MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
May 22, 2024

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 6:00 p.m. on Wednesday, May 22, 2024 at Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Futrelle presided. Council members present included Mayor Pro-Tem Dalton George, Todd Carter, Edie Tugman, Virginia Roseman (remote) and Eric Plaag. Staff present included Town Manager Amy Davis, Town Clerk Nicole Harmon-Church, Planning Director Jane Shook, Public Works Director Todd Moody, Water Conservation Program Coordinator Victoria O'Connor, Advanced Planning Specialist Jessica Mitchell, Sustainability and Special Projects Manager George Santucci, Deputy Public Works Director Josh Eller, and Police Chief Andy Le Beau. Town Attorney Allison Meade was also in attendance.

MOMENT OF SILENCE

ANNOUNCEMENTS

ANNOUNCEMENT OF EVERY DROP COUNTS CONTEST WINNERS

Water Conservation Program Coordinator Victoria O'Connor announced the winners of the 18th annual Every Drop Counts poster contest.

PUBLIC COMMENT

There were no speakers signed up for public comment.

TENTATIVE AGENDA ADOPTION

Upon a motion by Council member Carter, seconded by Council member Tugman, Council voted unanimously to approve the agenda as presented.

REQUESTED APPEARANCES

HIGH COUNTRY COUNCIL OF GOVERNMENTS - OVERVIEW OF PROGRAMS AND SERVICES

Julie Wiggins, Executive Director of the High Country Council of Governments presented an overview of programs and services offered by the agency. Highlights included information regarding the High Country Area on Aging, High Country Workforce Development Board, information regarding the administration of various funds and programs including grant administration. High Country Council of Governments Planning Director Chris Grubb presented information regarding planning and economic development assistance offered by the agency, which also included GIS services, transportation planning, and Community Development Block Grant projects. Chris noted that the HCCOG was currently working with the Town on a project through the NCDEQ for watershed restoration for the southfork of the New River, a water tank replacement through CDBG, and the Hunting Hills bridge replacement.

ERICA LACKEY - CURTIS MEDIA GROUP

Erica Lackey with Curtis Media Group shared the benefits of advertising with Curtis Media Group. She indicated that Planning Director Shook had recently participated in a radio interview to get the word out about Boone Next sessions which had been a success. Erica added that her team could offer regular radio segments to staff and Council members called "Talk of the Town" to share and distribute information with the public. Council member Plaag stated that he had heard the Curtis Media building was for sale and asked about plans to continue business. Erica answered that Curtis Media Group did not own the building but had signed a lease for a new location. She did not anticipate many if any interruptions and would have assistance from a support system out of Raleigh during the move. Mayor Futrelle indicated that Town staff would be in touch regarding plans to move forward.

APPROVAL OF ITEMS ON CONSENT AGENDA

Upon a motion by Council member Plaag, seconded by Council member Tugman, Council voted unanimously to

approve the following items on the Consent Agenda:

1. Budget Amendment

TO:
Expendable Equipment 010-500-350-514110 $7,000.00
Overtime 010-500-350-501201 $8,582.83
FROM:
Miscellaneous Revenue 010-000-000-489900 ($15,582.83)
Reimbursement for wildfire response fall of 2023.

2. Pride Month Proclamation

Council member Carter then read the Pride Month proclamation into record.

PLANNING MATTERS

CONSIDERATION OF CASES HEARD AT THE MARCH 25/APRIL 3, 2024 PUBLIC HEARING

Case A24-0073 Residential Rehabilitation to Compact Neighborhood -UDO Text Amendment

Ms. Shook reviewed the Planning Commission's recommendations and noted a typographical error in section 14.08.01 in which the reference to RR should read R1C. Director Shook noted that the community had indicated concerns with modifying the setback standard at previous meetings. Council member Plaag pointed out another similar typographical error in the table of permissible uses and asked Director Shook to summarize the final landing point of the conversation in terms of development standards at the May 21 community meeting since it was difficult for some to hear. Director Shook answered that it was her observation from both community meetings that citizens had concerns that the proposed 10' setback was too close to property lines and would impact homes, with some fearing that a builder could potentially tear down smaller homes to build larger ones. She stated that she was not aware of any other concerns. Attorney Meade was concerned that placing the R1C zoning designation in the table between R5 and MH did not make sense and suggested it should go where the former RR designation was originally or next to R1S for logic's sake and expressed concern that there was an appearance that this district was being treated differently than other single-family zoning districts. Attorney Meade suggested that this be moved to the right side of the low-density residential category to show even-handed treatment of the neighborhood. Council member Plaag agreed and wondered whether this was part of what was fueling the community's concern about the change as it appeared to be moving from low-density to medium-density. Director Shook indicated that staff was simply putting the districts in order of the numbering and meant no ill intent. Council member Plaag added that there could be room for discussion as to whether those terms (low-density, medium-density) were useful in terms of clarity. Director Shook agreed that the wording should be removed if it did not serve a purpose. After brief discussion, Council member Plaag made a motion to amend the text as follows: label it as residential and put in numerical order (RA,R1,R1A,R1S,R1C,R2,R3,R4,R5...) with the number connoting the density level while removing "low", "medium", "high". Council member Carter seconded the motion, which carried unanimously. Council member Plaag restated his motion to change the district description to strike medium and replace with lower and to remove the division between low- density residential and medium-density just to say residential in the current table of principal uses with R1C coming right after R1A and everything else remaining essentially the same until such time at a later date that a discussion can be held regarding medium and low-density. Council member Carter reaffirmed his second to the motion, which again carried unanimously.

Council member Tugman then made a motion to approve the proposed amendment to the Town's zoning ordinance (as amended) and that the proposed amendment is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it is consistent with Comprehensive Plan

Policy 2.3.2 Community Character A. The identification, restoration and active use of structures, building, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area. E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town. Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods A. The protection and rehabilitation of viable neighborhoods shall be encouraged to ensure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community. C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited. D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources. Comprehensive Plan Policy 2.3.4 Public Involvement B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs. C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County. Council member Plaag made a friendly amendment (which was accepted by Council member Tugman) to include the change back to 13' from 10' regarding set-backs and then seconded the motion which carried unanimously.

Council member Plaag then made a second motion to approve Ordinance number A24-0073 with the amendment of changing the setbacks from 10' to 13' and believes approval is reasonable and in the public interest because the modification of the language to the RR residential rehabilitation section of the ordinance dispenses within an antiquated zoning designation and allows the area more compatibility with new zoning requests, as well as the recommendation that the zoning title be changed to R1C to be more compatible with the other zoning designations in the town. Mayor Pro-Tem George seconded the motion, which carried unanimously.

Case A24-0095 Flag Lots/Cluster Subdivisions -UDO Text Amendment

Director Shook expressed a desire for additional discussion on the matter, with Attorney Meade calling for additional revisions to the proposed text. Director Shook indicated that topography presented significant issues when writing the text for this matter. Lengthy discussion ensued, with Council member Plaag expressing concern that there was almost no public comment regarding this matter and noting his expectation that people would be upset once it passed. He felt that it would be wise to progress conservatively to lessen the chance of unintended consequences. Council member Plaag stated his preference that building height could not exceed the height of whatever the height of the building on the primary lot was. If topography turned out to be an issue, Council member Plaag suggested it be addressed at a later date. Council member Carter agreed with a cautious approach. After additional conversation, it was the consensus of Council to move forward to the next agenda item so that clarifications to the text could be made before returning to this item.

CONSIDERATION OF CASES HEARD AT THE APRIL 22, 2024 PUBLIC HEARING

Case A24-0242 RR Residential Rehabilitation Building Height - UDO Text Amendment

Director Shook presented the above case and reviewed the definitions contained therein. She noted the importance of this text in that the proposed change affected how height was measured throughout town. Council member Plaag suggested retaining the general concept of the language but adding that in no case shall the highest roof element of a building exceed 36' above road grade adjacent to the lot. She suggested the text read "no taller than 36' above the finished grade at the primary facade". She added that it would be a shame not to allow people to finish out basements that were no more than a foot or two under the grade. Director Shook suggested that if the visible portion of the basement were raised to 50%, it would not be counted as a story, with Attorney Meade stating that this would have the same issue as the maximum building height language. Director Shook suggested that if it were exposed, it would count as a story, with Council member Plaag adding that if more than four feet of any size basement were exposed, it would count as a story. He noted that his intent was that four feet was roughly half of a story and asked that this text be married with the total height measurement text for clarity. Lengthy discussion ensued, with Council member Plaag reminding members that this case was only about height in the R1C zoning district and that others could be addressed at a later date. He added that he

heard universally at the community meeting the previous night the need to eliminate the problem of buildings being built higher than the majority of buildings in the neighborhood due to the addition of basements and a request to set a maximum height. Council member Plaag stated that he was in support of defining a basement as being less than four feet on any side with a maximum of one story plus an attic story and the total height from the finished grade to the top of the highest roof element not exceeding more than 24' to include four feet for a basement, ten or twelve feet for the first story and eight to twelve feet for the attic at 28' max. Director Shook noted that the previous text had listed an R1 single-story with an attic or basement at 25'. Council member Plaag then settled on a 29' maximum height.

Mayor Futrelle declared a break at 8:13 p.m. Council reconvened at 8:26 p.m.

Discussion resumed with Director Shook suggesting that the definition of basement be removed completely and add "more than four feet of any exterior wall that is exposed more than four feet below the finish floor of the first story of the building" in addition to text that reads one story with one attic story and add not to exceed 29' from any point from finished grade to the highest element of the roof structure. Attorney Meade added that the complete building height table would need to be changed as well. Council member Plaag then made a motion to approve, as amended and reduced to writing, the proposed amendment to the Town's zoning ordinance and that it is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it is consistent with **Comprehensive Plan Policy 1.1 Overall Objectives for the Boone Comprehensive Plan** Community Appearance and Community Character: Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and “cheap” apartment buildings. Neighborhoods: Ensure the livability of neighborhoods, especially through land use and traffic planning. **Comprehensive Plan Policy 2.3.2 Community Character** A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area. E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone’s original community character as a High Country small town. **Comprehensive Plan Policy 2.3.3 Housing and Neighborhoods** A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area’s image as an attractive, highly livable community. D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources. Council member Tugman seconded the motion which carried unanimously.

Council member Plaag made a second motion to approve Ordinance A24-0242 and believes approval is reasonable and in the public interest because The overall heights of new development and renovations within the R1C neighborhood will help keep new construction fitting in with the existing historic neighborhood. Council member Carter seconded the motion, which carried unanimously.

Case A24-0095 Flag Lots/Cluster Subdivisions -UDO Text Amendment - Continued Discussion

Discussion continued regarding flag lots and cluster subdivisions with Council member Plaag suggesting a revision to the text to read "shall not exceed maximum stories or maximum height of dwelling unit located on the primary lot associated with the flag lot". Director Shook pointed out that there were not always dwelling units on residual lots. Council member Plaag then suggested residual be changed to primary and suggested the addition of a second sentence that read "in any such instance where a building does not already exist on the primary lot the maximum height for both primary and flag lot shall not exceed the maximum stories/maximum heights set forth for the underlying zoning district". Director Shook then asked for clarification on the term primary facade. Attorney Meade suggested using the same definition of building height that shall be measured as the highest point of any finished grade. To allow time for staff to reduce these changes to writing, Council moved ahead to the next case.

Council member Plaag made a motion to table Case PL05640-040822 Lighting Design Standards - Community Appearance Standards - UDO Text Amendment. Mayor Pro-Tem George seconded this motion, which carried unanimously.

It was the consensus of Council to move forward to Item VIII (3) Consideration of Design for Boone Cemetery Interpretive Panels Project.

Council member Plaag indicated that he played a role in writing the language on the panels, which had already been approved. He clarified that he played no role in what was before Council tonight and asked Attorney Meade if he was allowed to vote. Attorney Meade answered that he was absolutely allowed to vote and stated that any Council members with objections should raise them. Otherwise, she did not believe there was any legal impediment to Council member Plaag voting on the item at hand. Advanced Planning Specialist Jessica Mitchell then presented the panels for discussion. Council member Plaag requested that the text on the second panel under the image be amended to read "Image courtesy of the Palmer Blair Collection" to add the word Palmer and strike the second collection. Council member Roseman suggested that the photos be altered in a way that gave distinction to the eastern and western sections of the cemetery. Council member Plaag appreciated Council member Roseman's suggestion but noted that copyright rules did not allow for the images to be modified and that the family would have to give permission to do so. After further brief discussion Council member Carter made a motion to approve the panels with the text as amended. Council member Tugman seconded the motion.

VOTE:	Aye:	Carter, Tugman, George, Plaag
	Nay:	None
	Abstain:	Roseman

Case A24-0095 Flag Lots/Cluster Subdivisions -UDO Text Amendment - Continued Discussion

Director Shook read back the text as amended: "to maintain continuity of massive scale within neighborhoods, the height of dwelling units on flag lots shall not exceed the height of the dwelling unit on the primary lot in stories or feet as regulated. In the case that a dwelling unit on a primary lot does not exist, then the height of the flag lot shall not exceed the height requirements for the zoning district the lot is located in. The purposes of this standard height should be measured from the lowest elevation of the finished grade to the highest point of the building". Council member Plaag then made a motion to approve as amended that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with: Comprehensive Plan Policy 2.3.2 Community Character A. The identification, restoration and active use of structures, building, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area. E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town. Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods A. The protection and rehabilitation of viable neighborhoods shall be encouraged to ensure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community. C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited. D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources. Comprehensive Plan Policy 2.3.4 Public Involvement B. Neighborhood and special area planning shall be encouraged to foster public involvement in the production of closely tailored, action oriented special area plans and programs. C. Specific functional plans and implementation tools shall be supported as part of the comprehensive planning program for the Town and County. Council member Roseman seconded the motion, which carried unanimously.

Council member Plaag then made a second motion to approve Ordinance A24-0095 and that approval is reasonable and in the public interest because the creation of an allowance for flag lots will allow for the creation of additional housing stock within the town of Boone in appropriate locations while also employing standards that will maintain appropriate density and intensity of use within those districts where flag lots are permitted. Council member Carter seconded the motion, which carried unanimously.

Case A24-0070 Transitional Zone/Neighborhood Protections - UDO Text Amendment

Director Shook started out by noting that currently, staff holds a public hearing every other month and that this brings with it a large amount of work. If Council approves and moves forward with the transitional zone/neighborhood protection cases, this will increase staff's workload significantly and would, in turn, take applicants' cases longer to get before Council. Director Shook asked for guidance in terms of leaving public hearings on an every-other-month basis. Mayor Futrelle suggested three cases every other month so as not to overwhelm staff. Council member Carter stated that the top priority needed to be the best and most accurate information, even if that took longer. Council member Plaag asked whether there were statutory requirements in terms of the amount of elapsed time from the date of application to the date of hearing. Director Shook answered that an application simply had to be actively moved along within the system and believed that if staff had a published schedule that it adhered to that would be sufficient. Council member Plaag suggested alternating applications one month and text amendments the next and if there were no text amendments staff could address the back log of applications and vice versa. He also urged staff to group Historic Preservation Commission items with text amendments since there was not the urgency that there was with a building owner. When asked by Council member Plaag about a need for additional staff, Director Shook indicated that her department was at the mercy of what walked in the door in terms of workload and indicated a desire to grow carefully. She clarified if Council wanted a public hearing every month that she would need additional staff. It was the consensus of Council that staff move forward with a maximum of four applications and four text amendments alternating every other month with staff using discretion as needed. Mayor Pro-Tem George then made a motion to approve the proposed amendment to the Town's zoning ordinance and that it is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with: Comprehensive Plan Policy 2.1.1 Economic Development E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small or relatively minor impacts, may not require review by a formal public commission or board. Council member Tugman seconded the motion, which carried unanimously. Mayor Pro-Tem George noted the intent behind this case was to make the legislative process easier and to allow for Council and staff to work more with developers. Additionally, he believed it would make it easier to bring in more attractive and more suitable development for Boone as well as to try and create a stopgap as Council is revisiting the Comprehensive Plan and to apply standards more fairly.

Mayor Pro-Tem George made a second motion to approve Ordinance number A24-0070 and believes approval is reasonable and in the public interest because it gives council more control and encourages a legislative cooperative process with developers to try to achieve the Town we want, especially as the Town is revisiting its comprehensive plan and a number of other plans enacted across the Town. Council member Plaag seconded the motion, which carried unanimously.

CLOSED SESSION

Upon a motion by Mayor Pro-Tem George, seconded by Council member Plaag, Council voted unanimously to enter into closed session at 9:20 p.m. pursuant to:

1. N.C. Gen. Stat.§ 143-318.11(a)(1), to review, approve and seal closed session minutes from Council's prior closed session(s).
2. N.C. Gen. Stat.§ 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning one or more potential legal claims.
3. N.C. Gen. Stat. §143.318.11(a)(5)Establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Upon a motion by Mayor Pro-Tem George, seconded by Council member Plaag, Council voted unanimously to exit closed session at 9:33 p.m.

ADJOURNMENT

Mayor Futrelle adjourned the meeting at 9:34 p.m.

Nicole Harmon, Town Clerk

Tim Futrelle, Mayor