

**MEETING MINUTES  
JOINT PUBLIC HEARING  
BOONE TOWN COUNCIL  
SEPTEMBER 14, 2006**

A joint public hearing of the Boone Town Council and the Boone Area Planning Commission was called to order at 7:03 p.m., Thursday, September 14, 2006, in Courtroom #1 of the Watauga County Courthouse, 842 West King Street. Mayor Loretta Clawson presided. Council members present were Dempsey Wilcox, Rennie Brantz, Lynne Mason, Bunk Spann, and Janet Pepin. Planning Commission members present were Gregory Reck, Gayle Turner, Stephen Phillips, Pat Vines, Mary Ruth McRae, Patrick Heavner, Skip Greene, Liz Aycock, Shawna Rhyne, Eric Woolridge, and Mary "Bo" Bolick. Staff members present were Greg Young-Town Manager, Freida Van Allen-Town Clerk, Kimberly Tester-Deputy Town Clerk, and Jim Byrne-Special Assistant to the Town Manager. Town Attorney Sam Furgiuele was also present.

The purpose of this meeting was to receive public comment regarding the following three zoning text and map amendments:

**Case No. 20060535** – The Town of Boone has initiated zoning map and text amendments in order to create a Geologic Hazard overlay zoning district. This district graphically depicts areas of high, moderate, and low geologic hazards and sets forth requirements for development of property within high and moderate geologic hazard zones.

**Case No. 20060536** – The Town of Boone has initiated text amendments to UDO Articles II, IV, and XVI in order to incorporate recommendations made by Trigon Engineering. These recommendations are designed to strengthen current regulations pertaining to grading, erosion control, and stormwater management.

**Case No. 20060537** – The Town of Boone has initiated zoning map and text amendments in order to create a Viewshed Protection overlay zoning district. This district graphically depicts land areas that are more than 100 feet above major valley floors and roadways in Boone's jurisdiction and sets forth requirements for development of property within this area.

Mayor Clawson welcomed all in attendance. She informed the audience that valid protest petitions for both Case 20060535 and Case 20060537 have been received. Mayor Clawson stated that there is general agreement on the need for safe development on our slopes and the need to protect the views of the surrounding hillsides and mountains. She informed the audience of a two-minute time limit for each speaker and reminded all that the purpose of the hearing was to receive public comment on the cases but not to initiate discussion.

The following comments, along with a slide presentation, were offered by Harvard Ayers, Chair of the Multi-Family Housing and Steep Slope Task Force:

*The Boone Multi-Family Housing and Steep Slope Development Task Force was created on April 21, 2005, by a resolution of the Boone Town Council to address both multi-family and steep slope issues. We are made up of citizens from many different walks of life including real estate, university development, Town Council, geology, economics, and environmental.*

*With respect to steep slopes, according to the Town Council resolution, the concerns to be investigated included aesthetics, environmental, protection to steep slopes from inappropriate and unwanted development, what types of development can steep slopes best support, how to protect the slopes from over-developed to control storm-water run runoff and erosion, and measures to protect the health and safety of steep slope residents. Our charge for multi-family housing was a separate set of concerns. Recommendations of our studies were to be turned in to the Town Council.*

*From April to December of last year, our task force dealt with multi-family housing issues and turned in our recommendations to Town Council. From January to June of this year, we dealt with steep slope concerns and turned in our recommendations to the Town Council in July.*

*Two key events led to the formation of the task force: the houses sliding off the steep slopes of White Laurel subdivision off Bamboo Road and the construction of the Village at Meadowview apartments above Wal Mart. Since then, we have learned of many homes in Western North Carolina, including in Boone, that have been constructed according to existing regulations, that have cracked or otherwise failing foundations costing home owners tens of thousands of dollars to fix.*

*Our guiding principle in drafting our recommendations for steep slopes was to encourage development on the lower slopes and remaining flat land near the major roads in our community, and to limit development on steep slopes. The crux of our recommendations for steep slope development in Boone is the following:*

*Establishment of a geologic hazard map which shows where steep slopes combine with geologic problems such as landslides and fault lines relating specifically to our charge to protect health and safety.*

*Establishment of a line drawn 100 feet above major valley floors, above which density of construction would be controlled to protect health and safety, aesthetics and the environment.*

*Establishment of a limit on building height on major ridges above Boone to protect aesthetics.*

*Establishment of environmental regulations such as stream buffers and limited culverting of streams to control erosion and excessive storm water runoff, all of which contribute to slope failures.*

Multi-family and Steep Slope Task Force member Loren Raymond briefly explained both the geologic hazard map and the viewshed protection map.

Mayor Clawson opened the public hearing at 7:20 p.m. The first speaker was Paul Welsh. Mr. Welsh, a former Planning Commission member, thanked the Town Council, Planning Commission, and the Steep Slope & Multi-family Task Force for all of their hard work in studying these issues.

Charles Ulery stated he was against the proposed regulations.

Jay Vincent stated that more regulations will increase building costs, violate property owners' rights, and have a detrimental effect on affordable housing.

Mark Lackey stated he is against the proposed regulations and that information on the proposed maps is inaccurate.

Russell Beach, a local contractor, stated that he is against the proposed regulations.

Keith Honeycutt stated he was representing residents of the ETJ who are in the town's jurisdiction but can not vote in town elections. He stated that more regulations that will negatively affect property values and affordable housing are not needed.

Daisy Adams, whose property is within the ETJ, stated her concern that the proposed regulations would lower her property's value.

Jim West stated that he is opposed to these proposed regulations. He stated that following the NC Building Code and utilizing the services of professional engineers are adequate preventative measures.

Jim Hartley stated his opposition to the proposed regulations and insisted the information contained on the proposed maps is inaccurate.

Bob Dunnigan asked if anyone has performed an economic impact study to determine the effect of the proposed regulation on the local economy.

Mac Forehand stated these regulations will have unintended consequences. He stated that he would not like to have his property designated as in a geologic hazard zone and expressed concern about the economic impact of these proposed regulations.

Gary Sigmon, a property owner in the New Market Estates neighborhood, questioned the effect of these regulations if he were to develop property adjacent to his residence and the necessity of these proposed regulations.

Wade Evans, a property owner in the ETJ, stated his perception of the purpose of the proposed regulations is to stop further development and to protect the public from their own stupidity. He suggested that if something were to happen to his current residence, he would not be able to rebuild under the proposed regulations.

Laura Hardee addressed the effect of the proposed regulations on the availability of quality healthcare. She explained that more regulations would hinder new doctors and healthcare workers from relocating to this area.

Jane Freund, who owns property in the ETJ, stated these proposed regulations would depreciate property values and that the proposed geologic map is vague and inaccurate.

Carolyn Eggers stated her concern is for persons who will be negatively affected by these proposed regulations.

Graydon Eggers stated his concern that property owners who purchased property in good faith would not be allowed to develop the property under the proposed regulations.

Tom Speed stated his opposition to the proposed regulations.

Julia Heinlein stated the Council needs to institute the recommendations from the Steep Slope & Multi-family Task Force to ensure public safety.

John Heinlein stated that, although the geologic hazard map and viewshed protection map may need further scrutiny, the hard work and effort by the task force should not be diminished.

Anna Boyce Phillips stated that the issues need to be further studied. She stated she is opposed to the viewshed regulations because they are too strict.

Andrew Mason thanked the task force members for their time and hard work studying these issues. He suggested that revisions to the proposals should be made to protect single-family properties in R-1 neighborhoods.

John Winkler stated his concern for the percentage thresholds for the steepness of slopes.

Tom Adams pointed out the hardship of selling a home that is located within a geological hazard zone and the negative effect of the proposed regulations on affordable housing.

Louis Acker, a professional geologist, stated that the 15% requirement for the steepness of a slope would have nothing to do with a slope's stability.

Stephen Phillips, a current member of the Planning Commission, questioned the accuracy of information on both the geologic hazard map and the viewshed protection map. He further stated he had concerns about the effect of the proposed regulations on affordable housing, the issues of "grandfather" properties and exemptions, and the designation of slope categories.

Randall Honeycutt stated he owns property which is adjacent to a proposed orange zone on the geologic hazard map. He voiced concern about the ability to sell his property in the future if these regulations are adopted.

Frank Bolick stated his opposition to these proposed regulations. He stated he feels adopting the proposed regulations will be a violation of property rights and will affect tax revenue.

Don Baucom stated that he feels the proposed regulations will make a majority of lots in Boone unbuildable, will affect affordable housing, and will increase construction costs.

Scott Eggers, of the Watauga Housing Opportunities Group, stated the proposed regulations will have a detrimental economic impact and will negatively affect affordable housing.

Jane Hodges stated that concerns for building on steep slopes are legitimate but suggested the threshold for the steepness of slopes be revised from 15%-50% to 35% -50%.

Gerry Richardson stated that the mountains are fragile and referenced the Sugar Top development in the town of Banner Elk.

Cam Finley, who owns property in the ETJ, stated he believes in being a good steward of the land but cautions the Council to use common sense in doing so.

Marty Koon voiced his concern about the proposed viewshed protection regulations.

Jerry Williamson stated he hoped that a compromise could be reached with the proposed regulations. He suggested removing "single-family homes" from the proposed language and state that the 15% threshold for steep slopes is too low.

Eric Eller, a homeowner in the ETJ, stated his property is in a red zone on the geologic hazard map and that current zoning regulations are not being effectively enforced.

Charles Stanley stated that he feels these regulations are intended to protect citizens but that they will make property values decrease and possibly be the cause of future lawsuits.

Jim Deal, Chairman of the Watauga County Commissioners, voiced his concern about how these proposed regulations will affect the construction of a new high school and the property value of the current Watauga High School site.

Neil Hartley stated he is opposed to the proposed regulations. He stated that current building codes and zoning regulations address the development of steep slopes.

Deborah Greene stated that current zoning regulations in the town of Boone have already put pressure on county officials to institute zoning in the county. She stated that development needs to stay in Boone.

Luke Eggers stated he does not want more regulations when the Town does not enforce current zoning regulations.

Rich Crepeau stated he supports the concept but not the specifics outlined in the proposed regulations. He urged Council to use good planning principles.

Deborah Miller stated her concern about the effect of the proposed regulations on the current Watauga High School site and the proposed site for a new high school. She urged more time for studying the issue.

Bartlett Dougherty, a property owner in the ETJ, stated the proposed regulations would devalue his property.

John Councill stated that single-family properties should be excluded from the proposed regulations and that current single-family development should be "grandfathered."

Randall Beane, a property owner in the ETJ, stated his property would be located in the proposed orange zone. He stated he is opposed to the proposed regulations.

Keith Seramer stated that these proposed regulations would not guarantee that construction on a steep slope would be safe but would rather indicate when further study by a professional is needed.

Karen Clark voiced her concern about the geologic hazard designations and stated she feels that extreme regulations are not needed to deal with specific problem developments.

Rob Holton stated the proposed regulations are not needed but that most construction problems are already addressed by both the state building code and current zoning regulations.

B. K. Dorsey stated he feels these proposed regulations are flawed.

Bob Lee stated his opposition to the proposed regulations.

Jim Hastings stated his opposition to the proposed regulations.

Dan Meyer, of the Boone Area Chamber of Commerce, stated that these proposed regulations will have a negative, long-term economic impact; and will impact property values and affordable housing in the area.

Jay Adams stated these proposed regulations are an overreaction to a couple of specific situations. He stated that common sense needs to be used, not more regulations.

Maggie McFadden stated she feels the Committee for Responsible Environmental Regulation used scare tactics when dealing with the proposed regulations. She stated that some type of regulation is needed to keep the mountains in this area beautiful.

Don Clark voiced his concern about the proposed regulations limiting his ability to rebuild his property if something should happen to it.

Tess Miles stated she feels that money is the root cause of the opposition to the proposed regulations.

Mayor Clawson recessed the meeting for a ten-minute break at 9:15 p.m. Council reconvened at 9:30 p.m.

Alice Neff stated that the proposed regulations would make it more difficult for single-family residences and small businesses to locate in Boone. She stated that she feels the proposed regulations would harm the local economy, increase property taxes, and force students from Appalachian State University to relocate within the county causing more traffic issues.

Mayor Clawson closed the public hearing at 9:45 p.m. She thanked the audience members for their input and for making the process work by being considerate of all the views expressed.

Upon a motion by Council member Brantz, seconded by Council member Spann, Council moved to amend the agenda to hear a motion from Council member Mason.

VOTE:           Aye – All  
                  Nay – None

Council member Mason read into record the following statement as a motion:

*At this time, I would like to make the following motion: To send the proposed amendment for Steep Slope Protection Case #20060535 and the proposed amendment for Viewshed Protection Case #20060537 back to the Town Attorney for modifications to be completed and posted on the Town's website prior to the Planning Commission meeting on September 18, 2006.*

*The modifications should be less restrictive than those currently proposed and address the following, which is based on the public input received tonight and over the past several weeks:*

1. *Elimination of the Geologic Hazard Map from the proposed amendment to be replaced with criteria to identify properties at risk for instability or danger that warrant further studies and possible remediation.*
2. *Development of a less restrictive Viewshed Map that:*
  - Utilizes major corridors instead of the valley floor in determining if a property falls within the viewshed and that only applies to development that can actually be seen from a major corridor.*
  - Eliminates minimum lot sizes.*
  - Increases total land disturbance areas to support the development of single-family homes on smaller lots.*
  - Excludes septic systems in the calculation of the total land disturbance.*
  - Utilizes intensity regulations that already exist in the UDO and that support the development of single-family homes.*
  - Encourages rather than requires preservation of foliage and trees.*
  - Encourages rather than requires that development along the ridgelines minimize the visual impact.*
  - Takes into consideration the Task Force's recommendations related to density on hillsides, which encourages higher density development in the valley and/or below the viewshed and discourages high density development on steep slopes.*
3. *Inclusion of language that supports single-family development as both desirable and allowable.*
4. *Inclusion of language on the process to appeal a decision.*

*In addition, the amended text should be sent to the Development Services Department, the Steep Slope & Multi-Family Task Force, and the Committee for Responsible Environmental Regulation for comments, which will be shared with the Planning Commission and Town Council.*

*Furthermore, additional public comment shall be heard at the regularly scheduled Planning Commission meeting on Monday, September 18, 2006, at 7:00 p.m.*

Council member Wilcox argued that the suggested modifications listed in Council member Mason's motion are major modifications. He suggested that the process be repeated with a new proposed amendment for the November Quarterly Public Hearing agenda. Planning Commission Chairman Gregory Reck agreed that Planning Commission members may not have enough time to receive and consider the modified amendments by their regular meeting on September 18<sup>th</sup>. Discussion ensued concerning the ability to allow enough time to meet legal requirements regarding public meeting notices and procedures and to allow the public and necessary boards enough time to review the modified proposed amendments. Council member Mason moved to modify her previous motion as follows:

*To send the proposed amendment for Steep Slope Protection Case #20060535 and the proposed amendment for Viewshed Protection Case #20060537 back to the Town Attorney for modifications to be considered at the September 18, 2006 Planning Commission meeting and posted on the Town's website. The Planning Commission can exercise the option to continue the meeting to further study the proposed modifications and receive public comment within the thirty (30) day time limit from the public hearing held on Thursday, September 14, 2006.*

*The modifications should be less restrictive than those currently proposed and address the following, which is based on the public input received tonight and over the past several weeks:*

- 1. Elimination of the Geologic Hazard map from the proposed amendment to be replaced with criteria to identify properties at risk for instability or danger that warrant further studies and possible remediation. To revise the threshold for steep slopes from a 15% minimum to 30%.*
- 2. Development of a less restrictive Viewshed Protection map that:*
  - Utilizes major corridors instead of the valley floor in determining if a property falls within the viewshed and that only applies to development that can actually be seen from a major corridor.*
  - Eliminates minimum lot sizes.*
  - Increases total land disturbance areas to support the development of single family homes on smaller lots.*
  - Excludes septic systems in the calculation of the total land disturbance.*
  - Utilizes intensity regulations that already exist in the UDO and that support the development of single family homes.*
  - Encourages rather than requires preservation of foliage and trees.*
  - Encourages rather than requires that development along the ridgelines minimize the visual impact.*
  - Takes into consideration the Task Force's recommendations related to density on hillsides, which encourages higher density developments in the valley and/or below the viewshed and discourages high density development on steep slopes.*
- 3. Inclusion of language that supports single-family development as both desirable and allowable.*
- 4. Inclusion of language on the process to appeal a decision.*

*The amended text should be reviewed for comments by the Development Services Department staff, the Steep Slope & Multi-Family Task Force, and the Committee for Responsible Environmental Regulation to be shared with the Planning Commission and the Town Council.*

*Additional public comment on the modifications shall be heard at a public hearing to be scheduled.*

Council member Spann seconded the motion.

VOTE:           Aye – 4 (Brantz, Spann, Mason, Pepin)  
                      Nay – 1 (Wilcox)

**ADJOURNMENT**

With no further discussion, Mayor Clawson adjourned the meeting at 10:25 p.m.

Deputy Town Clerk		Mayor