

**PUBLIC HEARING MINUTES
MONDAY, NOVEMBER 27, 2017 AT 5:30 P.M.**

COUNCIL MEMBERS: Mayor Rennie Brantz, Mayor Pro-Tem Lynne Mason, Loretta Clawson, Charlotte Mizelle, Quint David and Jeannine Underdown Collins

PLANNING COMMISSION MEMBERS: Chairperson Connor Boyle, Elizabeth Shay, Abie Bonevac, and Alan Lee

PLANNING STAFF PRESENT: Jane Shook-Director of Planning and Inspections, Marty Little-Planner, and Marlene Crosby-Board Secretary

OTHERS PRESENT: John Ward-Town Manager, Allison Meade-Town Attorney

CALL TO ORDER

Mayor Rennie Brantz called the Council to order at 5:44 p.m.

Planning Commission Chairman Connor Boyle called the Planning Commission to order at 5:44 p.m.

APPROVAL OF MINUTES

Council Member Collins made a motion, seconded by Council Member David, to approve the September 25, 2017 Public Hearing minutes as written.

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

Planning Commission Member Lee made a motion, seconded by Planning Commission Member Shay, to approve the September 25, 2017 Public Hearing minutes as written. Planning Commission Chairperson Boyle pointed out one misspelled word that needed to be corrected.

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

CASE PL00800-080917 ROBERT BROWN GENERAL USE ZONING MAP AMENDMENT

Attorney Tucker Deal has submitted a Planning Permit Application for a General Use Zoning Map Amendment on behalf of Robert Brown to rezone Watauga County PIN: 2910-27-5331-000 from R-1 Single Family to B-3 General Business.

Ms. Jane Shook, Director of Planning and Inspections presented this case as outlined in the meeting packet. Ms. Shook explained that the request is to change the zoning of the property from R-1 to B-3 and the differences between the two zoning districts are defined in the staff report. Ms. Shook noted that the attorney for the applicant was present at this meeting to answer any questions.

Ms. Shook handed out copies of emails from October 2017 that relate to this case (permanently attached). The emails contained concerns from neighbors regarding the need for the Town of Boone to focus on

preserving R-1 neighborhoods. Ms. Shook noted that some of these concerned citizens were present at this meeting.

Mayor Pro-Tem Mason asked for clarification on the zoning of the property that is adjacent to the property with the proposed zoning change. Ms. Shook said that property is zoned R-1.

Council Member David asked for clarification that the access to the property with the proposed zoning change is off of Hwy 105 Extension. Ms. Shook said currently that is correct.

Mr. Tucker Deal, Attorney from Deal, Moseley and Smith came to the podium, he said he is representing Mr. Robert Brown on this proposed case. Mr. Deal confirmed that there is not a proposed project as a result of the rezoning request. Mr. Deal said this property recently changed ownership and the property has been used previously for commercial use for decades with one business being Wheeler Produce. Mr. Deal noted that this parcel is the only one that is not zoned B-3 and the only one zoned R-1 along the Hwy 105 Extension. Mr. Deal noted that the R-1 zoned property has a steep slope. Mr. Deal said there has been no necessity to rezone this property and given the slope it is largely unusable in any case. Mr. Deal said we need to look at the compatibility of the use of this parcel with the surrounding area. Mr. Deal said the property has no access to Horn in the West Drive and will not impact traffic. Mr. Deal said the request is to bring the property into compatibility with the surrounding area which is general business.

Mr. Deal talked about the neighbors not having the knowledge of the transitional zones. Mr. Deal said the applicant would need to demonstrate how they will mitigate the potential negative impacts such as traffic, light and noise pollution of the surrounding area depending on the type of development to protect the neighborhoods.

Council Member David asked if it is possible to build on the property with the required setbacks and parking requirements. Mr. Deal said there would need to be some cross-easement access across the currently zoned B-3 property. Mr. Deal said the principle impediment to build on the property would be the steep slope due to the 40 percent slope noted in the staff report.

Mr. Deal explained that Mr. Brown is trying to get a commercial tenant back into the existing building with no material change to the building.

Mr. Deal said there is a special use permit application for the general sales and service automotive use for the existing building that will be considered for this property at the next Board of Adjustment hearing either in January or February of 2017.

Council Member Mizelle asked if the transitional zone that is being triggered could be more extreme to protect the neighborhood. Ms. Shook said there is a 14-foot interior setback and the lot size is about 10,000 square feet and the lot size for a R-1 is 8,000 square feet. Ms. Shook said due to the percentage of slope, she was not sure how it could be developed and meet the parking requirements. Ms. Shook said that transitional zones are attached to each individual use.

Ms. Shook noted that development is possible on the property and a site-specific plan would need to be submitted and reviewed to see if a structure could be built safely. Planning Commission Chairperson Boyle noted that it is possible for a large retaining wall to be built on this property for development that would be subject to height and engineering requirements.

Council Member Mizelle asked how deep is the lot from Hwy 105 Extension to the point where the lot just touches the Horn in the West road.

Council Member David talked about other uses that are allowed in the B-3 zoning district. He noted that the Council and Planning Commission would need to look at the whole area for all potential uses and not just one potential building or use, when considering this rezoning request.

The first speaker was Mr. Richard Randall who was representing his mother, Ms. Lera Randall who lives at 142 Blanwood Dr. Mr. Randall said his immediate concern is the potential for the property to be combined with other lots and a larger residential-type structure be built on it. Mr. Randall showed a concern that no site-specific development plan was being presented for this property and he encouraged the Council to consider a plan.

The second speaker was Ms. Carol Norris who lives at 176 Woodland Drive. Ms. Norris said she has the same concerns as Mr. Randall. She said that she has lived on Woodland Drive for 45 years and a large residential structure being built on this property would be detrimental to their neighborhood.

The third speaker was Mr. Tom Pace who lives with his wife Shirley at 118 Blanwood Dr. Mr. Pace asked if the property is rezoned would there be an access road from the Horn in the West Drive which connects to Hwy 321 and Hwy 421. He said that the Horn in the West Drive has both pedestrian and vehicular traffic now. His other concern is if a structure was built on the property could there be a condition that the building be no higher than Horn in the West Drive. He is concerned about possible noise on top of the traffic noise already coming from the Hwy 105 Extension.

The fourth speaker was Ms. Rosemary Horowitz who lives at 160 Blanwood Dr. Ms. Horowitz was against the rezoning of the property because of the many uses that are allowed in the B-3 zoning district even though it has a steep slope on the property.

The fifth speaker was Mr. Jerry Hyman who lives at 160 Blanwood Dr. Mr. Hyman showed concern for the aesthetics of a potential development of the property, if it is rezoned.

The sixth speaker was Ms. Linda Rigell who lives at 196 Windy Dr. Ms. Rigell was concerned with why Mr. Brown would want to purchase the triangle shaped lot behind the building. She asked if only the triangle shaped parcel could be rezoned and not the steep slope behind it. She was concerned with more trees being cut down and the potential noise pollution that could come from it. She was also concerned with the potential for increased traffic. She felt that there is another motive behind the rezoning of the property by Mr. Brown. Ms. Rigell suggested a sidewalk be put in on Horn in the West Dr. to encourage more pedestrians to walk to the Farmers Market.

The seventh speaker was Mr. Steve Rigell who lives at 196 Windy Dr. Mr. Rigell asked if there was something underhanded going on with the triangle shaped parcel. Ms. Allison Meade, Town Attorney explained that grandfathered uses are allowed because they were in place before the zoning regulations go in. Ms. Meade said that this property is treated as a whole including the front and back of the structure. Ms. Meade further explained that the property behind the structure was used for the Wheeler Produce business and it is a legal non-conforming use. Ms. Meade said that the property zoned R-1 has gone out of use which can happen in six months of non-use. Ms. Meade said when this happens the property has to be properly zoned through a public hearing process. Mr. Rigell showed concern for B-3 allowable uses to potentially occur on this property, if it is rezoned which would change the character of Horn in the West

Drive. Mr. Rigell also agreed with Ms. Rigell that this area could benefit from a sidewalk which would encourage more pedestrians to take advantage of the Farmers Market.

Planning Commission Chairperson Boyle asked the concerned neighbors and citizens how many would be all right with a commercial development exactly like the existing Carriage Square offices being built on this property assuming the trees are left in place to keep the noise pollution down. It was noted that the question was too broad and it needed more detail in order for it to be answered. It was noted that the neighbors are against the rezoning because they do not want another Carriage Square type development on that property.

A concerned neighbor asked if the property could be rezoned differently than B-3. Ms. Shook said there are split-zoned parcels but it is not something that is normally done because of the applying of the densities. Ms. Shook said that split zoning has been done and it can be done.

Mr. Deal explained the boundary lines of the property, he said there is no record of how the boundary lines were drawn many years ago. He confirmed that there is no frontage or access on Horn in the West Drive from this property.

Ms. Shook noted that there is no record of when properties were first rezoned many years ago.

Mayor Pro-Tem Mason asked if there is any history of other parcels being zoned R-1. Ms. Shook said possibly some of the Boone Point parcels were zoned R-1 or a lower density residential.

Ms. Shook addressed the question of what Mr. Brown wants to use the property for. Ms. Shook said there is a flat space behind the building that has already been used for the Wheeler Produce business that was used to park a vehicle. Ms. Shook said that Staff does not have that information.

Ms. Shook said a notification will go out for the Board of Adjustment hearing on this case for this property.

Council Member David asked if the property can meet the parking requirements for an automotive use, if the proposed rezoned R-1 parcel was left as R-1. Ms. Shook said the parking requirements would be addressed during the Staff's review of this property.

Mayor Pro-Tem Mason asked if there is currently a structure on the parcel zoned R-1. Ms. Shook said no.

Council Member David said the building height for corridors is set at 67 feet. He said in a transitional zone the building height is lowered from five stories to three stories. Ms. Shook explained about the primary height is 45 feet and three stories and the secondary height is 67 feet or five stories. Ms. Shook said every foot you go over the primary height the setback is increased by one foot.

Council Member Collins confirmed the location of the R-1 zoned parcel along Hwy 105 Extension.

Ms. Meade confirmed that if the parcel is rezoned to B-3 there would be no conditions on the rezoning and both parcels would be B-3 because it is a general map amendment.

Planning Commission Chairperson Boyle confirmed that both the R-1 and B-3 properties being discussed were purchased together by Mr. Brown.

Ms. Shook explained the Public Hearing and Planning Commission recommendation process. She said the Council and Planning Commission hear the cases at the Public Hearing. Then, the Planning Commission can either discuss the cases at the Planning Commission meeting that is held right after the Public Hearing or they may discuss the cases at the next scheduled Planning Commission meeting on Monday, December 18, 2017.

Mayor Brantz closed the public hearing on this case.

CASE PL00982-092517 STORAGE USES, UDO TEXT AMENDMENT

In May 2017, Planning Staff received a request (attached) for evaluation of use for a facility using temporary storage containers as a principal use (request). Staff has reviewed the existing uses listed in Section 15.07 Table of Principal Uses (Use Category 16.0 Storage), and in UDO Subsection 15.07.01 Table of Accessory Uses (Temporary Portable Storage Containers) and determined that this type of use has not been explicitly permitted, prohibited or restricted by the UDO, therefore is considered an “unlisted use” which required evaluation in accordance with UDO Section 15.02 Unlisted Uses. Staff determined that this type of use changes the nature and location of storage outside of a principal building and may impact the transportation requirements that were customarily considered for Use 16.01 Mini-Storage. Therefore, pursuant to UDO Section 15.02, Unlisted Uses, the Planning Director has initiated a UDO amendment because this particular use is likely to be common or recur frequently and its omission is likely to lead to public uncertainty and confusion.

Ms. Shook presented this case as outlined in the meeting packet. Ms. Shook noted that these containers are also known as pods. Ms. Shook said that this use is not covered in the Town’s ordinance under the Table of Uses. Ms. Shook noted that pods are common across the state. Ms. Shook explained that the Staff took the mini storage part of the ordinance and modified it to fit the self-storage facilities and she reviewed the proposed changes in the Staff report.

Ms. Shook referred to page 32 of the electronic meeting packet and pointed out the proposed changes to the Temporary Uses.

Council Member Mizelle asked if the 14-day storage period for pods is what is being seen across the state. Ms. Shook said some of the periods of time for allowing the pods on a property ranged from 30 days to 60 days. Ms. Shook said that she chose the more conservative approach to allowing pods.

Mr. Ward asked Ms. Shook about the parking requirements when storing a pod. Ms. Shook said one dwelling unit is allowed two parking spaces.

Mayor Brantz asked about the number of pods that can be placed on a property. Ms. Shook read UDO Section 15.69.07(B)1-3 which explained the number of pods for single-family, multi-family and non-residential commercial developments.

Council Member David asked how many pods would be allowed for commercial businesses who may want to have extra stock available for the holiday season. Ms. Shook said five percent of their total vehicular surface. Ms. Shook said this type of pod storage is already being done in local shopping centers but there are no regulations for it. Ms. Shook said this proposed text would require the commercial businesses to get a permit and building and fire department inspections would be required.

Council Member David asked about the size of the pods. Ms. Shook said that some jurisdictions regulate them by size but the Staff did not include a size.

The first speaker was Mr. Joseph Miller from Cheap Joes Art Stuff. Mr. Miller showed a concern for blanket-type storage regulations for the use of storage containers for businesses that are in distribution and manufacturing. Mr. Miller explained that his business is into logistics and distribution and he needs to make use of storage containers for long periods of time for merchandise he has purchased from overseas.

Mayor Pro-Tem Mason asked if the text could be modified for different zoning districts because an industrial area may have a different need from a commercial or residential area. Ms. Shook said the M-1 zoning district could be exempted from these regulations. Mr. Ward agreed that there might should be more flexibility with the regulations for industrial properties.

Council Member Mizelle asked if the stacking of the containers would be allowed in these regulations.

It was the consensus of the Council to exempt the M-1 zoning district from these regulations and to not allow the stacking of the containers.

Mayor Brantz closed the public hearing on this case.

CASE PL00991-092617 M1 MANUFACTURING USE EXPANSION, UDO TEXT AMENDMENT

Discussion regarding “uses” allowed within the M1 Manufacturing zoning district has been a topic at the August and September 2017 joint meetings with the Planning Commission and Town Council. At the September 2017 meeting, Council authorized Staff and the Town Attorney to draft text which would allow additional flexibility to the “uses” allowed with the M1 zoning district by allowing “compatible” commercial uses. Council’s instructions included the request for Staff to be cautious with the new “uses” in order to preserve the integrity of the zoning district for manufacturing/warehouse uses.

Ms. Shook presented this case as outlined in the meeting packet. Ms. Shook read through the 12 uses and explained that the Table of Principal Uses had been modified to reflect the proposed changes outlined in the Staff report.

Mayor Brantz asked about the Use 11.18 for Business or professional office open to the public during 10 p.m. – 6 a.m. Ms. Shook said this is where the line was drawn to show the impact between the two categories.

Mayor Pro-Tem Mason asked Ms. Shook why was ABC stores included. Ms. Shook said because the local ABC store is looking to expand and they have a lot of larger trucks that deliver there.

Mayor Pro-Tem Mason expressed her concern for the possibility of there not being space for ABC type businesses that would complement the business parks because the space will be taken up with other office type businesses.

Mayor Pro-Tem Mason said that she supports coffee roasting type businesses being mixed in with office type businesses. She said she would not like to see just any retail business be allowed to be located within the Industrial Park. She does not want to see a shopping center in the Industrial Park because we would lose the space for other more suitable opportunities.

Ms. Shook noted that Staff has been approached by various people with an interest in the Industrial Park for uses like restaurants, offices and gyms. Ms. Shook said Staff has provided this information for Council's consideration, as well as personal service establishments.

Ms. Shook explained that the thought process of the business world is changing and business owners are wanting to locate their businesses in areas where more different types of uses are available to them in one location.

Ms. Shook said that the Staff mailed out a letter to all of the property owners with M1 zoned properties asking them if they had any questions or concerns on the proposed text change. Ms. Shook said there is one person signed up to speak on this case.

Ms. Meade noted that only the compatibility of the uses is in the existing proposed text and the proposed text would have to be rewritten, if a change needs to be made.

Council Member David reviewed some of the uses of the M1 district and he said he thinks we need to be careful and try to preserve the warehouse and industrial type of feel to the district. He also noted that there will be trucks making deliveries and making noise. Ms. Shook said almost everyone that approached the Staff regarding putting a business in the Industrial Park was accepting of the fact that there would be noise there. Ms. Shook said that Staff did have a concern about businesses moving into the Industrial Park and then complaining about the noise.

Mayor Pro-Tem Mason said that she would like to slowly add uses to the M1 district to see how it works out because there could be future needs for additional infrastructure. She suggested having more discussion on what uses would be appropriate or limiting the number of uses in this district.

Council Member David noted that the ordinance allows a shooting range in the B-3 zoning district but not in the M-1 zoning district. He also pointed out that there are some uses in the Table of Permissible Uses that could possibly be moved to a more appropriate zoning district in the table.

Council Member David said if there are a lot of restrictions on the uses in the Industrial Park, we could end up with vacant buildings. He said it is important to stay up to date on what the current market is looking for. He said he would support more uses being allowed in the M1 district rather than less uses being allowed.

Ms. Shook explained that when the ordinance changed in 2014, the uses that were broadly applied before were pulled back into certain zoning districts. She said before all the uses that were previously allowed in the M1 zoning district were pulled out to make it more focused on manufacturing. Ms. Shook said that Council directed the Staff to limit the uses which is shown in the Staff report.

Discussion ensued on Council's direction for this case. The Council members talked about the dividing of spaces for different businesses. Ms. Shook said some of the issues with dividing the spaces will be site specific and it might depend on the amount of available parking at the site.

Planning Commission Chairperson Boyle asked if there has been a lot of demand for manufacturing space in the Industrial Park. Ms. Shook said there has been some interest shown for the renting of a large warehouse space in the Industrial Park. Ms. Shook said the availability for this type of space is limited.

Ms. Meade explained to the Council the options of direction for the Staff. She said the Council could modify the proposed text or strike certain language from the text or bring the topic back on another agenda or approve it as written.

Mayor Pro-Tem Mason and Mayor Brantz suggested forwarding this case to next public hearing to hear more public input and discussion on it.

Planning Commission Chairperson Boyle suggested opening up more uses for the Industrial Park than are being proposed for this case. Council Member David wanted to keep the proposed text and have more discussion on it and ask Staff to work with the existing business owners in the Industrial Park to see what uses they would think is appropriate there.

Ms. Shook said that out of the 27 businesses that she notified about the proposed text only Mr. Barber from Charleston Forge responded to the notification.

The first speaker on this case is Mr. Art Barber who lives at 397 Windy Hill Road. Mr. Barber and his wife own Charleston Forge. He said when he started his business; the Industrial Park had not yet been built. He said he helped the Town of Boone get the Industrial Park by working on a Community Block grant. He encouraged the Town to open up spaces for manufacturing uses and encourage local businesses to expand.

The second speaker on this case was Mr. Joseph Miller. Mr. Miller agreed with Mr. Barber on encouraging more manufacturing uses and the expansion of local businesses. He talked about noise pollution. He said that there is more noise coming from Hwy 421 than from the businesses that are already in the Industrial Park. He said that the number of employees in the Industrial Park is less than before and he encouraged the Council to make it easier to increase the number of employees than to make it harder with the proposed changes in the Industrial Park.

Ms. Shook reviewed some of the M1 zoned properties throughout the Town.

Ms. Shook said there was another person that showed an interest in using a part of a building to put their sewing business in.

Mayor Pro-Tem Mason noted that she is struggling with allowing certain types of retail use and taking up space that other M1 type uses may need for larger businesses. Mr. Joseph Miller explained that a retail business is much different than a manufacturing or distribution type business. He talked about the Industrial Park not having the type of business traffic because it is not on a main corridor. He said at times his customers have trouble finding his business. He said it is important to mention that every piece of property in the Industrial Park are privately held. He said unless an outlet mall is located there, it will not be suited for a true retail-type environment.

It was the consensus of the Council to move forward with the recommendations from the Planning Commission on this case.

Mayor Brantz closed the public hearing on this case.

CASE PL01019-092917 USE 9.01 TEMPORARY COLLEGE AND UNIVERSITY USE, UDO TEXT AMENDMENT

At the September 2017 joint meeting with the Planning Commission and Town Council, Council authorized Staff and the Town Attorney to draft text which would allow Use 9.01 Public Colleges and Universities as a temporary use in the M1 Manufacturing, B3 General Business and O/I Office Institutional zoning districts. Appalachian State University has expressed a need for what is referred to as “swing space” – temporary space to house University functions that must be temporarily re-located due to remodeling or construction and cannot be accommodated on campus due to space constraints. The University also experiences the need for temporary space when University faculty receive time-limited grants for programs that cannot be accommodated on campus due to limited space.

Ms. Shook presented this case as outlined in the meeting packet. She reviewed the proposed changes that were outlined in Unified Development Ordinance, Section 15.69.14 and she noted that the University had reviewed this section and made a proposed modification located in the box after number seven in the proposed text which would be in lieu of number six of this section of the UDO. She noted that the Table of Temporary Uses has also been modified accordingly.

Council Member Clawson talked about tabling this case until the January public hearing because of the proposed changes temporary uses in the Town and because of some comments she had heard from the new Council members that will be seated in January. She said by tabling this case until that time it would give the new Council members the opportunity to have input on it. She said she felt like she would not have the support of the other Council members to table this case at this hearing.

Council Member David said that he questions the legality of regulating uses based on who owns the use rather than the use itself. He said he tried to research this topic and he could not find other cities that had educational district regulations for who owns a particular use.

Council Member David said that the proposed change allows the University into the O/I, B3 and M1 zoning districts. He pointed out that the University is currently using space which is located in areas that they are not allowed in and will still be in a location they are not allowed in with the proposed text change.

Council Members David and Clawson agreed that because this case is large issue they would like to see more studies be done on it.

Ms. Meade said when the Staff worked on the educational districts the change was the reverse of what Council Member David was suggesting. She said the text has been changed to reflect any public college or university use, rather than ownership. She noted that the University is the only public university affecting the ordinance in the Town. She said if another University came to Town this proposed text would apply to them. She also noted that Caldwell Community College could also take advantage of this proposed change as well.

Ms. Meade explained that she does not recommend the proposed change added by the University to UDO Section 15.69.14 Temporary Use 9.01 as mentioned earlier. She said the proposed text was included in the Staff report for the Council’s consideration. She noted that the blue colored proposed text is what the Staff understood as the Council’s direction on this case. She said that Mr. Dayton Cole, Attorney from Appalachian State University could present his reason for their part of the proposed text change.

Ms. Meade said it might be beneficial for the discussion to occur on this case at this hearing whether the Council decided to table the case or not.

Mayor Pro-Tem Mason noted that she needs more information to review on this case.

Ms. Shook explained that the proposed text would allow the University to use temporary “swing space” while they are planning or constructing or renovating spaces on the University campus. She talked about the University’s need to use temporary warehouse space in the M1 district. She said as the current ordinance is written, the University cannot use temporary space in the Industrial Park.

Mayor Pro-Tem Mason asked what triggered this proposed change. Mr. Ward explained that the new construction of the University’s recreation facility at the old Watauga High School location cannot be built until the University can find temporary space to relocate the current facility. The University looked at an Industrial Park site to move to temporarily and still remain on the tax rolls.

Ms. Shook reviewed the proposed changes and answered questions.

Mayor Brantz asked if there is a limit to the number of different uses that could be allowed. Ms. Shook said no, not as proposed in this text.

Council Member Mizelle said she envisioned a space being used perpetually. Ms. Meade said the proposed text points out that there has to be a different use each time. Ms. Meade included that the intent written in 15.69.14(A)5 is that three years would be the limit for the use of the temporary space. Ms. Meade pointed out that there could be situations where the University did not get approved on their capital plan and needed the space for a longer period of time.

Council Member Collins pointed out if the University is allowed to lease temporary properties, it keeps that revenue on the tax rolls, but if the University purchases a space, the revenue comes off the tax rolls.

Council Member David talked about the enforcement of the temporary use. Ms. Shook explained the violation process and the ordinance’s options for handling the violation, whether it be the renter or the property owner.

Council Member David talked about the building and fire code process being a part of the occupying of the temporary space. Ms. Shook explained the process for the building code requirement for the change of occupancy and the zoning code requirement for the change of use.

Planning Commission Chairperson Boyle asked Ms. Meade if it was because of the educational designation that the University cannot rent a space in the Industrial Park without going through the public hearing process. Ms. Meade said previously the uses that the University could use were broken down in the Table of Temporary Uses.

Mayor Brantz called for a ten-minute break at 7:54 p.m.

Mayor Brantz reconvened the hearing at 8:03 p.m.

Mr. Dayton Cole, Attorney from Appalachian State University came to the podium and noted that Mr. Mike O’Connor from Appalachian State University was also present at this meeting to answer questions.

Mr. Cole explained that the University undertakes capital projects, and they need a temporary space for the faculty and staff to carry on the educational work of the University while those capital projects are underway.

Mr. Cole explained that part of the challenge is that the University involved in several different businesses. He said they are in the real estate and development business, construction, research and entertainment business.

Mr. Cole explained that when the College of Health Sciences is completed and the faculty and staff are moved into it, it will open up other spaces on the campus. He said these empty spaces will not be vacant very long due to demand for space on the campus. He pointed out that the University is landlocked. He said they need space for construction management courses which constructs modular buildings and is part of their educational curriculum. He said the University currently leases high-bay space for this outside the Town of Boone. He said they are looking for space for these types of practical needs.

Mr. Cole said all of the temporary spaces the University will be needing are compatible with the intended uses in the proposed text.

Mr. Cole talked about the proposed text for the potential seven-year timeframe. He said this length of timeframe is not uncommon.

Council Member Mizelle said she would like to see less time allowed for the leasing of temporary space because she feels that more time is being requested than what might be needed by the University. She suggested four years and two years for the allowable timeframe.

Mr. Cole said the University would be thankful if Council approved the proposed text as Staff has written it. He said it would be better for the University if Council adopted the proposed text that he suggested in lieu of 15.6914(A)6. He noted that he does not have other concerns about the proposed text. He said that Ms. Meade had indicated that she does not recommend this proposed language. He said he would like to hear Ms. Meade's concerns regarding it.

Ms. Meade said her concern is for a possible disconnect in UDO Section 15.69.14(A)5. She said this would be the time to provide this information. She said that Mr. Cole wanted to show good faith efforts. She said that she had in mind that the University would have to show a plan in the first instance that the University needed temporary space. Mr. Cole said he did not intend to not submit the documentation under 15.69.14(A)5. He said that he submitted documentation and put it on the capital request, budget request and to the Board of Governors. He said if there were to be a delay, the University would show documentation on the reason for the delay.

Mayor Brantz asked how much temporary space would the University need over the next decade. Mr. O'Connor said a lot of space would be needed because there will be a lot of redevelopment like I.G. Greer Hall and Sanford Hall, and they would need to displace all of the faculty and staff during the redevelopment process. Mr. O'Connor explained that because the University is landlocked in order for them to build something new, they have to tear something down. Mr. Cole and Mr. O'Connor noted that it can take years to get from the approval to the completion of a project.

Mr. O'Connor noted that in case of a catastrophic event, the University would need a temporary space for the faculty and staff to conduct academic instruction. Council Member Mizelle said that if the Council were to approve this proposed text, this type of event should be added to the proposed text.

Council Member David said that he sees the "swing" space concept as a way to focus on some of the expansion of the University onto already zoned properties rather than the University having to try to find land to purchase for various projects.

Council Member Collins said there is some merit to considering the proposed text because it would help the University.

The next speaker was Mr. Art Barber. He asked why there is a problem with the University renting space from the Town of Boone. He supported the University renting space from the Town. He said if the University had not rented space from him, he would have been out of business a long time ago. Mayor Brantz said there has been some concern for the loss of tax revenue from land that belongs to the University and is not on the tax digest, and others have expressed concern that the University is dominating the Town excessively. Council Member Clawson explained that there is only so much room and how much can the University use in comparison with the neighborhoods and the rest of the Town.

The next speaker was Mr. Joseph Miller. He said he agrees with Mr. Barber. He noted that the University puts a huge amount of money into the community. He talked about preventing urban sprawl and mentioned that the University has located property outside of Boone for their needs. He said the proposed text change may encourage urban sprawl. He said he would want a five-year lease with three-year renewals. He said allowing the University to rent space would put money back in to the private sector.

Council Member David said that with the new Council Members coming in January 2017, it is important that Council outline its larger picture for Boone, especially for this particular case.

Council Member David said he is concerned with the potential for urban sprawl. He said he feels that by allowing the University to use spaces in the Town, it will decrease traffic and keep properties on the tax rolls and help keep down urban sprawl. He said he is in favor of the three years or the five years from the date of issuance of the permit.

Ms. Meade said Staff will revise the proposed text to correct the typos and modify the language in 15.69.14(A)5 to clarify that documentation will have to be shown that clearly demonstrates a plan to provide permanent space in order for the University to get an extension, and she would also add the language regarding emergency and time-limited situations.

Council Member Clawson asked Mr. Cole and Mr. O'Connor for an update on student growth at the University. Mr. Cole said he could not give specifics, but over the past 20 to 25 years, it has grown steadily in small increments and he feels that this will continue.

Mayor Pro-Tem Mason talked about the ongoing discussion to balance the concerns and needs between the Town and the University, as well as the businesses and residential neighborhoods in Town. She noted that we need adequate housing for students, and affordable housing for residents. She noted that the Town is losing its neighborhoods as a result of the residences being purchased for the students to live in while attending the University. She said the UNC system needs to step up and do their part and not put

the responsibility on the Town of Boone. Mr. Cole said it is the Board of Governors that directs the University. She noted that University housing is a small part of the ongoing discussion.

Council Member Clawson talked about the Town losing its residential neighborhoods. She said she does want to try to protect our neighborhoods.

Council Member Collins noted that we want to try to keep properties in the Town of Boone on the tax rolls. She confirmed that the University Chancellor did indicate that the growth of the University would continue to be slow and steady.

A concerned citizen talked about the Town considering a traffic impact study.

Council Member Mizelle said that Council cannot involuntarily annex a property. She said the annexation has to be a voluntary request from a home owner or business as a result of wanting Town water or sewer, and this limits the number of tax payers that are in the Town of Boone.

Mr. Miller said the private sector is well equipped to handle what is being proposed in the text but this type of regulation will hamstring the ability to get it done. He said by allowing the private sector to do long-term leases with the University, the private sector would be able to help the University with infrastructure needs and would also keep the money on the tax rolls. He said he does not see flexibility in the proposed text that would encourage a joint partnership.

Mr. Ward noted that the proposed text does not apply to residentially zoned areas.

Ms. Shook clarified that Staff would work with the Town Attorney on modifying the proposed text with the changes discussed at this hearing, and the Planning Commission would discuss their recommendations at their next meeting.

Mayor Brantz closed the public hearing on this case.

CONSISTENCY STATEMENT DISCUSSION

Ms. Shook explained that the enclosed information is a statutory modification for Plan Consistency Statements. She said she has included this information for the Council and Planning Commission to read so that when making consistency statements, they are being done with the most current regulations.

Ms. Meade asked Ms. Shook about the statement consistency being handled differently at the December 2017 Council meeting. Ms. Shook confirmed that Staff will make sure that the correct information will be provided for Council's consideration.

ADJOURNMENT

Upon a motion from Council Member David, seconded by Council Member Collins, the hearing was adjourned at 8:43 p.m.

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

Planning Commission Chairperson Boyle called for a short break at 8:43 p.m.

At 8:50 p.m. Planning Commission Chairperson Boyle called the Planning Commission meeting to order to announce that the Planning Commission had lost quorum and the agenda topics heard at this hearing would be discussed at the next Planning Commission meeting, scheduled for Monday, December 18, 2017 at 5:30 p.m.

It was the consensus of the Planning Commission members to adjourn the Planning Commission meeting at 8:53 p.m.

Mayor, Rennie Brantz

Board Secretary, Marlene Crosby

Planning Commission Chairman, Connor Boyle

Jane Shook - Concerns regarding Horn in the West Drive property rezoning

From: Michael Krenn <krennml@appstate.edu>
To: <Jane.Shook@townofboone.net>
Date: 10/22/2017 10:07 AM
Subject: Concerns regarding Horn in the West Drive property rezoning
Cc: Richard R Randall <richardrrandall@gmail.com>, Michael Wade <wademg@apps...

Dear Ms. Shook: As my wife and I cannot attend the hastily scheduled meeting concerning the request of Robert Brown to rezone a parcel of his property off of Horn in the West Drive, we wish to join Richard Randall and our other neighbors in expressing our concerns.

As you are probably aware, our neighborhood is one of the last "islands" of R1 zoned property in the town of Boone. We already have one apartment complex at the corner of Blanwood Drive (which was apparently "grandfathered" in many years ago), and another complex was built over the property once containing a single house at the corner of Pine and Oak streets. Traffic has increased, along with noise, trash, and cars parked in the streets, reducing the quality of life for the residents.

My wife and I have taken the position that instead of reducing R1 neighborhoods, the primary focus of the Town of Boone should be on preserving the integrity of these areas for people who actually live, work, and play in Boone, rather than on finding ways to make sure that developers can prosper. Personally, we put little faith in the promises of developers about their deep interest in maintaining the quality of life for residents. Once rezoning takes place, and once this or that monstrous edifice is constructed, that interest will quickly fade, replaced by a deeper interest in simply turning a profit.

We sincerely hope that the Town of Boone will take into account the deep concerns of the residents of our neighborhood. The incidents concerning the placement of the signs announcing the rezoning request and meeting should also be addressed on Monday. Our neighborhood is a wonderful place and we ask the Town of Boone's assistance in keeping it that way.

Sincerely,
Michael and Lisa Krenn
161 Blanwood Drive
(828) 719-8762

From: Richard R Randall <richardrrandall@gmail.com>
To: Jane Shook <jane.shook@townofboone.net>
Date: 10/23/2017 8:47 AM
Subject: Robert Brown Case PL00800-080917 General Use Zoning Map Amendment comments and concerns

I am writing today on behalf of my mother, Lera Randall, owner and 52+ year resident of 142 Blanwood Drive, and myself, specifically to request that you deny the zoning change request of Robert Brown in Case PL00800-080917 for a "General Use Zoning Map Amendment."

I believe that NOT approving this request now can be sufficiently justified solely on the basis of there not having been adequate advance public notice about today's hearing that an area along Horn in the West Drive is impacted. A zoning notice sign apparently has been displayed on NC Hwy 105 but without making it clear until only very recently on the opposite side of the property that Horn in the West Drive and nearby residential areas are also affected. Despite my having spent much time over the last two months in Boone at my mother's home, she and I only became aware of today's hearing on Friday, October 20, 2017, around noon, as I was making a left turn onto Blanwood from Horn in the West Drive, despite our frequent travel on Blanwood and Horn in the West Drives. After walking to the new sign on Horn in the West Drive, I immediately contacted Ms. Jane Shook to get further information, and she was most helpful in providing it.

Additionally, and more critically, I believe approval of such a request, as presented, has significant potential further to erode the quality of life in the adjacent R1 areas on Horn in the West, Blanwood, and Woodland Drives, as articulated in a written message to you by Blanwood neighbors, Michael and Lisa Krenn. Like my mother I have closely observed and experienced this neighborhood for over 52 years, having occupied the house at 142 Blanwood for significant periods of time in all those decades, having driven routinely through the neighborhood, and having spent the last 14 years dog-walking frequently in the area. I am keenly aware of the increased traffic, excessive vehicle speeds, clutter, and congestion that the Krenns mention in their message to the Council and Planning Board. While the Town has made some significant efforts to help preserve the Blanwood R1 area, greatly appreciated, there also have been critical shortcomings in that regard as well, some historical. I request that steps be taken to help preserve the peaceful enjoyment of the R1 status for which neighborhood residents have paid their property taxes for decades and on which their property values depend.

Since there is no concrete project proposal for a specific land use change, I see no compelling reason for the neighborhood to give up the R1 protections on the tract in question. I doubt that there are adequate mechanisms in place to protect R1 residents from construction of imposing, tall, congested multi-family dwelling buildings, noisy commercial endeavors, or traffic accessing the property (if combined with other tracts) from Horn in the West Drive, if this change is approved.

As a long-time resident of the neighborhood, property owner, and taxpayer to Boone and to Watauga County, my mother, I believe, has standing to express to you concern about this zoning change request. Similarly, I believe I do also, as a taxpayer to both of those

government entities and as trustee with fiduciary obligation to a trust that has received and likely will receive real estate holdings originally purchased by my parents, and as someone well-aware of the status and history of the neighborhood.

If I am reading the documents correctly provided to the Council by the Planning Board, then the proposed change in zoning for Mr. Brown's property would permit currently un-permitted uses such as:

- Multi-family dwelling (apartments or condos)
- Nursing care institution
- Boarding house
- Motel/hotel
- Kennel
- Vehicle, moped, boat sales and service
- Indoor shooting range
- Event venue
- Brewery/distillery
- Machine/welding shop
- Large satellite receiving antennas (>1 meter)
- Chemical storage

Also, it appears that any structure could have a primary height of 45 feet up to a secondary height of 67 feet. Based on the slope information in the document (40 feet vertically over a 100 feet horizontally), this means that it would be possible to have a structure that reaches or exceeds the height of Horn In The West Drive, especially if some filling occurred in the low elevation areas of the property.

While I support sensible use of property for business purposes, including integration of smaller tracts of land into larger, possibly more-functional and efficient tracts (something my family has done over a span of 50 years with property in rural Watauga County), I do have a few concerns about potential impact on the quality of life in the adjacent R1 area along Woodland, Horn in the West, and Blanwood Drives, if the zoning change occurs.

One concern is the potential for additional noise. My mother's home already receives quite a bit of noise from NC Highway 105 Extension, ranging from sirens and heavy truck exhaust brakes at all hours, to activities at existing commercial entities along Hwy 105, even from point sources not in line-of-sight. Several of the uses I mentioned above have the potential and likelihood to increase that noise level.

I'm also concerned about additional traffic on Horn in the West Drive and intersecting streets. Implementation of the one-way section of Oak Street between Pine and Clement has, in my experience over several years, increased traffic on Blanwood, with quite a few drivers not obeying the 20 mph limit and/or driving too fast for conditions. Since there is no specific proposed project being submitted, I must assume that it would be possible for the owner/developer later to propose a high-rise structure that could have driving access off Horn in the West Drive, across an adjacent tract. Neighbors are being asked to give up the protection of R1 to issue a blank check for something yet to be proposed.

Although the development years ago of the commercial space adjacent to

and bounded by Horn in the West Drive, King Street, and NC 105 Extension included a driveway connection onto HITW Drive that appears directional (northbound, toward King Street) in nature, I have many times seen traffic turn back south on HITW Drive, violating the apparent intent of the development plan and adding commercial traffic to the single family residential area. Any potential access from HITW Drive to development of the tract currently under consideration could not even have a veiled pretense of trying to keep traffic out of the R1 residential area.

With the addition of other adjacent tracts to a potential future development project using the current tract under consideration, one can imagine a towering multi-family structure on the east side of Horn In The West Drive between Woodland and Blanwood that would dramatically change the neighborhood character, not unlike that of The Standard on Blowing Rock Road, where mountain views are now replaced with views of...well...a five story building.

Given the steep terrain and proximity of other, well-established, nearby R1 properties, my feeling is that in exchange for the zoning change, the applicant should (1) give up in perpetuity access (even across other properties) from Horn In The West Drive (or any successor roadway), (2) agree to a significant setback from HITW Drive, perhaps 75 feet, (3) limit the height to something below the level of HITW Drive (at least one story lower), and (4) agree only to commercial activities that do not add significant noise to the area.

From my conversation with Ms. Shook, I have learned that the Council does not have the option to impose conditions on a general zoning change. Were that possible, and with the constraints I mentioned above, I would support and endorse the proposed zoning change. Without those limitations, I request that you deny the change and make no revision until being presented with a very specific development plan whose impacts on the rest of the R1 area can be more easily quantified.

Thank you for the opportunity to communicate these concerns to you and for your undertaking trying to strike a fair and often difficult balance among different land use options.

Richard Randall
RichardRRandall@gmail.com

Jane Shook - Rezoning Proposal -- Horn in the West Drive

From: Catherine Cole <mondonvil11@yahoo.com>
To: "jane.shook@townofboone.net" <jane.shook@townofboone.net>
Date: 10/23/2017 10:47 AM
Subject: Rezoning Proposal -- Horn in the West Drive
Cc: "richardrrandall@gmail.com" <richardrrandall@gmail.com>, Michael Krenn <...>

As owners of the home at 145 Blanwood Drive in Boone, we are writing to request that you deny the zoning change request of Robert Brown in Case PL00800-080917 for a "General Use Zoning Map Amendment." It has only just come to our attention that a hearing concerning this matter is scheduled for this evening.

When we bought our home in 2008, we sought a quiet neighborhood within walking distance of the University, where Dr. Behrent is employed. It required multiple long-distance house-hunting trips before we finally identified a suitable property, given how much of the Town of Boone is already zoned for apartments, student rentals, and commercial development. The Horn in the West area was one of very few locations close to campus, yet set apart from student housing and business areas. The value of our property on Blanwood Drive is one of our main sources of financial security, as well as a home that has given us a high quality of life for the past ten years.

Boone's R-1 neighborhoods are both rare and precious for all of us with strong reasons to live close to the center of town. The proposed zoning change would directly affect not only the property immediately in question, but all of the surrounding properties that rely on the narrow wooded slope east of Horn in the West drive as an essential buffer against the noise, light, and air pollution that continually drift up from Highway 105. If new development extended to Horn in the West Drive itself, the quantity of traffic and smell of exhaust would be much greater, the area would become even noisier, and instead of the pleasant visual effect of a wooded slope, everyone driving or strolling down Horn in the West would be looking straight out at car dealers, apartment complexes, and hotels.

In addition to the effect on residents of the surrounding blocks, the Town should consider the cultural and natural value of the Horn in the West complex that houses our farmer's market, a theater, and the Daniel Boone Native Plant Gardens. Increased noise, pollution, and traffic from proposed development along Horn in the West would also threaten the beauty and peace of this complex, which for decades has provided our local community with a unique oasis near the center of town.

We fully support the specific proposal of Richard Randall (son of our neighbor Mrs. Le ra Randall) to impose on any prospective development 1) refusal of direct access to Horn in the West Drive; 2) a significant setback from Horn in the West Drive; 3) height li

**Jane Shook - Robert Brown Case PL00800-080917 General Use Zoning Map Amendment
Comments and Concerns**

From: Michael Wade <wademg@appstate.edu>
To: <jane.shook@townofboone.net>, Rennie Brantz <brantzrw@appstate.edu>, Jea...
Date: 10/23/2017 6:01 PM
Subject: Robert Brown Case PL00800-080917 General Use Zoning Map Amendment Comments and Concerns
Cc: Michael Wade <wademg@appstate.edu>

To Town of Boone Officials:

I am unable to get to the meeting due to flooded and blocked streets near the University, so I am writing this short letter of opposition to the requested change to a property, which asks for what is in effect a blank check to proceed with a project to be named later by having the Town agree to I am mystified as to why the Town would consider such an open-ended request to begin with. Is this how a responsible town body should look out for the residents of its neighborhoods? Who exactly installed the notice of a hearing behind the railing on Horn in the West Drive, so that it was scarcely visible to passersby, and why? Why was this meeting not postponed in light of the fact that the Town failed to observe at least the spirit of the public posting duration requirement?

I am a thirty-one year resident at 127 Woodland Drive in the Appalachian Heights neighborhood in Boone. We are a protected neighborhood according to the Town of Boone strategic plan, and one of the oldest neighborhoods in Boone. I have never felt particularly protected, however, primarily due to the town's generalized failure to see that regulations regarding renters in R-1 neighborhoods are being met.

Now we are faced with an application to re-zone an R-1 structure to B-3 on a property adjoining a B-3 parcel which the applicant already owns. How can the town assess the wisdom of granting such a change when there is no project to consider? This property is adjacent to Horn in the West Drive, a boundary of the Appalachian Heights neighborhood, opening up the possibility of a multi-story building, perhaps with access of some sort to Horn in the West Drive, and probably involving damage to tree cover which insulates our neighborhood from the road noise, including regular, loud, illegal jake brake use, the prohibition of which seems to go unenforced.

I think that it is high time that town officials began to get as serious about the well-being of its homeowners, and their neighborhoods, as it appears to be about the interests of developers of commercial properties and student apartments posing as commercial properties. I hope that the Town will put a speedy end to this request, and do better in the future about looking out for the well-being of the many citizens whose homes are probably their largest single investment, and for the integrity of historic neighborhoods which add much to the appeal of Boone.

Sincerely,

Michael G. Wade