

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: 2 July 2007

SUBJECT: Approval of Vested Rights Order V-2007-04

ATTACHMENT(S): Draft Order

SUMMARY OF REQUEST:

On June 7, 2007, the Board of Commissioners held a public hearing regarding the vested rights application V-2007-04. This hearing dealt with granting vested rights to a mini-storage facility. At the conclusion of this hearing, the Board of Commissioners directed staff to draft an order based on the evidence and the conditions discussed by the Board to be put on the agenda for this meeting. The attached draft order has been reviewed by the Planning Department.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

If the Board is so inclined, the following motion is suggested:

I move that the Board approve the Order granting vested rights in case VR-2007-04, with a time length for vested rights of five years.

Alternatively,

I move that the Board approve the Order granting vested rights in case VR-2007-04, with a time length for vested rights of five years, with the following amendments: [list amendments].

IT IS HEREBY ORDAINED AND ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF HENDERSON COUNTY, NORTH CAROLINA as follows:

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

ORDER GRANTING VESTED RIGHTS

THIS MATTER, Henderson County planning file VR-2007-04, comes on to be heard before the Henderson County Board of Commissioners on 7 June 2007. The Board concluded its deliberations and adopted this Order on _____, 2007. After hearing and deliberations, the Board makes the following findings and conclusions, and enters the following Order.

Findings

1. The Henderson County Board of Commissioners (“the Board”) accepted the application of Matthew T. Cooke and William P. Beckford for vested development rights pursuant to Chapter 189 of the Henderson County Code, on 7 May 2007. A public hearing, pursuant to Chapter 189 of the Henderson County Code and pursuant to the Rules adopted by the Board for hearings under Chapter 189, was scheduled for 7 June 2007.

2. Notice of the public hearing was published in The Times-News newspaper on 23 May 2007, 26 May 2007, 30 May 2007, and 2 June 2007. On 22 May 2007, personnel from the Henderson County Planning Department posted notice at the project site advertising the public hearing. Notices of the public hearing were mailed to the applicant and to the owners of real property adjacent to the site of the development proposed by the Applicant via first class mail on 22 May 2007.

3. All members of the Board were present for the hearing on 7 June 2007.

4. At the commencement of this hearing, the Board inquired at the persons or entities who believed they should be parties to this proceeding, in addition to the Applicant and the Henderson County Planning Department. No other persons wished to become parties to this action.

5. All the parties to the proceeding and all other witnesses gave oath for their testimony. The Board received Exhibits A-D and attachments 1-8 from Henderson County Planning Staff. The Applicant submitted no additional documentary evidence.

6. The Applicant proposes a mini-storage facility to be located on property identified by Henderson County parcel identification numbers 9690390049 and 9690381579 and located on US Hwy 64 East (“the subject property”).

7. The subject property has 85 feet of frontage on US Hwy 64. The subject property is approximately 4.7 acres in size and consists of two parcels of land.

8. The application for vested development rights shows that the development is proposed to include twelve (12) mini-storage buildings and an office building.

9. Adjacent to the subject property is a single-family residence. A commercial use (a Dollar General Store) lies to the east of the subject property and Camp Judea is located to the south. A flea market is also near the property.

10. The office building is a 20 x 30 modular or log cabin style structure with a loft.

11. According to the addendum to the application provided by the Applicant, the eastern boundary of the property and western boundary to the west of the office and Building 1 as shown on the site specific development plan will have a planted three-foot wide landscaped area with shrubbery and the "septic" area will have a landscaped green area.

12. Building 1 will be accessed from the east with a 34' wide paved section between the buffer area and the building which will access Building 1 and the rest of the project. There will be no pavement and therefore no permitted access west of Building 1.

13. All paved roadways will be in excess of twenty (20) paved feet in width. The pavement will be 2 inches of asphalt on top of four inches of crushed run.

14. The southernmost portion of the property as shown on the site specific development plan as south of the flood-line will be left in its natural wooded state.

15. The Applicant states water will be supplied by the City of Hendersonville by way of the water line on US 64 and electricity will also be provided from US 64.

16. The Applicant intends to build the storage facilities in phases in order to better to meet market demands regarding unit size, climate controlled facilities, usage, and the growth of the community. The Applicant projects three phases over a five (5) year term.

17. In the first phase of construction, the Applicant intends to build the office building, three storage structures, and the fence.

18. Under the Henderson County 2020 Comprehensive Plan a small section of the property is in the Conservation Area because of the presence of the 100-year floodplain. According to the site specific development plan, this area of the project will remain in its natural state.

19. The remaining property is in the Rural/Urban Transition Area. These areas are meant to remain predominantly rural with pockets of higher density because of the absence of water and sewer services. However, the Applicant has stated public water will serve the site.

20. Under the current draft of the Land Development Code (Draft 9), the subject property would be located within a Local Commercial zoning district. The proposed zoning district, Local Commercial, would not permit self-storage facilities.

21. There was no contention urged upon the Board which was in any way contrary to any finding contained herein, or to the granting of vested rights in this matter.

From the foregoing, the Board concludes as follows:

1. That the Board has the authority to vest development rights in the Applicant pursuant to N.C. Gen. Stat. §153A-344.1 and pursuant to Chapter 189 of the Henderson County Code.

2. That the Board should grant the Applicant vested rights pursuant to the site specific plan submitted by the Applicant, subject to the conditions stated below.

3. That the conditions stated below are appropriate and necessary to protect the public health, safety, and welfare.

WHEREFORE, IT IS ORDERED as follows:

1. The Applicant is granted vested development rights for a period of five (5) years in the subject property as shown on the site specific development plan as submitted by the Applicant, as it has been amended in writing and by the Applicant's statements at this hearing, subject to the conditions stated below.

2. The grant of the vested development rights to the Applicant is expressly conditioned on the full, complete, and timely compliance by the Applicant with the following conditions:

a. No Structures in the Floodplain. The Applicant shall not place any structures inside the floodplain as indicated by the application addendum and on the site specific development plan.

b. Lighting. Adequate lighting shall be placed in areas used for vehicular/pedestrian access including but not limited to any stairs, sidewalks, crosswalks, intersections. The Applicant shall also be required to mitigate the impact of outdoor lighting fixtures in order to protect neighboring properties and roads from direct glare or hazardous interference of any kind. Exterior lighting should be installed so as not to exceed ten (10) feet in height.

- c. Screening. The Applicant shall be required to provide plants that will mature to a height of at least eight (8) feet. Said plants should be of an appropriate species and spaced at a distance to provide adequate screening along adjacent property lines. The Applicant should provide a site plan to the Planning Department for approval, showing the arrangement and type of planting material used for screening. The proposed fence shall have a vinyl coating.
- d. Street Trees. The Applicant shall provide street trees at a rate of one (1) large deciduous tree per fifty (50) linear feet of property abutting an internal road.
- e. Outdoor Storage. The Applicant may have 5000 feet or greater of outdoor storage.
 - i. The Applicant shall not place this outdoor storage in the front yard.
 - ii. The Applicant shall not place the outdoor storage in a yard abutting a road.
 - iii. The Applicant must provide screening for this outdoor storage as discussed in section "c" above.

3. Any change in use of subject property or change or addition of a roadway connection point to the subject property beyond those currently indicated in the site specific plan, and any significant change in the site specific plan or other plans places for the project submitted to the County (as they may have been amended through the completion of this hearing) shall require an amendment to this Order after public hearing before the Board of Commissioners.

As ordered by the Board upon motion duly made and seconded and unanimously adopted, this the ____ day of _____, 2007

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____
WILLIAM MOYER, Chairman

Attest:

ELIZABETH CORN, Secretary to the Board