

**TOWN COUNCIL AND PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 28, 2022, 6:00 PM
VIA WEBEX SOFTWARE**

COUNCIL MEMBERS: Mayor Pro Tem Edie Tugman, Dalton George, Becca Nenow, and Virginia Roseman

PLANNING COMMISSION MEMBERS: Eric Plaag-Vice-Chair, Scott Boyd, John Tippet, and Frank Veno

HISTORIC PRESERVATION COMMISSION MEMBERS: Eric Plaag-Chair, Bettie Bond-Vice-Chair, James Sharp and Chuck Watkins

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Christy Turner-Senior Planner, and Jessica Mitchell-Long Range/Special Projects Planner

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: Amy Davis-Town Manager, Allison Meade-Town Attorney, Rick Miller-Public Works Director, and Shane Robbins-Police Major

Call to Order

Mayor Pro Tem Tugman called the Town Council to order at 6:03 p.m. Chair Plaag called the Planning Commission to order at 6:04 p.m. Brief discussion ensued regarding quorum for the Planning Commission, which was established with four members.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member Roseman made a motion to approve the September 26, 2022, Public Hearing minutes as written. Council Member Nenow seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Commission Member Tippet made a motion to approve the September 26, 2022, Public Hearing minutes as written. Commission Member Veno seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

PUBLIC HEARING

Ms. Jane Shook, Director of Town of Boone Planning & Inspections, reviewed the guidelines for each case presented at the public hearing. She asked participants to be patient and stated that participants would be called to speak during public comment at the appropriate time for each case.

Case PL05918-072222 Watauga County Jail – Local Historic Landmark

Vice-Chair Plaag explained that he would be recusing himself from participating in the local landmark case because of his involvement with the designation of the property as the Chair of the Historic Preservation Commission (HPC). He indicated that he had discussed this issue with the Town Attorney and noted though he was recused from formal discussion in the substance of the case, that he would still fill in for

Chair Shay, who was absent, as the Vice-Chair of the Planning Commission, as well as Chair of the Historic Preservation Commission.

Chair Plaag then called the Historic Preservation Commission (HPC) to order at 6:13 pm after an explanation that the HPC was present for the public hearing in order to meet statutory requirements for the landmark designation.

Ms. Jessica Mitchell, Long-Range/Special Projects Planner with Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet. The Town of Boone, with permission from property owners, Sam and Peggy Furguele, has filed a Local Historic Landmark Application to designate the property at 142 Burrell Street, (Watauga County PIN: 2900-79-5419-000) as a local historic landmark. The property is in use currently as Proper Restaurant.

Council Member George complimented Ms. Mitchell and the HPC for their work on the designation and asked if Ms. Mitchell could clarify the remarks made by the State Historic Preservation Office (SHPO). Ms. Mitchell noted that the SHPO comments on the local designation, though required, were nonbinding and were not included in the final recommendation made of the HPC. She added that if a National Register Preservationist was needed that the contact would be SHPO for obtaining a preservationist.

Brief discussion ensued as to the participation of the property owner at the hearing as it was discovered that Mr. Furguele, was having difficulties connecting into the meeting. This issue was resolved by Mr. Furguele coming over the Planning Department to join Staff for the meeting. During the brief time the boards were waiting on Mr. Furguele, Mayor Pro-Tem asked if there was any other questions or public comment. At this time, no public comment was offered.

Commission Member Veno asked if the designation would preclude any future alterations to the structure as mentioned in the comments from SHPO. Chair Plaag [HPC] responded that the main concern expressed by SHPO was about the enclosure of the porch, as it was originally a craftsman style porch that has window panels that are between the posts now. He explained that change is what is called a reversible change, it would be relatively easy to put that back to a craftsman style porch. He further stated with that in mind, if at some point in time the owner wanted to modify the porch, the existing district standards would encourage the owner to adopt a design for the porch that replicates what it looked like during its period of significance. Chair Plaag concluded that there's not anything that would preclude the owner from doing that.

Mr. Sam Furguele, property owner, joined the meeting and noted that both he and his wife fully support the landmark designation. He noted that he thought the designation was important because it was important to protect the remaining history of the town. Mr. Furguele provided a brief history on how he acquired the property in order to keep the building from being torn down. Mr. Furguele complimented Chair Plaag, author of the designation report as a member of the HPC, for the detailed report documenting the history of the building. Mr. Furguele described the circumstances that led to the renovation to the porch for a restaurant use. He noted that the costs of maintaining the historic property were high compared to the income that could be bought in as a residential property, and that it was necessary to modify the porch as part of the restaurant renovation to ensure that overall, the building was able to be maintained and saved. Mr. Furguele indicated he had been dismayed to read SHPO's comments, as he felt that he and his wife had done the least renovations necessary in order for the building to be profitable enough to help support the costs of such maintenance associated with the historic structure. Mr. Furguele thanked everyone for their consideration.

Council Member Roseman asked either Staff or Chair Plaag [HPC] to clarify the importance of the local designation being proposed. Chair Plaag [HPC], noted that the local designation did offer some local property tax deferral but did not have any related state issues. Council Member Roseman then asked

Chair Plaag [HPC] to clarify how the designation would protect the property. He responded by noting the proposed ordinance contains the same standards that apply to the downtown historic district would apply to this building, along with the National Park Service (NPS) guidelines for treatment of historic properties. Brief discussion ensued regarding how the standards can delay but not prohibit the demolition of the local landmark. Council Member Roseman, indicated to those present, that she was the Council liaison to the HPC and wanted to ensure that participants understood the process and thanked the property owner for participating in the designation.

There being no other comments, Mayor Pro-tem closed the public hearing and Chair Plaag adjourned the HPC at 6:43 pm.

Vice-Chair Plaag rejoined the meeting.

PL06130-100422 and PL06131-100422 Dinh – General Use Zoning Map Amendment

Ms. Christy Turner, Senior Planner with Town of Boone Planning & Inspections, presented the request as it was outlined in the meeting packet. Tim Trong Dinh has submitted a General Use Zoning Map Amendment application to rezone 2 parcels off of Homespun Hills as follows:

1. Tract 1: 173 Homespun Hills from B3 General Business to R1 Single-Family Residential
2. Tract 2: Watauga County PIN: 2900-45-2302-000 (vacant) from B3 General Business/R3 Multiple-Family to R1 Single Family Residential

Mr. Dinh thanked the boards for their consideration and noted that he and his family would like to be able to build a garage in the future.

Council Member George thanked Mr. Dinh for considering R1 zoning and noted the Town was sorely in need of residential zoning in general. He also thanked Mr. Dinh for going through what must feel like a daunting process to rezone the property.

Vice-Chair Plaag asked Ms. Turner if the rezoning would create any nonconformities. Ms. Turner responded that no nonconformities would be created and that the rezoning would actually bring the current residential nonconforming use to conforming.

Brief discussion ensued as to what could be done with the two parcels. Ms. Meade reminded the boards that the case was for a general use rezoning and discussion of the future plans should be irrelevant to the consideration. She encouraged the boards to review the case as to the R1 zone and the limitations of that district.

With no public comment, Mayor Pro Tem Tugman closed the public hearing.

Case PL06142-101122 Junaluska Neighborhood Conservation District (NCD) – General Use Zoning Map Amendment

Vice-Chair Plaag then indicated that he would recuse himself from the NCD case as well since he owned property in the area being considered. Ms. Meade noted that Vice-Chair Plaag's interests in a property that happens to be in the proposed overlay district is not necessarily sufficient to require recusal. She noted that "recusal" strictly speaking under state law, requires clear and identifiable financial interest in the matter. Ms. Meade continued to explain that she did not believe that anybody would think the NCD overlay is going to change property value one way or the other, which would mean that Vice-Chair Plaag does not have an interest that requires recusal. However, she further noted from the perspective of just perception, she thought it was reasonable and fair for Vice-Chair Plaag to request to be recused if that is his choice. She concluded by noting that it would be appropriate for Vice-Chair Plaag to continue to act as a neutral chair for the Planning Commission, and its consideration of the case. Brief discussion ensued as

to the recusal of Vice-Chair Plaag, with a final consensus by both boards and Vice-Chair Plaag for him to continue to participate in the case.

Ms. Jane Shook, Director of Planning & Inspections, presented the case as it was outlined in the meeting packet. The Town of Boone has initiated a General Use Zoning Map Amendment to apply a Neighborhood Conservation District (NCD) zoning overlay district to 161 properties located in the “Junaluska” area. This includes properties in the Alexander Dr., Carolina Ave., Church St, Eastview Dr., Gragg St., North St., N. Depot St., N. Water St., Ridgewood Dr., Summit St., Sun Haven Ln., Tremont St., Queen St., and Wyn Way areas.

Ms. Shook noted two items of clarification. First, she noted that the first map in the Staff Report, located on packet page 115, presented the proposed overlay in a light green shade bordered by a darker green outline. She noted that the area in question extended up to the corporate limits line outlined in gray. She explained that the darker green line outlining the border of the proposed NCD was aligned under the gray corporate limits line.

Ms. Shook explained that the second point of clarification was that the Staff Report did not include the RR zoning description, which she noted was in UDO Section 14.08, from which she read an excerpt.

Ms. Shook then further detailed the items within the Staff Report including explanation of the exhibits and the requirements set forth for the NCD in UDO Section 14.41.

Council Member Nenow asked Ms. Shook how the boundaries for the district were created. Ms. Shook referred to the zoning map located in the Staff Report and noted that the new district was adjacent to the existing Grand Boulevard NCD and included all the residential properties from the existing NCD to the R4 zoned properties on the other end. She noted that once the area was selected Staff reviewed the boundaries with the residents who had originally requested the NCD designation from Council, which led to the addition of one additional R1 zoned property, and then finally the boundaries were presented to Council for approval.

Brief discussion ensued on the inclusion of one parcel along Queen Street that bordered the existing Grand Boulevard NCD. Ms. Shook explained that upon review, it was noticed that this was the only R1 zoned property in the neighborhood not included in a NCD. She noted that this was an error that Staff was attempting to correct.

Council Member George noted that he was looking forward to public comment, and that he strongly believes in protecting neighborhoods with history and emphasized that the request came from folks living in the neighborhood.

There being no other questions or comments from the board, Mayor Pro Tem Tugman invited public comment. She reminded the public in attendance to be respectful and noted that though time will not be limited, each participant’s comments should be pertinent to the case.

Roberta Jackson, a resident of the Junaluska community, thanked the boards for accepting her community petition signed by about 20 people interested in the NCD [attached]. She noted she was proud of the community she lived in her whole life. Ms. Jackson described vehicular parking concerns from numerous rentals who end up parking on the narrow streets making it dangerous to walk. She noted her concerns that the Junaluska community had worked hard to help build the town and that though they were older and smaller than it used to be, she would like to see her community maintained and safe. She concluded with telling the boards that too much infringement will occur if we don't work to keep our community a decent and a safe place to live. She noted they would like to have the neighborhood designated as a neighborhood conservation district overlay to maintain their way of life and preserve their dignity as citizens.

Carolyn Mack, a resident of the Junaluska community, noted that she was a return resident after her retirement and had sought out a family neighborhood, walkable to the downtown area. Ms. Mack described the changes to the neighborhood since she moved in 2015, which include the transition to many of the homes from owner occupied to rentals, additional cars, and other nuisances related to those two items. She noted a particular incident with a neighboring property where someone was allowed to live in a vehicle and tents on the property for long periods of time. She noted she had called various Town departments for assistance where little was done to resolve the situation.

Angela Vitale, a property owner in the area, expressed her concern about the proposed neighborhood conservation district overlay. She noted that the proposed changes were not the most effective way to protect property values or stabilize and maintain a low density living environment suitable for family life. Instead, she noted the proposed changes impact a select group of property owners who have made significant improvements to the neighborhoods. She noted that the NCD may not be legal based on a decision, Schroeder versus the city of Wilmington, which she has submitted for the Town attorney to review. She also noted that the proposed changes place an unequal financial burden on a select group of property owners by requiring them to hire a local property manager and pay for parking stickers, and that these same property owners have invested a significant amount of money on updating and maintaining properties, increasing property values for all owners and added curb appeal to the neighborhood. She noted there are other ways to more effectively address the state of protecting property values and stabilizing and maintaining low density living, suitable for family life. Ms. Vitale agreed that it was important for all property owners to share the responsibility to have town codes and ordinances adopted to protect property values and to stabilize and maintain a low density living environment suitable for family life, however, the proposed changes do not address these issues. She asked the boards to reject the proposal and reach out to all affected property owners for suggestions prior to making decisions about zoning.

Sam Furgiuele, of 169 Gragg Street, noted that over the years that he and his wife had observed violations of occupancy, parking and noise, and indicated anything that can be done to help protect neighborhoods and forestall the decrease in quality of life, which has been occurring fairly rapidly would be a good thing. He indicated that he and his wife support the neighborhood conservation district overlay.

Jacob Crabtree, of Carolina Avenue, concurred with the comments said earlier in the meeting by Ms. Mack. Mr. Crabtree noted there has been an increase of student renters, in the houses in the area that have continued to throw loud parties. He described an incident where a party bus blocked the street. He also indicated that there is a house that has at least six occupants. He noted that they experience issues with everyday life, including being woken up in the middle of the night because tenants come home drunk from the bars. Mr. Crabtree indicated his support of the NCD and hope that it helps limit the increased traffic.

John-Taylor Hixson noted his belief that people are constitutionally blessed with the right to privacy in this country. He noted that this was fact that we are protected from unreasonable searches and seizures, especially on our own property where we're living, our homes or houses or castles. He indicated his main concern was the implementation of parking passes for private property and how law enforcement was planning on enforcing this ordinance. Mr. Hixson noted that he there was not a local law enforcement representative in the room and that he wanted everyone to consider that.

Lindsey Middlesworth indicated that she was in support of protecting the neighborhood. She explained that her home in the area is currently used by her daughter who is a junior and explained that their other children also wished to come to school in the area. She indicated that they loved the area and are willing to work with the Town and be good stewards of the property.

Bill Dixon indicated that he and his wife own the large three-acre tract of land right in the middle of the proposed district off of Austin Lane. Mr. Dixon briefly identified the history of the three dwellings on the property, and noted that the cabin and garage apartments had been used as long-term rentals since 1993 and that the units have been recently converted to short term rentals in which they are making application for. He indicated that his question mainly pertains to how the district parking regulations would affect short term rentals noting it would be very difficult to enforce parking regulations for two and three night stays and in his case monitoring a 270-foot-long driveway not visible from any public street. He indicated that he was not against the NCD, but had concerns on the implementation of some of the standards and how they worked with short-term rental properties.

Brief discussion ensued whether public comment questions would be addressed. There was consensus to conclude public comment first and then see if there were any questions from Council or the Planning Commission.

Diane Blanks, age 76, a member of the Junaluska Heritage Association, and resident of the Green Street NCD, adjacent to the proposed area, noted that as long as she can remember, the Junaluska neighborhood has been there and the residents enjoyed a rich community life within the boundaries of their neighborhood, and they still do today. She continued that so many of the towns old, historic neighborhoods have been eaten up by a few professional landlords, and it would be a shame to see the Junaluska neighborhood go the same way. She indicated the Town should do all it can to prevent that both for the good of the people in Junaluska and for the good of the town. She concluded by indicating her support for the proposed NCD.

Ed Midgett, resident of Water Street for 35 years, indicated that he also owned a duplex across the street and laments the gentrification of the area. Mr. Midgett indicated he had similar questions to those of Mr. Hixson, including: who is going to enforce the regulations, why are certain people being singled out and charged a fee, and where is the fee going? He indicated he was offended that people would make money off his property. Mr. Midgett noted that though they had never had an issue with student rentals or short-term rentals, he did not want to marginalize the people who have been wronged by student housing or students that are getting out of control. He concluded that he wondered if there's some way to do a neighborhood conservation district without the parking passes and rely on zoning as there are already laws in place for noise and things like that.

Heather Gurkin, indicated she was a property manager in Boone and noted that she agreed with what Mr. Midgett had said.

Jim Bates, resident of Ridgewood Drive since 2004, indicated he also owned a duplex in the same area as his home and noted his concerns that the NCD regulations seemed like a "gotcha" for their tenants. He voiced his concern regarding how tenants enter a lease mid-year may be fined and the costs of those fines if they don't have a sticker; how guests were handled and asked if they would need stickers? Mr. Bates expressed his concerns about the inequality of the regulations only applying to rental properties and suggested that perhaps the Town should look at other ways to relieve the burden of housing shortage by reviewing the occupancy limitations. He noted that the increase in regulations would make

property values go up and make rental prices and home prices also go up, and that the regulations do not seem to help make things better for anyone and urged the boards to come up with a better solution.

Maggie Farrington, a resident from the adjoining Grand Boulevard area, indicated that she wanted to take the opportunity and share some concerns about the parking issues, the noise, and the parties. She noted that unfortunately, even with the new overlay, it won't mean that any of those student rentals with six, eight, people is going to change as they are grandfathered in and that is going to continue until the home is sold and turned back to a single-family home. She noted that one of the other issues she heard during the meeting is about parking, traffic, and the overburdening of properties, and that the parking stickers are just an extra requirement, that doesn't serve the purpose they were originally intended to have. Ms. Farrington described the issue she has with a neighboring property that has more than four units and eight tenants, each with a car and the issues they have being on such small lots. She noted that she agreed that the residents should be able to have guests, but when you try to fit that many vehicles onto a property you cause danger and harm. Ms. Farrington indicated that she hoped the Town would look into ways that can actually have some enforcement, so that it it's not necessarily going to change occupancy, but it's going to change the access of vehicles and maybe those dangerous situations that have been described during the meeting.

Quint David, owner of a house on Ridgewood Drive, indicated his concern with treating renters as second class citizens by giving them special stickers, and noted that families with large families who owned a home wouldn't be required to get stickers but renters would. Mr. David noted that the new Watauga County housing survey notes an extreme need for housing across the county, and that the ordinance being discussed doesn't meet any need for housing, and that it might actually decrease the number of rental houses available. He indicates his support of anything that makes neighborhoods safer, especially with the driving issues, and more brochures about how to be a better neighbor, how to be respectful, how to drive safely could be implemented. He indicated that this was band aid on a much larger issue that needs to be addressed on a larger scale. He concluded that from his years of being a renter that he, sort of, takes a little offense to being treated as a second class citizen when there are plenty of owners that drive faster and run stop signs, but they're not required to have a sticker on their car.

Mayor Pro Tem Tugman asked if there was anyone in attendance who wished to speak.

Meredith Maiken, spoke under public comment, that she was a student renter who is renting a home that borders the proposed NCD, and clarified her home is not in the proposed area. She stated that she supports the NCD. She explained her education background as she is studying for a minor in Planning. She stated economic concerns of renting and how it can be necessary to rent among multiple parties and it is hard to find individuals to share the rent.

There being no other public comment, Mayor Pro Tem Tugman asked Staff and the Town Attorney if they wanted to address any of the questions or comments asked during public comment before the Council and Commission asked additional questions.

In response to the public comment, Ms. Shook shared her screen and showed using the Town's online GIS and the locations of the other seven neighborhood conservation districts through town and explained that many of the districts have been around since the mid-2000s with essentially the same language. She indicated that the Town did have some experiences with these districts. She noted that it was hard to determine from a drive-by what is a rental property and what is not, and due to how often properties can change hands, is one of the reasons the Town sends out an annual notice. She also noted

that no fees were charged for the parking stickers, and that the Town subsidizes the cost of the Department enforcing the NCD regulations. She further explained that the Planning Department's Code Enforcement officers, not Police Officers, are the ones who handle enforcement of the regulations. Ms. Shook then outlined the method used for enforcement, which includes an investigation and opportunity to come into compliance. She also explained that residents are allowed to have guests and if the Department received a complaint or if Staff notices what they think are too many cars, Staff would conduct an investigation. She also wanted to clarify that there is a difference between grandfathered uses and occupancy. She noted that while the number of units may be grandfathered the number of occupants cannot.

Ms. Meade, further in response to public comment, clarified that the parking stickers were a measure to enforce occupancy controls and confirmed that guests are allowed, and if there is a compliant made then Staff will go out to investigate and may determine that a visitor's car is at the residence as often as you would expect the resident's car to be there. She noted that a vehicle there that is there for a few hours is different than a car that is there day after day and that is what the investigation would determine. She also clarified that only civil remedies would be permitted under state law as criminal penalties are prohibited for development ordinances unless they involve significant health or safety issues.

Ms. Meade noted that there were two overarching issues being discussed. She stated the first is whether the Junaluska neighborhood was a good candidate for the neighborhood conservation district protection. She continued the second separate issue is whether the NCD regulations do what they are intended to do and are they enforceable. Ms. Meade then noted that it had been questioned whether these regulations were lawful due to the legality of rental registrations, and that she did not believe the regulations were unlawful, since the state law prohibits a requirement that owners register rental property in order for it to be rental property under one of the statutes that involve minimum housing. She noted the NCD requirements require tenants to register their vehicles related to where they live. She also noted that Mr. Dixon had made a valid comment of short term rentals and noted the language in the UDO should be revised to resolve the apparent conflict. She also noted that Mr. Dixon made a fair point about why should tenants have to get a sticker if the driveway was over 200 feet long and not visible from the public road. She added that in this instance it is to consider what is the ill being addressed at that point and perhaps the regulations should be reviewed to see if they are addressing what is intended.

Ms. Meade shared that other jurisdictions, such as Chapel Hill, have different ways to regulate over parking, over occupancy and noise, which have been upheld in court of appeals. She explained that they limit the number of cars that can be parked at any one residence and use the number of cars as a proxy to keep occupancy and other issues down. They also impose limitations on the parking areas that may impact neighboring properties. She noted that parking seems to be one of the largest issues and that the regulations may need to drill down more into what the real issues that the Town is trying to address.

Ms. Shook noted that Ms. Meade had brought up several good points and reminded Council that review of the NCD regulations was on the department's work plan.

Brad Farrington, resident of the adjacent Grand Boulevard area, noted his support for investigating other mechanisms to help with parking and traffic issues. He further noted that a point not mentioned was

the stickers were a way to advocate for the renters who pay to park at their rental, especially when a visitor is parking in a spot, they are paying for leaving the tenant with no option other than to park on the street. He noted that the parking issue was a huge safety concern as well as the enjoyment of a low-density neighborhood encroached upon by high-density uses.

Upon conclusion of public comment, Mayor Pro Tem Tugman asked if there were any comments or questions from the boards.

Council Member George agreed that the NCD is not perfect but wanted to center the conversation back to the Junaluska request. He noted that he did not see this as an issue of tenants versus residents, but rather an issue of citizens versus people who are buying up properties and renting them out at rates that no regular family can afford. He also noted that most leases already limit the number of guests allowed. He also noted that NCD's already exist in this town and that Junaluska is one of the oldest historically black communities in the Appalachian Mountains, and the fact that it is not already a NCD is an embarrassment to the Town, and that the implication that either the Police or the Planning Staff did not know how to interact was confusing to him. He noted he did appreciate those who came out to speak.

Vice-Chair Plaag indicated that he agreed with Council Member George, and further indicated that he lived in the Junaluska community, and that every day he sees evidence of the issues that the Junaluska resident had described. He indicated that several of those who spoke out against the amendment were landlords that did not live in the district and some of them own the very properties which cause some of the consternation in the neighborhood. Vice-Chair Plaag continued that the NCD was a mechanism to control occupancy and that landlords who wanted to be a good neighbor needed to ensure that their tenants completed the registration form. He concluded that he also felt that there was something off that there was this much opposition to granting NCD status to the historically black community in Boone when he does not remember hearing this much opposition to a NCD that has been approved since he has lived here.

Council Member Roseman noted that she wanted to protect the history of the Junaluska community, to honor what this community has done for the area, and that some of the people who have built and live in these homes and love the neighborhood are still there. She noted it was the Town's responsibility to figure out if the request was a good fit for the neighborhood, and while there were flaws, it was important to move forward as it was a good fit.

Council Member Nenow noted that while not trying to be off topic, but that one of the recurring themes discussed was parking and traffic, and thinks that some of the solutions were not about how to fit more cars into the area but how the space could be navigated without cars. Vice-Chair Plaag agreed with Council Member Nenow and noted that the Junaluska area did not have sidewalks and that would go a long way to making the neighborhood walkable and attractive to those who did not have cars.

With no further comments, Mayor Pro Tem Tugman closed the public hearing for this case.

Case PL05781-061322 Signs – UDO Text Amendment

After a brief discussion, it was decided that Case PL05781-061322 Signs – UDO Text Amendment, would be tabled, and to be fair to those who had waited to speak the opportunity to share their public comment.

Mr. Graydon Eggers, with First Baptist Church, shared that the church was interested in installing a freestanding sign with changeable copy, and that the height and area regulations proposed made it hard to install a sign with any type of base to raise it from the ground. He shared with Council five different

photos that showed the Church's previously installed sign that was removed due to the widening of King Street, and noted that current regulations, after the rezoning, did not allow for a replacement freestanding sign. One of the photos he noted was the sign at the Town's Jones House which featured a freestanding sign with changeable copy. He requested that the Town consider these points as the consider the changes to the ordinance.

Mr. Skip Green, with First Baptist Church, provided history that he had built the original signs and the Jones House sign and that he also was interested in the Town evaluating the sign ordinance based upon Mr. Eggers concerns.

Ms. Shook indicated that when the case was brought back up that the concerns brought forward by the Mr. Eggers and Mr. Green would be discussed.

There being no other comment, Mayor Pro Tem Tugman tabled the case to the next public hearing on January 23, 2022 at 6 p.m.

Case PL06245-110922 Single- and Two-Family Nonconformities – UDO Text Amendment

Ms. Shook presented the case as presented in the board packet. The Town proposes an amendment to the Town of Boone Unified Development Ordinance (UDO) to modify UDO Section 7.03 regarding nonconforming uses to create exceptions for certain single- and two-family uses.

Council Member George indicated that he appreciative of Staff identifying the issue and bringing forward the amendment.

Mayor Pro Tem Tugman opened public comment.

Maria Owens indicated that she was an owner of a property that had originally been residential which had been converted to an office with the intent to always turn it back into the original residence. She indicated that she had missed the change in 2014, and did not realize until recently that she would not be able to convert the office back to a residence that she could live in. She noted that she thought the ability to do so could help in areas where the Town wanted the reestablishment of residences.

Ms. Shook clarified that this work had been part of the department's work plan.

Commission Member Boyd asked if a property was going back to a residential use if it was up to the property owner or Planning and Inspections staff to decide. Ms. Shook responded that the zoning remains the same for the property, and that it would involve a change of use to revert back to a residential use. She stated this would be allowed upon issuing a permit.

With no public comment, Mayor Pro Tem Tugman closed the public hearing for this case.

Adjournment of Town Council

Council Member George made a motion to adjourn the Town Council at 9:19 p.m. Council Member Nenow seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Edie Tugman, Mayor Pro Tem

Jane Shook, Planning Director

Eric Plaag, Planning Commission Vice-Chair

Continuation of Planning Commission Meeting

Brief discussion ensued on how to continue the meeting. By consensus, the Planning Commission agreed to take a short break and then reconvene and hear the Junaluska case last in case discussion took too long.

Vice-Chair Plaag announced a ten-minute break.

Vice-Chair Plaag reconvened the meeting.

Public Comment

There was no additional public comment made.

Approval of Planning Commission Meeting Minutes

Vice-Chair Plaag noted changes including on packet page 210 (minutes page 4), second paragraph under the Yates Family Case, “the” should be changed to “they,” and on packet page 211 (minutes page 5), second paragraph from the bottom, the “and Vice-Chair” should be changed to “as Vice-Chair”.

Commission Member Veno made a motion to approve the September 28, 2022, special Planning Commission meeting minutes as amended. Commission Member Tippettt seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Case PL05918-072222 Watauga County Jail – Local Historic Landmark

The Town of Boone, with permission from property owners, Sam and Peggy Furguele, has filed a Local Historic Landmark Application to designate the property at 142 Burrell Street, (Watauga County PIN: 2900-79-5419-000) as a local historic landmark. The property is in use currently as Proper Restaurant.

Vice-Chair Plaag noted he would be recused from participating in the discussion for the case.

Commission Member Tippettt stated he appreciated the background materials and that it was supported by the Town and property owners. Commission Member Veno noted he supported the amendment to continue to protecting building. He discussed how the discussion regarding the property’s porch indicated that it could be removed at some point in time. He stated that the Downtown Boone Post Office was altered with no changes to the architectural integrity, and the alterations fit hand-in-glove and are an example of how it can be done. He further stated that the building was almost lost once, and the outside of the property is still reminiscent of the jail. Commission Member Boyd agreed that it was completely in reason to support the landmark designation.

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

Comprehensive Plan Policy 2.1 The Economy

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

Comprehensive Plan Policy 2.1 The Economy

2.1.5. Downtown

- A. A compatible design character for the downtown area, drawing upon the locality's original High Country small town features, shall be identified, reinforced and supported to put forth a quality image and sense of place.
- F. The maintenance and revitalization of downtown Boone, as well as planning for its future development, will reflect the realities and qualities befitting its geographical setting and function as a center of (1) commercial and service activities, (2) educational and cultural activities, events and (3) public services.

Comprehensive Plan Policy 2.3 The Community

2.3.2. Community Character

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.
- B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.
- C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.
- D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged.
- 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.

The motion was seconded by Commission Member Boyd.

Vote: Aye – 3.

Nay – None.

Recusal – 1 (Plaag).

The motion passed.

Second Motion and Vote: Commission Member Tippet made a motion that the Planning Commission recommends approval of the proposed ordinance and believes approval is reasonable and in the public interest because of the historic significance of the property, and that the property is located within the historic district is a plus; and the property represents a unique historic tradition that has evolved and will continue to evolve; and as the property owners are supportive as is the Town.

The motion was seconded by Commission Member Venio.

Vote: Aye – 3.

Nay – None.

Recusal – 1 (Plaag).

The motion passed.

Vice-Chair Plaag rejoined the meeting.

PL06130-100422 and PL06131-100422 Dinh – General Use Zoning Map Amendment

Tim Trong Dinh has submitted a General Use Zoning Map Amendment application to rezone 2 parcels off of Homespun Hills as follows:

1. Tract 1: 173 Homespun Hills from B3 General Business to R1 Single-Family Residential
2. Tract 2: Watauga County PIN: 2900-45-2302-000 (vacant) from B3 General Business/R3 Multiple-Family to R1 Single Family Residential

Brief discussion ensued as to the boundaries of the properties. Vice-Chair Plaag noted that he appreciated the applicant's request to rezone as it would add more housing stock to the jurisdiction. Commission Member Veno asked if the owners wanted to combine the lots for the garage use would they have to go through another hearing process. Ms. Turner replied that it would be staff-level approval to combine the lots.

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

Comprehensive Plan Policy 2.1 The Economy

2.1.1 Economic Development

A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

A.1. Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.

Comprehensive Plan Policy 2.3 The Community

2.3.2. Community Character

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

B. Multiple and appropriate adaptive reuse of historic resources shall be encouraged.

Comprehensive Plan Policy 2.3 The Community

2.3.3 Housing and 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.

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 ordinance and believes approval is reasonable and in the public interest because rezoning will align the parcels with the current single-family use and may increase the single-family stock

in the Town of Boone limits by encouraging single-family development of the vacant parcel. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Case PL06245-110922 Single- and Two-Family Nonconformities – UDO Text Amendment

The Town proposes an amendment to the Town of Boone Unified Development Ordinance (UDO) to modify UDO Section 7.03 regarding nonconforming uses to create exceptions for certain single- and two-family uses.

Commission Member Veno asked Ms. Shook to clarification if what the change would mean for a rental property that had been abandoned for 180 days. Ms. Shook stated that it would not impact whether or not a property was a rental as the Town could not regulate ownership. However, she added it would allow the use of former dwelling unit that had been converted to a conforming use to be allowed to convert back to the residential use at any point even though those uses are not permissible uses within a commercial zoning district.

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 the amendment is consistent with:

Comprehensive Plan Policy 2.1 The Economy

2.1.1 Economic Development

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

Comprehensive Plan Policy 2.3 The Community

2.3.2. Community Character

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

Comprehensive Plan Policy 2.3 The Community

2.3.3 Housing and 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.

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 ordinance and believes approval is reasonable and in the public interest because as discussed streamlines the problem of certain residential nonconforming uses in UDO Section 7.03. The motion was seconded by Commission Member Tippet. Vice-Chair Plaag asked

Commission Member Venio if he would accept a friendly amendment to add that the net effect creates low density residential stock in areas where it is not currently possible and should be encouraged. Both Commission Member Venio and Commission Member Tippet accepted the friendly amendment.

Vote: Aye – All
Nay – None

The motion passed.

Case PL06142-101122 Junaluska NCD – General Use Zoning Map Amendment

The Town of Boone has initiated a General Use Zoning Map Amendment to apply a Neighborhood Conservation District (NCD) zoning overlay district to 161 properties located in the “Junaluska” area. This includes properties in the Alexander Dr., Carolina Ave., Church St, Eastview Dr., Gragg St., North St., N. Depot St., N. Water St., Ridgewood Dr., Summit St., Sun Haven Ln., Tremont St., Queen St., and Wyn Way areas.

Vice-Chair Plaag asked the Planning Commission if they wanted to continue with the current case or if they wanted to reschedule a special meeting to further consider the case. Ms. Shook, Director of Planning & Inspections noted that she understood that the Planning Commission had heard discussion about both the NCD as a construct and the application of the NCD to the Junaluska area. She recommended the Planning Commission separate the discussion of the NCD from the core request which was the consideration of the NCD and the Junaluska area noting that an opportunity to discuss the merits of the NCD would come later as it was on the department’s work plan. Vice-Chair Plaag agreed and felt like the items mentioned by Ms. Meade are worth exploring for all neighborhood conservation districts and noted that while he understood that there were problems with the regulations, he did not want to lose sight of the request. He noted his concern that he didn’t remember there being anywhere near the level of opposition on any of the seven NCD’s, and that the opposition came from people who own multiple properties and don’t live in the area. He also recommended focusing on the actual request and not getting lost in a discussion of changes to the regulations and let that future conversation happen in its own time.

Commission Member Venio noted that the most salient point of the evening was the request and the discussion on other issues, such as parking, were separate and that much of the opposition seemed to be based upon misinformation. He agreed the parking issues had to be addressed.

Ms. Shook added that in the past, the Town did request a charge for the stickers, but there was a decline in assigning stickers, that a charge was not necessary. She explained that she felt the concept of a NCD had extended from its original intent, and that it was a tool to regulate occupancy and not necessarily parking.

Vice-Chair Plaag told Ms. Shook that when the discussion on the NCD happens that it would be nice if it included a refresher on nonconforming uses. Ms. Shook explained that Planning Staff was working on resources that would assist with that discussion.

Commission Member Tippet, as a resident of the Blanwood NCD, noted that he understood the though the need for a larger conversation was needed, he supported the request for the Junaluska area and feels that it is a step forward. He noted that he felt positive about moving forward that evening with the request. Commission Member Boyd agreed that the neighborhood was just as deserving as the surrounding of areas of the designation.

Vice-Chair Plaag stated that it was a complaint driven process. Ms. Shook replied Staff operates by drive-by’s, or if on a recurring basis visit the property in proactive enforcement.

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

Comprehensive Plan Policy 2.3 The Community
2.3.3 Housing and 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.

The motion was seconded by Commission Member Boyd.

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 ordinance and believes approval is reasonable and in the public interest because the Junaluska neighborhood was extremely worthy of the neighborhood conservation district designation and the designation provides addition town monitoring mechanisms as it relates to occupancy. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Other Matters

Ms. Shook announced that the December Planning Commission meeting would be canceled due to the holidays and the lack of agenda items.

Adjournment of Planning Commission

Commission Member Tippet made a motion to adjourn the meeting at 10:35 p.m. Commission Member Veno seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Eric Plaag, Planning Commission Vice-Chair

Jane Shook, Planning Director