the creation of a new district as requested and directed Staff to draft language to create a new E4 Educational Zoning District. The draft language creates a new E4 Educational Child Daycare District which is limited to college- and university- operated child daycare centers and also cleans up language in the educational zoning districts for when a property zoned as an educational district is sold to a third party that is not a college or university or educational institution.

Ms. Shook presented the request as it was outlined in the meeting packet and noted that she had presented the text to Council last week, and that Council had requested that the building height be reduced from 3 stories to 2 stories.

Ms. Meade noted the word “subsequent” should be removed from the proposed text in E1, E2, E3, and the new E4.

Vice Chair Plaag noted that the new E4 section was numbered as 14.03.05 but should be 14.03.06. He felt that the language in E4 should be similar to the language in E1 and E2 and state that the owner must be a college or university instead of stating the owner must be a public or private education institution. Vice Chair Plaag asked why there was no transitional zone requirement for the proposed E4 zoning district. Ms. Shook replied that ASU requested a by right zoning district because the district would only allow for child daycares. Vice Chair Plaag stated he would prefer the requirement of a 200’ transitional zone for E4.

Mayor Brantz felt a 200’ transitional zone requirement in E4 would be good.

Council Member Furguele agreed with requiring a transitional zone. He felt that the regulations contained in Section 15.26 Child Daycare should apply to E4. He also noted that on packet page 16 the heading stated this was An Ordinance To Revise The Town Of Boone Unified Development Ordinance (UDO) Relating To Temporary Classrooms and felt this might be a typographical error. Ms. Shook agreed with regarding the error.

Chair Shay and Commission Member Veno were still uncertain why no transitional zone was proposed. Ms. Shook replied that was the direction she was given by Town Council based on the allowance of only one use in the zoning district.

Mayor Pro Tem Clawson agreed that transitional zone requirements should be applied to the E4 district.

Council Member Hicks asked for an explanation of transitional zones. Ms. Shook explained that within the Table of Principal Uses, Table of Accessory Uses and the Table of Temporary Uses that each use where allowed had been evaluated to see if transitional zones should apply. A transitional zones, if required in the Tables, are triggered if the proposed development is within a specified distance to a protected low density residential zoning district. The specified distance is listed next to the “T” in the respective Table. Ms. Shook noted that if triggered then the development would be required to obtain a special use permit and demonstrate that the development had mitigated predictable negative impacts on the protected districts in compliance with UDO Section 6.02.02. Council Member Furguele asked Ms. Shook if transitional zones could also be reviewed during a conditional district petition. Ms. Shook agreed.

Council Member Ulmer asked if the E4 was for temporary uses and Ms. Shook replied that it was not.

Ms. Meade suggested the addition of a new use in the Use Table of 9.08 College or university operated child daycare with a T200 populated in the E4 district.

At 6:27 p.m. Mayor Brantz invited public comment.

Matt Dull with ASU stated the University requested E4 by right because childcare is a lower density use that would be restricted to two stories.

Brady and Austin Combs, neighbors to the south of the subject properties, were present on the meeting. Ms. Combs asked what a transitional zone would mean to their property. Ms. Shook replied that a transitional zone would trigger the need for a Special Use Permit from the Board of Adjustment and would provide extra mitigation measures to protect properties in the protected district that were located within 200' of the subject property. She stated that the Combs property was not located within the protected district so their property would not trigger transitional zone requirements but the neighborhood across the street would.

Ms. Combs stated she loved having the ASU daycare as neighbors and would like to see it grow. Mr. Combs added that their property was zoned Conditional District R3 but they intended to continue living there in the future.

Council Member Furgiuele asked why privately run daycares had no transitional zone requirements. Ms. Shook stated she did not recall the discussion regarding daycares in regards to transitional zones. Council Member Furgiuele felt it was not fair to place transitional zone requirements on ASU when private daycares did not have that requirement. He suggested not having transitional zone requirements in E4 but instead apply the requirements of Section 15.26. Council Member Furgiuele stated they could, in the future, explore things such as hours of operation, parking, and traffic. He stated he could support moving forward with this text amendment but felt the language should be enhanced before other applications were received.

Vice Chair Plaag agreed with applying Section 15.26 requirements to E4 and stated he would then be okay with no transitional zone. Vice Chair Plaag expressed concern with traffic backing up into the roadway and asked if there could be some language requiring that traffic not impede the roadway.

Ms. Meade asked Ms. Shook if there was other language in the UDO that was enforceable by the administrator regarding the stacking up of traffic. Ms. Shook noted that there was language for vehicle stacking at drive-through and self-storage but not for a pick-up drop-off scenario. Vice Chair Plaag noted that Section 15.55 spoke about traffic stacking. Ms. Shook stated that section applied to drive-through lanes on site.

Randy Jones, project manager and architect for ASU, stated he had spoken with DOT regarding traffic from the property. Ms. Shook noted this request was for a text amendment only and it would not be appropriate to discuss site specific details at this time.

Ms. Shook offered the following addition to the text: Applicant shall show plan regarding stacking and traffic backup on-site, based upon enrollment.

Council Member Furgiuele felt that was a solution and added that such wording should also be placed in Section 15.26 so it would apply to all daycares.

Vice Chair Plaag stated that addressed his concern.

Ms. Shook stated she could add Section 15.26 language and stacking language to this text amendment request but questioned whether general changes to Section 15.26 could be made under the E4 text amendment. Ms. Meade agreed that any changes generally applicable to all uses governed by Section 15.26 rather than only this particular use under consideration would need to come back to public hearing for a separate text amendment.

Ms. Shook reviewed the requested changes as follows:

- Remove the word "subsequent" from the proposed language in Section 14.03
- Change Section 14.03.05 E4 to Section 14.03.06 E4

- Language in Section 14.03.06 should mirror language in Sections 14.03.03 and 14.03.04, not language in Section 14.03.05
- Create Use 9.08 College or university operated child daycare center and populate the table with a “L” in the E4 with a reference to Section 15.26
- Height limit of two stories
- Add stacking language such as; The applicant, for Use 9.08, shall initially and continually provide sufficient stacking within the site to accommodate the drop-off and pick-up needs based on enrollment of the child daycare center.

Chair Shay asked why the proposed three stories was being reduced to two stories. Ms. Shook replied that Town Council was more comfortable with two stories for a daycare than three stories, given the daycare would be allowed by right.

Council Member Furguele stated he thought the ongoing responsibility for traffic issues was a good idea.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:02 p.m.

Case PL04083-072420 and Case PL04084-072720 ASU Endowment Fund – General Use Zoning Map Amendments

Case PL03541-013120 Information: The Board of Trustees of the Endowment Fund of Appalachian State University has requested a General Use Zoning Map Amendment for 1.61 acres of property located at or near 538 Poplar Grove Road (Watauga County PINs: 2900-58-7299-000 and 2900-58-6723-000) to rezone portions of the properties from R1 Single-Family Residential to E4 Educational District.

Case PL03608-022820 Information: The Town of Boone has initiated the zoning of approximately 2.27 acres of property located off of 538 Poplar Grove Road (portions of Watauga County PINs: 2900-58-7299-000 and 2900-58-6723-000) owned by The Board of Trustees of the Endowment Fund of Appalachian State University to E4 Educational Zoning District in conjunction with the property owner's request for annexation of the property.

Ms. Shook noted this was the same request that was made previously with the exception of the requested E4 zoning classification.

Council Member Furguele asked who was notified of the case. Ms. Shook stated that property owners within 150’ of the subject properties were notified. Council Member Furguele asked if those living outside the Town’s jurisdiction but still within 150’ of the properties were notified and Ms. Shook replied that they were.

At 8:30 p.m. Mayor Brantz invited public comment.

Ms. Shook noted she did have someone interested in commenting but stated they may submit their written comments after the meeting.

Vice Chair Plaag thanked Ms. Shook and Ms. Meade for their efforts to find a solution to the issues related to this request.

Commission Member Veno wanted to make sure the request was the same except for the change to E4 and any changes to be made as a result of this hearing. Ms. Shook replied that was correct.

Council Member Clawson stated it was wonderful that staff handled this so quickly noting that childcare was so needed.

Council Member LaPlaca added her thanks as well.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:11 p.m.

Adjournment of Town Council

Council Member Furguele made a motion for Town Council to adjourn at 7:12 p.m. The motion was seconded by Council Member LaPlaca.

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

Rennie Brantz, Mayor

Brenda Henson, Board Secretary

Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Chair Shay called a break in the Planning Commission meeting from 7:12 p.m. until 7:20 p.m.

Board Training

Ms. Meade noted that the gift policy had been revised and may need some additional work. She asked Commission members to review the document emailed to them by Ms. Shook and be prepared to discuss the policy at their September meeting. Ms. Meade stated they would need to have a procedural training session and then another training session related to zoning amendments. Planning Commission members agreed to review the gift policy prior to the September meeting.

Approval of Meeting Minutes

Vice Chair Plaag noted a correction to the July 27, 2020 Planning Commission meeting minutes on page 12 in the 4th paragraph to remove the apostrophe from the word “greenway’s”.

Vice Chair Plaag made a motion to approve the July 27, 2020 meeting minutes as amended. The motion was seconded by Commission Member Tippet.

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

Case PL04085-072720 Create E4 Educational District – UDO Text Amendment

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Discussion at the June 2020 Public Hearing/Planning Commission meeting and the July 2020 Council meeting included a concern that the E1 (and the other educational zoning districts) were broad in description and permitted a wide range of college and university uses.

Council agreed to consider the creation of a new district as requested and directed Staff to draft language to create a new E4 Educational Zoning District. The draft language creates a new E4 Educational Child

Daycare District which is limited to college- and university- operated child daycare centers and also cleans up language in the educational zoning districts for when a property zoned as an educational district is sold to a third party that is not a college or university or educational institution.

Ms. Shook reviewed the changes suggested to the text during the public hearing as follows:

- Remove the word “subsequent” from the proposed language in Section 14.03
- Change Section 14.03.05 E4 to Section 14.03.06 E4
- Language in Section 14.03.06 should mirror language in Sections 14.03.03 and 14.03.04, not language in Section 14.03.05
- Create Use 9.08 College or university operated child daycare center and populate E4 with a reference to Section 15.26
- Height limit of two stories
- Add stacking language such as; The applicant, for Use 9.08 college- or university-operated child daycare center, shall initially and continually provide sufficient stacking within the site to accommodate the drop-off and pick-up needs based on enrollment of the child daycare center.

Chair Shay stated she was still confused as to why Town Council wanted two stories instead of three. She felt three stories could allow for office space, training areas, or other useful areas. Ms. Shook explained that Town Council may have been concerned about the impacts of three stories in a by right zoning district. She noted that a three story single-family home had different impacts than a three story daycare. She also noted that ASU did agree to the two story limit.

Vice Chair Plaag expressed concern that three stories would be too high.

Chair Shay stated that including regulations from Section 15.26 in the E4 allayed her concerns. She noted that she also accepted the Council and Vice Chair Plaag’s concerns about height.

Commission Member Veno agreed with the height concern. He stated he was struggling with the term “by right” and asked for an explanation of what that meant. Ms. Shook explained that by right meant projects could be developed without the need for conditional district or special use permit approval.

First Motion and Vote: Vice Chair Plaag made a motion that the proposed amendment, with the changes discussed, to the Town’s zoning ordinance is consistent with the Town’s comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies 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 2.3.2 Community Character

A.1 Conduct on-going assessments of critical locations in community deserving special attention by the zoning ordinance, in light of their high visibility, traffic impact, strategic location, or other unique features. Continue to encourage significant new public buildings and outdoor spaces to locate in these and other positions of visibility and strategic prominence. Encourage the private sector to do likewise.

The motion was seconded by Commission Member Zebzda.

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 the proposed amendment to the Town's Zoning ordinance, with the changes discussed, and believes approval is reasonable and in the public interest because the new zoning district addresses a specific need in the community while simultaneously providing restrictions and limitations that allow for the protection of low density neighborhoods that might be impacted by the zoning designation. The motion was seconded by Commission Member Behrend.

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

Case PL04083-072420 and Case PL04084-072720 ASU Endowment Fund – General Use Zoning Map Amendments

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Vice Chair Plaag wanted to verify that Planning Commission was combining both map amendment requests into one for consideration and voting. Ms. Shook stated that was correct.

First Motion and Vote: Commission Member Veno made a motion that the proposed amendments to the Town's zoning map are consistent with the Town's Comprehensive Plan and any other adopted plan(s) of the Town that is applicable because it complies 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) diversify the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- D.1 Evaluate development regulations for amendments providing flexibility in the renovation and redevelopment of existing structures and sites.

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.

The motion was seconded by Commission Member Tippet.

Vote: Aye – All

Nay – None
The motion passed.

Second Motion and Vote: Chair Shay made a motion that the Planning Commission recommends approval of the proposed amendments to the Town's Zoning map and believes approval is reasonable and in the public interest because it offers a solution to the regions unmet childcare needs while also protecting residential neighborhoods. The motion was seconded by Commission Member Behrend. Vice Chair Plaag felt Chair Shay's rationale for approval was not appropriate for a general use rezoning. Chair Shay withdrew her motion.

Chair Shay made a motion that the Planning Commission recommends approval of the proposed amendments to the Town's Zoning map and believes approval is reasonable and in the public interest because it provides flexibility to meet community needs while also protecting residential neighborhoods. The motion was seconded by Commission Member Behrend.

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

Other Matters

Ms. Shook noted that the Town has hired a new senior planner, Michael James, who will be starting next week. Chair Shay asked if there was a 7th Planning Commission member yet and Ms. Shook replied that there was not. Chair Shay asked if Planning Commission would be meeting virtually for the foreseeable future. Ms. Shook replied that they would.

Adjournment of Planning Commission

Vice Chair Plaag made a motion to adjourn the meeting at 8:18 p.m. The motion was seconded by Commission Member Tippet.

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

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary