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Posted By: Evelyn Baker
Witnessed By: _____

**MINUTES OF A
PUBLIC HEARING and SPECIAL MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
JULY 19, 2007**

The Jackson County Board of Commissioners held a Public Hearing on June 19, 2007, 6:00 p.m., Courtroom One, Justice & Administration Bldg., 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian T. McMahan, Chairman
Joe Cowan, Vice Chair
Tom Massie, Commissioner
William Shelton, Commissioner
Mark Jones, Commissioner
Kenneth L. Westmoreland, County Manager
W. Paul Holt, Jr., County Attorney
Evelyn B. Baker, Clerk to the Board

Chairman McMahan called the public hearing to order and stated the purpose of the public hearing is to receive public input on a proposed Subdivision Ordinance and a Mountain & Hillside Development Ordinance and time for public comments will be limited to three minutes and the purpose of the special meeting is to receive comments from the Board and staff concerning suggested changes to the ordinances.

PUBLIC COMMENTS:

Bill Lyons of Cullowhee stated additional definitions are needed so everyone will understand unusual language and there appears to be too much pressure on the planning director or administrator; recreational facilities should not be considered as open space; all subdivision roads should be a minimum width to accommodate emergency vehicles and the grade should not exceed NCDOT standards; buffers for watercourses should be regulated the same as in the Watershed Ordinance.

Ernest Hall of Greens Creek stated he was concerned about the regulations concerning rights-of-way in the Subdivision Ordinance (page 32, lines 21-26) and the 30% slope. He stated the "subject to slide" reference in the Mountain & Hillside Dev. Ordinance (page 10, lines 21-26) will cause a denial of insurance coverage, the slope calculation by average is impractical and expensive (pages 16-17) and ordinances should not be passed now and "tweaked" later.

Darren Hall of Greens Creek stated there are numerous unnecessary and useless issues; the intended regulations are impractical and hinder infrastructure such as broadband internet service via large antennas in rural sections of the county.

Richard Wilson of Sylva stated he serves on the planning board and has strong concerns about taking care of the water, soil, public safety, and health of county residents and has no problem with development as long as it is done the right way.

Michael Moore of Qualla stated the view shed and color of houses provisions are wrong. The 25% open space provision is excessive.

Clark Lipkin of Tuckaseegee stated that the ordinances appear not to protect the environment and safety of residents, but to stop development. He asked why family subdivisions are exempt from reports that others are required to submit and why are family subdivisions exempt from road standards and Section 2.6 of the proposed Subdivision Ordinance is unfair. Section 16.4 of the Mountain & Hillside Dev. Ordinance is bazaar because it requires that all new houses be hidden from public roads.

Zac Koenig of Cashiers stated there are too many unanswered questions concerning steep slopes and the county should wait until they are answered before imposing regulations. The extra manpower should be used to enforce current ordinances and the county should consider the economic pact on the county budget and how far it can go concerning property rights.

Jim McCarthy of Greens Creek stated he lives in the county by choice and supports the ordinances.

Bill Kirwan of the Canada Township stated that even though his property will be affected, he supports the ordinances; however, recreation areas should not be considered as open space.

Dick Darnall of Glenville stated he supports the moratorium, but is concerned about development causing disturbance of sacred lands of the Cherokee in the southern portion of the county.

(1) Subdivision Ordinance: Mr. Egan, Consultant, recommended the following amendment: Page 7, line 37: Replace “Section 5.6” with “Sections 6.3 and 6.4”.

(2) Mountain & Hillside Development Ordinance: Mr. Egan recommended the following amendments:

Page 1, line 8: Replace “Section 7” with “Section 6”.

Page 6, line 12: Replace “Mountain and Hillside Development Protection District” with “Mountain and Hillside Development District”.

Page 6, line 13: Replace “Mountain and Hillside Development Protection District” with “Mountain and Hillside Development District”.

Page 6, line 15: Replace “Mountain and Hillside Development Protection District Map” with “Mountain and Hillside Development District Map”.

Page 6, line 22: Replace “Mountain and Hillside Development Protection District” with “Mountain and Hillside Development District”.

Page 7, line 19: Replace “Section 16.3” with “Section 16.5”.

Page 7, line 36 through Page 8, line 11: Replace Section 8.5 as follows:

8.5 Prior *development plan approval*. It is recognized that some or all of the lots in subdivisions for which a determination of vested rights has been made, either pursuant to the Jackson County Vested Rights Ordinance or by final judgment of a court of competent jurisdiction, may not be lots of record. For a period of two years subsequent to the effective date of this Ordinance, or such longer period as may have been granted in the determination of vested rights, the building of homes in subdivisions determined to be vested shall be treated as if they were lots of record and regulated in accordance with Section 8.4, above. Subsequent to this vesting period, the building of homes or other improvements on lots in such subdivisions which have not been recorded shall comply with applicable requirements of this Ordinance unless the Planning Director determines that such compliance would result in practical difficulty or unnecessary hardship.

Page 8, line 12: Add new Section 8.6 as follows:

8.6 Non-regulatory lots. Lots of record which are not situated on a protected mountain ridge as defined herein, and for which the average slope as determined by Section 14.7 below is less than 30 percent, shall be exempt from the requirements of this ordinance.

Page 12, line 37: Strike “Section” and insert “Sections 12.1 and”.

Page 16, line 2: Replace Section 14.7.3 as follows: For an individual building site, the basis of the average slope calculation will include only the building and grading envelope for such site. For subdivisions, the average slope calculation shall be based on the entire tract to be subdivided unless the subdivider has elected to exclude areas subject to an absolute conservation easement pursuant to Section 14.8 or the director has approved a division of area pursuant to Section 14.9, below. For the purpose of determining entitlement to an exemption pursuant to Section 8.6 above, the average slope calculation shall be based on the lot or parcel for which a determination of exemption is sought. The term “delineated area” as used herein for determining slope shall, depending upon the context, refer to the parameters described herein.

Page 16, line 12: Strike the following phrase: “of proposed land-disturbance”.

Page 16, lines 13-14: Strike the following phrase: “of proposed land-disturbance”.

Page 16, line 19: Strike the following phrase: “of land-disturbance”.

Page 16, lines 22-23: Strike the following phrase: “of land-disturbance”.

Page 17, line 4: Strike the following phrase: “of land-disturbance”.

Page 17, line 8: Strike the following phrase: “of proposed land-disturbance”.

Page 29, line 21: Replace “Section 25.5.1” with “Section 25.6.1”.

Page 29, line 22: Replace “Section 25.5.1” with “Section 25.6.1”.

Page 30, line 8: Add the following new section and renumber remaining sections:

26. Amendments. This ordinance, including the Mountain and Hillside Development District Map, may be amended by the Board of County Commissioners in accordance with the provisions of this section.

26.1 General Procedure. Amendments shall be regulated by the general provisions contained herein.

26.1.1. The text of this ordinance and the District Map may be amended in order to (a) correct an error or clarify statements or boundaries, (b) change the regulations in the text, or (c) change the boundaries of the District.

26.1.2. Proposed changes or amendments to this ordinance or to the District Map may be initiated by the Board of County Commissioners, the Planning Board, the Board of Adjustment, the Watershed Review Board, the County Manager or one or more owners of property within the District, as applicable.

26.1.3. All proposed changes to this chapter, including the District Map, shall first be reviewed by the Planning Board prior to consideration by the Board of Commissioners.

26.2 Application.

26.2.1. Text amendments. In order for a person authorized by Section 26.1.2 to initiate a change to the text of this ordinance, an application accompanied by the application fee shall be submitted to the Jackson County Planning Department at least 30 days prior to the date of the Planning Board meeting at which the application is to be considered. The application shall contain the name(s) and address(es) of the applicant(s), a copy of the proposed text change and a statement from the applicant(s) which explains the purpose for the amendment.

26.2.2. Map amendments. In order for a property owner to initiate a change to the District Map, an application accompanied by the application fee shall be submitted to the Jackson County Planning Department at least 30 days prior to the date of the Planning Board meeting at which the application is to be considered. The application shall contain the name(s) and address(es) of the owner(s) of the property in question, the location of the property, a list of the name(s) and address(es) of the owner(s) of property abutting the property in question as shown on the county tax listing. All applications requesting a change in the District Map shall include a description of the property in question sufficient to unequivocally describe and identify said property. Such description may take the form of a property survey, a legal description or a legible copy of a Jackson County cadastral or composite Tax Map clearly annotated with district lines which follow political boundaries, geographical features or property lines.

26.2.3. Application forms may be modified by the Planning Department, as necessary.

26.2.4. The Planning Board and the Board of County Commissioners will not consider an application for an amendment denied within the preceding 12 months by the Board of Commissioners.

26.3 Planning Board action. Before taking any action on a proposed amendment to this ordinance or the District Map, the Board of County Commissioners shall consider the Planning Board's recommendation on each proposed amendment. The Planning Board shall have 45 days after the first consideration of an application for rezoning at a regular meeting to submit its recommendations to the Board of County Commissioners. Failure of the Planning Board to submit recommendations within the forty-five-day period shall constitute a favorable recommendation, except that, if by agreement of the Planning Board and the applicant 45 days is insufficient due to the size of the area, the complexity of the request or similar circumstances, the Planning Board shall have 90 days to submit such recommendation. Time limitations, however, shall not be applied to text amendments or to District Map amendments initiated by the Planning Board, the Board of Adjustment, the Watershed Review Board, the County Manager or the Board of Commissioners.

26.4 Public hearing. Before enacting any amendment to this ordinance or the District Map, the Board of Commissioners shall hold a public hearing. Public notification of such hearing shall comply with the provisions of N.C.G.S. 153A-323 and 153A-343, as amended.

26.4.1. Newspaper notice. In accordance with N.C.G.S. 153A-323, a notice of such public hearing shall be published in a newspaper of general circulation in Jackson County once a week for two successive weeks, the first publication of which shall not appear less than 10 days or more than 25 days prior to the date fixed for the public hearing. The notice shall include the time, place and date of the hearing and include a description of the property or the nature of the change or amendment to the ordinance and/or map.

26.4.2. Mailed notice. In accordance with N.C.G.S. 153A-343, whenever there is an amendment to the District Map, the owner of that parcel of land as shown on the county tax listing and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The person(s) mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

26.4.3. Posted notice. For any proposed amendment to the District Map, the Planning Department shall post a sign in a prominent location on or near the subject property which indicates that a map change has been proposed for the subject property. In the event that more than one parcel is involved in a particular District Map amendment, at least one sign shall be posted in a central location; however, the Planning Department may post multiple signs. Said sign(s) shall be posted at least 10 days prior to the public hearing

Mr. Egan stated that the proposed District Map includes most of the county, but does not include municipalities, lakes, Reservation, and the Cashiers Commercial District.

Commissioner Shelton recommended that Section 18.8 (page 22, line 35) of the Mountain & Hillside Development Ordinance be amended as follows:

18.8 Building Colors. Exterior colors for new buildings and structures, including roofs, should be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment. It is strongly encouraged that dark or earth tone colors should be used to make the home less conspicuous as seen from off site.

By consensus, the Board agreed to the proposed amendments.

Commissioner Shelton suggested that Section 3.6.3.3 of the Subdivision Ordinance be changed to exclude “golf courses” as open space because it is a commercial enterprise and not necessarily a communal area for general public use. It was the consensus that the ordinances be reviewed in one year and ascertain if golf courses are becoming problematic.

A final Public Hearing is scheduled on August 6, 5:30 p.m. concerning the proposed ordinances.

There being no further business, Commissioner Jones moved to adjourn the public hearing. Commissioner Shelton seconded the Motion. Motion carried and the meeting adjourned at 8:15 p.m.

Attest:

Approved:

Evelyn B. Baker, Clerk

Brian Thomas McMahan, Chairman