

**PLANNING COMMISSION MEETING MINUTES
MONDAY, DECEMBER 9, 2019 AT 6:00 P.M.
IN TOWN COUNCIL CHAMBERS**

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chairperson, Eric Plaag-Vice Chairman, John Tippet, and Frank Venio

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

CALL TO ORDER

Chairperson Shay called the Planning Commission meeting to order at 6:00 p.m.

Approval of Meeting Minutes

Vice Chairman Plaag felt he needed more time to review the minutes and made a motion to table consideration of the September 23 and October 28, 2019 Planning Commission meeting minutes until their next meeting. The motion was seconded by Commission Member Venio.

Vote: Aye - All
Nay - None

The motion passed.

Case PL03271-110419 Hackett Properties Inc – General Use Zoning Map Amendment

Case PL03227-101819 T-13 Temporary Use 9.01 Public Colleges and Universities in B1 – UDO Text Amendment

Chairperson Shay noted that both of these cases had been withdrawn from the agenda and would not be considered at this meeting.

Vice Chairman Plaag stated he had a question about non-conforming uses. He referred to the Turchin Center, noting it was located in a B1 zoning district. Vice Chairman Plaag stated that ASU was teaching classes there and when he inquired of the Town Manager how that was allowed to happen he received a reply back from the Town Attorney that indicated that use was occurring before the change to the UDO prohibited that use. Vice Chairman Plaag asked Ms. Shook for an explanation of non-conforming uses, how they happen, how they are treated, and why they are permitted to continue even though the UDO has changed.

Ms. Shook explained that non-conforming uses occur when regulations change that cause a use that was previously allowed to no longer be permitted. Those non-conforming uses were then legally allowed to continue within the parameters set forth in Article 7 of UDO. Ms. Shook confirmed that the Turchin Center was having classes there before the Ordinance changed.

Vice Chairman Plaag noted that Council had been looking at the discontinuance of accessory apartments in the R1 and possible non-conformities. He asked Ms. Shook what enabled Staff to look at a non-conforming use in that manner. Ms. Shook stated that some people call this amortization and towns were allowed to do this as a way to bring structures back into compliance. She explained that commercial properties have a tiered system in the UDO that would require them to bring certain nonconformities other than use into compliance based on the scope of work they were doing to the structure and the value of the development.

Vice Chairman Plaag then referenced the building on the corner of Depot and Rivers Street that used to

be the old bus depot and was now owned by the University and rezoned to U1. He asked why this building was rezoned U1 for University use but the Turchin Center remained B1. Ms. Shook replied that the Beasley Broadcast building came in for permitting after the Ordinance was changed so there would have been no allowable use for that building outside of being zoned U1. Ms. Shook added that the University does have a list of properties they own that are not zoned for University use and she anticipated they may request some of those properties be rezoned in the future.

Commission Member Tippet asked Ms. Shook if there had been any indication that the University might bring the Temporary College Uses in B1 request back to the Board. Ms. Shook replied that she only knew they withdrew the request.

Vice Chairman Plaag stated he understood there was at least one Council member who requested, outside of the hearing process, a statement from the Theatre regarding what their position on the requested text amendment was, which was communicated to the Theatre by the Town Manager. Vice Chairman Plaag asked if there was ever a response submitted by the Theatre. Ms. Shook replied that there was a response submitted but she believed it was just an excerpt from minutes, not something in a letter format. Vice Chairman Plaag stated that the Planning Commission had been scolded in the past by at least one Council member for attempting to re-open hearings or gather information outside of the hearing process from people who have a stake in a particular case. He asked Ms. Shook if she would be willing to comment on how that request made by a Council member for a solicited statement from someone who neither requested the UDO change nor appeared at the hearing sat with the idea of re-opening a hearing. Ms. Shook stated she had no comment regarding that, noting that took place outside of her department and she did not have all of the information in order to respond. Vice Chairman Plaag stated, given the manner in which the Commission was scolded, he was surprised that a Council member would, without the participation of the Planning Commission, seek to solicit a statement from a member of the community who was not part of the case request or the hearing. He stated that struck him as strange and he would appreciate some sort of response from Council as to why that was considered appropriate. Ms. Shook replied that she would put that request forward.

CASE PL03178-100319 Maximum Height in B3 – UDO Text Amendment

In August 2019, Town Council requested that the Town of Boone Unified Development Ordinance be modified to reduce the maximum building height in the B3 Zoning District to 4 stories.

Chairperson Shay asked Ms. Shook for a reminder of the details. Ms. Shook stated this amendment would change the maximum height allowed in B3 from 5 stories to 4 stories and would correct an error found in the B2 height limitation. She noted this was a request from Town Council who had long been discussing the impacts of taller buildings along the corridors. Ms. Shook stated they realized taller buildings on appropriately sized and configured lots could be acceptable and review of this topic was on Staff's work plan but this text amendment would be a stop-gap measure in order to allow Staff time to research and provide proposed revisions.

Chairperson Shay stated what concerned her about this was that allowing less stories could cause property owners to have less usable space in a community that was already struggling to manage its busy town. Ms. Shook replied that Council was not saying that 5 stories were inappropriate everywhere but until they could get a handle on where that would be appropriate they wanted to reduce the allowed height to 4 stories. Chairperson Shay felt the length of the building and how long an uninterrupted expanse could go could also be an issue. Ms. Shook replied that was correct and felt that would come up soon. She added that the Community Appearance Commission was currently reviewing massing and other standards in the B1 and eventually some of those standards would be applied to other zoning districts.

Commission Member Tippettt stated he was okay with taller buildings if they were not right up on the street, were set back a good distance, and fit the environment so they were aesthetically pleasing. Commission Member Veno felt topography played an important role in the appropriateness of height.

Commission Member Veno stated he was unclear what Chairperson Shay's concern was with respect to building height. Chairperson Shay replied that she was concerned about codifying prescriptions against height instead of looking for language about appropriate height. She stated she did not want there to be too much control over height in areas where height would be fine. Chairperson Shay stated she realized Council was treating this amendment as an intermediate step and she would like to encourage Staff to continue working on language that would support thoughtful context and appropriate height and not just outlaw it in places where it could actually be appropriate.

Vice Chairman Plaag 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 plan(s) of the Town that are applicable because it comports with the following:

1. Comprehensive Plan Overall Objective 1.1 Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.
2. Comprehensive Plan Policy 2.1.1(F): New firms and expanding businesses that complement the natural resources and beauty of the region shall be especially recruited and encouraged.
3. Comprehensive Plan Policy 2.1.2(A): Uncontrolled strip development along the areas through streets shall be prohibited. The undesirable effects of existing strip development shall be reduced and/or reconfigured when redevelopment opportunities permit. New strip development on isolated single lots along through streets shall be discouraged.
4. Comprehensive Plan Policy 2.1.2(J): Highway Oriented Commercial uses shall be clustered along segments of major streets and contain land uses which are mutually compatible and reinforcing in use and design. Businesses shall be encouraged to coordinate their site designs with other nearby businesses. Design factors shall include, at a minimum, shared parking and street access, convenient pedestrian and vehicular movements, and consistent sign standards.
5. Comprehensive Plan Policy 2.3.2(E): New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

The motion was seconded by Commission Member Tippettt.

Chairperson Shay stated some of the policies Vice Chairman Plaag mentioned helped address her concerns about having compact development that was not sprawling or strip development, as long as Staff continued to work on language that didn't just outlaw height everywhere.

Vote: Aye - All
Nay - None

The motion passed.

Vice Chairman Plaag made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's zoning ordinance and believes approval is reasonable and in the public interest because of the expressed concerns about development that has occurred in the B3 that is in excess of the proposed height that has created a concern among the Town's residents. This proposed change allows the Town to essentially choose an intermediate step that allows the Town time to evaluate whether changes to this height in the future as the Town grows may be needed and to evaluate such things as

siting, topography, and other factors that might allow for greater height in development on a site appropriate basis. The motion was seconded by Commission Member Tippet.

Vote: Aye - All
Nay - None

The motion passed.

Case PL03173-100319 Minimum Lot Size in R3 – UDO Text Amendment

In August 2019, Town Council requested that the Town of Boone Unified Development Ordinance be modified to increase the minimum lot size of the R3 Multiple Family Zoning District to 20,000 square feet.

Chairperson Shay stated this was a big change from a 5,000 sq. ft. minimum size to a 20,000 sq. ft. minimum size and she was struck by some of the comments she had heard such as, "How could there possibly be an occasion where 20,000 square feet be a problem." She stated she would be interested in something in between those numbers because this request was such an enormous leap in the minimum square footage for R3. Chairperson Shay explained that she was concerned about overly controlling minimum lot sizes and driving more sprawl. She suggested a 10,000 sq. ft. minimum.

Vice Chairman Plaag read UDO Section 14.01.06 that states: The R3 Multiple-Family Residential District is established to provide a high density area consisting of three or more dwelling units per lot plus limited service use. The regulations for this district are designed and intended to secure for the persons who reside there a comfortable, healthy, safe, aesthetically pleasing, and pleasant environment in which to live and provide for compatible and non-disruptive activities that properly belong in nonresidential districts.

Vice Chairman Plaag asked Ms. Shook if she could give an example of a property that was zoned R3 on a 5,000 sq. ft. lot. She replied that there was a multi-family development at the corner of Pine and Oak Street that was on a smaller lot but was unsure the size of the lot. Discussion ensued as to lot sizes of existing multi-family development within the Town. Ms. Shook noted that there are some R3 lots that have either single-family or two-family homes on the lots that was still useful and the value of doing a demolition and rebuilding multi-family would not be worth the investment for the size of the lot. Ms. Shook felt that larger lots attracted larger developers that had deeper pockets. Ms. Shook stated this would not affect existing lots but would be for newly created lots. She noted that single family homes in the R1 were allowed to go on 8,000 sq. ft. while multi-family, which consists of 3 or more dwelling units, can go on only 5,000 sq. ft.

Vice Chairman Plaag stated this amendment brought to mind Green Street and all of the R3 development that essentially destroyed the character of that neighborhood.

Ms. Shook noted that Town Council has had some discussion regarding creating a new use category for triplexes and allowing them in more zoning districts which would allow additional residential housing that was not large multi-family projects. Ms. Shook stated this amendment was also an intermediate step until more research could be done and this was on Staff's work plan. She explained that right now Council was focused on the Downtown and working with the Community Appearance Commission and the Historic Preservation Commission on downtown specific regulations. After that was complete, Staff could move on to other items on the work plan.

Commission Member Veno asked how this amendment would affect parking requirements. Ms. Shook replied that parking was related to use so a development would have to meet whatever parking standards were currently in place for their proposed use. She stated that a multi-family project would require .7 parking spaces per bedroom. Ms. Shook noted a review of parking was also on the work plan.

Vice Chairman Plaag asked Chairperson Shay what minimum square footage she would be comfortable with. She stated she would be comfortable with 10,000 or 11,000 sq. ft., noting that 11,000 sq. ft. was approximately ¼ of an acre. Chairperson Shay stated she recognized there was some arbitrariness there and context really mattered.

Vice Chairman Plaag asked if it would be possible to create two categories within the R3, having, for example, a minimum square footage for six or fewer bedrooms be 5,000 sq. ft. and anything above that be 15 or 20,000 sq. ft. Ms. Shook replied that she would not feel comfortable with that because it deviated too far from the revised text. Chairperson Shay stated she was inclined toward the less prescriptive.

Vice Chairman Plaag asked if the Commission could recommend a different square footage than what was advertised. Ms. Shook replied that they could recommend a lower square footage but not a higher one.

Commission Member Tippetts stated he could support a lower square footage. He noted that before Chairperson Shay spoke he was thinking about suggesting 15,000 sq. ft. but stated he did not feel that strongly about 15,000 since this was an interim step. Commission Member Tippetts stated he did not really want to allow less than 11,000 sq. ft.

Commission Member Veno asked Chairperson Shay what her objection to 20,000 sq. ft. was and she replied that larger lots could possibly encourage sprawl.

Vice Chairman Plaag stated he would be okay with 11,000 sq. ft. as an intermediate measure with the understanding that this number will be revisited. He felt this amendment would not restrict someone who wanted to do something modest and bought some protection while not preventing everyone from doing something. Chairman Plaag stated he said this while keeping in mind that this would only affect new construction. Ms. Shook added that it would affect new subdivisions or division of land as well.

Chairperson Shay stated there was a problem in Boone with housing and congestion and felt those two things were directly related. She stated the Town needed to look at ways to add modest, acceptable housing close in town and felt that could potentially cut down on car ownership and ease some of the congestion problems.

Vice Chairman Plaag asked if the Commission could suggest changes to any of the other data besides the minimum gross land area such as raising the minimum livability space ratio from .40 to .48. Ms. Shook replied that Section 15.10 already required a .50 minimum livability space ratio for multi-family so only every other use would be subject to the .40 minimum livability space ratio.

Vice Chairman Plaag asked if the other Commission members felt 11,000 sq. ft. was too low or not. Chairperson Shay replied that she liked 11,000 sq. ft. Commission Members Tippetts and Veno both stated they could support 11,000 sq. ft.

Chairperson Shay made a motion that the proposed amendment as amended to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because they are consistent with the Town's goals as articulated in the following:

1. Comprehensive Plan Policy 2.3.2(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.
2. Comprehensive Plan Policy 2.3.3(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.
3. Comprehensive Plan Policy 2.3.3(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.

4. Comprehensive Plan Policy 2.3.3(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.
5. Comprehensive Plan Policy 2.3.3(H): The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The Planning Commission recommends replacing the 5,000 sq. ft. minimum lot with an 11,000 sq. ft. minimum lot rather than the current proposal for 20,000 sq. ft. The motion was seconded by Commission Member Venio.

Vice Chairman Plaag wished to amend the motion to include:

6. Comprehensive Plan Overall Objective 1.1 Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and “cheap” apartment buildings.
7. Comprehensive Plan Overall Objective 1.1 Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.

Chairperson Shay and Commission Member Venio accepted the amendment.

Vote: Aye - All
Nay - None

The motion passed.

Chair Shay made a motion that the Planning Commission recommends approval of the proposed amendment to the Town’s zoning ordinance and believes approval is reasonable and in the public interest because it supports the Town’s goals for healthy, diverse communities and because the Planning Commission recognizes the need to make a change from the current very small minimum lot size to something larger as an interim step while Staff continues to study all other small multi-family uses. The motion was seconded by Vice Chairman Plaag.

Vote: Aye - All
Nay - None

The motion passed.

Ms. Shook wanted to verify the recommendation and reasoning of Planning Commission that they wanted to raise the minimum gross land area from 5,000 sq. ft. to 11,000 sq. ft. instead of 20,000 sq. ft. to still allow for modest type development on modest sized lots. Ms. Shook felt, through Planning Commission’s conversation, they would like to recommend that other standards be reviewed to help guide development impacts in the R3 and that they felt 5,000 to 20,000 was too big of a jump.

Vice Chairman Plaag felt there really was a difference between a triplex and a big apartment building. He noted his only concern was one that he expressed at the public hearing that triplexes not be allowed to be stackable.

Case PL03171-100319 Creation of R1S Small Home Residential District – UDO Text Amendment

In January 2018, Town Council requested Staff research the possibilities regarding higher density for single-family dwellings due to the desirability of create acceptable transitions between higher density and lower density uses and due to the concern over the lack of affordable housing in the Town of Boone.

The following November, Staff presented a preliminary report on cottage housing outlined two different concepts. The first concept was a new zoning district which would allow smaller single-family homes to be built on lots smaller than currently allowed in the UDO. The second concept was for a cottage housing type of principal use, which in concept, would be allowed to be constructed in existing residential zoning district subject to limitations. After discussion, Council authorized Staff to proceed with a new zoning district, "R1S" and outlined parameters for the new district, including implementation process, application process, density, building height, setbacks, uses, and parking.

Subsequent to this direction, Staff drafted text based upon the requested parameters and brought draft text back to Council in August 2019 for review. At that time, with some modification, Council authorized the text to be sent to public hearing.

Ms. Shook stated what she took away from the conversation at the public hearing regarding R1S was that generally everyone was in agreement with the standards. She noted the only standards that were discussed in additional detail was what was exempted from the footprint and it was suggested that carports and garages be added to the exemptions. Ms. Shook stated there was also discussion on building height and how that was measured.

Ms. Shook provided Commission members with a copy of the proposed text, as revised following discussion at the public hearing (attached). Ms. Shook noted the addition of carports and garages to 16.01.01(C) so that it would read *In the R1S Zoning District, a maximum building footprint of 800 square feet, exclusive of decks, porches, steps, carports, or garages, is allowed. Buildings shall be oriented to the primary public way.* She stated that Staff looked at several ways to try to make the height measurements work without changing the way height was measured in other zoning districts. Ms. Shook felt a more comprehensive review on how height was measured and how the graphics were provided to help people understand how height was measured was needed. For the purposes of this text, she stated a new Subsection was created (16.08.11) regarding height, as well as a new graphic. Ms. Shook stated this section took into account the 1.5 story allowance from the street level. She noted that no other residential district, aside from this one, required that homes be oriented to face the primary public way and that worked in their favor when it came to measuring height. Ms. Shook felt after discussion at the public hearing, there was agreement that it was acceptable if the homes had a basement to take advantage of down slope topography. She noted, in her research, that some other jurisdictions calculate solar setbacks, which means the shadow effect given certain positions of the sun on certain days.

Ms. Shook thought solar setbacks could work for all types of development when measuring height and could be something the Town would consider implementing in the future. Ms. Shook stated that Council wanted to have small homes on small lots and did not want to have something that looked like two-story homes right next to each other and allowed no sunlight between the homes. Ms. Shook felt the revised proposed text honored the original concept and allowed for a basement where it was warranted due to topography.

Vice Chairman Plaag stated he appreciated Ms. Shook taking the discussion they had at the public hearing and trying to put it into something that would work. Ms. Shook replied that there were likely other solutions but her timeframe did not allow for a great deal of exploration of other ideas.

Vice Chairman Plaag stated he thought the Town needed to get serious about whether it wanted to do a zoning district that was designed to facilitate tiny and/or cottage homes because a 2,000 sq. ft. home, which would be possible with this text amendment, was not a small home. He stated he feared this would create districts that would become big houses on small lots and that was not the intent. Ms. Shook agreed that was not the intent. She noted the idea of allowing a basement due to topography was just brought up at the public hearing and had not been a consideration of Council prior to that. Ms. Shook felt that everyone would not be able to take advantage of the inclusion of a basement but urged Commission

members to discuss the issue and recommend what they felt comfortable with. She did agree that this could allow for a 2,000 sq. ft. home.

Chairperson Shay stated if there was any slope to the land the entire lower level would not be able to be used as a basement. She felt, exclusive of the basement, the home should not be larger than 1,200 sq. ft. and on the occasions that topography allows the basement, they should be allowed to have one. Chairperson Shay thought this was a huge improvement.

Ms. Shook noted she had a similar situation when she built her house in that it was designed to be 1 ½ stories but during grading it was determined that she would have a 9' crawl space so she decided to go ahead and put in a basement instead of having such a large crawl space. Ms. Shook felt there were a lot of properties in Town that would necessitate a fairly tall crawl space due to the topography. Vice Chairman Plaag replied that this was how there would then be 2,000 sq. ft. homes where they were intended to be 1,200 sq. ft. homes.

Vice Chairman Plaag suggested was that the main level be limited to 800 sq. ft. and you could go either up or down with an additional 400 sq. ft. He asked if this could present an enforcement issue for Staff. Ms. Shook replied that it could be an issue if the lower level was heated square footage. For example, someone could finish and heat 400 sq. ft. of the lower level, which would be the footprint, call the other 400 sq. ft. the basement, then convert that space into living space after the home was completed.

Ms. Shook asked, if carports and garages were excluded from the square footage footprint, how square footage of the footprint would be calculated if the garage was built into the home. She stated the calculations would work fine if the garage or carport, with no living space above or below them, was a separate structure or attached to the home but not built into the home. Ms. Shook stated they had to realize that garages were often built into homes but if garages were excluded from the calculation of the footprint she was unsure how Staff would calculate square footage appropriately.

Vice Chairman Plaag stated he would not be opposed to someone having the 800 sq. ft. main level, 400 sq. ft. living space downstairs, and 400 sq. ft. as a garage that was actually used as a garage.

Chairperson Shay asked if the goal was to have homes that look uniform. Ms. Shook replied that was not the goal. She explained that this text gave the option to have a single story home or a 1 ½ story home. Ms. Shook felt some of the Commission members were okay with the idea of allowing the extra square footage because everyone would not be able to take advantage of it, while some members felt that defeated the purpose of the district.

Chairperson Shay stated if a home was built with 400 sq. ft. below to live in the home would be appraised at a lower value just by virtue of being on that lower level. She stated she was entirely comfortable with allowing the 400 sq. ft. below with the garage as well.

Vice Chairman Plaag felt Chairperson Shay was indicating something was being imposed on homeowners but noted these regulations applied to new subdivisions and new construction only so whomever decided they wanted to build in the R1S needed to make smart choices about what they really wanted. He stated he wanted to guard against someone building medium sized homes where it was intended to be for smaller homes.

Commission Member Veno stated there was nothing to stop anyone from converting a garage into living space. Chairperson Shay replied that this would decrease the appraised value of the home, noting she recently looked at purchasing a home and found examples of this while house hunting. Vice Chairman Plaag stated that homeowners would need a permit from the Town to convert garage space to living space and in the case of an R1S property that already had 1,200 sq. ft. of living space, they would be denied a permit to convert. Ms. Shook replied that was correct. Commission Member Veno stated they could go

before the Board of Adjustment to get a variance. Ms. Shook responded that a variance could be requested from the Board of Adjustment for any standard in the UDO other than use but that did not mean the variance would be granted because there were hardships that had to be proven in order to grant a variance.

Commission Member Tippet asked Vice Chairman Plaag what he suggested to limit the creep. Vice Chairman Plaag suggested controlling size with square footage requirements and height. He stated you could have 800 sq. ft. on a slab or crawl space and then go up 400 sq. ft. if you wanted the full 1,200 sq. ft. or you could have 800 sq. ft. on the top level along with a true attic space that was not expandable and 400 sq. ft. of living space below, not inclusive of garages or carports.

Ms. Shook suggested revising 16.01.01(C)(1) to read *An upper or lower story of no more than 400 square feet is permissible*. Vice Chairman Plaag felt that would work. Ms. Shook felt garages and carports might need some additional language instead of just being grouped in with decks, porches, and steps.

Vice Chairman Plaag mentioned setbacks and stated there would be no interior setbacks for subdivisions. Ms. Shook corrected that statement and noted that subdivisions would have interior setbacks of 7' when adjacent to another R1S property and when an R1S abutted property of a different zoning district they would have to meet the setbacks of the abutting zoning district. Vice Chairman Plaag felt that a 5,000 sq. ft. lot would likely not allow for a 3-car garage. Ms. Shook stated there were not a lot of descriptive requirements for a lot other than a minimum lot width and a minimum lot size but noted those were minimum standards. She stated those minimum standards could be exceeded and there would be homes on 6,000 sq. ft. lots that could allow more room for standalone garages.

Ms. Shook gave the scenario of someone wanting to build their 800 sq. ft. home with 400 sq. ft. above and a garage in the entire 800 sq. ft. level below. She stated she did not know how to calculate that or say no to that. Vice Chairman Plaag stated he was not sure he would be opposed to that type of scenario even though he felt it was a foolish way of building a house.

Commission Member Tippet asked if this text amendment was driven by the need for affordable housing. Vice Chairman Plaag replied that he felt there had been interest in doing this type of development but the UDO did not provide a way to make it work. He noted that affordable housing meant different things to different people. Vice Chairman Plaag stated he liked the term workforce housing and noting the Town was very much in need of workforce housing that was not apartment complexes. Chairperson Shay added that if the smaller homes were close to amenities they could possibly require less vehicles.

There was discussion about how height would be measured on downward slopes and Ms. Shook expressed concern that height requirements might not be met when building on a downward slope. Ms. Shook noted that if there was a garage entrance at the rear of the house there would still likely be parking in front of the house and noted that people did not always park in their garages. Vice Chairman Plaag stated that garages often became storage areas.

Ms. Shook stated she was uncomfortable with the idea of excluding garages from the footprint calculation and expressed concern that standalone garages would end up with living space above them. Vice Chairman Plaag stated, in terms of living space efficiency and living space affordability, it that was the goal he would be okay with including garages in the footprint calculation. He felt carports would be different because they were not closed in as easily. Vice Chairman Plaag suggested 16.01.01(C) be revised to read *In the R1S Zoning District, a maximum building footprint of 800 square feet, exclusive of decks, porches, steps, or carports, is allowed. Garages however, count toward calculation of the footprint. Buildings shall be oriented to the primary public way*. Vice Chairman Plaag did not understand why anyone wanted to build a garage under their house when it was such a waste of money and resources and felt that cars were meant to get wet and snowy. Ms. Shook suggested, in place of Vice Chairman Plaag's revision to

16.01.01(C) that she add language that says standalone carports and garages would not be included but those that are built into the footprint are included in the calculation. Vice Chairman Plaag agreed that would address the issue. Chairperson Shay asked what that would mean for those who could build a full basement because of the slope. Ms. Shook replied that the 800 sq. ft. would count toward the total square footage allowed.

Ms. Shook stated there were minimum building code requirements for habitable space that would have to be met. She noted the possibility of violations that could occur from the illegal conversion of garage space to living space and how difficult enforcement was when renovation work was done in lower level spaces.

Vice Chairman Plaag offered the following revised text for Section 16.01.01(C): *In the R1S Zoning District, a maximum building footprint of 800 square feet, exclusive of decks, porches, or steps, is allowed. Buildings shall be oriented to the primary public way. 1. Either an upper story or a basement of no more than 400 square feet is permissible for a maximum living space of 1,200 square feet. 2. A standalone or attached carport or garage, with no habitable space above or below, is permissible.*

Commission Member Tippet asked if there were definitions of garages and carports in the UDO. Ms. Shook replied that they were not defined in the UDO so the dictionary definition would be used. Commission Member Tippet asked if the intent for a carport was that it would not be enclosed. Ms. Shook stated that was correct.

Chairperson Shay asked that *finished living space* be added to Vice Chairman Plaag's suggested language after *400 square feet* in 16.01.01(C)(1). Vice Chairman Plaag agreed to that change. There was discussion about finished living space and habitable space and what would be the appropriate term.

Ms. Shook asked what the difference was in an 800 sq. ft. garage and an 800 sq. ft. basement. Vice Chairman Plaag stated they were now back to the same problem, noting that allowing 800 sq. ft. on the lower level would create more likelihood of that space being converted to living space. He stated he would like to keep the language in 16.01.01(C)(1) as he had proposed it and not incorporate Chairperson Shay's suggested addition.

Vice Chairman Plaag stated he was not okay with allowing space that could be converted and not comply with the building code. He asked if basement was defined in the UDO. Ms. Shook replied stated it was only defined for the purpose of Special Flood Hazard regulations. Chairperson Shay stated she was okay with the language presented and the revisions suggested but felt she would rather risk the occasional illegal conversion of space than to be overly controlling and prevent people from using their property efficiently and effectively. She felt the footprint requirement would help provide modest size houses.

Ms. Shook asked if there would be a lot of difference between 800 sq. ft. of garage and 800 sq. ft. of basement and how you would visually perceive this small home. Vice Chairman Plaag replied that if the house was oriented toward the roadway, as required, and the grade fell off from the roadway, then the main living area would be the first story that was actually at grade and you could go down 400 sq. ft. or up 400 sq. ft. If the situation were reversed, then the footprint would be at the lower level and you could go up 400 sq. ft. or down 400 sq. ft. if someone chose to build the basement level completely underground. Whether building on the upslope or downslope, you could not build both up and down. Chairperson Shay asked why someone should not be allowed to build an 800 sq. ft. foundation if the topography would accommodate that. Vice Chairman Plaag replied that the goal of the zoning district was to encourage small houses, not to encourage people to get as much house out of the topography as possible. Chairperson Shay felt if topography allowed for utilitarian space then that should be permissible.

Vice Chairman Plaag stated he did not want to have happen was 2,000 sq. ft. houses in a district that was intended to be small, workforce housing.

Commission Member Veno stated he was happy with what they had right now but felt things were getting a little convoluted. He stated he thought this type of housing was designed for people who wanted affordable housing or starter homes or retirees.

Commission Member Tippetstated he was trying to wrap his head around the economics of this and how the long-term economics would be affected by Vice Chairman Plaag's proposal as opposed to the flexibility in Chairperson Shay's proposal. He stated he liked the idea of allowing some flexibility but at the same time he did not want developers to twist that flexibility to maximize the square footage.

Vice Chairman Plaag stated he thought the Commission had to look at what Council's intent was by proposing this text, which was to create a zoning district that did not currently exist and make it available for this type of housing and they needed to try to make sure that was exactly the type of housing that went into that zoning district.

Chairperson Shay felt people needed homes that they could love for a long time, but with a little wiggle room for families with changing dynamics. She stated she liked the proposed text and she liked Vice Chairman Plaag's revisions but would like to offer the flexibility of allowing 400 sq. ft. of living space and 400 sq. ft. of utilitarian space on the lower level.

Ms. Shook asked Commission members if they felt the text amendment needed more discussion so that it would not move forward at this time. She noted that later this month new Council members would be sworn in and while the process could continue it would, in a sense, be like starting over with this text amendment.

Vice Chairman Plaag asked Ms. Shook if she would prefer the wording habitable space or living space. Ms. Shook contacted a building inspector who provided the building code definition of habitable to be a space in a building for living, sleeping, eating, cooking, bathrooms, toilet rooms, closets, halls, storage, or utility spaces and similar uses. Ms. Shook stated that living space was defined in the residential code, according to the building inspector, as space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes. She noted the building inspector indicated that he would not consider carports and garages to be part of livable space. Garages and carports are not defined in either the building code or the residential code. Vice Chairman Plaag stated he preferred the term living space because habitable space referenced storage and living space did not. He stated he was fine with allowing someone who built the 400 sq. ft. upper story to pour a slab on the basement level to use for storage given the topography. The other Commission members agreed that this would be acceptable and offer some flexibility for storage.

Vice Chairman Plaag felt they were okay to leave the requirement of 800 sq. ft. of building footprint without defining it as living space. He suggested that 16.01.01(C)(1) read *No more than 400 square feet either above or below is permissible for a maximum of 1,200 square feet of living space.* Ms. Shook stated she could add a definition of living space to the text.

Ms. Shook asked if Commission members wanted to remove Section 16.08.11 and the graphic and go back to the 1.5 stories/25' height limitation or keep the text in 16.08.11 and remove the graphic. She felt the graphic confused things and suggested removing 16.08.11(A) and the graphic. Commission members were in agreement.

Vice Chairman Plaag suggested that 16.08.11 read *In the R1S district, building height and stories shall be measured from the mean elevation of the finished grade along the primary façade of the building.* Commission members agreed to this change.

Vice Chairman Plaag suggested that 16.01.01(C)(2) read *Carports and garages are not allowed as part of the building footprint.* Ms. Shook stated she may have to check with the Town Attorney because the Town

cannot prescribe the design on single family homes and she was afraid this requirement might be getting close to that. She felt if the carport or garage was located within the building footprint it would have to be counted as part of the footprint. Vice Chairman Plaag asked if that would mean someone could use the below grade level as a carport or garage and have no upper level. Ms. Shook felt that would be accurate. Ms. Shook felt there was still some confusion about garage space and footprint calculations. She asked Commission members if they meant a structure with a story and a half story above that wanted to finish out a crawl space to allow for additional storage would be allowed to do that without it being considered another story. Commission members agreed that was what they meant. Vice Chairman Plaag suggested wording such as storage spaces, crawl spaces, etc. must be designed so that they cannot be converted to living space at a future date. Commission Member Veno felt you would then have to restrict the height of the crawl space area to something like 7'. Ms. Shook stated there would be instances where areas of the crawl space could be taller than 7' due to topography and she did not want to micromanage construction type.

Ms. Shook asked if it would or would not count toward the footprint if someone wanted to build a garage or carport within the structure. Vice Chairman Plaag replied that it would count toward the footprint. Ms. Shook asked if that meant they were completely going away from the idea that garages and carports were excluded. Vice Chairman Plaag stated he was concerned to have garages or carports attached to the house because they would be easier to convert into an accessory apartment than detached garages.

Chairperson Shay suggested that 16.01.01(C) read *In the R1S Zoning District, a maximum building footprint of 800 square feet is allowed, exclusive of decks, porches, steps, carports, and standalone garages (with no living space above or below). Buildings shall be oriented to the primary public way.* With this text revised, Chairperson Shay stated the language previously suggested about carports and garages in a proposed 16.01.01(C)(2) could be removed. There was also consensus from the Commission that the 16.08.11graphic

Vice Chairperson Plaag made a motion that the proposed amendment, as amended through discussion at the December 9, 2019 Planning Commission meeting, to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because the proposed amendment aligns with the following:

1. Comprehensive Plan Overall Objective 1.1 Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning.
2. Comprehensive Plan Policy 2.1.1(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.
3. Comprehensive Plan Policy 2.3.2(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.
4. Comprehensive Plan Policy 2.3.3(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.
5. Comprehensive Plan Policy 2.3.3(D): Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
6. Comprehensive Plan Policy 2.3.3(F): The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.

The motion was seconded by Commission Member Tippet.

Vote: Aye - All
Nay - None

The motion passed.

Vice Chairman Plaag made a motion that the Planning Commission recommends approval of the proposed amendment to the Town's zoning ordinance and believes approval is reasonable and in the public interest because the proposed zoning amendment encourages the creation of a zoning district and use that encourages the creation of workforce housing within the limits of the Town of Boone and addresses an overwhelming housing need within our community. The motion was seconded by Commission Member Tippet. Commission Member Veno wished to amend the motion to add that the whole idea was to create a more environmentally sustainable community, noting that the whole small house movement was gaining momentum and the Town needed to participate. Vice Chairman Plaag and Commission Member Tippet agreed to the amendment.

Vote: Aye - All
Nay - None

The motion passed.

Other Matters

Ms. Shook noted that the next meeting on January 27, 2010 would be a Public Hearing. She reminded Commission members about the Volunteer Appreciation Breakfast scheduled for December 13, 2019 at 9:00 a.m. at the Dan'l Boone Inn and urged everyone to attend.

Adjournment

Commission Member Tippet made a motion to adjourn the meeting at 9:10 p.m. The motion was seconded by Vice Chairman Plaag.

Vote: Aye - All
Nay - None

The motion passed.

Elizabeth Shay, Planning Commission Chairperson

Brenda Henson, Board Secretary