

**PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 23, 2020, 6:00 P.M.
VIA WEBEX SOFTWARE**

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

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

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Christy Turner-Senior Planner, 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: Tucker Deal, John Hodges, Jeremy Fields, Dustin Walters, Tom McLaughlin, and Jeff Templeton

Call to Order

Mayor Brantz called the Town Council to order at 6:01 p.m. for the Public Hearing/Planning Commission meeting held via WebEx and Chair Shay called the Planning Commission to order at 6:02 p.m.

Approval of Meeting Minutes

Ms. Meade wished to make the following corrections to the September 28, 2020 Public Hearing minutes:

- Packet page 7, second to last paragraph should read; *Ms. Shook asked Ms. Meade to speak about in-town residency for board membership. Ms. Meade explained that State law required that Planning Commission and Community Appearance Commission members be Town residents and should be deemed resigned when they move out of town. State law does not place the same requirement on the Board of Adjustment. Council had indicated its view that Board of Adjustment members should be in-town residents, but there remained a question about whether they should be allowed to continue to serve after moving out of town if they were participating in an unfinished case. She noted the following options that were contained in the meeting packet for consideration:*
- Packet page 8, fourth from the last paragraph should read; *Vice Chair Plaag stated he would like for resignations to be effective immediately on Historic Preservation Commission. Ms. Meade replied that it was clear under State law that this needed to be the case for HPC and CAC but Council had flexibility with respect to the BOA.*

Council Member LaPlaca made a motion to approve the September 28, 2020 Public Hearing minutes as amended. The motion was seconded by Council Member Hicks.

Vote: Aye – All
Nay – None

The motion passed.

Vice Chair Plaag made a motion to approve the September 28, 2020 Public Hearing minutes as amended. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Ms. Shook reminded all participants to mute their microphone when they were not speaking. She then reviewed the general guidelines for each case presented at the Public Hearing. Ms. Shook reminded everyone that the cases to be heard tonight were general use zoning map amendments and should be considered on the basis of all allowed uses for the requested zoning district instead of any possible site specific plan.

Case PL04175-083120 – JAH, LLC – General Use Zoning Map Amendment

JAH, LLC has initiated the re-zoning of a .39-acre parcel (Watauga County PIN 2900-69-5102-000) owned by JAH, LLC from Conditional District B3 to R1S, Small Home Residential and a 2,997 square foot portion of a parcel (2910-69-5102-000) zoned B3, General Business to R1S, Small Home Residential. The property is located on Delmar Street.

Ms. Turner presented the request as it was outlined in the meeting packet. She explained that the .39-acre parcel was part of a Conditional District that was approved in 2011 with a 5 year vesting for a phased project and that the vesting period had expired. Ms. Turner noted an error in the meeting packet that indicated there would be a 14 ft. interior setback for this property when it should be a 7 ft. interior setback.

Ms. Meade asked if packet pages 29 and 30 were irrelevant due to the fact that the original vesting period had expired. Ms. Turner replied that pages 29 and 30 were provided in the meeting packet as a history of the property. Ms. Shook added that Phase 1 of the original approval was completed but Phase 2 that contained the commercial component of the project was never completed and the vesting for that phase had expired.

Mr. Ward shared pictures of the surrounding area in an effort to acclimate members.

There was some question about this request containing two lots and Ms. Shook explained that, if the request were to be approved, the .39-acre parcel and the 2,997 square foot portion of the other parcel would be combined into one parcel.

Chair Shay asked if any proposed development was predicated on the sale of the 2,997 square foot portion of property. Ms. Shook responded that some form of development could still occur on the .39-acre parcel but suggested asking the applicant the question about the sale of a portion of the other property.

Council Member Furguele asked how many homes could fit on the property. Ms. Turner replied that 4 homes could fit on the property with the additional square footage from the other property.

Tucker Deal, attorney representing JAH, LLC, directed members to the authorization from Kyle Sigmon contained in the meeting packet, noting Mr. Sigmon was the owner of the property where JAH was requesting a 2,997 square foot portion. Mr. Deal stated that the document authorized JAH, LLC to request the rezoning and, if approved, agreed to the sale of the portion of the property requested. Mr. Deal stated this rezoning would essentially return property from a B3 zoning to a residential zoning, expand the supply of single family homes, and provide a reasonable transition from a B3 zoning district to an R2 zoning district. He felt that the requested zoning classification met the goals of the Comprehensive Plan by addressing growth factors, reducing commute times, having access to the greenway, and being located in a primary growth area.

Vice Chair Plaag noted that the 2011 agreement contemplated that the commercial portion of the Delmar Bungalows subdivision would be low density commercial on the bottom with residential above with 3,867 square feet of green space to be located between the B3 and R2 to add buffering and recreation area. He asked, if approved, what would happen to that common area. Mr. Deal stated that would have to be worked out between all of the property owners of the various lots.

Ms. Meade asked if the livability space requirements for the R2 would still be enforced even though the B3 portion was never built. Ms. Shook replied that the R2 and B3 portions were standalone and explained

that the R2 properties had open space on what appeared to be a vacant lot at the back of the R2 properties. She noted that the remaining property should be able to meet its own livability space requirements.

Vice Chair Plaag asked if sufficient livability space would be provided if 4 units were developed on the subject property. Ms. Shook replied that she could not answer that question without having specific dimensions for each lot. Vice Chair Plaag asked if it was correct that livability space requirements for R1S would have to be met if this request was approved. Ms. Shook stated that was correct.

With no one from the public to speak and no further questions or comments, Mayor Brantz closed the public hearing for this case at 6:38 p.m.

Case PL04269-100820 Pegasus Capital Partners – General Use Zoning Map Amendment

Pegasus Capital Partners, LLC has initiated the re-zoning of a .193-acre portion of parcel (Watauga County PIN 2910-32-6612-000) owned by Pegasus Capital Partners from General Use R3, Multi-family residential to B3, General Business (this is a split-zoned parcel). The property is located at 220 Meadowview Drive.

Ms. Turner presented the request as it was outlined in the meeting packet.

Some errors were noted in the Zoning & Use of Adjacent Properties table on packet page 71.

Dustin Walters, one of the owners of the subject property, noted that the property was split zoned R3 and B3. He stated there was a house on the property that was not livable and there was a mature oak tree that they planned to keep.

Mr. Ward shared pictures of the surrounding area in an effort to acclimate members.

Council Member Furgiuele asked if the general rezoning would still cover tree preservation. Ms. Shook replied that it would but noted that historic trees may be cut if they are located within the building footprint and that it would depend on the applicant's future site plan on whether the tree would be preserved or not.

Mayor Brantz asked if there had been any response from the neighbors. Ms. Shook replied that there was one neighbor signed up to speak. Ms. Turner added that she had received no contact from other neighbors.

Mr. Ward stated he checked with Police and Fire regarding flooding on the property and noted that both entities felt a business use would eliminate a residential zoned area that was, until recently, occupied and was subject to some rescue efforts in the past. If the property were rezoned to B3 and became a car lot as opposed to residential use, Police and Fire preferred a non-residential area that did not have occupancy at night for safety reasons.

Council Member Furgiuele asked if the property to the south of the subject property was multi-family. Ms. Shook replied that it was. Council Member Furgiuele asked if it was the complex that was condemned due to flooding. Ms. Shook stated that was correct, noting that during a recent flood event portions of one or two apartment buildings at Bavarian Village were condemned.

Mr. Walters stated they had installed a Type C buffer and were aware that the property was located in a flood zone.

Ms. Shook reminded everyone that this was a general use zoning request and site specific plans could not be considered.

Vice Chair Plaag asked if the structure(s) on the property would have to be brought into compliance with flood requirements. Ms. Shook replied that commercial properties have to flood proof if they made

significant improvements to a structure. If they construct a new building, the building has to be elevated 2 feet above base flood elevation.

Council Member Furguele asked if any uses in the B3 General Business zoning district would trigger a transitional zone which would then require a special use permit. Ms. Turner replied that the property did not appear to trigger transitional zone requirements.

At 6:58 p.m. Mayor Brantz invited public comment.

Jeff Templeton, business owner at 170 Meadowview Drive, stated he was not in favor of Friendship Honda expanding their business because they had not shown to be a good neighbor. He explained that they parked their cars in places that they shouldn't, car haulers blocked the street and his parking lot, and he heard car horns all hours of the day because employees hit the panic button to find the car they were looking for. Mr. Templeton shared pictures of various parking infractions and expressed his frustration.

Jeremy Fields, engineer for the proposed project, stated there was floodway on the property and they had stayed out of that area with their current project. He stated there was flood zone area on the remainder of the property with a Zone X on the site as well. Mr. Fields stated the Zone X was where the house was currently located and was the most developable portion of the property. He noted that this was the portion of the property they were looking to rezone.

Council Member Furguele stated that the Transportation Committee had cited Meadowview Drive as having pedestrian issues and asked if rezoning this property would have any effect on those issues. Ms. Shook replied that B3 zoning districts could also allow multi-family so she could not really say whether or not pedestrian issues would improve under a general use rezoning to B3.

Vice Chair Plaag referred to the "clean hands principle" and asked if violations on other properties could be considered as relevant to this request. Ms. Meade stated she would have to research the issue to be sure but believed the answer was 'no.' Ms. Shook added that Mr. Templeton had contacted Planning & Inspections regarding his concerns, however some were not controlled by Planning & Inspections and were civil issues.

Mr. Templeton suggested that in the future car dealerships should be required to have ample room for loading and unloading of car carriers. Vice Chair Plaag felt that was a fair suggestion and asked if that could be a requirement added to the UDO for that particular use. Ms. Shook replied that it could. She also noted that some dealerships have the necessary room but they park their cars in a way that prohibits the use of the space. Council Member Ulmer also expressed concern about car haulers blocking streets.

With no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:12 p.m.

Case PL04303-102920 Tom and Joan McLaughlin – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of approximately 0.069 acres of property located off of the end of VFW Drive (portion of Watauga County PIN 2910-44-8938-000) owned by Thomas M and Joan E McLaughlin to R1 Single-Family Residential, Viewshed Protection Overlay, and Neighborhood Conservation District in conjunction with the property owner's request for annexation of the property.

Ms. Shook presented the case as it was outlined in the meeting packet. She noted this property was zoned RA when it was located in the ETJ. Ms. Shook stated the property owner would be responsible for making utility connections at the end of Town maintenance at VFW Drive as well as bring all sanitation, recycling, and other special collections to the public right-of-way at the end of VFW Drive.

Vice Chair Plaag noted the cemetery that was near the subject property and wanted to make sure the utility installation would not disrupt the cemetery. Ms. Shook replied that they would use the designated right-of-way for utility installation.

Mayor Pro Tem Clawson stated she did not know why the property was zoned RA when it was located in the ETJ. Ms. Shook replied that the property was zoned RA when she started working for the Town and she was unsure of the reasoning for RA zoning of the property.

Commission Member Zebzda asked if this was two lots. Ms. Shook explained it was one lot that was bisected by the corporate limits.

Mayor Brantz asked if there had been any concerns raised by the neighbors. Ms. Shook replied that she had not been contacted by any of the neighbors.

Vice Chair Plaag stated he looked on GIS at the cemetery and found it had no property owner on record. He asked if the property could be annexed into the Town. Ms. Shook stated she could put it on the list of things to do.

Council Member Ulmer asked if the Town would be notifying the neighbors of this rezoning request. Ms. Shook stated that neighbors had already been notified by mail and the property was posted with a zoning change sign.

With no one from the public to speak and no further questions or comments, Mayor Brantz closed the public hearing for this case at 7:24 p.m.

Adjournment of Town Council

Mayor Pro Tem Clawson made a motion for Town Council to adjourn at 7:25 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 7:25 p.m. until 7:33 p.m.

Approval of Meeting Minutes

Vice Chair Plaag made a motion to approve the September 28, 2020 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

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

Case PL04175-083120 – JAH, LLC – General Use Zoning Map Amendment

JAH, LLC has initiated the re-zoning of a .39-acre parcel (Watauga County PIN 2900-69-5102-000) owned by JAH, LLC from Conditional District B3 to R1S, Small Home Residential and a 2,997 square foot portion of a parcel (2910-69-5102-000) zoned B3, General Business to R1S, Small Home Residential. The property is located on Delmar Street.

Vice Chair Plaag stated he was excited about this possible use and preferred it to the original CD approval. He felt small home residential was a good proposal for this location.

Commission Member Tippettt agreed with Vice Chair Plaag stating R1S was a good transition for the area.

Commission Member Veno stated he visited the site and thought the lumber yard across the street was not very pretty to look at but agreed that maybe this would be a good location to try an R1S district.

Chair Shay felt this was a good location for R1S.

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 plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

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

Comprehensive Plan Policy 2.2.2 Utilities

E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area.

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.

F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Commission Member Tippettt. Commission Member Zebzda wished to amend the motion to add:

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

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 systems; the availability of public services and facilities; and compatibility with adjacent land uses.

- G. Compact, full-service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.

Vice Chair Plaag stated he was hesitant to include 2.3.3(E) but could accept 2.3.3(G). Commission Member Tippet accepted the amendment to add 2.3.3(G).

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 map and believes approval is reasonable and in the public interest because the proposed zoning classification serves as an excellent example of a buffer between a low density residential neighborhood and a high intensity business zoning designation. Furthermore, it serves a known and urgent need for smaller sized, medium density housing in the Town of Boone in an area where that type of housing would be attractive. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL04269-100820 Pegasus Capital Partners – General Use Zoning Map Amendment

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Chair Shay stated she used to live on Meadowview Drive and it was a busy and treacherous street. She asked Vice Chair Plaag for an explanation of the clean hands principle. Vice Chair Plaag stated what it meant was if an applicant had violations or potential violations on other properties in town, those violations should be corrected before considering another request or case, meaning they should have clean hands when making new requests.

Mr. Ward stated that if this request was approved it would hopefully rectify some of Friendship Honda's current parking issues.

Vice Chair Plaag stated that the applicant had made several flood related improvements to the property. Ms. Shook stated those improvements were actually stormwater improvements that were required by the UDO under their current permit for the property.

Commission Member Veno stated he has having a hard time filtering out Mr. Templeton's complaints.

Ms. Shook stated the property had been approved for vehicle sales and service with an office, not for vehicle storage. She noted there were still flood risks for vehicles in the flood area, although those risks were obviously different than flood risks for homes in the flood area. Ms. Shook reminded members to consider all possible uses there could be when going from R3 to B3.

Mr. Ward felt it would be good to look at the issue of delivery of vehicles town-wide.

Ms. Shook noted that the majority of the subject property was located in the AE flood zone and the property would have to meet all of the standards for development or redevelopment whether it was in the R3 or B3.

Commission Member Zebzda stated he was inclined to approve the request but wanted to encourage more conversation between property owners as a way to be good neighbors.

First Motion and Vote: Commission Member Tippet 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 plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 Economic Development

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

The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because the potential commercial development standards would assist in alleviating future flood event damages due to additional flood requirements and the development is compatible with most of the surrounding business uses. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL04303-102920 Tom and Joan McLaughlin – General Use Zoning Map Amendment

The Town of Boone has initiated the zoning of approximately 0.069 acres of property located off of the end of VFW Drive (portion of Watauga County PIN 2910-44-8938-000) owned by Thomas M and Joan E McLaughlin to R1 Single-Family Residential, Viewshed Protection Overlay, and Neighborhood Conservation District in conjunction with the property owner's request for annexation of the property.

First Motion and Vote: Commission Member Zebzda 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 plan(s) of the Town that are applicable because it complies with:

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.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Vice Chair Plaag. Vice Chair Plaag wished to amend the motion to add:

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.

Commission Member Zebzda accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Zebzda made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because zoning the property R1 maintains consistency with the area and protects the neighborhood. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Chair Shay asked about the December Planning Commission meeting and it was decided to cancel the December 28, 2020 Planning Commission meeting.

Ms. Shook informed Commission members that there would be 2 Downtown related projects coming to them in the new year.

Ms. Shook also wanted to encourage any Planning Commission member who might be interested in serving on the Board of Adjustment to speak with her about transitioning off of the Planning Commission to become a member of the BOA.

Vice Chair Plaag added that there were other Town boards in need of volunteers to serve and also wanted to encourage people to apply for a position on the Historic Preservation Commission.

Adjournment of Planning Commission

Commission Member Veno made a motion to adjourn the meeting at 8:31 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