TOWN COUNCIL AND PLANNING COMMISSION
PUBLIC HEARING MINUTES
MONDAY, MAY 22, 2023, 6:00 PM
1500 BLOWING ROCK ROAD & VIA WEBEX SOFTWARE

COUNCIL MEMBERS PRESENT: Mayor Tim Futrelle, Mayor Pro Tem Edie Tugman, Todd Carter, Dalton George, Becca Nenow, and Virginia Roseman (arrived at 6:10 p.m.)

PLANNING COMMISSION MEMBERS PRESENT: Elizabeth Shay-Chair, Chris Behrend, John Tippett, and Frank Veno

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Mike James-Senior Planner, Jessica Mitchell-Long-Range & Special Projects Planner, and Brenda Henson-Board Secretary

OTHER TOWN STAFF AND REPRESENTATIVES PRESENT: Allison Meade-Town Attorney, Amy Davis-Town Manager, Rick Miller-Public Works Director, Todd Moody- Public Works Deputy Director

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Call to Order

Mayor Futrelle called the Town Council to order at 6:01 p.m. Chair Shay called the Planning Commission to order at 6:02 p.m.

Moment of Silence

A moment of silence was observed.

Approval of Meeting Minutes

Council Member Carter made a motion to approve the March 20, 2023, Special Public Hearing minutes as written. The motion was seconded by Council Member George.

Vote: Aye – 4
Nay – None
Absent – 1 (Roseman)

The motion passed.

Mayor Pro Tem Tugman made a motion to approve the March 27, 2023, Public Hearing minutes as written. The motion was seconded by Council Member George.

Vote: Aye – 4
Nay – None
Absent – 1 (Roseman)

The motion passed.

Commission Member Behrend made a motion to approve the March 20, 2023, Special Public Hearing minutes as written. The motion was seconded by Commission Member Tippett.

Vote: Aye – 4
Nay – None

The motion passed.

Commission Member Behrend made a motion to approve the March 27, 2023, Public Hearing minutes as written. The motion was seconded by Commission Member Veno.

Vote: Aye – 4
Nay – None

The motion passed.

Public Hearing Guidelines

Mayor Futrelle explained the guidelines for each case presented at the public hearing.

PUBLIC HEARING

Case PL06583-040523 Yates Family Properties – General Use Zoning Map Amendment

Yates Family Properties LLC has submitted a General Use Zoning Map Amendment to rezone property located at the end of Chase Hill Drive (Watauga County PIN: 2920-00-9240-000) from R3 Multi-Family Residential to R1 Single Family Residential.

Mr. Mike James, Senior Planner with the Town of Boone Planning & Inspections Department, presented the request as it was outlined in the meeting packet. He noted that this request was for a General Use Zoning Map Amendment, not a Conditional District Zoning Map Amendment. Mr. James explained that there was no site-specific development plan, and conditions could not be placed on a General Use Zoning Map Amendment. He noted that, as advised in the Staff Report, Council and Commission members should consider whether the entire range of permitted uses in the requested classification (R1) was more appropriate than the range of uses in the existing classification (R3).

Mr. Allen Yates, the property owner, stated that he had proposed a subdivision on this property about six months ago that did not get very far. He noted that he was now requesting the minimum zoning of R1 so that someone could at least build a house on the property or undertake any other development.

Council Member Roseman arrived at the meeting at 6:10 p.m.

Council Member Roseman asked how many houses could be built on the property if it was zoned R1. Mr. James explained that if the property were subdivided, each lot would have to have 56' of road frontage. Mr. James added that, without any further board action, he felt that only one home would be permitted on the property. Mr. James explained that any subdivision of the property would most likely trigger the major subdivision process, which required plat approval before the Board of Adjustment or a Conditional District process before the Town Council and Planning Commission.

Mr. James noted that the property was located within a watershed area, so the number of lots allowed would be reduced to ten if the property owner considered subdividing.

Chair Shay asked if a minor subdivision was possible. Mr. James did not believe the subdivided lots could meet the street frontage requirements.

At 6:20 p.m. Mayor Futrelle asked for public comment.

Mr. Vince Caruso, age 14, stated he had lived in the Chase Hill community for five years. He noted that one of his favorite things about living in the Chase Hill community was the peace and quiet. Mr. Caruso stated that development would bring more people, traffic, and noise and would eventually take away all the beautiful nature and woods. He felt that any development of the subject property would create a major safety issue for pedestrians who walk on the street. Mr. Caruso stated that he loved this community because it was peaceful, and he was happy to have those woods. He asked that any future development requests be denied.

Mr. James Edwards did not wish to speak.

Ms. Shook noted that written public comment was sent to the Council and Planning Commission via email.

Ms. Rosie Bentley stated she lived on Kellwood Drive and was concerned about the increased traffic generated by additional housing. She also expressed concerns about additional flooding caused by the development of the Yates property. Ms. Bentley stated that this was a wonderful neighborhood, and she was thrilled to live there. She added that she hoped whatever was done on the Yates property was done in the best interest of the neighborhood.

Mr. Yates stated he appreciated all of the concerns from the neighborhood. He reminded everyone that he was just requesting a general zoning change with no plan for development at this time. Mr. Yates felt this was a beautiful property, and noted he would like to have it be available as an R1 property for someone to build a home. Mr. Yates stated that he had not put up any no-trespassing signs and felt he had been very accommodating to the neighborhood.

Council Member George stated he was impressed with this neighborhood's ability to mobilize and get folks out. He added that the high-density development allowed in R3 zoning was not something the Town wanted to see in this neighborhood. Council Member George noted that an R1 zoning would only allow for a single home unless the property owner went through an additional process for subdivision. He felt that an R1 zoning would put the subject property in harmony with the majority of that area, while also permitting the type of development that would create the least impact on the neighborhood.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:32 p.m.

Cases PL06596-041223, PL06597-041223, and PL06598-041223 ASU – General Use Zoning Map Amendment

Appalachian State University (ASU) has submitted a General Use Zoning Map Amendment to rezone all or portions of three properties located along Holmes Drive (Watauga County PINs: 2910-05-2962-000, 2910-05-5885-000, and 2910-05-6841-000) from R3 Multiple-Family to U1 University.

Ms. Jane Shook, Director of the Town of Boone Planning & Inspections Department, presented the request as it was outlined in the meeting packet.

Mr. Nick Katers with ASU noted the request was for three parcels to be rezoned R3 to U1. He stated the largest parcel contained the Holmes Convocation Center and was currently zoned U1, with a small portion zoned R3. Mr. Katers noted that the second parcel was 8,000 square feet, zoned R3, and was currently used as a parking lot. The third parcel was being used as a drive aisle, was 7,500 square feet, and was zoned as R3. He stated that all three of the parcels were contiguous with the main campus.

Council Member George asked if the adjacent condo owners were notified of this request. Ms. Shook replied that everyone within 150 feet of the subject properties was notified.

Mayor Pro Tem Tugman mentioned that the University had plans to build a parking deck on the properties in question. She noted that there appeared to be some single-family homes adjacent to the University property. Mayor Pro Tem Tugman asked what the setbacks would be for the parking deck, given the neighboring single-family residences. Ms. Shook explained that though this request was for general use rezoning and should not be viewed as a site-specific plan, it was relevant to note the University had submitted a zoning permit application that was currently under review. She noted that one of the review comments was for the property owner to address the zoning of the properties. She then noted that based upon the zoning of the adjacent properties, the building would have to be set back at least 50 feet, or the height of the structure would be restricted.

Mayor Pro Tem Tugman asked about height requirements. Ms. Shook explained that because the building would be setback from the residential property by 50 feet, the University could take advantage of a higher height limit. Mayor Pro Tem Tugman stated that the building was proposed to be five or six stories tall. Ms. Meade added that the height for U1 was allowed to go up to fire safety height.

Chair Shay asked why there were so few uses allowed in the U1 zoning district. Ms. Shook replied that anything that was University related would be allowed as long as it advanced the mission of the University.

Mayor Pro Tem Tugman noted that there were areas of steep slope on the properties. Ms. Shook replied that the steep slopes areas would not be disturbed.

Council Member George felt this was a good project and a nice opportunity for the Town and the University to get along. He stated that the project would make that side of the University a lot more accessible and walkable, even though the property would be taken off of the tax rolls. Ms. Shook replied that these properties were already owned by the State, so they were not currently on the tax rolls.

Council Member Roseman stated that, as a Town Council member, she would always be the hardest sell when there were requests for rezoning properties to U1.

There was no public comment on this case.

Council Member Carter felt this request made sense. He felt a parking deck would improve parking and walkability.

Commission Member Veno agreed that a parking deck in this location made sense and was sorely needed. He stated that it would be in a place that was not very obvious to the public. Commission Member Veno noted that while State-owned property was off of the Town's tax rolls, the University still brought a lot of revenue to the Town.

Council Member Roseman felt a parking deck would benefit the community. However, she wished the parking deck construction would have been done on the portion of the property that was already zoned U1. Ms. Shook noted that the University had been making use of the subject properties since they first owned them.

Mayor Futrelle saw the parking deck as a benefit to the community. He applauded ASU for their efforts to open the lines of communication much farther than they had been in quite some time.

With nothing further, Mayor Futrelle closed the public hearing for this case at 6:52 p.m.

Case PL05640-040822 Lighting Design Standards – UDO Text Amendment

This is a request to modify UDO Article 25 Community Appearance Standards to reflect lighting industry changes and lighting design best practices. In conjunction with the Community Appearance Commission evaluating current Community Appearance Standards, Planning Staff has evaluated the current lighting standards by meeting with lighting design professionals, dark sky advocates, and local energy providers to discuss current lighting practices and areas of improvement.

Ms. Shook noted that Ms. Jessica Mitchell, Long-Range & Special Projects Planner, would be giving a presentation that would explain the intent and purpose behind the proposed lighting changes.

Ms. Mitchell stated that the presentation was contained in the meeting packet, beginning on page 105. A copy is attached. Ms. Mitchell also presented photos of various businesses around town to show examples of current lighting. These photos are contained in the meeting packet beginning on page 114, and a copy is attached.

Discussion ensued as to the applicability of the proposed standards. Ms. Meade asked if Council would want the revised lighting standards to apply only to new construction or if they would want the standards to apply to existing development with a date set for when the developments would need to come into compliance. Ms. Meade felt it would be somewhat unusual to require non-conforming situations to come into compliance for lighting, given the substantial cost to property owners. She suggested that if Council did want to require all developments to come into compliance, a longer timeframe be considered. Ms. Shook stated that lighting standards were currently a Tier 2 requirement, meaning if improvements to a development totaled at least 25% of the development's value, lighting requirements would have to be met. She explained that originally, it had been in Tier 1 (10%), but had been reassessed and modified due to the cost of lighting improvements.

Mayor Futrelle felt there should be universal standards for parking lot lighting. Ms. Shook stated that there had been concerns voiced regarding the amount of lighting in parking lots. She felt there needed to be a balance between safety and protecting the dark sky values.

Council Member George stated that the use of Kelvins and lumens was an attractive idea that could help balance the warm and cool colors of light.

Discussion ensued as to potential public outreach before proceeding with changes.

Chair Shay felt that both Planning Commission and Town Council needed more time to digest the materials and the proposed changes.

Ms. Meade cautioned that if sunsetting was adopted, Council would need to be very specific about what was actually being included in the items that would sunset. Ms. Shook noted that cumulative construction costs were tracked for 3 years. Once the cost of improvements would reach a particular level, another tier could be triggered, meaning additional requirements of the UDO would have to be met. Ms. Shook stated that the cost for lighting upgrades required by the sunset date would not go toward the cumulative costs. Ms. Meade added that the current tiered system also acted as a disincentive to upgrade properties due to the associated costs.

Next meeting dates were discussed. Ms. Shook noted that Chair Shay and Commission Member Tippett's terms would expire on June 30, 2023, and they would be going off of the Planning Commission. Ms. Shook stated that the next regularly scheduled Public Hearing would be on July 24, 2023. Town Council and Planning Commission members agreed to continue the discussion of the lighting design standards revisions at the July Public Hearing.

Adjournment of Town Council

Council Member Carter made a motion to adjourn the Town Council at 8:24 p.m. The motion was seconded by Council Member Roseman.

Vote: Aye – All
Nay – None

The motion passed.

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Tim Futrelle, Mayor **Brenda Henson, Board Secretary**

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Elizabeth Shay, Planning Commission Chair

Continuation of Planning Commission Meeting

Chair Shay called a break in the meeting from 8:24 p.m. until 8:32 p.m.

Public Comment

There was no additional public comment.

Approval of Planning Commission Meeting Minutes

Commission Member Behrend made a motion to approve the March 27, 2023, Planning Commission meeting minutes as written. Commission Member Tippett seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Commission Member Tippett made a motion to approve the April 17, 2023, Special Planning Commission meeting minutes as written. Commission Member Behrend seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

Case PL06583-040523 Yates Family Properties – General Use Zoning Map Amendment

Yates Family Properties LLC has submitted a General Use Zoning Map Amendment to rezone property located at the end of Chase Hill Drive (Watauga County PIN: 2920-00-9240-000) from R3 Multi-Family Residential to R1 Single Family Residential.

Commission Member Tippett stated that the subject property was surrounded by residential properties and the river. He felt that with all of the environmental considerations, the property should be zoned for the lowest possible density. Commission Member Tippett noted that only about half of the seven acres could be developed due to flood zone restrictions. He stated he hoped someone would build a house and have a nice riverfront property. Commission Member Tippett spoke in favor of the rezoning request.

Commission Member Behrend agreed with Commission Member Tippett. She felt that R1 was a better, lower use than R3.

Commission Member Veno felt that an R1 zoning of this property made sense. He stated that one or two houses added to the neighborhood would not add a great deal of traffic.

Chair Shay agreed that this property seemed to be a logical place to have very low-density residential, which could serve some conservation and flood management functions. Chair Shay asked Ms. Shook if a curb cut would support two driveways or driveways to two residences. Ms. Shook replied that a single driveway could serve two lots. However, to create two lots, each lot would have to meet the minimum standard of 56 feet of street frontage.

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

Comprehensive Plan Policy 2.2.2 Utilities

B. Water and sewer services shall be concentrated within the limits of a geographically defined Urban Growth Area. The Primary Growth Area shall receive first priority for the provision or enhancement of water and sewer services.

Comprehensive Plan Policy 2.2.5 Environmental Health

E.1 Consider the use of innovative zoning techniques such as density bonuses and transfer of development rights in exchange for preservation of significant environmental features.

F. Recognizing the economic and environmental costs of commercial and residential stormwater runoff, innovative stormwater management techniques such as permeable sidewalks, driveways, and parking areas shall be encouraged.

Comprehensive Plan Policy 2.3.1 Community Appearance

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

Comprehensive Plan Policy 2.3.2 Community Character

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.

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

H. The overall housing unity density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

The motion was seconded by Commission Member Behrend. Chair Shay wished to amend the motion to include:

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods

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

Commission Members Tippett and Behrend accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Commission Member Tippett made a motion that the Planning Commission recommends approval of Ordinance PL06583-040523 and believes approval is reasonable and in the public interest because the recommended R1 single-family allows less dense permitted uses than the current zoning and would have less negative impacts on potential environmental issues and fits with the surrounding residential neighborhood. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Cases PL06596-041223, PL06597-041223, and PL06598-041223 ASU – General Use Zoning Map Amendment

Appalachian State University (ASU) has submitted a General Use Zoning Map Amendment to rezone all or portions of three properties located along Holmes Drive (Watauga County PINs: 2910-05-2962-000, 2910-05-5885-000, and 2910-05-6841-000) from R3 Multiple-Family to U1 University.

Chair Shay asked what ASU intended to do with the property. Ms. Shook replied that this request was for a General Use Zoning Map Amendment. However, the University had submitted a zoning permit application to the Town to construct a parking deck on the properties. Ms. Shook explained that the zoning application could not be fully processed because portions of the properties were zoned R3 instead of U1.

Commission Member Veno stated he was in favor of rezoning these properties and using them to construct something to further the University's purpose. He noted that the properties were located in the center of a lot of activity, yet was somewhat away from the mainstream.

Commission Member Tippett and Chair Shay stated they would support the rezoning request.

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

Comprehensive Plan Policy 2.1.2 Commercial Development

I. Office and institutional development may be encouraged as a transitional land use between residential areas and higher intensity commercial activities.

The motion was seconded by Commission Member Behrend. Commission Member Tippett wished to amend the motion to include:

Comprehensive Plan Policy 2.1.1 Economic Development

I. Small business start-ups, expansions, and spin-offs shall be encouraged. The presence of ASU and Caldwell Community College and Technical Institute shall be recognized as a necessary and important resource for area businesses.

Chair Shay and Commission Member Behrend accepted the amendment.

Vote: Aye – All
Nay – None

The motion passed.

Second Motion and Vote: Chair Shay made a motion that the Planning Commission recommends approval of Ordinance PL06596-041223 and believes approval is reasonable and in the public interest because the properties are already owned and being used by the University so rezoning them to U1 would allow the University to make efficient and logical use of the parcels and make all of the parcels the same zoning classification. The rezoning of the parcels is a good opportunity to demonstrate Town/Gown cooperation. The motion was seconded by Commission Member Behrend.

Vote: Aye – All
Nay – None

The motion passed.

Case PL05640-040822 Lighting Design Standards – UDO Text Amendment

This is a request to modify UDO Article 25 Community Appearance Standards to reflect lighting industry changes and lighting design best practices. In conjunction with the Community Appearance Commission

evaluating current Community Appearance Standards, Planning Staff has evaluated the current lighting standards by meeting with lighting design professionals, dark sky advocates, and local energy providers to discuss current lighting practices and areas of improvement.

Chair Shay stated that staff had done a tremendous amount of work on the proposed amendment, but additional time was necessary for Commission members to digest the work and consider possible issues. She asked Ms. Shook if the Planning Commission would be discussing the lighting design standards at their regular meeting in June. Ms. Shook replied that the next discussion would need to take place with both Planning Commission and Town Council, so the topic would not be considered until the July Public Hearing. Ms. Shook reminded Chair Shay and Commission Member Tippett that their terms on the Planning Commission would expire on June 30, 2023. However, they could continue to serve on the Commission until their positions were replaced. Chair Shay and Commission Member Tippett indicated they would likely be able to attend the meeting in July.

Other Matters

Ms. Shook noted that an RFP had been released for the Comprehensive Plan.

Adjournment of Planning Commission

Commission Member Behrend made a motion to adjourn the meeting at 9:11 p.m. Commission Member Tippett seconded the motion.

Vote: Aye – All
Nay – None

The motion passed.

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Elizabeth Shay, Planning Commission Chair **Brenda Henson, Board Secretary**