

**SPECIAL PUBLIC HEARING  
MEETING MINUTES  
MONDAY, MAY 10, 2010  
6:00 P.M.**

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**Boone Town Council:** Mayor Loretta Clawson, Lynne Mason-Mayor Pro-Tem, Stephen Phillips, Jamie Leigh, Andy Ball and Rennie Brantz

**Boone Area Planning Commission:** Chairperson Bunk Spann, Vice-Chairperson Mary Ruth McRae, Terence Milstead, Eric Woolridge, Shawna Rhyne, Donald Dotson, Sarah Huffstetler, Greg Simmons, Robert Cherry, Brett Scantlin and Jay Vincent

**Planning Staff:** Bill Bailey-Director of Development Services, Jane Shook-Planner, Brian Johnson-Urban Design Specialist and Marlene Crosby-Board Secretary

**Others:** Greg Young-Town Manager and Sam Furgiuele-Town Attorney

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Mayor Loretta Clawson opened the meeting at 6:00 p.m.

**ADOPTION OF AGENDA**

Mayor Clawson asked for a motion to move CASE 20100204 Electronic and Internet Gaming Uses to the first agenda item. Council Member Brantz made a motion to accept this change to the agenda, seconded by Council Member Phillips.

Vote:           Aye – All  
                  Nay- None

The vote was unanimous.

**CASE 2010204 ELECTRONIC AND INTERNET GAMING USES:**

UDO modification to add a new use category and provide supplementary use regulation for Electronic and Internet Gaming Uses.

Mr. Bill Bailey, Director of Development Services presented this case as outlined in the meeting packet. He reviewed the current and proposed text changes on page four and five of the staff report. Chairperson Spann asked for the staff to explain the rationale for this change. Mr. Bailey said there was not an existing use in the permitted use table for this use. Mr. Bailey said the staff was taking into consideration with this use the health, welfare and safety of the community and beneficial impacts and sighting them appropriately.

Council Member Brantz asked Mr. Bailey to elaborate on the language of Page six of the staff report, Number E, No more than one Electronic Gaming use may be located on the same lot. Mr. Bailey said this means for one business. Council Member Phillips asked if the term use was defined somewhere. Mr. Bailey said yes it is defined on Page five. Council Member Brantz asked about Page 6, Number H, A certificate of occupancy shall not be issued until the Electronic and Internet Gaming use meets any applicable Federal, State or County requirements, including any requirements of the Appalachian Regional Health Department. Council Member Brantz asked for some examples of what would fit into this use in terms of regional healthcare. Mr. Bailey said, if state law allowed them to have a restaurant, they would have to have health permits. If they were to have a bar, they would have to have alcohol permits, etc. They would have to show proof that they have the appropriate permits. Commissioner Dotson asked if there had been any requests for this type of use. Mr. Bailey said, there have been three requests and two of them are active. There have been four of them that attempted to open. He suspects the others are moving into the county.

There were no speakers for this case.

With no further questions, Mayor Clawson closed the public hearing for this case.

**CASE 20100203 MULTI-FAMILY USES IN BUSINESS DISTRICTS:**

UDO modification on how Multi-Family Residential Uses are regulated and permitted in the B-1, B-2, and B-3 zoning districts so as to require mixed-use buildings, mixed-use projects or mixed-use zones when multi-family is present.

Mr. Bailey presented this case as outlined in the meeting packet. Mr. Bailey said the staff reviewed this case taking into consideration the Boone 2030 Land Use Plan and the Smart Growth codes. Mr. Bailey said that the Development Services Staff located a good set of rules and regulations that allow the multi-family but make it well known and up front that businesses are the primary use and the focal point especially in the corridor districts in the B-1, B-2 and B-3 zoning districts.

Mr. Sam Furgiuele told the board members that when dealing with types of mixed-use buildings or mixed uses among several buildings. There is another chance in terms of procedure per the Lawrence Group's recommendations. If this was adopted in its proposed form, it would eliminate the need for an applicant to get a Special Use Permit based upon the number of units. This does not apply in the R-3. The trigger for SUP would be the lot size depending on lot size in the business districts.

Chairperson Bunk Spann asked how these changes would affect strip development. Mr. Bailey said that this proposal in and within itself does not eliminate strip development. It is a condition you find with our zoning regulations. It regulates the amount of residential units within any business districts. Mr. Bailey said this proposal does not address strip development. The proposal does regulate density.

The first speaker was Mr. Morgan Murray. He lives at 362 W. King Street. His is concerned with the B-1 zoning district and the way the buildings face the residential neighborhoods. He is concerned with the orientation of the buildings in regards to students coming and going from the building. He is concerned with Section 155 [B] and [B-5]. He asked for more clarification on the 75 percent façade requirement. Mr. Bailey said the intent is on the street level in a commercial zone is to have 75 percent of the façade on street level or first level. Mr. Murray asked if you are building two buildings on a piece of a property and one is on a residential street and the other one is next to a commercial street. He had concerns regarding the important details of someone putting a project together.

The second speaker was Mr. James Frey. He lives at 495 S. High Street Columbus. Mr. Frey works for The Edge Group which is a student housing developer. Mr. Frey asked Mr. Furgiuele for legal advice to use an example of a property located at Hwy 421 near Mountaineer Village at this meeting. Mr. Furgiuele said it was appropriate in this case to refer to a property as an example as long as Mr. Frey does not get into the specifics of the water need, etc. Mr. Frey handed seven 11 x 17 colored maps and text outlining proposed areas of development at various locations near Yosef Drive on the east end of town. He outlined the corridor district on the diagram. Mr. Frey explained that he is proposing in Parcel three a club facility that would be open to the public and memberships would be sold for it. The diagrams showed square footage calculations for both residential and commercial spaces. He showed Ariel diagrams of project examples from Cary, North Carolina and High Street and Sawmill Road in Columbus, Ohio.

The third speaker was Ms. Mary Baggett Martin. She lives at 322 Causeway Drive Wrightsville Beach. Ms. Martin's family has owned the Holiday Inn Express in Boone for years. She spoke regarding the Innkeeper's property on Hwy 421.

The fourth speaker was Mr. Michael Trew. He lives in Blowing Rock. He made the following suggestions from his point of view regarding the proposed text. He talked about the pros and cons of the 75 percent of windows in retail spaces, the buildings being spaced ten feet off the right of way is good but making it a requirement without the consideration of topography and retaining wall and drainage issues, this might work better if it were made an incentive. Mr. Trew said by making this an option rather than a requirement, more people would push their buildings toward the right of way. Otherwise the other option is a variance and this is difficult to achieve. Mr. Trew talked about involving professionals, architects, engineers and business men who would occupy the commercial spaces, he believe it would be beneficial in the long run. Their input would help to determine what is practical or not practical. Mr. Trew talked about the corridor district and making flexibility in this regulation to more like 200 feet back instead of 550 feet back to make the commercial buildings closer to the street.

The fifth speaker was Mr. Robert Holton. He lives in Boone. He said the town's goals are

admirable. He supports density within the town. He talked about the mixed use in the business districts and it is important to have higher density. It becomes difficult when you try to make the numbers work on the whole project with the high cost of grading and land. He said the proposed text presented at this meeting looks like it was designed for large flat lots. He said unfortunately the Town of Boone has small lots and steep topography to deal with in this area. There needs to be flexibility in this text for this type of thing. He talked about the information he got from a financial institution regarding construction loans. He talked Section 155 and the building façades and he suggested making this an incentive rather than a requirement. He gave examples of this on his own property located near Hardin Park School and another property on Hwy 105. He talked about the building of stair cases by code which creates a requirement for them to be built narrower. He talked about the corridor overlay district that applies to primarily Hwy 321 and Hwy 421 and the adding more language to it to address or help the issues or concerns at hand. He suggested that the town needs to work with the topography rather than against it. He said that the Hwy 194 area needs to be considered with its topography. He suggested that the staff look at another town that is similar to the topography of the Boone area. He believes the town is on the right track but the proposal needs more work.

The sixth speaker was Mr. Jeff Templeton. He lives in Boone. Mr. Templeton said that he is a Tour Director and owns Templeton Tours. He is a small time developer on the side. He built the small office building in front of TRW, Inc. on Greenway Road. He said we are discussing tonight the unintended consequences of decisions made by the Town Council regarding steep slopes and the viewshed. He said these regulations in an attempt to protect our hillsides are preventing multi-family development on the hillsides. This type of development is being built in the valley because it is the highest and best use of the property. It is the only type of development that is in demand right now. He said because we got what we asked for which was development in the valleys, we are not happy with development in the valleys. We want to prohibit apartment development in the valleys. So we are here four years later trying to prevent an unintended consequence. He talked about trying to getting financing for developing in the town. He asked for a show of hands of anyone who has recently tried to get a loan for over \$500,000. He said that he has and he found out that the bank will only loan you money, if you all ready have it. The bank wants to see the signed leases of the rented spaces. He says that no one is looking to rent right now. There is a demand for the apartment spaces but not the commercial spaces. He said the bank is going to decline because it is too risky, therefore, no development. He asked what the unintended consequences of this logic are, where are the students going to live, if there are no more places to live in town, they are going to move into the R-1 neighborhoods. As a developer, you will build outside the city limits which will create sprawl. He suggested the zoning ordinance to be revisited and to find out where they want the students to live. His father built one of the first mixed-use buildings in Boone at the current Dominos Pizza building. The 2030 Plan is not working and may need to be revised due to the change in the economy.

The seventh speaker was Ms. Pam Williamson. She lives in Boone. She talked about some observations that she has made in the Town of Boone. She said the Town of Boone is losing its commercial districts to 100 percent housing. She talked about the Boone 2030 Plan and the town not implementing the vision of it. This plan includes what the community said that they wanted for the town in twenty years. She talked about everyone who develops likes the idea of higher density; they just do not want the required mixed use. She suggested a mix of greater density with flexibility in building in order to get a mix of retail with housing on the top. This is what the community said that they wanted to see. The community warned the town two times that the town is going in the wrong direction in their overall direction. She talked about the Boone Point Development and how it has not been marketed as student housing. She checked into buying a condo there. She asked how parking lots are affected by this ordinance.

The board members discussed parking when commercial and residential uses are put together. Mr. Bailey said that the staff did not propose changes to parking. Mr. Bailey said that staff only addressed residential uses in the business district. The staff focused on fulfilling the mandate they were given on this topic. Mr. Bailey explained that there is the possibility of shared parking lots. Council Member Phillips asked about handicap accessibility in residential uses, when all commercial spaces on the first floor with handicap accessibility requirements for residential spaces. Mr. Bailey explained that in all the B districts there are commercial mandates on the first floor.

With no further questions, Mayor Clawson closed the public hearing for this case.

#### **ADJOURNMENT**

With no further business, Mayor Clawson adjourned the public hearing at 7:04 p.m.

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Mayor Loretta Clawson

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Marlene Crosby, Board Secretary