

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
AUGUST 30, 2007**

The Henderson County Board of Commissioners met for a special called meeting at 7:00 p.m. in the Bo Thomas Auditorium at Blue Ridge Community College.

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Chuck McGrady, Commissioner Mark Williams, County Manager Steve Wyatt, Assistant County Manager Selena Coffey, County Attorney Russell Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Deputy Clerk to the Board Terry Wilson, Associate County Attorney Sarah Zambon, Senior Planner Autumn Radcliff, Planning Director Anthony Starr, Planners Matt Card and Matt Cable.

CALL TO ORDER/WELCOME

Chairman Moyer called the meeting to order and welcomed all in attendance. He explained that the purpose of the meeting was to have a public hearing with respect to the Land Development Code. He stated that the college required everyone to be out of the building by 9:45 and the Board would proceed without an overview of the Land Development Code. The Board would move directly into receiving public comments limiting each person to 3 minutes. The Board would only allow comments on the Land Development Code and no other issues.

PUBLIC HEARING – LAND DEVELOPMENT CODE

1. Carl Shaw was speaking on behalf of the Henderson County Chamber of Commerce with whom he served as chair in 2007. They had sent a letter to the Board of Commissioners earlier in the year supporting the Land Development Code. The Chamber continues to be in support of the LDC and several suggestions were made by the members of the Chamber. Industrial zoning should be protected from residential and commercial incursions. Henderson County stock pile of industrial zoned properties is small and continually shrinking. In order to protect Henderson County's present and future manufacturing economy, a reasonable amount of industrial property must be identified and protected. They are in agreement with the R4 buffer zoning around the state and national forest but feel it should be restricted to only properties bordering state and national forest in the county. The county should encourage the growth of new and small manufacturing by allowing light manufacturing in some commercial areas.
2. Ben Campen owns Smiley's Flea Market and has been in business in this county since 1984 (twenty-three years). Mr. Campen has been following the LDC as it is being proposed and his concern was about the definition found for a Flea Market. He felt that the proposed LDC as written described Flea Markets as a market usually held outdoors selling antiques, household goods and curios. He stated that while this is true they do have a much larger operation. He requested the definition to read "A place that has regular consistent hours of operation on a regular reoccurring basis of at least four days a month specifically dedicated to where people buy, auction, rent, sell, appraise, lease or exchange goods, products or services including but not limited to real property, personal

DATE APPROVED : _____

property, services, food and/or entertainment whether it indoor, outdoor or a combination venue.” Mr. Campen stated that his business is all encompass.

3. Jean Gardiner had written a letter to the Board but felt that she had not explained the situation very well. In her letter she had used Harley and Cracker Barrel as examples of businesses that know the value of being on the interstate. She did not mean to imply that they were suitable businesses for her property. She did not understand why the county would rezone her property from Open Use to Residential 1. Her property is located on E. Prince Road and I-26 with 800 feet of road frontage and 3 elevated acres which are easily seen from I-26. The property is in between Byers Precision Metal Fabricators and a proposed mini-warehouse business. Dream Dominions is at the end of the road and George Bradshaw has a commercial business that is accessed from E. Prince Road. This area is already commercial. She questioned why anyone would want to build a house between 2 businesses and view I-26 in their front yard with all the noise. The most logical use of her property would be a service-based business that goes to the customer but wants the advertisement exposure by just being seen by I-26 traffic. She requested that her land be left open use so that she may have the opportunity to sell it at its most valued use and let the market decide what that is.
4. Max Jones owns two pieces of property that are located in front of Hwy. #25 directly across from Mountain View post office. They are currently zoned R1 and the property is joined by commercial on the north side, the railroad on the backside, and a highway on the south side. He feels the property should be industrial or commercial. He provided the PIN number to the staff.
5. Barbara Barnett was the spokesperson for the Four Seasons Sierra Committee. She stated that the Sierra Clubs mission is “to explore and protect wild places of the earth, to practice and promote the responsible use of the earth’s eco-system and resources, to educate and enlist humanity to protect and restore the quality of the natural and human environment.” Therefore, the Four Seasons Sierra Committee was in support of a Land Development Code. In Henderson County, if rapid growth continues, the population will exceed the carrying capacity of the land. Our natural resources; air, water, land and forests will be more threatened from technology and consumption. Deforestation is a major contributing factor to global warming and climate change. The Committee recommended protection for steep slopes and flood plains to prevent erosion and mudslides, cutting forests no faster than they can be grown back, and stop rewarding developers with density bonuses. They recommended one home per 2 acres, using groundwater no faster than it is recharges by precipitation to protect wetlands and preserving farmland so that the soil does not decline. They also promote renewable energy sources in building codes and the protection of residential areas. The environmental protection they hope for is defined as sustainability, development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
6. Martha Sachs had been attending hearings on the land use for some time and thought that it would have been completed by now. In all of the meetings she felt that the overall suggestion was to protect steep slopes and flood plains, stop clear cutting, and to protect the current R30 & R40 zones.

7. Carolyn Blalock was speaking on behalf of the League of Women Voters of Henderson County. The League of Women Voters is a non-partisan organization of men and women who work to advocate and educate the general public on issues which have been studied and positions that have been reached. As a result of their studies, the League believes that land is a finite resource, not a commodity, and carries with it the responsibility of stewardship. The respect for environment, economic and social consequences of land use should be the basis for all planning, regulations, implementation and enforcement. She addressed three issues. Affordable Housing – The League supports the Land Development Code’s expanded area for affordable housing and the clarification of the difference between manufactured homes and mobile homes in this document. Farmland Preservation and Land Use – The Henderson County 2020 Comprehensive Plan states: “Development pressures upon farmland in Henderson County are substantial, and farmland is a finite, non-renewable resource. Farmland that is converted for development is effectively forever lost.” If we truly value farmland or agriculture, the League strongly suggests the R3 zone description be reclassified or renamed as Rural/Agriculture to preserve the importance of farmland in our zoning classifications. Steep Slope Development – Related to Land Use are the issues of water quality and the percent of impervious surfaces permitted in most of the zoning classifications. Once water is rapidly channeled over impervious surfaces and discharged to a stream, the possibility of having the ground water recharged is lost. With the number of homes we have on wells in this county, this can eventually result in a water shortage and create havoc with our streams. Development on steep slopes, with streets, roofs and driveways adds impervious surfaces that compound this problem. Contrary to opinions that have been expressed regarding landslides and slopes, the League believes the State’s studies which indicate steep slope development can increase the risk of landslides and lead to a greater risk of flooding. Therefore, they support limiting development on slopes greater than 35%. Development of steep slopes, in the long run, is more costly to both the community and property owners. The League encourages the Board to act in a noble and courageous manner by taking action to protect the mountain ridges. Prosperity, fairness and a healthy environment are interrelated elements of the human dream of a better future. Sustainable development is a way to pursue that dream through wise choices and policy.
8. Tom Christ was speaking on behalf of the North Carolina Manufactured Housing Association. They feel that trailers represent affordable housing and should not be banned from an area in the county. They would like to see trailers allowed in R1 and R2 zoning and be shown as real property with 4/12 roof pitches. The tax base on trailers should be maintained and not depreciate.
9. Melissa Essick was speaking on behalf of the North Carolina Manufactured Housing Institute. She feels their homes are well quality and affordable. A study was done in several counties including Henderson County which measured the appreciation range, whether positive or negative, of site built homes adjacent to manufactured homes. The ECU study found that a manufactured home with a fixed foundation listed as real property appreciated at a comparable rate as a site built residential property; including single family homes, condominiums, apartments and town homes. It was suggested that instead of completely restricting manufactured homes in a given area that the Board

consider a set of regulations to ensure that the homes are protectively sound for the neighborhood. Set requirements for the roof pitch of the homes and the eaves of the roof structure. Require underpinning, require foundations. Maintain that all of the homes must have tongues and axles removed. Please do not discriminate against manufactured homes.

10. Ron Stephens felt that the Land Development Code was long over due. He requested that the Board reexamine 3 aspects of the LDC. 1) Make distinction between R2 & R3 in reference to the number of home per acre, 2) Manage slopes, and 3) Give full credit to flood plains as open space.
11. Richard Freudenberger is a business owner in Henderson County and felt that the Land Development Code was long over due. He felt the existing R40 and R30 zoned neighborhoods have worked well where they have been put into place. Henderson County needs to protect their forests.
12. Steve Dozier addressed the slope and density issues. Currently there was no set number regarding steep slope. One of the issues he saw with steep slope building was the run-off of silt. He questioned when someone had heard of a mudslide or landslide in this area. He quoted that 30.3% of the entire county is at 35% or greater slope. If you limit building from that much of the county you are in essence going to stop growth in Henderson County. Growth is good. In regards to density in the R3 zoning he felt that the density of 1 home per 1.5 acres would be difficult as far as affordable housing. The average lot in Henderson County is \$28,000.00. He strongly requested that the Board look at these issues because we continually do things to drive local citizens out of the area.
13. Janice Unwin suggested less density of 1 home per 20 acres in the R4 zoning for land adjacent to and in close proximity to Pisgah National Forest, Dupont and the Green River Game Lands. By doing this we could stop the endless killing of the wildlife, preserve water resources and provide better buffers to stretches of public lands.
14. Dawn Piscopo requested that the zoning of Camelot off of Rugby Road be changed from R40 to R2 which would allow an addition to their home but not be offensive to any neighbor. After looking at alternative housing to accommodate 4 adults she feels that in Henderson County it is no longer affordable to her. If unable to add the addition she may have to move to another county.
15. Tuck Tannes requested that the Kanuga Corridor and the south side of Little River Road remained zoned as R40.
16. Leon Allison requested C4 Highway zoning for his property. His business includes composting, mulching and recycling and wants to make sure the zoning is adequate for his business.
17. Celia Hinds Engelman implored the Board to implement a Land Development Code which protects floodplains, steep slopes and growth.

18. Bill O'Connor stated that growth is good. In regards to density he favors less dense development. He recommended reducing the density depending on the level of slope.
19. Roger Russnak did not feel that people should be compensated for land with steep slopes and floodplains because they put everything closer together as a result.
20. Peggy O'Connor was opposed to the open space density bonus and the agriculture preservation density bonus. This allows developers to put additional homes in smaller areas.
21. David Weintraub was speaking on behalf of ECO. They were for the Land Development Code and felt it was necessary to protect the county.
22. Katie Breckheimer asked the Board for a tough LDC to protect the floodplains and steep slopes. She felt the Board could control the lines of infrastructure.
23. Sam Creech was speaking on behalf of the Board Members of the Home Builders Association of Hendersonville. He requested that the Board consider clarification of the building height limitation for residential dwellings and felt that the established height should be measured from the main finish floor elevation. This clarification would prevent common grade conditions which require elevated porches, and other similar conditions, from causing one to interpret the limitation of the building height as possibly being measured from the finish grade, which could obviously be moderate to substantially below the main floor level. He also asked that the Board consider increasing the maximum height limit to 40 feet above main level finish floor elevation, as opposed to 35 feet. He felt it was common to have a traditional and typical sized house with a wall length of 40 feet, main level walls at 10 feet high, upper floor system 12 inches (or greater), and upper level walls at 9 feet high. This scenario with a common and popular roof pitch or 45 degrees (or 12/12) equals 40 feet from main finish floor elevation, thus supporting our reasonable request. While the two requests seemed relatively minor in nature, the potential negative impact of not exacting these proposed changes on their building, real estate and homebuyer/owner community could be unnecessarily harmful, as this could possibly prevent perfectly appropriate and proportionate homes for the county from being allowed to be constructed. Mr. Creech felt that floodplain should be counted as open space.
24. William Fisk requested that the Board protect floodplains, slopes and the residential areas.
25. Cy Lieberman resides under a 45% slope and had experienced three mudslides from the neighbor above him and needed help from the county to resolve the issue.
26. Dale Hamlin was the developer of Carriage Park and was concerned about steep slope penalty driven language in the Land Development Code.
27. Jim Brissie was concerned about the protection of R40 zoning in his community. This property was zoned R40 over 25 years ago to provide low-density neighborhoods consisting of single-family homes. Setbacks are a major issue. He provided a petition

with approximately 200 signatures from neighbors requesting the R40 zoning remain in their community.

28. Paul Taylor has been a developer for twenty-seven years in Henderson County and 50% of his houses he has built have been on the 35% slope or more.
29. Bill Alexander was representing seventeen clients with more than 7000 acres of land. He felt that the changes that have been made should be given more public scrutiny. He (speaking for his clients) was opposed to any R4 designation outside of a national park, state park and state game lands. He was also opposed to the steep slope requirements.
30. James “Bo” Perry was representing his family who has a large tract of land bordering Dupont State Forest. He feels that R4 would devalue his land and is against the R4 proposal.
31. Dave Lowles, representing the Environmental Advisory Committee, recommended that areas in floodplains or slopes of 35% or greater should have only 1 home per 3 acres. He also recommended a traffic impact study be done for any development, whether commercial or residential, that has more than one thousand trips per day or any development with over one hundred lots.
32. Mike Cooper discussed steep slopes. He did not feel that the public understood exactly what a 35% slope was. He showed an example of 35% and 45% slope and stated that this was not steep. He felt that 60% should be the minimum considered for steep slope, or a lot of land in Henderson County would be eliminated from development.
33. Phil Childs was in most part in agreement with the Land Development Code. He did not feel there was adequate commercial/industrial zoning in the plan for future growth. In regards to slope he felt that the slope should be 45% or even higher in certain cases. He felt that the density was slightly too restrictive.
34. Jeff Michels sang a song about taking care of the land in Henderson County.
35. Mary Singleton wanted a Land Development Code with lots of teeth in it. She felt that commercial should not be located next to residential and that residential zoning needs to be protected. She wanted the mountains to be preserved and not allow houses all over the mountains.
36. Angela Fernandini requested that the Board allow zero building in the flood plain. Builders should not receive credit where they shouldn't be building anyway. We needed to protect farm land.
37. Robert Danos recommended putting teeth in the Land Development Code for buffers around the areas of Dupont State Forest, Green River Game Lands and Pisgah National Forest, etc. He urged the Board to keep conditional zoning rules in place for large subdivisions. Protect the residential areas.

38. Anthony Hoots and his siblings own 30 acres of land off Upward Road. This is proposed to be R1 which could possibly increase the resale value of the land. His brothers and sisters cannot afford to live in a one hundred and fifty thousand dollar house and this zoning would not allow them to live in a mobile home.
39. Walt Sheppard feels that the Board is trying to tell him what he can and cannot do with his property, and the rules would not allow him to sell a lot off of his property.
40. Ken Perkins represented the Henderson County Affordable Housing Coalition. He shared a copy of the Draft Inclusionary Zoning Ordinance from the town of Chapel Hill with the Commissioners.
41. Eben Franz serves on the board of the Affordable Housing Coalition. He was concerned with the high cost of land and affordable housing. He stated that around 15% of Henderson County residents are paying between 50 – 80% of their income on housing. He suggested finalizing the LDC and minimal housing codes, creating a housing trust fund to simulate affordable housing construction as in Asheville, and create mixed income housing developments.
42. Wil Irvine felt that his right to domestic tranquility had been taken away with mini-storage buildings being allowed in his community.
43. Jeff Nabor spoke against mini-storage buildings being allowed in his community.
44. Phil Lovingood was represented by Bill Alexander. Mr. Lovingood is the owner of a 216 acre tract of land in Mills River that is located between Pisgah National Forest and the Town of Mills River. Mr. Lovingood supports R3 zoning on his property for purposes of the LDC. He does not want R4 zoning on his property which would require 1 house per 5 acres. Mr. Lovingood is concerned with the steep slope issue and supports a steep slope ordinance being included in the LDC. This should be included with the building process as an engineered plan that mitigates and separates storm water runoff and deals with ground soil stability.
45. Brian Mooney urged the Board to take the time to get the LDC right.
46. Evelyn Nichols spoke against trailers in R1 and R2 zoning.
47. Bill McLeod asked that the floodplains and steep slopes be protected.
48. Larry Rogers was concerned about widespread use of R4, was in favor of gated communities, thought that steep slopes should be determined by engineers and felt that open space and floodplains need to be protected.
49. Mary Jane Pell wants the strongest most environmentally friendly LDC possible. She does not want to see building on steep slopes or floodplains. She doesn't feel that density bonuses should be given.
50. Cornell Drajay stated that more business zoning areas are needed.

51. Dan Kincaid felt that the LDC needed to be voted on and passed as soon as possible.
52. Mitch Redmon felt that engineers should determine steep slopes. He did not want to see development in the floodplains and felt that new development could be controlled by infrastructure. Mr. Redmon was against large mobile home parks.
53. Angela Beeker requested on behalf of Spartan Holdings, LLC, and Jose M. and Reyna Martinez, that parcels 100005, 100006, and 100007 be zoned Community Commercial rather than the residential zoning currently proposed. She also requested on behalf of Hoopers Creek Quarry, LLC, that the Hooper' Creek Quarry Property, PID 99-50262, be rezoned into the Industrial District as part of the countywide rezoning being considered at tonight's public hearing. In regards to existing subdivisions there is a provision in the current code (Section 200A-209C) that requires the recombination of existing lots and subdivisions that do not meet the density and she feels this will have a great deal of unintended impact on subdivisions and asked that the Board take a look at exempting them. On behalf of Boyd Hyder in regards to C4 zoning and steep slopes that the Board control steep slope development through engineering steps and technical requirements rather than density. She and her clients were against mini-storage facilities in a residential area.
54. Karen Couch, speaking on her own behalf and her neighbors, was against rezoning of Old Kanuga and did not want set back regulations relaxed. They did want diversification in the types of development allowed. They wanted to retain R40 zoning.
55. David Hill is a professional land surveyor and did not agree with the penalties in the LDC and felt that the LDC should be put out to a public vote. He did not want his land regulated by the government. The county needs industry and infrastructure.
56. Eva Ritchey stated that the Board needed to protect the "children". Conservation policies need to be included in the LDC and the LDC as written did not protect the ridges or steep slopes.

ADJOURN

Commissioner Messer made the motion to adjourn the public hearing at 9:23 p.m. All voted in favor and the motion carried.

Attest: _____
Terry Wilson, Deputy Clerk to the Board

William L. Moyer, Chairman