

Quarterly Public Hearing

WINTER

February 10, 2005

Meeting Minutes

- Town Council in attendance:** Mayor Burnley, Graydon Eggers, Loretta Clawson, Dempsey Wilcox, Bunk Spann and Lynne Mason
- Planning Commission in attendance:** Mary Ruth McRae-Chairperson, Charlie Walker, Stephen Phillips, Pat Vines, Gayle Turner, Mary “Bo” Bolick (arrived at 7:01 p.m.), Lee Wood (arrived at 7:02 p.m.) and Paul Welsh (arrived at 7:03 p.m.)
- Staff in attendance:** John Spear-Development Services Director and Brenda Henson-Board Secretary
- Other:** Greg Young-Town Manager, Sam Furgieule-Town Attorney and Rick Miller-Public Utilities Director

Mayor Burnley welcomed everyone to the Winter Quarter Public Hearing. She called the meeting to order at 7:00 p.m. and advised the audience of the meeting room’s occupancy limit of 99. Mayor Burnley also explained that, due to the large number of people signed up to speak, a time limit of three minutes per speaker would be set. She then invited John Spear to present the first case.

CASE NO. RZ2005-1 **The Town of Boone** has initiated zoning map and text amendments in order to create Neighborhood Conservation Districts. The purpose of this ordinance is to establish registration requirements for rental dwelling units in certain established single-family neighborhoods. If adopted, these amendments would ensure that property owners, local property managers and tenants of rental property share responsibilities to obey various codes and ordinances adopted to promote public health, safety, and welfare. The amendment is proposed for the following neighborhoods:

- Blanwood Drive
- Forest Hills Drive
- Grand Boulevard
- Grandview Heights
- Stadium Drive

John Spear presented the staff report and invited any questions from the Council and Commission.

Council Member Spann asked Mr. Spear if this proposal would give planning staff the enforcement tool it needed to help correct occupancy violations. Mr. Spear replied that the Residential Occupancy Task Force developed this ordinance with enforcement in mind.

Council Member Mason questioned what happened when violations are found. Mr. Spear explained that the parties involved would first be notified of the violation and given an opportunity to rectify any problems.

Council Member Clawson asked how many cars would be allowed per dwelling unit. Mr. Spear stated that two cars would be allowed per dwelling unit or one car per person.

Council Member Eggers asked about grandfathered units. Mr. Spear said there are some existing grandfathered situations and they would be allowed to continue.

An explanation of the criteria for establishing this ordinance was requested by Council Member Clawson. Mr. Spear explained that the Residential Occupancy Task Force met over a period of several months, studied areas where problems had been demonstrated in the past and determined that these areas should be considered as Neighborhood Conservation Districts. Other neighborhoods wishing to be considered as a Neighborhood Conservation District can do so by applying for rezoning and engaging in the public hearing process.

Commissioner Welsh expressed concern about the term “substantial period of time” in the definition of Occupant. Mr. Spear explained that this terminology is used so as to allow short-term visitors.

Commissioner Welsh felt that the term “adult individual” in the definition of Managing Agent should be more precise and include an age.

With no further questions from the Council or Commission, the Mayor opened the floor for public comment.

Judy Humphrey, a resident of the Grand Boulevard neighborhood as well as a representative of the Residential Occupancy Task Force, spoke in favor of the Neighborhood Conservation District proposal stating that a resolution to the occupancy problem is long overdue.

Susan King, a resident of Moretz Street, spoke in support of the proposed changes stating that she would like to have her street included as a Conservation District.

Sue Combes, a resident of Skyview Drive, supported the proposed changes.

Charles Sizer, a resident of Hillandale Drive, felt that this proposal would only add more rules and regulations when there are regulations currently in place that are not being enforced. Mr. Sizer expressed concern with requiring tenants to pay to park as well as requiring owners/landlords to hire managing agents.

Rob Holton, a member of the Residential Occupancy Task Force, expressed the need to protect the R-1 neighborhoods.

Phillip Underwood, a resident of Oak Street, began by thanking the Town Council for implementing a one-way street on Oak Street but stated that, if rules and regulations are not going to be enforced, they should not be implemented.

Council Member Wilcox asked if Moretz Street is zoned R-1, and Mr. Spear replied affirmatively.

With no further questions or comments, Mayor Burnley moved to the next case.

CASE NO. RZ2005-2 The Town of Boone has initiated a zoning text amendment regarding the regulation of subdivisions. The purpose of this ordinance is to revise the procedures for review and approval of subdivisions and to amend current requirements for the design and installation of subdivision site improvements. John Spear presented the staff report.

Council Member Wilcox asked how this ordinance would affect cluster developments, and Mr. Spear replied that they would still be allowed.

Council Member Mason stated her appreciation of the proposed recommendation to expand notification to adjacent property owners. Additionally, she questioned if the hearings would be in a quasi judicial setting. Mr. Spear answered that they would be and that it is referenced in Section 93 of the proposed new text.

Mr. Spear pointed out a correction in Section 95 [a] [3] that referenced Section 92 but should reference Section 91.

Council Member Wilcox asked how many subdivisions the town approves per year. Mr. Spear estimated a total of twenty. Council Member Wilcox asked if family-land divisions are exempt subdivisions, and Mr. Spear replied that the family-member exemption was abolished in the general statutes.

Council Member Spann questioned dropping the requirement for a Special Use Permit for major subdivisions, expressing concern that it would weaken Town Council’s ability to deny approval of projects. Mr. Spear felt that no authority would be compromised under Section 93 [e] of the new text.

Mayor Burnley then invited public comment.

Jim Deal, a member of the Affordable Housing Task Force, felt that the number of public hearings must increase if virtually every subdivision has to go engage in a public hearing process. He also expressed concern about requiring sidewalks on every street in the subdivision due to increased cost. Mr. Deal additionally stated displeasure with requiring family-land divisions to meet the proposed subdivision requirements due to legal issues involving wills. He stated that it is absolutely imperative that bonding be allowed. Mr. Deal felt that the flag lots and cluster developments are excellent suggestions.

Keith Honeycutt, a Watauga County Commissioner, questioned where rules and regulations end and common sense begins. He felt that this proposal would be a very expensive endeavor and could be the difference between development happening or not happening at all. Mr. Honeycutt stated that, as public servants, the town should be trying to assist the citizens instead of placing further regulations on them.

Patrick Warren, an engineer from Hickory, felt that the road-width requirements are too stringent and should allow modifications due to terrain. He further noted that walking paths should be considered as an alternative to sidewalks.

Jim Hartley, a local surveyor, stated he was appalled by the ordinance revisions. He felt they show blatant disregard for the rights of citizens and court orders concerning property divided by wills. Mr. Hartley pointed out that the proposed 54' right-of-way for road widths is nine feet wider than DOT requires for secondary roads. Adhering to this recommendation would cause more trees to be cut and more land-disturbing activity with sidewalks only adding to the problem. Mr. Hartley felt that this ordinance would devalue property in the Town of Boone.

Pam Williamson presented board members with a written statement of complaints regarding the proposed subdivision ordinance changes. She felt that it would be extremely dangerous to eliminate the requirement of a Special Use Permit for major subdivisions because public comment would not be allowed to be considered. Ms. Williamson did feel that the cluster subdivisions are a good idea.

Sam Adams, a native of Watauga County, stated he did not agree with some of the development that has gone on in the town but felt that everything should not be choked off in reaction to some of the developments that have occurred. Mr. Adams expressed concern over the family-land subdivisions.

Frank Hayes, a local surveyor, stated displeasure with the proposed road width due to the creation of unsightly road banks. Mr. Hayes also spoke against family-land subdivision regulations.

Michael Trew, an engineer with Municipal Engineering, questioned if the town would assume responsibility for the roads in subdivisions that were built to the town's specifications, and Mr. Spear replied that the ones within the city limits would become town-maintained streets. Mr. Trew mentioned that the issue of retention for these streets does not seem to be addressed in the proposed text and should be considered.

There being no further discussion, Mayor Burnley moved to the next case.

CASE NO. RZ2005-4 The Town of Boone has proposed an ordinance creating a twelve (12) month moratorium on the issuance of zoning, special use and/or building permits for certain steep slope development. The purpose of this ordinance is to temporarily prohibit development of any tract or parcel of land where;

- a. natural slopes of 30% or more are present on 25% or more of the land area; or
- b. on any slope which, pursuant to current ordinance standards, can only be allowed if certified by a licensed professional engineer.

It is also the purpose of this ordinance to temporarily prohibit the construction of any retaining walls exceeding ten (10) feet in height. During the term of this moratorium, the Town will study issues and impacts of steep-slope development and determine what, if any, measures are necessary to protect the health, safety, and welfare of the citizens of Boone. John Spear

presented the staff report and stated that the town attorney, Sam Furgiuele, is the author of this document.

Mr. Furgiuele explained that Council Member Clawson made the proposal for this moratorium at the last Town Council meeting due to the failures that happened at White Laurel and several large retaining walls that have been erected in town.

Mr. Spear noted that Town Council gave no direction as to what exactly a steep slope is and that that determination was relegated to the staff.

Mayor Burnley expressed concern with the language *WHEREAS, the Town Council of the Town of Boone has been informed and believes* on page one of the moratorium proposal. She felt this is misleading and inaccurate and that the Town Council had not yet been informed.

Council Member Eggers wished to clarify that anytime an issue is brought before the Town Council concerning public safety members must vote to consider the issue. This is simply a vote for consideration and not a final decision.

Council Member Mason felt that it would be helpful to have some examples of sites containing steep slopes of 30% or more on 25% or more of the tract.

Mayor Burnley invited public comment.

Ron Dunbar, a resident of Howard Street, stated that factors such as soil types should be considered in the 30%.

Joseph Miller, a representative from the Watauga Committee of 100, read a prepared statement which reflects the committee's concerns that the proposed moratoria would negatively impact the economic health of the town and county as well as the quality of life. He further stated that these proposals would inhibit expansion and growth for existing local businesses as well as send the wrong message to those wishing to invest in our area.

Deborah Miller and Lowell Younce, representatives of the Watauga County Board of Education, each expressed their concern with the proposed moratorium and the effect it would have on the upcoming expansion of Watauga High School.

Jim Deal spoke against the moratorium stating it was a drastic step that should not be taken in reaction to one incident.

Charles Clement, an attorney in town, gave what he believed to be some examples of projects that would have been affected by the proposed moratorium. These include the new building beside the courthouse, the Catholic Church, apartments in Perkinsville, the new Bank of Granite and many homes in Kalmia Acres. Mr. Clement felt that approximately 60% of the land in Boone would fall under the moratorium and that this poorly conceived idea could cost construction workers their jobs.

Keith Honeycutt spoke on behalf of workers in the county whose jobs could be affected by this moratorium. He stated that the Town of Boone permitted and inspected the construction of White Laurel but did not lend its support during the recent disaster there. Mr. Honeycutt questioned why, with a proposal of this magnitude, all affected property owners were not notified by mail of this change.

Patrick Warren stated that the Town of Boone is one of the most difficult towns from which to gain approval and felt that this proposed moratorium is not necessary due to the current stringent regulations already in place.

Dan Godwin, a local realtor, said that there is not much undeveloped land remaining in town and that current regulations are sufficiently stringent. Mr. Godwin also felt that this proposal would hinder affordable housing.

Rob Holton also expressed concern about affordable housing stating that all items proposed discouraged this. He said that the 10' retaining wall limit would only increase the amount of

grading and tree removal. Mr. Holton felt that the current water issues faced by the town would be enough to slow growth and allow for time to study the proposed issues without putting moratoria in place.

Mike Hall, a local business owner, stated he would like to encourage positive development instead of halting development.

Ingrid Kraus spoke in favor of the moratorium stating that we do not need to have a true disaster in order to take time to study the problem at hand.

David Lowndes spoke against the moratorium questioning if there is some major problem or calamity that necessitates this change.

Marjory Holder asked the Council and Commission for consideration of this proposal for the safety and welfare of the citizens. Ms. Holder expressed concern about high-density construction on steep slopes.

Steve Owen, who is with the Appalachian Coalition for Sustainable Development, stated that development should abate in order to reserve the land for the next generation.

Keith Weber, a local realtor, spoke against the steep slope and retaining-wall moratorium stating he felt it would have a negative impact on the area.

Andy Mason, a resident of Stadium Drive, stated that the proposal was worded poorly and also felt that it would have a negative impact.

Lee Stroupe, a resident of Seven Oaks, felt that there is a problem that the town is attempting to address it appropriately, but that he wished to remain neutral on the moratorium issue.

Boyce Brown, a resident of Highway 105, stated there is a need for rules and regulations but felt that this moratorium would decrease property value and make sales of land extremely difficult as well as hinder growth.

Glenda Hubbard, a resident of University Circle, felt that the town should not be too hasty and should take time to study these issues. Ms. Hubbard indicated support for both of the proposed moratoria.

Pam Williamson stated that there are some language problems in the proposed moratorium; however there is a great need for the moratoria in order to protect our natural resources.

Nan Chase, a representative of the Community Appearance Committee, stated that the committee supports stricter aesthetic standards for development and that a draft of proposed architectural standards would be presented to Town Council at its next meeting which directly relates to tall-wall issues.

Patrick Morgan, president of Watauga County Habitat for Humanity, spoke against the moratorium, stating that, if passed, there would be numerous lots on which Habitat would be unable to build, therefore directly affecting affordable housing.

Bill Martin, a resident of Rocky Maple Avenue, stated he would have approximately only 15 buildable lots if this moratorium passes. Mr. Martin felt that taxes should be reduced on lots affected by the moratorium because they would be unusable.

John Councill presented a site plan depicting a lot that would be directly affected by the moratorium with construction being hindered due to some slopes on the property. Mr. Councill asked board members to thoroughly consider this proposal.

Bob deCamera, president of the Avery/Watauga County Realtors Association, spoke against the moratorium stating he supports intelligent regulations.

Trey Morrison expressed the need for long term vision and planning. He stated that the moratorium, as written, is unsatisfactory.

Bob Lee, a local realtor, agreed with Mr. Martin's idea that, if property is unusable and has no value, then there should be no tax value and no taxes due on lots affected by the moratorium.

Mary Cavanaugh, former member of the Planning Commission, spoke against the moratorium stating immediate action is needed instead. Ms. Cavanaugh felt that, if passed, anyone who had made a permit application prior to the adoption of the moratorium should be exempt, as well as single and dual residences. She also suggested placing a square footage limit on construction.

Teresa Geer, a resident of Short Street, stated that a tree fell on her house and she felt it was due to the strength of the trees being compromised during mountaintop excavation. Ms. Geer spoke in favor of any proposal that would facilitate more careful planning and give the government the ability to act in the best interest of all the people.

Wade Evans, a resident of Selma Circle, stated this proposal was like using an atomic bomb to kill a gnat. The White Laurel incident likely had a number of contributing factors, such as engineering problems or failure to enforce building codes. Mr. Evans felt that there are enough laws now, that they just need to be enforced.

Max Schrum felt that this moratorium was written on a whim and needs to be further researched. He stated that even small remodeling jobs would not be able to be completed under this moratorium.

With no further comments or questions, Mayor Burnley moved to the next case.

CASE RZ2005-5 **The Town of Boone** has proposed an ordinance creating a twelve (12) month moratorium on the issuance of zoning, special use and/or building permits for multi-family developments of twenty-four (24) or more dwelling units. The purpose of this ordinance is to temporarily prohibit construction of large multi-family development projects. During the term of this moratorium, the Town will study issues and impacts of this type of development and determine what, if any, measures are necessary to protect the health, safety, and welfare of the citizens of Boone. John Spear presented the staff report and invited any questions.

Commissioner Welsh asked how the number of 24 units was attained. Mr. Spear answered that the number was set by Town Council. Mr. Furguele added that he believed the intent was to be for more than 24 units. This was confirmed by Council Member Clawson.

Mayor Burnley then invited public comment.

Joseph Miller, representative of Watauga Committee of 100, reiterated his earlier statements against both moratoria.

Jim Deal had questions about the town's current water usage, water supply, permissible amounts, and alternative supply methods. Mr. Deal felt that appropriate construction should be allowed for appropriate sites.

Ron Dunbar stated that part of the water shortage could be alleviated by repairing some of the water leaks around town.

Dan Godwin felt that this proposal is unnecessary and hinders affordable housing.

Mary Martin of the North Carolina Travel and Tourism Board, voiced her concern with the effect that both moratoria would have on the business community. She stated that tourists are not deterred from coming to our area by multi-family housing.

Lee Stroupe stated that the town allowed the development of Village of Meadowview and Mountaineer Village Apartments because they met the requirements of the Unified Development Ordinance. Mr. Stroupe felt that tighter restrictions are necessary but was not sure if a moratorium is appropriate.

Mary Cavanaugh spoke in favor of the moratorium due to the water shortage situation in town.

Pam Williamson also spoke in favor of the moratorium.

Rob Holton said he has mixed feelings and suggested possibly increasing the allowed number of units.

Council Member Clawson stated that she wants only what is best for the Town of Boone and that it takes time to make things happen. She also stated that during her years of service on the Town Council she has never done anything on a whim.

With no further comments or items to come before the Council and Commission, Council Member Wilcox, seconded by Council Member Mason, motioned to adjourn the meeting at 10:26 p.m.

Mayor

Board Secretary