SPRING
QUARTERLY PUBLIC HEARING
THURSDAY, MAY 08, 2008 7 P.M.

Boone Town Council: Mayor Loretta Clawson, Lynne Mason-Mayor Pro-Tem, Janet Pepin, Stephen Phillips, Liz Aycock and Rennie Brantz

Boone Area Planning Commission: Chairperson Bunk Spann**,** Vice-Chairperson Mary Ruth McRae, Charlie Walker, Chad Gryder, Mary "Bo" Bolick, Shawna Rhyne, Sheri Baker, Eric Woolridge and Caroline Poteat

Boone Town Staff: Greg Young-Town Manager, Sam Furgiuele, Jr.-Town Attorney, John Spear-Director of Development Services and Marlene Crosby-Board Secretary

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Mayor Loretta Clawson opened the Spring Quarterly Public Hearing at 7:00 PM and asked Mr. John Spear, Director of Development Services to come to the podium to present the following cases:

CASE 20080114 COMMUNITY EVENT SIGN TEXT

The Town of Boone has initiated a text amendment to UDO Article XVIII, Section 338, Temporary Sign Regulations. The purpose of the amendment is to add the Wooly Worm Festival as a Community Event recognized by the Town Council.

Mr. John Spear presented the case as outlined in the meeting packet. Council Member Phillips asked if there were other outside community Event Signs allowed. Mayor Pro-Tem Mason said yes there is a list of them all ready. The Wooley Worm Festival sign would be consistent with other community event signs listed. This particular amendment was initiated by the Town Council in October of 2007.

There were no speakers present for this case.

With no further comments by board members or staff, Mayor Clawson closed the public hearing on this case.

CASE 20080170 RIVERSTONE CODOMINIUMS

Town of Boone has initiated a map amendment following the filing of annexation petition for property owned by Smith Property MV2 LLC. The Town is zoning the balance of the property being voluntarily annexed by the owner. The recommended zoning for the property is R-3, Multi-Family Residential.

Mr. Spear presented the case as outlined in the meeting packet. Mr. Spear noted that annexation was required as a result of extension of utility service to the property. The recommended R-3 Multi-Family Residential classification is consistent with existing zoning and land use in this area. Approval of the annexation ordinance is on the agenda for the Town Council's consideration at the May 15, 2008 meeting. The effective date would be on June 30, 2008 for both the annexation and the zoning.

There were no speakers present for this case.

With no further comments by board members or staff, Mayor Clawson closed the public hearing on this case.

CASE 20080180 NAOMI & RANDY JOHNSON

Naomi and Randy Johnson have submitted a request to change the zoning classification of 169 Rogers Drive from (CD-R-3) Conditional District Multi-Family Residential to (R-1) Single Family Residential.

Mr. Spear presented the case as outlined in the meeting packet. Mr. Spear reminded the Town Council and Planning Board members that in November of 2006 Mr. and Mrs. Johnson approached the town requesting a zoning change to conditional district R-3 for a Capital

Investment, Small Financial Firm at the 169 Rogers Drive location. At this time, Mr. and Mrs. Johnson are approaching the town to return the zoning back to R-1 (Residential Land Use) which is consistent with the surrounding property.

Mr. Randy Johnson was present to answer questions on this case.

Council Member Pepin asked Mr. Johnson the reason for the zoning change. Mr. Johnson said the reason is because of a business opportunity to move their business to the Dunlap Building in downtown Boone. There is also a possibility of expansion across the hall from their office space in the Dunlap Building. Mr. and Mrs. Johnson are considering using the 169 Rogers Drive for a retirement home.

With no further comments by board members or staff, Mayor Clawson closed the public hearing on this case.

CASE 20080195 BOARD ATTENDANCE TEXT

The Town of Boone has initiated a text amendment to UDO Article III. The purpose of the amendment is to revise the standards for member attendance on Town appointed boards and commissions.

Mr. Spear presented the case as outlined in the meeting packet. Mr. Spear said the intent of this text amendment change initiated by the Town Council is to encourage attendance and participation of those appointed to town boards such as the Planning Commission, Advisory Committees, Community Appearance Commission, Tree Board and the Board of Adjustment. The current UDO states that the Town Council has the opportunity to remove a member if they fail to attend three consecutive meetings or fail to attend less than 50 percent of the scheduled meetings within any 12 month period. This text change will make removal automatic for any board member. There is language written regarding sickness or death that is recognized as an excused absence. The Development Services staff is responsible for letting board members know if they are in jeopardy of removal. The text also allows the Town Council to reinstate someone who has been removed.

Mayor Pro-Tem Mason clarified that the Town Council wants to continue to encourage various people to apply for these types of town positions. Currently there are a number of citizens interested in serving on town boards. Mr. Bunk Spann, Planning Board Chairperson, stated that they are looking for consistency in board member attendance. Member Brantz asked if these positions are rolling calendar years. Mr. Sam Furgiuele, Town Attorney said if this text is adopted, it would become effective immediately and the annual cycle would be any continuous 12 month period.

There were no speakers present for this case.

With no further comments by board members or staff, Mayor Clawson closed the public hearing on this case.

CASE 20080196 ACCESSORY APARTMENT STANDARDS

As a direct result of a recent ruling by the North Carolina Court of Appeals in the case of the City of Wilmington v. Broadus E. Hill, the Town of Boone has initiated text amendments to UDO Article X and Article XI. The purpose of the amendments is to remove the owner occupancy provisions in Section 181 and to prohibit use 1.210, Single Family Residence with Accessory Apartment, in the R-1 and in the R-1A zoning districts.

Mr. Spear presented the case as outlined in the meeting packet.

The only speaker on this case was Catherine Scantlin. Mrs. Scantlin asked for clarification on the grandfathering of the use for existing Accessory Apartments in these districts. Mrs. Scantlin and her husband are currently involved in the Zoning Application process for a detached Accessory Apartment on their property. Mr. and Mrs. Scantlin purchased their home in an R-1A zoning district for this purpose in December of 2007. Mr. Furgiuele explained that the town does not have amortization for this type of use. Those people who have legally established an accessory apartment may continue the use unless it is interrupted for a period exceeding 180 days. If the use is discontinued, then, the grand fathered status would be lost. If this text amendment is

adopted, the effective date may be extended to allow the processing of these types of applications. If not, the change would become effective immediately upon the council's adoption. Mr. Furgiuele noted the Accessory Apartment text was recently recommended by the Affordable Housing Task Force. The owner occupancy provision has been determined to be unconstitutional by the Court of Appeals decision in Wilmington. Mr. Furgiuele said that the City of Wilmington has decided to not appeal this decision. Mr. Furgiuele further discussed how this case could be brought through the court system for a possible change to allow the owner occupancy provision in the future.

Mayor Pro-Tem Mason pointed out that Accessory Apartments would still be allowed in many other zoning districts within the Town of Boone. She is in support of taking this case back to the court system to try to get it changed so as to allow Accessory Apartments within these districts. Council Member Pepin asked how many properties would be affected by this amendment. Mr. Spear said he would research this and respond.

Mrs. Scantlin suggested the owners of property in R-1A zoning districts should have a one-year window to obtain permits. Mr. Furgiuele explained the downside of having such a long period of time to continue to allow this use.

Council Member Phillips asked Mr. Spear to explain the typical zoning permit process for an Accessory Apartment. Mr. Spear explained that a detached Accessory Apartment project must be approved by the Community Appearance Commission before a building permit could be issued.

Discussion ensued on a time period to prepare for the Zoning Application process. Discussion ensued on the public notification process for text and map amendments. Discussion ensued on the League of Municipalities position on this issue. Mr. Furgiuele noted that the League of Municipalities was contacted and declined to become involved.

With no further comments by board members or staff, Mayor Clawson closed the public hearing on this case.

ADJOURNMENT

With no other business to discuss, the meeting was adjourned at 7:45 pm.

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Loretta Clawson, Mayor Marlene Crosby, Admn. Support