

**FALL  
QUARTERLY PUBLIC HEARING  
November 8, 2007**

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**Town Council members in attendance:** Mayor Pro Tem Lynne Mason, Dempsey Wilcox, Janet Pepin, Rennie Brantz and Bunk Spann

**Planning Commission members in attendance:** Vice-Chairperson Mary Ruth McRae, Patrick Heavner, Elizabeth Aycock, Stephen Phillips, Gayle Turner, Shawna Rhyne, Mary Kate Wise and Charlie Walker

**Planning Staff in attendance:** John Spear-Director of Development Services, and Marlene Crosby-Board Secretary

**Others in attendance:** Greg Young-Town Manager, Rick Miller-Director of Public Utilities and Engineering

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Mayor Pro Tem Mason called the meeting to order at 7:01.p.m. She asked Mr. John Spear, Director of Development Services to present the first case.

**Case 20070572 Joseph Sykes Rezoning**

Joseph Sykes, Jr. has filed a petition to rezone property located at 351 Hilltop Drive from Residential/Agricultural (RA) to Multi-Family Residential (R-3). Mr. Spear presented the case as outlined in the meeting packet. Mr. Spear said that this rezoning request follows the submittal of a zoning variance application which was received by his office a few months earlier. Mr. Sykes requested the variance to allow for construction of a second single family home on his lot because the current (RA) zoning classification did not allow for more than one dwelling unit on the lot. This variance request could not be processed on a number of grounds. The Development Services staff advised Mr. Sykes at that time to file a petition to change the zoning classification to one which allows more than one dwelling unit on the lot. Mr. Spear noted the property was annexed in the town limits in 1998, prior to this time it was located in the *Extra Territorial Jurisdiction*. The *Extra Territorial Jurisdiction* was established in this area in 1983. In 1983 it was common practice to zone for low density residential or (RA) zoning classification. Mr. Spear said that the request this would provide for additional residential land use which is consistent with the density of adjacent residential construction which has taken place in the last three to five years in this area. Mr. Spear said the rezoning of this property would offer the opportunity to create affordable housing in this area because there is no extra land costs involved. He also advised the board to take into consideration the fact that this is a general use district request. This means the board must consider the range of uses that are in an (R-3) district as opposed to one specific use. Mr. Spear said that there was one protest petition received in the Development Services office for this case.

Mr. Spear opened the floor for questions. Town Council Member Rennie Brantz asked if the access road to the property is wide enough. Mr. Spear said that the width is probably 12 feet wide. Member Brantz asked who submitted the protest petition. Mr. Spear said the petition was from Ms. Opal Gragg who owns the property at 353 Hilltop Drive. Mayor Pro Tem Mason asked if Mr. Sykes considered a conditional zoning petition rather than a general use district. Mr. Spear said it was not recommended to him at the time. Commissioner Turner asked if there was a reason that this could not be subdivided since it is a little over one-third acre. Mr. Spear said there was no street frontage for the lot and under existing ordinances a minimum amount of the lot must front on a public street. Discussion ensued on adjacent land uses and the location of Ms. Gragg's property in relationship to the petitioner's and the current town limits. Commissioner Turner asked if this property could have been taken to the Board of Adjustment and approved to be subdivided. Mr. Spear said that he could not qualify for a zoning variance and that the board of adjustment was not permitted by state law to grant a use variance. Discussion ensued on the multi-family zoning classification and permitted uses within the multi-family district. With no further questions, the mayor pro-tem asked the petitioner, if he would like to address the board.

Mr. Joseph Sykes came to the podium to present the copies of plans for the type of house he wants to build on this property, if the re-zoning is granted. He showed the Town Council members a copy of the plans for a single family dwelling. Town Council Member Brantz asked if Mr. Sykes had contacted the other neighbors in the area regarding the rezoning of this property. Mr. Sykes said that he has contacted several of them. Mr. Sykes said that he knows Ms. Gragg and that he had just recently learned that she had submitted a protest petition. Mr. Sykes said that he will speak with Ms. Gragg while he is in town. Mr. Sykes also spoke of the amount of growth in the Hilltop Drive area and that he had previously lived in this area for nearly a decade before moving away.

With no other public speakers, Mayor Pro Tem Mason closed this case.

#### **Case 20070585 Joseph Coleman Rezoning**

Joseph E. Coleman Jr. has filed a petition to rezone the old tobacco warehouse property on West King Street from Light Industrial (M-1) to Central Business (B-1). Mr. Spear presented the case as outlined in the meeting packet. Discussion ensued on how long this lot has been vacant and the location of other tobacco warehouses and the Kraut factory. Discussion ensued on the location of Kraut Creek and the property owner's limitation on culverting this stream.

Mr. Rob Slack, a Real Estate Broker, was present to speak on behalf of the Coleman's. Mr. Slack explained to the Town Council and Planning Board what the developer of the property intends to build on this site, if the rezoning is approved. Mr. Slack noted there will be two phases of development. The first phase will be 20 units of multi-family housing. The proposed housing will be townhouses or condo style units. The second phase will be mixed-use retail and office space located on the King Street side of the property as well as a bistro-style café with a courtyard. Discussion ensued on the possibility of the developer working with the Kraut Creek Committee to make this space a model for development along the creek in downtown Boone. Mr. Slack noted that they have already contacted the Corp of Engineers to see what they can and cannot do based on the watershed. He noted that they also contacted the County to discuss building a parking garage on adjacent County owned property to the east. They also have consulted with Vannoy and Sons to do the construction of the proposed buildings. In addition, Mr. Slack noted they are working with Chad Everhart an Architect at ASU to incorporate "green building" technology.

With no other public speakers and no further questions, Mayor Pro Tem Mason closed this case.

#### **Case 20070597 Commercial Development Appearance Standards Text**

The Community Appearance Commission prepared an amendment to Article XXII which is intended to improve current standards applicable to certain commercial development and to extend those standards to parking structures. Mr. Spear presented the case as outlined in the meeting packet. Mr. Spear went over each of the appearance standards line by line starting with Section 392 Definitions. He stated that [14] & [15] have been added. Mr. Spear answered questions pertaining to Section 393 Building Design [1] [c] and clarified the word "eight" should read to "eighty" feet in length. He suggested modifications to Section 394 Exterior Walls [1] [h] which would change the phrase from "*material or color*" to "*material and color*". In Section 393 [e] Colors, colors have limited the accent colors to five percent. This will tone down the colors on commercial buildings for those using higher toned colors. Council Member Wilcox asked about the colors used and if the phrase "other outside construction elements" would include commercial advertising signs. Mr. Spear he would check with Mr. Brian Johnson, Urban Design Specialist and get back with an answer before the Planning Commission meeting.

Discussion ensued on Section 394, Parking Garages and Structures. Mr. Spear went over items [a] through [h]. Mr. Spear noted that *Site Walls* have been added under Section 395 [h]. Council Member Spann asked if these changes would adequately screen parked cars from the public. Mr. Spear responded that the intent is to prevent auto headlights from shining out into thoroughfare and blinding the motoring public. Architectural features have also been made applicable to parking structures in an effort to ensure that these

buildings relate positively to other public spaces. Council Member Pepin thanked the CAC for all of their work on these changes. Mr. Spear said that the CAC met three times in the past few months to evaluate the effectiveness of the standards and then prepared these needed revisions.

With no public speakers and no further questions, Mayor Pro Tem Mason closed this case.

#### **Case 20070599 Affordable Housing Text**

The Affordable Housing Task Force prepared an amendment to various Articles intended to encourage and facilitate privately developed accessory housing (secondary to a primary residence but sharing the same site or structure) in R-1 and R-1A zoning districts. Owner occupancy is required. Mr. Spear presented the case as outlined in the meeting packet. He went over the proposed text changes in Section 15 Definitions of Basic Terms. He went over the proposed text changes in Section 181 [A-K]. Commissioner Heavner asked about Section 181 [c] and why only two unrelated persons allowed. Mr. Spear said that this is the current standard and not a new provision. Discussion ensued on [c] and how many persons are allowed, if the circumstances change in regards to square footage of the dwelling. Mr. Spear noted that there must be adequate off street parking and in no instance can the front yard area be used to satisfy the parking requirements. Discussion ensued on parking requirements at Accessory Apartments. Mr. Spear explained the current lot size requirement for property containing an Accessory Apartments and noted that this amendment eliminates the increased requirements. Mr. Spear said that he is proposing that the existing text on “*Primary Residence with Accessory Apartment*” found on Page 11-2 and Page 12-4 Section 201. [b] be removed. Mayor Pro Tem Mason mentioned that being able to lease an Accessory Apartment makes it more affordable for a person to purchase a home with an Accessory Apartment or for those that already own a home with an Accessory Apartment. Council Member Spann thanked the Affordable Housing Task Force for all of their hard work on creating ideas for Affordable Housing within the Town of Boone.

With no public speakers and no further questions, Mayor Pro Tem Mason closed this case.

#### **Case 20070603 Rain Harvesting Systems Screening Text**

The Community Appearance Commission prepared an amendment to Article XX which would require screening of above ground commercial rain water harvesting systems. Mr. Spear presented the case as outlined in the meeting packet. Mr. Spear said that the Town Council previously asked the CAC to look into the visual impacts of rain water harvesting systems. This request followed amendments to the water & sewer code which allowed rain water storage systems to be utilized. The CAC looked at both commercial and residential zoned properties and decided that the impact of the residential rain water harvesting system would not be significant. The CAC therefore concentrated on much larger commercial systems. Discussion ensued on the anchoring of empty tanks. Council Member Wilcox asked if there is a potential problem with stagnant water. Rick Miller responded by noting that there are requirements for additives to prevent stagnation.

With no public speakers and no further questions, Mayor Pro Tem Mason closed this case.

#### **Other Matters by Board Members or Staff**

Mayor Pro Tem Lynne Mason told the Town Council and Planning Board members they have been invited to a “*Special Public Meeting*” on the College of Education on November 19, 2007 from 4 PM until 6 PM at the Broyhill Conference Center. This is an informational meeting open to the public. Commissioner Turner requested any information available to be presented to the Planning Board to review prior to the meeting. Mayor Pro Tem Mason said that she would request the information. Mr. Spear said that he hopes that the university will especially pursue notification to property owners in the immediate area.

#### **Adjournment**

Mayor Pro Tem Mason asked for a motion to adjourn the meeting at 8:23 PM. Council Member Spann made the first motion. Council Member Pepin made the second motion.

**Vote: Aye – All**

**Nay – None**

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Lynne Mason, Mayor Pro Tem

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Marlene Crosby, Board Secretary