

**Quarterly Public Hearing
SUMMER
August 14, 2006
Meeting Minutes**

Town Council in attendance: Mayor Clawson, Bunk Spann, Dempsey Wilcox, Lynne Mason and Janet Pepin

Planning Commission in attendance: Gregory Reck, Chair, Mary Ruth McRae, Vice-Chair, Charlie Walker, Stephen Phillips, Pat Vines, Shawna Rhyne, Mary “Bo” Bolick and Christy DeStefano

Staff in attendance: John Spear-Development Services Director,

Others in attendance: Greg Young-Town Manager, and Sam Furgiuele-Town Attorney

Mayor Clawson welcomed everyone to the Summer Quarterly Public Hearing. She called the meeting to order at 7:00 pm.

Case 20060435

The Boone Town Council has initiated text amendments to UDO Article XVIII to establish guidelines and regulations regarding the temporary use of inflatable signs.

Mayor Clawson asked Mr. John Spear, Director of Development Services to present the staff analysis specific to this case located in the meeting packet. Mayor Clawson asked both the Town Council members and the Planning Commission members, if they had questions regarding this case. Member Bunk Spann had a question on the size or volume of the sign. Discussion ensued regarding the calculation of 400 cubic feet. Gregory Reck, Planning Commission Chair asked what constitutes a sign. Mr. Spear stated that it is any display that is created to draw attention to a business. Member Pepin asked if this addressed the small balloons or the larger hot air balloons. Mr. Spear stated that the small balloons are not addressed and remain prohibited. Mr. Norman Cheek stated his concern with the replacement of his balloon-type sign, if the original sign was damaged by an act of Mother Nature. Mr. Sam Furgiuele explained that the proposed language does not address this issue. In addition, he stated that when the Town considers an ordinance, it has to consider it for all businesses. The main thing that was considered when this amendment was drafted was not allowing the balloons to be used all over town for commercial use on a constant basis. Member Mason asked if it would be possible to let businesses have at least three balloon-type signs. If the business needed more, could the business get a special use permit to be approved by Town Council. Mr. Furgiuele said yes, however, standards would have to be set for council’s consideration when a special use permit was submitted. The current time limitations stated in the draft ordinance are based on calendar year. Mr. Furgiuele noted it might be helpful to change to a floating 12-month year to allow for flexibility. Member Pepin had a question regarding Section 338 [9][a]. She asked if the additional signs were needed by a business, could an adjacent business get the sign permit and display the sign for them? Spear said this would comply if it were a community event. There were no public speakers for this case. Mayor Clawson closed the public hearing on this case.

Case 20060341

The Boone Town Council has initiated text amendments to UDO Articles II, X, XI, XIX, and XX to address large scale retail land uses.

Mayor Clawson asked Mr. John Spear to present the staff analysis specific to this case located in the meeting packet. Mayor Clawson asked both the Town Council members and the Planning Commission members, if they had questions regarding this case. Member Pepin stated that in looking at large scale retail land use in other parts of the country, she believes that the 150,000 square feet is very generous. She asked Mr. Spear if this is what he found true based on his research? Mr. Spear stated that the development

services department analysis included all the retail uses that currently exist in town. They evaluated the amount of land it took to establish retail uses of this size. The 150,000 square foot is based on the largest existing retailer which is the Lowe's Home Improvement Center. The intent was not to create or draft language that would make these existing uses non-conforming, if it were adopted. Member Wilcox asked about the 150,000 square foot cap for gross floor area. Mr. Spear stated that this limit is for individual businesses or individual tenants in malls, shopping centers, or mixed-use developments.

Member Wilcox asked where are Section 195 [D][2] & [3] supported in the Comprehensive Plan? Mr. Spear said the Economic Development policies on page five of the staff report address the type of business and industry that is sought for the Town of Boone. Small business is especially encouraged. Discussion ensued regarding this portion of the Comprehensive Plan. Member Wilcox was concerned about Section 195 [D][3] and noted that any new business coming into town will affect the competing retailers. That is why they are coming in the first place.

Member Mason shared her research on the character of the economic development in the community. In support of local businesses, she gave some statistics from the North Carolina main street program. These statistics look at the impact of small businesses. She said that the local return is 60 cents out of every dollar and with change you only get 20% out of every dollar. She said that locally owned businesses reinvest 85%. She said that chain businesses only invest 25% locally. She believes that the Town should have policies that support the small businesses. Mary Ruth McRae, Vice-Chair of the Planning Commission stated that even though the statistics outlined by Member Mason sound good, the statistics are not true regarding the number of dollars. Vice-Chair McRae has found in her research of economic development that a lot of people assume that it is a zero-sum game, when it is not. Vice-Chair McRae shared her view of the economic development of the Town of Boone. She suggested that perhaps there should be a more straight-forward approach limited to infrastructure impact studies. She is very concerned because the comprehensive plan is stating for the town to do things for businesses and they do not preclude having the larger retailers. There is an assumed connection that does not exist between the smaller and larger retailers doing business together. The smaller and larger businesses may be able to do business together. This adaptation is part of a thriving economy. The way to increase wages is to increase prices. Greg Reck, Planning Commission Chair said that he doesn't see where any of these changes are preventing large businesses from operating. All that is being asked of businesses is to prepare an impact study which includes potential impacts on competing retailers which does not exceed 150,000 square feet. Discussion ensued regarding the impact study of wages and benefits. Member Wilcox stated that many of the small businesses in town pay very poorly. Member Wilcox stated that the purpose of larger retailers is to provide better variety and less costly product to the consumer. Mr. Furgiuele reminded the board members of the procedural process for the proposed language. A special use permit would be presented to the Board of Adjustment for approval. If there is a negative impact, based on information that comes to the board, the board asks the applicant to accept conditions. This will help what the board sees as a negative impact. Discussion ensued regarding the permit conditions which are based upon negative impacts created by development. Commissioner Stephen Phillips mentioned that the impact studies are missing the fact that these types of businesses, Lowe's or Wal-Mart, employ many ASU students on a part-time basis. These students need the flexibility of part-time hours more than full-time benefits. The smaller businesses might not allow for the flexibility of hours. Member Spann does not see anything in the document that would be prohibiting any large retailer from coming into our community other than the 150,000 gross square footage cap. Mr. Furgiuele explained that he has found no case in the state of North Carolina laws addressing limitation on square footage. It is true that other states are very different on this subject. Member Spann said that there needs to be a balance between small and large businesses. Member Mason summarized the square footage of many of the larger businesses in town such as Lowes, Wal-mart, K-Mart, Harris Teeter, Ingles, Goody's and Earth Fare. The details of the square footage can be found in the staff report from the Town Council Retreat meeting. Mr. Spear pointed out that the staff analysis considered more than the square footage of these buildings. It was also an analysis of the amount of land and parking that

a 150,000 square foot retailer needs. Even though the town is looking at reduced parking for large volume retailers, a large piece of land is necessary to develop a large retail store. It took approximately 20 acres of land disturbance to create the Lowe's Home Improvement center. Mr. Spear noted that there are very few remaining properties available to support a use this size within the general business district and within the Town's designated Primary Growth Area. Commissioner Phillips asked if this subject has been addressed within the Corridor Overlay District. Mr. Spear said it has been addressed to a certain point; however, the Corridor Overlay District's primary goal is to protect the value of major thoroughfare from a transportation standpoint.

The first speaker was Jim Deal, Attorney and County Commissioner Chair who stated his concern about the impact on the sale of the high school property. Discussion ensued on the total square footage of a building and what a building looks like and what it does or does not bring in the community. He stated that the existing high school site is an appropriate site for a mixed-use, high density development. He stated large scale super stores usually have a large area devoted to the sale of groceries. When these retail businesses put in groceries they are competing with other large grocery stores and not small businesses. The difference is what the consumers in Town of Boone pay for groceries. There are many citizens that drive to other cities to buy their groceries because they are cheaper than to buy groceries in the Town of Boone. He is more concerned with the appearance of businesses. He suggested that everyone acquaint themselves with the new look of super centers utilizing two-story building designs brick exteriors. Some have below ground parking. This enhances local businesses by creating a village type setting that is in favor of small businesses. Mr. Deal recommended that the Town look more at the ideas of what needs to be accomplished than looking at the square footage. This includes looking at different types of design plans. Mr. Deal asked the Town to consider the impact on the new high school property in terms of appearance and mixed use.

The next speaker was Pam Williamson. Ms. Williamson stated that appearance is key for the community based on the Comprehensive Plan. Ms. Williamson brought four articles on Big Box studies to the meeting for both Town Council and the Planning Board to review. These articles are on file at the Town Clerk's office. Three of the articles addressed Wal-Mart Super stores specifically. Discussion ensued on stopping super centers in the community by capping the sizes of the buildings and benefits versus costs. Ms. Williamson discussed super centers as an industry and the economics of super centers in the community. She also stated that super centers drop revenue overall and require no high skilled labor. She went over four impacts in the community taken from studies of super centers.

1. Lower prices
2. Lower wages and benefits
3. Increased traffic
4. Unused vacant buildings must be rented or sold

The next speaker was Frank Bolick. He said if something doesn't change for the better, the town businesses will move into the county. As a result, the town will lose out on the tax revenue. He does support small businesses as much as he can. He believes that the town needs to look long and hard before making decisions on this case.

Mayor Clawson closed the public hearing on this case.

Case 20060447

The Boone Town Council has initiated text amendments to UDO Article X which would allow agricultural uses in the B-3 zoning district.

Mayor Clawson asked Mr. Spear to present the staff analysis specific to this case located in the meeting packet. Mayor Clawson asked both the Town Council members and the Planning Commission members, if they had questions regarding this case. Vice-Chair, Mary Ruth McRae asked why was this just general business district only. Mr. Spear stated that the town council is acting on a request from the community garden. Mr. Spear noted that there are many areas zoned B-3 that are in flood prone locations where agricultural uses would be ideal. Member Wilcox asked if the table could be amended to

a conditional use rather than a use permitted by right. He noted concern with use of pesticides within a general business district. Discussion ensued regarding the special use permit process rather than permitting this use by right. Mr. Spann supported this idea. Member Pepin is concerned about the appearance of the garden in regards to the unplanted areas that have grown up with weeds. Member Pepin asked Matt Cooper if there is a plan to maintain these areas. Mr. Cooper stated that the unplanted areas currently contain wild flowers and will be used in the future to plant orchards once the community garden is approved. Member Spann pointed out that he appreciated wild flowers but he felt that Mr. Cooper should respect community concerns over the appearance of the garden. Mr. Cooper was in agreement.

The next speaker was Frank Bolick. Mr. Bolick said that he thought that there was a North Carolina statute that would exempt agricultural activities from municipal zoning laws. Mr. Spear responded that Mr. Bolick was referring to was a bonafide farm exemption which exists in the statutes for counties and not in cities.

Mayor Clawson closed the public hearing on this case.

Case 20060426

The Town of Boone has initiated text amendments to UDO Articles XVI relating to the approval process of grading and erosion control plans and to provide consistency with GS 113-A-57(2).

Mayor Clawson asked Mr. Spear to present the staff analysis specific to this case located in the meeting packet. Mayor Clawson asked both the Town Council members and the Planning Commission members, if they had questions regarding this case. Member Pepin had a question on the calendar days noted in the text to establish ground cover. There is a discrepancy noted between to provisions. Discussion ensued regarding days worked in the calendar year. Member Spann requested that the wording be clarified in Section 290. He also requested page numbers be entered on packet pages for reference purposes.

Mayor Clawson closed the public hearing on this case.

Case 20060427

The Town of Boone has initiated text amendments to UDO Article IV regarding the expiration of zoning vested rights to provide consistency with GS 160A-385.1(d)(6).

Mayor Clawson asked Mr. Spear to present the staff analysis specific to this case. Mayor Clawson asked both the Town Council members and the Planning Commission members, if they had questions regarding this case. There were no speakers and no questions on this case.

Mayor Clawson closed the public hearing on this case.

Case 20060458

The Town of Boone Residential Occupancy Task Force has initiated text amendments to UDO Articles VII and IX for more effective enforcement of residential occupancy controls.

Mayor Clawson asked Mr. Spear to present the staff analysis specific to this case located in the meeting packet. Mayor Clawson asked both the Town Council members and the Planning Commission members, if they had questions regarding this case. Mr. Spear asked Mr. Furgiuele to explain specific concerns resulting in changes to the complaint procedures. Mr. Furgiuele noted that the Residential Occupancy Task Force felt the language in the current UDO complaint process was intimidating to the public and many were reluctant to file complaints as a result. The result was to soften the language and identify who to contact when making a complaint. Mr. Spear spoke on Section 130 under Persons Liable. Mr. Spear expounded on the terminating of a lease when an occupancy violation has been reported. Mr. Furgiuele noted that the UDO makes the occupants and the owner potentially liable for the occupancy violation.

Mayor Clawson closed the public hearing on this case.

Case 20060477

The Town of Boone has initiated text amendments to UDO Article VII for more effective enforcement of the sign ordinance.

Mayor Clawson asked Mr. Spear to present the staff analysis specific to this case located in the meeting packet. Mayor Clawson asked both the Town Council members and the Planning Commission members, if they had questions regarding this case. Mr. Furgiuele expounded on the repeat violator's of the sign ordinance stating that the enforcement of signs gives weight to the ordinance itself. Member Spann questioned the timeframe for compliance stated in Section 131 [a]. His concern was that there appears to be a very liberal timeframe created. Discussion ensued regarding repeat sign violator's timeframe for compliance and it was noted that this provision actually allows staff to take fast action in cases of repeat violations.

Mayor Clawson closed the public hearing on this case.

OTHER MATTERS BY BOARD MEMBERS OR STAFF

Mayor Clawson requested a reference sheet for Town Council containing necessary motions and votes be prepared before the council meeting. Mr. Spear stated he would prepare this document for the next Town Council meeting.

ADJOURNMENT

Mayor Clawson adjourned the meeting at 9:40pm.

Marlene Crosby, Secretary

Loretta Clawson, Mayor