

MEMORANDUM

TO: Henderson County Board of Commissioners
Steve Wyatt, County Manager
Selena Coffey, Assistant County Manager
Russ Burrell, County Attorney

FROM: Autumn Radcliff, Senior Planner

CC: Anthony Starr, Planning Director

DATE: August 23, 2007

SUBJECT: Land Development Code – August 16, 2007 Planning Board’s Recommendations and Suggestions on proposed text and map options

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.