

**DRAFT**

**MINUTES**

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
AUGUST 23, 2007**

The Henderson County Board of Commissioners met for a special called meeting at 6:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

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, Planning Director Anthony Starr, Senior Planner Autumn Radcliff, Planners Matt Card and Matt Cable, Research/Budget Analyst Amy Brantley, Communications Officer Pam Brice, and Associate County Attorney Sarah Zambon.

**CALL TO ORDER/WELCOME**

Chairman Moyer called the meeting to order and welcomed all in attendance, stating that the purpose of this meeting was a Public Hearing on the Land Development Code (LDC).

**PUBLIC HEARING – Land Development Code (LDC)**

**Commercial Issue I – Commercial Uses Permitted in R3 and Other Zoning Districts, Excluding the Industrial Zoning District**

Anthony Starr stated that concerns were raised regarding the limited amount of commercial and business uses allowed in the R-3 residential zoning district. The recommended solution would be to allow more commercial/business uses in the R-3 zoning district with a special use permit. Mr. Starr reviewed a table with the Board entitled “Table 1: Additional Commercial or Business Uses in R-3”. Highlighted in gray in that table were changes recommended by planning staff and highlighted in yellow are other suggested changes but not necessarily suggestions of the Planning Staff.

Anthony Starr explained that the best way to review and revise this section would be to go through it and see by consensus which ones the Board would want to include and which ones to delete in the R3 district or other changes to the other districts.

Anthony Starr stated that the first changes occur in Section II, Accessory Uses:

Childcare Facility (as an accessory for a principal business), not stand alone. Add that in the R3 and there was a suggestion to also add it with a special use permit in the R2MH. Agreement by consensus.

Drive-Thru Window would be allowed as a special use permit in the R3 district. Agreement by consensus.

Single-Family Dwelling (as an accessory for a principal business) in the R3 and R2MH districts. Agreement by consensus.

DATE APPROVED \_\_\_\_\_

Fuel Pumps in the R3 and R2MH districts with special use permit. There was some discussion on this one. Agreement by consensus. Commissioner McGrady wanted his objection noted.

Outdoor Storage, less than 5,000 sq. ft. It was suggested that in the R3 it be changed from a special use permit to a permitted use by right and add it to the R2MH district as a permitted use by right. Outdoor Storage, greater than 5,000 sq. ft. was suggested to be added to both R2MH and R3 as special use permits. Again Commissioner McGrady wanted it to be by special use permit for storage less than 5,000 sq. ft. in the R2MH district. Discussion followed. Agreement by consensus as special use permit.

Marina. It was suggested to add by special use permit in R2MH. Agreement by consensus.

Rural Family Occupation. It was suggested to add to R2MH district as a permitted use.

Loading Bay. Add to R3 as a special use permit. Agreement by consensus.

Miniature Golf Course or Driving Tees/Ranges (operated for commercial purposes). Staff suggested adding to the R2MH district by special use permit. Agreement by consensus.

Outdoor Recreational Facilities. Staff suggested adding to the R2MH district by special use permit. Agreement by consensus.

School (Sports Instructional) It was suggested to add to the Office/Institutional district as a permitted use. Agreement by consensus.

Shooting Ranges, Indoor. It was suggested to add to R-3 and the R2MH by special use permit. Agreement by consensus.

Shooting Ranges, Outdoor. It was suggested to add to R-3 district by special use permit. Agreement by consensus.

The issue of Summer Camps was raised regarding shooting ranges. Anthony Starr felt that they should be allowed in pretty much all the districts as permitted use by right. There is a definition already established for camps in the definition section. There was some discussion regarding the zoning districts that summer camps are routinely found in.

Adult Day Care Facility . It was suggested to add to the R2MH district as a permitted use. Agreement by consensus.

Ambulance Services. It was suggested to add to the R2MH district as a permitted use. Agreement by consensus.

Cemetery/Mausoleum/Columbarium (excluding crematoriums). Adding to the Office/Institutional district as a permitted use. Agreement by consensus.

Funeral Home or Crematorium. Adding to the Office/Institutional district as a permitted

use. Agreement by consensus.

Place of Assembly, Small. Adding to the R3 as a special use permit and it was suggested that it be allowed in the R2MH as well. Agreement by consensus.

Police Station. Adding it to R2MH. Agreement by consensus.

Youth Center. Adding it to R2MH. Agreement by consensus.

Automobile and Equipment Service. It was suggested by staff to be added to the R3. It was also suggested that it be added to the R2MH and the R2. There was some discussion on this one. Commissioner McGrady felt that it should not be allowed in the R2 and the R2MH. Commissioner Williams felt that it should be allowed in the R2MH and the R3. That change was approved by consensus. So this will not be allowed in the R2.

Exterminating and Pest Control Services. Staff suggested adding it to R3 and it was also suggested to add it to R2MH and R2. There was some discussion on this one too with the Board approving by consensus in R3 and deleting from R2 and R2MH districts.

Business, Professional and Public Offices. Staff suggested adding it to R3 with a special permit only. It was suggested to allow as a permitted use in the R3, R2, and R2MH. Anthony Starr explained that this would not be part of a home but a stand alone office. We already allow home occupations which would allow an office out of the home. Some discussion followed. Board consensus was to delete this from R2, as a special use permit in R2MH and permitted in R3.

Tire Recapping. Adding as a special use permit in R3. Agreement by consensus.

Urgent Care Clinic. Adding as a special use permit in R3. Agreement by consensus.

Motor Vehicles Sales or Leasing. It was suggested to add that as a special use permit in the R3 and R2MH. The Board wanted both these deleted, by consensus.

Open Air Market. It was suggested to add this in R3, R2, and R2MH with a special use permit. Agreement by consensus.

Produce Stand. Change from special use permit to permitted use by right for R2MH and R3, remain as a special use in R2. Agreement by consensus. Some discussion followed regarding the definition of "produce stand". The Commissioners wanted the definition tightened.

Land Clearing Debris and Inert Debris Storage or Disposal. It was suggested to add as a special use permit in the R2MH. Agreement by consensus.

Self-Storage Warehousing. Currently is allowed in the RC and GC districts. The Board took this issue up about October with the current zoning ordinance. Anthony Starr stated

that at that time it was allowed in the neighborhood commercial district and the Board decided at that point to eliminate that use from neighborhood commercial in our current zoning ordinance. With that in mind, they used that as a basis for setting up the table of uses for what was originally recommended here. It has been recommended to allow this as a special use permit in all the residential districts except R1 as well as the office/institutional as a special use permit and then also allowing in the Local Commercial which replaces the Neighborhood Commercial district and allow it as permitted by right and in the Community Commercial as permitted by right. It was not Planning Staff's suggestion for this change. Planning Staff's recommendation was not allowing it in the residential districts or the Local Commercial or Community Commercial, just based on the Board's direction given to staff in October. Staff did recommend it as a special use permit in the Community Commercial district.

By consensus the Board agreed to: R2 – delete the special use and take it out completely. Leave it in R2MH, R3, Office/Institutional, and Local Commercial as a special use permit. Leave it in all the other commercial districts as permitted by right as well as in Mixed Use.

Septic Tank and Related Services. Staff recommended it being allowed in the R3 as a special use permit. Agreement by consensus.

Waste Collection and Transfer Facility (Non-hazardous). Anthony Starr felt that is was just a typo that it wasn't included in the RC district because it was allowed in the CC district by special use and then it was also suggested it be added to all the other districts as a special use permit. Agreement by consensus.

Chip Mill. Add under R3 as a special use permit. Agreement by consensus to leave it just in the Industrial District but to come up with a definition or a way to deal with the issue in Mills River and possibly others, so that they can be permitted.

Machining and Assembly Operations Limited. Anthony Starr stated that this went back to the square footage issue. Planning staff suggested adding this and the next item "Manufacturing and Production Operations Limited" as special use permits in the R3 zoning district. It was then suggested to also allow it in the R2MH and R2 as a special use permit and in MU, LC, LC, CC, RC and GC as a permitted use by right. The Board wished to delete both from R2 and leave the others as suggested.

Manufacturing and Production Operations Limited. See just above.

Research and Development Operations (Non-Hazardous). Anthony Starr stated that currently they would have been allowed in the Industrial District and the Regional Commercial District. It was suggested to add those to the R2, R2MH, R3, MU, LC, CC, and GC, as a special use in the residential districts and as permitted use in the others. The Commissioners agreed to leave as suggested in the commercial districts but delete from the three residential districts.

Portable Storage Container. Adding to all the districts as a permitted use, except R1.

Anthony Starr explained that whatever uses were in the R3 would be mirrored in the R4 and basically the only difference between the R3 and R4 would be the density, if that's agreeable to the Board. Approval by consensus.

### **Mapping Issues**

Commercial Issue 2: Intersection of NC Highway #191 and Mountain Road.

Anthony Starr stated that the recommended zoning for this one is Local Commercial (LC). It was originally recommended as Community Commercial (CC). This was in the timeframe when the Board changed the character of some of the issue out in that area. Local Commercial seemed more in line with what the folks in the Sedgewood neighborhood were seeking as opposed to Community Commercial. Approval by consensus.

Commercial Issue 3: US Highway #64 West in Etowah-Horseshoe Community.

Anthony Starr stated that it added some of the Community Commercial to reflect some of the existing businesses in Etowah on Highway #64. Subject Area 1 added a couple of additional parcels and staff also added some additional parcels to Subject Area 2 directly on Brevard Road. Subject Area 3 was another area of existing businesses that staff added Local Commercial to. Everything is reflective of existing use. Approval by consensus.

Commercial Issue 4: Local Commercial Nodes along Upward Road.

Anthony Starr explained that Subject Area 1 was to add a Local Commercial Node at Dana Road and Upward Road. That reflects the request of Mr. Lapsley and some other property owners in that area. It also added Local Commercial down along Upward Road from where it was currently proposed to be Regional Commercial and Industrial all the way to Howard Gap Road.

And

Commercial Issue 4A: Local Commercial Nodes along Upward Road. Basically the only difference between this map and the previous map was that it was Community Commercial as opposed to Local Commercial. He explained to the Board that they could do either one or some combination thereof for Subject Area 2. Approval of 4A instead of 4, by consensus.

Commercial Issue 5: Local Commercial Nodes along Howard Gap and Sugarloaf Roads.

Anthony Starr stated that these add Local Commercial Nodes to the intersection of Howard Gap Road and Sugarloaf, the intersection of Dana Road and Howard Gap Road, and also the intersection of Sugarloaf Road and Ridge Road Area (known as Five Points). It reflects some of the existing businesses out there as well. Approval by consensus.

Commercial Issue 6: Local Commercial Nodes along US Highway 64 East.

Anthony Starr explained that this is the Highway #64 East corridor. Subject Area 1, 2, 3, 4, and 5 all add Local Commercial pockets to areas that have some businesses. It also

takes in a number of vacant parcels in and around those areas. Approval by consensus.

Commercial Issue 7: Local Commercial Nodes along US Highway #74.

Anthony Starr stated this added two commercial nodes, one in the Bat Cave area and one down in Gerton along US #74, the Gerton Highway. Those reflect some of the existing businesses that are there now.

Chairman Moyer asked the Board to refer to the July 25 memo that has three additional areas, one proposed by Commissioner Young, one by Chairman Moyer and one by request of the residents. Planning staff left to go get a copy of that memo so it could be discussed.

Commercial Issue #8 – Anthony Starr stated that this is up on Hwy. #191 adjacent to the Asheville/Buncombe Regional Water Plant. It includes the former “Carolina Roses” property and some adjacent land. It is currently zoned Open Use. Most of the land around there is already zoned residential. What is across the street is all residential and the gray area on the upper left hand side of the paper is Mills River’s jurisdiction. Once you get past the water plant it becomes the Town of Mills River. Coming back towards Hendersonville it is zoned residential as well. That particular site and the area around it is currently Open Use. It has been a commercial property for years. Approval by consensus.

Commercial Issue #9 – Anthony Starr stated this is the area around Highway #225 where it connects with I-26. The area is currently zoned Open Use. It was requested that it get Regional Commercial, a number of property owners had signed a letter requesting that designation. It was originally proposed for R2. There is R1 on the opposite side of Highway #225 now. Approval by consensus.

Commercial Issue #10 – Anthony Starr stated this was to add one parcel on Highway #25 at the intersection just to the southeast of Rugby Drive, directly across the road from Shepherd Memorial Park. Approval by consensus.

Industrial Issue 1: Commercial Uses Permitted in the Industrial Zoning District.

Anthony Starr stated there were concerns raised regarding the commercial uses allowed in the Industrial (I) zoning district. He explained that almost all commercial uses, with the exception of retail trade uses, are allowed in the Industrial District. Staff recommended that the Board add the following uses as permitted in the I district: outdoor sale display areas; non-commercial athletic fields; and Christmas tree lot sales. This was in response to some discussion the Planning Board had on this issue. Staff does not recommend the addition of any other commercial uses to the Industrial District except for the following: outdoor sale display areas; non-commercial athletic fields; and Christmas tree lot sales, primarily because those lands get used up for commercial uses and then we have a limited amount of areas that are zoned Industrial. Approval by consensus.

Following discussion on this item, the Board went back to Commercial Issue #7 and a new map was distributed. Anthony Starr asked the Board to look at the Issue #7 map – Gerton Highway is on the map, going back toward Hwy. #64 on the south side of the

roadway is where this parcel is located so we would have a spot zoning issue by doing this parcel only as commercial. However, if they're an existing business, there are provisions to allow existing businesses to continue and to expand.

Chairman Moyer asked staff to take a look at the other letters received and the areas on that road and see if there is a way to do a bigger district or clean this up because we don't want to get into spot zoning. If there are others there we can tie together, we may be able to put together a bigger parcel and solve this problem.

Uses in the Industrial Zone – Commercial Uses Permitted in the Industrial Zoning District. Discussion followed. Commissioner McGrady stated he didn't mind some of these uses as long as the Board makes a conscious decision allowing them as opposed to just allowing permitted by right. Commissioner McGrady proposed

Motor Sports Facility, Recreational	by Special Use Permit
Outdoor Recreational	by Special Use Permit
Park	by Special Use Permit
Physical Fitness Center	by Special Use Permit

He suggested changing that whole section in the Table (4. Recreational Uses) from Permitted by Right to Special Use Permit (page 3 of 7). Approval by consensus.

Commissioner McGrady again suggested the same under section 5. Educational and Institutional Uses in the table (page 4 of 7), changing Permitted by Right to Special Use Permit. Application for a special use permit would force a conscious decision. Following discussion it was decided to change the following P's (Permitted by Right) to S's (Special Use Permit) in Industrial Zones: Ambulance Services, Cemetery/Mausoleum/Columbarium (excluding crematoriums), Childcare Facility, Club/Lodge, Government Offices, Place of Assembly both Large and Small, and Religious Institution. Approval by consensus.

Category 6. Business, Professional, and Personal Services. Commissioner McGrady felt that Category 6 and 7 were the most problematic areas in the industrial zones. He suggested either moving these all from Permitted to Special or either deleting them altogether. Much discussion followed with the Commissioners reviewing each one individually and approving the following:

Animal Shelter	strike from Industrial Zone
Automobile and Equipment Service	Special Use Permit (S)
Automobile Towing	S
Broadcasting and Communications Facilities	S
Car Wash	strike
Exterminating and Pest Control Services	S
Kennel	strike
Office: Business, Professional and Public	strike
School (Technical, Trade and Business)	S

Theater, Drive-In	strike
Tire Recapping	S
Category 7. Retail Trade.	
Adult Book and Retail Merchandise Store	S
Adult Theatre and Live Entertainment	S
Convenience Store	S
Entertainment Complex	strike
Flea Market	strike
Fuel Oil Distribution and Sales	S
Landscaping Materials Sales and Storage	S
Manufactured/Mobile Home Sales	S
Motor Vehicle Sales or Leasing	strike
Open Air Market	strike
Parking Garage or Lot (requiring payment)	S
Truck Stop	S
Category 8. Wholesale Trade	
Wholesale Trade	S
Category 9. Transportation, Warehousing, and Utilities	
Airport (Private)	S
Airport (Public)	S
Communication Facilities, Category 1	S
Communication Facilities, Category 2	S
Communication Facilities, Category 3	S
Hazardous Waste Disposal Facilities	S
Land Clearing Debris and Inert Debris Storage or Disposal	S
Rail Transportation Facilities and Support Activities	P
Self-Storage Warehousing	strike
Septic Tank and Related Services	S
Transit and Ground Passenger Transportation	S
Truck Terminals	P
Utility Substation	P
Warehousing and Storage (Excluding Warehousing of Hazardous Substances)	P
Waste Collection and Transfer Facility (Hazardous)	S
Waste Collection and Transfer Facility (Non-Hazardous)	S
Wastewater Treatment Plant	P



Water Treatment Plant

P

Category 10. Manufacturing & Industrial Uses

Approval of Category 10, 11, 12, and 13 by consensus.

Category 11. Temporary Uses.

Category 12. Temporary Structures.

Category 13. Agricultural Uses.

Industrial Issue 2: Industrial District Expansion in Northern Portion of County.

Anthony Starr stated this was to change the zoning around the Airport from residential and commercial to industrial. The property owner had requested this. Development identified as appropriate in the vicinity of Subject Areas 1 and 2. Approval by consensus.

Industrial Issue 3: Industrial District Expansion in Eastern Portion of County.

Anthony Starr explained there had been some discussions with the Partnership for Economic Development on identifying some of their sites that they've recently done a study on. Subject Area 2 is one area, off Upward Road along I-26. The reason for the proposed change was existing industrial uses and expansion of existing industrial zoned areas to reflect the Henderson County Industrial/Business Park Study Phase II. Industrial Development was identified as appropriate in the vicinity of Subject Area 2 in the CCP. No industrial recommendations were made regarding subject area 1. Commissioner Williams expressed some concern that a couple of farming/agriculture sites had been included for industrial zoning. Approval by consensus.

Industrial Issue 4: Industrial Node in Etowah-Horseshoe Community.

Anthony Starr stated that this reflects the existing Etowah Industrial Park. Existing industrial uses along US Hwy.# 64 West. The area does contain floodplain and floodway. Approval by consensus.

### **Recess**

Chairman Moyer called a brief recess.

Development Issue 1: Sign Regulations – Freestanding Signs.

Anthony Starr reminded the Board that the issue of freestanding sign heights had been raised by some of the Commissioners. Staff recommended leaving the current proposed height of 18 feet for signs in Office, Institutional, and Commercial Districts. Approval by consensus.

Development Issue 2: Sign Regulations – Outdoor Advertising Signs (Billboards)

Anthony Starr explained that our existing ordinances require a spacing of 1,000 feet. Approval by consensus.

Development Issue 3: Traffic Impact Study.

Anthony Starr explained that the concern is the impact that larger subdivisions and proposed developments have on community services as specifically related to public

safety and roads. Traffic Impact Studies are required by a variety of local governments in North Carolina. The North Carolina Department of Transportation (NCDOT) currently requires a TIS for developments that will generate more than 3,000 trips per day. This proposed provision lowers that threshold to 1,000 trips per day and allows the County to consider road impacts when giving development approvals. All recommended road improvements would have to be approved by NCDOT or applicable municipality. It was recommended to change the name of Article IV in the Land Development Code to Adequate Public Facilities & Service Regulations and provide a provision in this article that would require proposed developments of certain thresholds to prepare a Traffic Impact Study (TIS). Approval by consensus.

#### Development Issue 4: Emergency Services Impact Report.

Anthony Starr explained that the concern is the impact larger subdivisions and proposed developments have on community services as specifically related to public safety. It was recommended to add the following provision to Article IV (Adequate Public Facilities & Service Regulations). An Emergency Services Impact Report may be required to evaluate the public safety of a proposed development and the effect it will have on the County's existing Fire and Emergency Medical Services (EMS). This report and requirements is in addition to those requirements and review of the internal design of the development. An Emergency Services Impact Report shall be required for subdivisions proposing one hundred lots/units or more, or subdivisions proposing more than 50 units located more than 5 road miles from a fire station and shall be submitted as part of the master plan approval. Approval by consensus.

#### Development Issue 5: Development in Areas of Steep Slope & Floodplain.

Anthony Starr explained that the concern expressed by the public is that areas that have steep slope or floodplain should be protected, and developers should not receive the same density credit for these areas. The County cannot impose a rule that would not allow any development of these areas as that would be a regulatory taking under the constitution and would require "just compensation." Recommended solution – areas that contain slopes 35% or greater or within the 100-year floodplain would have a maximum residential density of 1 unit per 3 acres. Also provided in this option is information and maps that detail the amount of land within the floodplain or steep slope areas. About 3.6% of the County's jurisdiction is located in the 100-year floodplain and the prepared table illustrates the area located within various slope calculations.

Recommended Solution 1 – the County can provide rules that set a much lower density for areas that contain steep slope or floodplain. Each residential zoning district could be amended to indicate that areas with slope 35% or greater or within the 100-year floodplain. Language for such a provision could be as follows:

"The maximum residential density for areas with slope 35.0% or greater or within the Special Flood Hazard Area shall be one dwelling unit per 3 acres."

This language would appear in Article II of the LDC below each dimensional requirements table. This language would provide a more appropriate density for these

areas and should not encourage overdevelopment.

Recommended Solution 2 – if the Board decides on provision for slope 45% or greater or within the 100-year floodplain, Staff recommends language for such a provision could be as follows:

“The maximum residential density for areas with slope 45.0% or greater or within the Special Flood Hazard Area shall be one dwelling unit per 5 acres.”

Following much discussion, it was the consensus of the Board to advertise both options and wait until after the public hearing to make a decision.

Development Issue 6: Density Bonus Credit.

Anthony Starr stated that the concern raised at the June 12 LDC Workshop was that developers should not receive a density bonus for land that is already protected or unable to be developed as proposed in the Conservation Subdivision Option. The Board will revisit this issue after the public hearing.

Legal Issue 1: Inter-relation of County Permits.

Anthony Starr explained that the concern is that any person or party that has a County permit that has been revoked or suspended should not be granted any other County permits until the suspended permit has been resolved, or for a period of 2 years following a revoked permit. Approval by consensus.

Anthony Starr referred to a memo from Autumn Radcliff to the Board and dated August 23, addressing additional proposed text options requested at the 8/2/07 workshop.

At the Board of Commissioners' Land Development Code Workshop on Thursday, August 2, 2007, several of the proposed text and map options were discussed. Following are four additional options and/or additional information that the Board requested Staff prepare.

Residential Issue 3A: Suburban Overlay District Alternative. The concern is that the suburban overlay district is proposed to be applied to all lands currently zoned R-40 and R-30. The recommended solution was to apply the suburban overlay district to only those lands formerly zoned R-40 and located in the vicinity of Kanuga/Crab Creek Road.

Agreement by consensus.

Residential Issue 10: Gated Communities.

Anthony Starr stated that the concern was that new residential subdivisions not be permitted to be gated communities. Language was suggested to modify the supplemental requirement 3.7 which deals with gates or guardhouses. It basically says that gates shall not be permitted on any residential subdivision. It clarifies that it would not apply to non-residential type situations for security and safety reasons. It was determined by the Board to delete this, feeling that this is not the place to deal with this issue.

Legal Issue 2: Nonconforming Commercial and Industrial Uses/Structures within the former Open Use (OU) Zoning District.

Anthony Starr stated that this is to clarify some language in the non-conforming section of the ordinance. The concern is that existing uses/structures established in the former Open Use zoning district by the issuance of a special use permit and made nonconforming by the adoption of this Chapter and its associated zoning map would then be able to maintain, improve, alter, expand, remodel and repair the uses/structures without restriction except for dimensional requirements and setbacks applied by the applicable district under the Draft Land Development Code dependent upon interpretation. Anthony Starr explained that if you currently have a business operating in the Open Use district and it's zoned whatever district that no longer allows your business, then it would allow you to continue to operate your business, improve it, rebuild it, or even expand it. This was the recommendation of the Planning Board.

Chairman Moyer then referred to an additional memo from Autumn Radcliff dated August 23 regarding Land Development Code – August 16, 2007 Planning Board's Recommendations and Suggestions on proposed text and map options, asking Anthony Starr to address the issues

Anthony Starr explained that at its meeting on Thursday, August 16, 2007, the Planning Board reviewed all of the proposed text and map options that the Commissioners are currently considering. The Planning Board supported all of the proposed options with the exception of those listed below in which the Planning Board made the following recommendations and suggestions:

#### Residential Issues:

1. Residential Issue 3 & 3A – Suburban Overlay District – The Planning Board did not agree with applying the Suburban Overlay only to lands formerly zoned R-40 and located in the vicinity of Kanuga/Crab Creek Road. The Planning Board recommended that the Suburban Overlay District, as presented in option 3, should be applied to all R-30 and R-40 zoned areas of the county. The Board agreed with suggested language that would not allow the Suburban Overlay district to be applied to any additional areas and the existing Suburban Overlay District would be replaced upon completion of a community plan.
2. Residential Issue 4 – Proposed R4 Zoning District – The Planning Board recommended that the proposed R4 zoning district be applied to the Pisgah National Forest, the Green River Gamelands, the DuPont State Forest, and the property between the Pisgah National Forest and the Town of Mills River. The Planning Board felt that because this land bordered the Pisgah National Forest and is located in the Water Supply Watershed that it should have lower densities as recommended by the R4 zoning.
3. Residential Issue 6A – Subdivisions Reviewed and Approved by the Board of Commissioners – The Planning Board agreed with the Commissioners' recommendation that major subdivisions with 300 or more lots be reviewed and

approved by the Board of Commissioners, but did not recommend that these subdivisions be required to follow the Conditional Zoning District process. Staff would note that Conditional Zoning Districts are allowed in every zoning district and allow the Board to set conditions. A proposed subdivision would still have to meet all the basic requirements for subdivision approval.

4. Residential Issue 7 – Public Water and Sewer Requirements – The Planning Board recommended that the threshold on the number of lots/units be 300 to reflect the threshold for subdivisions that are reviewed and approved by the Board of Commissioners. The Planning Board suggested that subdivisions with 300 or more lots/units should have public or private water and sewer service. When this is not possible, the subdivision should try to pursue community wells and septic systems before allowing individual systems.
5. Residential Issue 8 – Off Site Access – The Planning Board suggested that, when a proposed subdivision has road frontage or existing off-site ROW of less than the 30 feet, the off-site access roads be required to meet the standards for subdivision roads based on the number of proposed lots.
6. Residential Issue 9 – Gated Communities – The Planning Board did not agree with a provision to prohibit gated residential subdivisions.

#### Commercial Issues:

1. Commercial Issue 4 & 4A – Local Commercial Nodes along Upward Road – The Planning Board was concerned that until the community plan for this area is completed, a local commercial (LC) designation, as opposed to community commercial (CC), should be applied to Subject Areas 1 and 2.

#### Development Issues:

1. Development Issue 5 – Development in Areas of Steep Slope and Floodplain – Based on the current recommendation for development issue 5, the Planning Board recommended that land within the Floodplain or slopes 45% or greater should have a density of 1 unit per 3 acre. The Planning Board did not agree with regulating slopes 35% or greater and suggested that the Board of Commissioners look at slopes in excess of 45%, for example 55% and 75% slopes.
2. Development Issue 6 – Density Bonus Credit – The Planning Board recommended that only lands with conservation easements be excluded from calculating density bonus credit.

#### Legal Issues:

1. Legal Issue 1 – Inter-relation of County Permits – The Planning Board felt that the responsibility regarding a decision of any person or party that has an additional County permit(s) that could be revoked or suspended should be decided by a governing or legal body, such as the Board of Adjustment. Staff notes that any decisions made by the Zoning Administrator may be appealed to the Zoning Board of Adjustment. Authorizing a board to revoke or suspend a permit would require a waiting period of 30-45 days and would be impractical when addressing violations that require immediate action.

Other Comments:

1. The Planning Board was concerned that any restrictions based on a predetermined threshold, such as a Traffic Impact Study, could be abused by developers to circumvent certain requirements by staying just below these thresholds. The Planning Board suggested that legal staff look at ways to require developers to disclose if they own or are acquiring adjacent property that would require them to meet proposed regulations if both properties are developed together or separately.

Chairman Moyer felt the Board had made some headway, taking care of gated communities, density bonus credit, the issue of 300 units/lots to be reviewed by the Board of Commissioners and requiring those to have public or private water and sewer service.

Commissioner McGrady stated that the Board had received a lot of mail in the last few days from Lake Summit residents. He has informed Anthony of what he understood the issue was.

Anthony Starr explained that Staff has had several discussions with residents of that community. We have many of the standards that are already in that district now in the supplemental requirements for boat houses, etc.

Chairman Moyer reminded everyone of a scheduled workshop on August 28. Any loose ends can be discussed at that time but that workshop will be mainly to discuss revenue options. The State passed a law which gives the Board of Commissioners the right to impose, with approval of the public through referendum, either a Land Transfer Tax (LTT) or a Sales Tax. The Board needs to discuss that issue and come to some agreement. Staff will make a presentation of all the information available to date and there will be a thorough discussion on August 28.

**Adjourn**

*Commissioner McGrady made the motion to adjourn the meeting at 9:07 p.m. All voted in favor and the motion carried.*

Attest:

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Elizabeth W. Corn, Clerk to the Board

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William L. Moyer, Chairman