

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
October 11, 2005**

The Henderson County Planning Board met on October 11, 2005 for a special called meeting at 4:05 p.m. in the Board Room of the Land Development Building, 101 East Allen Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Tommy Laughter, Renee Kumor, Mark Williams, Jonathan Parce, Gary Griffin, and Stacy Rhodes. Others present included Judy Francis, Planning Director; Lori Sand, Project Manager; Autumn Radcliff, Planner; Matt Cable, Planner; and Kathleen Scanlan, Secretary. Also present was Chuck McGrady, Commissioner and Liaison to the Planning Board. Planning Board members Paul Patterson and Mike Cooper were absent.

Chairman Tedd Pearce presided over the meeting and called the meeting to order. He stated that this special called meeting is for the purpose of beginning review of the *Land Development Code* for recommendations not changes that will go to the Board of Commissioners.

The Board began with their recommendations.

Article II, Definitions.

Agriculture. Mr. Mark Williams stated that he felt that cold storage should be added to the definition. He also pointed out that the definition refers to commodities *produced exclusively on one's own property*, but he feels that there are so many of the farming operations in the County that are a combination that it should be deleted. Chairman Pearce directed this to Lori Sand, Project Manager and she said she would make sure the definition from the flood ordinance was put into the new LDC.

Agricultural Sign. Mr. Williams added, that the definition, which includes *which are produced on the premises* should be deleted because a farmer might have his orchard or fields in one location and down the road he might be selling his goods, but it would be vital to his overall operating facility.

Farm, Bona Fide. Mr. Williams stated in this definition, it states that operations are conducted as a *principal use*; he questions this because there is a home on the property. He feels from a farm lender's perspective, he would consider a home part of a full-time agricultural operation and the home is associated with it. Lori Sand that we will clarify that, but she said she couldn't imagine a home would supersede a farm as a principal use and cause a conflict. She stated that they will find some language to clarify that.

Foods Manufacturing. Ms. Kumor mentioned that part of the definition reads: *All of these industries are permitted so long as all foods are exclusively grown or raised on premises*. She feels that it should be eliminated.

Amendment, Administrative. Ms. Kumor caught a word that should be deleted in the sentence – *with* and replaced with *which*.

Edge Clearance. Ms. Kumor feels that there should be some type of demonstration or a chart to indicate what this means.

Final Plat. Stacy Rhodes said that in the definition it states *registered* land surveyor, it should be changed to *professional* as they are presently referred to that title.

Site-Specific Development Plan. Renee Kumor caught a typo in this definition.

Article III. Establishment of Districts; Article IV. Supplemental Development Regulations:

Ms. Sand gave a presentation regarding Articles III, Establishment of Districts and Article IV, Supplemental Development Regulations. She was concerned as to how the Board members want the comments incorporated in a format to be passed on to the Board of Commissioners and also talked about what articles Board members want to cover at the next meeting so

everyone will know in advance. Chairman Pearce felt that they should be consolidated by heading and if the Board members have differing views, perhaps they could take a vote and show the vote count on any subject and present both views. He also added that a separate presentation sheet at the beginning of each section be presented to the Board of Commissioners and perhaps put Planning Board's comments at the beginning or end of each section that it applies. He also said they should be sectionalized and easy for the Commissioners to go back and reference. Ms. Kumor mentioned that there has been a running list of changes that have been talked about by Board members and wanted to know whether they could be implemented into the sections of the Code as they apply. Chairman Pearce stated that Karen Smith had kept a list of possible changes dealing with problems that have occurred with our current Ordinances. He asked to check and see if that list could be found. He feels that for the next meeting we might want to look at some of those things especially for the subdivision section so they can be addressed. Chairman Pearce stated that one of the items was defining when a property is vested. Ms. Francis stated that she has a meeting with the County Attorney to discuss the vested rights issue and hopefully can resolve some of the issues. Chairman Pearce added that he would like to possibly handle this issue somehow inside the Ordinance. Gary Griffin asked, "Shouldn't there be a time line on vested rights?" Chairman Pearce said that there should be and it should be within twenty-four months, things might have changed in a period of time longer than that. Ms. Francis stated that this issue is addressed in the general statutes and that this Board does not have the authority to change it. Chairman Pearce said that a government could decide at what point within its own process, you are automatically vested.

### Article III.

Ms. Sand reviewed this section and stated that there are two residential districts, one Office & Institutional District, one Commercial District, one Industrial District and one Rural Use District, which is to replace the Open Use district. She said that Special Use district has also been added, which is another tool for the Board to begin utilizing to deal with special cases as they come through the rezoning process. She stated that the primary difference between the Residential One and the Residential Two District is manufactured housing. R-1 does not permit manufactured housing but R-2 does. Chairman Pearce was concerned with how to address the public concerns on density. Ms. Sand stated that this has a great deal to do with the overlay districts and the supplemental development standards that have been defined to help alleviate those types of concerns. Ms. Sand said that the overlay districts are additional standards or requirements placed on a use, depending on which overlay district someone is in. The Rural Agriculture Overlay District, the Rural Transition Overlay District and the Urban Service Overlay District were created from the County Comprehensive Plan (CCP), as these areas were the same as defined in the Growth Management Strategy. The Airport Overlay District and the Watershed Protection Overlay District are the same as the current Ordinances. Also included is a Corridor Overlay District, where this is a reserved section in the Ordinance. She said that the Growth Management Strategy boundaries are the same boundaries as the Urban Service, Rural Transition and Rural Agricultural Overlay Districts. She added that these districts will need to be updated on a regular basis to make sure that we are accommodating growth in the County.

Ms. Sand reviewed each overlay district, the purpose, scope, establishment and standards for each. She stated that in the appendices section there are incentives that can increase density, dealing with density bonuses. Chairman Pearce said for non-residential development, how does that affect the farming community? Ms. Sand said that we have the farm exemption built in. This will apply to industry, commercial, retail services and any type of other non-residential development. Ms. Sand stressed that there is a strong tie between this Ordinance and the CCP. She stated that there were no changes made to the Watershed Protection Overlay District, other than to incorporate the Ordinance elements throughout the LDC and the only adjustments made were in formatting to be put into this Ordinance. Ms. Sand said the reason why the Corridor Overlay District has been reserved was that, as we go through the small area

plan process, we can identify areas where additional standards may need to be applied, whether those are architectural guidelines, access management, a particular area that has unique growth pressures applied to it or any special kind of need in that area that we can establish a corridor and apply an overlay district and add additional standards to it so that it is one way we may address those types of concerns as mentioned regarding the NC 191 area.

#### Article IV.

Ms. Sand stated that this article works together with Article III to apply these supplemental development regulations. The permitted use table in the appendices lists the uses that have been assigned an intensity of use level to it and are either permitted by right, permitted with development standards or permitted by conditional use permit, so the conditional use permit option is still in there. If they are permitted by right, they will need to meet the general standards for whatever that level of use is that has been assigned to it. The level of use addresses things like the type of site plan that are required. As you go up in intensity of use levels, then you get more requirements as far as site planning. The scale from one to six really tells you what the scale and the intensity of the use are, so the general standards for each level are outlined in the Ordinance first. Level one would have the general standards that are required and these range from site plan requirements, road classification requirements, setbacks, lighting mitigation, location of parking and drives, fire protection and dust mitigation. She stated that she listed predominately all of them. For individual uses that are permitted with development standards, there are specific development standards outlined in this section. Ms. Sand went over some examples to show how this section works.

She reviewed the permitted use table in the appendices. In the table, "P" means permitted by right; "D" means permitted with development standards; and "C" is permitted with a conditional use permit. Ms. Sand stated that the intent behind all of this is to address some of the adverse affects that a use might have but allow it to be permitted. She said we are looking for flexibility in development while mitigating adverse effects. Ms. Sand said that associated with this Ordinance, there will be an adoption of a street classification system, so all the streets will be assigned a classification so we will know what type of road a use is on. Chairman Pearce said that one thing he notices, in going through this Ordinance, that there is too much flipping back and forth between the permitted use table and the section itself. He asked whether it would not be helpful to have the information that is in the appendices in the same area where the point of description is. Ms. Kumor did not find this as a problem. Ms. Sand said that in talking with the Zoning Administration, the permitted use table was the quick reference that she wanted. She felt that the Permitted Use Table was something small, easy to copy and handy to let someone know what the requirements are. Ms. Kumor suggested that a note at the bottom, of each page as a cross-reference. Mr. Williams suggested adding a legend for the "P", "D" and "C" at the bottom of each page containing the permitted use table and most members agreed.

Ms. Sand briefly reviewed the *Supplemental Development Standards for Communication Facilities* and *Supplemental Development Standards for Manufactured Home Parks* and said that these are essentially the Communications Tower Ordinance and Manufactured Home Park Ordinance without changes except for reformatting. Regarding the section on *Supplemental Development Standards for Planned Developments*, this has been changed in that they are permitted with development standards and therefore not the same as a planned unit development. There are development standards that they are required to meet, but are not required to go through conditional use process. After some discussion, Ms. Francis said that the whole purpose is to reward good work by streamlining the approval process and hopefully save people time and money in the process. Ms. Sand said that there are two types of planned development classifications – general and mixed use. She said there can be a variety of mixed use and for example a residential development with a village center design. They are broken down into categories and have development standards listed in this section, including the types

of requirements that they would need to address and she reviewed the standards. There was much discussion among Board members regarding the building façade requirements.

The last category in this section is *Supplemental Development Standards for Accessory and Temporary Uses and Structures* and Ms. Sand stated there are general requirements and requirements for specific accessory and temporary structures and uses and those function the same way for reference in the permitted use table. In the table it will indicate either permitted by right or permitted by development standards. Temporary uses would be permitted as any other use, either by right or by right with supplemental development standards and this is another procedural change that has been incorporated into this ordinance. Mr. Parce asked, "Where did the statistics or source come from?" Ms. Sand said that we found other ordinances that had development standards in them and we were able to incorporate some of those ideas as well as past experience for some of the things that consistently need to be addressed through the permitting process.

Chairman Pearce asked Ms. Sand what source did most of these standards come from and are the standards mentioned for Henderson County? Ms. Sand said hopefully we built in enough flexible options where if we do run into situations where development standards are in an isolated case for whatever reason not achievable, there is the special use zoning option, where adjustments can be made to those development standards. If some standard for a use consistently comes in as a problem, then a text amendment would be needed. Ms. Sand stated that we created a CCP amendment process and outlined specifically that these items would be reviewed by Staff automatically at a certain period of time. Staff will not let them go without being reviewed to make sure that they are appropriate where they are and whether they would need to expand based on new circumstances. She added that a map amendment and the CCP amendment can go through concurrently or Staff will be updating and reviewing these matters to make sure they do not become out of date.

After some further general discussion, Mr. Laughter stated that he has concerns that this Ordinance might not be as simple and easy enough to understand for the average person who wants to come in and do something. By having it more user-friendly, Staff wouldn't have to spend a lot of time doing most of the work for the public. Ms. Kumor as well as Mark Williams mentioned that they didn't feel that the Ordinance was hard to use, but to make it easier to work with they mentioned that some type of cross-reference on each page of the permitted use table would be helpful.

Chairman Pearce stated that at the next meeting, Sections 3 and 4 would be reviewed for any suggestions or thoughts, or to raise any concerns in those sections that Board members might have and then the Board can start discussing the assigned Sections 5 and 13. He added that he feels we should carry on this procedure for each meeting. Ms. Kumor asked Ms. Sand whether it has been planned to put on the Commissioner's TV channel an explanation of various sections of the Land Development Code or an explanation of the whole Land Development Code so that the public can address the concerns that the Board has so people will understand what is being put out there? Ms. Sand said that once it gets to the Board of Commissioners in December, they would be outlining the public input process. Ms. Kumor asked, "How about a public presentation process?" Chairman Pearce said that is actually up to the Board of Commissioners.

Chairman Pearce scheduled the next meeting dealing with the Land Development Code to discuss Sections 5 and 13 and review Sections 3 and 4 on October 24, 2005 at 6:00 p.m. in the Land Development Board Room.

Adjournment. There being no further business, the meeting adjourned at 7:45 p.m.

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Tedd M. Pearce, Chairman

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Kathleen Scanlan, Secretary