

**PLANNING COMMISSION MEETING MINUTES
MONDAY, FEBRUARY 1, 2021, 6:00 P.M.
VIA WEBEX SOFTWARE**

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

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

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: Rick Miller-Public Services Director and Matt McGregor-Planning Intern

OTHER ATTENDEES/PARTICIPANTS VIA WEBEX: Tyler Moffatt, Joel Olsen, Michael Trew, Ole Christian Olsen, Bill Aceto, Adam Mancini, Todd Rice, and Mary Adams

Call to Order

Chair Shay called the Planning Commission to order at 6:03 p.m.

Public Comment

Vice Chair Plaag questioned the Public Comment section on the agenda. Ms. Shook explained that the Town Code required an opportunity for public comment to be placed on the Planning Commission's agenda but was not intended to be for additional public comment from cases heard at the Public Hearing.

Approval of Meeting Minutes

Vice Chair Plaag made a motion to approve the October 26, 2020 Planning Commission training session minutes. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Commission Member Behrend to approve the November 23, 2020 Planning Commission meeting minutes. The motion was seconded by Commission Member Tippet.

Vote: Aye – All
Nay – None

The motion passed.

Case PL04401-120920 – Lovill House Inn – Conditional District Zoning Map Amendment

Olee and Tonje Olsen have requested a Conditional District Zoning Map Amendment to rezone the Lovill House Inn (Watauga County PIN: 2901-40-7729-000) from Conditional Use R3 Multiple-Family Residential to Conditional District B3 General Business with a site-specific development plan for Use 3.05 Bed & Breakfast Category 2; Use 2.07 Boarding House; and Use 12.06 Event Venue Category 2.

Vice Chair Plaag noted that Conditional District's required specific plans and he felt the applicant did not fully know what certain pieces of the project would look like. He stated he was sympathetic but emphasized that the Planning Commission had a duty to follow the guidelines when considering requests.

Vice Chair Plaag suggested they review each of the conditions that were suggested at the public hearing and give the applicant an opportunity to accept or reject the conditions. Chair Shay read the following conditions and items for consideration:

1. The applicant will petition for annexation, the portion of the 3-acre parcel that is located within Watauga County's jurisdiction.
2. The applicant will utilize the existing structures on the site with the exception that the barn may be renovated/reconstructed with a maximum building footprint of 1,800 square feet and second story of 1,200 square feet.
3. The development is limited to 13 rooms. Of the 11 rooms for rent, the boarding house use would be limited to 9 at any given time. These rooms are to be located in the existing structures on the lot. The room and kitchen allocations for the development are as follows:
 - a. Lovill House Inn – 6 rooms and 1 kitchen
 - b. Spring House – 1 room and no kitchen
 - c. Barn – 4 rooms and no kitchen
 - d. Owner's Cottage – 2 rooms and 1 kitchen
4. Events will be limited to 50 attendees. Additional discussion is needed on possible limitation of event length and how many cars can park on-site.
5. A room rented for up to 2 weeks (14 days) will be classified as a bed and breakfast use and a room rented for longer than that (15 days+) will be classified as a boarding house use.

Joel Olsen stated he agreed to condition #1, to annex the portion of the 3-acre parcel that was currently located in Watauga County's jurisdiction. He noted that, after further review and discussion with the current property owners, the owner's cottage would only allow for the 1 existing bedroom and a loft that is too small to be considered a bedroom, not the 2 rooms as previously indicated so that would reduce the total number of rooms from 13 to 12. Mr. Olsen stated that on-site parking for the 12 rooms would require 15 spaces which is what is being provided. He stated, he would like to be allowed to have a caterer's kitchen in the barn to use for events as well as a ½ bath. Mr. Olsen also indicated he would like to have the number of event attendees be increased from 50 as he had suggested off the cuff at the public hearing to 75. He stated that, based on studies, the average wedding had 167 guests. Mr. Olsen stated they were able to design 6 additional parking spaces for event parking around the existing cul-de-sac. Event attendees would take public transit or utilize satellite parking. Mr. Olsen agreed to condition #5 regarding lengths of stays for bed & breakfast and boarding house guests.

Mr. Olsen noted that the hydroelectric system planned for the property would be located in Watauga County's jurisdiction and have a conduit running along the top of the waterfall with a turbine at the bottom and batteries in the spring house.

Chair Shay asked if event attendees would be required to ride the AppalCART. Mr. Olsen replied that off-site parking and public transportation would be encouraged.

Vice Chair Plaag asked how the required number of parking spaces would be calculated for event parking. Ms. Turner replied that maximum parking requirements is 5 spaces per 1,000 square feet of gross floor area or outdoor area used for the principal use. Vice Chair Plaag asked if there was a minimum parking requirement. Ms. Turner stated there was not a minimum parking requirement. Ms. Shook added that UDO Section 24.01.01 required all developments to provide a sufficient number of parking spaces to accommodate the needs of their development. Vice Chair Plaag asked how the 1,000 square feet was measured. Mr. Turner stated it was the area of the inside and outside space used for the event. She added that developments with satellite parking had to file an agreement with the Town every January 15. Vice Chair Plaag asked who decided what was sufficient parking. Ms. Turner replied that an engineer could provide an analysis of sufficient parking based upon the proposed use if the applicant requests to provide more than the maximum parking allowed.

Vice Chair Plaag noted that the current owners of the property indicated they never had more than 25 guests at their events and neighbors indicated they had not experienced any issues with events at the

Lovill House in the past. He stated that allowing 50 attendees was double and if two people rode in each car there would be 25 cars that had to find a place to park. Vice Chair Plaag estimated an attendance of 75 would create approximately 40 cars and this could adversely impact the neighborhood and cause cars to park along the street.

Commission Member Veno agreed with Vice Chair Plaag. He stated he was a retired chef and had been to many catered events. Commission Member Veno stated that 75 attendees along with caterers and other workers at an event would create quite a bit of traffic.

Commission Member Zebzda stated he would rather limit attendees to 50 than to 75 due to the threat of noise pollution to the neighborhood.

Vice Chair Plaag asked if the catering kitchen and ½ bath would be used to serve events. Mr. Olsen replied that was correct. Vice Chair Plaag asked Mr. Olsen if he would accept a condition that the catering kitchen be used only for catering events and not for use by the guests staying in the barn. He expressed concern that boarders would use the kitchen and the use of the property would no longer be a bed & breakfast or boarding house but more of a hotel or multi-family use. Mr. Olsen stated that the kitchen in the barn would be used for catering but would like for guests to be able to store food items in the kitchen if needed. He stated he was not trying to do a bait and switch and he was not trying to turn the building into a dorm. Mr. Olsen stated he would like to have a nice venue, not a frat house. He also noted he would like to have farm to table dinners on-site.

Vice Chair Plaag stated he had no objection to the half bath in the barn and no objection to the catering kitchen. However, he suggested that boarders and bed & breakfast guests not have access to the kitchen in the barn.

Ms. Shook asked if boarders could store items in the common kitchen in the house. She also asked if sharing the kitchen in the barn with boarders would pose a health violation.

Mr. Olsen stated he was okay with a restriction that there be no cooking in the catering kitchen by the boarders.

Commission Member Veno asked if Blue Ridge Property Management was the managing agent and would they be responsible for event planning. Mr. Olsen replied that most events had their own planner and Blue Ridge Property Management would not be responsible for event planning. Ms. Turner noted that someone had to live on-site in order to be a managing agent and referred to UDO Section 15.20.02(B) that read *The Bed and Breakfast, Category 2 shall be occupied by the owner or managing agent during the time the Bed and Breakfast is open for business.* Ms. Shook added that the owner would have to demonstrate compliance with the requirement for owner or managing agent occupancy. Mr. Olsen stated that in the short-term his son would be living on-site and in the long-term they would have a managing agent meeting the UDO requirements.

Commission Member Tippet asked if the Lovill House had an official historic designation. Mr. Olsen explained that modifications made to the house in 1992/1993 made it difficult for the house to qualify for a historic designation. He noted that the house was built in 1875 so it was old, but not designated as historic. Vice Chair Plaag stated that the Lovill House would not qualify for the National Registry. He added that the Town had Local Historic Landmark designations, but because the entirety of the property was not located inside Town limits and the porch and windows had been modified, they would be excluded from a qualifying designation. Vice Chair Plaag felt Mr. Olsen's intent was to maintain the property although it would not be eligible for designation without extensive renovation and expenditures.

Chair Shay stated she liked the project and felt it would be an asset to Boone. However, she felt that parking issues still needed to be resolved.

Commission Member Veno stated he was a bit confused by the condition to annex. Ms. Shook explained that the application was erroneous in that all three parcels owned by the Peecooks were listed in the request when, in actuality, only the 3-acre parcel containing the Lovill House Inn was being considered. Commission Member Veno stated it appeared the house was bisected by the jurisdictional line. Ms. Shook replied that was correct and explained that, according to General Statute 160D, if the property was left as it was and not annexed, permits would have to be obtained from both jurisdictions for any work done to the structure.

It was suggested that each condition be addressed again to see where the applicant stood.

- Applicant agreed to condition #1.
- Applicant agreed to condition #2.
- Applicant agreed to condition #3 with a change from 13 rooms to 12 rooms, the addition of a kitchen and half bath in barn, and reduce rooms from 2 to 1 in the owner's cottage.

Mr. Olsen noted that the barn would contain 4 rooms on the 2nd floor and the 1st floor would contain a kitchen, half bath, and an indoor sitting space in case events experienced inclement weather. Vice Chair Plaag stated this would be adding indoor event space and asked if that needed to be included in event venue calculations. Ms. Turner explained that the area would have to be specified on the plan so that appropriate parking calculations would be made.

Commission Member Veno stated that at the Public Hearing, Mr. Olsen indicated he would not be doing the barn construction right away and asked if the barn would have to be constructed within the 2 year vesting period. Ms. Shook explained that the 2 year vesting period gave the applicant up to two years to apply for building permits.

Vice Chair Plaag stated there was still the issue of the kitchen in the barn being restricted to catering use only. Commission Member Behrend felt it should be limited to a catering kitchen.

Ms. Shook reminded Commission members that any condition of approval had to be accepted by the applicant. She stated that Planning Commission could forward conditions to Town Council that had not been accepted by the applicant with the knowledge that the condition was unaccepted.

- Applicant agreed to condition #5.
- Condition #4 applicant would like to have 75 event attendees.

Commission Member Zebzda stated he favored limiting events to 50 attendees, noting COVID distancing requirements might be difficult to meet. He asked about limiting event lengths. Vice Chair Plaag replied that Event Venue, Category 2 provided a time length of 6 a.m. until 10 p.m. Discussion ensued on events that spanned multiple days. Commission Member Zebzda asked if they could limit weekly events to one day only and weekend events could be multiple days. He felt that might be less disruptive for the neighborhood.

Chair Shay stated she did not necessarily want to limit the number of days for an event. Commission Member Veno agreed, noting that some sustainability events could last for several days during the week. Vice Chair Plaag stated he was not sure a limit would be helpful. Commission Member Zebzda stated he was just concerned with the noise for the community.

Vice Chair Plaag suggested allowing Mr. Olsen an opportunity to confer with his legal counsel regarding the suggested conditions. Mr. Olsen replied that he had texted with his team and would be okay with the catering kitchen condition.

Commission Member Veno expressed some concern that the farm to table dinners Mr. Olsen had mentioned sounded a bit like a restaurant use to him.

Vice Chair Plaag stated that the goal was to ensure that the use of the kitchen did not cause a violation of use. He stated that the barn kitchen should be used as a catering kitchen only and not for guest use or as a secondary kitchen. Mr. Olsen replied that he was okay with a condition that the barn kitchen be used only for events and not by guests.

Commission Member Behrend suggested calling the kitchen an event kitchen.

Commission Member Veno stated he did not see a need to call the kitchen an event kitchen or a catering kitchen. He added that he had been in several kitchens at events that just had residential kitchen equipment because they were really just used for staging, heating, and presentation of food. Ms. Shook noted that, regardless of how the kitchen was configured or what it was called, it still needed to be specified for event use only.

Mr. Olsen noted the average wedding size was 167 and he felt that, even with COVID, he could meet distancing requirements based on the size of their event spaces.

Commission Member Veno stated he thought limiting events to 50 attendees was not enough for an average size wedding and he would even be in favor of a higher number of up to 100 attendees.

Commission Member Zebzda asked how Planning Commission members would feel about splitting the difference and allowing 65 attendees. Commission Members Behrend, Veno, Tippet, and Chair Shay indicated they were okay with 75 attendees. Vice Chair Plaag stated he was uncomfortable with taking an informal poll of Commission members.

First Motion and Vote: Commission Member Zebzda made a motion that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it complies with:

Comprehensive Plan Policy 2.1.1 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.
- D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas.
- F. New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.

Comprehensive Plan Policy 2.3.1 Community Appearance

- D. Sign policies and standards shall be periodically updated to enhance community identity and create a high quality business image.

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.
- 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.
- E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and

supportive, whenever possible, of Boone's original community character as a High Country small town.

Commission Member Zebzda cited the following conditions of approval:

1. The applicant will petition for annexation, the portion of the 3-acre parcel that is located within Watauga County's jurisdiction.
2. The applicant will utilize the existing structures on the site with the exception that the barn may be renovated/reconstructed with a maximum building footprint of 1,800 square feet and second story of 1,200 square feet.
3. The development is limited to 12 rooms. Of the 11 rooms for rent, the boarding house use would be limited to 9 rooms at any given time. These rooms are to be located in the existing structures on the lot. The room and kitchen allocations for the development are as follows:
 - a. Lovill House Inn – 6 rooms and 1 kitchen
 - b. Spring House – 1 room and no kitchen
 - c. Barn – 4 rooms and 1 catering kitchen and a half bath
 - d. Owner's Cottage – 1 room and 1 kitchen
4. Events will be limited to 75 attendees.
5. A room rented for up to 2 weeks (14 days) will be classified as a bed and breakfast use and a room rented for longer than that (15 days+) will be classified as a boarding house use.

Vice Chair Plaag wished to amend Condition #3 (c) to not limit the barn to only one half bath because events of 75 people would likely need more than one bathroom. Commission Member Zebzda accepted the amendment.

The motion was seconded by Commission Member Behrend.

Ms. Shook pointed out the three conditions suggested by staff in the Staff Report. Commission Member Zebzda stated he wished to add those conditions to his motion as follows:

6. Where there is a conflict between the application information and the plans (dated December 9, 2020) the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
7. Any commitments and representations concerning the proposed project 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.
8. 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 plans for review and approval necessary to issue Zoning and Building Permits.

Mr. Olsen indicated he accepted the conditions.

Commission Member Behrend accepted the additional conditions.

Vice Chair Plaag questioned the reference to Comprehensive Plan Policy 2.1.1.D. regarding signage. Commission Member Zebzda stated he thought he recalled something mentioned during the Public Hearing about signage for traffic in the neighborhoods for events. Vice Chair Plaag stated, if that was the case, he was okay with leaving reference to 2.1.1.D in the motion.

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

Second Motion and Vote: Commission Member Zebzda made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's Zoning map and believes approval is reasonable and in the public interest because it would preserve a culturally important landmark in the Town of Boone while expanding its operations to serve the greater community. The motion was seconded by Commission Member Behrend.

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

Other Matters

Ms. Shook noted that the next Planning Commission meeting was scheduled for February 22 and, depending on how things went at the February 12 Planning Retreat with Town Council, there could be some updates that will need to be provided to Planning Commission at the February 22 meeting.

Commission Member Venio asked Vice Chair Plaag why he had been concerned about Planning Commission members taking an informal poll. Vice Chair Plaag replied that polling members to see where they stood on a project prior to a motion being made seemed like bad form and could encourage applicants to try polling members.

Commission Member Venio stated he was confused the Planning Commission was interacting with the applicant at tonight's meeting and asked why this was different from their normal procedure. Ms. Shook noted that at the end of the Public Hearing the Planning Commission was encouraged to work through the suggested concerns and possible conditions of approval. She noted that the applicant had indicated at the public hearing there was some urgency to get a decision on the request. She stated she would not like for this to be a normal practice and she would rather see the Public Hearing be continued to ensure that the conversations related to possible conditions be with both boards than to have the Planning Commission engage in continued interaction with an applicant during their meeting. Commission Member Venio stated he did not like the pressure this type of situation put on the Planning Commission.

Vice Chair Plaag stated he did not particularly like the allowance of 75 attendees to events but because Mr. Olsen was planning to maintain the historic nature of the house he decided he could live with that number.

Ms. Shook felt that UDO Article 9 regarding meeting procedure and conduct would be a good area for training and suggested that Planning Commission members read over that section to familiarize themselves with the content.

Adjournment

Vice Chair Plaag made a motion to adjourn the meeting at 8:37 p.m. The motion was seconded by Commission Member Tippet.

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

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary