

**SPRING QUARTERLY PUBLIC HEARING
MEETING MINUTES
MONDAY, MAY 3, 2010
7:00 P.M.**

Boone Town Council: Mayor Loretta Clawson, Lynne Mason-Mayor Pro-Tem, Stephen Phillips, Jamie Leigh, Andy Ball and Rennie Brantz

Boone Area Planning Commission: Chairperson Bunk Spann, Vice-Chairperson Mary Ruth McRae, Terence Milstead, Eric Woolridge, Shawna Rhyne, Donald Dotson, Sarah Huffstetler, Greg Simmons, Robert Cherry, Brett Scantlin, Tom Purpur and Jay Vincent

Planning Staff: Bill Bailey-Director of Development Services, Jane Shook-Planner, Brian Johnson-Urban Design Specialist and Marlene Crosby-Board Secretary

Others: Greg Young-Town Manager and Sam Furgieuele-Town Attorney

Mayor Loretta Clawson opened the meeting at 7:00 p.m.

CASE 2010146 BATES CONDITIONAL DISTRICT – REZONING

James and Janet Bates have filed a Conditional District Map Amendment request for property located at 225 Delmar Street (Watauga County PIN: 2910-68-7833). The request is to rezone the property from R-1 Single Family Residential to Conditional District R-2 Two Family Residential for a site specific development plan for Use 1.210 Single Family with Accessory Apartment.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Mr. and Mrs. Jim Bates came to the podium to present their information. Commissioner Simmons asked why the R-1A did not meet the requirements for this case. Mayor Pro-Tem Mason asked if the main dwelling was owner occupied and that the request must meet one of the two requirements. Ms. Shook confirmed that they have to meet one of two conditions. Otherwise with a conditional use permit, they have to meet all of the underlying conditions. Commissioner Simmons asked if the writer of the site plan was present at this meeting.

The first speakers were Mr. and Mrs. Jim Bates. They came to the podium to answer the questions of the board members. Commissioner Simmons asked about the two unrelated living in each structure and the parking requirements and the narrow driveway to this structure. Mr. Bates explained from the information from a past hearing regarding the alley. Mrs. Bates said the alley is only there for the property owners and it is not a through street. Mr. Bates said the apartment was built in 1950 and the apartment was used for additional income to support the healthcare for Mrs. Bates parents. Mr. Bates said that this apartment should have been grandfathered in. Mayor Pro-Tem Mason asked if the house is currently occupied. Mr. Bates said it is currently being rented out. Commissioner Milstead asked if the property is conditionally re-zoned does it change with new owners. Ms. Shook said that it stays with the land. Mrs. Bates said the apartment is too small for two people and they want one person in the apartment and one person in the house. Mrs. Bates found out through the tax records that it was not grandfathered. They want to sell this property to the appropriate buyer. They have an interested buyer for the home, if they can rent the apartment to generate income.

The second speaker was Mr. Andrew Heckert. He lives at 242 Owens Drive. He teaches at Appalachian State University. He is concerned with various future renters and when the property changes hands. He wants to see the neighborhood kept intact and be able to contact the owner when needed.

The third speaker was Mr. Bryan Pheasants. He lives at 255 Delmar Street and he moved to this address four years ago. Mr. Pheasants wants the same re-zoning made available to him, if needed in the future.

The fourth speaker was Mr. Jeremiah Kitunda. He lives at 284 Delmar Street and he moved to this

address four years ago. He is originally from Kenya and teaches at the university. They are concerned with future renters because they are raising their children there. He has experienced noise problems from parties and loitering with university students living there.

The fifth speaker was Mr. Joseph Cazler. He lives at 144 Daniel Boone Drive Extension and he has lived there for 38 years. He said that if you let one do it, then everyone else will want to do it too. He said there are around 60 people living in this area and more will move there when the new Watauga High School opens.

With no further questions, Mayor Clawson closed the public hearing for this case.

CASE 20100149 FAITH MISSIONARY BAPTIST CHURCH - CONDITIONAL DISTRICT REZONING

Mr. Sunny Younce for Faith Baptist Church has filed a Conditional District Map Amendment request for property located at 507 State Farm Road (Watauga County PINs: 2910-44-4661-000, 2910-44-5528-000, 2910-44-6596-000). The request is to rezone the property from R-1 Single Family Residential to Conditional District B-2 Neighborhood Business District for a site specific development plan for Use 5.200 Churches. The property is currently permitted as a Church but the requested parking lot expansion exceeds the current R-1 Single Family intensity regulations.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Ms. Shook said the current R-1 zoning intensity ratios would not allow the expansion of their parking lot and they could not meet the requirements for livability in the R-1 zoning district. Member Milstead asked if the property owners could apply for a variance. Ms. Shook said yes they could but it would be difficult to obtain due to the many requirements. Ms. Shook clarified that this conditional zoning request is site specific. At this time, the church members are not asking for a parking expansion behind the church. Council Member Stephen Phillips asked about the site lighting and landscaping requirements. Mr. Brian Johnson, Urban Design Specialist explained that these items would be based off of square footage taking Sunnyside Drive into consideration.

Mr. Sonny Younce came to the podium to answer questions and present the history of this church. He lives at 513 Cardinal Lane. Mr. Younce said that the church purchased the property for the parking lot expansion about one and one-half to two years ago. Mr. Younce has been the pastor of Faith Baptist Church for 16 years. The church has grown from 12 or 13 people to 235 over the last 16 years. The church does not lease the property out because of problems with partying and leaving beer cans on the grounds.

The second speaker was Conley Wilcox. He lives at 805 George Wilson Road. He has gone to this church for about four years. He supports the need for more parking spaces especially when they have special singings or other events where additional parking is needed. Ms. Shook pointed out that based on the UDO parking requirements a church this size would normally require 117 spaces. The total parking spaces for this church with the expansion would be 59. Commissioner Simmons asked if the grading is completed for the parking expansion. Mr. Younce said the grading is completed at this time.

With no further questions, Mayor Clawson closed the public hearing for this case.

CASE 20100162 STUDIO WEST APARTMENTS, LLC - ZONING

The Town of Boone has initiated a Zoning Map amendment to zone property owned by Studio West Apartments LLC in conjunction with the voluntary annexation of said property. The property is located at 1785 Highway 105 and is further identified as Watauga County PIN: 2900-82-2752-000. The following zoning districts are under consideration for this property B-3 General Business and R-A Residential Agriculture – of these only one will be chosen. In addition, the Corridor District and the View shed Protection District are under consideration for portions of the property that is being zoned.

Ms. Shook, Planner presented this case as outlined in the meeting packet. Commissioner Simmons asked about the corridor overlay. Ms. Shook said part of the corridor overlay will extend into the newly annexed area. Ms. Shook said that the applicant has all ready received the permits to renovate the apartments. Ms. Shook said if they wanted to do a conservation easement, they would have to do it on their own. Commissioner Simmons while at the apartment site, he saw two parents of university freshman watching the carpenters install sheetrock in their future apartment. The parents asked Commissioner Simmons if there would be public transportation for this location. Ms. Shook said that there was suppose to be a meeting with Appalcart. At that time, Ms. Shook did not know the results of that meeting.

There were no speakers for this case.

With no further questions, Mayor Clawson closed the public hearing for this case.

At 7:45 PM, Mayor Clawson called for a five-minute break. Mayor Clawson reconvened the meeting at 7:55 PM.

CASE 20100163 CATACORNER INVESTMENTS – CONDITIONAL DISTRICT ZONING MODIFICATION

Mr. Jeff Collins for Catacorner Investments and Mr. Reg Poteat have filed a Conditional District Map Modification request for property located on Hwy 105 (Watauga County PIN: 2910-13-8946-000 and a portion of 2910-13-6885-000). The request is to modify the site specific development plan associated with the Conditional District B-3 General Business zoning district for the Courtyard by Marriott which received Conditional District B-3 approval in November of 2008.

Ms. Shook, Planner presented this case as outlined in the meeting packet. Ms. Shook said that there was one valid protest petition to trigger a super majority. Mayor Pro-Tem Mason asked Ms. Shook to highlight the area of previous conditions from November of 2008. She talked about the installation of a berm on Wintergreen Lane. She was recently present at a meeting at the site and it is her understanding that under a new proposal a portion of this berm will need to be removed. Ms. Shook said that in order for the applicant to be in compliance with their approval, the berm had to be installed initially. Council Member Leigh asked about an encroachment agreement. Mr. Johnson said that they were not in the right-of-way and an encroachment agreement is not needed. Mayor Pro-Tem Mason said it was her understanding the height of the retaining wall is lower than the elevation of the current berm. How can the berm currently be restored in relation to the height of the retaining wall, she would need more information to conceptualize. Mr. Jim Deal, Attorney for Mr. and Mrs. Reg Poteat came to the podium. Mr. Deal explained that he scheduled a meeting with Ms. White and Ms. Owen to talk about their concerns with the initial concept that he had presented. Mr. Deal said that since he has met with them, they have changed the plan significantly. Mr. Deal said that he tried to address as many of their concerns as he could and still build something that is attractive to the community. Mr. Deal pointed out that almost all of the conditions that were in the original permit are not being changed. Only three or four conditions have they been asked to change. Mr. Deal said that seven through eighteen are not being changed. Mr. Deal said he met with the Development Services Staff for guidance. Mr. Deal said part of what creates the issue is when the original plan first came before the Town Council; it was the Marriot Courtyard Version Number Three. This was the version that Marriot Courtyards was building at that point in time. Mr. Deal pointed out that these kinds of hotel chains are constantly changing. Mr. Deal gave the differences between the different versions of this hotel chain. Mr. Deal explained the difference in walls heights, access to hotel site, the dumpster service between 8 AM and 9 AM, moving the structure back and maintaining elevation to prevent the Staples issue. Mayor Pro-Tem Mason stated that she needs the significant changes in writing because it is difficult for her to conceptualize. She talked about the location of the building and it is against the Smart Growth Principles. Mr. Deal said this project is a challenge being next to a R-1 neighborhood in the back of it, he prefers to put the building further back to put noise in the front of the building. Mr. Deal met with neighbors to address their concerns. Mr. Deal later at this meeting asked the engineers to explain the changes from a professional standpoint. Commissioner Woolridge asked Mr. Deal what does it give you by moving the building back ten feet? Mr. Deal said it gives better access off of Hwy 105, more landscaping, allows Version Four of this hotel chain which would look better. Mr. Reg Poteat, hotel owner talked about how the streetscape is very important. Mr. Poteat talked about the awards at his High Point, North Carolina hotel and other hotel locations that have won awards as a result of their landscaping. Mr. Sam Furguele commented on the authority of the Town Council and the Section 397 of the Unified Development Ordinance and the Appearance Standards and preserving historic trees. He talked about the possibility of the need for a variance request and how the Town Council cannot grant a variance.

The first speaker was Mr. David Turlington, Attorney presenting many residences near this location. Mr. Turlington handed out a written submission for the file and he asked the Town Council Members and the Planning Commissioners to consider the content of it. He commented that the petitioners modified what they submitted. Mr. Turlington said we are looking at a hotel that is anywhere from four to six feet taller than the previous hotel and it is ten feet closer to the houses and a dumpster and parking that is closer to the houses. He said that now he hears that they want ten feet retaining walls. Mr. Turlington said that there are four foot retaining walls and eight foot setbacks in the current statutes. There are no historic trees there that he knows of at this time. Mr. Turlington said it is a big issue in 20 years when the Marriot franchise expires and the next thing you know it is student housing.

The second speaker was Lynn White. She lives at 170 Wintergreen Lane and has lived here 47 years. Ms. White said that her son was present to distribute some reference materials. The reference materials included three pages of information on this case and photographs of the grading line of the established berm and hedge close to this sight. She has seen a lot of changes in the Town of Boone. She and her husband returned to Boone in 1961 to teach at the Appalachian State University. Each of them taught more than 35 years at ASU. She bought her home in 1972 at 170 Wintergreen Lane. She raised her three sons there. She considers the area where her home is to be one of the most beautiful and historic areas in Boone. She is in opposition of the current proposal and she stated the reasons why, please see attached. She pointed out eight significant changes. She said that in 2005, she purchased the house next door to her home at 148 Wintergreen Lane where Mrs. Louise Berry lives. This home is directly across from the gap she is referring to in the reference materials. This is the only rental property that Ms. White owns. She

further explained the history of the creation of an earthen berm near this property which included a hedge. She further explained the rest of the information in the reference materials. Ms. White encouraged all present to come and look out the windows of her home and Mrs. Berry's to see the negative effect that they will experience. She pointed out that there is on file a previously approved proposal for the development for a hotel on the land in question. She said they spent two years or more and she thought it was resolved. Now a totally new plan comes out and it impacts her neighborhood even more so. She said the residences do appreciate the entries that were sited within the Comprehensive Plan policies, noted in pages five through seven in the staff report.

The third speaker was Mr. Andy Stallings. Mr. Stallings lives at 390 Highland Avenue. He lives outside the 100 feet limit. His parents built his house there in 1948. He pointed out there are a lot of engineering issues with this project and most engineering issues can be solved. Mr. Stallings said he has spoken to Ms. Owens and he thinks it would be inappropriate for any plan to be approved that has not been seen by the affected neighbors to this project. He said he is curious on what the next step would be to move forward with this project.

The fourth speaker was Martin Root. He lives at 214 Wintergreen Lane. He said he welcomes the Courtyard Marriot and he said he thinks everything can be worked out for this project. He said it is apparent that the latest changes were not presented in writing at this meeting and he would like to see the newest plans in writing before approvals are made to this project.

The fifth speaker was Jeff Collins. He lives at 104 Hwy 105 South. He is the owner of Peabody's. He also owns a portion of land near Peabody's. He is in support of the Courtyard Marriot.

The sixth speaker was Gregg Parsons. He lives at 1104 Hwy 105 South. He is not in support of the neighbors having to see a hotel out of their house windows. He supports the hotel owner wanting to make this hotel a better place, if he is given a chance.

The seventh speaker was Susan Owen. She lives at 195 Wintergreen Lane. She presented several visuals which included the old and the new site maps without the latest changes. She supports the Courtyard Marriot under the permitted conditions. She was glad to hear that there have been some new changes; she took the new changes as a positive step forward. She said that she would like to review all new plan revisions. She said that she had requested and did not receive the plan, grading plan, utility plan, the landscaping plan and two pages of photometrics, all floorplans and two pages of exterior elevations for comparison with the old information. She also requested the information stating that the Marriott will not let them build the other hotel from the plans of two years ago and she requested it in writing. Mr. Deal said he would provide her with the new changes. Ms. Owen pointed out everything that she is seeing in the old and new changes. She showed pictures of her view from her yard, etc. She talked about the meadow and demonstrated the size of it before the grading began. She had an email regarding the parapet walls saying they would be no higher than 3203 sea level. She has a concern for the parapet walls. She said what she really wants is the meadow back with the ground hogs, etc. She demonstrated the 3:1 grade with a ball of string and is interested in the new changes regarding the grade.

Mr. Allan White, the son of Ms. Lynn White asked why with all the acreage at his location does the 1/20 or 1/50 of an acre that the berm is currently sitting on have to be destroyed. Mr. Ham from Blue Ridge Engineering answered questions on a portion of the UDO requirements that they have to meet which include parking.

Mr. Deal said that he got the staff report on Friday, April 20, 2010. He said how you address both concerns from Ms. White and Ms. Owen because Ms. White wants some things that Ms. Owen does not want. How do you satisfy both of them? You can't! You can only address as many concerns as you can and still do a project that benefits the community as a whole. Mr. Deal said he does not know what else he is supposed to do because the joint meeting town meeting only happens once a quarter. He said he has done as much as they possibility can on this with working nights and weekends to gather as much information as possible. He is open to suggestions and ideas to make this project work and to reduce damage to the neighbors.

Mrs. Pat Poteat said that for several years she had looked for property in the Boone area to build a courtyard. Mrs. Poteat said that she received a call saying that this property had all ready been approved for a Courtyard. She became excited and came to Boone to check into it. She said that they are a small family owned company and they own and manage their hotels. Their goal is to exceed their guest and community expectations, if given the opportunity. Mrs. Poteat commented on the fact that the building of this new hotel will create at least 35 new jobs, if given the opportunity. The guests sign a 'no party' document. She said that during the day that the hotel is really quiet. Her High Point, North Carolina hotel manager was present to say that the heaviest check in time are between 3:30 PM to 6:30 PM daily. Mrs. Poteat said that her hotel will be a good neighbor.

With no further questions, Mayor Clawson closed the public hearing for this case.

CASE 20100118 DEPARTMENT NAME CHANGE – TEXT AMENDMENT

Effective July 1, 2010 the Development Services Department will be renamed the Planning and Inspections Department.

Ms. Shook presented this case as outlined in the meeting packet.

There were no speakers for this case.

With no further questions, Mayor Clawson closed the public hearing for this case.

20100119 TEXT AMENDMENT

Amend the UDO for Use 1.400 Home Emphasizing Special Services, Treatment or Supervision and Use 7.0 Institutional Residence or Care Facilities. This includes the addition of Use 1.430 Home for Survivors of Domestic Violence and modified supplementary regulations and definitions for Use 1.400.

Ms. Shook presented this case as outlined in the meeting packet. Commissioner Simmons asked about Page one of the staff report and the significance of it. Ms. Shook explained that in Section 184, if they chose to be there, they would be subject to them. Ms. Shook said it is one per county; it is not our county in regard to supplemental standards as far a funding.

There were no speakers for this case.

With no further questions, Mayor Clawson closed the public hearing for this case.

ADJOURNMENT

With no further business, Mayor Clawson adjourned the public hearing at 9:55 p.m.

Mayor Loretta Clawson

Marlene Crosby, Board Secretary