

**SPECIAL PLANNING COMMISSION MEETING MINUTES
MONDAY, NOVEMBER 1, 2021, 6:00 PM
VIA WEBEX SOFTWARE**

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chair, Eric Plaag-Vice-Chair, Chris Behrend, Amanda Halbert, John Tippet, Frank Veno, and Smith Warren

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

OTHERS PRESENT: Carolyn Danielle, Casey Mahler, and Donny McCaulley

Call to Order

Chair Shay called the special Planning Commission meeting, continued from the October 25, 2021 Public Hearing/Planning Commission meeting and held via WebEx, to order at 6:02 p.m.

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

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

Vice-Chair Plaag asked Ms. Shook to review the changes that were made to the proposed language after the public hearing.

Ms. Shook reviewed the revised ordinance in the board packet and noted the revised language included a requirement for homestay rental operators to be at least 21 years old, language clarifying the responsibility of paying occupancy taxes was added as was the dates for compliance of homestays.

Ms. Shook stated that an item for consideration was added under vacation rentals that would allow a full-time resident to rent his or her dwelling unit for up to two weeks in any calendar year. Another item for consideration was that if the vacation rental permit could not be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit. Ms. Shook stated that the vacation rental operator must be at least 21 years old. Also changed in the proposed language was the allowance of no more than 25% of dwelling units in a building that contains multiple dwelling units to be used as vacation rentals which was reduced to 5%. Clarifying language was added regarding payment of occupancy taxes. Ms. Shook noted that clarifying language was added regarding complaints made by renters or neighbors and an item for consideration that a contact phone number for the rental operator be posted on the subject property. Also, a section was added regarding the compliance period for existing nonconformities.

Commission Member Veno asked what the difference was between homestay rentals and vacation rentals. Ms. Shook replied that a vacation rental was the rental of the whole home, and homestay rental was renting one or two rooms in a home that would still be occupied by the rental operator.

Commission Member Veno mentioned two bills before the State legislature that could conceivably prevent towns from banning or even having any regulations on short-term rentals. Ms. Shook replied that the State legislature frequently entertained bills but advised against the Town not taking action because of pending legislation that may or may not receive final approval. Commission Member Veno expressed concern about affordable housing and neighborhoods and stated he was especially concerned about vacation rentals. He asked about the process of paying taxes with short-term rentals. Ms. Shook explained that some rental platforms remitted a lump sum payment to the jurisdiction. She noted that the payment did not come with any data indicating which rental location paid, nor how much each

location paid. She stated it would be the property owner's responsibility to verify that taxes were submitted on their behalf from the rental platform.

Chair Shay asked Commission Member Veno what his concerns were with vacation rentals. Commission Member Veno replied that he was concerned with someone buying a house in a neighborhood just to use as a vacation rental and that home would be rented without any monitoring from the owner.

Ms. Shook noted that the vacation rentals use was an existing use and the proposed changes provided further restrictions that what currently existed.

Chair Shay asked about nuisance problems. Ms. Shook replied that if a renter received a citation/violation, that information could be downloaded and mapped so that the activity could be seen when processing applications or renewals.

Commission Member Tippet referred to Subsection 15.14.05 and asked why only single-family and two-family detached dwellings existing as of January 1, 2014 could be converted to a vacation rental. Ms. Shook explained that January 1, 2014 was when the UDO changed, and single-family homes were no longer allowed to be constructed in the R3, B1, B2, and B3 zoning districts.

Vice-Chair Plaag stated he had misgivings that the Town allowed vacation rentals already, even though it was restricted to certain zones. He also had misgivings about the idea of extending the homestay rentals as an option into purely residential districts like the R1 and R2. Vice-Chair Plaag stated he was concerned that most people who work in Boone could not afford to live in Boone. He felt that was driven by the conversion of apartments and even some single-family homes to student rentals. Vice-Chair Plaag stated that people who operated homestay or vacation rentals could make four times as much from that short-term rental as they could from simply renting out the property to an individual year-round. He felt the net effect would drive people out of Boone and put more pressure on the local housing market, making it harder for people who want to live here long term. Vice-Chair Plaag stated that the Town had done a terrible job as a community of encouraging the development of housing stock that was attractive to the workforce and people who live and work in Town.

Vice-Chair Plaag mentioned a nine-home subdivision consisting of small cottage homes that he proposed building a couple of years ago. He felt it would have been attractive to people looking for workforce housing. He noted that installing a sewer line was cost-prohibitive, so he asked Town Council if they could cost-share because this project would provide a housing stock that the Town desperately needed. Vice-Chair Plaag stated that Town Council never even responded. He ended up subdividing the property and selling the lots so that there would now be three larger homes instead of nine smaller homes. Vice-Chair Plaag stated he would like to see Planning Commission and Town Council devote their time and resources to thinking about the issue of workforce and senior housing in the community. Vice-Chair Plaag felt the choice that was made now on this issue would have a cascading effect on the larger issue over time.

Commission Member Behrend stated she had mixed feelings about allowing vacation rentals. She asked if this text amendment was in response to a specific complaint. Ms. Shook explained that short-term rentals had been an ongoing topic for several years. She noted that tourist homes were already permitted in the Ordinance, which then changed to vacation rentals and stated that the proposed amendment would add restrictions to the existing use of vacation rentals.

Chair Shay asked if the Town knew how many property owners of short-term rentals were single property owners versus multiple property owners. Ms. Shook replied that the Town did not have that information.

Chair Shay stated she had a lot of the same discomforts that others had expressed, noting she was leery of residences being bought up and turned into rentals. At the same time, she stated she realized that it was an important source

of income for people who owned their homes and wanted or needed to make some money from renting. Commission Member Veno stated he had done some research and found that small areas like Boone that allowed vacation rentals had seen a 1% increase in rentals, a 0.18% increase in rent, and a 0.26% increase in homeownership.

Vice-Chair Plaag offered the following suggestions of items to add to the proposed regulations:

1. Require rental operators to carry liability insurance of either \$500,000 or \$1,000,000 for vacation rentals and homestay rentals.
2. Homestay and vacation rental permits will not be transferrable with the sale of the property.
3. Rental operators of homestay and vacation rentals must maintain records of their rentals throughout the year. Those records will be subject to audit at any time.
4. A property owner can only own one vacation or homestay rental in a district.
5. Any expanded parking for homestays and vacation rentals may only be to the side or rear of the property to limit conversion of front yards into parking lots.
6. Limit the number of days that a homestay rental can be in service in a permit year to 90 days.
7. Require homestay and vacation rentals to undergo an inspection prior to receiving a permit or renewal.

Ms. Shook referred to the suggestion Vice-Chair Plaag made regarding the requirement of inspections. She felt that implementing and maintaining an inspection program would require an increase in staff and could be a liability to the Town. Ms. Shook added that, if implemented, an appropriate fee would need to be charged for the permit.

Vice-Chair Plaag asked if a portion of the hospitality taxes could help fund an additional inspector. Ms. Shook replied that, based upon her understanding, those taxes were to cover tourism-type activities. She stated that the taxes might fund something else that the Town spent money on that would, in turn, free up money to help fund that position. Ms. Shook noted that she and Stacey Miller, Deputy Director of Planning & Inspections, had discussed the possible need for a housing specialist position. That position would handle a wide variety of housing-related issues, such as minimum housing, neighborhood conservation districts, and occupancy, and short-term rentals.

Commission Member Warren stated he was not able to attend last week's public hearing, but he had read the materials. He noted that he shared a lot of the same concerns as others.

Vice-Chair Plaag felt this was a difficult dilemma. He stated that the proposed amendment was designed to strengthen regulations for something that already existed, and he was reluctant to miss an opportunity to strengthen an existing regulation. Vice-Chair Plaag stated he would be supportive of something that made the vacation rental use a more responsible use in the community.

Commission Member Veno agreed with Vice-Chair Plaag regarding strengthening the regulations. He also agreed with Vice-Chair Plaag's suggested additions to the proposed regulations. Commission Member Veno stated he was all for people making money but felt a balance would still protect livability in the Town.

Vice-Chair Plaag stated he did not love that the Town allowed vacation rentals at all because it was putting pressure on the housing stock. However, he felt that recommending this amendment with the changes he proposed would help make vacation rentals be done more responsibly.

Chair Shay stated she agreed in spirit but had concerns that, if approved, no more action would be taken to try to protect the threat to housing in Town.

Commission Member Veno asked if it was correct that someone had been hired to work in Planning & Inspections that would be in charge of special projects. Ms. Shook replied that Jessica Mitchell had been

hired as a long-range and special projects planner. She noted that Ms. Mitchell would not be in charge of permitting or enforcement. Ms. Shook stated that the building inspectors were the code enforcement officers and senior planners provided backup on zoning related issues. She stated that only so many responsibilities could be added to the existing staff before the work and the people doing the work would start to suffer.

Ms. Shook asked Commission members if they agreed to the suggestion that a full-time resident of a dwelling unit could rent out their dwelling unit for up to two weeks in any calendar year and that rental would be deemed an incidental use not requiring approval or permit. Chair Shay replied that she was comfortable with the once-a-year, two-week rental. Commission Member Veno agreed that two weeks was a reasonable limitation.

Ms. Shook referred to Subsection 15.14.01 regarding posting the permit number and asked Commission members for their feedback. Vice-Chair Plaag suggested having both a minimum and a maximum sign size so that someone did not try to post an index card in the window or erect a gigantic sign. He also suggested that operators of vacation rentals should not be allowed to post their property as no trespassing. Vice-Chair Plaag felt this would allow neighbors the ability to walk onto the property to view the sign without fear of prosecution. Ms. Shook replied that she had concerns about including language regarding no trespassing signs and would need to check with the Town Attorney.

Ms. Shook referred to Subsection 15.14.13 regarding an alternative to a registry on the Town's website. Ms. Shook noted that the Town was not allowed to create certain types of registries. She felt that requiring signage that listed the permit number and a contact phone number for complaints would be the better solution. Vice-Chair Plaag stated that the sign ordinance might have to be updated to clarify that vacation rental signs were allowed.

Ms. Shook then referred to Vice-Chair Plaag's list of seven items he wished to include in the proposed text. She noted that two parking spaces were required for a dwelling unit. Ms. Shook felt it should be made clear that the parking for the homestay would be in addition to the minimum required parking and if existing parking on the lot was insufficient any expanded parking would only be allowed to the side or rear of the dwelling to limit the conversion of front yards into parking lots.

Vice-Chair Plaag referred to the suggestion of allowing only one vacation rental per district. He stated that this concept could create some legal non-conformities due to the vacation rentals that were currently in existence. Vice-Chair Plaag suggested that a person could operate and register only one vacation rental within 1500' of any other vacation rental operated by that individual. He felt this would prevent someone from using an entire block for the business of vacation rentals. Chair Shay stated that while that might prevent the same person from using a block of properties as vacation rentals, it would not stop other owners in that same block from operating vacation rentals, so there could still be clusters. Vice-Chair Plaag felt that was a valid point and suggested instead that vacation rentals not be allowed within 1500' of each other. Ms. Shook stated she would have to consult the Town attorney regarding that suggested regulation and its implementation.

Vice-Chair Plaag stated that he had used Airbnb many times but had stopped using it after he had some horrible experiences with unsatisfactory accommodations. He felt that having a local inspection requirement would limit the possibility of substandard housing issues.

Discussion ensued on inspections. Stacey Miller stated that he and the Town attorney would be working to change the minimum housing code soon. He noted that the minimum housing code applied to single-family homes. Mr. Miller stated that if the inspection requirement for short-term rentals was adopted, some type of minimum housing inspection should be implemented for those rentals.

Ms. Shook stated that the topic of minimum housing would be on the next public hearing agenda. She explained that 160-D required any changes to the minimum housing code even though it was in the Town Code and not the UDO to be approved through the same process as a UDO text amendment.

First Motion and Vote

Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning ordinance regarding vacation rentals only, with the inclusion of the seven items previously discussed and amended, is consistent with the Town's comprehensive plans 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.

Comprehensive Plan Policy 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.

C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.

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 Warren.

Ms. Shook asked about the items that were noted for consideration.

Vice-Chair Plaag then wished to restate his motion.

Revised First Motion and Vote

Vice-Chair Plaag made a motion that the proposed amendment to the Town's zoning ordinance, as amended for this evening's meeting with respect to vacation rentals only and inclusive of the following items:

1. Accept change in Section 15.14 "Notwithstanding the foregoing, the full-time resident of a dwelling unit (as defined at section 15.05.02 above) may rent out his or her dwelling unit for up to two weeks in any calendar year and such rental shall not be deemed a vacation rental under this section 15.14 but rather shall be considered an incidental use of the dwelling that does not require approval or permitting under this Article."
2. Accept change in Subsection 15.14.01 "provided, that if the permit number cannot be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit"

Recommendation includes to set a minimum/maximum size for sign with permit number and consider not allowing operators to post their properties "no trespass" so that neighbors can access information; may want to see if language in 15.14.13 can be merged into one section for signage.

3. Accept change in Subsection 15.14.13 “A telephone number for such complaints or emergencies shall be posted on the subject property in a location easily viewable from the exterior of the structure; provided, that if the telephone number cannot be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit.”

See comment about merging this subsection with subsection on signage for permit number. Consider if Article 26 has to be modified to allow such signs.

4. Add language to require operator to carry liability insurance (\$500,00 or \$1,000,000).
5. Add language to state vacation rental permits are not transferable; each new full-time resident must apply on their own merits.
6. Add language to require rental operators to maintain records of guests and those records shall be available for audit by the Town.

Note: perhaps locate requirement in Subsection 15.14.12 regarding taxes.

7. Add language that requires a separation distance of 1,500 feet from any other vacation rental.

Note: will have to discuss policy for administration of permits.

8. Add language to clarify parking requirements so that it is clear the vacation rental parking should utilize existing parking and any expanded parking may only be to the side or rear to limit the conversions of front yards into parking lots.
9. Add language to require the vacation rental to undergo an inspection for issuance and annual renewal.

is consistent with the Town’s comprehensive plans 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.

Comprehensive Plan Policy 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.

C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.

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 Warren.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote

Vice-Chair Plaag made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because the proposed amendment will not only strengthen the vacation rental ordinance for an industry that is already active in Town, but it will also do more than the present ordinance does to ensure the viability of residential housing stock located in the district where vacation rentals are currently permitted. The motion was seconded by Commission Member Veno.

Vote: Aye – All
Nay – None

The motion passed.

Chair Shay noted that Planning Commission would now need to address homestay rentals.

Vice-Chair Plaag asked Ms. Shook if it was correct that the homestay rental section was new and there was currently no homestay ordinance in place. Ms. Shook stated that was correct.

Chair Shay asked, in the absence of this proposed ordinance, if people would just rent out rooms anyway. Ms. Shook replied that the evidence shown during the public meeting demonstrated that this was something that was already happening within Town limits.

Vice-Chair Plaag referred to Subsection 15.05.07 regarding cooking facilities. He asked how a homestay rental would be any different from a bed & breakfast. Ms. Shook stated that there was a bed & breakfast category 1 and a category 2. Category 1 allowed up to three bedrooms for guest lodging, and category 2 allowed more than three bedrooms. Ms. Shook stated that there could be some overlap between a homestay rental and a bed & breakfast category 1. Still, she thought the idea of a homestay was a lesser degree than bed & breakfast category 1.

Vice-Chair Plaag stated there were already people living in R1 neighborhoods who were feeling pressured by illegal non-conformities. He felt the Town did not have an adequate number of staff to enforce the illegal non-conformities currently taking place. Vice-Chair Plaag noted that creating another exception to the rule for how R1 neighborhoods were supposed to function by allowing homestay rentals would only add to the difficulty of enforcement. He added that allowing homestay rentals would bring some money in through taxes.

Ms. Shook felt there could be merit to the homestay rental use based upon where it was allowed and the standards that were applied. Ms. Shook referred to Appendix B Comparative Tables. She noted that the new homestay rental use was proposed in all zoning districts except the education districts.

Commission Member Veno stated that the burden of enforcement had typically been on the neighborhoods and felt it still would be. However, he thought it was good for the neighborhood to help the Town and be a responsible and concerned neighbor.

Ms. Shook stated it was important to recognize the inherent challenges of enforcing occupancy. She explained that tenants were skilled with their responses regarding the people living in a dwelling unit. Counting cars in the driveway was not a true indicator of too many people living in a dwelling. Ms. Shook noted that all complaints received were investigated but were often difficult to substantiate. She stated

that the proposed homestay rentals would require a permit and hopefully be more easily regulated and enforced.

Chair Shay stated she was really torn regarding homestay rentals. She wondered if there was a way to make it more difficult to operate a homestay rental during the academic year and then allow them more easily during the summer. Chair Shay felt like there needed to be some type of creative solution other than saying there was a problem, trying to regulate it, and then just seeing how it went.

Commission Member Tippetts stated he had spoken with neighbors who indicated they did not want homestay rentals in the R1 neighborhoods. He asked if it would be possible for zoning district residents to petition the Town instead of Neighborhood Conservation District residents. Ms. Shook felt it could be problematic to identify the boundaries within a zoning district that would be allowed to participate in the petition. She stated it would be easier to identify the people who lived in a Neighborhood Conservation District than those who lived in an R1 district. Ms. Shook noted that other neighborhoods in Town were not zoned R1 but still contained low-density housing.

Vice-Chair Plaag noted that the Town was already regulating the bed & breakfast category 1, which was very similar to a homestay rental. He suggested a hybrid of the bed & breakfast category 1 and the vacation rental requirements. Vice-Chair Plaag stated that a homestay rental could be permitted in an R1 and R1A with a special use permit, in the R2 and R4 with a 50' transitional zone, and in the B2 and B3 with a 75' transitional zone. He felt that allowing homestay rentals to only be permitted in the same zoning districts as bed & breakfast category 1 would create a more restricted use.

Ms. Shook verified the following:

- Allow in the RA subject to a 75' transitional zone
- Allow in the R1 and R1A with a special use permit
- Do not allow in the RR or R1S
- Allow in the R2 subject to a 50' transitional zone
- Allow in the R4 subject to a 50' transitional zone
- Do not allow in the MH
- Allow in the R3 subject to a 75' transitional zone
- Do not allow in the RS or OI
- Allow in the B1 Core and B1 Downtown Interface subject to a 75' transitional zone
- Allow in the B2 subject to a 75' transitional zone
- Allow in the B3 subject to a 75' transitional zone
- Do not allow in the WD or M1
- Do not allow in the Education districts

Vice-Chair Plaag stated he was trying to accomplish the goal of monitoring and imposing some requirements on the existing homestay rental operations in Town. At the same time, he wanted to protect residential neighborhoods by having homestay rentals meet the same standards as the most similar use of bed & breakfast category 1. Ms. Shook expressed some concern with possible transitional zone requirements that could be placed on permits. She explained that if many permits had special conditions applied to them, then staff would have to ensure compliance with those special conditions and the regular Ordinance requirements on each permit issued. Ms. Shook felt this could pose an issue due to the possible

quantity. Vice-Chair Plaag stated his goal was to make it difficult to operate a homestay rental in the R1 and R1A neighborhoods. He felt that forcing the rental operator to demonstrate that they were committed to meeting all the rules and requirements would cause them to operate more responsibly. Ms. Shook stated that the requirement for an applicant to demonstrate compliance with the Ordinance was the same whether it was demonstrated to staff or the Board of Adjustment. She noted the only difference would be that the Board of Adjustment could place additional conditions on a permit that staff could not.

Commission Member Tippettt agreed with the idea of trying to minimize impacts to the R1 and R1A neighborhoods. He also expressed concern with how many permit requests might have to go before the Board of Adjustment and the extra strain administratively. Ms. Shook replied that every permit request within a residential zone would be subject to a transitional zone.

Commission Member Veno stated he would be willing to go with Vice-Chair Plaag's suggestion.

Chair Shay stated she liked the idea of using existing structure to partially carry the weight of new work. She stated she also worried about driving illicit activity when things were made too complicated, increasing the need for enforcement.

Ms. Shook noted that most of the jurisdictions that had adopted short-term rental regulations had modified them within a year. She felt that whatever recommendations Planning Commission made regarding the proposed text, this would not be the final time this topic would be discussed.

Commission Member Veno stated he lived in a Neighborhood Conservation District, and if homestay rentals became a problem in his neighborhood, they could petition the Council. He expressed concern for other neighborhoods that were not located in a Neighborhood Conservation District and would not have the same ability to petition Town Council.

Ms. Shook suggested that, if adopted, staff do some reporting on the numbers of permits processed and any issues experienced in an effort to get an understanding of what was or was not working.

First Motion and Vote

Commission Member Tippettt made a motion that the proposed amendment to the Town's zoning ordinance regarding UDO text amendments for homestay rentals only and inclusive of the following items:

1. Add language to require operator to carry liability insurance (\$500,00 or \$1,000,000).
2. Add language to state homestay rental permits are not transferable; each new full-time resident must apply on their own merits.
3. Add language to require rental operators to maintain records of guests and those records shall be available for audit by the Town.

Note: perhaps locate requirement in Subsection 15.14.12 regarding taxes.

4. Add language to clarify parking requirements so that it is clear the homestay rental parking is in addition to the minimum parking requeries and should utilize existing parking to the extent possible and any expanded parking may only be to the side or rear to limit the conversions of front yards into parking lots.
5. Add language to require the vaction rental to undergo an inspection for issuance and annual renewal.

6. Add language which would limit the cumulative days of the homestay use to 90 days during the permit year.
7. Modify how and where the homestay rental use is allowed within UDO Appendix B Comparative Tables as follows:
 - Allow in the RA subject to a 75' transitional zone
 - Allow in the R1 and R1A with a special use permit
 - Do not allow in the RR or R1S
 - Allow in the R2 subject to a 50' transitional zone
 - Allow in the R4 subject to a 50' transitional zone
 - Do not allow in the MH
 - Allow in the R3 subject to a 75' transitional zone
 - Do not allow in the RS or OI
 - Allow in the B1 Core and B1 Downtown Interface subject to a 75' transitional zone
 - Allow in the B2 subject to a 75' transitional zone
 - Allow in the B3 subject to a 75' transitional zone
 - Do not allow in the WD or M1
 - Do not allow in the Education districts

is consistent with the Town's comprehensive plans 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.

Comprehensive Plan Policy 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.

C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.

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 Halbert.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote

Commission Member Tippettt made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because it provides structure for lodging requirements that are currently occurring in Town for visitors. It does support local residents to supplement incomes with rental income, requires homestay operators to pay their fair share of occupancy taxes, and it safeguards the peaceful residential character of the Town's residential neighborhoods. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Chair Shay called for a break in the meeting from 8:43 p.m. until 8:50 p.m. Commission Member Halbert left the meeting at 8:43 p.m.

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

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

Ms. Shook noted a change to the proposed language under the definition of family for child and children that added 'other legal dependent, or other person who is or has been in a child-parent relationship with an adult in the family.'

Ms. Shook then referred to optional language regarding unlimited families living in a dwelling and the allowance for roomer(s)/boarder(s). She noted that currently in the UDO a family was counted as one person, so someone could technically have two families living in a dwelling unit and still meet the regulation of no more than two unrelated people in a dwelling unit. Ms. Shook stated that the proposed text would change the allowance of unlimited families to one family. Planning Commission would also need to decide if they would like to allow roomers or boarders and, if so, how many.

Chair Shay stated she was disappointed to see cousins removed from the definition of a family unit. She felt it was too constraining. Vice-Chair Plaag replied that the rationale for removing cousins was that people were claiming to be cousins and enforcement of that claim was difficult. Ms. Shook wished to clarify that proving claims that occupants were cousins was done by requiring copies of birth certificates, which was not terribly difficult. She explained that most cousin situations were within student rentals versus other living situations. Ms. Shook asked Mr. Miller and Ms. Turner if they recalled any instances regarding cousins that were not within a student rental. Mr. Miller and Ms. Turner replied that they did not recall any other instances outside of student rentals.

Commission Member Warren stated he had agreed with Chair Shay about the removal of cousins from the definition of family until he heard that it was removed more for the sake of students.

Chair Shay stated her concern about the cousins was a mild part of her position. She stated she was disappointed that the Planning Commission did not get to consider some of the alternatives that were inadvertently left in the meeting packet, specifically the option of regulating impacts rather than defining households. Chair Shay noted that she was not completely comfortable defining households or families. She liked the idea of a performance zoning approach, although it was hard to monitor. Chair Shay stated that she would like to work toward ordinances that described qualities the Town would like to have in certain environments and neighborhoods instead of describing what they felt was not a household or family.

Commission Member Behrend stated she liked Chair Shay's approach but did not know how it could be enforced or how there could be consistent requirements from one neighborhood to another. Chair Shay replied that she realized it was tricky. She stated that there might be families next to whom she would not want to live. Chair Shay stated that the Town looked at families as units of people who would be more likely to take good care of their property. In contrast, unrelated people were viewed as those less likely to take good care of the property. She noted, in general, that was most likely the case, and she understood why owner occupancy was valued. However, Chair Shay stated she would like to look at other ways of doing things in the future.

Vice-Chair Plaag referred to the options regarding roomer(s)/boarder(s). He suggested that two roomers/boarders be allowed in the R3, B3, and M1 districts and 1 roomer/boarder be allowed in all other districts. Commission Member Tippettt stated he could support those suggested numbers.

First Motion and Vote

Commission Member Tippettt made a motion that the proposed amendment to the Town's zoning ordinance regarding a UDO text amendment for the definition of family and occupancy regulations is consistent with the Town's comprehensive plans 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.

The motion was seconded by Commission Member Behrend.

Commission Member Veno asked if the motion needed to include the suggested changes related to roomer(s)/boarder(s).

Commission Member Tippettt then amended his motion to include the allowance of two roomers/boarders in the R3, B3, and M1 and 1 roomer/boarder in all other districts. Commission Member Behrend accepted the amendment.

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

Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods

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.

Commission Members Tippettt and Behrend accepted the amendment.

Vote: Aye – 5
Nay – 1 (Shay)

The motion passed.

Second Motion and Vote

Commission Member Tippettt made a motion that the Planning Commission recommends approval of the proposed amendment and believes approval is reasonable and in the public interest because the UDO should be modified to be more inclusive and better reflect and accommodate diverse family structures and housing needs and preferences. The motion was seconded by Commission Member Behrend.

Vote: Aye – 5
Nay – 1 (Shay)

The motion passed.

Other Matters

Ms. Shook noted that Town Council had scheduled a special meeting on December 8, 2021 to take action on the cases to be heard at the November 22, 2021 public hearing.

Commission Member Behrend stated she would be coming back from out of town on November 22 but hoped to be back in time to join the meeting that night.

Adjournment

Vice-Chair Plaag made a motion to adjourn the meeting at 9:14 p.m. The motion was seconded by Commission Member Veno.

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

Elizabeth Shay, Planning Commission Chair

Brenda Henson, Board Secretary