

**SUMMER QUARTERLY PUBLIC HEARING
MEETING MINUTES
MONDAY, AUGUST 2, 2010
7:00 P.M.**

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

Boone Area Planning Commission: Chairperson Bunk Spann, Vice-Chairperson Eric Woolridge, Shawna Rhyne, Donald Dotson, Greg Simmons, Robert Cherry, Brett Scantlin, Tom Purpur and Kimberly Marland

Planning Staff: Bill Bailey-Director of Development Services, Jane Shook-Planner, David Graham-Development Coordinator and Marlene Crosby-Board Secretary

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

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

CASE 20100341 PARKING MODIFICATIONS – REZONING Text Amendment includes modification of standards for parking lots and parking garages utilized as a principal use, and also modifies Section 346 parking for Use 1.300 multi-family residences.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Ms. Shook discussed the proposed changes. Member Marland pointed out a percentage change on Page three of the staff report in regards to Section 346. Member Marland asked for a diagram to clarify the changes in Section 366. Ms. Shook said she would create a diagram. Planning Commission Chairperson Bunk Spann asked Ms. Shook if the words “adverse external effects” were strong enough to get the point across located in Section 359 [a][1]. Ms. Shook said this is current language. Ms. Shook said that this question should be directed to Mr. Brian Johnson, Urban Design Specialist. Ms. Shook said she would let Mr. Johnson know about his concern. Mr. Sam Furguele, Town Attorney explained that this is the general standard and the planning staff did not look at specifics in regards to neighboring properties. Mr. Furguele said that the proposed changes only deal with the shielding from the street. Mr. Furguele said that the specifics will take precedence over the general statement of policy. Chairperson Spann said that he hopes that this topic will be researched in the future. Mayor Pro-Tem Lynne Mason asked Ms. Shook to define the component principle term and clarify the use of it. Ms. Shook clarified in regards to accessory use. Discussion ensued on the shielding of the headlights and the view in parking garages. There were no speakers for this case.

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

CASE 20100342 UDO SECTION 154 [c] MODIFICATION Text Amendment includes modifications of Section 154 Conditional Zoning District Established as directed by Town Council to clarify inconsistencies within the UDO.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Mr. Sam Furguele, Town Attorney clarified the change under Analysis on page one of the staff report highlighted in yellow. There were no speakers for this case.

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

CASE 20100343 SIDEWALK MODIFICATIONS Text amendment modifies Section 243 Pedestrian Circulation and Sidewalk Requirements

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Discussion ensued

about the “contiguous sidewalk” and “Fee in Lieu”. Mr. Furgiuele explained that Mr. Blake Brown, Director of Public Works handles the changes involved in the sidewalks of the Town. Mr. Furgiuele noted that the current UDO states that the Roadway and Sidewalk Program Handbook for the Town of Boone can be changed quarterly or more frequently depending on the increase or decrease of labor and material costs. Mayor Pro-Tem Mason reminded everyone that the reason for the Sidewalk Priorization Plan is to coordinate a way to get sidewalks on all of the primary roads. She outlined the example of incontiguous sidewalks on Hwy 105. She noted contiguous sidewalks are more easily maintained for snow plows in winter.

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

CASE 20100354 APPLICATION MODIFICATION Text Amendment includes modification of Article 4 in regards to Permits/Applications

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Ms. Shook said that these proposed changes are directed to the permitting process and will allow the Planning Staff to respond to applicants within a predictable time period. Ms. Shook explained that the words in red struck through are the words to be deleted and the words written in blue and underlined are the new proposed text. Mr. Furgiuele expounded on Page two, Section 62 [a] No Occupancy, Use, or Sale of Lots until Requirements Fulfilled. He noted that this change came about to clarify this as a current practice, before it was not clearly defined in the UDO. Ms. Shook said that Section 64 received the most procedural changes. Mr. Furgiuele said that there are two different issues coming from two different directions. He said that over the years he has heard many times applicants complain that they thought they had sent in everything needed for a review by the Board of Adjustment and then staff added more requirements. Mr. Furgiuele said that a definition for an application was needed to help the applicant. Mr. Furgiuele noted that Ms. Shook has archived all of the text changes.

Further discussion ensued on the purpose for these changes in regards to making the process complete. Planning Commission Chairperson Spann complimented Mr. Furgiuele saying that this will be very helpful for staff and the applicants.

There were no speakers for this case.

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

CASE 20100355 ACCESSORY USES MODIFICATION Text Amendment includes modification of Article 10 in regards to accessory uses.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Discussion ensued on split zoning. Mr. Furgiuele said that this topic comes up a lot not just in the R-1 and R-3 zoning districts. Mr. Furgiuele said that there have been three applications this year involving split-zoned property. The applicants always have the choice of applying for conditional district zoning process or general use rezoning process to rezone their property.

There were no speakers for this case.

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

CASE 20100377 SECTION 179 TEXT AMENDMENT Text amendment to Section 179 Mixed use Districts established regarding green space/landscaped courtyards and maximum street setbacks.

Ms. Shook presented this case as outlined in the meeting packet. Council Member Leigh asked about the zero setbacks in the B-1 zoning district. Mr. Bill Bailey, Planning Director said that the setbacks were changed to 10 feet not 20 feet in the B-1 zoning districts. The setbacks were changed to 20 feet in the other two zoning districts. Council Member Leigh asked what the setbacks are if they go to a footprint and still maintain density. Mr. Bailey said there are currently no maximums. Mr. Bailey said the maximums are no further than zero in the B-1 zoning district. Mr. Furgiuele said except for the pedestrian amenities that are all ready included. Mayor Pro-Tem Mason asked for clarification from the Density Sub-Committee members. Discussion ensued on the setbacks in the various areas of the Town of Boone

compared to Raleigh, North Carolina. Mr. Bailey said that the proposed text was drafted to allow for flexibility in regards to pedestrians. Mr. Furgiuele said that he looked at the Smart Growth Audit, The Boone 2030 Master Land Use Plan and the Density Sub-Committee results when drafting this proposed language. Council Member Leigh talked about the topic of buffering and Mr. Bailey said next month this topic would be addressed. Council Member Leigh noted that she is concerned with the green space pushing the building back. She said before this proposed text green space could not push a building back. Council Member Ball noted a correction to the setback to 20 feet in the B-2 and B-3 zoning districts. Discussion ensued on the amount of distance between the road and the buildings. Mayor Pro-Tem Mason encouraged individuals to use a tape measure to measure these distances in the example of Boone Point. Mr. Furgiuele noted a setback correction made in B-1 and B-2 zoning districts. The proposed maximum setback change is 10 feet for these two zoning districts.

Planning Commission Vice-Chairperson Eric Woolridge said the spirit of the Density Sub-Committee's recommendations was to give clarification regarding the B-3 zoning district, in a main corridor saying that the Density Sub-Committee and Planning Commission did not make recommendations for a maximum setback. The Density Sub-Committee did say that if you are going to develop parking, the parking line cannot go in front of your building line. The question was where is parking going to be located. He said the spirit of the sub-committee was not to inundate the Downtown with a parking lot on King Street with a building behind as you would see in Urban America. He sought clarification on the proposed setback language. Mr. Bailey said the way the current code is written, there is no maximum except if you add a sidewalk café or some other type of sidewalk amenity. Discussion ensued on making a change to the proposed text to create clarity. Mayor Pro-Tem Mason noted how the result of this topic was outlined to the Town Council members as a minimum and not a maximum from the Density Sub-Committee members. She noted that the Planning Commission recommendations from the Density Sub-Committee was different than what the Town Council adopted regarding minimums and maximums. Vice-Chairperson Woolridge explained the error was made due to the meeting lasting until around 11 pm and he did not catch it at that time. Mr. Furgiuele noted that this proposed change for setbacks is only for mixed use.

There were no speakers for this case.

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

CASE 20100320 MICHAEL HENNING PROPERTIES REZONING – Michael Henning has filed a general use district map amendment request to rezone property located at 1087 West King Street (Watauga County PIN: 2900-69-2979-000) from B-3 General Business to B-1 Central Business.

Mr. David Graham, Development Coordinator presented this case as outlined in the meeting packet. Council Member Leigh asked the reason for the request. Mr. Graham said that the applicant, Ms. Anne Dixon is present to answer any questions.

Ms. Anne Dixon approached the podium and explained the reason for this request. She said that she has a mixed-use property with associated parking and apartments above the restaurant and undeveloped space below the restaurant. She said this property is located at the beginning of the Downtown Boone corridor. She feels that this change would be a natural progression for the B-1 zoning district. She feels if this property were zoned B-1, it would draw more developers. They have discussed creating a sidewalk café patio to encourage outdoor eating and she would be able to do this more easily, if it were zoned B-1 but the sidewalk patio is not the determining factor in why they want to change the zoning. Council Member Ball confirmed that the space to the East of this property is still vacant at this time. Mayor Clawson told Ms. Dixon that she like what she has done with the development of this property. Mayor Pro-Tem Mason complimented the staff on putting together the map for this case. Mr. Bailey wanted to add that the original discussion began with the owners wanting to put in the outdoor eating area. As the owners talked to staff about their intentions with the property, they realized that they may want to do other things with the property and it drove the whole discussion into the general use rezoning instead of doing it site specific. The property next to it is B-1, and it seemed like a natural extension for the owners and the Town of Boone as well.

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

CASE 20100333 FIRST BAPTIST CHURCH/HOSPITALITY HOUSE REZONING First Baptist Church Board of Trust, First Baptist Church and Hospitality House of the Boone Area have filed a General Use Map amendment request to rezone properties located at 316 and 302 West King Street (Watauga County Pin's: 2900-98-8507-000, 2900-98-8562-000, 2900-98-9402-000) from B-2 Neighborhood Business to B-1 Central Business.

Mayor Pro-Tem Mason noted that she is employed by the Hospitality House and although she will not benefit financially from this decision, she asked to recuse herself from this case. Council Member Ball made a motion for Mayor Pro-Tem Mason to be recused from this public hearing, seconded by Council Member Leigh.

Vote:

Aye – All

Nay – None

The vote was unanimous.

Ms. Jane Shook presented this case as outlined in the meeting packet. Council Member Leigh had a question on the isolated parcel shown on the map that is not showing a change. Ms. Shook said there is a single family residence on this parcel and it is still zoned B-2. The house is facing towards King Street and it comes off Wallace Circle. The applicants are separate owners and applied for the rezoning at the same time for a general use zoning request. Council Member Leigh asked if there was a purchase agreement for this property. Ms. Shook said she is not aware of a purchase agreement.

The first speaker was G. Perry (Skip) Greene, Jr. from Greene Construction. He gave the history of this property. He is the Chairperson for the committee for the First Baptist Church that sets goals for this property. Mr. Greene said the church has agreed to have this property rezoned. He feels that this property should be zoned B-1. He explained that he suggested to the Hospitality House to have their property rezoned at the same time to rezone the three parcels to B-1.

The second speaker was Dick James. He is the Chairperson of the Board of the Hospitality House. He is in favor of this rezoning change. He has no specific plans but it does give them a better opportunity for future plans and it is consistent with the Town's long range plans. Council Member Leigh asked Mr. James if there was a purchase agreement for this property and did they intend to sell it or develop it. Mr. James said, it was for sale at one time but is not on the market now. Mr. James said that he is looking internally at both selling and developing this property. At this time, there is no plan with the First Baptist Church.

Discussion ensued on the different changes in code in regards to permissible uses. Council Member Leigh asked the planning staff if the B-1 zoning district will allow for more density type development in general terms than a B-2 zoning district. Ms. Shook said yes it would allow for more density. Council Member Leigh asked how the isolated property will be impacted with the change from B-2 to B-1 in regards to future development. Ms. Shook said that building height and setback rules would still have to be followed. Discussion ensued on the difference in building heights between the B-2 and B-1 zoning districts. The B-1 zoning district would give more height in future development. Mr. Bailey said that there is more flexibility for the First Baptist Church in the B-1 zoning district in the Table of Permissible Uses. Planning Commission Chairperson Spann asked if changing this to a B-1 zoning district would be a negative or positive impact on the surrounding neighborhood given the permissible uses in the B-1 zoning district. Mr. Bailey said you will have a more intense effect on the R-1 neighborhoods, as a Planner you must assume it is facing the main corridor through Town. Mr. Bailey said the Town Council members must decide which is more important of the two factors, whether to present on the front and what to protect on the back. The topography lessens the impact on the residential neighborhoods and more impact on the road. There will be access issues and it will be difficult to get out from Wallace Circle.

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

Council Member Ball made a motion to bring Mayor Pro-Tem Mason back to the meeting

discussion, seconded by Council Member Leigh.

Vote:

Aye – All

Nay – None

The vote was unanimous.

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

CASE 20100335 HIGHLAND WOOD APARTMENTS REZONING Jack and Wanda Morgan are requesting a Conditional District Zoning Map Amendment to rezone properties located at 1173 and 1175 Highland Hall Drive and a portion of an adjoining parcel further identified as Pin(s): 2901-21-2041-000, 2901-21-3138-000 and 2901-21-3367-000 and B-3 General Business to CDR-3 Conditional District Multi-family for the purpose of developing a 2 phase multi-family residential development. The project as proposed will consist of 45 two bedroom units within four separate buildings and associated parking. The applicant is requesting vesting for five years.

Mr. Graham presented this case as outlined in the meeting packet. Mr. Graham noted that the Planning Staff did receive a letter of opposition from Righton C. Zsorey via fax (see attached). Ms. Zsorey stated in the letter that she is opposing this development for reasons outlined in her letter. Mr. Graham read the letter at this meeting. Mr. Graham noted that there are proposed plan improvements for Phase Two of this project that were not included in the meeting packet. Those plans were reviewed by staff and there were presented on the easel for review at this meeting.

Council Member Leigh asked what are the implications of requesting a five year vesting period rather than a two year vesting period. *Mr. Furgiuele said that under state law the default vesting period is two years. The Town Council and Board of Adjustment and Special Use Process have the authority to extend vesting to five years. It means that if the Conditional District Rezoning were approved the developer would have up to five years to pull the building permits. Once a building permit is obtained, and as long as a building is worked on for one year without interruption.* Council Member Leigh asked the staff to summarize the differences in the details presented at the water hearing and the plan presented at this meeting. Mr. Graham explained the difference in Page two of the staff report under phasing in the fourth and fifth sentence *“The applicant has indicated that “sanitary sewer allocation” has been granted for phase I (72 bedrooms) but not for Phase II. Additional sanitary sewer allocation shall be requested from the Town of Boone for the development of Phase II”.*

The first presenter was Mr. Jason Gaston of Valor Engineering located at 215 Boone Heights Drive. Mr. Gaston is the agent of the owner. He said this is a Conditional District Rezoning and it is not a continuation of the B-3 zoning district. The intent is to down zone this property. He talked about the topography being 40 feet above Hwy 421. This property was an abandoned nursing home. He noted the following facts: This developed property will be a student housing project built into two phases with Phase I having 36 two-bedroom units and Phase II having nine two bedroom units. The applicant requested the five year vesting period because Phase II may or may not be built contingent on receiving Town water and sewer and they do not know what the building schedule will be at this time. They have been granted public sewer but they have plans for private water for Phase I. He said that Phase I construction will begin immediately. He said this project will create jobs for local people and will pay local taxes. The proposed project will supply housing for Appalachian State University and Caldwell Community College. The proposed project will be serviced by the Appalcart Route by the Green Route. He noted that in regards to traffic, this proposed project does not warrant a traffic study by either the Town of Boone or the North Carolina Department of Transportation. He noted that he all ready has a preliminary approval of the access as drawn on the plans on Highland Hall Road from the North Carolina Department of Transportation saying the access at this road meets their standards. He talked about the sight distance at the intersection of Highland Hall Road and Hwy 421. He said the developer is volunteering to cooperate with the North Carolina Department of Transportation to resolve any existing conditions. He noted that this project is a redevelopment project. He

talked about the additional traffic during peak and non-peak times. He read from the Smart Growth page 9, page 57 and page 85 in regards to brown building and the revitalization of under utilized sites and infrastructures. Mr. Gaston explained why this proposed project is away from Hwy 421 which is due to the topography.

Council Member Phillips asked what the plan is for tract two on the plans. Mr. Gaston said they plan to parcel it off in an R-1 zoning district. He talked about buffering and landscaping between the R-1 and the Phase I proposed project and that the buffering is over and above the code requirements. Mayor Pro-Tem Mason asked if there was a rendering available that outlines the look this project would have from Hwy 421. Mr. Gaston did have a rendering and he showed it to everyone present at this meeting. Mr. Gaston explained that the Community Appearance Commission recommended approval of the building facing in the direction it is presented on the plans because it is a much greener foot print. Discussion ensued on the traffic of the intersection of Hwy 421 and the Highland Hall Drive in regards to the entering and exiting onto Highland Hall Drive. Mr. Gaston suggested trimming back some of the vegetation to improve the sight line at this intersection. Planning Commission Chairperson Spann asked if any consideration has been given to green space during the redevelopment of this proposed project. Mr. Gaston outlined the areas of green space on the plan. He said the whole concept is to have a trail system with picnic areas to preserve green space. Mr. Gaston said that he has not yet gotten into the details of buffering in regards to the R-1 property behind the proposed project. Mr. Gaston confirmed that this proposed project will be left in the trees. They have not gotten into the details of planning the type of trees that will be planted at this proposed project. Council Member Leigh asked the staff to tell her what Type C buffering is and Mr. Graham said it is 25 feet. Discussion ensued on the input from the neighbors, other access to the proposed property, drainage, the life expectancy of the buildings.

The second presenter was Mr. Douglas McGuire of McGuire Construction lives at 300 Birch Bark Trail in Sugar Grove, North Carolina. Mr. McGuire said he is the developer of this proposed project. He thanked the people for coming to this meeting from Highland Hall Drive and showing their concern. He said he is open to discussion for issues with this project. He plans to annex this proposed property into the Town Limits. He said that he will be the off-site property manager and he has a local office nearby. Mayor Pro-Tem Mason reminded Mr. McGuire of the noise ordinance.

The first speaker was Mr. Rainer Goetz. He has lived at 1235 Highland Hall Drive for over 20 or 25 years. He said that this proposed project has potential to impact this neighborhood in a negative way. He noted that this proposed project will create 180 students moving in and out and traveling back and forth to Appalachian State University and Caldwell Community College. He asked the Town Council members when they are making their decision on this proposed project to please take into the consideration the concerns of the community.

The second speaker was Mr. Thom Jackson. He lives at 1196 Highland Hall Drive. He is not against the proposed project being built but he believes they should create another access to it because of the steep road. The cars cannot make it up the road in winter and they stall in the snow.

The third speaker was Ms. Essie Hayes. She owns the property at 13841 Highland Hall Road and she is a seasonal property owner. She said there have been accidents at the intersection of Hwy 421 and Highland Hall Drive. She said it is a very dangerous intersection. She challenged the Town Council to drive up this road and back down and look at the terrain. She also noted that the intersection of Hwy 421 and Oak Grove Road was unsafe.

The fourth speaker was Mr. David Ward. He is in opposition of this rezoning. He lives at 1270 Highland Hall Drive. He said in the winter time cars stall in the snow and the police have given out tickets to the car owners and the cars are towed away. He said they have a nice neighborhood now and they do not want the loud noise as a result of this zoning change.

The fifth speaker was Mr. Brent Bingham. He has a rental house at 566 Highland Hall Drive. He is not against the proposed project per se. He is concerned with the lack of control of limiting the amount of people that live there and the changing of students at the end of each school year. He said it is unsafe for individuals to walk on Hwy 421 to get to Appalcart stop down the road. He said there is no where for cars to be parked in winter for those who cannot make it up the steep hill to the apartment buildings.

The sixth speaker was Mr. Keith Jennings. He is not against the proposed apartment project. He

had concerns on density and traffic issues.

Discussion ensued on sidewalks at this location and steps with switchbacks and a dedicated Appalcart shelter.

Mr. Graham noted that during the June 2010 Water Allocation on Page 5 of the staff report under Zoning [1]. There was a commitment by the owner to preserve the R-1 parcel and leave it undeveloped and use it as a buffer. It is going to become an R-1 lot.

ADJOURNMENT

With no further business, Mayor Clawson adjourned the public hearing at 9:58 p.m.

Mayor, Loretta Clawson

Marlene Crosby, Board Secretary