

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
September 18, 2008**

The Henderson County Planning Board met on September 18, 2008 for its regular called meeting, at 5:30 p.m. in the King Street Meeting Room at 100 N. King Street, Hendersonville, NC. Board members present were Tedd Pearce, Chair, John Antrim, Tommy Laughter, Gary Griffin, Jonathan Parce, Suprina Stepp, Stacy Rhodes, Mike Cooper and Renee Kumor. Others present included Anthony Starr, Planning Director; Alexis Baker, Planner, Sarah Zambon, Associate County Attorney; Mark Williams, Commissioner and liaison to the Planning Board, and Kathleen Scanlan, Secretary.

Chairman Pearce called the meeting to order and asked for the approval of the July 17, 2008 meeting minutes. Chairman Pearce made a motion to approve the minutes and Renee Kumor seconded the motion. All members voted in favor.

Adjustments of the Agenda. Chairman Pearce said that because two Board members are running late, he asked that Item 4, Election of Officers, be moved after Item 6, for their consideration. All members present were in favor of the adjustment.

Staff Reports. Mr. Starr mentioned that the Board of Commissioners examining the County facilities that we have available, including the old water building on 4<sup>th</sup> Avenue and the old public health building on Spartanburg Highway and the possibility exists that the departments in this building may have to move to one of those buildings. He stated that there would need to be improvements made but that the limited space would also be a problem. He said at this time we are unsure of what will transpire, but that he wanted this Board to be aware of the possibility that our meetings may be changed to a different location. He said at this time the Board of Commissioners are looking at having a workshop/public hearing within the next couple of months to discuss this matter in further detail. Mr. Starr informed the Board members that Planner Matt Card would be leaving the end of the month to pursue other employment in Charlotte, North Carolina. The members wished him well.

**OLD BUSINESS:**

Kenmure, Phase VI, Development Plan Extension Request – Laughter, Austin and Associates, Surveyors/Agent for H. Lee King, President, Kenmure Enterprises, Inc., Owner. Presentation by Alexis Baker. Ms. Baker reviewed the extension request by Kenmure stating that because of the slowing economy they wish an extension of one year to complete the water and road system for the anticipated sites for Phase VI. Planning Board members discussed their concerns that the approved plan expired in July, 2008 and was unsure whether it would be proper to grant a one-year extension. The fact that they have been doing improvements and working on the phase up to the request would establish them as having common law vested rights, after seeking legal advice from Ms. Zambon, she believes that based on the confines of the common law vested rights, the Planning Board is not setting a precedence by granting their extension, because she believes that Kenmure could demonstrate that they have been doing work on the project. Renee Kumor made a motion to approve a one-year Development Plan extension for Kenmure, Phase VI through July 18, 2009 and acknowledge that the Board members discussed the extenuating circumstances and that all members are comfortable with granting the request. Tommy Laughter seconded the motion and all members voted in favor.

Election of Officers, Appointment of Secretary. Chairman Pearce presided over the annual election of officers. Tommy Laughter stated that if there were no objections, he would like the same officers to remain in their positions. Renee Kumor seconded the motion. All members voted in favor. Chairman Pearce appointed Kathleen Scanlan to continue as secretary to the Planning

Board. The officers for the coming year are Tedd Pearce, Chairman; Jonathan Parce, Vice-Chairman; and Kathleen Scanlan, Secretary.

Rezoning Application # R-2008-11 – Request to Rezone Approximately 4.54 Acres of Land from R-1 (Residential One) Zoning District to an I (Industrial) Zoning District – Fronting on Old Hendersonville Road, Approximately 2,150 Feet South of its Intersection with Old Brickyard Road and is Comprised of Two Tracts Currently Owned by LTD-Asheville, LLC – Richard A. Kort, Agent for Owner. Presentation by Alexis Baker. Ms. Baker reviewed the rezoning request, which concerns 4.54 acres of land located on Old Hendersonville Road south of its intersection with Old Brickyard Road from an R1 (Residential 1) zoning district to an I (Industrial) zoning district. The property is comprised of two tracts currently owned by LTD-Asheville, LLC. Ms. Baker also indicated that the adjacent zoning to the south and east of the subject area is R1 (Residential 1) and to the west is Industrial zoning. It also borders Fletcher's C-1 (General Commercial) zoning district to the north. Ms. Baker stated that adjacent uses to the subject area include vacant lots to the north, south, and east, and an industrial use to the west, which is Southern Concrete Materials, Inc. Surrounding the vacant lots on the north, east and south are residential uses including Brickton Village to the north and manufactured housing to the south. Ms. Baker in her communications with the Town of Fletcher found no objection to this request. She added that public water is available to both parcels of the subject area but public sewer does not appear to be located on the site, but is 2,210 feet west of the subject area. Ms. Baker stated that Staff's position is that it supports the rezoning of the subject area to Industrial, which is consistent with the recommendations of the Henderson County Comprehensive Plan. She also mentioned that the Technical Review Committee reviewed this at their meeting on September 2, 2008 and had no objections to the rezoning request.

Mr. Richard Kort, agent for the project stated that when his client obtained the property in 2003, it was for the purpose of building a structure that was on the building and was built for industrial purposes. It was designed specifically to utilize the services of Southern Concrete across the street, so there is good infrastructure to support active industrial use. He stated that the property was vacated sometime in June and is presently marketed for lease and sale. He said it is the hopeful intention that you will grant the rezoning request and that the Board of Commissioners will also grant the request, and that the zoning of industrial use will help turn the building to active use. All members had no objection to the rezoning request and therefore Chairman Pearce made a motion that the Planning Board recommend to the Board of Commissioners approval of rezoning application R-2008-11, to rezone the subject area from an R-1 (Residential One) zoning district to an I (Industrial) zoning district based on the recommendation of the Henderson County 2020 Comprehensive Plan. Jonathan Parce seconded the motion and all members voted in favor.

Ethics Code. Ms. Zambon stated that this code has caused some anxiety with some of the boards in the County. The final draft was passed at the September 2, 2008 Board of Commissioners meeting. She stated that she has talked with Mr. Burrell and both feel because this ordinance is new; there will be changes that will need to be made. So therefore, she requested any Board member to share their problems or obstacles and suggested solutions to the legal department so they may work on improving this ordinance. She went over some of the topics that would relate to the Planning Board. Chairman Pearce stated he doesn't feel that it gives the Board of Commissioners the right to make an exemption on a board. Specifically, the Planning Board, like some other boards, gets involved with items dealing with engineering, surveying and legal matters; therefore our board usually is comprised of a lawyer, surveyor and someone who has had engineering experience. He said the problem that he sees is often when you look at the people that are willing to serve on this board you have situations where in their individual capacities have an interest before the board. He said there have been times when their item was brought before the board and not approved, but turned down because of various reasons, so therefore there was no favoritism used just because they were a board member. He added that in the case of Stacy Rhodes, where he is a small business proprietor, that sometimes it might be hard for his partner to

present his client's item on the agenda. He asked whether either legal staff or the Board of Commissioners could look into a way that someone could be appointed to the Board where they know there is a chance of a conflict of interest, but because of their expertise in certain areas, that the Board acknowledges that when they appoint them to the board. Mr. Starr clarified that any member of this board who has a client coming before this Board, would have to recuse them from any discussion or decision that the board would make, and would need to make arrangements for someone else to present the item and in this scenario would not have to resign from the board. Mr. Rhodes brought up the fact that with smaller company owners who are trying to do their civic duty are, at the same time, being limited from earning an income by this policy. Mr. Starr stated that the Ethics Code goes beyond what state law requires, and that is more of a policy decision. Other Board members voiced their opposition to this and felt it insulting that it might imply that other board members would give any board member who is involved in an item before the board special privileges because that person serves on the board. After further discussion, Chairman Pearce made a motion to recommend to the Board of Commissioners that they recognize in the appointment process that specific professions are required on some boards, but that it could in fact create conflicts of interest. Therefore, the Board of Commissioners should consider changing the Ethics Ordinance to modify it to allow presentations by board members when they are stating only a regulatory approval. Tommy Laughter seconded the motion. All members voted in favor.

Adjournment. There being no further business, the meeting adjourned at 6:48 p.m. All members voted in favor.

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Tedd Pearce, Chairman

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Kathleen Scanlan, Secretary