

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
February 28, 2024**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order on Wednesday, February 28, 2024 at 6:00 p.m. at the Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Tim Futrelle presided. Council members present included Mayor Pro-Tem Dalton George, Todd Carter (remote), Virginia Roseman, Edie Tugman, and Eric Plaag. Town staff present included Town Manager Amy Davis, Town Clerk Nicole Harmon-Church, Public Works Director Todd Moody, Deputy Public Works Director Justin Stines, Planning Director Jane Shook, Police Chief Andy Le Beau, Grants Coordinator Laney Wise, Environmental Specialist Brandon Wise, Sustainability and Special Projects Manager George Santucci, Advanced Planning Specialist Jessica Mitchell, Deputy Planning Director Stacey Miller, Inspector Darrell Pulliam, and Code Compliance Officer Trainee Luis Aguilar.

MOMENT OF SILENCE

TENTATIVE AGENDA ADOPTION

Upon a motion by Council Member Tugman, seconded by Mayor Pro-Tem George, Council voted unanimously to approve the agenda as presented.

PUBLIC COMMENT

Pam Williamson spoke in regards to the transitional zone agenda item. She gave the following statement (entered as received):

"My name is Pam Williamson. I am a long-time Town of Boone resident and appreciate the opportunity to speak with you today. While I serve on the Town's Board of Adjustment, I am here today speaking solely on my concerns as a resident Boone and am in no way speaking for the Board.

I've read through the proposed draft related to transitional zoning beginning on Page 37 of your workshop packet and I look forward to the opportunity to weigh in on all my thoughts on specific proposed changes during your future public hearings on a final draft document.

In the meantime, today I want to weigh in on what I consider to be an inherent and significant overall problem with the strategy behind draft proposal.

Currently, under the UDO's Transitional Zone requirements, intense development proposals are attached to protected residential districts in order to protect quality of life in those residential districts. Each of these districts is unique - in size and environment and geographically, among other things.

Likewise, no two development proposals seeking to build inside those transitional districts are alike. Some are car washes, some are huge storage facilities, some are drug stores, some are double-lane, drive through coffee shops. Some development parcels are situated in such a way that the protected neighborhoods look down on the property. Others are situated such that the neighborhoods look up at the development. Some developments are proposed off main roads, others on secondary roads, some on local roads with resulting anticipated potential traffic issues. Some large developments are proposed on large lots, some large developments on small lots, some are proposed in flood prone areas, some require taking down all existing vegetation and refilling, others work around important existing vegetation.

It is, in fact, impossible to fashion an effective administrative one-size fits all approach to anticipate the effects of any such proposed large-scale development. That's why the Town currently requires such a development plan achieve additional oversight through a Special Use permit-by requiring the applicant to offer a tailor-made proposal that specifically addresses the characteristics of the particular and unique location in relation to potential negative impacts on nearby neighborhoods. (Page 64)

This strategy basically creates an overlay district to protect neighborhoods, which state law explicitly authorizes, but which the draft refers to as an "unwieldy and unnecessary" process (page 44). Nonetheless, this strategy has

worked well enough for a few applications to be denied outright, and which also prevented a Walgreens from being stuffed onto the lot next to EarthFare.

That's why Transitional overlay zones were created by Council in the first place. Because by-right approval was not working, because there was significant citizen outcry, and because Council found as a result that the general requirements of the ordinance were "not sufficient to protect neighborhoods from unique, potential adverse consequences of such developments" and because "the variety of circumstances which may need to be ameliorated in the face of such development are not amenable to a "one size fits all" approach."

Yet the draft proposes just that. It says the purpose behind the proposed changes is that there will be a "simpler, more straightforward approach," more "effective and efficient" and that it will **"create and apply the same "neighborhood protection standards" to all nonresidential development adjacent to residential districts."** (Page 39)

The draft then eliminates completely the UDO's language and intent of important transitional zone requirements (Page 63) and then proposes to move the approval process **from board approval to administrative approval** through one-size fits all minimal required standards. (Page 39)

That's called development "by right", and we already know it won't work. That's because it guarantees developers an easy approval by eliminating a discretionary review process which is the only tool the Town has to prevent or mitigate inappropriate and out-of-whack development that uniquely and negatively affects a transitional neighborhood. It also limits citizens the opportunity to weigh in.

A one-size-fits-all approach effectively throws the baby out with the bathwater. While leaving the door slightly cracked open for the possibility of narrow and modest Board conditions that **might** have a chance to mitigate some negative effects, the proposal nonetheless eliminates the most important transitional zoning requirements and most Board or Council oversight altogether. (Page 30)

Gone in this draft, for example, are the current Transitional requirements that obligates an applicant to "produce substantial competent and credible evidence demonstrating that the proposed development will effectively and to the greatest degree reasonable possible, mitigate the impacts of the proposed development" regarding noise impacts, lighting impacts, visual effects, negative traffic effects and more.

I strongly encourage Council and Staff to reconsider eliminating the important and hard-fought transitional zone requirements and instead find ways to **actually** strengthen them because a by-right approval of such developments does the exact opposite."

Nicholas Hammock of Lake Ridge Road in Boone stated that he loved the area and was born and raised here. He added that it was his opinion that the things that made the area so special, such as the clean rivers, forests, and wildlife, were in danger due to development. Nicholas stated that the clear-cutting of thousands of acres to make way for housing that locals could not afford was adding to the pollution problem in the area. He stated that since the Cottages of Boone were established, the Watauga River now smelled like raw sewage due to their water/sewage issues. Nicholas noted that he was unable to vote in municipal elections since he lived right across the town limits. Still, he felt that the decisions being made in terms of growth and development had a direct effect on his livelihood. He asked that Council begin to focus on ways to help the world because everything it did directly impacted the world's collective health. Council Member Plaag noted that the Cottages of Boone were located outside the city limits and encouraged Nicholas to give this same presentation to the Watauga County Commissioners.

REQUESTED APPEARANCES

JORDAN SELLERS - BLUE RIDGE CONSERVANCY

Jordan Sellers with the Blue Ridge Conservancy gave a presentation regarding the Rivers Park Trail design as a part of the Northern Peaks State Trail system. A complete copy of the presentation can be found at https://boonenc.igmp2.com/Citizens/Detail_Meeting.aspx?ID=3722. He then requested Council's approval to pursue a Recreational Trails Program grant requiring a 25% local match. Mayor Pro-Tem George made a

motion to commit \$11,616 from Sustainability Projects for the local match of the RTP grant. Council Member Plaag seconded the motion. Jordan indicated that staff was ready to begin the project as soon as grant funds were awarded and estimated that the project would take roughly three months to complete. Council Member Roseman asked whether the trail would be strictly for hiking and, if so, how would that rule be enforced. Council Member Plaag suggested the installation of signage once the trail was complete. The motion carried unanimously.

REBECCA HUTCHINS - DANIEL BOONE NATIVE GARDENS

Rebecca Hutchins with Daniel Boone Native Gardens gave a presentation regarding upcoming events and projects. A complete copy of the presentation can be found at https://boonenc.ig2.com/Citizens/Detail_Meeting.aspx?ID=3722. Manager Davis stated that the Boone Tourism Development Authority had donated \$75,000 on behalf of the Town for this project and the same amount to the Southern Appalachian Heritage Association. Council Member Plaag asked whether the construction plans for new projects at the Gardens had been reviewed and voted on by Council, to which Mayor Futrelle answered they had not. Council Member Plaag stated that he was not opposed to the funding or the projects but was concerned that the Cultural Resources Advisory Board was unaware of the situation. Mayor Futrelle stated that the TDA had approved the allocation of \$150,000 with no restrictions on how the money would be used except that it was to be split between the Gardens and Horn in the West. He added that it was his understanding that the allocation of funding was under the purview of Town staff. Manager Davis said that this funding was left over from the appropriation for the debt service for Howard Street from the occupancy tax and that she did not believe action by Town Council was required on this matter. It was the consensus of Council that the plan as presented was appropriate and not objectionable, but encouraged Rebecca to present the plan to the Cultural Resources Advisory Board to keep them in the loop. Public Works Director Todd Moody stated that there were only four employees on the crew that would perform this construction, and he worried that his staff would be unable to meet the June 14 deadline. After a brief conversation, Mayor Futrelle stated the Cultural Resources Advisory Board had not been informed of the project because it was on hiatus at the time. Council agreed that any other progress would be brought before the Cultural Resources Advisory Board and that Daniel Boone Gardens and SAHA could move forward with their projects.

Mayor Futrelle declared a break at 7:27 p.m. Council reconvened at 7:38 p.m.

BRAD FARRINGTON - REQUESTED UPDATES TO NEIGHBORHOOD CONSERVATION DISTRICTS

Brad and Maggie Farrington of Grand Boulevard in Boone, gave a presentation regarding requested updates to the UDO regarding Neighborhood Conservation Districts. A complete copy of the presentation can be found at https://boonenc.ig2.com/Citizens/Detail_Meeting.aspx?ID=3722. Council Member Roseman offered her empathy and stated that she, too, experienced frequent parties and trash in her neighborhood. She suggested penalizing the homeowner instead of the tenant for these UDO violations. Council Member Plaag was concerned about the enforcement piece of this plan and suggested adding an enforcement officer position in this year's budget cycle. Mayor Pro-Tem George acknowledged the problem with Neighborhood Conservation Districts and felt that Council needed to evaluate them to ensure they truly were protected. He added that a solution that applies to all areas of the town should be found and not just for Neighborhood Conservation Districts. Planning Director Shook indicated that she was unsure how to divide tasks instead of the enforcement work employees had been doing if a new person was hired. She added that she did not have room for a new staff person regarding office space or parking. Director Shook continued to say that parking in the streets, bonfires, and the number of people in a building were not regulated by her department but by other Town departments. She added that rental registries were against the law and noted that it was difficult to know when there was turnover of residents at a property. Director Shook agreed that Neighborhood Conservation Districts needed to be reviewed overall and suggested that Council revisit a nuisance category within the UDO. It was the consensus of Council that staff would bring this matter back for a work session discussion at the first meeting in May, then to the June Council meeting, and then to the public hearing. The Farringtons agreed with this timeline.

Mayor Futrelle declared a break at 8:52 p.m. Council reconvened at 9:07 p.m.

WORK SESSION**CONSIDERATION OF TRANSITIONAL ZONE PROVISIONS**

Director Shook presented a report in regard to transitional zone provisions. Mayor Pro-Tem George indicated he was open to the conditional use process to address concerns and inconsistencies. Director Shook noted that not every permit triggered a transitional zone and that if Council changed to a conditional district process, it would double or triple the amount of work on her staff. Mayor Pro-Tem George stated that he would like to see a more legislative process that achieved the true intent of a transitional zone. Mayor Futrelle added that through re-evaluating the UDO and the Comprehensive Plan he believed Council could create the solid foundations that everyone worked from. Council Member Tugman stated that Council needed to define and establish parameters clearly. Council Member Plaag viewed the issue as a training and political perspective problem within the Board of Adjustment. He added that he was on the fence about the regulations proposed for R3-zoned properties and felt that anything impacting an R3 property should trigger a transitional zone, with Mayor Pro-Tem George agreeing. Council Member Roseman stated that zoning maps should be assessed first before looking into transitional zoning and felt like an overlay district would solve ambiguity amongst the Board of Adjustment. Director Shook answered that an overlay district would be more complicated. She suggested changing the vehicle for transitional zoning, and asked that staff be given the opportunity to go through the principle use table to identify things that triggered a transitional zone to create consistent protections for neighborhoods. Council Member Plaag suggested that staff move forward with what they had presented and go through the use table to figure out what things needed to go through the Conditional District process. Director Shook suggested staff be allowed to do both simultaneously and to work with two Council members while doing so. Mayor Pro-Tem George clarified that he did not want to encourage a Conditional District process in every instance but thought they could be used in a productive way that they were not currently being utilized in. Mayor Futrelle appointed Mayor Pro-Tem George and Council Member Plaag to work with staff on this project. Director Shook indicated that the goal was to bring the finished product to the April special public hearing. She added that staff would bring this matter back to Council at the April 10 Council meeting.

ADJOURNMENT

Upon a motion by Mayor Pro-Tem George, seconded by Council Member Roseman, Council voted unanimously to adjourn at 10:17 p.m.

Nicole Harmon, Town Clerk

Tim Futrelle, Mayor