

**MINUTES OF A PUBLIC HEARING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
OCTOBER 20, 2015**

The Jackson County Board of Commissioners held a Public Hearing on October 20, 2015, at 6:15 p.m., Justice & Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian McMahan, Chairman
Mark Jones, Vice Chair
Charles Elders, Commissioner
Vicki Greene, Commissioner
Boyce Deitz, Commissioner

Chuck Wooten, County Manager
Angela M. Winchester, Clerk to Board
Heather Baker, County Attorney

Chairman McMahan called the public hearing to order and stated the purpose was to receive public input for consideration of the proposed Amendments to the Mountain and Hillside Development Ordinance.

John Jeleniewski, Code Compliance Officer, presented the proposed Amendments previously approved by the Jackson County Planning Board January 8, 2015 through May 14, 2015 and presented to the Board of Commissioners for consideration and approval:

Sec 6. Establishment of the Mountain and Hillside Development District.

The Mountain and Hillside Development District is hereby established, the boundaries and extent of which are depicted on the map entitled "Mountain and Hillside Development District Map" (herein referred to as the District Map), which is hereby adopted as if fully set forth in this ordinance. Said map shall be attached to the County Clerk's copy of this ordinance upon adoption and shall be available for public inspection in the office of the ~~director~~ Jackson County Planning Department. *The District Map identifies all those areas with a slope of 35% or more and is to be used to identify properties on which further analysis is required.*

Section 8. Exemptions.

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~~ 35 percent, shall be exempt from the requirements of this ordinance.

Section 12. Application Requirements for All Land-Disturbing Activity Other Than That Associated With a Single-Family Dwelling.

~~12.6 Assessment.~~

~~Applications for preliminary and final plat approval for major and minor subdivisions shall be accompanied by a written assessment addressing the environmental, scenigraphic and public safety impacts of the effect that the project will have on the environment of the mountain or hill after the project has been completed and is in operation.~~

12.6 Erosion and Sedimentation Control Plan

A formal erosion and sedimentation plan shall be submitted for all land disturbing activities involving the disturbance of more than 2,000 square feet on property with an average slope of 35% or more. Such plan shall be reviewed and approved by Jackson County prior to any land disturbing activity.

Section 14. General Regulations for All Development and Other Land-Disturbing Activity.

14.4.1 Buffering of Natural Watercourses and Lakes

An undisturbed buffer shall be required around all natural watercourses (creeks, streams, branches, etc.) and lakes. The required buffer width shall be equal in feet to the calculated average slope (percent) of the property/parcel. Example: If the average slope of a property is 38% then the minimum undisturbed buffer shall be 38' wide.

14.6 Density limits.

Development on lands that are subject to this Ordinance shall meet the density requirements shown in the table below.

Average Slope of Land to Be Developed or Subdivided	Minimum Lot Size (in acres)	Maximum Density (lots per acre)
30-34%	2	.5
35-39%	2½	.4
40-44%	5	.2
45% or more	10	.1

<i>Slope %</i>	<i>Minimum Lot area in Acres</i>
35	2.0
36	2.24
37	2.51
38	2.81
39	3.15
40	3.52
41	3.95
42	4.42
43	4.95
44	5.55
45	6.21
46	6.96
47	7.79
48	8.73
49	9.77
50 and above	10.0

Note: Only one dwelling unit is permitted per minimum lot area.

NOTE: Minimum lot size may also be expressed in terms of dwelling units per acre. Thus, a two-acre minimum lot size would result in a maximum density of one dwelling per two acres (or one half dwelling per acre), a two and a half acre minimum lot size would result in a maximum density of one dwelling per two and a half acres (or four tenths of a lot per acre), and so forth. This table shall not be construed to impair the clustering of dwellings and lots so long as maximum density is not exceeded.

14.7.4. Land slopes shall be calculated based on both (a) the downstream drainage slope from the highest, most remote point within delineated area, and (b) the upstream drainage slope from the lowest, most remote point within the delineated area in accordance with the following requirements.

14.7.4.1. Land slope based on the highest, most remote point shall be calculated by determining the maximum horizontal length of drainage travel (D) from the highest, most remote point (Elevation H1) within the delineated area in a downslope, drainage direction and perpendicular to topographic contours for the greatest distance to the lowest point (Elevation H2) at which drainage would exit the delineated area. Slope based on the highest, most remote point shall be calculated using the following formula:

$$Sa = ((H1 - H2)/D)(100)$$

Where:

Sa = slope expressed as a percentage

H1 = elevation of highest, most remote point

H2 = elevation of the lowest point drainage point below H1

D = is the maximum length of drainage travel between points H1 and H2 expressed as a horizontal measurement (D is not necessarily a straight line distance)

14.7.4.2. Land slope based on the lowest, most remote point shall be calculated by determining the maximum horizontal length of drainage travel (D) from the lowest, most remote point (Elevation L2) within the delineated area in an upslope direction and perpendicular to topographic contours for the greatest distance to the highest point (Elevation L1) at which location drainage to point L2 would begin within the delineated area. Slope based on the lowest, most remote point shall be calculated using the following formula:

$$Sb = ((L1 - L2)/D)(100)$$

Where:

Sb = slope expressed as a percentage

L1 = elevation of highest point above drainage point L2

L2 = elevation of the lowest, most remote point

D = is the maximum length of drainage travel between points L1 and L2 expressed as a horizontal measurement (D is not necessarily a straight line distance)

Average slope shall be a weighted average of Sa or Sb based on ratio of drainage travel lengths rounded off to the nearest one percent.

14.7.4. *The formula for conducting a slope analysis of the property shall be:*

$$S = \frac{.0023(I)(L)}{A}$$

Where:

S = Existing grade of parcel in percent

I = Contour interval of map in feet, with said contour intervals to be five feet or less

L = Total length of the contour lines within the parcel in feet

A = Area of the parcel in acres

0.0023 = Product of two constants, one of which converts feet into acres and one of which converts a decimal fraction into a percentage

Once "S" is calculated, it shall be rounded to the nearest whole number.

14.7.5. *The Planning Board may, at its discretion, approve other methods for conducting a slope analysis of property subject to this ordinance.*

14.7.6. *A slope analysis conducted by an NC Professional Land Surveyor, a NC Professional Engineer, or a NC Professional Landscape Architect may be provided in cases where the applicant/property owner does not agree with the slope analysis conducted by Jackson County staff. The alternate slope analysis shall be approved by the Jackson County Planning Board.*

Sec. 19. - Submission and Review of Applications.

Upon the filing of a request for approval of a subdivision, land-disturbing activity, development, or building permit, the following procedures shall be required and followed to determine whether the proposed action is governed by provisions of this Ordinance and whether a permit pursuant to this Ordinance is required for a lot, parcel, part of lot, or part of a parcel. The application shall be reviewed by the planning director. Applications for development authorization that are required by the regulations of Jackson County to obtain approval of the Jackson County Board of Commissioners or *Planning Board*, if any, shall be referred to the *appropriate board* ~~planning commission and/or Board, as the case may be.~~ Applications which do not require review and approval by the Board of Commissioners or *Planning Board* shall be administratively processed by the planning director. *Development projects to which the provisions of this ordinance are applicable are subject to various review and approval procedures, depending on the project. Development of a single lot subject to the provisions of this ordinance, whether for residential or non-residential purposes, must be evaluated for compliance with this ordinance and approved by the planning director. Minor subdivisions are subject to review and approval by the planning director while major subdivisions are subject to review and approval by the Planning Board. Development projects proposed for one of the zoned areas of the county are subject to the review requirements established by the ordinance for that area and must comply with the procedures set forth in that ordinance. In all cases, the development plans shall be reviewed for compliance with the provisions of this ordinance. The review processes are summarized below.*

19.1 Subdivision Review

Tracts of land proposed for subdivision into two (2) or more parcels or lots shall undergo a slope analysis by the planning department as set forth in Section 17.4 of this ordinance to determine the applicability of this ordinance to the subdivision. Tracts with a slope of 35% or more shall be reviewed for compliance with the provisions of this ordinance.

19.1.A. Minor Subdivisions

Subdivisions of tracts of land meeting the definition of minor subdivision as defined in the Jackson County Subdivision Ordinance shall be reviewed by the Planning Department to assure compliance with this ordinance. This review shall be conducted concurrently with the review required by the

Jackson County Subdivision Ordinance. Appeals of the decision of the planning director regarding compliance with the standards of this ordinance shall be heard by the Planning Board provided the appeal is filed with the Planning Department within 30 days of the receipt of the decision.

19.1.B. Major Subdivisions

Subdivisions of tracts of land meeting the definition of major subdivisions as defined in the Jackson County Subdivision Ordinance shall be reviewed by the Planning Board to assure compliance with this ordinance. This review shall be conducted concurrently with the review required by the Jackson County Subdivision Ordinance. Appeals of the decision of the planning director regarding compliance with the standards of this ordinance shall be heard by the Planning Board provided the appeal is filed with the Planning Department within 30 days of the receipt of the decision.

19.1.C. All Other Development Plans

Plans for all other development of property subject to the provisions of this ordinance shall be reviewed by the planning director for compliance with this ordinance as set forth in Section 20 of this ordinance. Upon a finding that the development plan complies with this ordinance, the applicant shall be issued a letter of approval. Plans that do not meet the standards of this ordinance shall be denied as provided in Section 21 of this ordinance. Appeals of the decision of the planning director with regard to the administration of this ordinance shall be filed as set forth in Section 23 of this ordinance.

Sec. 20. - Criteria for Approval of Applications.

No land-disturbing activity, development, building, structure, road, driveway, or other development related activity which requires a permit under the terms of this ordinance or other ordinance of Jackson County shall be permitted unless the *Board of Commissioners*, planning director or planning board, whichever has final authority over said application, has determined that the project as designed and sited meets all of the requirements of this ordinance and substantially conforms to the best management practices set forth in this ordinance.

Sec. 21. - Action on Application.

An application that meets the requirements of this ordinance shall be approved by the *Board of Commissioners, planning board, or planning director* who shall be authorized to place conditions on the land disturbing activity, development, building, structure, use, or other development-related activity to ensure that the minimum requirements and the purposes and intentions of this ordinance are met. Applications that do not meet the standards contained in Section 20, above, shall be denied in writing, stating therein the reasons for denial.

Sec. 22. - Variances.

The purpose of a variance is to provide relief when a strict application of this ordinance would impose practical difficulties or unnecessary hardships on the applicant. Owners of approved lots of record at the time of this regulation shall be given every assistance and consideration to overcome problems in the application and construction of personal single family dwellings. *Requests for variances shall be heard by the Planning Board, which is hereby designated as the board to consider such requests.*

22.1 *Standards.*

A variance from the requirements of this ordinance may be granted by the ~~Board of Adjustment~~ *Planning Board* if it finds the following...

PUBLIC COMMENTS:

(a) Marie Leatherwood of Sylva stated she believed the highly protective, environmentally sound ordinance of 2007 should have remained in place. She stated the engineering formula for the steep-slope calculations is terribly flawed, but was still being used until recently.

(b) Dick Darnall of Glenville stated he looks at the amendment as more of a housekeeping cycle. He believes everything should be looked at on an individual case basis.

(c) Phil Fowler of Glenville thanked Mr. Jeleniewski for meeting with him earlier and answering most of his questions. He did not see in writing that after a developer or individual went through the appeals process that they would have access to appeal to the Commissioners. Also, the Board of Adjustment's vote is high at a 4/5 requirement. There is nothing that really gives alternatives to properties with a steep slope and has a high absorption rate so that water does not drain off onto anyone else's property. Also, the grandfather clause seems to be weakened. He recommended considering if they are increasing the acreage for a particular house, the value of the property will be reduced with the revaluation, which will reduce tax revenue.

(d) Doug Cody of Sylva stated he was a former District 2 Commissioner and resident of the Parris Branch Community. He believes there was a lot of confusion concerning measuring steep slope. The current ordinance requires 10 acres of land to build a house for a 50% or more average slope found. This is only a 26.6 degree angle. To put this in perspective, a 1960 ranch style house usually has a roof slope or pitch of 4/12, 66.7% or 33.3 degrees. This degree of roof slope is usually required for a shingle roof to drain properly. According the landslide information he has found, the degree of slope when landslides becomes a concern starting at around 24 degrees or 45% slope. These ordinances force people to live in hollows or coves where landslides flow. Also, slope of land is not presently a consideration when tax value assessments are made, unless it is a larger tract of land. He suggested getting engineers involved in coming up with realistic solutions to the steep slope issues that are present in the county.

(e) Dan Pittillo of Sylva stated the steeper the slope the more difficult it will be to build. Going from 30% to 35% adds to the difficulty because the steeper the slope the less soil there may be and more would need to be done to the foundation structure. He believes it best to do is to stay with the 30%.

(f) David Brooks of Whittier stated he was on the Planning Board for 3.5 years. He did not agree with the ordinance to start with, but they worked on it and he thought they did a lot of good things. Now Commissioners want to change it back, he does not understand why they want to change it back.

(g) Jeanette Cabanis of Tuckasegee stated she was representing the United Neighbors of Tuckasegee. She asked Commissioners to consider that based on research she had done, the top three industries in the county were tourism, education and healthcare, in that order. These are valuable because they are sustainable, unlike real estate development or mining. Always keep in mind the beauty of the county that brings people here, which is the top industry in the county.

Chairman McMahan stated Commissioners will continue to receive written comments for the next few weeks. This item will be placed on the November 5th agenda for action.

There being no further public comments, Commissioner Elders moved that the public hearing be adjourned. Commissioner Jones seconded the Motion. Motion carried.

Attest:

Approved:

Angela M. Winchester, Clerk

Brian Thomas McMahan, Chairman