TOWN OF BOONE SPECIAL
PUBLIC HEARING JULY 9,
2012 AT 5:30 PM Meeting
Minutes

Town Council Members Present:
Mayor Loretta Clawson, Mayor Pro Tem Jamie Leigh, Andrew Ball, Allan Scherlen, Lynne Mason and Rennie Brantz

Planning Commission Members Present:
Chairperson Milton "Bunk" Spann, Vice-Chairperson Eric Woolridge, Jay Vincent, Tom Purpur, Cameron Lippard, Greg Simmons, Jeff Templeton, Brett Scantlin, Bob Cherry and Susan McCracken

Planning and Inspections Staff Present:
Bill Bailey – Director of Planning and Inspections, Jane Shook – Planner and Marlene Crosby – Board Secretary

Others Present:
Greg Young – Town Manager

CALL TO ORDER
Mayor Loretta Clawson called the meeting to order at 5:34 p.m.

ADOPTION OF AGENDA
Mayor Clawson asked for a motion from the Town Council to adopt the agenda as written. Council Member Brantz made a motion to accept the agenda as written, seconded by Mayor Pro-Tem Leigh.

VOTE:

Aye – All
Nay- None

The vote was unanimous.

CASE 20120342 University and College Office Uses (B-3 and U-1 Zoning Districts
Planning Commission Member Susan McCracken recused herself from this case because she is an employee of Appalachian State University.

Ms. Jane Shook, Planner presented this case as outlined in the meeting packet. Ms. Shook said that the applicants, Mr. Skip Greene and Mr. Michael O'Conner have requested a modification to the Unified Development Ordinance, Section 165 Table of Permissible Uses. Ms. Shook referred to page two of the staff report which outlined the existing and proposed text change for Table of Permissible Use 5.130 Colleges, universities, community colleges, (including associated facilities such as dormitories, Office buildings, athletic fields, etc.) Ms. Shook said the history of Use 5.130 is outlined in the staff report. Mr. Bill Bailey, Director of Planning and Inspections said that the staff and Mr. Michael O'Conner and Mr. Dayton Cole, Attorney for Appalachian State University were present at this meeting for specific questions.

Mayor Clawson opened the floor for questions on this case.

Mayor Pro-Tem Leigh asked about the background for the modification of Use 5.130. Council Member Leigh wanted to know if there was a reason for the text to read as it does. Ms. Shook said the meeting minutes from February 2007 indicated a review of which was conducted after the smart growth audit and while reviewing Special Use Permits in the Table of Permissible uses, Council noted a concern with use 5.130 Colleges, Universities, and Community Colleges (including facilities such as dormitories, office buildings, athletic fields, etc.) in zoning districts and directed that a text amendment be prepared for public hearing on the matter. In March 2007, a text amendment to the Unified Development Ordinance was approved which included a revision to the Table of Permissible Uses to prohibit Use 5.130 Colleges, University, and Community

Colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.) in the B zoning districts.

Mayor Pro-Tem Leigh asked about other concerns at that time. Ms. Shook said there was a concern for encroachment of university property in commercial districts. Council Member Mason said at that time the Town Council was concerned with keeping the Downtown area viable by maintaining businesses and making sure that offices buildings were not allowed to convert to a dormitory on the major business corridor like the Quality Inn which was converted to a dormitory. Mayor Pro Tem Leigh asked the staff if this proposed change would allow the Quality Inn to be converted to an office building, in which she answered herself that it would not because the text does not affect dormitories. Mayor Pro Tem Leigh asked would the proposed text change allow university offices to be on a major corridor. Mr. Bailey said yes it would. Mayor Pro-Tem Leigh asked if there was a good definition of office in the UDO. Ms. Shook said there is not one but in other parts of the ordinance it talks about traffic that is attracted to a business. Ms. Shook referenced Uses 3.10, 3.11, 3.12 and 3.13. She noted that the information in these uses is what the staff normally looks for in these types of office uses. Mayor Pro Tem Leigh asked for a clarification on traffic. Ms. Shook noted it included vehicle and pedestrian traffic.

Discussion ensued on the difference between the applicants request and the presented text.

Mr. Bailey noted that because staff is working on a whole revision of the Table of Permissible uses this text will read differently when the revision is complete.

Council Member Ball asked if during the revision of the Table of Permissible Uses if the different size of buildings will be addressed. Mr. Bailey said there are several ways the staff can go with this revision but if using the Intensity Table, the applicant would be subject to it. Mr. Bailey said the use can be restricted based on the overall use of the building. Mr. Bailey said that the staff is working on some methodology that the Town Council and Planning Commission members can decide for themselves the best language. Mr. Bailey said this topic is open right now. Mr. Bailey gave a couple of options such as using the Intensity Table or restricting the size.

Mayor Pro-Tem Leigh deferred back to 2007 and asked Ms. Shook if it was of her opinion that the 2030 Plan supported office uses on the major corridors. Ms. Shook said it was the Smart Growth Audit because we did not have the 2030 Plan yet. Ms. Shook said she wouldn't really know if the Smart Growth Audit specifically addressed this topic. Ms. Shook said the 2006 Comprehensive Plan does not encourage university uses such as the Quality Inn. The 2006 Comprehensive Plan is silent as far as office uses; it does talk about the resident halls.

Council Member Mason said that in 2007 the Town Council did have discussion on the issue of office uses but no decisions were made at that time. Mr. Bailey said per the source documents that the staff found concerning university office uses were not so much an issue as the negative impacts of dormitory buildings.

Mayor Pro-tem Leigh asked how this text change will affect the tax base and how will it encourage development in areas that will take property off of the tax rolls. Mr. Bailey said the town cannot prevent the university from buying property and taking if off the tax rolls. Mr. Bailey said the university has a five-year long-term lease on the said property. Mr. Bailey said if the university purchases this property under the existing UDO language, they cannot use it. Mr. Bailey confirmed that this is not a site specific project. Mr. Bailey explained the process of how this case has come to a special public hearing.

Member Simmons asked about rezoning of the property the university wanted to redevelop. Mr. Bailey said that rezoning individual parcels is the second option. Member Simmons said he realizes that this case is a text amendment change and not a rezoning case; however, he misses the overlay graphic. Ms. Shook said because this case was not site specific, an overlay graphic was not provided in the packet.

Vice-Chairperson Woolridge said that the board members should not be looking at the location of the property because this case is not for rezoning. He said the board members should be looking at the impacts of the use in the proposed zoning districts. He said that the board members should not be talking about the use of a specific property and that it is not appropriate for this type of case.

Council Member Mason said there are other governmental entities like Watauga County that might want to purchase property and they should be taken into consideration.

Mayor Clawson asked if the staff or board members had other questions or comments on this case. There were no others questions or comments at that time.

Mayor Clawson asked Mr. Dayton Cole, Attorney for Appalachian State University if he would like to present this case. Mr. Cole came to the podium and introduced himself as the general counsel for the university. Mr. Cole thanked the Town Council and Planning Commission members for hearing this case on a special timeline for the university. Mr. Cole said that the university saw a better opportunity to provide a convenient location for their Human Resource office and to better serve the community. Mr. Cole talked about the issue of parking on campus. Mr. Cole said this property had been vacant for some time and the university was able to work out a five-year lease with the property owner. The university needed to renovate the building to make offices spaces. Mr. Cole said that he is sensitive to the concerns of the board members voiced at this meeting regarding this case. Mr. Cole said that obviously anytime the university purchases property, it takes it off the Town of Boone tax rolls as the case with any other government entity. Mr. Cole said the university looked at the Town of Boone's current UDO and in this particular case looked for a provision that would meet the spirit of what the town has adopted in its ordinances in terms of office space use and also meet the needs of the university.

Mr. Cole said that the university had drafted a proposed text amendment that they thought would narrowly confine the use of this particular property to the universities office use as opposed to other uses like class rooms or other facilities that come along with a university. Mr. Cole said the university was trying to propose a text amendment that would meet the needs of the town as well as the university. Mr. Cole said that the proposed text amendment suggested by the town's staff is a better approach than the universities approach because it is more restrictive and the university is fine with the proposed text amendment that the town's staff has written. Mr. Cole said that the university is trying to do the right thing regarding this case and he appreciates the board members listening to this request.

Member Templeton talked about the future growth needs of the university and the possibilities of it expanding outside the current campus into the county. Mr. Cole said he could not really assume that would happen. Mr. Cole does know that they will have a few more students this fall. Mr. Cole said that the university does not want to grow fast. Mr. Cole said that the university has used up most of its buildable land.

Council Member Brantz asked Mr. Cole, if there was any law or regulation that would prohibit leasing on a long-term basis rather than purchasing. Mr. Cole said there is no prohibition that he knows of on this topic; it is more a matter of economics. Council Member Brantz said in some other university towns there is a policy to lease over a long-term versus purchasing property. Mr. Cole asked for the names of the university towns. Council Member Brantz said that the University of Georgia at Athens has this policy. Planning Commission Member Lippard said Auburn University has this policy.

Planning Commission Chairperson Bunk Spann said that he has attended a seminar at the University of Georgia at Athens on the topic of long-term leasing over purchasing. At this seminar, Chairperson Spann said the university had come to realize the growth of the university was eating up the town with the purchasing of property. The university made a decision that they were no longer going to purchase property. The university realized that the town's tax base was being eroded and they decided to start leasing property versus purchasing it.

Planning Commission Chairperson Bunk Spann showed a concern for Appalachian State University purchasing property and eating up the town. Mr. Cole said the university does not want to inappropriately encroach onto the Downtown area at the King Street and Howard Street areas.

Planning Commission Member Lippard discussed that this request was initiated to solve an immediate problem. He said he feels like there are two separate issues one for the immediate problem and the other one for a long-term period of time. Mr. Cole said that he sees this request solving the immediate problem. Mr. Cole said that he is confident that the town's staff can revisit this for decision making on the larger issue. Mr. Cole said that he does not see the resources to acquire a lot of real estate for the university.

Planning Commission Member Simmons asked Mr. Cole to talk about the rezoning option and why the university held that option open. Mr. Cole said that the property owner would have to apply to rezone the property. He said the lease agreement provides the university with an option to buy. Mr. Cole said that he would not expect the property owner to agree to the re-zoning until that option was exercised. Mr. Cole said that he felt it would be premature to ask for a re-zoning.

Council Member Mason talked about taking into consideration the intensity ratios being quite different in the B-3 zoning district than the U-1 zoning districts. She wants to see the zoning district stay in harmony with the rest of the area.

Mr. Cole said that the request is to use the office building for the same use it has always been used in.

There was no public comment on this case.

Mayor Clawson closed this public hearing.

ADJOURNMENT

Council Member Brantz made a motion to adjourn the meeting at 7:16 PM, seconded by Council Member Ball.

VOTE:

Aye – All
Nay- None

The vote was unanimous.

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Loretta Clawson, Mayor **Marlene Crosby, Board Secretary**