

**Quarterly Public Hearing**  
SUMMER  
August 12, 2004  
Meeting Minutes

**Town Council in attendance:** Mayor Burnley, Bunk Spann, Graydon Eggers, Loretta Clawson, Dempsey Wilcox and Lynne Mason

**Planning Commission in attendance:** Mary Ruth McRae-Chair, Paul Welsh, Charles Quinn, Charlie Walker, G. Perry "Skip" Greene, Gayle Turner and Lee Wood

**Staff in attendance:** John Spear-Development Services Director and Brenda Henson-Administrative Specialist

**Other:** Greg Young-Town Manager

Mayor Burnley welcomed everyone to the Summer Quarter Public Hearing. She called the meeting to order at 7:06 and invited John Spear to present the first case.

**CASE NO. RZ2004-9** The Town of Boone has filed a UDO text amendment request which would eliminate conditional use zoning districts and conditional use permits. If adopted, the amendment would establish the use of conditional zoning districts. Mr. Spear presented the staff report and invited any questions.

Council Member Wilcox asked for a comparison of current requirements versus proposed. Mr. Spear explained that the proposed change would eliminate the Board of Adjustment from the approval process for conditional use zoning and place responsibility of final approval on the Town Council.

Commissioner Turner wanted clarification on why Council would have no power unilaterally to add conditions in approving a conditional zoning district application believed necessary to protect public health, safety or general welfare. Council Member Wilcox felt this was to eliminate any possibility of contract zoning. Mr. Spear explained that a bilateral agreement between a landowner and the Town Council constitutes contract zoning, a practice illegal in the State of North Carolina. In conditional district zoning, the applicant would submit their proposal with recommended conditions of approval. The Town Council would then react to those conditions when deciding on the application.

Mr. Spear noted that this change would streamline the approval process while giving the Council the legislative power that they are authorized by statutes to exercise.

With no further questions, Mayor Burnley moved to the next case.

**CASE NO. RZ2004-10** The Town of Boone has filed a UDO text amendment request which would reduce the regulatory burden for small business redevelopment. John Spear presented the

staff report and invited any questions.

Council Member Eggers expressed some concern about the 2,000 square feet limit to qualify as an exemption and asked what was included in the 2,000 square feet and the requirements that would have to be met if a building was over that limit. Mr. Spear stated that the UDO allowed flexibility in that requirement of 10% so any building over 2,200 square feet would have to bring their site up to current standards to the greatest extent possible. Gross floor area is defined as the sum of the enclosed areas on all floors of the building measured from the outside bases of the exterior walls to include halls, lobbies, stairways, elevator shafts, enclosed porches and balconies and any below grade floor areas used for habitation or storage. It does not include open terraces, patios, atriums, balconies, carports or garages or any floor space in an accessory building. Council Member Eggers felt that 2,000 square feet limit was arbitrary.

Commissioner Welsh questioned the allowance of 1,000 square feet of addition parking. Mr. Spear explained that, based upon the type of occupancy, additional spaces may be required to be added due to ADA requirements.

Dusty Stacy spoke in favor of the proposed change. He stated that, as a local attorney who wished to change a house into an office, he would be directly affected by this proposal. Mr. Stacy felt, however, that small businesses should not be classified by a 2,000 square feet limit.

Nick Friedman, owner of several local businesses, stated that under current UDO requirements the cost to bring a site up to current standards costs so much that most small business owners are unable to afford to develop their property. Although Mr. Friedman was in favor of the proposed change, he felt that the 2,000 square feet limit should be re-evaluated.

Richard Franklin, an engineer, also favored the proposed change.

Brent Pilkington, who would also be affected by this change, spoke in it's favor due to financial hardship placed on small business owners under the current requirements.

With no further comments, Mayor Burnley proceeded to the next case.

**CASE NO. RZ2004-11** **The Town of Boone** has filed a UDO text amendment request which would reflect the departmental name change from "Planning and Inspections Department" to "Development Services Department". John Spear presented the staff report. With no questions or comments, Mayor Burnley then moved to the next case.

**CASE NO. RZ2004-12** **Charles B. Michael and Gwyn M. Costner** have filed a general use district map amendment request to reclassify property from R-1, Single Family Residential to B-3 General Business. The property is located at 183 Delmar Street and is further described as Watauga County PIN #2910-68-5966-000 and 2910-68-6897-000. Mr. Spear presented the staff report and invited any questions.

Council Member Eggers questioned buffer requirements between R-1 and B-3 properties. Mr. Spear stated a 25 foot wide opaque buffer would be required.

Council Member Mason said she did not want to see the neighborhood jeopardized by some of the uses that a B-3 zoning designation would allow.

Chair McRae asked if the applicant had considered conditional zoning instead of general zoning. Mr. Spear replied that there was no particular use in mind at this time.

Council Member Spann asked what safeguards there would be for the neighborhood if this property were to be zoned B-3. Mr. Spear replied that there were a number of requirements in the UDO for development in B-3 districts such as setbacks, stormwater, parking, height limitations, traffic impact studies and landscaping.

Council Member Eggers asked Mr. Spear to find out the width of the right of way on Delmar Street for traffic flow purposes.

Donald Thrasher, a 25 year resident of Delmar Street, expressed concern about the impact this zoning change could have on the neighborhood and the increased traffic flow on such a narrow street.

James Dugger, a 44 year resident of Delmar Street, opposed the B-3 zoning of this property stating that this street was not made for a lot of traffic.

Janta Hardin, of Daniel Boone Drive, had concerns about the impact of increased traffic in the neighborhood and strongly desired to keep the neighborhood the same.

Wanda Hughes, of Daniel Boone Drive, also expressed concern about increased traffic on such an inadequate street.

Dr. Joseph Cazier and his wife Robin, who recently moved to this area because of the nice neighborhood atmosphere, were both strongly opposed to changing the R-1 zoning.

Ben Logan, of Daniel Boone Drive Extension, spoke in opposition of the proposed change and stated he saw no benefit in changing to B-3.

Katherine Logan was also opposed to the zoning change. She pointed out that numerous types of business and apartments were allowed in a B-3 district and could cause increased danger with traffic. There was a potential for unsightly development that could be out of harmony with the neighborhood.

Nancy Bargerstock, of Delmar Street, stated she wanted to preserve the neighborhood and was opposed to this rezoning request.

Greg Simmons, of Delmar Street, explained that the lots currently zoned B-3 had frontage and access onto King Street whereas this property did not and would have to be accessed on Delmar Street. Mr. Simmons felt that if a zoning change was necessary something more transitional from business to residential should be considered.

Council Member Clawson echoed the sentiments of the neighborhood stating she felt rezoning from R-1 was inappropriate for this area.

With no further comments, Mayor Burnley moved to the next case.

**CASE NO. RZ2004-13 Watauga Medical Center** has filed a general use district map amendment request to reclassify property from R-2, Two Family Residential to O/I, Office/Institutional. The properties are located at 104, 122, 140 & 152 Virginia Street and are further identified as Watauga County PIN #2910-71-9114-000, 2910-71-8097-000, 2910-70-8988-000 and 2910-70-8889-000. John Spear presented the staff report and stated that he had received a letter of concern from residents of Johnson Street.

Phil Templeton, who lives on Johnson Street, indicated to the boards that he was not opposed to the zoning change but did have some concerns about traffic and water run-off that might be better addressed at the Planning Commission meeting.

Council Member Wilcox pointed out that this property was in a watershed and would limit development to 24% built upon area.

With nothing further, Mayor Burnley then moved to the last case.

**CASE RZ2004-14 The Town of Boone** has filed a UDO text amendment request which would update current enforcement procedures. John Spear presented the request on behalf of the town attorney, Sam Furgiuele, who could not be present.

Mr. Spear explained that the intent of this change is to make sure that the language in the UDO reflects the current enforcement practices by staff.

Commissioner Welsh felt that the reference to BellSouth in Article VII, Section 131 [b] should be more general.

Chair McRae asked if three days to receive notice by mail was a standard length of time. Mr. Spear was unsure stating Mr. Furgiuele would have that answer.

Commissioner Turner questioned why there was reference to hand delivery of notices of violation in Section 131 [c] but it was deleted from Section 131 [b].

Council Member Eggers wanted to know what other municipalities were drawn from when deciding the assessment of penalties. He also asked if penalties continued to accrue even after an appeal was filed. Mr. Spear replied that penalties did continue to accrue.

With no further comments or items to come before the Council and Commission, Council Member Eggers motioned to adjourn the meeting at 9:05 p.m.

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Brenda Henson, Administrative Support  
Specialist

Velma Burnley, Mayor