

**HENDERSON COUNTY
PLANNING BOARD MINUTES
June 19, 2008**

The Henderson County Planning Board met on June 19, 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; Jonathan Parce, Vice-Chair, Tommy Laughter, Gary Griffin, Mike Cooper and Renee Kumor. Others present included Autumn Radcliff, Senior Planner; Matt Cable, Planner, Mark Williams, Commissioner and liaison to the Planning Board, Russell Burrell, County Attorney and Kathleen Scanlan, Secretary. Board members John Antrim, Suprina Stepp, and Stacy Rhodes were absent.

Chairman Pearce called the meeting to order and asked for the approval of the May 15, 2008 meeting minutes. Renee Kumor made a motion to approve the minutes and Mike Cooper seconded the motion. All members voted in favor.

Adjustments of the Agenda. No Adjustments were needed.

Staff Reports. Ms. Radcliff stated that Mr. Starr is on vacation this week and wanted the Board members to be informed that the Mountain Ridge and Steep Slope Strategy Report that Land of Sky had been working on, has completed a final report. She said that since the community committees, other committees, and the Planning Board members would likely be interested in hearing about this report, Land of Sky is trying to schedule one joint meeting to discuss the matter. Chairman Pearce requested that all Planning Board members receive an e-mail concerning the schedule for this meeting.

OLD BUSINESS:

Rezoning Request # R-2008-08 and Text Amendment Request # TX-2008-02 – Request to Amend Flood Damage Prevention Regulations of the Land Development Code and Adopt Finalized Flood Insurance Rate Maps (FIRMs) – Presentation by Matt Cable. Mr. Cable stated that rezoning #R-2008-08 and text amendment #TX-2008-02, which were initiated by Henderson County Planning Staff on April 2, 2008, request that the County adopt the finalized Flood Insurance Rate Maps (FIRMs) and make the necessary associated amendments to the flood damage prevention regulations of Chapter 200A, Land Development Code.

Mr. Cable said that on June 5, 2008, Staff posted nine notice signs on affected properties providing notice of the consideration of this request by the Planning Board at its June 19, 2008 meeting. Mr. Cable added that there were over 2,000 properties that were affected, and letters have already gone out to everyone who is directly affected, adjacent to, or near properties with floodplain letting them know that their will be a public hearing on July 7, 2008 at 7:00 p.m. The request would be to adopt new Flood Insurance Rate Maps (FIRMs) for Henderson County and make the necessary associated amendments to the flood damage prevention regulations of Chapter 200A, Land Development Code. The State and Federal government are responsible for creating and issuing new FIRMs and because the State has issued new FIRMs, the County is required to adopt the new maps and associated text into the LDC to maintain membership in the National Flood Insurance Program. This program provides federally backed flood insurance to property owners in flood prone areas. The new FIRMs have, in some cases, modified the location of the floodway, 100-year floodplain and 500-year floodplain boundaries in Henderson County. The proposed amendments to the text of the LDC would reflect regulation changes associated with the new FIRMs; changes made to the State Model Flood Damage Prevention Ordinance since the original adopt of the regulations in 2005 and organization of regulations within the LDC. Mr. Cable also mentioned the benefits of having the flood insurance program for the County. Ms. Natalie Berry answered and explained any details of this request for Board members. After some discussion

regarding administering regulations, Chairman Pearce suggested that it might be advisable for Staff to consider having some type of written document that Commissioners look at on how they can administer some of the finer points of the flood program so there will be continuity with determinations of this and any future floodplain administrator. He feels that there are several ways to make decisions. Ms. Berry stated that the determinations she uses are all across the board used in the State of North Carolina. Ms. Kumor feels that this document would protect Ms. Berry and her successor as well as Henderson County. Ms. Berry stated that she documents everything that she does because FEMA can come in at anytime and audit what she does. If FEMA during the audit finds determinations they do not agree with, they can suspend the County right out of the program. Chairman Pearce stated that he is not as concerned with the appeals as he is with continuity of direction and if there is a change in leadership in a department and a departure from previous methodology of determination, that it be approved by the Board of Commissioners or by the Technical Review Committee so that everyone knows the rules and how they will be applied.

Chairman Pearce made a motion that the Board recommend approval of Rezoning #R-2008-08 and Text Amendment #TX-2008-02, to adopt the finalized Flood Insurance Rate Maps (FIRMs) and amended flood damage prevention regulations of the Land Development Code necessary to reflect regulation changes associated with the new FIRMs and changes made to the State Model Flood Damage Prevention Ordinance and further move that these recommendations of approval are consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. Tommy Laughter seconded the motion and all members voted in favor.

Rezoning Application #R-2008-09 as Amended – Rezone Approximately 130.44 Acres of Land – Located Off US Highway 25 North (between its intersection with Old Park Road (SR 1370) to the south and Rugby Drive (SR 1417) to the north) – Community Commercial (CC) to Regional Commercial (RC) Zoning District – Henderson County Planning Staff on Behalf of the Property Owners - Presentation by Matt Cable Chairman Pearce noted that the Board members received a written request by Mr. Charles Grimes to consider a deeper portion of the front area zoned commercial, approximately 500 feet more from the front of the property line. Chairman Pearce said Board members will discuss this consideration after Staff's report. Mr. Cable stated that the Planning Board originally considered Rezoning #R-2008-09 at its meeting on May 15, 2008. The Board of Commissioners, at its meeting on June 2, 2008, amended the request to include additional parcels of land beyond what the Planning Board had considered before. Mr. Cable showed the boundary area of what the Board of Commissioners is recommending. He said, as a result, recommendations from the Planning Board for the amended area are necessary. Planning Board action to recommend that the Board of Commissioners approve, approve with modifications, table, or deny rezoning #R-2008-09 as Amended would be appropriate.

Mr. Cable stated that this amended request includes all of the area designated at present as Community Commercial in the vicinity of the original request. Mr. Cable stated the request encompasses approximately 130.44 acres of land, located off US Highway 25 North (between its intersection with Old Park Road to the south and Rugby Drive to the north, from a CC (Community Commercial) zoning district to an RC (Regional Commercial) zoning district. The Subject Area is comprised of all or part of 23 parcels of land with multiple owners. He stated that on June 5, 2008, Staff posted notice signs on the subject area property providing notice of the consideration of the request by the Planning Board at its June 19, 2008 meeting. Mr. Cable stated that the subject area now extends to 1.17 miles along US 25 North. On September 19, 2007, Community Commercial was applied to this whole area during the LDC process. Mr. Cable mentioned the uses involved in Community Commercial. He stated that prior to the adoption of the US 25 North Zoning Study, the subject area was part of the Open Use zoning district and contained three different zoning districts

when rezoned by the US 25 North Zoning Study. The subject area contained C-4 Highway Commercial, C-2 Neighborhood Commercial and RC (Rural Conservation) zoning districts. Mr. Cable stated that concerning Mr. Grimes request, he is requesting another 200 feet in depth of commercial zoning on his properties at this location, pushing it back another 200 feet to the north. He added that Mr. Grimes had no preference between Community Commercial and Regional Commercial zoning. Mr. Cable stated that Staff went out into the subject and adjacent area and took a windshield survey of uses. He said the subject area contains agriculture, commercial, single-family, vacant and an unknown use. The unknown use property is the Ashmont Property and is believed to be vacant. There area multiple single-family uses and vacant lands located to the west; undeveloped and agricultural lands to the north and east; and single-family uses along the south near White Street. Mr. Cable stated that public water is available along the subject area of US 25 North but public sewer is not available as it stops in the Naples area. Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the current zoning of the Subject Area (CC (Community Commercial) zoning) which is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. He added that the subject area parcels east of US Highway 25 North as being appropriate for conservation largely due to the presence of floodplain. It appears that a total of 47.91 acres of the 130.44 acre subject area, which is approximately 36.73 percent, falls within the 100-year floodplain and a total of 16.99 acres of the subject area, approximately 13.03 percent, falls within the floodway. Only 65.54 acres of the subject area, 50.25 percent, is neither within the floodway or floodplain. He said as noted in the CCP, land use planning should acknowledge the presence of sensitive natural areas such as floodplain and strive to protect these areas from development that would damage them or diminish their integrity. Community Commercial zoning would be more adapt to acknowledging the presence of floodplain due to the application of maximum gross floor area limitations not provided for by RC (Regional Commercial) zoning. He stated that applying RC zoning would allow for an unlimited maximum gross floor area and reduced front yard setbacks and services greater than 100,000 square feet, such as shopping malls, truck stops and truck washes. He said because of the large scale of these uses, many require being located on large tracts of land and would require a minimum of 2.29 acres of land, not accounting for impervious surface limitations or parking. He noted that eleven of the 23 parcels which constitute the subject area are under 2.29 acres in size and are not large enough to facilitate a 100,000 square foot building without parking. He continued, of the remaining 12 parcels which are larger than 2.29 acres, the six parcels east of US 25 North contain a considerable amount of floodplain or floodway. These six parcels contain 81.06 acres of which 16.99 acres are in floodway and 44.04 acres are in 100-year floodplain.

He stated that the Technical Review Committee considered the rezoning request on June 10, 2008 and voted 6-0 to recommend denial on the rezoning request as amended and further recommended that if the Board of Commissioners approves the rezoning request, that the boundary of the existing Community Commercial zoning district should not be expanded and that if the boundary of the subject area is expanded, that it should not be expanded into the floodway.

After some further discussion among Board members about the amended request, Chairman Pearce made the suggested motion by Staff based on the County Comprehensive Plan and further moved that if the Board of Commissioners decided to change this zoning that it also amend the County Comprehensive Plan (CCP) to reflect these changes, because if the Commissioners did not change the CCP, it would not coincide with the motion to recommend this amended change. This motion died for lack of a second.

Mike Cooper made a favorable motion to recommend the rezoning request to change from Community Commercial to Regional Commercial zoning as it does somewhat follow the Comprehensive Plan and because the County has now developed the Floodplain Ordinance and program to protect the floodplains in the subject area. He added that in the flood zones, the

property owners would be limited as to what they could develop in those areas. Gary Griffin seconded the motion.

Regarding Mr. Grimes' property, Mr. Grimes asked that commercial zoning be applied 500-feet from the front of his property line. Mike Cooper amended his motion to include 500 feet from the property line for only Mr. Grime's properties. Gary Griffin seconded the amended motion. Mike Cooper and Gary Griffin voted in favor of the motion. Renee Kumor, Jonathan Parce, Tedd Pearce, and Tommy Laughter opposed the motion. The motion was denied by a vote of 4 to 2.

Chairman Pearce made a motion that the Planning Board recommends denial of rezoning #R-2008-09 as Amended, to rezone the Subject Area from a CC (Community Commercial) zoning district to an RC (Regional Commercial) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. Renee Kumor seconded the motion. Tedd Pearce, Renee Kumor, Tommy Laughter and Jonathan Parce voted in favor of the motion. Mike Cooper and Gary Griffin opposed the motion. The motion carried by a vote of 4 to 2.

Regarding Mr. Charles Grimes request, Chairman Pearce made a motion regarding Mr. Grimes' property, that the Community Commercial zoning be expanded to 500 feet. Renee Kumor seconded the motion. Should the Board of Commissioners approve the rezoning request, the Planning Board does not recommend that the boundary of the commercial district be expanded. Renee Kumor, Tedd Pearce, Tommy Laughter, and Jonathan Parce voted in favor. Mike Cooper and Gary Griffin opposed the motion. The motion carried 4 to 2. Mike Cooper left the meeting at this time.

Land Development Code New Text Amendments from Issues/Concerns Voiced During Public Hearing on March 27, 2008. Presentation by Autumn Radcliff. Ms. Radcliff stated that during a public hearing that the Board of Commissioners had on March 27, 2008, several individuals requested that the Board of Commissioners address two new issues pertaining to the Land Development Code and the Board directed staff to consider these requests and develop recommendations on the issues. Ms. Radcliff stated that the first text amendment concerns the R-40 zoning district, which the Commissioners included in the Land Development Code and was left in tact without any changes. She stated that there was a request to allow the conservation subdivision option in the R-40 zoning district. She said to address this issue would be to allow the conservation subdivision option in the R-40 zoning district. She said that would mean amending a section in the R-40 district, Section 200A-37, under the dimensional requirements, instead of having the conservation subdivision option be not available, we will remove the word not and add another sentence: *Minimum lot sizes shall not apply when using the Conservation Subdivision option and an average density of 1 unit per 40,000 square feet shall be applied.* She added this would still meet all of the standards in the Land Development Code that any other subdivision would have to meet.

Renee Kumor made a motion to recommend that the Board of Commissioners approve text amendment 1 to allow the conservation subdivision option in the R-40 zoning district. Tommy Laughter seconded the motion and all members voted in favor.

Ms. Radcliff said that the second amendment issue concerns existing manufactured home standards and the exclusion of manufactured homes from certain zoning districts. Several requests were made to allow manufactured homes in the R1 and R2 zoning districts with additional standards and requirements. Staff felt that anything that if changed for R1 and R2 it needed to be changed for all zoning districts with single-family residences permitted. So if we are allowing manufactured homes in the R2MH, R3 and R4 zoning districts, they should also be allowed in the

R1 and R2 zoning districts with additional standards and requirements. Ms. Radcliff stated that Staff solution would be to change the permitted use table and the zoning district regulations to allow multi-section manufactured homes in the R1, R2, R40, WR and LC zoning districts. In addition, change the supplemental requirements for manufactured homes to require masonry underpinning on multi-sectioned units. Ms. Radcliff stated that the single-wide manufactured homes would still not be allowed in these districts. She explained the difference between manufactured homes and mobile homes and showed pictures of modular and manufactured homes. Chairman Pearce stated that he is not against this in concept and added that anything we can do to foster affordable housing is important. He added that if I were to attach any requirements to this amendment, he would include a garage, either attached or detached for multi-sections units. He added that the biggest objections to modular homes is that they do not look like stick built houses, when you take away the garage from the structure or from the land, it tends to look like a manufactured home. Renee Kumor stated that she believes that the manufactured housing communities were the ones requesting this and not the citizens who were having some problem with wanting to go into an R-40 neighborhood and put up a double-wide home. She said that after attending hearings dealing with the Land Development Code, we heard from people who were concerned with what they could put on their property, were concerned that their children would have access to more affordable housing and that they would be able to move a single-wide onto the family acreage and again that isn't what the people were anxious to protect their R-40 neighborhood were concerned about. Ms. Kumor said we are responding to issues that citizens haven't asked us for, because the Commissioners responded to what the citizens asked for. After some continued discussion on this issue, Chairman Pearce felt that the Planning Board needed some additional time to consider this. He asked that Staff consider these items in future discussions: (1) consider the concept of garages and (2) consider what this is going to do from a cost standpoint the efforts the Board of Commissioners made on behalf of the people, especially in the R3 zoning districts, the consideration made to allow your child or caretaker to live on your property, as they would fall under these same regulations, if they put in a multi-section unit. Renee Kumor felt that because several of the Planning Board members were not present to give their views on this, she made a motion to table Item 2 of the Land Development Code text amendments allowing multi-section manufactured homes in all districts to a future scheduled meeting when more members will be present to give their views. Chairman Pearce seconded the motion and all members voted in favor.

Adjournment. There being no further business, the meeting adjourned at 7:35 p.m. All members voted in favor.

Tedd Pearce, Chairman

Kathleen Scanlan, Secretary