

**PUBLIC HEARING MINUTES
MONDAY, OCTOBER 25, 2021, 6:00 PM
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Mayor Rennie Brantz, Mayor Pro-Tem Connie Ulmer, Sam Furgiuele, Dalton George, Nancy LaPlaca, and Virginia Roseman

PLANNING COMMISSION MEMBERS: Elizabeth Shay-Chair, Eric Plaag-Vice-Chair, Chris Behrend, Frank Venio, and John Tippet (joined at 6:09 pm)

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Stacey Miller-Deputy Director of Planning & Inspections/Chief Building Inspector, Christy Turner-Senior Planner, Mike James-Senior Planner, Jessica Mitchell-Long Range Planner & Special Projects, and Brenda Henson-Board Secretary

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

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Mike Curcio, Rina Norwood, Todd Carter, Judith Poland, JC Feimster, Jason Matthews, Tim Futtrelle, Mark Solomon, Alston Brown, Edie Tugman, and Jennifer

Call to Order

Mayor Brantz called the Town Council to order at 6:03 p.m. Chair Shay called the Planning Commission to order at 6:04 p.m. for the Public Hearing/Planning Commission meeting held via WebEx.

Approval of Meeting Minutes

Vice-Chair Plaag asked that the following changes be made to the September 27, 2021 Public Hearing minutes:

- Page 5 of the minutes, last paragraph, second sentence – remove the word ‘the’ after Ms. Shook answered that and remove the word ‘as’ after the B1 or
- Page 6 of the minutes, second paragraph, 5th line - the word ‘voluntarily’ should be ‘involuntarily’
- Page 7 of the minutes, fourth paragraph, first sentence – remove ‘the though’ and replace with ‘that although’
- Page 11 of the minutes, third paragraph, last sentence – replace the word ‘effect’ with ‘affect’
- Page 11 of the minutes, second to last paragraph, first sentence – remove the word ‘about’ after by including
- Page 12 of the minutes, last paragraph – remove the word ‘would’ after an alternative that
- Page 14 of the minutes, last paragraph, first sentence – remove the ? at the end of the sentence and replace it with a period

Council Member Roseman noted that Straight Street was misspelled on Page 3 of the minutes in the second to last paragraph and asked that it be corrected.

With no further changes, Council Member Roseman made a motion to approve the September 27, 2021 Public Hearing minutes as amended. The motion was seconded by Council Member LaPlaca.

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

Commission Member Tippet joined the meeting at 6:09 p.m.

Vice-Chair Plaag made a motion to approve the September 27, 2021 Public Hearing minutes as amended. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook reviewed the general guidelines for each case presented at the Public Hearing.

Case PL05168-100621 Short-Term Rentals (Homestay & Vacation) – UDO Text Amendment

Amend UDO Article 7, 14, 15, 24, and 34 to modify and create new regulatory standards for short-term rentals (homestay or vacation rentals) of dwelling units.

Ms. Meade noted that a public meeting was held by Town Council in 2019 regarding this topic, and there had been numerous other discussions by Council. She stated that the basic purpose of the amendment was to create a new homestay rental use. She explained that a homestay rental meant that a permanent resident had a home and rented out guest rooms with a maximum of up to two guest rooms in the house. Ms. Meade further explained that the permanent resident of the home could be the owner, or it could be a tenant who was on-site who wanted to rent out one or two guest rooms. She stated the definition of a homestay rental was a transient lodging use that was advertised, whether online or otherwise, for stays of less than 30 days.

Ms. Meade stated there would be a separate vacation rental use and noted that this use was already included in the UDO. She explained that a vacation rental was the renting out of an entire dwelling unit such as a house, a duplex, or a multi-family apartment dwelling for transient lodging.

Ms. Meade noted that both homestay and vacation rentals would require the rental operator to obtain an annual zoning permit from the Town, and that would allow the Town to enforce the proposed provisions. She referred to draft UDO Subsection 15.05.02, which stated that homestays required a full-time resident to reside on the property as their primary home. Only one homestay could be permitted at a time. Ms. Meade explained that the full-time resident would be required to be present during the homestay rental periods.

Ms. Meade felt there was a significant difference between a family using a home in the Town as their permanent residence but deriving some additional income from renting some rooms versus a house that was held basically as an investment and rented out permanently to transient lodgers. She stated this took that house out of the family and workforce housing market and created a permanent transient lodging situation. For those reasons, a distinction was drawn between the two uses.

Ms. Meade stated that the maximum number of guest rooms in a homestay would be two guest rooms per detached single-family, two-family, or multi-family dwelling unit located on a single lot. Up to two guest rooms could also be rented in an accessory structure as long as the accessory structure was a lawful use. Maximum occupancy for the guest rooms would be the greater of two adults and any number of children or two occupants per guest room. Ms. Meade noted that the occupancy limit would have to be posted within the short-term rental and included in property listings on online platforms or other media.

Ms. Meade referred to UDO Subsection 15.05.12 that indicated homestay rental operators must remit occupancy taxes to the Town and pay any other applicable taxes. She stated that Council Member Furguele had let her know that occupancy taxes were not sent to the Town, so the phrase 'to the Town' would need to be removed from the proposed text.

Ms. Meade noted that homestay rentals must provide one dedicated parking space per guest room. That space could not be located on any street right-of-way and must conform to all applicable parking regulations. She stated that homestay rental permits could be revoked for a period of one year or permanently if there was a serious felony violation.

Ms. Meade referred to UDO Subsection 15.05.17 regarding compliance periods. She stated the Town Council had discussed but did not finalize a compliance period. A compliance period was suggested to allow staff time to implement this program and educate the public about the requirements. Ms. Meade stated there would be a timetable by which homestay rental operators must apply for a permit and a timeframe by which all homestays must be in compliance with the Ordinance. She stated she had suggested the possibility of 12 to 18 months for homestay operators to apply for a permit and a compliance period of 18 to 24 months.

Ms. Meade then addressed vacation rentals. She stated that whole-house rentals were currently allowed in RA and existing one- and two-family detached homes in R3, B1, B2, and B3 districts. Ms. Meade noted that Council would need to consider whether or not to expand the allowance of vacation rentals into other districts. They would also need to consider whether or not to apply a density limitation on multi-family buildings so that only a certain percentage of the apartments could be used as vacation rentals. Ms. Meade stated that the definition of a vacation rental was a single-family or two-family detached dwelling or multi-family dwelling with up to six guest rooms that offered transient overnight accommodations for any period of less than one month. Vacation rental operators must apply for a zoning permit annually that must be posted in the rental unit and provide one parking space per bedroom.

Ms. Meade referred to UDO Subsection 15.14.09 that stated for any multi-unit dwelling, no more than 25%, or two dwelling units, whichever would be greater, could be operated as a vacation rental in any single building. She stated the 25% was drawn from Raleigh's code and could be changed to a different percentage.

Ms. Meade noted that if the primary structure qualified for vacation rental use and had a legal accessory dwelling structure on the same property, both could be used as vacation rentals. However, both structures could only be rented out together to one party under a single contract. She also noted that some areas required the primary renter of both homestays and vacation rentals to be 21 years of age or older.

Council Member LaPlaca asked what the trends were for short-term rentals. Mr. Ward replied that in 2018 or 2019, Blowing Rock chose to start regulating short-term rentals. He stated that five years ago, they roughly had a TDA collection of about \$750,000. That had jumped to \$2 million now, just because of the extra capturing of the additional hotel/motel tax that was from the non-traditional hotel environment. Mr. Ward noted that, on the other side of that, were municipal trends on the actual enforcement. He stated that one of his big concerns was that whatever fees were collected should offset the cost so that Ms. Shook and her staff would have a chance to implement this program. Mr. Ward noted that an additional staff person was added to Planning & Inspections, but that position was for special projects and long-range planning, not additional permitting and enforcement. He stated that some communities hire a contractor to handle short-term rental programs, or a hybrid could involve staff and an outside contractor. Mr. Ward felt it was important to note that in tracking State legislation for at least the last two years, there had been bills introduced by the State legislature that would remove a local jurisdictions authority to regulate short-term rentals.

Council Member Furgiuele referred to UDO Subsection 15.14.11 that stated the rental operator or the operator's employee, management company, or other agent must be available to respond to complaints or emergencies within two hours at all times that a rental is occupied. He stated that a great deal of the time the rentals would occur in the evening or on the weekend, and the Planning Department would not

be available to take a complaint during non-working hours. Council Member Furgiuele asked how and to whom a citizen would make a complaint. Ms. Meade asked Council Member Furgiuele if he was concerned about renters being able to complain to the Town about a violation of this provision. Council Member Furgiuele replied that he was concerned about permanent or stable residents who might be adversely affected by the vacation rental being able to register a complaint. Ms. Meade stated that the Town permit was required to be posted where it could be easily viewed so a neighbor could obtain the permit number and then call Planning regarding possible violations. She added that UDO Subsection 15.14.11 was intended to be a complaint provision for the renters to register complaints with the rental operator, not a complaint measure for neighbors. Mr. Ward stated that the Police Department would respond to complaints such as noise, parking issues, etc., and would be able to provide Planning staff with information or evidence regarding potential violations of the short-term rental agreement. He suggested the possibility of placing something on the Town's website that would provide emergency contact information for neighbors in case they wished to speak with the short-term rental operator instead of calling the Police or registering a complaint with Planning.

Vice-Chair Plaag presented the scenario that he had just rented a three-bedroom house on Grand Boulevard and had decided to do one of the homestay rentals, but he actually wanted to rent it out to his friends Adam, Bob, Charlie, and David who are all App State students like him. The way he planned to structure this was for the first homestay rental he would rent to Adam and get 30 days out of that, for the next time he would rent to Bob, then Charlie, then David, and then repeat it over and over and over again for a year so on the books it would look like he had met the requirements of the Ordinance. In reality, what he had done was rented out a house in an R1 neighborhood in a way that allowed him to have five unrelated people living in the house together, basically as a student rental. Vice-Chair Plaag asked what mechanism the Town would have to prevent that from happening under this Ordinance. Ms. Meade replied that the scenario did not fall within the definition of homestay rental and was not transient lodging. She felt there would be no problem with enforcement if the situation came to the attention of staff. Vice-Chair Plaag stated the Town already had difficulty enforcing the no more than two unrelated people in a dwelling, and this would add yet another way that people could use homes in a manner that they were not originally intended to be used. Ms. Meade responded that enforcement was a challenge and occupancy was hard to investigate. She stated that this was a practical reality of both resource availability and commitment, and if Council wanted this to be done, they would need to make sure there was enough staff time available, training was provided, and the money to make it all happen was provided.

Mr. Ward noted that there had been a record number of permits year after year, and within the Planning Department a special projects person had been added, but no additional enforcement staff, permitting staff, or monitoring staff had been added. He stated that at the next Planning Retreat and the next Budget Retreat, if this was determined to be a priority, they could put more money toward enforcement in an effort to increase the likelihood of success.

Council Member LaPlaca asked if there had been a significant increase in revenue from occupancy tax. Mr. Ward replied that there had been an increase. Still, he noted that the use of hotel/motel tax dollars was restricted by State statute. Currently, 2/3 had to be used for promotion of the community. He stated that the 1/3 that the Town got to keep had been designated as the source to pay for the Howard Street project. Mr. Ward felt that the cost of enforcement would fall back onto the general fund and revenues generated through permitting and fees.

Vice-Chair Plaag asked if it would be possible for those operating short-term rentals on their own and not through a company like Airbnb to be required to pay occupancy tax themselves to the Town. Mr. Ward stated he liked that addition but noted that the taxes would be paid to the County, who would then disperse funds based on location. Mr. Ward suggested the possibility of random audits to make sure taxes were being remitted or possibly placing some type of condition on the permit.

Vice-Chair Plaag expressed concern about the allowance in a homestay rental of any number of children who were in the care of the homestay renter. He asked if that would allow a church bus with a group of kids to stay in the homestay rental. Ms. Meade felt that might be getting into building code limitations but added that if this was a real concern, the maximum number of overnight guests for a homestay rental could be limited to the definition of family or could merely specify that no more than two occupants were allowed. Ms. Meade stated that this topic would need to be considered.

Council Member Roseman referred to the allowance of 25% of a multi-unit dwelling to be operated as a vacation rental and expressed concern for the possibility of dwindling housing stock for residents. She stated she would like to see a stricter density percentage as well as allowing only one contract per parcel. Mr. Ward noted that there were several vacation rentals currently operating that had multiple structures on the property. Ms. Shook added that there was a property on King Street that was already permitted as a vacation rental, and it had two separate units on the property.

Council Member Furgiuele agreed that a tighter limit for vacation rentals would not be a bad idea because rentals with an absentee operator would be more problematic. He added that he was very hesitant to allow vacation rentals in low-density neighborhoods.

Council Member Roseman stated that she was worried about losing housing accessibility in the community and felt that some people only cared about lining their pockets instead of what was good for the community.

Ms. Meade asked if the vacation rental with two separate structures on King Street would have any way to come into compliance with the proposed Ordinance. Council Member Furgiuele suggested subdividing the property, but Ms. Shook did not feel that street frontage requirements could be met because one structure sat behind the other structure, and the lot was very small. Ms. Shook suggested that staff and Ms. Meade look into this situation further.

Council Member Ulmer expressed concern that the allowance of short-term rentals would entice people to create a short-term rental situation just to make money without considering the need for housing for people who want to live and work here.

Council Member Furgiuele suggested that the density percentage start out low, such as 5%, and the number could be increased at a later date if it was warranted. He felt it was harder to tighten the percentage once it was allowed than to loosen it once you saw how it affected the overall housing market and quality of life. Council Member Roseman agreed with Council Member Furgiuele's suggestion of lowering the percentage to 5%.

Ms. Shook stated that there were multi-family developments that were developed under the B3 zoning district where there was a potential for the property owner to change their whole development from a multi-family residence to short-term rentals under a motel type designation.

Ms. Meade stated she had made a suggestion to Council that they could possibly develop a student housing use that would likely help alleviate the potential misuse of homestay rentals. Vice-Chair Plaag stated he would be interested in hearing more about a student housing use. He felt there should be an age limit of 21 to operate a homestay rental until then.

Council Member Furgiuele referred to the public meeting that was held previously regarding short-term rentals. He noted that there were only a few people who spoke in opposition, and those people were complaining about rentals with absentee owners or absentee operators. Council Member Furgiuele stated that he got the sense from the public meeting that a lot of people supported the notion that there be some allowance for short-term rentals.

Mayor Brantz then invited public comment.

Ms. Shook called for the first person who had signed up to speak, Mike Curcio.

Mr. Curcio stated he lived on Dotson Drive, and he and his wife were wholeheartedly opposed to whole-house vacation rentals. He stated that anytime an Airbnb went into a neighborhood or zip code, housing costs went up considerably. Mr. Curcio expressed his disappointment that the Town had not been enforcing the UDO, although he had complained numerous times about people operating short-term rentals. He stated that staff members had told him that enforcing short-term rental violations was not a priority of this Town Council. Mr. Curcio felt there needed to be significant financial penalties in order to discourage any disuse of homestay rentals instead of just a one-year revocation of their permit. He stated that people would figure out how much money they needed to make in the short term to cover the months that they were without a permit. Then they would get their permit back after a year and start again. Mr. Curcio suggested there should be stringent requirements for those who apply for homestay rentals. He stated that Boone was a great place to visit, and we were spending more and more money on marketing the Town and less and less money on managing the Town. Mr. Curcio noted that part of the reason he and his wife moved to and stayed in Boone was because of the protections that zoning gave them. He stated that Town Council wanted affordable housing, but by allowing whole-house rentals, the cost of housing would increase. Mr. Curcio noted that some people in his neighborhood would pack up and leave their house for extended periods of time and have another family essentially move in while they were away.

Ms. Shook then called on the next speaker, Stacy Langston, with no response.

Ms. Shook called on Andrea Geisler to speak, with no response.

Ms. Shook called on Amy Phillips to speak, with no response.

Ms. Shook called on Rina Norwood to speak. Ms. Norwood stated she joined the meeting late and missed a lot of the conversation, so she wished not to speak at this time.

Ms. Shook called on James Poland to speak. Mr. Poland stated, from what he had heard, that this was a discussion between making money off of short-term rentals or not making money off of short-term rentals. He noted that he and his wife lived out of Town and operated an Airbnb. Mr. Poland felt it was wrong for someone in Town to make money off of their property in Town because it destroyed the Town.

Ms. Shook then called on Jason Matthews to speak. Mr. Matthews stated he did not wish to speak.

Ms. Shook stated there was no one else signed up to speak under public comment.

Council Member Furguele stated he would like to set the record straight. He noted that he had been a part of a number of conversations over about a 3 1/2 year period regarding short-term rentals. Council Member Furguele stated they had learned that there were widespread short-term rentals operating illegally in Town. He stated he had never heard any Council member say, and personally he had not advocated for the idea that the Town not enforce their Ordinance to the extent possible. Council Member Furguele noted that there had been discussions about the difficulties of enforcement, given the change in State law, which put a statute of limitations on enforcement of zoning violations.

Ms. Meade stated that language in the current code regarding occupancy led to an interpretation that a family could have another family staying in their house with them because a family was considered one person. Another family would be considered another person, creating two unrelated people living in the same dwelling. Ms. Meade felt that sometimes UDO language made for difficult enforcement instead of an unwillingness to enforce.

Council Member Roseman stated she did not want to have whole-home rentals in the residential districts. Council Member Furguele replied that the Town already had whole-home rentals in residential districts. He stated that Andy Paletta, former Board of Adjustment member, researched short-term rentals about

four years ago and located 650 with Boone addresses. Approximately 250 of them were located within Town limits.

Ms. Shook referred to a website called AirDNA that currently listed 678 active rentals in the 28607 zip code, with 94% of those being entire home rentals.

Rina Norwood asked to speak. Ms. Norwood asked if the Town required a short-term rental permit (STRP). Ms. Meade replied that a permit would be required under the proposed text amendment. Ms. Norwood stated that a significant charge for the short-term rental permit could help weed out the people who just wanted to make money versus those interested in the community. She also suggested requiring annual fire inspections.

Judith Poland requested to speak. Ms. Poland stated that owners of properties needed to be held responsible. Mr. Poland asked if anyone at the local level checked to make sure smoke alarms and carbon monoxide detectors were installed in short-term rentals because it was a tremendous liability if something happened. Ms. Meade replied that she was not aware of any enforcement of those items for single or two-family dwellings. Mr. Ward added that inspections were also a concern in the cost of enforcement that would need to be considered.

Vice-Chair Plaag stated that if the Town was going to allow either whole-house rentals in certain zoning districts or homestay rentals in residential districts they should be treated like the businesses that they were and should be required to pass certain inspections. Town Council would have to provide the funding to allow for that mechanism. Vice-Chair Plaag asked if he understood correctly that the homestay rental language would allow for someone renting the property to operate a short-term rental under their lease. He stated that other cities under similar pressures that Boone was under required a homestay rental to be owner-occupied.

Council Member Furgiuele asked if it was feasible to make the revocation of permit period longer than 365 days.

Ms. Meade responded to Vice-Chair Plaag's concern about renters being allowed to operate a homestay rental. She stated that a State law indicated you could not distinguish between a full-time owner and a full-time renter. Ms. Meade then addressed a comment made by Mr. Curcio regarding folks who leave their homes for a certain period of time and have someone else come in and stay in their home. She felt that with visiting professors or other situations, the Council might want to consider having a safe haven where people would not have to act illegally and were maybe allowed to have two weeks a year or four weeks a year to do this with their homes.

Ms. Meade addressed Council Member Furgiuele's question about the 365 day revocation period. She stated she did not see why it could not be longer but noted there could be a negative consequence. The longer the disqualification period, the more incentive people might have to fight notices of violation. Ms. Shook asked if background and violation checks should be performed upon application and renewal of the permit instead of just renewal. Ms. Meade agreed and felt that was a good point.

Council Member Roseman asked if there was a way that someone could lose their ability to operate altogether. Ms. Meade replied that two verified violations in a one-year period, either of the Town Code or the UDO, that were upheld against any appeal would result in the permit being revoked for a 365 day period. Council Member Roseman felt like it should be more and thought there should be a financial penalty to pay as well. Ms. Meade stated there were general penalty provisions in the UDO for first violations that increased for repeat violations.

Ms. Meade spoke to the suggestion of an inspection program for short-term rentals. She stated it was discussed with Council, and there was a general consensus not to do an inspection program. Ms. Meade

noted that some areas do have inspection programs. As part of the application process, the building inspector goes out and looks at the property and for compliance and has to sign off on it. There were obvious drawbacks to an inspection program, such as staff time and resources and the potential liability to the Town. Ms. Meade provided the example that if an inspector missed something that caused serious injury or death, there would be the risk of lawsuits.

Ms. Shook outlined the financial penalties contained in the UDO for violations. She stated there was a \$100 penalty per violation per day. Repeat violations of the Ordinance were 250% of the civil penalty plus a \$1,000 fee. Ms. Shook stated that if someone repeated a violation for a second time within the time period, it would be 500% of the civil penalty plus a \$1000 one-time assessment.

Ms. Shook announced that Planning Commission had scheduled a tentative meeting date of Monday, November 1, 2021 at 6pm to be held via WebEx to make recommendations on the cases heard at this evening's public hearing. This meeting was scheduled in the event that all cases were not able to be considered by Planning Commission this evening.

Ms. Shook referred to UDO Subsection 15.05.17 Compliance period; existing nonconformities. She noted that this applied only to homestay rentals. Ms. Meade stated that was an oversight, and this compliance was intended to apply to both homestays and vacation rentals. Ms. Shook stated that a time period for compliance needed to be decided.

Vice-Chair Plaag stated he was inclined to go with the shorter compliance periods so that someone would have a year to apply for a permit and 18 months to comply with the Ordinance requirements.

Mr. Ward felt that timeframe was doable and thought the Town might be able to use a hybrid of some Town staff working on it while utilizing a company who specializes in the permitting of short-term rentals. Mr. Ward expressed concern that the sheer volume could be overwhelming if the Town tried to do it totally by existing staff. Ms. Shook added that a lot would depend on how much voluntary compliance the Town received and how much staff would have to go out and search for themselves.

Mr. Ward mentioned the financial aspect and the need for budgeting of funds. He noted that budgeting for this and other rezoning projects like the Historic District would not align with the budget year. Council Member Furgiuele suggested an effective date of January 1, 2022, putting the 18-month compliance period in line with the new fiscal year.

Mayor Brantz called a break in the meeting from 8:40 p.m. until 8:48 p.m.

With nothing further, Mayor Brantz closed the public hearing for this case at 8:48 p.m.

Ms. Shook took a moment to introduce Jessica Mitchell as Planning & Inspection's new Long Range/Special Projects Planner.

Case PL05188-100821 Definition of Family and Occupancy Regulations – UDO Text Amendment

Amend UDO Articles 7, 14, 24 and 34 to modify and clarify regulations regarding residential occupancy controls, including but not limited to the definitions of family and unrelated persons, the permissible number of occupants of residential dwellings, and parking requirements.

Ms. Meade explained that, after direction from Council, only Alternative 1 was under consideration for approval. She read the proposed definition of family, which added relatedness by domestic partnership to the definition of family. Ms. Meade stated that the term domestic partners was pretty broadly defined to capture any two adults competent to contract who decided they wanted to create a household together. She noted the proposed text removed the inclusion of cousins as being family members unless their parents were part of the household. Also removed from the proposed text was the defining of family as one occupant. Ms. Meade felt the proposed changes would help deal with alleged nonconformities of

over-occupancy. The 2014 version of the UDO contained a provision that said the number of occupants in a dwelling did not constitute a use and could not create a legal nonconformity. Ms. Meade stated that occupancy presented the ultimate proof problem for enforcement. She pointed out an error in UDO Subsection 14.04.03, noting that references to over-occupancy should be changed to reference occupancy. Ms. Meade stated that over-occupancy after 2014 could not give rise to a grandfathered or legal nonconformity. She noted that if there were occupancy violations predating 2014 that the owners could establish as matter of fact, those would have a phase-out period. After those property owners receive notice, they will have a suggested two-year period to come into compliance. Ms. Meade stated that should give property owners plenty of time to serve any current or contracted leases that were upcoming.

Ms. Meade stated there was an issue that had not been resolved by Council that deserved discussion, and that was whether to make provisions for a roomer or more than one roomer. She noted that this would not apply if you had unrelated people living in a house but only to a family. Ms. Meade stated that Council would need to decide whether or not they would want to permit a family to rent out a room or two rooms to roomers or boarders to make money, but it would only apply for the family situation.

Ms. Shook mentioned current leases where people have rented to cousins and asked if there would be a phase-out period for those leases. Ms. Meade replied that changing the wording from over-occupancy to occupancy in UDO Subsection 14.04.03 should address that situation.

Vice-Chair Plagg asked if the term roomer(s)/boarder(s) was defined in the UDO. Upon checking, Ms. Meade replied that it was not defined in the UDO. She stated that the dictionary definition could be used, but a definition could also be added to the UDO.

Todd Carter wished to speak. He stated he came from a group of people who had chosen families instead of blood families and felt the definition of family needed to be more inclusive. Mr. Carter explained that he had a daughter who was pregnant and, while he had not legally adopted her, he was her primary source of care. He stated he would hate for this text to legally keep them from living in the same house just because they did not meet the proposed definition of family. Ms. Meade replied that the definition could be made broader. She suggested adding the term 'dependent' under the definition of child. Mr. Carter hoped that would cover his situation but was not sure. He added that the LGBTQ community often did not get the privilege of having blood family. Mr. Carter stated that the costs of acquiring a legal family in the eyes of the law was more than most people could pay.

Council Member Ulmer asked about communes. Ms. Meade replied that the proposed definition retained a requirement for relatedness, either by blood, by marriage, by domestic partnership, or by adoption. She stated that it did not go so far as to allow more than two adults to choose to create a family with other non-related adults and call that the single household that would fit under this family definition.

Council Member Furguele felt Mr. Carter had a valid point but expressed concern about trying to change the language on the fly to accommodate the situation. He felt the proposed language was a step forward in recognizing non-traditional families and added that occupancy limits were at the heart of neighborhood protection in Boone. Council Member Furguele stated he would rather see the language be adopted as proposed. He felt that more inclusive language could be proposed when it could be more carefully crafted.

Council Member Roseman stated she thought that Council had discussed something that addressed two consenting adults. Ms. Meade replied that a domestic partnership was drawn broadly as two people committed to having a household together, and the descendants and ancestors of those two people could be included in the family.

Council Member Furguele noted that the issue for Mr. Carter was the definition of a child and who would qualify as a child. He stated he was not against expanding the definition of child but was worried about making the change without having time to reflect on the unintended results. Ms. Meade offered this definition: Child and children shall for these purposes include a biological, foster, step, or adoptive child, legal ward, or legal dependent or other minor person who is in a child/parent relationship with an adult in the family. Council Member Roseman noted that Mr. Carter's daughter was adult, not a child, and that was why she thought they might fall under the domestic partner category. Vice-Chair Plaag felt the wording of child/parent relationship would cover Mr. Carter's situation.

Mr. Carter stated that these were the types of situations his community ran into every single day. He felt that if the LGBTQ community was truly going to be an inclusive community, these situations needed to be taken into account from the very beginning and not patched so they could be fixed later. Council Member Furguele replied that he was worried about unforeseen consequences because people seem to find ways to circumvent the intent of the Ordinance. He stated that his concern did not mean that he did not want to deal with the issue but that he would rather approach it with more thoughtful consideration.

Mayor Brantz asked if anyone would like to provide public comment. With no one wishing to provide public comment, Mayor Brantz closed the public hearing for this case at 9:27 p.m.

Case PL05169-100621 Town Utility Facilities – UDO Text Amendment

Amend UDO Article 14 to revise regulations relating to the siting of Town Utility Facilities on town properties and rights-of-way.

Ms. Shook explained that the proposed text would exclude greenways from having to acquire a zoning or special use permit. It would also allow Town utility facilities to be placed on Town property without acquiring a zoning or special use permit.

Ms. Meade further explained that this issue arose because the Town may need to put a utility facility on a piece of Town-owned property. Under the current UDO language, they would have to get approval from the Board of Adjustment. Ms. Meade noted the proposed language would allow Town Council to hold a hearing to solicit public comment if there were concerns about the facility.

Council Member Furguele stated he was satisfied with the proposed language and felt it was important to have the avenue for public input to discuss mitigation.

Vice-Chair Plaag suggested the addition of historic landmark or historic district overlay standards to UDO Subsection 14.02.03(A)(3) regarding applicable development standards.

Ms. Shook referred to UDO Subsection 14.02.03(A)(1). She asked if it was correct that Certificates of Appropriateness would not be included here. Ms. Meade noted that a special use permit was a zoning permit and suggested the language should read that no zoning related permit would be required under this ordinance. With the addition of the language regarding historic landmarks and districts and changing the wording to zoning-related permits, Ms. Meade felt that would address the COA issue.

There was no public comment. Mayor Brantz closed the public hearing for this case at 9:35 p.m.

Case PL05189-100821 Major Subdivision Process – UDO Text Amendment

Amend UDO Articles 9 and 14 to revise the process for approval of major subdivisions.

Ms. Shook stated that this text amendment would correct a process issue for major subdivision preliminary plat approval. Under the current Ordinance, final plat approval for major subdivisions was required to be approved by Town Council. This amendment would now require final plat approval by the Administrator.

Ms. Meade noted that all of the heavy lifting for a major subdivision plat approval was done by Town Council or the Board of Adjustment at the time of the preliminary plat approval. State law required that a final plat match the preliminary plat, as approved. Ms. Meade stated it was not necessary for the final plat to go back to Town Council for approval and felt that staff should sign off on the final plat.

There was no public comment. Mayor Brantz closed the public hearing for this case at 9:38 p.m.

Ms. Shook asked Planning Commission members how they would like to proceed. After a quick poll, Planning Commission members stated they would address the approval of meeting minutes and the last two cases on the public hearing agenda at this evening's meeting. Ms. Shook noted that the first two cases heard at the public hearing would be considered by Planning Commission on Monday, November 1, 2021 at 6 p.m. via WebEx. She reminded everyone that the meeting on November 1 would not be a public hearing, so there would not be an opportunity for public input on the cases at that meeting.

Adjournment of Town Council

Council Member LaPlaca made a motion to adjourn the Town Council at 9:42 p.m. The motion was seconded by Council Member Ulmer.

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

Approval of Meeting Minutes

Commission Member Behrend made a motion to approve the September 27, 2021 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Vice-Chair Plaag asked that the following amendments be made to the September 29, 2021 Planning Commission meeting minutes:

-Page 2 of the minutes, third paragraph, third line – should read 'if they wanted to paint whatever it says'

-Page 2 of the minutes, third paragraph, fourth, fifth & sixth lines – should read 'He said that wouldn't require anything but if they decided to modify it to smaller or larger, he thought it would need a COA process.'

- Page 2 of the minutes, third paragraph, sixth & seventh lines – should read ‘He said just changing the content on the attachment would not require a COA process, other than what is acceptable under the way that signs are reviewed.’
- Page 2 of the minutes, fourth paragraph, last line – change the word ‘note’ to ‘not’
- Page 2 of the minutes, fifth paragraph, third line – change the word ‘speck’ to ‘specific’
- Page 3 of the minutes, third paragraph, third line from the bottom – remove the word ‘will.’
- Page 3 of the minutes, third paragraph, second line from the bottom – change ‘Terry’ to ‘Cherry’
- Page 3 of the minutes, sixth paragraph, first line – change ‘Discussion ensued on to’ to ‘Discussion ensued as to’
- Page 4 of the minutes, third paragraph – change four references to ‘HPC’ to ‘Planning Commission’
- Page 4 of the minutes, sixth paragraph, second & third lines – should read ‘He said, for example, if a large hotel was proposed on the top of that hill with a winding driveway to it, they would not be using 50 percent of their lot on this large parcel.’
- Page 4 of the minutes, sixth paragraph, fifth line – change ‘he did not know it was’ to ‘he did not know if it was’
- Page 5 of the minutes, sixth paragraph, third line – change ‘12 or 24 months’ to ‘12 and 24 months’
- Page 5 of the minutes, seventh paragraph, first line – remove the period at the beginning of the paragraph
- Page 5 of the minutes, next to last paragraph, fifth line – change ‘rectangular, and square’ to ‘rectangular, or square’
- Page 5 of the minutes, last paragraph, last line – remove the word ‘Ms.’
- Page 6 of the minutes, third paragraph, third sentence – should read ‘Vice-Chair Plaag pointed out that for new additions to historical buildings that you don’t want your addition to look exactly the same as the historical part of a building because it creates a false sense of historic preservation; you do want there to be a distinction that is compatible.’
- Page 8 of the minutes, first paragraph, fifth line – change ‘Downtown history, architecture and will’ to ‘Downtown history and architecture, and will’
- Page 8 of the minutes, first paragraph, seventh line – put a ‘semi-colon’ after the words ‘long term’
- Page 8 of the minutes, second paragraph, first line – change ‘Discussion the’ to ‘Discussion then’
- Page 9 of the minutes, first paragraph, second line – change ‘indicated that he not opposed’ to ‘indicated that he was not opposed’
- Page 9 of the minutes, second paragraph, second line – change ‘He noted that Ms. Blanks noted’ to ‘He noted that he believed Ms. Blanks said’
- Page 9 of the minutes, third paragraph, second & third lines – should read ‘B1 Downtown Interface and knowing it could potentially be even more intensive than the R3 that currently exists there, he said he would’
- Page 9 of the minutes, fifth paragraph, first line – change ‘same three’ to ‘five’
- Page 9 of the minutes, seventh paragraph, fifth line – change ‘drive-through would not be permitted’ to ‘drive-through on a new application would not be permitted’

Vice-Chair Plaag made a motion to approve the September 29, 2021 Planning Commission meeting minutes as amended. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL05169-100621 Town Utility Facilities – UDO Text Amendment

Amend UDO Article 14 to revise regulations relating to the siting of Town Utility Facilities on town properties and rights-of-way.

Ms. Shook reminded Commission members of the suggested changes to the text during the public hearing, such as; removing the wording about zoning or special use permits and replacing it with the wording that no zoning-related permit would be required, and including language about standards related to historic districts and landmarks.

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 because they are 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 Tippet.

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, with the noted changes, and believes approval is reasonable and in the public interest because these language changes would streamline the process for completion of Town utility facilities located on Town property, while also providing appropriate protections under specific scenarios. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL05189-100821 Major Subdivision Process – UDO Text Amendment

Amend UDO Articles 9 and 14 to revise the process for approval of major subdivisions.

Chair Shay felt the key point to this amendment was that because of the review that happened earlier, there was no discretion, so allowing Planning to sign off on the final plat would save wear and tear on Town Council and streamline the process. Vice-Chair Plaag noted that this amendment would also save time for the applicant.

First Motion and Vote: Commission Member Veno 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 they are 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 Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Veno made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because it streamlines the process and eliminates a lot of redundancy for the Planning staff and Town Council. The motion was seconded by Vice-Chair Plaag who wished to amend the motion to add that the text change also streamlines the process for applicants. Commission Member Veno accepted the amendment

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Commission Member Behrend made a motion to table discussion of the first two cases heard at the public hearing until November 1, 2021 at 6 p.m. via WebEx. The motion was seconded by Chair Shay.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook noted that Town Council accepted Planning Commission's recommendations for both of the Downtown Planning Projects and voted for them to become effective on October 21, 2021.

Chair Shay welcomed Jessica Mitchell to the Town.

Adjournment of Planning Commission

Vice-Chair Plaag made a motion to adjourn the meeting at 10:05 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