

**TOWN COUNCIL AND PLANNING COMMISSION
SPECIAL PUBLIC HEARING MINUTES
WEDNESDAY, APRIL 3, 2024, 6:00 PM
1500 BLOWING ROCK ROAD AND VIA WEBEX SOFTWARE**

COUNCIL MEMBERS PRESENT: Mayor Tim Futrelle, Mayor Pro Tem Dalton George, Todd Carter, Eric Plaag, and Edie Tugman

PLANNING COMMISSION MEMBERS PRESENT: Adrian Tait-Chair, Frank Veno-Vice-Chair, Chris Behrend (via WebEx), and Scott Boyd (via WebEx)

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Commercial Zoning Administrator, Jessica Mitchell-Long-Range Planner (via WebEx), Brandon Wise-Environmental Specialist, and Brenda Henson-Board Secretary

OTHER TOWN STAFF/REPRESENTATIVES PRESENT: Allison Meade-Town Attorney, and Justin Stines-Deputy Public Works Director

Call to Order

Mayor Futrelle called the Town Council to order at 6:07 p.m., and Chair Tait called the Planning Commission to order at 6:07 p.m. The meeting was held in the Town Council Chambers at 1500 Blowing Rock Road and via WebEx.

Moment of Silence

A moment of silence was observed.

CONTINUATION OF PUBLIC HEARING

Case A24-0072 Short-Term Rentals – UDO Text Amendment

Modify language in the UDO limiting the zoning districts where Use 3.06 Vacation Rental is allowed and to no longer allow accessory dwelling units to be used as Use 3.07 Homestay Rental.

Ms. Jane Shook, Director of Planning & Inspections for the Town of Boone, presented the case as outlined in the meeting packet. She noted that the amendment proposed that homestay rentals should not be allowed in a separate accessory structure. Modifications to the definitions for homestay and vacation rentals were proposed, and the removal of vacation rentals in the RA and R3 zoning districts was proposed. Ms. Shook stated that these changes could create non-conformities, and the Council and Commission would have to decide how those should be handled.

Council Member Plaag asked Ms. Shook to explain the difference between homestay and vacation rentals. Ms. Shook stated that a vacation rental was a whole house rental with no property owner or representative on site. In contrast, a homestay rental was the rental of up to two rooms with the property owner or representative on site.

Council Member Tugman asked if a homestay rental could have an accessory dwelling unit. Ms. Shook replied that current regulations allowed ADUs to be used as homestay rentals. She noted that some Council members had expressed interest in not allowing separate ADUs to be used as homestay rentals. Ms. Shook stated there was concern that homestay rentals would take away housing for long-term residents. However, the income from homestay rentals helped homeowners pay their mortgages.

Ms. Allison Meade, Town Attorney, stated that the prior Town Council thought that two bedrooms were two bedrooms, whether they were in the house, a basement apartment, a semi-attached garage, a detached garage, or an accessory unit out back in the shed.

Council Member Carter expressed concern that someone would build a two-bedroom ADU for the purpose of homestay rentals. He added that he was not in favor of vacation rentals Downtown. He did not want to see a plethora of ADUs being built as a money-making scheme when the Town was trying to promote habitable places for long-term rentals.

Mayor Pro Tem George stated he was in favor of removing vacation rentals from the R3.

Council Member Plaag noted that the Use Table allowed a category 1 bed & breakfast, which was basically a business with multiple bedrooms, in areas where homestay rentals were also allowed. He stated that it seemed strange to restrict homestay rentals but still allow a bed & breakfast use when the only distinction between them was that a meal was provided. He added that the meal was not defined, so it could be a microwaveable sausage and cheese biscuit. Council Member Plaag stated that there might be a compromise where vacation rentals were removed from the residential districts while at the same time expanding the ability to do a homestay rental.

Ms. Meade noted that the RA zoning district had allowed vacation rentals for years. Ms. Shook added that there were currently no permitted vacation rentals in the RA. However, as of February 1, 2024, there were 10 in the R3.

Council Member Tugman asked about the options for non-conformities. Ms. Shook explained that the most commonly used option was allowing anyone with a valid permit to continue the use as long as they did not cease operation and followed the non-conforming use requirements. The other option was to bring the uses into compliance within a certain time period.

Ms. Meade stated she would be more comfortable with grandfathering in the normal way. She noted that there was good case law precedent regarding sunseting that gave her pause about how successfully the sunset could be defended. Ms. Meade stated that she had some discomfort with the lack of clarity in the language regarding homestay rentals being allowed only in the principal structure or in any separate structure.

Council Member Carter asked how the Town enforced an issue where a home was being used illegally as a homestay rental. Ms. Shook replied that it was sometimes difficult to know what happened inside homes that were not permitted as homestay rentals. She stated that ads for short-term rentals usually indicated very clearly what was being offered, and Host Compliance monitored that advertising.

There was no public comment on this case.

Council Member Plaag suggested that larger lots could allow more than one ADU. He stated that he had heard from people who indicated the only reason they were able to stay in Boone was because of the income they were getting from their homestay rental. Council Member Plaag noted that he did not want to magnify the problem by taking away that income tool and driving more people away who were currently in the town's workforce.

Council Member Plaag stated that vacation rentals had no owner on site, and people were buying up properties to do vacation rentals because it was a money maker. He felt that vacation rentals were the low-hanging fruit that could be more easily addressed in the short term. Council Member Plaag suggested that the homestay rental requirements not be amended at this time and be revisited in a year to see how they were working.

Vice-Chair Veno stated that ADUs were the perfect place for a professor or a working person to get an affordable room.

Council Member Carter supported the sunseting of non-conforming vacation rentals. Council Member Tugman agreed it was fair to pick a time for vacation rentals to revert to long-term rentals. Ms. Meade suggested a sunset time of seven years. Mayor Pro Tem George stated he was not sure that all short-term vacation rentals would be suitable for long-term rentals.

Ms. Meade suggested that the existing non-conforming vacation rentals be allowed to continue until they either did not renew their permit or violated the requirements. She stated that grandfathering would decrease the likelihood of litigation.

Chair Tait agreed that sunseting could involve more risks and felt that grandfathering the 10 or so non-conformities would allow the property owners to maximize their investment.

Council Member Carter asked if grandfathering would end if the property were sold. Ms. Shook replied that grandfathering would transfer with the property. Council Member Carter stated that he wanted the grandfathering to end when the property was sold. Ms. Meade responded that state zoning laws did not allow grandfathering to end upon new ownership. Council Member Carter stated that addressing the housing crisis took many small steps, and he could not support allowing the existing non-conforming properties to continue in perpetuity.

Chair Tait did not have a problem allowing homestays in ADUs, whether inside the main home or in a separate structure. He noted that ADUs could be part of the housing solution. Council Member Carter agreed that ADUs help pay mortgages.

Council Member Plaag stated that some units might be lost to vacationers doing homestay rentals, but he was willing to compromise and see how things went. If a cascade of ADUs were being converted to homestay rentals, he would feel a lot differently at that point. Council Member Plaag suggested allowing more than one ADU on large lots in the R1 in the future. He expressed that he supported allowing up to two bedrooms on a property to be used as homestays, regardless of the configuration.

Ms. Shook noted that minor language revisions would be necessary, such as changing guestrooms to bedrooms and changing the mention of one month to 30 days.

With nothing further, Mayor Futrelle closed the public hearing for this case at 7:30 p.m.

Case A24-0073 RR Residential Rehabilitation – UDO Text Amendment

Modify language in the Town of Boone Unified Development Ordinance to rename the RR Residential Rehabilitation zoning district to CN Compact Neighborhood Residential. Modifications include revising the district description and the intensity standards associated with the district to be in alignment with the only existing RR-zoned area within the town. Revising the name and district description will now open this district as an option for future rezoning requests.

Ms. Shook presented the case as outlined in the meeting packet. She noted that 43 properties were currently zoned RR. Ms. Shook reiterated that this was not a rezoning of property but a change in the zoning classification name and description to bring it up to date. She noted that CN Compact Neighborhood Residential was a zoning classification used in other areas.

Ms. Shook referred to Section 14.08.03 and noted that there were some suggested changes to the intensity standards that would be more reflective of the current RR properties. She stated that these changes would correct some, but not all, of the non-conformities in the RR-zoned area of Junaluska.

Council Member Carter stated that he was okay with changing CN Compact Neighborhood Residential if it had been used in other jurisdictions.

Council Member Tugman asked if property owners would have to come into compliance with the proposed intensity standards if they renovated their houses. Ms. Shook replied that they would be considered legal non-conforming so they would not have to come into compliance, but they would not be allowed to extend any non-conformity.

Chair Tait asked if each RR-zoned property owner had to be notified of this change. Ms. Shook stated this was not a rezoning, so the property owners did not have to be notified. Chair Tait asked if merging the RR and the R1S was possible because they were similar. Ms. Shook replied that that process would be a rezoning. She added that there were limitations on the house size in the R1S that might not be compatible with the existing area.

Ms. Meade noted that all of the other residential zoning districts started with an R. She suggested that the CN be named RCN to be in keeping with the other districts. Ms. Shook agreed. Ms. Meade referred to Section 14.08.03(E)(2)(a) that read *Whenever a lot in a CN district has a common boundary line with a lot in a different zoning district, the interior setback requirement applicable to that boundary of the CN lot shall be the interior setback required for the adjacent lot. By way of illustration, if the CN lot shares a common boundary with a lot zoned so as to require a 14-foot interior setback, the CN lot would be required to have a 14-foot interior setback along its common boundary with that different-zoned lot.* Ms. Meade stated that it seemed a bit unfair that other properties in the district could build to their full potential, but a lot that bordered a different zoning district would have a more stringent setback requirement. Ms. Shook replied that this was proposed language for consideration.

Council Member Plaag asked if other neighborhoods in town could qualify for the RCN zoning designation. Ms. Shook stated that it could be an option.

Council Member Tugman noted that three-story homes were allowed in this zoning district. Ms. Shook replied that this district had no maximum height limitation in feet, just in stories. Council Member Tugman stated there was no differentiation between a three-story home sitting in a neighborhood of one-story homes. Ms. Shook replied that none of the residential zoning districts addressed that issue. Council Member Tugman stated that having a column in a neighborhood of single-level homes looked horrible.

Council Member Carter asked if reducing the interior setback to 10' would create additional housing. Ms. Shook thought it would allow a little bit of extra wiggle room when constructing, noting that it would provide six extra feet of buildable area.

Mayor Futrelle invited public comment.

Ms. Peggy Laine stated she had lived in Watauga County for 40 years. She noted that she owned and rented several properties in Boone at reasonable rates. Ms. Laine presented the Commission and Council members with some books about Junaluska. She asked members to consider the community and how their decisions would affect the residents. Ms. Laine stated that she was a member of the Junaluska Heritage Association and the Watauga Community Housing Trust. She asked if the proposed text amendment would protect the neighborhood and provide affordable housing. Ms. Laine suggested that the JHA, the Housing Trust, and WAMY be involved in decisions regarding the Junaluska neighborhood.

Ms. Roberta Jackson, president of the Junaluska Heritage Association, stated she was upset about the three-story home that was being built on North Street. She noted that the house was right across the street from their mural, it was a monstrosity, and it took away from their heritage.

Ms. Diane Blanks stated she was a member of the Junaluska Heritage Association and lived in a 600-square-foot house on Green Street. She noted that Junaluska was one of the oldest black communities in Western North Carolina, and their neighborhood needed to be protected. She stated that the neighborhood consisted of mostly one-story homes, and the new three-story home partially blocked the mural. Ms. Blanks added that this height should not be allowed in a mostly one-story neighborhood.

Ms. Katie Mack stated that the newer zoning title would provide respect for the historic nature of the community's appearance. She noted that the property owner of the new three-story house had gotten the most bang for his buck on his small lot. Ms. Mack said that most of the lots in the RR were quite small and were perfect for some of the housing shortages if whoever owned them was willing to turn them into affordable housing. She stated that the old segregated school constructed across from the Mennonite Church was currently a duplex, and they had hoped to see it become a cultural center. Ms. Mack noted that many things in that neighborhood would get lost if the Town Council did not provide some protection.

Council Member Plaag asked what the square footage and height limitations were in the R1S. Ms. Shook stated there was a 5,000 square foot limit, a 35' minimum lot width, 28 feet of street frontage, and a maximum building footprint with 800 square feet exclusive of as decks, porches, or steps and allowed a basement or attic story of no more than 400 square feet. The street setbacks were 20' with an interior setback of 7', however, if the property bordered a property outside of the zoning district, they would have to meet whatever the adjacent property's setback was.

Council Member Plaag stated he was okay to allow a larger footprint if there was a height limitation. Ms. Meade noted that a new text amendment would need to be brought forward because this extent of change was not advertised with this text amendment. She added that State law did not allow the Town to regulate the exterior appearance of single-family homes.

Mayor Pro Tem George stated that renaming the district made sense and suggested that height could be considered later.

Council Member Carter agreed that height was not before the Council and Commission in this request and could be amended later.

Council Member Plaag stated he was okay with moving forward with this request but asked that a text amendment for height requirements be brought forward soon.

Mayor Futrelle asked if there was consensus of the Council and Commission to rename the district RCN and require a 10' interior setback for every RCN zoned property. There was consensus.

With nothing further, Mayor Futrelle closed the public hearing for this case at 8:29 p.m.

Mayor Futrelle called a break in the meeting from 8:29 p.m. until 8:45 p.m.

Case A24-0095 Flag Lots & Architecturally Integrated Subdivisions – UDO Text Amendment

Modify language in the Town of Boone Unified Development Ordinance to allow "flag lots" in certain circumstances and to revise and modernize related standards for architecturally integrated (cluster) subdivisions.

Mr. Shook presented the case as it was outlined in the meeting packet. She directed the Council and Commission members to the flag lot options shown in the staff report. Option A showed the creation of a flag lot with an easement, with the residual lot maintaining ownership. Option B showed the creation of a flag lot where the owner of the residual lot transferred the pole section to the flag lot.

Ms. Shook stated that there was some scope creep into architecturally integrated subdivisions, which were generally called cluster subdivisions. She noted that the term cluster subdivision was simpler and

suggested that architecturally integrated subdivisions be changed to cluster subdivisions. Ms. Shook stated that she coordinated with Public Works and the Fire Department to ensure that any newly created lots created under the flag lot or the cluster subdivision could be adequately and safely served based on the North Carolina fire prevention code and other operational standards.

Ms. Shook stated that flag lots could be restricted to single-family dwellings due to the limited access, noting that the Fire Department had concerns about creating additional density. She added that the Fire Department would require a 12' wide driveway to the flag lot to accommodate their equipment. The maximum length of the driveway would be 150' with an allowance, under certain circumstances and on a case-by-case basis, to be up to 200'. Ms. Shook noted that she had provided options in the meeting packet regarding building height.

Ms. Meade asked if the driveway had to be a 12' wide asphalt driveway. Ms. Shook replied that the driveway had to be 12' wide but it did not have to be asphalt. However, if the driveway was located on a steep slope, a surface that would not wash into the street could be required.

Council Member Plaag asked if there could be a requirement in the deed or easement regarding driveway maintenance. Ms. Meade replied that a driveway maintenance agreement could be required.

Council Member Plaag asked if it would be reasonable to say that the height of the building on the flag lot could not exceed the height of the building in front of it. Ms. Shook stated that it could be challenging because of varying roof pitches. She noted that single-family construction did not require the same sort of grading plans as commercial dwellings so there were no contours to show final grade. Ms. Shook stated that most residential zoning districts had a maximum 3-story height so someone who was not on a flag lot could build a 3-story home but someone who was on a flag lot might not be able to. Council Member Plaag asked if the underlying zoning requirements, in terms of minimum lot size, would determine whether or not a flag lot could be created. Ms. Shook replied that was correct.

Mayor Futrelle invited public comment on this case.

Mr. Benjamin Loomis stated he worked for Sunvolt Electric and was the board chair of the Watauga Community Housing Trust. Mr. Loomis thanked the staff for preparing this amendment and the Town Council for considering it.

Council Member Plaag asked if there had been any public feedback expressing concern about flag lots. Ms. Shook replied that there had not. He stated that if this amendment passed it would be important as a town government to do some press about flag lots to let the public know that this was a way to help provide additional housing stock in the community.

With nothing further, Mayor Futrelle closed the public hearing for this case at 9:12 p.m.

Approval of Meeting Minutes

Council Member Carter made a motion to approve the January 22, 2024, Public Hearing minutes as written. The motion was seconded by Council Member Tugman.

Vote: Aye – 5
Nay – None

The motion passed.

Vice-Chair Veno made a motion to approve the January 22, 2024, Public Hearing minutes as written. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Adjournment of Town Council

Mayor Pro Tem George made a motion to adjourn the Town Council at 9:13 p.m. The motion was seconded by Council Member Tugman.

Vote: Aye – 5
Nay – None

The motion passed.

Tim Futrelle, Mayor

Brenda Henson, Board Secretary

Adrian Tait, Planning Commission Chair

PLANNING COMMISSION MEETING

There was a break in the meeting from 9:13 p.m. until 9:19 p.m.

Public Comment

There was no public comment.

Chair Tait suggested that the cases be reordered on the agenda as follows:

- Case A24-0085 The Villas at South Fork
- Case A23-0624 Skyline Communication Building
- Case A24-0072 Short-Term Rentals
- Case A24-0026 Bill Dixon
- Case A24-0073 RR Residential Rehabilitation
- Case A24-0095 Flag Lots

Commission members agreed to the amended agenda.

Case A24-0085 The Villas at South Fork – Conditional District Zoning Map Amendment

Wynnefield Forward, LLC has submitted a Conditional District Zoning Map Amendment application to rezone property on Chestnut Drive and New Market Boulevard (Watauga County PINs: 2910-39-9335-000, 2910-39-9610-000, 2910-49-2369-000) from R1 Single-Family Residential and B3 General Business to R5 55+ Housing with a site-specific plan for Use 1.17 Adult Living Community.

Commission Member Boyd stated he supported the development because it would effectively offer affordable housing for the elderly and was needed in town.

Vice-Chair Veno stated he was in favor of the project. He felt that the applicant had demonstrated compliance and a willingness to work with the community to address some of their concerns. Vice-Chair Veno stated that the proposed development would offer affordable housing in this area in a way that single-family homes could not. He noted that there were several large commercial properties at the entrance to the neighborhood. Vice-Chair Veno stated that the rent for the units seemed reasonable.

Commission Member Behrend stated she was in favor of the project. She added that she liked offering affordable housing units for people over 55. Commission Member Behrend noted that she would like bigger trees along Chestnut Drive to better buffer the neighbors. She also would like to have the garbage area moved and screened. Commission Member Behrend stated that this development could allow residents to stay in Boone instead of moving away when they became elderly.

Ms. Shook noted that Mr. Davis Ray with Wynnefield Forward, LLC, was in attendance virtually so that conditions could be agreed to by the applicant. She stated that she had spoken with Mr. Ray, and he had agreed to install a Type C buffer along Chestnut Drive and place the emergency entrance on a diagonal, which the Fire Department also agreed was an acceptable change.

Chair Tait stated he supported the proposal. He noted that steps had been taken to mitigate negative impacts, and he felt that the distance the building would be from Chestnut Drive would help more than people realized. Chair Tait suggested that the applicant leave as much of the existing vegetation along Chestnut Drive as possible, which could help with the buffer requirement.

Mr. Ray stated he was amenable to the suggested buffer requirements and would preserve as much existing vegetation as possible. He noted that he would add to the buffer on Chestnut Drive and change the emergency entrance's access to a 45-degree angle.

Chair Tait asked about the location of the solid waste enclosure. Mr. Ray replied that they would pull it away from the residences as much as possible, depending on the turning radius for the collection trucks.

Chair Tait asked if a condition could be made to set the maximum number of units at 60. Mr. Ray agreed to the condition and added that the number of units could decrease to 54 or 56.

Chair Tait suggested a condition requiring the use of Energy Star 2 throughout the project. Mr. Ray stated that everything from the unit to its components would be Energy Star-rated.

There was a discussion about relocating the solid waste enclosure. The applicant agreed to install additional landscaping to screen the enclosure and its elevation, so Commission members agreed that the enclosure would not have to be relocated.

Ms. Shook provided the following list of conditions that had been suggested:

- Install a Type C buffer along Chestnut Drive
- Install the emergency entrance on Chestnut Drive at a 45-degree angle
- Preserve as much existing vegetation as possible
- The maximum number of units shall not exceed 60
- Construction must meet Energy Star certification requirements

Mr. Ray agreed to all of the suggested conditions.

First Motion and Vote: Commission Member Boyd 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 2.3.1 Community Appearance

A. Measures to improve the effectiveness of grading, landscaping and buffering standards for new and existing developments shall be encouraged.

B. The significance of street trees in providing visual relief, summer cooling, improved air quality and livability shall be recognized through public policies and actions to encourage their planting and maintenance.

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

A. The protection and rehabilitation of viable neighborhoods shall be encouraged to ensure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.

E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.

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 Behrend, who wished to amend the motion to include the following conditions:

1. Where there is a conflict between the application information and the plans (dated received on March 15, 2024), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed development made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.
4. Install a Type C buffer along Chestnut Drive.
5. Install the emergency entrance on Chestnut Drive at a 45-degree angle.
6. Preserve as much existing vegetation as possible.
7. The maximum number of units shall not exceed 60.
8. Construction must meet Energy Star certification requirements.

Commission Member Boyd accepted the amendment.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Boyd made a motion that the Planning Commission recommends approval of Ordinance A24-0085 within Exhibit A with the listed conditions and believes approval is reasonable and in the public interest because it ensures an increase of affordable housing, particularly for the elderly and the included conditions minimize the impacts for the surrounding residents. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Case A23-0624 Skyline Communication Building – Conditional District Zoning Map Amendment

Skyline Telephone Membership Corporation has submitted a Conditional District Zoning Map Amendment petition to amend the existing 2007 Conditional District Zoning designation on property on West Hilltop Drive to construct a 144 square foot equipment shelter to add use 6.01, Utility Facility, Neighborhood to the existing Conditional District approval.

Vice-Chair Veno stated that this project was needed to support technology in the area. He added that where the building would be located would not disturb anyone. All Commission members agreed and supported the project.

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

Comprehensive Plan Policy 2.1.1 Economic Development

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 2.1.2 Commercial Development

F. Commercial uses may be encouraged to develop by consolidation and expansion of existing commercially zoned property, only when such consolidation and expansion does not encroach upon a viable residential area.

The motion was seconded by Commission Member Boyd.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Vice-Chair Veno made a motion that the Planning Commission recommends approval of Ordinance A23-0624 within Exhibit A and believes approval is reasonable and in the public interest because the facility would help expand the current internet connectivity, which is needed in certain areas of the Town and County. The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed. The following conditions shall apply:

1. Where there is a conflict between the application information and the plans (dated received on December 13, 2023), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed development made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.

Case A24-0072 Short-Term Rentals – UDO Text Amendment

Modify language in the UDO limiting the zoning districts where Use 3.06 Vacation Rental is allowed and to no longer allow accessory dwelling units to be used as Use 3.07 Homestay Rental.

Ms. Shook provided a summary of the discussion during the Public Hearing. She stated there seemed to be an agreement to accept the proposed changes to the vacation rental text, which would remove vacation rentals from the RA and R3 zoning districts. However, further discussion was needed regarding how to handle non-conformities. Ms. Shook stated that there seemed to be interest in allowing homestay rentals in accessory dwelling units that were separate from the main dwelling as well as in the main dwelling. She noted in the definition of a homestay rental that the period of less than one month should be changed to the period of 30 days, and the reference to guest rooms should be changed to bedrooms.

Commission Member Behrend agreed with removing vacation rentals from the RA and R3 zoning districts. She added that she was also okay with leaving the homestay regulations as they were and reevaluating them in a year.

Chair Tait agreed with Commission Member Behrend.

Vice-Chair Veno stated he was willing to revisit homestay rentals at a later date and that he wished the whole short-term rental thing had never happened.

Commission Member Boyd stated that revisiting the homestay rentals in a year was a good compromise.

Ms. Shook asked Commission members to address the issue of non-conformities and whether the 10 or so properties currently operating with a permit in the R3 should be grandfathered or sunset.

Commission Member Behrend suggested a sunset date, noting she did not like the idea that grandfathering would stay with the property perpetually.

Chair Tait noted the concern of legal action from owners who had invested a lot of money into their rental units. He stated that of the 10 units that were currently non-conforming, some might fall out of compliance or not renew their permit, so they would no longer be grandfathered. Chair Tait noted that the risk of legal action with grandfathering would be less.

Commission Member Behrend stated she was comfortable with that. Vice-Chair Veno agreed.

Chair Tait recapped the recommendations as follows:

- Do not accept the proposed changes to homestay rentals.
- Approve language to eliminate vacation rentals from the RA and R3 zoning districts, and allow legal non-conforming vacation rentals in the RA and R3 zoning districts to continue to operate so long as the annual short-term rental permit (1) has not been revoked in accordance with Subsection 15.10.18 and (2) the annual permit has been successfully renewed prior to the permits expiration.
- Ensure term guest room is correctly used.
- Change one month to 30 days.

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

Comprehensive Plan Policy 2.1.1 Economic Development

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

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.

Comprehensive Plan Policy 2.3.2 Community Character

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

The motion was seconded by Commission Member Behrend.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Chair Tait made a motion that the Planning Commission recommends approval of Ordinance A24-0072 within Exhibit A and believes approval is reasonable and in the public interest because it maintains an opportunity for existing owners who reside at the properties to continue renting their properties for short-term rentals and stems the opportunity for outside owners to take advantage of purchasing properties and removing them from the housing market in the area. The motion was seconded by Commission Member Behrend.

1. Do not accept the proposed changes to homestay rentals.
2. Approve language to eliminate vacation rentals from the RA and R3 zoning districts, and allow legal non-conforming vacation rentals in the RA and R3 zoning districts to continue to operate so long as the annual short-term rental permit (1) has not been revoked in accordance with Subsection 15.10.18 and (2) the annual permit has been successfully renewed prior to the permits expiration.
3. Ensure term guest room is correctly used.
4. Change one month to 30 days.

Vote: Aye – 4
Nay – None

The motion passed.

Case A24-0026 Bill Dixon – Conditional District Zoning Map Amendment

Bill Dixon and Cristal Cox Neaves have submitted a Conditional District Zoning Map Amendment petition to rezone property on 110-150 Austin Lane from R1A Single-Family Residential with Accessory Dwelling to R3 Multiple-Family Residential with a site-specific plan for Use 3.06 Vacation Rental in 2 of the 3 dwelling units.

Chair Tait asked if Mr. Dixon's request would still be needed if the Town Council approved the changes to the short-term rental text. Ms. Shook suggested that the Planning Commission make a recommendation regarding Mr. Dixon's request and apply conditions if approval was recommended. She noted that, based upon the Council's decision regarding the short-term rental changes, Mr. Dixon could withdraw his application if he wanted to.

First Motion and Vote: Commission Member Behrend 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 2.3.3 Housing & Neighborhoods

A. The protection and rehabilitation of viable neighborhoods shall be encouraged to ensure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.

Chair Tait wished to amend the motion to add:

Comprehensive Plan Policy 2.3.2 Community Character

C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged.

Vice-Chair Venno wished to amend the motion to add:

Comprehensive Plan Policy 2.3.2 Community Character

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

Commission Member Behrend accepted the amendments. The motion was seconded by Vice-Chair Venno.

Vote: Aye – 4
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Behrend made a motion that the Planning Commission recommends approval of Ordinance A24-0026 within Exhibit A and believes approval is reasonable and in the public interest because this whole unit is compliant with the neighborhood and it is a very historic part of that neighborhood. The motion was seconded by Vice-Chair Venno.

Vote: Aye – 4
Nay – None

The motion passed. The following conditions shall apply:

1. Where there is a conflict between the application information and the plans (dated received on January 10, 2024), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed development made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. The applicant shall submit the necessary applications, plans, details and specifications which meet the requirements of the Town Code, UDO, Building Code and any other applicable codes for review and approval necessary to issue Zoning and Building Permits.

Due to the hour, a special Planning Commission meeting was scheduled for Friday, April 5, 2024, at 10:00 a.m. via WebEx to make recommendations on Case A24-0073 RR Residential Rehabilitation, Case A24-0095 Flag Lots, and consider the January 22, 2024 Planning Commission meeting minutes.

Commission Member Behrend stated she could not attend the April 22, 2024, Public Hearing/Planning Commission meeting.

Other Matters

Ms. Shook stated that the second round of community engagement for the Comprehensive Plan update had been scheduled as a three-day event from Monday, April 29, 2024, through Wednesday, May 1, 2024. She noted that the first two days would be dedicated to the four small area plans and would conclude on May 1 with a summary meeting beginning at 6:00 p.m. at Hardin Park School. Ms. Shook encouraged Planning Commission members to attend.

Adjournment of Planning Commission

Vice-Chair Veno made a motion to adjourn the meeting at 11:07 p.m. Commission Member Behrend seconded the motion.

Vote: Aye – 4
Nay – None

The motion passed.

Adrian Tait, Planning Commission Chair

Brenda Henson, Board Secretary