NOVEMBER QUARTERLY PUBLIC HEARING
MEETING MINUTES
MONDAY, NOVEMBER 1, 2010
7:00 P.M.

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

Boone Area Planning Commission: Chairperson Bunk Spann**,** Vice-Chairperson Eric Woolridge, Kayla Malsbury, Donald Dotson, Greg Simmons, Robert Cherry, Brett Scantlin, Tom Purpur, Jay Vincent 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 Furgiuele-Town Attorney

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

CASE 20100530 GH Winkler Family Ltd. General Use District Rezoning – Map Amendment
A General Use District Zoning Map Amendment Petition has been filed by Anna W. Phillips and Barbara W. Dunnigan on behalf of the GH Winkler Family Limited Partnership to rezone the B-3 General Business portion of 115 Highway 105 Extension (Watauga County PIN: 2910-36-7347-000) to R-3 Multiple Family. Currently the property is split zoned with B-3 General Business and R-3 Multiple Family.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Ms. Shook noted that it was just brought to her attention that the entire B-3 General Business portion of the property was not included in the rezoning request, a small portion close to Highway 105 is to remain B-3 General Business.

Mr. Jim Deal, Attorney for GH Winkler Family Trust presented the details of the request for this case. Mr. Deal showed Council and the Planning Commission a survey of the property which outlined the B-3 General Business. Mr. Deal discussed the acreage of the property which is larger than indicated on the tax maps. Mr. Deal said that none of the property adjoins Highway 105 and that the entrance to the property would be from Beverly Heights Avenue. Mr. Sam Furgiuele, Town Attorney reminded Council and the Planning Commission that all uses permitted within the requested district should be considered while reviewing a general use rezoning. Commission Member Brett Scantlin joined the meeting at 7:08 PM.

Discussion ensued regarding the proposed rezoning. Mr. Cam Fienley with Venture Properties came to the podium. He indicated he has been a member of Venture Properties for over 25 years. He has been involved in over 65 projects that have included shopping centers and other types of development. He lives in North Wilkesboro and he went to Appalachian State University. He noted he has an agreement with the Winkler Family Trust to develop the property. He noted the proposed project his location with about 12,000 square feet of retail with six to eight shops with residential units on the top floor. He said this property is not suited for a B-3 zoned property and that it is suited for R-3 Multi-family zoning. He indicated that they would like to daylight the creek and wanted to leave the existing natural buffer along the Beverly Heights Avenue. He intends to follow the Smart Growth Principles and the regulations in the Unified Development Ordinance when developing this property. He is concerned with the health, safety and welfare of the citizens in the area. He noted that this type of development could move 600 to 700 people closer to the city limits which could reduce the amount of cars on the road. Mr. Bill Worden came to the podium to answer any questions on this case. He said that they intend to leave the acreage along Hwy 105 zoned as B-3 for flexibility purposes. Discussion ensued on the multiple points of access. Mr. Furgiuele noted again that this is not a project with a site specific plan. Mayor Pro-Tem Lynne Mason asked Mr. Deal, if the property owners had thought about applying for a Conditional District Rezoning. Mr. Deal indicated that he believed that this process was the recommended route. Mr. Bill Bailey, Director of Planning and Inspections indicated it is less work for an applicant to go with the General Use District Rezoning versus the Conditional District Zoning route if they did not have

site specific plans prepared.
Mr. Deal said that he knows most of the neighbors in the area and they need to know what the best use would be for the property. Council Member Leigh said that she is confused on why the property owners are rezoning, if you can put residential in the B-3 zoning district. Mr. Fienley noted the regulations of UDO Section 179 required 50% commercial. Discussion ensued on density and parking. Mr. Deal talked about moving the R-3 zoning district down and leaving the B-3 zoning district along Hwy 105. Mr. Bunk Spann, Planning Commission Chairperson asked Mr. Bailey to give direction on the densities in Section 179 of the Unified Development Ordinance. Mr. Bailey explained the differences in the regulations. Discussion ensued on the two foot strip of property which borders Beverly Heights Drive. Mr. Deal indicated the two foot strip was created when Mr. Jerry Coe developed the Beverly Heights subdivision. Discussion ensued regarding the location of the two foot strip.

There were five public speakers for this case.

The first speaker was Mr. Paul Welsh. He lives at 139 Telescope Peak Avenue. He is concerned with the safety of his 13 grand children. He is concerned with the increased traffic with a potential of 600 residents. He said it would be better, if they were single units.

The second speaker was Ms. Cathy LaMarre. She lives at 156 Olancha Avenue. This is her first home and she has lived there 15 years. She has read the 2006 Comprehensive Plan and the Boone 2030 Plan. She talked about the potential number of units and the increase in traffic. She mentioned that she had been in a car accident with multiple injuries and her car was totaled near this location. She said that she preferred to see Conditional District Rezoning at this location.

The third speaker was Ms. Kathy Graham, she is the daughter-in-law of Mr. and Mrs. Jim Graham. She lives at 939 Appalachian Drive. She is concerned with the increased traffic at this location. She has no problem with the business usage.

The fourth speaker was Mrs. Nancy Dennett. She lives at 130 Berkley Avenue. She said that the proposed project *is not improving* the health, welfare and safety of the neighborhood. She is concerned with the increased noise, declining property values, increased trash and the safety of the wildlife.

The fifth speaker was Scott Warren. He lives at 388 Beverly Heights Avenue. He is concerned with the increased traffic. He was not in support of the proposed zoning change. He said that it will ruin the area and cause a lot of accidents. He commented on the amount of student housing buildings in the Town Limits.

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

CASE 20100522 Boone Point Conditional Zoning District Modification – Map Amendment
Boone Station Partners, LLC have filed a Conditional District Zoning Map amendment for property located at 148/178 Highway 105 Extension (Watauga County PIN: 2910-27-6826-000) to modify the current B-3 General Business Conditional District Zoning. The applicant is requesting approval to allow condominium units (201-205) to be permitted as 4 office space uses and 1 unit as a home occupation unit. In addition, the applicant is requesting approval of condominium units (301-305) to be permitted as 2 office space uses and 3 units as home occupation units.

Mr. David Graham presented the case as outlined in the meeting packet. Council Member Brantz asked Mr. Graham to explain the meaning of Home Occupation. Mr. Graham referenced the UDO regulations on Home Occupations and noted that Planning and Inspections requires an applicant wishing to have a Home Occupation to fill out an application stating they will follow the UDO requirements and the application is kept on file.

Mr. Lucien Wilkins of Boone Station Partners came to the podium to present the details regarding the request on this case. Mr. Wilkins discussed the recent tenants at Boone Point which include medical specialty services and the fitness center. He discussed the request to add small offices in the residential units to cater to retired realtors, doctors or lawyers, etc. Council Member Brantz indicated a concern with proximity to the downtown area and asked if any studies have been done on rental rates. Mr. Wilkins said he is prepared to present rental rates and that the rental rates at Boone Point are probably higher than other places. Council Member Leigh asked the staff to

provide information on the last time the zoning was modified at Boone Point. Mr. Graham indicated that the last modification was for the inclusion of the fitness center.

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

CASE 20100557 Fire Department Standards – Text Amendment
Modify existing UDO language to include references to other pertinent codes and other standards for the Fire Department.

Mr. Sam Furgiuele, Town Attorney presented this case. Mr. Bailey said that there had been some issues that had to be dealt with creatively within the law.

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

CASE 20100558 Parking Retention – Text Amendment
Modify Article 19, Section 346 to regarding the retention of approved number of parking spaces. Reduction is not allowed unless approved by the permit issuing authority.

Mr. Sam Furgiuele, Town Attorney presented this case.

There were no speakers for this case.

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

CASE 20100559 Transitional Zones – Text Amendment
Modify Article 9, Section 155 to create transitional zones which attach to each R-1, R-1A, R-R, R-2, and R-A district. Creates standards for the transitional zone which is established for the purpose of creating special protections for residents of protected districts from potential adverse impacts of certain potentially incompatible nearby development.

Mr. Sam Furgiuele, Town Attorney presented this case. Mr. Furgiuele said that this text amendment does require a change. He talked about creating buffer zones and not using the word buffer because this word is used when dealing with landscaping. He talked about three zones and how some have larger impact than others and he gave examples of the impact of each one. Mr. Furgiuele explained the process on how to handle the zones. Discussion ensued on Item F and how density is or is not affected. Mayor Pro-Tem Mason said that lighting is a concern with high density next to a residential area. Planning Commission Member Vincent talked about his position as a realtor and acting as a buyer's agent. He is obligated to tell the potential buyer that an apartment building is going up next to the property they are thinking about buying, if applicable. Planning Commission Member Simmons talked about people buying property and how easily the zoning can be changed around it and used the new Watauga High School as an example.

Council Member Ball pointed out a typo in Section 198 [a] change transition to transitional.

There were no speakers for this case.

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

CASE 20100560 Section 167 – Text Amendment
Modify Article 10, Section 167 to include standards for projects which have made application for vested rights for to connect to the Town's water/sewer system.

Mr. Sam Furgiuele, Town Attorney presented this case.

There were no speakers for this case.

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

CASE 20100561 Article 18, Sec. 327 Residential Signs – Text Amendment
Modify Article 18, Section 327 to include adding the Residential Rehabilitation (RR) zoning district to the applicable zoning districts, and Use 5.2 Churches, Synagogues and Temples to the standards set forth in Section 327.

Ms. Jane Shook presented this case as outlined in the meeting packet. She noted currently the RR Residential Rehabilitation zoning district was not included with the other residential districts in Section 327. In addition though Use 5.2 is permissible within all the residential districts, no standards for the use were included for them to have signs.

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

OTHER MATTERS BY STAFF OR BOARD MEMBERS

Ms. Shook noted that Staff has been working with the Town Attorney on revisions to the Table of Permissible Uses and need direction before the revisions are completed regarding when a development should be brought into compliance with current UDO standards. Currently a project must be brought up to current UDO standards when the cost of the project exceeds fifty percent of the value of the structure or when there is a change in principle use. Mr. Furgiuele discussed an August, 2010 Court of Appeals decision which impacts on how the Town should list uses. He said if the use is not listed, then based upon the case law, it is permitted. Discussion ensued as to the potential impacts for the different triggers.

Mayor Pro-Tem Mason talked about the high cost of storm water. Mr. Furgiuele gave an example of the cost of storm water being more than the total cost of a building.

Ms. Shook also asked for direction on the possibility of having different types of multi-unit housing. Discussion ensued regarding this. Mayor Pro-Tem Mason noted that this concept has been discussed at Affordable Housing Task Force meetings. Discussion ensued regarding sending this to the AHTF for further discussion.

Ms. Shook stated that she would prepare Action Requests for the two items for the November Council meeting.

ADJOURNMENT

With no further business, Mayor Clawson adjourned the public hearing at 9:17 p.m.

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Mayor, Loretta Clawson Marlene Crosby, Board Secretary